

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 20 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

DR THE HONOURABLE LEUNG KA-LAU

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.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, 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.

### **PUBLIC OFFICERS ATTENDING:**

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

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.  
THE SECRETARY FOR JUSTICE

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

DR THE HONOURABLE YORK CHOW YAT-NGOK, G.B.S., J.P.  
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

THE HONOURABLE EDWARD YAU TANG-WAH, 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 CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): A quorum is not present. Clerk, please ring the bell to summon Members to the Chamber.

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

## **TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
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Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2009 (Commencement) Notice .....	2/2010
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Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2009 (Commencement) Notice .....	3/2010
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Foreign Lawyers Registration (Amendment) Rules 2009 (Commencement) Notice .....	4/2010
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## **Other Papers**

No. 57	—	Legal Aid Services Council Annual Report 2008-2009
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No. 58	—	Employees' Compensation Insurance Levies Management Board Annual Report 2008/09
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No. 59	—	Employees Compensation Assistance Fund Board Annual Report 2008-2009
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No. 60	—	Occupational Deafness Compensation Board Annual Report 2008-2009
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No. 61 — Pneumoconiosis Compensation Fund Board Annual Report 2008

No. 62 — Hospital Authority Annual Report 2008-2009

No. 63 — Samaritan Fund  
Statement of Accounts, Report of the Director of Audit on the Statement and Report on the Samaritan Fund for the year ended 31 March 2009

Report of the Bills Committee on Legal Practitioners (Amendment) Bill 2009

Report of the Bills Committee on Telecommunications (Amendment) Bill 2009

## ORAL ANSWERS TO QUESTIONS

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

### Chinese Language Proficiency Requirements for Entry to Civil Service

1. **MR IP KWOK-HIM** (in Cantonese): *At present, the appointment requirements for most civil service posts stipulate that the applicants must meet the Chinese and English language proficiency requirements (LPRs). Quite a number of Hong Kong permanent residents who are South Asians have relayed to me that they were not offered appointment to the Civil Service because they failed to meet the Chinese LPRs. In this connection, will the Government inform this Council:*

- (a) *among those persons applying for civil service vacancies at junior, middle and senior ranks in the recent three years, of the respective numbers of Hong Kong permanent residents of South Asian descent who had been appointed and rejected;*
- (b) *whether any of the permanent residents of South Asian descent in (a) were not appointed solely because their Chinese language*

*proficiency did not meet the appointment requirements; if not, of the reasons why they were not appointed; and*

- (c) *of the details of the amendments made by the Government since the reunification in respect of the Chinese LPRs for appointment as civil servants (including expatriate civil servants) at different levels?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, as stipulated in Article 9 of the Basic Law and section 3 of the Official Languages Ordinance (Cap. 5), both Chinese and English are the official languages of the Hong Kong Special Administrative Region (SAR). Sorry, President, I have forgotten to put on the microphone. While some 95% of our population are Chinese, the SAR is also a cosmopolitan city and a centre of trade, commerce and finance. It is the Government's policy to maintain a fully biliterate (Chinese and English) and trilingual (Cantonese, Putonghua and English) Civil Service to support the SAR's continued development and to ensure effective communication with the general public.

Under this policy and as a general rule, all written materials meant for the public, such as government reports, forms, pamphlets, booklets, posters, notices, signs, and so on, are issued in both Chinese and English. Verbal and written government announcements intended for the general public, such as radio and television advertisements and announcements made at large-scale outdoor events, as well as the Government's Internet homepages are bilingual. It is the practice of bureaux and departments to reply to members of the public in either Chinese or English, depending on the language of the incoming correspondence. Frontline staff are also expected to answer enquiries and offer assistance in Cantonese, English or Putonghua. Given the importance of maintaining effective bilingual communications, it is necessary to specify the appropriate Chinese and English LPRs for appointments to different grades in the Civil Service.

Against the above backdrop, with regard to part (a) of the question, it is the aim of the Government, being an equal opportunities employer, to appoint the best person for the job on the basis of merit. Appointment to the Civil Service is based on open and fair competition. In assessing applicants' suitability for taking up civil service jobs, the recruiting bureaux and departments will take into account academic or professional qualifications, technical skills, work



experience, language proficiency, and other qualities or attributes as may be required for particular jobs. Race is not a relevant consideration in the selection process. We do not ascertain the race of civil service job applicants in the recruitment process. Hence there is no available information on the number of Hong Kong permanent residents of South Asian descent who had been appointed to the Civil Service and those whose applications were unsuccessful.

With regard to part (b) of the question, as it is not our current practice to ascertain the race of civil service job applicants in the recruitment process, we do not have information on the number of permanent residents of South Asian descent who were not appointed to the Civil Service solely because their Chinese language proficiency did not meet the appointment requirements.

With regard to part (c) of the question, in light of the importance of the Chinese language in correspondence within the Government, especially among and for the more junior staff, and in communications with the public, Chinese language proficiency was put on par with English language proficiency for appointment to the Civil Service in August 1995. Under the LPRs promulgated then, a Grade "E" in English Language (Syllabus B) and Chinese Language in the Hong Kong Certificate of Education Examination (HKCEE), or equivalent, was required for entry to civil service grades that required an academic qualification at or higher than the HKCEE level. For grades that required a qualification lower than the HKCEE level, Chinese and English language proficiency at the same education level as the minimum prescribed academic qualification was required for entry to the Civil Service.

In January 2003, the Government raised the LPRs for appointment to the Civil Service having regard to the progressive improvement in education level in Hong Kong over the years and rising public expectation on the quality of the Civil Service. Specifically, applicants to civil service grades at degree or professional level were required to pass the two language papers (namely Use of Chinese and Use of English) in the Common Recruitment Examination (CRE) conducted by the Civil Service Bureau, or obtain specified public examination results. Compared to the previous language requirement which was set at a Grade "E" at the HKCEE level for these grades, the CRE language papers are set at graduate level by language academics. Those civil service posts with entry academic qualification requirements set at below degree level were required to attain a Grade "E" in English Language (Syllabus B) and Chinese Language in

the HKCEE, or equivalent, unless the grade concerned has obtained prior approval for exemption from the Civil Service Bureau.

In October 2006, the Government modified the LPRs to cater for different language requirements based on job requirements. Under the revised LPRs which are still in force, a two-tier passing mechanism for each of the two CRE language papers is put in place for degree or professional grades. Having regard to the job requirements of individual grades, the concerned Heads of Department or Heads of Grade may decide whether candidates should attain "Level 2" or "Level 1" in each of the two CRE language papers, and the same level need not be prescribed for the two languages if there is no such need to do so from a job requirement point of view. As regards non-degree grades with academic qualification requirements set at or above the HKCEE level, applicants should attain a Grade "E" or "Level 2" in English Language and Chinese Language in the HKCEE, or equivalent. For example, a Grade "C" in the English Language (Syllabus A) HKCEE paper is accepted as an equivalent of a Grade "E" in the Syllabus B paper. Other overseas or local academic attainments are considered on a case-by-case basis. In respect of non-degree grades with academic qualification requirements below the HKCEE level, LPRs are aligned with the minimum academic qualification laid down for the grades concerned. Regarding grades that do not have any prescribed academic qualification, LPRs are set at a level that is commensurate with the job requirements.

With effect from 8 August 2007, the Government accepts Chinese Language results in International General Certificate of Secondary Education (IGCSE), the United Kingdom's General Certificate of Secondary Education (GCSE) and General Certificate of Education "Ordinary" Level (GCE "O" Level) for civil service appointment purpose. Specifically, we accept a Grade "C" in these overseas examinations' Chinese paper as equivalent to a "Level 3" in the HKCEE Chinese Language, and a Grade "D" as equivalent to a "Level 2" in the HKCEE Chinese Language.

Heads of Department or Heads of Grade may apply to the Civil Service Bureau for exemptions from the stipulated LPRs on a case-by-case basis if they encounter recruitment difficulties.

**MR IP KWOK-HIM** (in Cantonese): *The Secretary mentioned in the seventh paragraph of the main reply that for certain non-degree grades with academic qualification requirements below the HKCEE level, their LPRs will be aligned with the grades concerned and set at commensurate levels. Secretary, as far as I know, there are some civil service posts, such as those in certain junior ranks in the Correctional Services Department (CSD), which are filled by staff of South Asian descent. At present, there is a need for the CSD to have staff of South Asian descent to communicate with inmates of the same descent. Notwithstanding the department's actual operational need, these people are held back by the requirement that they have to be literate in Chinese, which means, though I am not entirely sure, meeting the minimum requirement of Grade "E" in Chinese Language in the HKCEE. Under the circumstances, can the authorities exercise certain flexibility so that Hong Kong permanent residents of South Asian descent can have the opportunity to become civil servants and work for the Government?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, my understanding is that a vast majority of civil service grades have stipulated the relevant academic qualifications as a requirement for appointment. As I recall, there is a junior civil service grade in the CSD, the Assistant Officer grade. I also recall that in the recruitment of Assistant Officers, the department has also specified the minimum academic qualifications required. I think the requirement is either completion of Secondary Five (with HKCEE) or Secondary Three. As such, the LPRs for this junior grade will either be a pass in both Chinese and English Languages in the HKCEE or the relevant levels for Chinese and English Languages at Secondary Three level. Currently, only very few civil service grades do not specify any minimum academic qualifications. I recall that only a few departments have not specified any minimum academic qualifications when recruiting Workman II. For these few civil service grades, the recruiting departments will specify the LPRs according to actual operational needs. There is also another consideration in respect of civil service appointments. Take the CSD as an example, my understanding is that various duties will be assigned to the staff in the CSD, which may include the management of inmates of different ethnic origins. The CSD also has a considerable amount of internal guidance notes written in Chinese for distribution to its staff. As such and for the purpose of facilitating day-to-day operation, we

hope the staff working in the CSD must reach a certain level of Chinese language proficiency and of course, a certain proficiency level in English language as well.

I trust that Mr IP is in fact concerned about whether we can increase the opportunities of ethnic minorities in Hong Kong joining the Civil Service. In this respect, as I have said in the main reply, we have in fact already relaxed the Chinese language requirement suitably. As I have said in the eighth paragraph of the main reply, we did not accept Chinese Language results in the United Kingdom's GCE "O" Level previously because the level was considered perhaps too low. However, we have discussed the matter with the relevant bureaux and departments as well as the Education Bureau. We have also considered the views reflected by the relevant departments that the Chinese Language results in GCE "O" Level would suffice for certain posts in terms of the Chinese language requirement of their job duties. As a result, we have accepted the relevant examination results since around 2008.

President, I think this issue should be tackled from the perspective of expediting the integration of the ethnic minorities into the local education system. In this respect, I note that when speaking on a motion debate in the Legislative Council last November, the Secretary for Education has proposed a series of measures to help the ethnic minorities in Hong Kong (who, of course, are not limited to those of South Asian descent) to better integrate into the local education system. This is more of an upstream initiative. I think when this initiative comes into fruition and when people of ethnic minorities enter the workforce after leaving the education system, they will find it easier to seek employment either in the Civil Service or in the private sector.

**PRESIDENT** (in Cantonese): This Council has already spent more than 15 minutes so far, with the Secretary giving replies to the main and supplementary questions put by Mr IP Kwok-him. As six Members are waiting for their turn to ask questions, I will allow slightly more time for this question accordingly.

**DR MARGARET NG** (in Cantonese): *President, I would like to follow up on the motion debate held last November which was mentioned by the Secretary just*

*now. That motion was sponsored by me and endorsed by the Legislative Council.*

*However, President, this ultimately involves a goal to be achieved only through long-term measures, that is, a change in the present system of language education. I would like to ask the Secretary whether the authorities have some interim or short-term bridging measures? In particular, we have mentioned in the previous motion debate that some youths of South Asian descent had written to us indicating their strong wish to join the police. Before 1997, some people who did not know Chinese could become policemen. There was no problem at all. But why do these young people have to face such a big obstacle now? Just now, the Secretary said that we have to help them improve their language proficiency. But this cannot be achieved unilaterally. Take people with disabilities for example. They are not hired because toilet facilities are generally not spacious enough to be accessible by wheelchair. That is cited as the reason why disabled persons cannot do the job. But nowadays, such an attitude has been changed. Free and unobstructed access is now provided even for those on wheelchair. By the same token, can improvement be made in the Government's internal circulars so that ethnic minorities who do not know Chinese or do not know how to write Chinese can still meet the job requirements?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, Dr NG's observations are, to a certain extent, true reflections of the reality. Before the reunification, there were a number of civil service grades, including those in the Police Force and the Administrative Officer grade, which did not specify a certain proficiency level in Chinese and English languages for appointment. But after the reunification, we have clearly stated that both Chinese and English are the official languages of the SAR. We are also aware that in the Government's administration as well as its communication and contact with the public, the use of both Chinese and English is equally important within the Government. Hence, the measures implemented before 1997 must be changed accordingly after the reunification to suit our present need.

As regards the example about the police that Dr NG has cited in particular, I have obtained some information from the police when preparing my reply to

this question. According to the Police Force, they have always adhered to the guiding principle of equal opportunities and put more stress on the applicants' capabilities and sense of value. On capabilities, the police attach great importance to the language abilities and communication skills of their officers. Hence, the police's requirement in terms of language abilities of the new recruits is that they should be able to handle their day-to-day duties in both Chinese and English, and this is definitely essential for the discharge of police duties. This requirement of the police in recruitment is equally applied to all applicants regardless of their ethnic origins. I understand and concur with Dr NG's remarks that it takes time for the upstream work to achieve results. The time required to achieve results depends on whether the Government's initiatives are effectively focused. And it would also depend on how the ethnic minorities in Hong Kong will provide their support. I believe the Government will make continuous efforts in this area.

**MS EMILY LAU** (in Cantonese): *President, it is exactly because the whole community is progressing slowly in this area that many people are bearing the bitter consequences. Like Mr IP Kwok-him, I have also received many complaints and cases seeking for help. These cases are not just about appointment to the Civil Service, and promotion is also another subject of complaint. Some staff members in the CSD are barred from promotion because of the same reason.*

*President, the fourth paragraph of the main reply states that it is the current practice of the authorities not to collect any race-related information about the applicants in the process. President, that is so convenient because if they do not collect any information, then there is no such cases at all. Well, I think the Secretary must, first of all, tell us how many complaints have been received? My office has also written to the authorities to lodge a complaint. However, the authorities are actually contravening the relevant requirement laid down by the United Nations Commission on Human Rights. I thought that the authorities had already changed its policy when we were scrutinizing the Race Discrimination Bill such that they would collect race-related information in all areas. If the authorities do not collect the relevant information and then say that they do not know whether there are such cases, have they not contravened the requirement completely? Hence, I would like to ask the Secretary whether*

*she knows that the authorities would collect race-related information in other areas? How many complaints from ethnic minorities have she herself and the authorities received?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, as far as I know, the Government will collect information on ethnic groups that the people of Hong Kong think they belong to as part of the population census and by-census conducted by the Census and Statistics Department (C&SD) every 10 and five years respectively. We will collect data in this respect through the population censuses conducted every 10 or five years. Regarding the management of the Civil Service, we have not, to this date, differentiated between the applicants for racial reasons and required them to disclose their ethnic origins when they apply for civil service posts or after they have joined the Civil Service. Neither have I any information to show that the SAR Government has any obligations under the international conventions applicable to Hong Kong to collect such information in the course of recruitment.

Nonetheless, I also notice that the Equal Opportunities Commission has published a Code of Practice (the Code) late last year. Under the Code, local employers are encouraged to collect information about the ethnic distribution of their employees. We are now discussing the issue with concerned parties within the Government, including the C&SD and the Constitutional and Mainland Affairs Bureau which is responsible for the policy on ethnic minorities, in order to study how best to implement the practices encouraged by the Code for adoption by employers.

**MS EMILY LAU** (in Cantonese): *President, the Secretary has not answered my question as to how many complaints have been received.*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, out of the complaints that I have received personally, there is one related to the Assistant Officer grade of the CSD. President, please allow me to do some explanation here. There are two ranks in the Assistant Officer grade in the CSD, that is, Assistant Officer I and Assistant Officer II. When considering the promotion of an Assistant Officer II to the rank of Assistant Officer I, there is absolutely no

additional requirements in respect of Chinese or other languages. However, when an officer in the Assistant Officer grade wants to apply for a position in another grade, then the requirements will follow those of the other grade. For example, the Officer grade is a separate grade in the CSD. In that case, the recruitment of an Officer must follow the LPRs stipulated for the Officer grade. All in all, for posts belonging to the promotion rank of a grade, we generally do not impose any particular requirement in respect of Chinese and English languages. However, if someone working in A grade wants to apply for a post in B grade, then we must make a decision according to the LPRs of B grade. This arrangement is applicable across the board and is not intended to create difficulty for colleagues working in A grade.

**MR ALBERT HO** (in Cantonese): *President, the Secretary has stressed time and again just now that a bilingual Civil Service capable of using Chinese and English can communicate effectively with the general public. But she seems to have disregarded the tens of thousands citizens of ethnic minorities living in Hong Kong. Although they are also permanent residents of Hong Kong, they may not be conversant with these two languages and may only know their native language. My supplementary question is: Why is it that some positions in the Civil Service, particularly the junior posts in law enforcing departments, including the CSD, and even the Housing Department, cannot be filled by candidates who are conversant with one official language, say, English, in addition to their native language, so that they can provide service to the ethnic minorities in Hong Kong? How does this arrangement in any way contravene the Basic Law? In fact, by doing so, we can prevent others from saying that the Government has practised indirect discrimination. Can the Secretary tell us why this arrangement is against the requirements in our law? Why is this arrangement not a more effective way to uphold the spirit of the International Convention on the Elimination of All Forms of Racial Discrimination?*

**SECRETARY FOR THE CIVIL SERVICE** (in Cantonese): President, regarding the LPRs of individual grades, the most important consideration is what languages are required for the job and the duties, as well as the requisite level of proficiency. Let me quote a relatively simple example. If we are to recruit a police officer, his main duties would generally include patrolling on the streets. When this officer is on street patrol, he would come into contact with citizens



belonging to different ethnic groups. But in Hong Kong, the majority of our population is Chinese. More than 99% of our population is Chinese, that is, citizens of Chinese descent. Hence, our aim is to recruit police officers who can discharge the duties required of them under most circumstances. I also understand that when a citizen of ethnic minorities meets a police officer on the street, he may want to say something to the police officer or ask for help. If this citizen cannot speak Chinese and English, we can now provide immediate interpretation service either through the telephone or other means. We cannot say that we have to appoint civil servants belonging to ethnic minorities just to serve the ethnic minorities because the scope of their work should cover all Hong Kong citizens. So, there would be certain practical difficulties. However, we have already relaxed the LPRs in respect of Chinese and English, particularly in Chinese, to a certain extent according to the operational need of some junior grades.

**PRESIDENT** (in Cantonese): Mr Albert HO, the Council has already spent 28 minutes on this question which is far more than that generally allowed for oral questions. So, even if you think the Secretary has not answered your question, I can only ask you to follow it up on other occasions. Second question.

### **Manpower of Nurses in Public Hospitals**

2. **MR ANDREW CHENG** (in Cantonese): *President, it has been reported earlier that quite a number of nurses who work in the operating theatres of Queen Mary Hospital had taken sick leave together, because they were dissatisfied that they were required to perform excessively long hours of overtime work persistently, resulting in postponement of a number of non-urgent surgical operations. Regarding the problem of nursing manpower in the Hospital Authority (HA), will the Government inform this Council if it knows:*

- (a) *whether the HA had recruited all the additional nursing staff provided in the Estimates of that year in each of the past two financial years; if so, among such newly-recruited manpower, of the number of nurses responsible for providing support for the various newly-added medical services; if not, for what purposes the resources concerned have been redeployed;*

- (b) *given that I have learnt that apart from providing existing services, nursing staff of public hospitals are also required to support a number of new services launched by the HA in recent years (including community support and multi-disciplinary health care services), whether the HA has assessed if there are enough nursing staff to provide support for operating theatres and other in-patient services when the new services are launched; of the average number of nurses responsible for providing the services concerned for each bed per shift in the public hospitals under the HA in each of the past three years; whether the authorities will consider discussing with the HA revising the establishment of nursing staff, including the number of beds for which each nurse working in hospital wards is held responsible; and*
- (c) *the average number of operating theatre nurse specialists who departed from public hospitals in each of the past three years, and whether the various public hospitals can maintain sufficient number of nurse specialists; given that the Government announced in the policy address delivered on 15 October 2008 that it would promote the development of private health care, whether the Government has assessed how many additional operating theatre nurse specialists are required to be trained in the coming five years to meet the demand of public and private hospitals?*

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

- (a) The nursing manpower in the HA has increased in the past two years. From 2008-2009 to 2009-2010 (as at 30 November 2009), the number of full-time equivalent nurses in the HA increased from 19 522 to 19 885. These figures are higher than the estimates in the relevant Controlling Officer's Report (COR) in the Budget of these two years by 310 and 465. The HA will continue to actively recruit nurses to strengthen its manpower support and meet its service development needs.

New services of the HA are provided by service teams which comprise health care staff from different disciplines, including doctors, nurses and allied health practitioners. In launching new

services, the HA takes into account the manpower requirements of existing and new services and assesses the supply of various health care professionals at the time so as to determine the appropriate staff mix and arrangements as well as flexibly deploy resources to provide the services.

To strengthen the retention of nurses, the HA has implemented a number of initiatives to enhance the professional development of nurses and broaden their promotion pathway. These include strengthening clinical and specialist training for nurses, as well as the introduction of a new three-tier nursing career structure by phases from June 2008 to provide nurses with a clinical promotion ladder in addition to the existing nursing management promotion pathway. Under the new structure, the HA has created the post of Nurse Consultant on a pilot basis to broaden the clinical career development pathway of nurses. As at 31 December 2009, a total of seven Nurse Consultants were recruited. The HA has also provided higher rate of allowance to Department Operations Managers working in large departments and established additional Advanced Practice Nurse positions in clinical departments to provide more supervisory support. From June 2008 to the end of November 2009, over 580 additional Advanced Practice Nurse positions were created.

At the same time, to strengthen the recruitment of nurses, the HA has implemented in recent years several measures to improve the employment conditions of nurses. These include raising the starting pay of nurses, extending the contract period of Registered Nurses to six years, and providing permanent employment opportunities to eligible full-time contract Registered Nurses. Moreover, the HA has also implemented various measures to improve the working arrangements of nurses, including employing more clinical supporting staff to support the work of nurses, reducing the non-clinical work handled by nurses, improving the equipment frequently used by nurses to alleviate their workload, as well as increasing the flexibility in recruitment and employing more part-time nurses, and so on.

- (b) In launching new services, the HA takes into account the manpower requirements of existing and new services on various health care professionals and assesses the supply of various professionals at the time so as to make appropriate manpower arrangements for providing the services.

The HA provides different types and levels of services to patients having regard to the conditions and needs of each patient. As such, the HA does not use the ratio of nurse to patient or bed as an indicator in manpower planning. The Administration also has no plan at present to require the HA to set a fixed staff establishment. The HA will flexibly deploy and adjust its manpower in accordance with the operational needs and service demand of hospitals and departments in various districts.

- (c) In the past three years (2007-2008, 2008-2009 and 2009-2010 as at November 30), the turnover of nurses working in operating theatres of public hospitals were 36, 57 and 24 respectively. In the same period, the number of full-time equivalent nurses working in operating theatres of public hospitals increased from 1 040 to 1 063. On the whole, the number of vacancies filled exceeds the number of turnover.

The HA conducts manpower planning from time to time and makes assessment on the manpower requirements of various health care grades (including nurses). It will also strengthen its manpower support through various measures and make appropriate arrangements in manpower planning and deployment.

The Administration will also continue to assess the supply and demand of health care professionals in Hong Kong, including nurses, to facilitate manpower planning. In view of the ageing population and the rising public expectations on the quality of health care services, we expect that the local demand for nurses will remain strong. As for the supply of nurses, we anticipate that there will be over 1 400 nurse graduates each year in the coming few years.

Moreover, the University Grants Committee, having considered the views of the Administration, has provided 40 and 50 additional places respectively for nursing programmes at degree and sub-degree levels in the 2009-2010 academic year. It will also provide 60 additional senior year places for degree programmes on nursing in the 2010-2011 academic year with a view to stepping up the training of nurses to meet the demand. Furthermore, the HA also provides nursing training through its re-opened nursing schools and will continue to enhance specialist training for existing nurses.

**MR ANDREW CHENG** (in Cantonese): *President, although the Secretary said in parts (b) and (c) of the main reply that the HA will conduct manpower planning from time to time, unfortunately, he told us in part (b) of the main reply that such planning is not based on the ratio of nurse to patient or bed as an indicator in planning. He continued to say that this is due to the need for flexibility in manpower deployment.*

*Does the Secretary understand why nurses working in operating theatres have accumulated up to 100 hours of overtime work, or why some nurses in the operating theatres who have been deployed to work in wards are transferred back to the operating theatres due to a shortage of operating theatre nurses? These so-called flexible deployments exhaust them both physically and mentally. I would like to ask the Secretary again, if he does not have the nurse-to-bed ratio, how could he say in part (c) of the main reply that there is a reasonable assessment of the demand for nursing manpower? Or the Secretary does have such figures, only that they are not too presentable, and will make us worry that health care services will be seriously undermined?*

*Therefore, I would like the Secretary to answer this again because in part (b) of the main reply, he failed to mention specifically a nurse-to-bed ratio. The Secretary surely has the figure, so please tell us. Although he said there is no indicator for planning, he must have that specific figure.*

**PRESIDENT** (in Cantonese): Mr CHENG, your supplementary is very clear. Secretary, please reply.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Of course, if we want to come up with a figure, we can get one by dividing the existing number of wards and beds by the number of nurses, but from the management angle, this is by no means an effective indicator. On the contrary, we are aware that regardless of what patients we are caring for, there must be a path, and it is also the current practice of the HA to make manpower arrangement or deployment in accordance with this so-called care path. If the HA discovers any bottle-neck situation, it will increase manpower in the relevant area. So, each individual cluster or hospital has to do this. In general, advanced countries also have not made management arrangement based on the number of beds.

In Hong Kong, in respect of manpower training, the Government will definitely make projection with reference to a relatively comprehensive figure. Therefore, I said earlier that we have increased resources for nursing training, and in the following couple of years, we will gradually provide more training for nurses, as well as more nurse graduates, details of which have been provided in the main reply. We believe that in the coming two or three months, we can provide more information in this regard.

**MR ANDREW CHENG** (in Cantonese): *President, I have no intention of debating with the Secretary over policy. I was just asking, and he failed to answer .....*

**PRESIDENT** (in Cantonese): You just have to repeat the part which the Secretary has not replied.

**MR ANDREW CHENG** (in Cantonese): *I do not want to waste time in repeating it. He has not given us the relevant specific figure. Although he said that this figure is not important from his angle, I still hope that he can provide it. If he does not have it now, he must provide it by way of a written reply.*

**PRESIDENT** (in Cantonese): I think the Secretary has already given an answer. Secretary, do you have anything to add? Can you furnish a written reply?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): If Members want to have the figures for beds and staff under the HA, of course I can provide them. (Appendix I)

**DR JOSEPH LEE** (in Cantonese): *President, I can furnish the Secretary with the figure which he does not have. According to surveys conducted by the Association of Hong Kong Nursing Staff last year and lately, the existing nurse-to-patient ratio for acute hospitals is one nurse caring for 10 to 12 patients, while the ideal international standard for acute hospitals is for one nurse to take care of four to six patients. These are the findings of the survey conducted just last year. I do have the figures. In part (a) of the main reply, the Secretary said that over 500 Advanced Practice Nurses have been promoted and nurses also have received salary increase. I am puzzled by this main reply because from another set of information, we learn that a survey conducted by the Association of Hong Kong Nursing Staff found that during the past few years, the HA in fact unjustifiably deleted about 700 Advanced Practice Nurse positions, so these 500-plus promotions actually are not newly created positions, but are simply making up for the old positions, not to mention the number of senior nursing officers required for new services. This is the first point. Secondly, salary increase for nurses only comes in line with salary increase for civil servants. The HA is simply increasing their pay correspondingly.*

*My supplementary is: given the seriousness in turnover for nurses, why has the HA not put in place a sound retention policy? I have raised a written question just last week and we can see that nurses with length of service between zero to five years and 10 to 15 years have the highest turnover rate. These are exactly the so-called "backbone" nurses. Why has the HA not drawn up sound policies to retain them? The nurse-to-patient ratio which the Secretary mentioned earlier is actually a guarantee for quality. If a sound retention policy is lacking, how can it be guaranteed that public hospitals can provide patients with quality service?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Member has raised several questions. I will try my best to answer them.

Firstly, on the turnover of HA nurses in recent years, the figure for 2007 is 4.5%, for 2008, it is 4.7%, and for this year, that is, for 2009-2010, our forecast is about 4%, meaning that the figure is falling. Members will understand that there

is a correlation between the relatively higher turnover rate in the past few years and the expansion of private hospitals.

Apart from the initiatives I mentioned in the main reply, we also have to increase supply. Over the years, we increase around 1 000 nurses annually, and by the end of this year, the number will be increased to 1 400. Compared with the past, there is a rise in the figure and in the coming three to four years, there will also be more than 1 400 nurse graduates. To Hong Kong, this will be of certain help for our present or future development.

As regards service quality mentioned by Dr LEE, many senior nurses have stayed with the HA, and they will be responsible for the service quality of the various departments and service units. Moreover, clinical assessment has continued to prove that the existing level of our health care personnel and health care service has maintained a high international standard.

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

**DR JOSEPH LEE** (in Cantonese): *President, the Secretary has not answered my supplementary. My supplementary is in fact very simple, and I did not raise several questions, but just one question, and that is, since the HA has not put in place a sound retention policy, nor does it have a nurse-to-patient ratio, how can it specifically safeguard service quality? The Secretary has not answered this question.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, let me repeat that with regard to the number of nurses, apart from trying our best to increase manpower and recruit more nurses, I have said that we will formulate some measures to retain senior nurses. For instance, in 2008-2009 alone, we have promoted about 583 Advanced Practice Nurses while in the last three years, more than 700 Advanced Practice Nurses have been added. Thus, some experienced health care personnel can remain in the public sector to help to train young health care personnel and provide enough supervision. Such a move can maintain our medical and health care service at a certain standard.



**DR LEUNG KA-LAU** (in Cantonese): *President, in part (b) of the main reply, the Secretary said the HA will not be required to set a manpower ratio. I would like to ask the Secretary this: on the regulation of private hospitals, has the Government made any specification for health care manpower of private hospitals, requiring them to come up with a ratio?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, in a nutshell, we have not for the time being required hospitals to set any manpower ratio, so to speak. Members also understand that the business and service volume for private hospitals in each period may differ, and based on their operation needs, they sometimes may need more nurses and less at other times. In addition, different private hospitals will provide different types of services, with some requiring more health care personnel and others less. Thus, for the moment, we have not imposed any requirement in this respect.*

**MR CHAN HAK-KAN** (in Cantonese): *President, actually, not only is the turnover situation serious for nurses working in the operating theatres, as some nurses from the obstetrics and gynaecology department also complain to us that they are working under great pressure because many of their colleagues have switched to work in private hospitals instead. On 29 April 2009, I raised a question on the manpower of health care staff, and I remember the reply given by the Secretary then was that the overall turnover rate for doctors from the obstetrics and gynaecology department stood at 7.3%. I anticipate that the turnover rate for obstetrics and gynaecology nurses will also be higher than that of other nurses.*

*The Secretary mentioned in part (c) of the main reply that there will be 1 400 nurse graduates in the future. I would like to ask the Government: have these graduates been classified by disciplines? For example, since the turnover rate for obstetrics and gynaecology nurses is particularly high, will the Government step up training in this field and increase manpower deployment accordingly?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I think Mr CHAN is referring to training for midwives. In this regard, apart from increasing the places for training, as shown by the information contained in the*

main reply, on the front of tertiary institutions, the HA will also request an increase in training for qualified midwives. (Appendix 1) This can boost the number of midwives in Hong Kong.

**MR IP WAI-MING** (in Cantonese): *Our concern today is actually about the present workload of health care staff because whenever we go to hospitals for visits, we can see that nurses as well as general service assistants are always working non-stop. In part (a) of the main reply, the Secretary provided two figures on nurses: for 2008-2009, the figure is 19 522 while for 2009-2010, it jumps to 19 885. When I compare these two figures, I discover that the actual increase is only 363 but the Secretary said that over the past year, there were 1 000 student nurses. Thus, in actual fact, less than 40% of those 1 000 student nurses joined the HA. We reckon many of them may have probably joined the private hospitals or become the so-called private nurses. Therefore, even though the Secretary said in the main reply that there will be 1 400 nurse graduates in the future, under the circumstances of continued expansion of private hospitals, I in fact share the concern of the other colleagues, that is, what measures or channels does the Government have to attract more student nurses to join the public health care sector so as to alleviate manpower pressure?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I understand it, in general, for the majority of the nurse graduates, they will hope to work in public hospitals at least initially to develop their career. Basically, given such circumstances as the turnover of nurses, there are considerable vacancies at the moment and if they apply, it is very easy for them to join the public hospitals.

However, some nurses will be attracted to private hospitals because some hospitals may offer better conditions or higher pay. That said, after working in private hospitals for a while, some nurses will realize that training opportunities may not be as good as those in public hospitals and will thus return to the latter.

Hence, overall speaking, it is in my opinion that so long as they remain to serve in Hong Kong, regardless of whether they work in public or private hospitals, they are serving the people of Hong Kong, and provided they render their service within the overall service net, I believe there will be no wastage of our professionals.

Moreover, some of them will work in homes for the aged or care-and-attention homes. It is our wish that they will receive certain training to raise their standard. In general, we have a good measure of confidence in the number and quality of nurses to be trained in the future, particularly in the coming three to four years. Meanwhile, we anticipate that when new hospitals come into operation on the four plots of land earmarked for the medical industry in four to five or five to six years, Hong Kong should have enough experienced health care personnel joining the service.

**MR IP WAI-MING** (in Cantonese): *President .....*

**PRESIDENT** (in Cantonese): Mr IP, we have spent 23 minutes on this question. Although you may consider that the Secretary has not answered your supplementary, you can only follow up through other channels.

I would like to remind Members that during the Question Time, when it comes to individual Member's turn to ask questions, each Member can only raise one question. Of course, I have to allow the Member to explain briefly the background and meaning of the supplementary while posing his question, but if the Member has spoken relatively long when asking the question, apart from taking up the time for other Members to raise questions, first, although many questions brought up while he speaks may not really be his supplementary, if the Secretary or the official appointed to attend the meeting does not agree, I of course also have to allow him to respond; second, some Members very much like to use interrogative sentences, such as, "Do you consider this reasonable?" or "Have you done so?". These actually do not form part of the supplementary, but an overly use of them will make it difficult to understand what in fact the supplementary is about. Therefore, in order to give more Members an opportunity to ask supplementaries, I hope that Members can be as concise as possible. Third question.

### **Redevelopment of Industrial Buildings**

3. **MR WONG TING-KWONG** (in Cantonese): *It has been reported that the Government will launch new measures to accelerate the revitalization of*

*industrial buildings, and the Lands Department (LandsD) will set up a dedicated team with about 10 members to provide one-stop service to process all applications for redevelopment, conversion and change of use of industrial buildings starting from the first of April this year. Government departments such as the Fire Services Department (FSD), Transport Department (TD) and Food and Environmental Hygiene Department (FEHD) will be required to reply with their views on the applications within two weeks. In this connection, will the Government inform this Council:*

- (a) of the composition and structure of the aforesaid dedicated team, and what steps are included in the procedure for processing applications through the one-stop service;*
- (b) of the estimated time saved under the new procedure as compared with the existing procedure, and how the new procedure processes applications which are more complicated; and*
- (c) given that there have been reports that the LandsD will publish a new Practice Note before April this year to set out the details of conversion which may be accorded flexibility subject to compliance with existing legislation, of the contents of the Practice Note and in what ways the Practice Note will be published to ensure that relevant parties will be duly informed of its contents?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, in his policy address delivered in October last year, the Chief Executive announced a package of measures to facilitate redevelopment of old industrial buildings and encourage wholesale conversion of industrial buildings. The objective is to provide suitable land and premises to meet Hong Kong's changing economic and social needs, including those of the six economic areas proposed by the Task Force on Economic Challenges (TFEC) earlier on.

Since the announcement of the new measures, we have been earnestly preparing for their launching on 1 April this year. In the past few months, we have approached various business groups, professional bodies and local organizations to introduce the new measures and to listen to their views. They include the Legislative Council, District Councils, political parties, business

groups, professional bodies, and so on. Meanwhile, the Development Bureau has been liaising with the relevant policy bureaux and departments regarding the implementation details, so as to ensure a smooth and effective implementation of the new measures.

My reply to Mr WONG's three-part question is as follows:

- (a) The LandsD will set up a dedicated team to centrally process applications for wholesale conversion or lease modifications for redevelopment of industrial buildings under the new measures. The team will come into operation on 1 April 2010 and will have about 10 members, including estate surveyors, solicitors and officers from other grades, who report direct to the Chief Estate Surveyor (Headquarters) of the LandsD. In processing the applications, the team will examine if they meet the eligibility criteria of the new measures and consider carefully if sufficient information has been provided. It may also consult the relevant departments on specific cases and request them to reply within two weeks as far as possible. The team will, if necessary, arrange for discussion of applications at the District Lands Conference. If the applications are approved, the team will, after consulting the solicitors, draft the necessary documents for execution by the applicants. In processing approved applications for redevelopment, the team will assess the land premium and deal with the applicants' appeals against the amount of premium payable (if applicable). Regarding approved applications for conversion, since no waiver fees will be imposed, it will not be necessary for the team to carry out the assessment.
- (b) Compared with the usual practice of requiring applicants to submit applications to the relevant District Lands Offices in accordance with the location of their industrial buildings, the establishment of a dedicated team has the advantage of processing all applications under the new measures in a more focused manner and with greater efficiency. Also, as the premium assessment process is no longer required, the overall time for processing applications for wholesale conversion of industrial buildings will be shorter than that for normal cases. Nonetheless, the actual processing time would vary from case to case depending on the circumstances and cannot be

generalized. The processing procedures mentioned above generally apply to all applications regardless of whether they are complicated or straightforward cases.

- (c) The LandsD is drafting a Practice Note in respect of applications for redevelopment and wholesale conversion of industrial buildings under the new measures. For the reference of potential applicants or professionals who assist applicants in filing applications, the Practice Note will set out application details such as the documents required to be submitted. The Practice Note will be issued in the first quarter of this year and the public can access it via the webpage of the LandsD.

The LandsD will consult the industries in accordance with established procedures when drafting the Practice Note.

**MR WONG TING-KWONG** (in Cantonese): *President, may I further ask whether the dedicated team is established on a permanent or short-term basis? Given that relevant applications will substantially increase after the policy on revitalization of industrial buildings is launched, whether the authorities have assessed if the current staff establishment is sufficient to expedite the processing of applications as planned?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I thank Mr WONG for this supplementary. As announced by the Chief Executive, the policy of industrial building revitalization will be launched on 1 April 2010 and will be effective for three years, during which the level of manpower support will be maintained. As we cannot ascertain the volume of applications that we will receive from eligible industrial buildings under the new policy, I am of the view that at this stage, this dedicated team should be established first — the 10 members of the team are additional staff we have specially taken on for this purpose — and this level of manpower should be adequate.

Certainly, in finalizing and executing this policy, the LandsD and the Development Bureau will assess the need of manpower where necessary, so as to avoid as far as possible the situation that a large number of applications cannot be

processed due to inadequate manpower, thereby preventing industrial building owners from benefitting from the new policy during the three-year effective period.

**MR JEFFREY LAM** (in Cantonese): *President, if the new use of the revitalized industrial building (such as hotel or columbarium) does not comply with the permitted uses of the planning zone concerned, the owner will have to apply for planning permission from the Town Planning Board (TPB). However, this may involve complicated procedures such as vetting and approving by the TPB and conducting public consultation. Does the Administration's one-stop service to process applications include application for change of use to the TPB? In this connection, how will it assist the owners?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): To answer Mr LAM's question, the one-stop service provided by the dedicated team established under the LandsD does not cover the work conducted by the TPB. The reason for not covering such work is that the planning issue has more or less been dealt with when drawing up the policy of industrial building revitalization. We seek to revitalize industrial buildings, provided that they comply with planning changes made over the years (for example, the land has already been changed to a Business Zone) and all uses are always permitted. Thus, under the policy of industrial building revitalization, these buildings are only required to modify their land lease. We trust that this will cover a great majority of potential applications involving existing industrial buildings.

Mr LAM is correct in saying that these two uses require TPB's permission. Hotel is a permitted use in a Business Zone in Column 2, and application for planning permission is required. Columbarium falls into another zone, and application for land rezoning is required. Owners who intend to convert their industrial buildings into these two uses must go through the town planning process because these uses are of concern to society.

However, we have another measure which also provides one-stop service. If the land owners (including industrial building owners) have a creative proposal for using their land and wish to seek one-stop consultation service, they may approach the Development Opportunities Office (DOO) established under the

Development Bureau. I believe if there is an appropriate industrial lot for use as columbarium, Secretary Dr York CHOW will also urge the DOO to provide support.

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong, this is your second supplementary question.

**MR WONG TING-KWONG** (in Cantonese): *As the industries are very concerned about this policy, they have raised many questions for me to ask the Secretary. May I further ask this: regarding the Practice Note drafted with the consensus of government departments including the FSD, TD and FEHD which flexibly deals with the details of conversion, whether other relevant persons or professional opinions, apart from the government departments, have been consulted during its drafting? If so, who have been consulted; if not, what are reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Since the announcement of the revitalization of industrial building, as I have mentioned just now, we have actively approached relevant business groups and some 20 forums and meetings have been held with many participants who are owners of industrial buildings. Their questions raised at these forums allow us to foresee the problems we may have to deal with when conversion or redevelopment is carried out in the future. Thus, we are currently liaising with relevant policy bureaux and departments to see if guidance notes can be drawn up to address the concerns of the industrial building owners.

Let me cite an example here. Many industrial building owners and their professional consultants have pointed out that one of the biggest difficulties of converting industrial buildings to other uses is parking facility. According to the Hong Kong Planning Standards and Guidelines (HKPSG), the requirements for parking facility in an industrial building are lower than those in a commercial building. Hence, when an industrial building is converted to commercial use, and if it is required to rigidly comply with the parking facility requirements set out in the HKPSG, that is simply impossible. We have listened to these views in the consultation process, and are now examining and discussing this issue with



the TD. The TD has responded positively, indicating that it will accord flexibility and exercise discretion when handling this issue. Thus, in the coming days, we will incorporate the TD's view into the relevant guidance notes or Practice Notes for reference of the industries.

**DR LAM TAI-FAI** (in Cantonese): *Secretary, I know that the main purpose of revitalizing industrial buildings is to meet Hong Kong's changing economic and social needs; and I learnt today that the authorities will establish a dedicated team which will have about 10 members. May I ask whether the composition of the dedicated team has any members from the commercial and industrial sectors? Because only members in the sectors know about news and information in the market. If there are such members, what is their number; if not, will members of the sectors be added to the team?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): This dedicated team is a professional group established under the LandsD Civil Service, and is charged with the duty to process applications for lease modification. However, I appreciate Dr LAM's point that nowadays the Government very often needs to understand market needs and the industries' concerns in its administration. Thus, work has to be done in two areas. First, we noticed in the past few months that many concerns have been raised in the market and views voiced by the industries, hoping that internal guidelines can be drawn up to address these issues. After the implementation of the new measure, I will be delighted to and will continue to liaise with relevant business groups, or hold regular (or even quarterly or bi-annual) joint meetings to listen to their feedbacks and the market responses to this measure so that we can further improve the measure.

**MISS TANYA CHAN** (in Cantonese): *President, I wish to ask the Secretary about conversion and redevelopment of industrial buildings. Regarding redevelopment of an industrial building, the threshold is obtaining the consent of about 80% of the owners, while conversion requires the consent of all owners. However, I notice that the work portfolio of the dedicated team does not include liaison or communication. May I ask the Government this: if no consensus is reached and hence, a consent cannot be obtained from all owners of an industrial*

*building, but if it is necessary to carry out conversion, will the Government provide the relevant assistance to help owners reach a consensus?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I thank Miss CHAN for this supplementary question. It is correct that be it redevelopment or conversion, both would require the consent of the great majority of the owners, particularly for wholesale conversion. Recently, I also noticed some views saying that the threshold of obtaining the consent of all owners will involve certain difficulties. Thus, there has to be someone to act as the co-ordinator and intermediary, but I am afraid it is inappropriate for the Government to take up this role because this is, after all, a business or market behaviour. I know that some business organizations such as local business federations or professional bodies are now actively considering taking up this intermediary role.

**MR PAUL TSE** (in Cantonese): *As Members are aware, mainland tourists have accounted for the majority (80%) of inbound tourists in recent years, and almost 60% of these tourists were from Guangdong Province who mostly would opt for a short stay in Hong Kong and would rather not spend money on staying in a hotel. May I ask the Secretary whether special consideration has been given to converting these industrial buildings into or using them as lower-end guesthouses in the policy on revitalization of industrial buildings? Has she discussed this proposal with the industries, or what is her view on this proposal?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): In fact, the whole policy of making better use of industrial buildings is developed not only to provide support to the six industries proposed by the Chief Executive in the TFEC in which Hong Kong enjoys clear advantages, but also to considerably benefit the four traditional industries in Hong Kong. Regarding tourism which Mr TSE is most concerned about, all shops and the catering sector are listed as uses which are always permitted in converted industrial buildings; particularly in respect of using the converted industrial building as hotel, as I have said just now, despite the fact that hotel is not a use always permitted, it is included in Column 2 of many planning zones. Thus, as long as an application is submitted to and approved by the TPB, the industrial building can be converted into a hotel.

As a matter of fact, since we rezoned some industrial land for commercial use, many land owners have submitted applications for converting their industrial buildings into hotels. So, I believe many such buildings in the market have already obtained planning permission for converting into hotels. These building owners did not do so in the past years because first, a land premium is required and second, there is no first-mover. If the entire industrial area does not have any signs of revitalization, the industrial building owners generally do not wish to be the first to convert their buildings into hotels. The policy on industrial building revitalization can broadly address these two problems, particularly in the case of wholesale conversion of industrial buildings into hotels. In the past two months, I have at least come across a few cases in which planning is made along this direction.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, in reply to Miss Tanya CHAN just now, the Secretary said that it is inappropriate for the Government to take up a certain role while some local organizations such as business federations can have a part to play. I wish to ask the Secretary: in view of the fact that the Home Affairs Department (HAD) has all along been providing assistance to mutual aid committees and owners' corporations, and that wholesale conversion of or changing the nature of buildings in fact involves many problems such as interests of different parties and consultation, do those business federations from outside have the experience and ability to conduct consultation? Are they capable of reducing conflict of interests and preventing large property owners from taking advantage of small property owners? Would it not be better and more appropriate for the HAD, being a neutral party with better experience and network, to act on behalf of the Government, such that local disputes and conflict of interests can be avoided at the same time?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): The role that the HAD has played in owners' corporations and mutual aid committees has to do with building maintenance and management. But the matter to be dealt with this time involves a commercial decision. I certainly cannot answer this question on behalf of the HAD or the Secretary for Home Affairs, but I believe it is rather difficult to use this system to assist industrial building owners to make a commercial decision. However, I can assure Mr LEUNG that there are organizations which act as intermediaries. For instance, some industrial buildings have great potentials for being converted into premises for creative and

cultural industries. We have thus approached non-government organizations or the third sector in the culture and arts circles, exploring the possibility for them to take up this role, and we have also liaised with the owners concerned to ascertain the feasibility of converting or revitalizing the industrial buildings along certain themes.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *She has not answered the question on conflict of interests. The Secretary has provided some wrong information just now. The assistance which the HAD provides to mutual aid committees and owners' corporations covers not only building maintenance, but also strengthening neighbourliness and how to eliminate .....*

**PRESIDENT** (in Cantonese): Please be as concise as possible.

**MR LEUNG YIU-CHUNG** (in Cantonese): *..... conflict of interests between .....*

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *Hence, the most crucial point is how to avoid conflict of interests and handle disputes.*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I certainly agree with what Mr LEUNG has said. The HAD's work in the area of community building is quite extensive and is far more than just building management and maintenance. However, as I have said just now, the industrial building owners who intend to revitalize their buildings may have to make commercial considerations. Thus, intervening in this decision-making process, particularly on whether or not to convert or redevelop a certain building, seems not to be a role that a government department should take. However, if small owners of an

industrial building, for the purpose of building management, may need to establish an owners' corporation in order to facilitate the revitalization of the building, the Government can certainly provide assistance in this regard. In fact, a present problem is that over half of the industrial buildings in Hong Kong have not set up owners' corporations. Hence, I believe relevant departments will work in line with this initiative.

**PRESIDENT** (in Cantonese): Secretary, will you add anything in respect of conflict of interests?

**SECRETARY FOR DEVELOPMENT** (in Cantonese): I cannot see what response we can make in respect of conflict of interests because Mr LEUNG's concern about conflict of interests exists at any time, and I deeply believe that this is not something a government department can resolve. Nevertheless, if any government action can help owners to benefit from this policy on industrial buildings in a more harmonious way, I believe we will be happy to take such actions.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR IP KWOK-HIM** (in Cantonese): *I find in the Secretary's main reply that a dedicated team will be established. Then, will the dedicated team listen to public views? Admittedly, I do not know if public consultation will be conducted in respect of change of use of industrial buildings; but if consultation is to be conducted, will the dedicated team listen to public views? Is it a long-term or short-term working group?*

**PRESIDENT** (in Cantonese): Mr IP, you have asked two questions.

**MR IP KWOK-HIM** (in Cantonese): *My supplementary question is about public consultation and the operation of the working group.*

**PRESIDENT** (in Cantonese): Secretary, please answer.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): The dedicated team to be established under the LandsD during the effective period of the policy (which covers the next three years) is charged with a duty, that is, to handle applications for lease modification from owners on their behalf. The work of the dedicated team is thus of a very professional and technical nature, which does not involve the need of public consultation. However, regarding wholesale revitalization of industrial buildings, just as I said in reply to Mr WONG Ting-kwong just now, in the past few months we have listened to and consulted the public, in a bid to facilitate the implementation of this policy in future.

**PRESIDENT** (in Cantonese): Fourth question. Miss Tanya CHAN will ask this question on behalf of Mr Alan LEONG.

#### **Implementation of "Trap-neuter-return" Trial Programme**

4. **MISS TANYA CHAN** (in Cantonese): *President, in the reply to a question raised by a Member of this Council on 27 May 2009, the Secretary for Food and Health advised that half of the District Councils (DCs) had already given support to the "trap-neuter-return" trial programme (the trial programme) as early as 2007, and the Agriculture, Fisheries and Conservation Department (AFCD) would, in collaboration with the animal welfare organizations concerned, finalize the details for the implementation of the trial programme in those nine DCs. Moreover, an animal welfare organization has relayed to me that as the AFCD has not yet implemented the trial programme, it has designed a plan for implementing the trial programme, hoping to assist the AFCD in bringing under control the number of stray dogs in the vicinity of Chuk Yuen Village near the Lion Rock using more civilized means. Yet, the animal welfare organization received a verbal warning from the AFCD recently that the organization might be prosecuted if it implemented that plan. In this connection, will the Government inform this Council:*

- (a) *whether the AFCD has commenced the aforesaid trial programme; if it has, of the progress; if not, the reasons for that; and whether the*

*AFCD will work with voluntary organizations for the implementation of the trial programme; if it will not, of the reasons for that;*

- (b) whether the AFCD will give an undertaking that voluntary organizations and individuals implementing the trial programme on their own will not be prosecuted under the Rabies Ordinance for offences such as abandonment of animals, failure to implant a microchip or obtain a licence for animals and so on; if it will not, of the reasons for that; and*
- (c) of the numbers of stray cats and dogs caught in the past three years and the numbers of those which had been euthanized; and whether the authorities will replace the arrangement of euthanasia with the trial programme, with a view to protecting the rights of animals and addressing the issues of stray cats and dogs more appropriately?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, dogs are domestic animals and may face difficulties living in a wild environment. Neglected dogs are prone to health problems, may cause nuisances to the public, and can also spread diseases such as rabies.

Local animal welfare organizations have earlier proposed to the AFCD the introduction of the "trap-neuter-return" (TNR) programme for dogs, allowing neutered stray dogs without an owner to be returned to public places. Apart from examining technical and legal issues, it is also necessary to ascertain public support if the programme is to be successfully implemented. In this connection, the AFCD, in collaboration with the animal welfare organizations which have been advocating this programme, consulted various DCs on the TNR trial programme in 2007. Nine of the 18 DCs supported in principle the implementation of the TNR programme in their districts, while seven expressed objection and the remaining two made no indication. It is evident that DCs have differing views on the TNR programme for dogs. In fact, the AFCD received over 20 000 complaints about stray cats and dogs in each of the past three years. This shows that the public are dissatisfied with the nuisances caused by stray cats and dogs. The Government has the responsibility to address the needs of these members of the public.

Community support is crucial to the successful implementation of the TNR programme for dogs. Based on the outcome of the consultation described above, the animal welfare organizations concerned have indicated that they would identify suitable sites for implementing the trial programme in the nine districts which have indicated in-principle support. At present, the AFCD and the organizations concerned are actively examining the implementation details and the pertinent legal issues, and discussing ways to set criteria for assessing the effectiveness of the programme. Overseas experience and data show that the TNR programme for dogs is controversial and has never been implemented in the major cities of European countries and the United States. Places with similar programmes in place have also failed to achieve satisfactory results. For instance, a study in the United States shows that euthanasia is more effective than the TNR programme in controlling the number of stray cats. To make the trial programme a success, that is, to effectively achieve the objectives of controlling the number of stray dogs and reducing nuisance caused to the public, the programme should be implemented under proper supervision and with professional support. Many dogs may be left wandering in the street after neutering due to lack of proper care. This causes both nuisance to the residents and potential threats to the animals' lives. As such, we must take a prudent approach in implementing the TNR programme for dogs. Our reply to the various parts of the question is as follows:

- (a) The AFCD has been maintaining liaison with the animal welfare organizations concerned to discuss and study the feasibility and details of the introduction of a TNR trial programme for dogs in a particular district, including the responsibility issue regarding the dogs returned after neutering. The AFCD discussed with these animal welfare organizations again on 22 October 2009 and will continue to follow up on this.
- (b) Hong Kong has a very good track record of rabies control and has been rabies-free for years. Rabies is a communicable disease transmissible from animals to humans with a high mortality rate. Besides, stray animals easily serve as a reservoir of rabies virus, strict enforcement of provisions of the Rabies Ordinance on dog management, implantation of microchip in dogs and licensing control are crucial to the maintenance of public health and prevention of importation of animal diseases. To safeguard public health, the Administration will follow up on or prosecute any dog owners who have contravened the Rabies Ordinance.



- (c) Generally speaking, stray animals caught or animals received from owners will first be taken to the AFCD's Animal Management Centres for observation. During the observation period, veterinary officers on duty will closely monitor the animals' health and other conditions to ensure their suitability for re-homing. Health conditions permitting, the animals will stay for four days so their owners may reclaim them. Arrangements will be made for unclaimed dogs and cats to be re-homed through animal welfare organizations if they are found to be healthy and of an acceptable temperament. Only animals which are assessed to be unsuitable for re-homing due to health or temperament reasons, or could not be re-homed by animal welfare organizations will be euthanized. The numbers of stray cats and dogs caught or received by the AFCD in 2007, 2008 and 2009 were 18 760, 16 750 and 15 600 respectively. Among them, the numbers of cats and dogs euthanized were 16 770, 14 500 and 13 310 respectively. The AFCD has been maintaining liaison with the animal welfare organizations regarding the ongoing TNR programme for cats. When compared to stray dogs, the risk of bite and the noise nuisance caused by stray cats are less serious. Apart from discussing the TNR trial programme for dogs with non-governmental organizations, we consider that the most effective way to tackle the problem of abandoned or stray animals is to raise public awareness of the concept of responsible pet ownership, that is, pets should be treated as members of the family and kept properly, and should not be abandoned easily or become a source of nuisance. As such, the AFCD has been stepping up promotion and education at various levels and through different channels, including Announcements of Public Interest on television and radio and posters on public transport to promote care for animals. In addition, the AFCD produces promotional leaflets, posters and souvenirs for free distribution to the public and organizes other promotional activities to enhance publicity. The AFCD will continue its work in this regard to promote the message of responsible pet ownership.

**MISS TANYA CHAN** (in Cantonese): *President, actually the TNR trial programme has been discussed many times in the Legislative Council, both in meetings of the Council or the relevant panel. Just now the main reply also mentioned that since 2007, that is, in January and February of 2008, the Council and the Panel on Health Services had received a reply that the authorities would*

*maintain liaison with the animal welfare organizations concerned to further discuss the implementation details of the trial programme. A year later, in 2009, it was said that the authorities were actively discussing the issue, then a year later, this time around we can see a bit more in the content of the reply, that is, apart from the legal issues mentioned before, we can see from the main reply that after a comma, it says that the authorities were "discussing ways to set criteria for assessing the effectiveness of the programme." May I ask the Secretary how long we should wait until we have the opportunity to see the TNR trial programme to be implemented?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in this regard, I cannot provide a response, mainly because we have asked these voluntary organizations to consider the issue of dog ownership, especially in case nobody admits to be the dog owners and in case any accident happened or somebody was bitten by these dogs, it would be difficult to identify the legal responsibilities, and it is also not possible for the Government to be considered the owner of any stray dog.

**DR SAMSON TAM** (in Cantonese): *The Secretary stated in the main reply that the effective way to tackle the problem of stray cats and dogs was to educate the public. This is of course important, but I hope that the Government can provide us with some data, because the number of stray cats and dogs caught each year has reached more than 10 000, and how many of them ..... dogs, for instance, should have been implanted with microchips over the past 10 years or so, and how many of the stray dogs being caught were found to have implanted with microchips? That is, how many of them were inoculated through normal channels and implanted with microchips? How many of them have not been implanted with microchips, that is, the second generation of stray cats and dogs or some illegally-imported cats and dogs? I hope the Secretary can provide us with the data.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I do not have the information at hand regarding whether euthanized dogs and cats have microchips implanted in them, especially dogs. However, I will follow this up with our AFCD colleagues and see if they can provide the information. (Appendix II)

**DR SAMSON TAM** (in Cantonese): *President, these data are very important as they will enable us to understand and analyse these cats and dogs which have not .....*

**PRESIDENT** (in Cantonese): You need not go any further, as the Secretary has already agreed to provide the relevant information.

**DR SAMSON TAM** (in Cantonese): *Fine, thank you.*

**DR LAM TAI-FAI** (in Cantonese): *I think the reason for the proliferation of stray cats and dogs in the community is inadequate public education. Many people do not cherish these pets, and before they make the decision to keep these animals, they have not thoroughly considered their responsibilities, and they do not understand that this is a very important commitment. I think public education is very important. Does the Government have any specific resources for charitable organizations to conduct public education on how to value these pet animals?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, just now I have also mentioned in the main reply that the AFCD has done a lot of publicity work on public transport and via the media (such as television and radio), and we can also see that in the past three years, although more than 10 000 cats and dogs are euthanized annually, the figure has slightly dropped. We can see that pet owners by and large love their pets, and many of them will take care of their pets until the end of their pets' lives. Nevertheless, the most important thing is that we particularly hope that new pet owners will understand that the adoption of animals is not just like buying a new toy which they can abandon after playing it for some time and that they must care for and cherish their pets. To love and care for one's dog is more than just feeding them, for owners should also spend time with their pets and hug them, and even take them out to do some exercises and play with them, and only this can be considered as loving the animals. Some people consider that going to the mountains to feed animals is tantamount to loving the animals, and this is totally wrong.

So, if we really want to take care of stray dogs, these dogs must have their owners in the first place, who would treat them as their own pets. Therefore, we have indeed explored all possible options. Of course, we also agree with what Dr LAM has said, in that we may have to put across more of these messages to schools and young people, so that when they become pet owners for the first time, they would have already understood the importance in this regard.

**MS AUDREY EU** (in Cantonese): *President, part (c) of the main reply clearly stated that stray animals caught would be taken to the AFCD where they are kept for four days. We can often see from newspapers that as some people know that the animals there would be euthanized on the fourth day if they are not adopted on the third day, these people would claim themselves to be the owners and take away these cats and dogs despite that they are not the real owners. As only 11 voluntary organizations are allowed to operate the adoption service under the present programme, and due to manpower shortage, the numbers of cats and dogs euthanized annually, as stated in the main reply, were as many as more than 16 000, 14 000 and 13 000 respectively. In fact, these numbers are quite high.*

*Therefore, may I ask the Secretary whether he will consider formulating some criteria to allow some individuals — that is, individuals other than the 11 voluntary organizations — to adopt these dogs and cats which are about to be euthanized as long as they fulfil certain requirements?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as far as I know, these 11 organizations have different scale of operation, and we let them perform the task in this regard as we consider that they are properly managed and they have the right objective. Most of them also know the number of animals they can adopt, and they will carry out such work in line with the community network. So, if any organization has the intention to expand the service in this area, and provided that it has the resources and manpower, we will also give it consideration.

**MS AUDREY EU** (in Cantonese): *President, he did not answer my supplementary question. My supplementary question is not about the effectiveness of the work of these 11 voluntary organizations, but because of their*

*limited manpower, they therefore cannot adopt all the animals, resulting in the remaining animals having to be euthanized .....*

**PRESIDENT** (in Cantonese): Please repeat the part of your supplementary question which has not been answered.

**MS AUDREY EU** (in Cantonese): *My supplementary question is whether the Secretary will work out some criteria to allow individuals other than these 11 voluntary organizations to adopt the animals as long as they meet certain principles, so that these people would not be forced to claim to be the dog owners and make the adoption request and hence be prosecuted. Many such cases have emerged now.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, anyone who wishes to adopt cats and dogs can, of course, contact these 11 voluntary organizations, but if some individuals wish to set up new organizations, they can discuss this with the AFCD in order to understand what conditions have to be complied with. For example, they may need to arrange for the space to accommodate the dogs, or the presence of a veterinarian is necessary when such dogs are being taken care of. These organizations can only be set up if the requirements of the AFCD are met.

**MR CHAN KAM-LAM** (in Cantonese): *President, the Secretary stated in the main reply that the numbers of stray cats and dogs caught in the past few years were rather high, such as over 18 000 in 2007 and over 15 000 in 2009 respectively. May I ask the Secretary, after the AFCD receives complaints from residents that such stray dogs have caused extreme nuisance, what procedure will they follow before deploying their staff to catch these stray dogs? Because we often receive complaints in this regard, such as visitors in country parks and residents living in rural areas being disturbed. What exactly is the procedure for launching operations to catch stray dogs?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, let me take a look first, as I have some information at hand. Over the past three years, the AFCD has received 27 820 complaints of nuisance in 2007, compared to

20 400 cases in 2009. There was a decrease of about 7 000 cases. For most of the complaints received, we will deploy staff to catch the stray dogs but of course, we may not be able to catch stray cats and dogs in all such operations. Therefore, only 13 900 stray cats and dogs were caught in 2007; 13 000 in 2008; and more than 12 400 in 2009. The figures I have mentioned just now included abandoned cats and dogs received from their owners, or those taken back by their owners, so the numbers are rather high.

For these stray animals, on the one hand, Members can see how we ensnare and catch them when they cause nuisance to residents, and we cannot catch them by brutal means on the other, so there are some difficulties in this regard. However, at least we have a team of experienced staff to do this job, so we are able to respond to any complaint that we have received.

**PRESIDENT** (in Cantonese): Last supplementary question.

**MR PAUL TSE** (in Cantonese): *President, every time when some movies about dog are well-received, I would worry about these dogs. The more enjoyable these movies, the more I worry about the dogs, because many people may be encouraged to keep a dog immediately. I had received a year of veterinarian training before I entered the law school, and I have also visited some premises where animals are euthanized. As to the scene in such premises, it can be said that whenever I think of it, it is a still a nightmare to me.*

*I absolutely agree with what the Secretary has said just now, that is, in fact we do not only have to feed them, and there must be a lot of other complementary facilities. In this regard, I would like to know apart from publicity and education, will the authorities introduce certain licensing criteria, and even allow dog owners to experience the difficulties of raising dogs, and if necessary, require them to view in person the euthanasia process before deciding whether or not to adopt dogs, so as to make them understand that in this densely populated Hong Kong society, it is not easy to raise a dog or other animals. Will the Secretary consider imposing more vigorous and stringent approving procedure for the adoption of dogs?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as to the Member's suggestion of imposing licensing criteria for adoption of dogs, I think it warrants further consideration, for it is not that simple, because Hong Kong people do not want too much regulation in this regard, and I believe public education will be more important.

Just now the Member raised a point about whether dog owners should be told what will happen to their dogs if they are abandoned, or what will happen to the dogs when they are euthanized. Although the euthanasia process itself will not cause much pain, after all, it is a procedure to end their lives. So, I consider that people who raise dogs or pets should make thorough consideration before making a decision. I am particularly worried that many people would give pets as festive or birthday gifts, without knowing whether or not the receiving party has the ability to take care of pets. I believe that this is also something that we should be concerned about.

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

### **Monitoring Quality of LPG**

5. **MR LEE WING-TAT** (in Cantonese): *President, early this month, a number of taxi and public light bus (PLB) drivers complained that the engines of their vehicles stalled frequently after refueling at dedicated liquefied petroleum gas (LPG) filling stations of the Sinopec Hong Kong Limited (the Sinopec). They suspected that the cause of such a situation was related to the quality of LPG and worried that this would pose serious threat to traffic safety. It was reported that some mechanics of garages providing repair services to taxis had pointed out that the auto-LPG supplied by the Sinopec had the problem of insufficient concentration. Moreover, I have received complaints from residents of public rental housing estates that the problem of unstable burning has occurred from time to time when using domestic LPG. In this connection, will the Government inform this Council:*

- (a) *whether or not it has any standardized mechanism for monitoring the safety and quality of auto-LPG, bottled LPG and central LPG, and whether or not such a mechanism includes conducting sample tests regularly; if so, of the details; if not, the reasons for that; and*

- (b) *of the respective numbers of complaint cases about auto-LPG and central LPG received by the authorities in each of the past three years, as well as the contents of the complaints and their follow-up actions; whether or not it knows the time generally taken by the LPG supplier concerned to deal with and resolve the relevant problems?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr LEE Wing-tat for asking the question.

The Government has been highly concerned about the engine-stalling problem of LPG taxis and PLBs. The Electrical and Mechanical Services Department (EMSD) has liaised with the trades and LPG suppliers upon receipt of such complaints and commenced an in-depth and comprehensive investigation from various perspectives, including the supply of LPG, operation of LPG filling stations, as well as the operation and maintenance of vehicles and so on, in order to identify the cause of the problem. The EMSD has also implemented a series of measures to handle the issue, which include:

- (i) providing contingency guidelines to the vehicle-repair industry for strengthening the maintenance of vehicles' fuel systems during the period;
- (ii) setting up a task force comprising experts, academics and trade representatives to identify the cause of the stalling problem of taxis and PLBs. The task force and its four subgroups have held a number of meetings and met the trade representatives to collect their views;
- (iii) strengthening the monitoring of the operation of LPG suppliers. Random samples of LPG are taken from dispensing nozzles and LPG terminals regularly for testing. Standardized arrangements for clearing the residues in LPG storage tanks on a regular basis have also been made;
- (iv) launching the LPG-vehicle testing scheme on 11 January. Having undergone examination, vehicles under the scheme will be refueled free of charge at designated LPG filling stations in the coming three months. The EMSD will collect the mileage and vehicle-performance data of such vehicles for analysis, in order to



identify as early as possible the cause of the problem and solution;  
and

- (v) setting up a hotline to receive complaints from drivers or owners regarding the above stalling problem to facilitate our follow-up action.

The Government is actively following up the issue and closely communicating with the trades. My reply specifically to the two parts of the question raised by Mr LEE Wing-tat is as follows:

- (a) To ensure that the quality of imported LPG complies with our requirements, the EMSD scrutinizes the independent third-party test reports submitted by LPG suppliers upon each importation of LPG. LPG is different from other petroleum products in the sense that it is stored and delivered under high pressure and enclosed conditions. Therefore, the possibility of contamination by external source is relatively lower. As regards auto-LPG, a random sampling scheme on LPG quality has been launched, under which the EMSD will collect random samples of LPG from dispensing nozzles at different filling stations every week for laboratory testing. It will also collect samples regularly from LPG terminals for testing.
- (b) Mr LEE Wing-tat has asked about the respective numbers of complaints regarding auto-LPG in the past three years, that is, from 2007 to 2009. The figures for 2007, 2008 and 2009 are 23, 29 and 35 respectively. The complaints are mainly related to nozzles out of service, long queuing time, LPG pricing and so on.

In the past three years of 2007, 2008 and 2009, the numbers of complaints regarding central LPG are one, three and zero respectively. The complaint in 2007 was related to the setting up of a smoking area in the vicinity of a LPG store. The three complaints received in 2008 were related to LPG quality, LPG appliances and billing issue respectively. The complaint related to gas quality had been investigated by the EMSD and no breach of statutory requirements had been identified.

The EMSD received a number of reports on the failure of new-model LPG taxis in September last year. As these new-model LPG taxis were under the warranty period, the cases have been followed up by the relevant vehicle dealer and manufacturer. These new-model LPG taxis are now operating in normal conditions.

As regards the hotline set up recently by the EMSD for the stalling problem of LPG taxis and PLBs, it received 62 such reports on the first day of its operation since 4 January. However, the daily numbers of reports received have dropped to single-digit figures lately. No reported cases have been received on a number of days.

**MR LEE WING-TAT** (in Cantonese): *President, it has been almost three weeks since the onset of this incident. Not only has this incident affected the operation of the taxi and PLB trades, it also involves the issue of passenger safety. Now that three weeks have lapsed, may I ask the Secretary whether or not the authorities have come up with any initial findings of the investigation that can be made known to the public, including the areas identified to be of potential relevance or otherwise? Can the Secretary tell this Council and the public what has been done by the authorities over the past three weeks?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr LEE Wing-tat for raising the question. In conducting investigation into this incident, we hold that it is a matter of great importance because it may involve public convenience and traffic safety. The EMSD is now conducting investigation from several perspectives. The first perspective is from the source of LPG supply, such as whether or not there is anything wrong with the quality of LPG from importation to arrival at LPG filling stations. Regarding the second perspective, we aim to ascertain whether or not anything in the operation and maintenance of vehicles has gone wrong. Hence, we have set up a task force comprising four subgroups to deal with the problem in the areas just highlighted. That said, in parallel with examining and investigating into the cause of this incident, we have also taken some measures promptly to ensure that the quality of the LPG currently on sale can be maintained at a certain standard. Such measures include holding discussions with the trades on how LPG storage tanks can be cleaned on a regular basis to ensure that the LPG is clean or reaches a particular standard.

Moreover, we will also look ahead to see if any improvements can be made to the work relating to the operation, repair and maintenance of vehicles, particularly taxis and PLBs running on LPG. For these reasons, I have highlighted in the main reply just now that we have held discussions with the trades on the possibility of co-operating with some of their fleets to see whether or not in the coming three months any further problem will arise in the operation of vehicles that have undergone examination. We hope to identify the cause of this problem while stepping up the monitoring work to ensure that the problem can be properly addressed.

**MR ANDREW CHENG** (in Cantonese): *President, as mentioned in part (a) of the main reply originally submitted by the Bureau, around 140 samples will be tested every year and this has been the case over the past years. My question is: This incident has particularly reflected the fact that the samples taken ..... For example, in November last year, the EMSD had actually received these complaints. Given that such complaints were already received at that time, why have the authorities failed to detect any problem relating to high-pressure tanks in the sample tests on the relevant devices? What measures will be taken by the authorities to prevent the recurrence of such a situation in which there is seemingly a lack of awareness for crisis?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank the Honourable Member for asking the question. First, the report is submitted to us by the EMSD in response to complaints received at the end of last year about this problem occurring on taxis of a certain new model. In this connection, I have mentioned in the main reply that immediate follow-up action has already been taken. Since 1 January this year, we have noted the increase in the number of reports on engine failure on some taxis on several days and I have set out just now the work undertaken by us.

Regarding the sampling tests mentioned by Mr CHENG, while currently conducting investigation into the cause of the incident, as I mentioned just now, we must step up monitoring and the sampling tests. To this end, the EMSD will collect samples from dispensing nozzles at different LPG filling stations for random testing on a weekly basis throughout the year. Although I have mentioned 140 samples in the original main reply, I have told the department

concerned that the samples taken should not be limited to this number. Neither should we deal with this problem simply based on some figures. When there are a lot of complaints, the frequency of sampling tests may be increased and they can also be target-specific. In the near future, we hope to collect these samples for random testing, so that when problems are detected, we can take timely follow-up action.

On the other hand, LPG suppliers have undertaken to clean LPG storage tanks and conduct replacement work on a regular basis in LPG terminals and LPG filling stations. In this regard, the trade has made an undertaking, and we hope that these measures can help improve the situation.

**MS MIRIAM LAU** (in Cantonese): *President, members of the trades are anxious about the problems with LPG and they hope that the investigation conducted by the EMSD can really be completed as soon as possible, so that the cause can be identified and appropriate measures be taken. As highlighted in the last paragraph of the main reply, 62 enquiries were received on the first day since the hotline came into operation on 4 January and subsequently, the daily numbers of reports received have dropped to single-digit figures. Although the problem has seemed to be mitigated, the thrust of the matter is that of the 59 LPG filling stations in the territory, almost half involve the Sinopec, which is mentioned in the question. After the problem has occurred, how do members of the trades cope with the situation at present? They simply refuel their vehicles at other LPG filling stations but not at those of the Sinopec, thus giving rise to long queues at these filling stations all the time. The current situation is that the LPG at some filling stations is left unpatronized while a shortage of LPG supply has occurred at others.*

*In these circumstances, I think members of the trades are very worried because it probably takes several months for the investigation to be completed. There is now a discrepancy between LPG filling stations, as members of the trades will avoid refueling their vehicles at problematic LPG filling stations while other filling stations may not be able to cope with the demand for LPG, thus giving rise to long queues of vehicles. May I ask the Secretary, in these circumstances, whether or not any responding measures have been formulated, including exploring the possibility of enhancing the supply of LPG at those LPG*

*filling stations with no problem or identifying ways to enhance the supply of LPG at source, so as to slightly alleviate the plight of drivers of commercial vehicles?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I am grateful to Ms Miriam LAU for asking the supplementary question. Members of the trades are indeed most concerned about the daily operation of their vehicles. Regarding the number of complaints, I wish to add one point. On the first day, that is, between 4 January and 5 January, 62 enquiries were made to the hotline and subsequently, the figure gradually dropped. The first week saw 119 enquiries and in the second week, we have actually received a total of 15 enquiries thus far. The figure has all along been on the decline.

Ms Miriam LAU has questioned about the supply of LPG. We understand that a lot of people will choose a different source of LPG supply before gaining a further understanding of the problem. Hence, the EMSD has maintained close liaison with various LPG suppliers. If a LPG filling station of a LPG supplier has a shortage of LPG supply, it will inform the EMSD of this situation, and we will render assistance in making deployments from other companies. For this reason, on the first couple of days, in the event of a probable shortage of LPG supply at some LPG filling stations, we could often make deployments via exchange of information if we could be given prior notice. This will help solve the problem.

Third, Ms Miriam LAU has mentioned that most of the complaints were made against a certain brand of LPG. In this regard, we will certainly target our efforts at ascertaining whether or not this is the cause of the problem. However, I have noticed that there are cases involving other brands of LPG, in addition to the one just mentioned. As a matter of fact, the LPG supplier concerned holds a greater market share. So, we have to take into account various factors. That said, I can assure Honourable Members that, first, we will practically and thoroughly conduct studies and investigation to identify the cause, targeting the brand of LPG involved in a greater number of complaints. Our present work, including the sampling tests, will not be confined to any particular LPG supplier because we believe we need to ascertain whether or not there are other factors for consideration, in order to find out the whole truth.

**DR LAM TAI-FAI** (in Cantonese): *President, the Secretary has highlighted in point (iii) of the first paragraph of the main reply that the monitoring of the operation of LPG suppliers will be strengthened while random samples of LPG are taken from dispensing nozzles and LPG terminals regularly for testing. To my understanding, this is routine work to be undertaken by the authorities and the Sinopec incident has occurred only because such work has not been properly conducted on this occasion. In order to set taxi drivers' mind at rest — it is unacceptable for them to pay \$10 and be given in return goods worth \$7 only — can the Government be more specific and tell Honourable Members in a more quantitative approach how it will strengthen its monitoring work? Does the so-called "regularly" mean that samples will be taken every day? How will the random tests be conducted? Regarding laboratory test reports, will it be the case that samples are taken today and reports will be issued tomorrow? If such reports can be made available only at too late a time, the LPG concerned will have been sold and drivers may have refueled their vehicles with LPG of a substandard quality. How will the Government strengthen its monitoring work? In my view, the Secretary needs to take a quantitative approach and clearly explain this to Honourable Members.*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I am grateful to Dr LAM Tai-fai for asking the supplementary question. As I have said in my earlier reply, our current practice is to conduct surprise checks at various LPG filling stations at an interval of one week at the minimum. In our estimation, at least 140 samples will be tested a year. However, as I said in my reply to a supplementary just now, I hope that the tests will not be limited to an average figure because the work to be conducted actually depends on whether or not any complaints have been received or whether or not our efforts are made with a specific target. I can tell Honourable Members that concerning the present monitoring work, we will take samples on a weekly basis from different dispensing nozzles at the 59 LPG filling stations at different locations in the territory. Some of the samples may be taken at random and without prior notice. If complaints have been received, we may also take target-specific action.

Over the past two weeks, we have taken samples particularly from LPG filling stations widely alleged to have problems. The collection of samples will be followed by laboratory testing and this process actually takes some time to be completed. As we are particularly concerned about the present problem, in addition to conducting tests on the samples in one laboratory, we will also send

the samples to overseas laboratories for testing to provide double safeguard, so as to ensure that the results we obtain are more objective and impartial. We will step up our efforts in this respect while having regard to the need in undertaking the relevant work. The EMSD has also undertaken to beef up its sampling and testing work, and discuss the results with the task force and also experts in the relevant disciplines and the trades.

**MR WONG KWOK-HING** (in Cantonese): *President, the LPG incident has brought to light the serious dereliction of duty on the part of the EMSD because all along, it has not conducted any sampling tests. Now that the Secretary has told us that a series of sampling and testing work will be conducted, may I ask the Secretary about the manpower deployed for the LPG sampling tests? Given that the EMSD is responsible for checking railways, tower cranes, lifts and escalators, will this give rise to a situation of having only six lids for 10 pots? After the EMSD has taken up the responsibility of conducting LPG sampling tests, will it become lax in undertaking other areas of work and take only stop-gap measures? For these reasons, may I ask the Secretary via the President about the manpower deployed for conducting LPG sampling tests? How much manpower will be deployed for carrying out examinations in other regards, for example, railways and Ngong Ping 360 cable cars? Is there a specific division of labour? Or, is it that it will only take stop-gap measures to perfunctorily respond to us?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr WONG Kwok-hing for expressing his concern. As I have highlighted in the reply, we will certainly handle this problem with prudence. Having received the relevant complaints, the EMSD will concentrate on dealing with this problem. I know that at present, in addition to about 20 colleagues who have been made responsible for the safety work in this regard, we also hope to encourage the participation of members of the academia, the trades and the engineering sector through the task force to strengthen our work.

In dealing with this problem, I agree with the remark made by a number of Honourable Members that it is necessary to conduct more monitoring and sampling tests in the future, in addition to identifying the root cause of the problem. Apart from the EMSD which is responsible for undertaking this work,

third parties can also be commissioned to do such work in the capacity as notary. In the community, there are also companies that are able to take up this area of work. We hope to strengthen our monitoring efforts by undertaking the relevant work on various fronts.

Another point is that I believe all the suppliers have attached importance to this matter because it relates to the operation of their business. They will also enhance their quality-assurance work. Certainly, other relevant work, for example, the maintenance and repair of vehicles, is also involved. We wish to take this opportunity to suggest that everyone should put in greater efforts, in a bid to resolve this problem more properly.

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

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not given any answer to my question. Will there be the situation of having six lids for 10 pots? This is because the EMSD has too many things under its management and supervision. Will this have any impact on its monitoring work in other areas? He has not answered this question.*

**PRESIDENT** (in Cantonese): Secretary, the Member is asking about manpower.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, for the time being, I do not see any of our work not being done due to a shortage of manpower. On the contrary, I think our present task is to identify the root cause of the problem and in the future, we have to step up our monitoring work.

**PRESIDENT** (in Cantonese): Last supplementary question.



**MR LEE CHEUK-YAN** (in Cantonese): *President, it is stated in the last part of the main reply that no complaints have been received recently. This is certainly the case because everyone now refuses to refuel their vehicles at the LPG filling stations of the company concerned, as everyone knows which company has problems. That being the case, there certainly have been no complaints. The whole incident has resulted in a loss of public confidence in the EMSD of the Government. Because everyone can see that a long time has lapsed since the onset of the incident and at present, it is said that a task force has been set up to ascertain the cause of the stalling problem. The task force has held a number of meetings with the trades. However, to date, there has been no answer. I find it difficult to accept that no conclusion can be made after the authorities have dealt with this matter for several weeks. The present situation is that everyone dares not use the LPG of the Sinopec and this will lead to a substantial increase in the demand for LPG at other LPG filling stations. Certainly, we have heard from the Government that sampling tests will be conducted frequently. However, we opine that the Government should have done so before, just that actions are taken only now. May I ask the Secretary whether or not the authorities will offer an explanation of the reasons for failing to identify the cause of the stalling problem thus far? In addition, when can the cause of the problem be formally announced to the public, so as to restore the confidence of the trades and the community in the Government, thereby convincing the public that the Government is ultimately able to find out the cause of the problem?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I concur with Mr LEE Cheuk-yan's remark that at present, we must ascertain the cause of the problem in an impartial, objective and professional manner. This is also a matter that needs to be handled jointly by the EMSD and the task force.

Regarding the cause of the problem, we actually try to find it out from the several perspectives explained just now. The first is whether or not the supply of LPG has been contaminated at source, covering the source of LPG, LPG terminals, LPG filling stations and dispensing nozzles. Objective and professional tests are warranted to this end. We will collect samples for testing in response to complaints received and even from places not involved in any complaints. The test results will provide us with concrete evidence to prove whether or not the source of LPG has problems.

That said, the use of LPG also involves such issues as the use, maintenance and repair of vehicles. We have to understand that we should not make any comments causally because this involves a very big question of liability. For this reason, it is our practice to hold discussions with the trades in this regard. At present, we have proposed to provide free-of-charge LPG in the coming three months to 28 taxis and PLBs that have undergone repair on their mechanical parts for testing purpose, so as to ascertain whether or not this can make improvements to, or pre-empt the occurrence of, such a situation. The purpose of so doing is to make improvements to our work, and there is no contradiction between the two. We also consider that in parallel with the work to identify the cause of the breakdowns, we must step up our efforts not only to ensure that this work is properly carried out, but also to restore the public's confidence, just as Mr LEE has remarked. Hence, our monitoring work needs to be enhanced. In the interim, if the trades can clean their LPG devices and terminals on a regular basis and beef up their efforts in this regard, coupled with the random sampling tests, we think that the trades' confidence in the source of LPG supply can be strengthened.

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

### **Agreements for Avoidance of Double Taxation**

6. **DR LAM TAI-FAI** (in Cantonese): *President, according to 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 (Arrangement) signed by the authorities of the Mainland and Hong Kong on 21 August 2006, starting from January and April 2007 respectively, one of the conditions for Mainland and Hong Kong residents to be exempted from local taxes with respect to remuneration derived from cross-boundary employment is that they are present in the place concerned for a period or periods not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the taxable period concerned. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers, since the implementation of the Arrangement, of Mainland and Hong Kong residents required*

*to pay local taxes because of their cross-boundary employment and presence exceeding 183 days in any 12-month period, and the respective total amounts of taxes involved;*

- (b) whether the Inland Revenue Department has recovered taxes from Mainland residents who were employed and present in Hong Kong for more than 183 days in any 12-month period; if it has, of the number of cases and the total amount of taxes involved; if not, the reasons for that; and*
- (c) on what principle the authorities concerned have based in setting the upper limit of presence at 183 days with respect to the aforesaid condition for tax exemption; whether it will negotiate with the Mainland authorities concerned to raise the upper limit, so as to dovetail with the "one-hour quality living sphere" programme, as well as to strengthen and enhance economic integration between Hong Kong and Guangdong; if it will, of the details; if not, the justifications for that?*

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

(a) and (b)

For parts (a) and (b) of the question, Hong Kong adopts the territorial taxation principle under which whether a taxpayer is a Hong Kong resident or not would not affect his chargeability to tax in Hong Kong. Therefore, the Inland Revenue Department does not have any record on the number of Mainland residents who have paid tax in Hong Kong for working in Hong Kong for more than 183 days in a 12-month period and the total amount of tax involved. Besides, as the Mainland is not within our tax jurisdiction, we do not have any information on the number of Hong Kong residents who have paid tax in the Mainland for working in the Mainland for more than 183 days in a 12-month period and the total amount of tax involved.

- (c) For part (c) of the question, the main purpose of an avoidance of double taxation agreement (CDTA) is to clarify the taxing rights of the treaty partners. For the allocation of taxing rights on income of cross-boundary employees, the practice among tax jurisdictions is to adopt the "183 days in a 12-month period" threshold. Both the model tax conventions of the Organization for Economic Co-operation and Development and the United Nations adopt this threshold. This 183-day standard is also adopted in the CDTAs between some places and countries having close economic relationship with each other (for example, the Mainland and the Macao Special Administrative Region, Singapore and Malaysia, and the United States and Canada) for allocation of taxing rights.

We have conveyed to the Mainland the views of some members of the trade that the existing 183-day threshold should be relaxed. The relevant Mainland authority was of the view that this standard has worked well all along and complies with different model agreements for avoidance of double taxation. They see no sufficient justifications for changing the standard at this stage.

**DR LAM TAI-FAI** (in Cantonese): *President, we have heard the Government's reply very clearly that there is no relevant information. If there is no information, the actual situation cannot be reflected, so how can the CDTA be implemented in an effective way? I can say that it exists in name only. I would like to ask the Secretary this: Can the Government act decisively by, in order to dovetail with the economic integration of Guangdong and Hong Kong and implement the "one-hour quality living sphere" programme, paying another visit to the Mainland before the announcement of the Budget next month to negotiate with the Mainland authorities and reflect the view that the tax law be amended to the effect that the upper limit be increased to 260 days or even abolished to the benefit of Hong Kong people?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): As I have just mentioned in the main reply, the present arrangement is in line with the international convention in bilateral agreements on taxing

rights. I think I have to point out that the trades' aspirations have been reflected to the Mainland authorities. But I hope Members can understand that on this issue, the decision does not entirely rest with Hong Kong. We should strike a balance between the interests of the two places when fighting for the interests of the trades in Hong Kong. It is inappropriate for us to maximize our own benefits without due consideration of the other side. As the proposal is contrary to the general criteria for the allocation of taxing rights, it is unlikely that the Mainland authorities will accept this proposal, according to the information we have received and our prediction.

**DR LAM TAI-FAI** (in Cantonese): *The Secretary has not answered whether he will consider negotiating with the Mainland authorities again to reflect this view before the announcement of the Budget.*

**PRESIDENT** (in Cantonese): Secretary, will you answer the question?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I have nothing to add.

**MR ANDREW LEUNG** (in Cantonese): *In part (c) of the main reply, the Secretary has stated that the proposal would not be implemented. But in fact, early and pilot implementation of measures will be launched under the Outline of the Plan for the Reform and Development of the Pearl River Delta. Dr LAM Tai-fai has also mentioned the "one-hour quality living sphere" programme. Apart from that, there will be the development of city clusters in the Greater Pearl River Delta and the development of Qianhai in the future. As a result, many Hong Kong people will frequently travel to the Mainland for meetings which may last for just one or two hours and then return to Hong Kong. Therefore, under these overall circumstances, the 183-day limit is inadequate and the Federation of Hong Kong Industries has proposed to change it to 270 days.*

*May I ask the Secretary when the proposal was last conveyed to the Mainland? Will the Government, by taking advantage of the most recent developments and the launch of the early and pilot implementation of measures,*

*negotiate with the Guangdong Provincial Government again with a view to relaxing the limit to 270 days in a gradual manner?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I thank the Member for his supplementary question. The economic integration between Hong Kong and the Mainland, being one of the SAR Government's policies, has been implemented at various levels. It should be in the second half of last year that we last negotiated the matter with the State Administration of Taxation. I would like to say that although Mainland and the SAR belong to one country, and the integration of these two places has been emphasized, the SAR shall practise an independent taxation system under Article 108 of the Basic Law. Hence, the arrangement for the avoidance of double taxation between the two places will follow the standards of agreements applicable to various tax jurisdictions as far as possible, in order to ensure consistency of the terms in our bilateral tax agreements. I consider that the existing arrangement can already facilitate the economic synergy between both sides.

**DR SAMSON TAM** (in Cantonese): *President, I think this issue is very important. While I may not necessarily demand that the threshold be relaxed to a certain number of days, I think there should be sufficient information for us to determine the impact of the present agreement on our tax revenue or future tax revenue. In both parts (a) and (b) of the main reply, the Secretary has pointed out that information is not available at the moment. I consider this problematic. According to news reports, we know that Hong Kong people travelling across the border may be checked randomly and questioned whether they have paid tax if they have stayed for more than 183 days. Such proactive random checks will ensure that Hong Kong people who receive salaries in Hong Kong and always travel to the Mainland will pay tax in the Mainland. On the contrary, for those who receive salaries in the Mainland but work in Hong Kong, the Government is unable to obtain information on them, as the Secretary has said. I consider this undesirable. My question is: For those who receive salaries in Hong Kong but frequently travel between the two places, they usually have to file tax return in the Mainland, like many of my colleagues in my enterprise who receive salaries in Hong Kong .....*

**PRESIDENT** (in Cantonese): Please ask your supplementary question.

**DR SAMSON TAM** (in Cantonese): ..... and they have to file tax return in the Mainland. I know that some of my colleagues have to file tax return in Hong Kong as well but they can apply for exemption. In other words, there should be quite a number of cases in which tax paid in the Mainland is deductible. May I ask the Secretary whether he has such statistics? How many people have applied for exemption? What is the amount involved?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The Inland Revenue Department has not collected information in relation to such cases and we do not have such information.

**MR ALBERT CHAN** (in Cantonese): As regards part (c) of the main question, the Government is urged to negotiate with the Mainland authorities on raising the upper limit with a view to dovetailing with the relevant programme. President, I remember that a few months ago when I asked Eunuch Stephen LAM about paying visit to pandas rather than Mainland residents, I urged the Government to negotiate with the Mainland authorities on Hong Kong people being jailed in the Mainland and asked whether the Hong Kong Government would do so. At that time, Secretary Stephen LAM answered that this would be a disrespect.

*I would like to ask the Secretary this: If it is a disrespect for the Constitutional and Mainland Affairs Bureau to, at our request, negotiate with the Mainland authorities, is it a disrespect for the Secretary to accept Dr LAM Tai-fai's views and negotiate with the Mainland? If not, why is it that it is a disrespect for Secretary Stephen LAM to have negotiations with the Mainland but the Secretary is willing to negotiate these issues with the Mainland?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): In our discussion on the issue, we aim to negotiate with the Mainland an agreement on avoidance of double taxation in accordance with the independent taxation system implemented in the Hong Kong Special Administrative Region.

The agreement must comply with international standards. It is under this mechanism that negotiation is held on how to reduce or avoid double taxation imposed on Hong Kong people.

**MR ALBERT CHAN** (in Cantonese): *The Secretary has not answered my supplementary question. I asked .....*

**PRESIDENT** (in Cantonese): Mr Albert CHAN, I believe the Secretary has answered the part of your supplementary question which is relevant to the main question.

**MR ALBERT CHAN** (in Cantonese): *President, he has not answered my question. I asked why he does not consider this a disrespect.*

**PRESIDENT** (in Cantonese): The Secretary has told us on what basis he would negotiate with the Mainland authorities.

**MR ALBERT CHAN** (in Cantonese): *President, can the Secretary clarify whether holding such negotiation with the Mainland authorities is showing great respect to the Mainland authorities?*

**PRESIDENT** (in Cantonese): Mr Albert CHAN, I think the Secretary has answered your question.

**MR CHAN KAM-LAM** (in Cantonese): *Apart from the cases mentioned by Dr Samson TAM, I believe some Hong Kong people are earning salaries in Hong Kong but have to work in the Mainland and they consider that they should pay tax in Hong Kong. Some wage earners do hold such an opinion. Is it because of the fact that tax rates in the Mainland are higher than those in Hong Kong? However, are there cases which are just the opposite in that the wage earners, whose working days in Hong Kong are longer, receive salaries in the Mainland?*



*Does the Secretary have the statistics on such cases? How many people are required to pay tax in Hong Kong under such circumstances?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): We have not collected relevant figures on these cases. In fact, the issue just raised, which is a common phenomenon, is precisely due to the close exchanges of these two economies. Hence, we have entered into CDTAs for dealing with possible cases of double taxation in the two places. This also indicates that we have attached importance to compliance with the taxing rights of the two places.

**PRESIDENT** (in Cantonese): Dr LAM Tai-fai, this is your second supplementary question.

**DR LAM TAI-FAI** (in Cantonese): *The Government should not turn a blind eye to such a situation and do nothing to fight for Hong Kong people's interest. As far as I know, the SAR Government has entered into agreements with many other countries such as Thailand, Vietnam, Belgium and Luxembourg. But we also have to admit that the relationship between Hong Kong and the Mainland is definitely much closer than that with other countries. So, the practice adopted in relation to these two places does not necessarily have to be in line with that relating to other countries. Instead, flexibility should be allowed lest the "one-hour quality living sphere" programme will be stifled. I would like to ask the Secretary this: Can a second visit to the Mainland be arranged to negotiate with the Mainland authorities for a flexible arrangement before the announcement of the Budget?*

**PRESIDENT** (in Cantonese): Dr LAM, you were repeating your first supplementary question that you asked before. Let me see whether the Secretary has any new opinion.

**DR LAM TAI-FAI** (in Cantonese): *No, I was not. I am asking whether flexibility can be allowed instead of insisting on consistency or taking a*

*broad-brush approach. Now, a broad-brush approach is adopted for handling this issue.*

**PRESIDENT** (in Cantonese): Secretary, please answer the question on "flexibility".

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I thank the Member for asking another supplementary question. We will certainly reflect the views of the trades in due course. But as I just said, we do face difficulties in upholding the spirit of avoiding double taxation. It is also difficult for us to handle this with flexibility. We will certainly reflect the views of trades in an appropriate way.

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

## **WRITTEN ANSWERS TO QUESTIONS**

### **Temporary Structures**

7. **MR LAU WONG-FAT** (in Chinese): *President, will the Government inform this Council of the current number of temporary structures which the Government permits to exist, broken down by the type of the structure and district (that is, Hong Kong Island, Kowloon, New Territories East and New Territories West, and so on), and, among such structures, the respective numbers of those which can be used for dwelling and for other purposes?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, currently, temporary structures tolerated by Government to exist are broadly classified into two types, namely those with surveyed numbers for the temporary squatter structures given by Government in 1982 (commonly known as "squatter huts") and those temporary structures held under licences, short-term tenancies and short-term waivers issued by the Lands Department (LandsD). A breakdown of these structures by district and the above types (by approximate figures) is as follows:

<i>Types of temporary structures</i>	<i>Districts</i>	<i>Domestic Use</i>	<i>Other Uses</i>	<i>Total</i>
Squatter huts	Hong Kong	2 700	1 800	4 500
	Kowloon	1 500	700	2 200
	New Territories East	32 500	112 000	144 500
	New Territories West	48 900	193 500	242 400
	Total	85 600	308 000	393 600
Licences/ short-term tenancies/ short-term waivers	Hong Kong	50	30	80
	Kowloon	10	110	120
	New Territories East	6 200	8 400	14 600
	New Territories West	11 900	7 000	18 900
	Total	18 160	15 540	33 700

The second part of the above table lists the numbers of licences/short-term tenancies/short-term waivers issued by the LandsD, and in some of these cases, more than one structure may have been erected. Also, some licensed structures on such land may concurrently have squatter surveyed numbers, but LandsD does not have statistics on the number of such structures.

### **Investigation into Affairs of CITIC Pacific Limited**

8. **MR WONG SING-CHI** (in Chinese): *President, the Government advised in its reply to a question raised by a Member of this Council on 18 November last year that the Securities and Futures Commission (SFC) had completed its investigation into the affairs of the CITIC Pacific Limited and had submitted the investigation report to the Department of Justice (DoJ) for consideration, while the police's investigation was still underway. Moreover, when a claim for compensation from the immediate past chairman of the CITIC Pacific Limited was heard in the Small Claims Tribunal on 5 January this year, the adjudicator pointed out that the allegations made by the claimant were matters for the Market Misconduct Tribunal (MMT), and the claimant might make a civil claim after MMT had examined the case. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the SFC has submitted the aforesaid investigation report to the Secretary for Financial Services and the Treasury as well as the Financial Secretary for consideration; if so, when such report was submitted to the Secretary for Financial Services and the Treasury and the Financial Secretary, as well as the results of their consideration; if not, the reasons for that;*
- (b) *whether the police has completed its investigation into the aforesaid incident; if so, whether the investigation report has been submitted to DoJ for consideration;*
- (c) *whether the Secretary for Justice, the Secretary for Financial Services and the Treasury and the Financial Secretary will consider referring the aforesaid incident to the MMT for instituting proceedings; and*
- (d) *of the total number of cases the MMT has dealt with since its establishment on 1 April 2003, and the market misconduct activities involved and, among such cases, the respective numbers of which were referred to the Financial Secretary by the SFC and then to the MMT for instituting proceedings, as well as those referred to the MMT by the Insider Dealing Tribunal; of the number of cases in which the proceedings have been completed, the time required for completing the proceedings of each case and the results, as well as the number of cases still underway?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, in response to Mr WONG Sing-chi's question, we have consulted the SFC, the DoJ and the Hong Kong Police Force (HKPF) for comments and our reply is as follows:

- (a) The SFC is restrained under the Securities and Futures Ordinance (SFO) from disclosing details of individual cases. Under the SFO, there are dual routes to deal with market misconduct, that is, under Part XIV thereof where the SFC may report its investigation findings to DoJ to consider criminal prosecution; or under Part XIII where the Financial Secretary may institute proceedings before the MMT

whether or not following any report by the SFC or any notification by DoJ. In general, the SFC will examine all options and bring criminal prosecution as a matter of priority if there is sufficient evidence and where criminal prosecution is in the public interest. Since DoJ has been given the exclusive responsibility for the control of criminal prosecutions in Hong Kong under the Basic Law, the SFC will refer cases of suspected market misconduct to DoJ for advice in the first instance. If DoJ rules out the case for criminal prosecution, the SFC will consider other enforcement options, including referral to the Financial Secretary for consideration of instituting MMT proceedings. The SFC would not consider a referral to the Financial Secretary before obtaining DoJ's advice due to the need to preserve primacy to criminal prosecution.

- (b) As the investigation is still underway, the HKPF will not comment further on the progress of the case at the moment.
- (c) As described in (a), cases of potential market misconduct are usually investigated by the SFC. Under Part XIII of the SFO, the Financial Secretary upon receipt of SFC's report will consider instituting proceedings before the MMT where it appears appropriate to him.
- (d) The MMT was established in April 2003 under the SFO to take over the role of the Insider Dealing Tribunal under the repealed Securities (Insider Dealing) Ordinance, and hears cases concerning insider dealing as well as five other types of market misconduct, including false trading, price rigging, stock market manipulation, disclosure of information about prohibited transactions and disclosure of false or misleading information inducing transactions in securities and futures contracts, which occur on or after 1 April 2003.

So far, the MMT has heard four cases which were instituted by the Financial Secretary on reports made by the SFC. The MMT has concluded the fourth and last case in hand and issued a report in August 2009. There is at present no outstanding case. Details of the four cases are as follows:

<i>Name of case</i>	<i>Alleged misconduct</i>	<i>Processing time (from issue of notice to institute proceedings to issue of report on orders)</i>	<i>Outcome</i>
Sunny Global Holdings Ltd	Insider dealing and disclosure of false or misleading information inducing transactions	1 year	Three persons were found to have engaged in insider dealing. Another two persons and a company were found to have engaged in disclosure of false or misleading information inducing transactions.
QPL International Holdings Ltd (QPL)	False trading, price rigging and stock market manipulation	1 year 8½ months	Two persons and two companies were found to have engaged in false trading and price rigging.
Mobicon Group Ltd	False trading	11½ months	Two persons were found to have engaged in false trading.
China Overseas Land & Investment Ltd (COLI)	Insider dealing	1 year 11½ months	Three persons were found to have engaged in insider dealing.

The longer processing time in two of the cases (QPL and COLI) was attributable to judicial reviews taken by the specified persons. The reviews had respectively taken eleven and six months to complete, hence leading to the staying and adjournment of the MMT proceedings.

### **Monitoring Continuing Education Fund**

9. **DR PAN PEY-CHYOU** (in Chinese): *President, I have received complaints from more than 10 members of the public alleging that a training provider had admitted students indiscriminately to an English course registered*

*under the Continuing Education Fund (CEF), and the English proficiency of the students enrolled in the course varied so tremendously that even though many of them had attained an attendance of over 80% and had even repeated study for one year, they could not pass the relevant public examination in spoken English and successfully complete the course, rendering them ineligible to apply for reimbursement of 80% of the course fee from the CEF. In this connection, will the Government inform this Council:*

- (a) of the total number of complaints against CEF courses received by the authorities in the past three years, and the number of training providers involved; among the complaints, the number of substantiated cases, the items of breaches involved and what follow-up actions the authorities had taken;*
- (b) whether there is regulation by the authorities on the qualifications of CEF course instructors, their turnover rate and the practices adopted by the training providers in promoting their courses; if they have, of the details; if not, whether the authorities will formulate respective specifications for such matters; and*
- (c) how the authorities avoid the recurrence of the aforesaid situation of training providers admitting students indiscriminately?*

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

- (a) Currently, around 7 000 courses provided by around 300 course providers are registered under the CEF as reimbursable courses. During the period from 2007-2008 to 2009-2010 (up to 31 December 2009), the Office of the Continuing Education Fund (OCEF) received a total of 79 complaints against the reimbursable courses under the CEF, involving 68 course providers. Altogether 36 of these complaints were substantiated or partially substantiated after investigation. The 26 course providers involved have failed to comply with the Terms and Conditions applicable to registered reimbursable courses (Terms and Conditions), mainly in relation to publicity and promotional practice, course quality and delivery, refund of course fees as well as suspected fraud.

The Administration will take follow-up action commensurate with the severity of any non-compliance. The OCEF may issue a written warning to a course provider who has failed to comply with the Terms and Conditions. If the non-compliance is serious or recurring in nature, the Administration will consider de-registering the concerned courses from the list of CEF reimbursable courses. In case of suspected criminal activities, such as deception or bribery, the case will be immediately referred to the relevant law enforcement agencies for follow-up action. The Administration may in the interim suspend enrolment on the concerned courses as CEF reimbursable courses.

Of the 36 complaints substantiated and partially substantiated during the aforementioned period, taking into account the subject matter of the complaint as well as other findings from investigations, the Administration has de-registered 34 courses involving six course providers. The remaining 20 course providers received written warnings from the OCEF.

(b) and (c)

We do monitor the qualifications of course instructors under the CEF. The Terms and Conditions require that CEF course providers shall recruit an adequate number of appropriately qualified and experienced instructors. When course providers apply for registration of their courses under the CEF, they have to submit to the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) the appointment criteria of the instructors. Generally, they also have to provide specific information about the qualifications of the instructors for assessment. Although there is no specific stipulation in the Terms and Conditions on the turnover rate of instructors, after a course has been registered under the CEF, the course provider has to obtain written approval of the Administration before changing the instructors. We consider the existing arrangement appropriate for sufficiently ensuring the quality of courses and protecting the interest of learners.

There is also a set of stipulations in the Terms and Conditions on the promotion of CEF reimbursable courses which aims to prevent course providers from admitting students indiscriminately. To



protect learners' interest, only those courses which have been registered are allowed to be promoted as CEF reimbursable courses. Course providers are generally not allowed to advertise themselves as the agents, employees, servants, representatives or partners of the Government. The Administration may require a course provider to withdraw or cease using any promotional materials which it considers to be inappropriate or undesirable. To prevent learners from being lured by financial inducements to sign up for courses, course providers are not allowed to offer any gifts, discounts or any other concessions. Furthermore, course providers are generally held accountable for all acts and omissions of their agents and sub-contractors in relation to observing the Terms and Conditions. Course providers are also prohibited from engaging learners who are applying for reimbursement under CEF as recruitment agents.

In addition, course providers are required to specify in their applications for registration as CEF reimbursable courses the admission requirements of learners for the concerned courses. The HKCAAVQ will assess if the admission requirements are appropriate in accordance with the level and requirements of the courses. If approved, course providers are then required to conduct admission according to the requirements and maintain related documentary record. This stipulation helps ensure that learners are admitted to courses that suit their ability.

In case of non-compliance with any of the stipulations above, the Administration will take appropriate follow-up action as set out in paragraph (a). The Administration will continue to strengthen the risk-based mechanism of course monitoring and inspections of course providers to ensure that the Terms and Conditions are observed. We will also increase the transparency of the courses by, for instance, enhancing the contents of OCEF's website so as to facilitate learners in choosing courses which best suit their needs.

### **Use of Light Emitting Diodes in Public Lighting Systems**

10. **MR CHEUNG HOK-MING** (in Chinese): *President, it has been reported that development of the technologies of using light emitting diodes (LED) in*

*illumination is becoming more mature in recent years, with its gross output in the global market amounting to US\$5.6 billion in 2008, and many countries have extensively used this technology in traffic light signals and public lighting systems. Regarding the application of LED in Hong Kong, will the Government inform this Council:*

- (a) given that the Transport Department (TD)'s scheme to replace all conventional traffic signals in Hong Kong with LED ones in stages has commenced since February 2009, of the latest progress of the scheme, as well as when it will be completed according to the latest estimation;*
- (b) how such LED traffic signals compare with conventional ones in terms of illumination level, efficacy and durability;*
- (c) whether the authorities will, when replacing the remaining conventional traffic signals, consider installing LED green traffic light signal countdown timers at the same time so as to enhance road safety; and*
- (d) given that the authorities had indicated, in its reply to the question raised by a Member at the meeting of this Council on 21 November 2007 regarding the use of more energy-efficient public lighting systems, that suitable LED lighting fittings were not available in the market at that time, whether the authorities had, in the past two years, followed closely the latest development in the relevant technologies so as to take suitable follow-up actions and conduct tests?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, my reply to the four parts of the question is as follows:

(a) and (b)

In terms of luminance, traffic signals using LED are comparable to the conventional ones using incandescent lamps (the former's luminous intensity range from 300 to 720 candela (cd) and the latter from 200 to 800 cd). In terms of efficacy, LED traffic signals have

a life expectancy of ten years, far longer than their conventional counterparts which last for one year only, and can save 60% to 70% electricity compared to the conventional ones. Therefore, LED traffic signals should be used extensively for their higher energy efficiency as well as lower recurrent operational and maintenance costs during their design life.

The Finance Committee of the Legislative Council approved in 2008 the provision required for the territory-wide replacement of conventional traffic signals with LED traffic signals. The TD is working in full swing to implement the replacement works as scheduled. The works are to be carried out in three stages in Hong Kong, Kowloon and New Territories regions respectively. The first stage, covering traffic signals at about 400 junctions in Hong Kong region, has commenced in February 2009. As at end 2009, the signals at over 80% of the junctions had been replaced. The remaining works will be completed in the first quarter of 2010. The second stage, covering traffic signals at about 670 junctions in Kowloon region, will start in January 2010 and is expected to complete in the first quarter of 2011. The third stage, covering traffic signals at about 830 junctions in the New Territories region, is planned to commence in end 2010 and expected to complete in the third quarter of 2012.

- (c) The TD has studied in detail the issue of whether advance warning devices for vehicular traffic signals (such as traffic signal countdown timers) can enhance road safety. It is understood that so far there is no authoritative literature supporting the effectiveness of such devices in reducing the rate of traffic accidents. On the contrary, some overseas research has found that drivers react differently to such devices. For example, the motorist in the front may decide to stop his car when he sees that the green signal has been running to the last few seconds but the one behind him may choose to accelerate and speed past the junction. In such circumstances, the potential risk of head-tail collisions will increase instead, thus affecting road safety. As such, we have no plans to retrofit traffic signals with countdown timers.
- (d) As regards LED lighting fittings, the Highways Department (HyD) has been liaising with the suppliers of such fittings in the past few

years and closely monitoring the technological development to attain information on LED lighting products and test their luminous efficacy.

Given the improved luminous efficacy of current LED products, the HyD is conducting tests on such products. The HyD installed eight LED street lamps along two designated streets and four LED fluorescent lamps on two designated footbridges in October 2009. Results of the preliminary technical assessments on these products were satisfactory. To further test the efficacy of LED lighting fittings, the HyD plans to conduct a trial of a larger scale by installing 100 LED street lamps and 200 LED fluorescent lamps on footbridges over the territory. The installation works are expected to complete in mid 2010.

Separately, the HyD is also conducting tests on the new ceramic discharge metal halide (CDM) lamps which are more energy-efficient than the conventional high pressure sodium lamps, with a view to examining the feasibility of using these two major new types of road lighting (that is, LED lighting fittings and CDM lamps) on an extensive basis, having regard to their prices, energy efficiency, safety and durability.

### **Air Traffic in PRD Region**

11. **MS MIRIAM LAU** (in Chinese): *President, some members of the aviation industry have relayed to me that air routes and airspace open for civil aviation in the Pearl River Delta (PRD) Region are insufficient, and with four other airports (including Macao, Shenzhen, Guangzhou and Zhuhai) within 65 kilometres of Hong Kong, the flights on many air routes have to make an additional detour or fly to a certain flight level to ensure safety, which has not only increased the flight time, but has also resulted in flight delays from time to time. They have indicated that with the rapid growth in the aviation industry and an increasing number of flights, the problem of air traffic congestion in the airspace over the PRD Region will become more serious and will affect Hong Kong's air transport volume. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of departure and arrival flights in Hong Kong in each of the past three years which, because of air traffic flow control by the Mainland authorities and air traffic congestion in the airspace over the PRD Region, had to either circle in the air after not being allowed to land or wait on the apron for a long time before being allowed to take off, and were thus delayed, as well as their respective percentages in the total number of departure and arrival flights in Hong Kong during the corresponding period;*
- (b) *given that the Civil Aviation Department (CAD) has introduced new air routes since 22 October last year, and has shortened the arrival routes for flights from west and north of Hong Kong to help save fuel consumption, of the number of arrival flights which had used the new air routes since their introduction, and the major countries from which such flights departed; whether it has assessed the additional air transport volume to be brought to Hong Kong by the new air routes; and*
- (c) *of the latest result and progress in the optimization of regional airspace design, improvement to the allocation of flight levels, standardization of interface protocols and standards of air traffic control facilities and increase in air routes for civil aviation between the PRD Region and the northern and eastern parts of the Mainland since the establishment of the PRD Air Traffic Management Implementation Working Group by the CAD, the General Administration of Civil Aviation of China and the Macao Civil Aviation Authority in February 2004, as well as what medium and long-term work plans it has to increase the runway capacity and air transport volume of Hong Kong's airport?*

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

- (a) In the past three years, the numbers of departure flights delayed on the apron at the Hong Kong International Airport (HKIA) due to air traffic flow control by the Mainland authorities are tabulated below:

<i>Year</i>	<i>Total number of departure flights</i>	<i>Number of departure flights delayed (%)</i>
2007	148 645	2 409 (1.62)
2008	151 327	2 114 (1.40)
2009	140 332	2 045 (1.46)
Total	440 304	6 568 (1.49)

On arrival flights departing from Mainland airports, these flights constitute about 12% of the total arrival flights of the HKIA. Air traffic flow control by the Mainland authorities would mainly affect these flights in that the departure time of the flights might be delayed, but the CAD does not have the statistics on flights actually delayed due to flow control.

Given the need for the PRD airspace to cater for the operating capacities of five airports, there are certain limitations in the design of the air routes to ensure flight safety. These include the requirement for some flights (mainly those arriving from the Mainland) to detour a certain distance before they can land at the HKIA. Apart from the over-crowdedness of the PRD airspace, flight operations to and from Hong Kong are also affected by other factors such as weather and the geographical environment of Hong Kong. It is therefore difficult to quantify in simple terms the impact of over-crowdedness of the PRD airspace on the flight operations in Hong Kong (including possible flight delays).

- (b) Commencing on 22 October 2009, the CAD implemented new air routes which shortened the travelling distance for arrival aircraft from the west and the north of Hong Kong. Since then, each flight coming to Hong Kong from the Mainland, South East Asia and Europe has been able to save up to about 210 km in flight journey or 14 minutes in flight time. Based on the traffic figures in the first quarter of 2009, it is estimated that the new routes can save a total of more than 10 million km in flight journey or 12 000 hours in flight time for arrival aircraft each year. With an average of about 150 flights per day using the new routes, the routes benefit about 8 million passengers annually.

To increase the air traffic capacity, complementary measures including those on airspace, air traffic control procedures and systems are required. The above-mentioned shortened air routes aim primarily at shortening the flight journey and flight time of aircraft and do not directly help to increase the runway capacity or air transport capacity of our airport.

- (c) The PRD Air Traffic Management Planning and Implementation Working Group (the Working Group) was established by the CAD of Hong Kong, the Civil Aviation Administration of China and the Macao Civil Aviation Authority in 2004. So far 15 meetings have been held to discuss measures to enhance the PRD airspace.

Through the concerted efforts of the three sides, an additional handover point and a corresponding air route have been established between the Guangzhou and Hong Kong Flight Information Regions since end 2006 to cater for flights overflying Hong Kong and landing in Guangzhou. The airspace of the Zhuhai Terminal Area is also planned to undergo reorganization and expansion within this year to facilitate the flow of air traffic in the region.

To resolve the issue of airspace over-crowdedness in the long run, the Working Group has formulated an integrated plan based on the principles of joint airspace planning, use of common standards and harmonized flight procedure design. To improve airspace planning and air traffic management in the region, the plan encompasses various measures to rationalize airspace design, enhance flight levels distribution, standardize interface and protocols of air traffic control systems, and establish additional civil aviation air routes for flights to and from the northern and the eastern parts of the Mainland.

According to the plan, the three sides will seek to progressively improve the existing air traffic operations in the short-term, whereas in the medium to long-term, the aim will be to rationalize the PRD airspace management, air traffic control and flight procedures. The tripartite Working Group is discussing various specific measures to implement the plan, including the establishment of additional peripheral air routes to the east and west of the PRD, and a study on

the feasibility of integrating departure release for airports in the region and setting up a common platform for the exchange of air traffic control information. Upon full implementation of the plan, the projected future air traffic growth in the region will be met by the enhanced PRD airspace capacity.

While efforts are being made to enhance the use of the PRD airspace, the CAD has been taking measures to gradually increase the runway capacity of the two existing runways of the HKIA, with a view to achieving the target of 68 aircraft movements per hour by 2015. These measures include the rationalization of flight procedures, recruitment of additional air traffic controllers, and replacement of the air traffic control system in 2013. To fulfil the development needs of the aviation industry, the Airport Authority Hong Kong will carry out a mid-field expansion project to provide additional aircraft stands and apron facilities and a new passenger concourse, increasing the handling capacity of the airport to 70 million passengers and 6 million tonnes of cargo per annum. This is expected to cope with air traffic demand up to 2020. The Airport Authority Hong Kong is also undertaking the Airport Master Plan 2030 Study to review the airport facilities with a view to maintaining the status and competitive edge of Hong Kong as an international and regional aviation hub. A key issue in the study is the possibility of building a third runway. The study is expected to be completed within this year.

### **Shatin to Central Link**

12. **MS STARRY LEE** (in Chinese): *President, in its consultation paper on the Kowloon City section of the Shatin to Central Link (SCL) project issued to the Kowloon City District Council on 21 May last year, the MTR Corporation Limited (MTRCL) has proposed setting up a temporary works area (works area) in the Kai Tak Development Area. It is expected that the works area will cover about 20 hectares and will be used for material storage and installation of concrete batching, stirring and rock crushing facilities. Quite a number of residents in the vicinity of the proposed works area (such as Grand Waterfront, Sky Tower and Wyler Gardens, and so on) have relayed to me their worries that the excessive size of the works area and the close proximity of its facilities to the*



*residential area would lead to serious noise, air and traffic nuisances, thus affecting their daily life. In this connection, will the Government inform this Council:*

- (a) of the details of the arrangements for various facilities in the aforesaid works area;*
- (b) given that the Government and MTRCL have engaged an environmental consultant to conduct a thorough environmental impact assessment on the installation and operation of the aforesaid SCL project and its related temporary facilities, when the assessment report will be completed and the contents of the report publicized to the public, so as to facilitate members of the public to express their views on the contents;*
- (c) whether the authorities will undertake to arrange for the facilities, which may give rise to the aforesaid nuisances in the works area, to be located as far away from the residential area as practicable; if they will, of the details; if not, the reasons for that; what new specific measures they have in place to reduce the nuisances to residents in the district during the implementation of the SCL project; and*
- (d) whether it will, in response to the request by the residents in the district, review afresh the size of the works area; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the Government and the MTRCL are carrying out further planning and design of the SCL project. We are also looking at the details of the works, including the setting up of essential temporary supporting facilities for construction, such as concrete batching plant, rock crushing plant, stockpiling area and barging point, and so on.

Regarding the sub-questions on the setting up of the aforesaid facilities, I would like to respond as follows:

- (a) and (b)

We shall need to process a huge amount of excavated materials arising from the construction of railway tunnels and stations of the

SCL project. With a view to handle these excavated rock and soil in the most effective and environmentally friendly manner, we propose a works area in the Kai Tak Development Area for setting up a stockpiling area, a rock crushing plant, a concrete batching plant and a barging point. With these temporary supporting facilities, the excavated materials can be stored temporarily and sorted for re-use. Rocks that are sorted out as suitable material can be processed and will be delivered to the batching plant for making concrete. Suitable soil can be re-used for backfilling the areas near tunnels and stations. Unsuitable materials will be delivered to the barging point via the shortest route and be transported by sea to the designated handling areas. Such an arrangement will not only allow the recycling of construction spoils and thereby reducing construction wastes and pollution, but also minimize the environmental and traffic impacts induced by the transportation of the excavated materials.

The MTRCL has proposed to set up the above-mentioned temporary facilities in an area located between the future Kai Tak Station and To Kwa Wan Station. Such a location lies at about the centre of the Kai Tak Development Area and provides a certain separation with the residential buildings in the Ma Tau Kok, To Kwa Wan, San Po Kong and Kwun Tong areas.

The Government and the MTRCL understood that both residents and Council Members are highly concerned about the adverse environmental impacts induced by the setting up and operation of the temporary supporting facilities in Kai Tak Development Area. We have therefore engaged environmental consultants to conduct a detailed environmental assessment on the construction and operation of the railway works and the associated supporting facilities. In fact, the Environmental Impact Assessment of the SCL project has commenced in late 2008 and it studies the noise, air, water and solid waste impacts due to the railway project, and recommends the necessary mitigation measures. Upon completion of the study by mid 2010, the MTRCL will submit the study report to the relevant authorities for approval, release the report for public inspection and comments, and consult the relevant District Councils. The report will then have to be approved by the Environmental Protection Department. Works can only be commenced when the necessary

Environmental Permit is issued. All these temporary facilities will have to comply with the stringent requirements of the Environmental Impact Assessment Ordinance, and to minimize the possible impacts to the local residents and the surroundings.

- (c) The Government is committed to taking all feasible measures to minimize the possible impacts arising from the temporary supporting facilities. However, as the proposed SCL alignment will run through the densely populated and highly developed areas, there is very limited choice of sites for setting up the aforesaid temporary supporting facilities. If these temporary supporting facilities are set up at other remote areas, the construction traffic will put additional pressure on the roads and worsen the pollution in the territory as a whole. It will also adversely affect the progress of the SCL construction. Having taken all these factors in consideration, the Government agreed in principle to set up such temporary supporting facilities in the Kai Tak Development Area. Such a location will be in close proximity to the SCL stations and tunnels, thus allowing the excavated materials to be transported to the stockpiling area for sorting and processing in the shortest route. The concrete produced can also be delivered to construction sites in a fast manner. This arrangement can effectively reduce the environmental and traffic problems arising from the transportation of the excavated materials from the SCL works.

We sounded out the proposal and location of the temporary supporting facilities to the Kowloon City District Council in May 2009 and the public in forums held from June to July 2009. Moreover, the Highways Department, Kowloon City District Office, the MTRCL conducted a visit on 18 September 2009 with some members of the Kowloon City District Council and representatives of local residents and concern groups to an existing concrete batching plant in Tsing Yi and a barging point at Chai Wan. During the visit, the representatives appreciated the operating conditions of these facilities and their effects to the surroundings. The residents gave us a lot of comments. We understood their concerns and have seriously considered their views. Yet it is very difficult to find another better site that can be used as works area and farther away from residential areas.

- (d) Currently, the area of the proposed SCL works area is about 20 hectares. The requirement has been worked out in accordance with the principles of least works area and the best land use. As the scale of the SCL project is large, a large works area is necessary to handle the huge amount of excavated materials and to produce the large amount of concrete required for the construction of stations and tunnels. Yet, the extent of the works area will be reduced gradually when the construction works progress. The Government and the MTRCL will periodically review the extent of the works area according to the latest development of the Kai Tak Development projects and the requests of local residents, and reduce the land take when situation permits.

### **Shops Refusing to Accept Coins and \$1,000 Notes**

13. **MR LEUNG KWOK-HUNG** (in Chinese): *President, I have often received complaints from the public that many shops reject 10-cent, 20-cent and 50-cent coins and \$1,000 bank notes in transactions, and some even "blatantly" displayed notices at prominent places in their premises that such currency is not accepted. In this connection, will the Government inform this Council:*

- (a) *whether shops in Hong Kong have the authority to reject the aforesaid coins and bank notes in transactions under the existing laws of Hong Kong; if so, which chapter of the laws gives them such authority; if not, of which legislation that these shops have breached, which government department is responsible for enforcing the relevant legislation, the penalty for such offence, as well as the respective numbers of relevant prosecutions and convictions in the past five years; and*
- (b) *with which government department the public may lodge complaints of shops' rejection of the aforesaid coins and bank notes; of the complaints hotline and address of that department; and the time needed for staff of the department to arrive at the scene to conduct investigation and follow up after receiving a telephone complaint?*

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

- (a) Notes and coins issued in accordance with the Legal Tender Notes Issue Ordinance and the Coinage Ordinance are legal tender in Hong Kong. As legal tender, they are by law regarded as valid and legal means of payment to adequately and effectively fulfil payment obligations. However, as in all commercial transactions, both parties can determine the terms of transaction on their own, including the means of payment. Whether to accept notes and coins of any denomination as payment is purely a commercial decision for goods and service providers. We have also studied the laws relating to "legal tender" in other countries and how they are enforced. We understand that most countries, including the United Kingdom, Canada, Australia, the United States and Singapore, have laws on "legal tender" to establish the legal status of their currencies. However, they do not have legislation to compel their residents or goods and service providers to accept the legal tender as payment or to punish those who refuse to accept it. In these countries, the buyers and sellers can determine the means of payment on their own, which is similar to the situation in Hong Kong.
- (b) The abovementioned ordinances do not confer any authority upon the Government to force goods and service providers to accept any notes and coins. Consumers can choose other providers or exchange the denominations of notes and coins requested by the providers at the banks.

### **Regulation of Certain Business Practice of Airline Companies**

14. **MR PAUL TSE** (in Chinese): *President, some travel agents have relayed to me that certain airline companies solicit business by claiming in their advertisements that they offer air tickets at prices much lower than the normal market prices, so as to attract corporate clients of registered travel agents to buy air tickets directly from them, but in fact air tickets available at such prices are very few, and such practice might be misleading to customers, and the mutual trust between airline companies and travel agents has been undermined as a result. Travel agents have pointed out that such business practice is both*

*improper and against the principle of fair competition. In this connection, will the Government inform this Council:*

- (a) of the existing measures or legislation to regulate the aforesaid business practice;*
- (b) of the government departments with which the affected customers or travel agents may lodge their complaints about the aforesaid situation, and the procedure for them to do so; whether the authorities had received such complaints in the past three years; if they had, of the number of the complaints; and*
- (c) whether it will formulate new policies and measures to curb the aforesaid business practice?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, my reply to the three parts of the question is as follows:

- (a) Hong Kong adopts free and open economic policies, under which traders may set their own marketing strategies including the prices of goods or services they put up for sale and the quantities that are made available. There is currently no legislation regulating the prices and quantities of goods and services put up for sale;
- (b) In the past three years, the Government has not received any complaint relating to the trade practice referred to in the question. Consumers may lodge complaints with the Consumer Council, which will look into the complaints received, conduct mediation and assist both parties in settling disputes;
- (c) While upholding market freedom and fair competition, the Government also protects the legitimate interests of consumers. We are very concerned about the unfair trade practices in the market, including the promotional tactic of advertising goods or services at very low prices with the ulterior motive of promoting other goods or services to consumers. To strengthen protection for consumers, we are pressing ahead with the review of relevant legislation to tackle such unfair practices. A swift and feasible means to deal with the

problem is to amend the Trade Descriptions Ordinance to prohibit traders from advertising goods or services at bargain prices without having reasonable quantities of goods or services to meet foreseeable demand. We plan to submit proposed legislative amendments to the relevant Panel of this Council to seek views from Members and the public.

Enhancing consumer awareness through publicity and education is equally important as legislative regulation. In this connection, we have launched different types of publicity campaigns through newspapers and the electronic media to raise consumers' awareness of unfair trade practices, including "bait and switch". Before legislative amendments are introduced, we will continue to co-operate with the Consumer Council, the police and other organizations (including major chambers of commerce, schools and the media) to alert consumers to the possible price differentials among retail channels and the importance of comparing prices at different retail points before making smart, informed consumption decisions based on their own needs.

### **Abandoned or Stray Animals**

15. **MS AUDREY EU** (in Chinese): *President, it was reported that a member of the public, after learning that the three stray dogs staying in her neighbourhood had been caught by the staff of the Agriculture, Fisheries and Conservation Department (AFCD), claimed to be the dogs' owner to prevent them from being euthanized, but she was eventually charged for failing to obtain the licences required for the dogs she kept. In this connection, will the Government inform this Council:*

- (a) *of the numbers of stray cats and dogs received by the AFCD last year; and among the cats and dogs caught and received by the AFCD, the respective numbers of those reclaimed by their owners and adopted by the public;*
- (b) *whether the authorities have any mechanism in place at present for reviewing the cases in which stray animals are assessed by the veterinary officers of the AFCD that they should be euthanized; if not, of the reasons for that;*

- (c) *whether the authorities will consider amending the relevant legislation and reviewing the existing measures, so as to encourage more people to apply for the adoption of stray animals and prevent people from being prosecuted for offences similar to the aforesaid one;*
- (d) *how the authorities determine the time that a stray animal can stay in the AFCD's animal management centre after being caught or received and before they are finally adopted or euthanized; whether the authorities will consider extending the time limit for the application for adopting such animals, so that the animal welfare organizations concerned will have sufficient time to apply for adoption to prevent such animals from being euthanized unnecessarily;*
- (e) *of the reasons for the authorities allowing members of the public to adopt animals which have been caught or received by them only through animal welfare organizations at present; whether they will consider allowing members of the public to apply directly to the AFCD's animal management centre for adoption of the animals caught; if not, of the reasons for that;*
- (f) *of the details of the authorities' existing vetting and approval for applications from animal welfare organizations for participating in the AFCD Re-home Scheme; whether they will consider amending the relevant conditions, so as to encourage more organizations to participate in this Scheme; and*
- (g) *of the details of the authorities' latest publicity work on the Re-home Scheme; whether they will step up publicity so that more members of the public will participate in this Scheme?*

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

- (a) The number of stray cats and dogs caught or cats and dogs received from owners by the AFCD in 2009 is 15 600. Among them, 1 550 were reclaimed by their owners and 740 re-homed.



- (b) Generally speaking, stray animals caught or animals received from owners will first be sent to AFCD's Animal Management Centres for observation. During the observation period, veterinary officers on duty will closely monitor the animals' health and other conditions to ensure their suitability for re-homing. Health conditions permitting, the animals will stay for four days so their owners may reclaim them. Unclaimed dogs and cats will be passed to animal welfare organizations for re-homing if they are found to be healthy and of an acceptable temperament. Only animals which are assessed to be unsuitable for re-homing due to health or temperament reasons, or could not be re-homed by animal welfare organizations will be euthanized. In case there are animal welfare organizations which object to the assessment of AFCD's veterinary officers, the AFCD will, on the merits of each individual case, re-examine relevant cases in detail.
- (c) The AFCD will continue to collaborate with 11 non-profit-making voluntary animal welfare organizations to encourage and provide the public with avenues for animal re-homing. Members of the public who adopt animals in accordance with the established procedures will not be prosecuted. As such, the Administration has no plans to amend the relevant legislation.
- (d) Under the legislation, if the keeper of a stray or abandoned animal cannot be found or ascertained within four days after the commencement of the detention, the Director of Agriculture, Fisheries and Conservation may order the forfeiture of the animal, in which case he may retain it as he considers appropriate.

If stray or abandoned dogs are implanted with microchips, AFCD's Animal Management Centres will contact their keepers according to the data. As regards other animals including cats, the Centres will keep in view should there be any relevant reports on lost animals.

Upon expiry of the four-day detention, if there is no information showing that the detained animals have been reported lost or kept, the veterinary officers will then conduct health checks and temperament assessments on the animals to evaluate if they are

suitable for re-homing. AFCD's Animal Management Centres will maintain close liaison with the animal welfare organizations and, having regard to their different requirements, arrange animals suitable for re-homing for their selection. Only animals which are assessed to be unsuitable for re-homing due to health or temperament reasons, or could not be re-homed by animal welfare organizations will be euthanized.

- (e) As re-homing service involves the need to assess the suitability of an adopter and his/her living environment for adoption and follow up whether the adopter has taken proper care of the animal, it is more appropriate for non-profit-making voluntary animal welfare organizations to provide animal re-homing service.
- (f) There are currently 11 participating animal welfare organizations under the AFCD Re-home Scheme. They are all reputable non-profit-making animal welfare organizations with good track records in providing animal re-homing service. The AFCD needs to take into account various vetting criteria including the scale and operation of these organizations, their vetting procedure, filing and follow-up of animal re-homing cases and the non-profit-making nature of their animal re-homing projects, and so on. The AFCD is conducting a review and considering strengthening the vetting criteria.
- (g) Detailed information on re-homing arrangements is available at AFCD's website to encourage the public to adopt stray animals through animal welfare organizations. The AFCD will also enhance public awareness of the re-homing arrangements through promotional and educational activities, for instance, the animal welfare exhibition organized by the AFCD in September 2009.

### **Analogue and Digital Television Services**

16. **MR KAM NAI-WAI** (in Chinese): *President, regarding the progress of the implementation of Digital Terrestrial Television (DTT) broadcasting, will the Government inform this Council:*

- (a) *of the major areas not covered by DTT broadcasting on Hong Kong Island, Kowloon and the New Territories respectively as at the end of 2009, and the reasons for those areas not being covered; when the target of full DTT coverage in Hong Kong will be achieved;*
- (b) *of the number of households using DTT service and the penetration rate of DTT in each of the past three years;*
- (c) *given that the authorities have specified in the implementation framework for DTT broadcasting published in July 2004 that the Government's target was to cease analogue broadcasting within five years after commencement of simulcast, whether it is still the Government's plan to cease analogue broadcasting by the end of 2012 (that is, the fifth year after commencement of simulcast), resulting in people not being able to watch free analogue television channels currently available;*
- (d) *whether it will consider retaining analogue broadcasting after 2012 and continuing with the current simulcast arrangement for analogue and DTT broadcasting; if it will, what impact such an arrangement will have on the Government, as well as of the resultant economic losses; and*
- (e) *given that there have been reports that many salespersons claimed that the Government would cease analogue broadcasting, and deceived the residents in public and private housing estates that they must purchase the DTT receivers sold by them at high prices in order to continue to receive local free television broadcasting, resulting in such residents suffering from financial losses, whether the Government will step up publicity work in the future, so as to prevent people from being deceived and misled by such sales activities?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, since the launch of DTT services in Hong Kong on 31 December 2007, the much improved audio-visual experience brought by DTT has been well-received by the viewing public. The DTT take-up rate has been growing steadily. The two domestic free television programme service

licensees, that is, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), have also been making good progress in expanding their DTT coverage in phases.

Turning to the various parts of this question, my responses are as follows:

- (a) The DTT coverage has been extended to about 85% of the population in the 18 districts of the territory by the end of 2009. Areas which are yet to be fully covered by DTT services include:

<i>Areas yet to be covered by DTT services</i>	
Hong Kong Island	Stanley, Red Hill Peninsula, Shek O, Cape D'Aguilar, and so on.
The New Territories and the outlying islands	Shap Pat Heung, Mong Tseng Wai, Shan Tsui, Yim Liu Ha, Ping Che, Tai Lam Chung, Ngau Tam Mei, Ying Pun, Tai Po Tsai, Luk Keng, Sha Tau Kok, Kwan Tei, Hong Lok Yuen, Shui Pin Tsuen, Shek Kong, Mui Wo, Tong Fuk, Tai O, and so on.

The construction of the DTT network in Hong Kong is being carried out in phases. Our present goal is to extend the DTT coverage throughout Hong Kong by 2012 at which time, the DTT coverage will be on par with that of the current analogue TV broadcasting.

- (b) According to a public survey conducted in December 2009, about 46.5% of the families in Hong Kong (representing some 1 060 000 households) receive DTT services. The penetration rate has shown a growth of more than 40% as compared with 32.2% (representing at that time some 720 000 households) by the end of 2008.
- (c) The existing free-to-air TV service is a major source of information and entertainment for the general public in Hong Kong. The Government will carefully consider the question of analogue switch-off and will make appropriate arrangements for the public so as to ensure a smooth migration from analogue television to DTT. The target of switching off analogue TV service by 2012 is still being used for planning purposes. However, the Government will take into account the future market situation, including the take-up

rate of DTT services, before making a final decision on the switch-off. Sufficient preparation will be made in all aspects to ensure public awareness before the analogue switch-off is to be implemented. At the current stage, analogue switch-off will not be considered.

- (d) The retention of analogue broadcasting as well as the simulcast of analogue and digital terrestrial TV broadcasting requires comprehensive and in-depth planning and consideration, including the economic benefit of the use of the spectrum to be released from analogue switch-off. It is currently not the appropriate timing to give such consideration.
- (e) The Government is very concerned about the undesirable sales activities of digital TV set-top boxes. Not only have consumer alerts been posted on the website of the Office of the Telecommunications Authority (OFTA) and the digital television website, but publicity has also been enhanced to increase consumer awareness. Announcements of public interest are broadcast regularly via radio stations to alert the consumers. Publicity has been carried out in co-operation with the Consumer Council (CC) by issuing consumer alerts through the *Choice* magazine and via the phone-in radio programme "Smart Consumer" of RTHK. Simulated deception cases related to high-definition TV set-top box have been shown in the "Police Magazine" programme on television to raise consumers' awareness. In addition to this publicity, we have produced promotional leaflets focusing on these undesirable sales activities in collaboration with the CC for distribution to the public shortly at the estate offices of all public housing estates, elderly district centres, the Public Enquiry Service Centres of District Offices, consumer advice centres of the CC, public libraries as well as electronic product retail shops. At the same time, the police has taken enforcement action against these illicit sales activities. Between January to October 2009, the police handled a total of 84 cases and 24 suspects were arrested. In November 2009, one of the arrested persons was convicted and sentenced to eight-month imprisonment.

**Problem of Children Being Left Unattended at Home**

17. **MISS TANYA CHAN** (in Chinese): *President, some parents have relayed to me that in recent years, incidents of parents or guardians leaving children unattended at home occurred from time to time, with some incidents even involving injuries of children, and the situation has aroused concern. They have also pointed out that the existing occasional child care services available in the community are inadequate, and if parents have important matters to handle and need occasional care for their children, they would encounter great difficulties and sometimes unavoidably need to abandon a trip or take the risk of temporarily leaving their young children unattended at home. In this connection, will the Government inform this Council:*

- (a) *given that the last large-scale survey conducted by the Administration on the situation of children being left unattended at home was conducted in 1997, which was more than 12 years ago, whether the Government will consider conducting a survey study on this matter again; if it will, of the specific plan; if not, the reasons for that;*
- (b) *given that at present the Government normally invokes the Offences Against The Person Ordinance (Cap. 212) in dealing with cases of children being left unattended at home, whether the Government will review the current practice; if it will, of the specific details and follow-up actions; if not, the reasons for that;*
- (c) *given that some parents have pointed out that the problem of children being left unattended at home has not improved all these years and there are signs of its getting worse each day, whether the Government will formulate new policies and measures to further improve the situation; if it will, of the details; if not, the reasons for that;*
- (d) *of the expenditure incurred by the Government on dealing with the problem of children being left unattended at home in the past three financial years; whether it will adjust the relevant estimates of expenditure in the 2010-2011 Budget; if it will, of the specific details; if not, the reasons for that;*

- (e) *whether the Government has any plan at present to study the introduction of legislation to prohibit children being left unattended at home; if it will, of the progress and the plan of the work concerned; if not, the reasons for that; and*
- (f) *whether it knows the respective numbers of places and service hours of subvented child care services in various districts; whether the Government has conducted any review on the supply and demand of such services; if it has, of the outcome and follow-up actions; if not, whether the Government will consider commencing such a review within a short period; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, parents have every responsibility to take care of their young children. Those who are unable to do so temporarily for reasons such as work or other engagements should arrange for their relatives, friends, neighbours or child minders to provide assistance, or to make use of the various available child care services. It is incumbent upon parents to make appropriate arrangements for their children. Under no circumstances should they run the risk of leaving their children unattended at home.

My responses to the six parts of the Miss Tanya CHAN's question are as follows:

- (a) The Administration has been very concerned about the problem of young children being left unattended at home. Our objective is to minimize its occurrence through the provision of different support services and measures as well as various publicity and public education efforts. The Administration has no plan at present to conduct any survey on the situation of children being left unattended at home.
- (b) Leaving children unattended at home is very dangerous. Apart from causing harm to the children, the safety of neighbours can be put at risk. Besides, parents and carers may have to face criminal liability arising from negligence in care. In accordance with the Offences against the Person Ordinance (Cap. 212), any person who unlawfully abandons or exposes any child, being under the age of

two years, whereby the life of such child is endangered, or the health of such child is or is likely to be permanently injured; or any person over the age of 16 years who wilfully assaults, ill-treats, neglects, abandons or exposes any child or young person under the age of 16 years under his custody, charge or care in a manner likely to cause such child or young person unnecessary suffering or injury to his health, shall be guilty of an offence. If convicted, the maximum penalty is imprisonment for 10 years. We consider that the relevant Ordinance can offer effective protection for the safety of children. The police have also made use of the said provisions to successfully prosecute persons who left their children unattended at home.

- (c) The Administration adopts a multi-pronged approach to deal with the problem of leaving children unattended at home. Through publicity and public education, we impress upon parents the need for them to take their parental responsibility seriously and to avoid leaving their children unattended at home. In addition, we also render assistance and support to needy parents by providing them with flexible child care services. Details are as set out below:

The Social Welfare Department (SWD) has, all along, through different promotional and educational activities, reminded parents of the need to take good care of their children. These include the promotion of the messages of "Be a responsible parent. Let children grow happily", "Take good care of your children. Don't leave them alone" and "Child neglect is a criminal offence", and so on, through television programme, radio announcements, newspaper advertisements, parent-child magazines, parent-child websites, posters, pamphlets and souvenirs, and so on. The SWD has also included the relevant messages in its publicity campaigns on combating domestic violence and training for front-line professional staff.

In addition, the 61 integrated family service centres, two integrated services centres and 22 family life education units over the territory also provide parents with the necessary knowledge and skills on child caring through various kinds of groups, activities and counselling services.



To provide support to families who cannot take care of their young children temporarily because of work or other reasons, and to avoid the situation of children being left unattended at home, the Government provides subvention to non-governmental organizations (NGOs) for them to run various kinds of child care services for the needy families. We also strive to increase the flexibility of such services. While regular care services through independent child care centres (CCCs) and kindergarten-cum-child care centres (KG-cum-CCCs) will continue to be provided, the SWD has also proactively introduced new child care services which are more flexible and with operating hours covering evenings, weekends and holidays so as to better meet the service demands. These include:

- subsidizing foster homes and some small group homes, which originally provided only residential care services, to provide day care services since October and December 2007 respectively;
- subsidizing Mutual Help Child Care Centres (MHCCCs) to provide services in the evenings, at weekends and on holidays since January 2008; and
- implementing the Neighbourhood Support Child Care Project (NSCCP) through NGOs/district organizations since October 2008, with a view to providing needy parents with more flexible child care services in addition to the regular services, and, at the same time, fostering mutual help and care in the community. The NSCCP has two service components: (i) home-based child care service for children under six, and (ii) centre-based care group for children aged three to six. Under the project, carers in the neighbourhood are hired and trained to take care of children at centres run by the service operators (centre-based care group) or at the carers' homes (home-based child care service).

Moreover, the Government also assists the community in establishing neighbourhood mutual help networks through the Community Investment and Inclusion Fund (CIIF). Since the

establishment of the CIIF in 2002, about \$200 million has been allocated to fund more than 200 projects. About 40% of the projects include elements of child care or after-school care services on a neighbourhood mutual aid basis.

- (d) In the 2007-2008, 2008-2009 and 2009-2010 financial years, the expenditures/estimates of the Government on day child care services are \$106.6 million (actual expenditure), \$89.2 million (revised estimate) and \$98.4 million (draft estimate) respectively<sup>(1)</sup>.

Furthermore, to implement the NSCCP mentioned above, the Government has set aside an additional provision of \$45 million for the costs of the trial run of the project for three years (from 2008-2009 to 2010-2011).

The SWD does not have the breakdown on the expenditures on public education, publicity and other activities relating to preventing the situation of children being left unattended at home.

- (e) We are of the view that the proposal of legislating against leaving children unattended at home, though well-intended to protect children from harm, may not achieve its desired objective. For instance, some parents may seek to circumvent the legal responsibility by asking their children to wait outside their homes or wander in shopping centres and on the streets. These situations cannot be prevented by the proposed legislation, and there are practical difficulties involved in implementing such legislation. On the contrary, the existing legislation on child neglect focuses on whether a certain conduct has caused harm to the child, whether the person involved has a duty of care, whether he/she has an intent to

(1) The figures do not include the fee subsidy for service users under the "Kindergarten and Child Care Centre Fee Remission Scheme" administered by the Student Financial Assistance Agency and the "Pre-primary Education Voucher Scheme" by the Education Bureau. Besides, there was a decrease in the expenditures since the 2007-2008 financial year and the reason is as follows: The Education Bureau originally provided subsidy to some KG-cum-CCCs through the "Kindergarten and Child Care Centre Subsidy Scheme". From 2007-2008 school year onwards, these KG-cum-CCCs can cover their operating expenses with the subsidy (in form of vouchers) provided by the Education Bureau to the eligible kindergarten students under the "Pre-primary Education Voucher Scheme" like other non-profit making kindergartens which have joined the scheme. The services provided for children aged 3-6 by these KG-cum-CCCs therefore no longer receive subsidy under the "Kindergarten and Child Care Centre Subsidy Scheme".

neglect the child and is aware of the possible harm done to the child due to such conduct, and so on, irrespective of where the child is located. We believe that the existing legislation is more effective in protecting the safety of children.

We have made reference to the practice in some overseas jurisdictions. To our understanding, the criminal provisions for handling child neglect under the relevant legislation in the United Kingdom, Canada, Australia and Singapore are similar to the provisions in the Offences against the Person Ordinance mentioned above. These jurisdictions do not have separate provisions which make leaving children unattended at home a criminal offence.

- (f) On top of the 690 regular service places of CCCs and 80 517 regular service places of KG-cum-CCCs, parents who are unable to take care of their children temporarily because of important or sudden engagements may also make use of child care services which are of occasional nature, including Occasional Child Care Service (OCCS), Extended Hours Service, MHCCCs and NSCCP.

The service hours of OCCS are from 8.00 am to 6.00 pm on Monday to Friday and from 8.00 am to 1.00 pm on Saturday. If there is a need for care service outside these hours, parents can use the Extended Hours Service, and the service hours are normally from 6.00 pm to 8.00 pm on Monday to Friday and from 1.00 pm to 3.00 pm on Saturday. The service hours of MHCCCs are set by individual centres according to their different circumstances. The SWD has also required centres which have joined the "Subsidy Scheme for Mutual Help Child Care Centres" to provide services to needy families by appointment from 6.00 pm to 10.00 pm on Monday to Friday and for eight hours of services on Saturday, Sunday and public holidays. For NSCCP, the service hours for its home-based child care service for children under six are from 7.00 am to 11.00 pm, whereas the centre-based care group for children aged three to six also operates until at least 9.00 pm on weekdays, with services covering some weekends and holidays as well.

The number of places of the above services in each of SWD's 11 administrative districts is shown at Annex.

The SWD has been closely monitoring the service demands and operation of its various child care services to ensure that the concerned services can satisfy the demands of different districts. The operating hours of the above child care services should be able to meet the needs of most parents who are unable to take care of their children temporarily because of work or other reasons. Nonetheless, I have to emphasize that parents are the best carers for their children. From the perspective of child welfare, leaving children to the hands of other carers for excessively long hours may not be in the best interest of the children. For parents who are unable to take care of their children for an extended period of time, we suggest that they should approach social workers to work out a comprehensive plan for taking care of their children, which may involve the use of different types of residential child care services.

Annex

Number of Places of Occasional Child Care Service,  
Extended Hours Service and Mutual Help Child Care Centres  
Provided by the Administrative Districts of SWD (January 2010)

<i>Administrative District of SWD</i>	<i>Occasional Child Care Service</i>	<i>Extended Hours Service</i>	<i>MHCCCs</i>
Eastern and Wanchai	36	152	0
Central Western, Southern and Islands	46	124	67
Kwun Tong	47	122	56
Wong Tai Sin and Sai Kung	54	140	14
Kowloon City and Yau Tsim Mong	57	124	14
Sham Shui Po	33	76	51
Shatin	35	82	0
Tai Po and North	49	124	14
Yuen Long	34	70	42

<i>Administrative District of SWD</i>	<i>Occasional Child Care Service</i>	<i>Extended Hours Service</i>	<i>MHCCCs</i>
Tsuen Wan and Kwai Tsing	65	138	28
Tuen Mun	38	78	28
Total	494	1 230	314

Note:

Service operators of NSCCP are required to provide at least 26 home-based child care places and 14 centre-base care group places in each of the administrative districts of SWD. Service operators may increase the number of service places in accordance with their circumstances to meet the service demands of the respective districts.

### **Off-shore Wind Farm to be Developed by CLP**

18. **MRS REGINA IP** (in Chinese): *President, it has been reported that the CLP Power Hong Kong Limited (CLP) plans to construct an offshore wind farm, and that after the CLP has adopted wind power for generating electricity, its annual reduction in carbon dioxide emission is expected to reach 300 000 tons, thereby raising the percentage of renewable energy used in power generation in Hong Kong to 1%. The generation capacity of the wind farm, which will account for about 1% to 2% of CLP's overall capacity, is sufficient to supply power to 80 000 households. In this connection, will the Government inform this Council:*

- (a) *given that there are research data which show that the actual capacity factor of wind farms in Europe in the past five years was below 21%, but the cost was 66% higher and the reduction in carbon emission was 40% less than expected, and that there was obvious limitation of wind power for generating electricity, whether the Government has, on the basis of Hong Kong's actual geographical environment and wind power resources, thoroughly verified the data on the reduction of carbon dioxide emission and economic benefits of the proposed wind farm mentioned in the Environmental Impact Assessment (EIA) report submitted by the CLP for the said wind farm project; if it has, of its justifications for approving the EIA report;*
- (b) *of the actual serviceable life span of the aforesaid wind farm, as well as details of the Government's consideration of the environmental*

*protection and economic benefits of the project when it approved the project's EIA report; and*

- (c) *whether the Government has examined relevant options to help members of the public cope with the burden of increase in electricity tariff on them resulting from the use of wind power for electricity generation?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the selected site for the wind farm proposed by the CLP is located approximately 9 km east of Clearwater Bay peninsula and 5 km east of South Ninepin Island within the southeastern waters of Hong Kong. The EIA, which does not cover the economic benefits of the project, mainly aims to assess the potential environmental impact of the construction and operation of the wind farm and recommend practicable mitigation measures. The EIA Ordinance and the Technical Memorandum on EIA Process have already set out various objective statutory standards and the relevant authorities. After examining the EIA report and carefully considering the views of the Advisory Council on the Environment and public opinions collected during the public inspection period, the Environmental Protection Department and the relevant authorities confirmed that the report and the EIA findings obtained in accordance with assessment methods adopted in advanced regions complied with the statutory requirements and approved the EIA report in August 2009. The approval of the EIA report only indicated compliance with the regulations and requirements under the EIA Ordinance. The construction works can commence only if it fulfils all relevant laws and obtains the necessary approvals.

Under the Scheme of Control Agreement concluded between the Government and the CLP, the CLP has to submit the investment proposal on its wind farm project to the Government for approval. So far, the Environment Bureau has not received relevant proposal. Upon receiving the investment proposal, the Government will examine critically the project in various aspects, including renewable energy policy, environmental benefits, impact on electricity tariff, economic benefits and technical factors, to ensure a balance of overall interests of the society in the decision. It is our objective to promote wider use of renewable energy while protecting consumer interests.

**Choice of Location for Centres of Continuing and Professional Studies**

19. **MR ALBERT CHAN** (in Chinese): *President, recently, some members of the public have relayed to me that as the schools/colleges of continuing and professional studies (schools/colleges) of quite a number of universities have set up their education centres in Kowloon and on Hong Kong Island, residents in the New Territories have to incur high travelling expenses and spend a lot of time to reach such centres to attend classes, thus causing them much inconvenience. In this connection, will the Government inform this Council:*

- (a) whether it knows the locations of the respective education centres of the schools/colleges of the various tertiary institutions at present, as well as the courses offered there and their enrolment capacities (list out in table form);*
- (b) whether it knows the distribution, by District Council district, of the residences of the students of the various schools/colleges at present (list out in table form);*
- (c) whether it knows the reasons why the various tertiary institutions rarely set up education centres in New Territories West; and*
- (d) whether the authorities will consider adopting measures to encourage the various schools/colleges to set up their education centres in remote areas such as New Territories West; if they will, of the details; if not, the reasons for that?*

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

- (a) The locations and student numbers of programmes offered by colleges/schools of continuing and professional education of the University Grants Committee funded institutions are listed at Annex. The institutions offer a wide variety of part-time and full-time programmes including various short-term courses as well as diploma/certificate programmes, sub-degree programmes, self-financing degree and post-graduate programmes offered by local or non-local institutions. Programme details are listed in the websites of the respective institutions.

- (b) As not all institutions require students to provide information on their residential address, we are unable to provide the distribution of residence of students by District Council districts.

- (c) and (d)

Programmes offered by schools/colleges of continuing and professional education are self-financing in nature. When deciding programmes to be offered and class locations, institutions take into account various factors including market demands and student needs. We have no plan to introduce measures to encourage institutions to set up education centres in individual districts.

## Annex

### Location and Student Enrolments of Schools/Colleges of Continuing and Professional Education under the University Grants Committee Funded Institutions

<i>Institution</i>		<i>District</i>	<i>Full-time Students <sup>(1)</sup></i>	<i>Part-time Students <sup>(2)</sup></i>	<i>Programme Information Weblink</i>
City University of Hong Kong	Community College of City University Kowloon Tong Campus	Sham Shui Po	4 400	-	<a href="http://www.cityu.edu.hk/cccu/">http://www.cityu.edu.hk/cccu/</a> <a href="http://www.scope.edu/ce/newsite/progs/progs.html">http://www.scope.edu/ce/newsite/progs/progs.html</a>
	Community College of City University Mong Kok Learning Centre	Yau Tsim Mong	500	-	
	Community College of City University Telford Annex	Kwun Tong	2 000	-	
	School of Continuing and Professional Education City University of Hong Kong (Main Campus)	Sham Shui Po	-	400	
	School of Continuing and Professional Education Academic Exchange Building Campus	Sham Shui Po	800	1 000	
	School of Continuing and Professional Education JCEB Learning Centre	Sham Shui Po	800	1 500	
	School of Continuing and Professional Education HKPC Learning Centre	Sham Shui Po	400	300	



<i>Institution</i>		<i>District</i>	<i>Full-time Students <sup>(1)</sup></i>	<i>Part-time Students <sup>(2)</sup></i>	<i>Programme Information Weblink</i>
	School of Continuing and Professional Education Creative Design Centre	Sham Shui Po	30	-	
	School of Continuing and Professional Education Shek Kip Mei Learning Centre	Sham Shui Po	900	1 500	
	School of Continuing and Professional Education Cheung Sha Wan Learning Centre	Sham Shui Po	200	-	
	School of Continuing and Professional Education Jordan Learning Centre	Yau Tsim Mong	500	500	
	School of Continuing and Professional Education Tsim Sha Tsui Learning Centre	Yau Tsim Mong	800	1 200	
	School of Continuing and Professional Education Admiralty Learning Centre	Central and Western	400	700	
Hong Kong Baptist University	School of Continuing Education Kowloon Tong Campus Centre	Kowloon City	3 200	-	< <a href="http://www.sce.hkbu.edu.hk/pgm/pgmintro.php">http://www.sce.hkbu.edu.hk/pgm/pgmintro.php</a> >
	School of Continuing Education Shek Mun (Shatin) Campus Centre	Sha Tin	2 400	-	
	School of Continuing Education Town Centre	Yau Tsim Mong	-	400	
	School of Continuing Education Tsimshatsui Centre	Yau Tsim Mong	-	500	
	School of Continuing Education Kowloon East Centre	Kwun Tong	-	200	
	School of Continuing Education Island Centre	Central and Western	-	500	
	School of Continuing Education Wan Chai Centre	Wan Chai	-	400	
Lingnan University	Lingnan Institute of Further Education Tuen Mun Education Centre	Tuen Mun	800	400	< <a href="http://www.ln.edu.hk/cc/programmes">http://www.ln.edu.hk/cc/programmes</a> >  < <a href="http://www.ln.edu.hk/life/index.php?tn=programmes&amp;lang=us">http://www.ln.edu.hk/life/index.php?tn=programmes&amp;lang=us</a> >
	Lingnan Institute of Further Education Tsimshatsui Education Centre	Yau Tsim Mong	500	600	
	Lingnan Institute of Further Education Hong Kong Island Education Centre	Eastern	300	30	
	The Community College at Lingnan University	Tuen Mun	1 900	-	

<i>Institution</i>		<i>District</i>	<i>Full-time Students <sup>(1)</sup></i>	<i>Part-time Students <sup>(2)</sup></i>	<i>Programme Information Weblink</i>
The Chinese University of Hong Kong	School of Continuing and Professional Studies Central Learning Centre	Central and Western	1 200	31 100 <sup>(3)</sup>	< <a href="http://www.scs.cuhk.edu.hk/scs/#">http://www.scs.cuhk.edu.hk/scs/#</a> >
	School of Continuing and Professional Studies Tsimshatsui Oriental Learning Centre	Yau Tsim Mong	200		
	School of Continuing and Professional Studies Mongkok Learning Centre	Yau Tsim Mong	1 000		
	School of Continuing and Professional Studies Tsimshatsui East Ocean Learning Centre	Yau Tsim Mong	400		
	School of Continuing and Professional Studies Tai Wai Learning Centre	Sha Tin	-		
	School of Continuing and Professional Studies Taikoo Shing Learning Centre	Eastern	-		
	School of Continuing and Professional Studies Jordan Learning Centre (Scout Centre)	Yau Tsim Mong	-		
	School of Continuing and Professional Studies Jordan Learning Centre (Tak Sun)	Yau Tsim Mong	-		
	School of Continuing and Professional Studies Yaumatei Learning Centre	Yau Tsim Mong	-		
	School of Continuing and Professional Studies Mei Foo Learning Centre	Sham Shui Po	-		
	School of Continuing and Professional Studies Wanchai Learning Centre	Wan Chai	-		
	School of Continuing and Professional Studies Kwun Tong Learning Centre (Yuet Wah Street)	Kwun Tong	-		
	School of Continuing and Professional Studies Kwun Tong Learning Centre (Hip Wo Street)	Kwun Tong	-		

<i>Institution</i>		<i>District</i>	<i>Full-time Students <sup>(1)</sup></i>	<i>Part-time Students <sup>(2)</sup></i>	<i>Programme Information Weblink</i>
The Hong Kong Institute of Education	School of Continuing and Professional Education Tai Po Learning Centre	Tai Po	500	-	< <a href="http://www.scpe.ied.edu.hk/version1/en/programmes-category.asp?id=0">http://www.scpe.ied.edu.hk/version1/en/programmes-category.asp?id=0</a> >
	School of Continuing and Professional Education Tin Shui Wai Learning Centre	Yuen Long	100	-	
	School of Continuing and Professional Education Town Centre	Yau Tsim Mong	800	1 400	
	School of Continuing and Professional Education Sai Wan Ho Learning Centre	Eastern	100	-	
	School of Continuing and Professional Education Tsuen Wan Learning Centre	Tsuen Wan	200	-	
	School of Continuing and Professional Education Choi Hung Learning Centre	Kwun Tong	100	-	
	School of Continuing and Professional Education Kwun Tong Learning Centre	Kwun Tong	200	-	
	The Hong Kong Council of the Church of Christ in China Morrison Memorial Centre Learning Centre	Yau Tsim Mong	-	200	
	Wanchai Duke Of Windsor Social Service Building Learning Centre	Wan Chai	-	100	
	Occupational Safety and Health Council Centre Learning Centre	Eastern	-	100	
The Hong Kong Polytechnic University	Hong Kong Community College and School of Professional Education and Executive Development West Kowloon Campus	Yau Tsim Mong	4 100	-	< <a href="http://www.hkcc-polyu.edu.hk/index.php?cms=824&amp;lang=eng">http://www.hkcc-polyu.edu.hk/index.php?cms=824&amp;lang=eng</a> >  < <a href="http://www.speed-polyu.edu.hk/subjectidx.asp">http://www.speed-polyu.edu.hk/subjectidx.asp</a> >  < <a href="http://www.hkcyberu.com/prog/program.htm">http://www.hkcyberu.com/prog/program.htm</a> >
	Hong Kong Community College and School of Professional Education and Executive Development Hung Hom Bay Campus	Yau Tsim Mong	3 400	700	
	Hong Kong CyberU Hung Hom Campus	Yau Tsim Mong	-	500	
	School of Professional Education and Executive Development Hung Hom Campus	Yau Tsim Mong	-	200	
	Breakdown of students by centre is not available	Yau Tsim Mong	-	1 500	

<i>Institution</i>		<i>District</i>	<i>Full-time Students <sup>(1)</sup></i>	<i>Part-time Students <sup>(2)</sup></i>	<i>Programme Information Weblink</i>
The Hong Kong University of Science and Technology	College of LifeLong Learning HKUST Campus	Sai Kung	-	60	< <a href="http://www.cl3.ust.hk/programs/index.asp">http://www.cl3.ust.hk/programs/index.asp</a> >
	College of LifeLong Learning Central Campus	Central and Western	-	30	
The University of Hong Kong	HKU SPACE Community College Kowloon West Campus	Sham Shui Po	100	400	< <a href="http://hkuspace.hku.hk/index2008.php?content=eng">http://hkuspace.hku.hk/index2008.php?content=eng</a> >
	HKU SPACE Community College Kowloon East Campus	Kwun Tong	3 300	1 800	
	HKU SPACE Community College Fortress Hill Campus	Eastern	1 500	600	
	HKU SPACE Community College Island East Campus	Eastern		800	
	HKU SPACE Po Leung Kuk Community College	Wan Chai	2 300	1 300	
	HKU SPACE Admiralty Learning Centre	Central and Western	-	900	
	HKU SPACE United Learning Centre	Central and Western	-	500	
	HKU SPACE AIA Tower Learning Centre	Eastern	-	200	
	HKU SPACE Headquarter	Central and Western	-	700	

Notes:

- (1) Enrolments in the 2009-2010 academic year.
- (2) Enrolments in January 2010.
- (3) Institution cannot provide breakdown of students by centre.

## Support Services for New Arrival Women from the Mainland

20. **MS EMILY LAU** (in Chinese): *President, according to the information for 2006 published by the Census and Statistics Department, the sex ratio of persons from the Mainland having resided in Hong Kong for less than seven years (new arrivals) was 443 males per 1 000 females and when comparing to 609 males in 1996, the proportion of females among new arrivals had increased*

*significantly. Other researches reveal that the services provided by the Government cannot meet the needs of new arrival women. In this connection, will the Executive Authorities inform this Council:*

- (a) how the "labour force participation rates" and "monthly incomes from main employment" for new arrival women and men compare with the corresponding data for the whole population of women and men in Hong Kong in the past three years; whether they have compiled statistics on the respective numbers and proportion of new arrivals taking up part-time and full-time jobs; if they have, of the details; if not, the reasons for that;*
- (b) whether they have reviewed the effectiveness of various types of services currently provided to new arrival women by the authorities and non-governmental organizations (NGOs) respectively; if they have, of the details; if not, the reasons for that; and*
- (c) whether they will consider drawing up new support measures targeting at the needs of new arrival women; if they will, of the details; if not, the reasons for that?*

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

- (a) According to the last Population By-census conducted by the Census and Statistics Department in 2006, the labour force participation rate for male and female persons from the Mainland having resided in Hong Kong for less than seven years (PMR) were 60.2% and 41.5% respectively. The relevant statistics for the whole male and female populations were 69.2% and 52.4% respectively.

The median monthly income from main employment among those employed male and female PMR were \$7,500 and \$5,800 respectively. The relevant statistics for the whole male and female working populations were \$11,000 and \$8,500 respectively.

There was no further breakdown of statistics for employed PMR by full-time or part-time employment in the 2006 Population By-census.

- (b) The Government has been providing a series of public services for the new arrivals from the Mainland, including women, to facilitate their integration into the local community. Such public services are set out below:
- (i) Employment services and vocational training: The Labour Department (LD) offers a whole range of free employment services to all job seekers, including the new arrivals from the Mainland, through its 12 Job Centres, the Recruitment Centre for the Catering Industry, the Telephone Employment Service Centre, the Interactive Employment Service website and vacancy search terminals installed at various locations in Hong Kong. Resource corners have also been established at all Job Centres for the new arrivals and employment briefings are organized for them from time to time. In addition, the new arrivals in need may join LD's various employment programmes, including the Job Matching Programme, the Employment Programme for the Middle-Aged and the Work Trial Scheme, to enhance their employability and to help them find suitable jobs. On vocational training, the new arrivals from the Mainland may apply for enrolment in courses provided by the Employees Retraining Board (ERB) if they meet the eligibility criteria.
  - (ii) Welfare services: The Social Welfare Department (SWD) and NGOs operated 61 Integrated Family Service Centres to provide a series of preventive, support and remedial welfare services for those in need (including the new arrivals from the Mainland). Besides, the 136 Integrated Children and Youth Services Centres (ICYSCs) over the territory organize various groups and activities to enhance the knowledge of children and youths of the new arrivals about their respective districts and to facilitate their integration into the community and adapting to life in Hong Kong. The ICYSCs also organize parent-child activities for the new arrival women in need to promote family harmony. Moreover, the SWD provides funding to the International Social Service Hong Kong Branch (HKISS) to provide cross-boundary casework services to

assist those, including new arrival women, who have encountered individual and family problems because of geographical separations. These services include consultation, counselling, emergency assistance, volunteer training, various groups and activities, referrals, and so on. Furthermore, the New Arrival Hotline of HKISS has already been connected with SWD's hotline. Individuals in need, including new arrival women, may contact social workers of the HKISS through SWD's hotline for timely assistance and appropriate services.

- (iii) Public housing: If the new arrivals including women arrive in Hong Kong on family union and meet other eligibility criteria for application for public rental housing (PRH), they may apply for PRH together with their family members through the Waiting List. New arrivals who fail to meet the residence requirement but have grave difficulties in meeting their imminent housing needs may apply to the SWD for PRH under the Compassionate Rehousing category through which the residence requirement can be waived. For the new arrivals including women who have family members living in PRH, they can apply for addition into the PRH tenancy through the Addition Policy for Harmonious Families of the Housing Authority (HA) and be exempted from the residence requirement. The HA also provides funding to the Estate Management Advisory Committees in public housing estates to partner with NGOs to carry out community activities, including provision of supporting services to new tenants/new arrivals in adapting to their new living environment, and so on, and referral of the needy to the appropriate government departments and voluntary agencies for assistance.
- (iv) Public health care services: The public health care services provided by the Department of Health (DH) and the Hospital Authority are available to eligible persons, including the new arrivals. In particular, the Maternal and Child Health Centres and the Woman Health Centres provide a comprehensive range of health promotion and disease prevention services

(including antenatal and postnatal care, family planning, cervical cancer screening and woman health service) for women including the new arrivals under the age of 65.

- (v) Educational support: The Education Bureau provides school placement service and subsidy to newly-arrived students, such as the full-time Initiation Programme and the Induction Programme, to help them better integrate into the community and the local education system. Starting from the 2008-2009 school year, the Education Bureau has extended the coverage of the Programmes to include new arrival children from the Mainland aged 18 to meet the learning needs of students.

The Home Affairs Department (HAD) conducts a continuous survey to assess the current situation and service needs of the new arrivals including women. Results of the survey are shared amongst the relevant government departments and NGOs. The HAD also publishes and updates a "Service Handbook for New Arrivals" on an annual basis to keep the new arrivals informed of public services and essential information about living in Hong Kong.

The public services mentioned above are generally effective in assisting the new arrivals from the Mainland, including women, in integrating into the community.

- (c) The Government will continue to monitor the service needs of the new arrivals from the Mainland, including women, and improvement services are provided as appropriate to meet their needs.

For example, to strengthen the support on vocational training for the new arrivals, the ERB has enhanced its courses to help trainees to attain job searching skills, build up positive work attitude, and understand the local community, and so on. The course has been launched since end-2008 in Tin Shui Wai, Yuen Long and Shum Shui Po on a pilot basis, and has been extended to other districts in Hong Kong starting from April 2009.

In addition, the HA has set up a Housing Advisory and Service Team (HAST) in Tin Shui Wai. The Team aims to reach out to the new



PRH tenants from the Mainland, including women, more proactively to help them better settle in the new environment in Hong Kong. The HA is actively promoting the scheme and the HAST service will be extended later this year to Yuen Long, Tuen Mun and Tung Chung to help PRH residents who are new arrivals integrate into the community early.

## **BILLS**

### **Second Reading of Bills**

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

**PRESIDENT** (in Cantonese): Bills. We now resume the Second Reading debate on the Legal Practitioners (Amendment) Bill 2009.

### **LEGAL PRACTITIONERS (AMENDMENT) BILL 2009**

#### **Resumption of debate on Second Reading which was moved on 24 June 2009**

**PRESIDENT** (in Cantonese): Dr Margaret NG, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**DR MARGARET NG:** Mr President, I speak on the report in my capacity as the Chairman of the Bills Committee on the Legal Practitioners (Amendment) Bill 2009. The purpose of the Bill is to implement a scheme for granting higher rights of audience to suitably qualified solicitors before the High Court and the Court of Final Appeal in civil and criminal proceedings. This scheme was proposed by a Working Party appointed by the Chief Justice, and has the support of The Law Society of Hong Kong (the Law Society) and the Hong Kong Bar Association (the Bar).

The issue of higher rights of audience for solicitors has been discussed for many years, and is no longer controversial. The deliberations of the Bills Committee have focused on the legal framework and mechanism for granting higher rights of audience to solicitors, including the establishment of the Higher Rights Assessment Board, the appointment of its members, the operation of the

Board and provisions for assessing applications. The Bills Committee is grateful for the assistance of the Bar, the Law Society and the Consumer Council whose representatives participated in our discussions.

Under the proposed scheme, a Higher Rights Assessment Board chaired by a Judge will be established to determine applications for higher rights of audience. It will act as the gatekeeper of the standard of advocacy before the courts. The Assessment Board comprises members appointed by the Chief Justice from serving and former Judges, members of the Bar and the Law Society, officers of the Department of Justice (DoJ), and a lay member of the public to be selected by the Chairman from among a panel of lay persons appointed by the Chief Justice.

Members considered whether the so-called "six-six Rule" should apply to appointments to the Assessment Board. This Rule, well recognized as a general guideline on appointments to public sector advisory and statutory bodies, stipulates that no one should be appointed to more than six such bodies at any one time, or serve more than six years on any of them. The Administration's position is that the Rule should not apply, mainly because the pool of persons eligible for appointment is small and practical difficulties could arise if restrictions are imposed. Moreover, under the Bill, the Chief Justice must consult the President of the Law Society, the Chairman of the Bar and the Secretary for Justice on the appointment to the Board of solicitors, Senior Counsel and representative of the DoJ respectively. They may have good reasons for recommending a particular nominee to serve more than two three-year terms.

Members agree that while the Rule should apply as a matter of policy, it is not desirable to make this a restriction under the Bill in order to allow the Chief Justice to retain sufficient flexibility in making appointments.

The Bills Committee feels that, to ensure that every meeting of the Assessment Board will be presided over by a Judge, the Bill should more clearly provide that, to constitute a quorum, the presence of the Chairman or his nominee who shall be a Judge is required. The Administration has agreed to move Committee stage amendments to this effect.

Under the Bill, to be eligible for higher rights of audience, an applicant has to have at least five years' post-qualification practice, of which at least two years must have been in Hong Kong during the period of seven years immediately before the date of application. He must also satisfy the requirements to be prescribed by rules to be made by the Assessment Board. An applicant may seek exemption if he satisfies alternative requirements to be prescribed by these rules.

The Bills Committee has noted that the two legal professions agree with the proposed eligibility requirements. The Bills Committee sought clarification on the power of the Assessment Board to deal with and determine applications for both civil and criminal higher rights of audience where the Board is minded to grant higher rights only in one. The Administration has advised Members that the policy intent is to empower the Assessment Board to grant an applicant higher rights of audience in either civil or criminal proceedings, or both. The Administration will add a new provision to the Bill to make clear this policy intent. An amendment will also be moved to provide that the Assessment Board must give reasons for its decision to grant an application in part and, where an application is granted in part, the applicant must be given an opportunity to make representations.

The Assessment Board is empowered to make enquiries with the Council of the Law Society on an applicant regarding eligibility and other requirements, and also to require the applicant to provide further information relating to his application. Members have enquired whether an applicant will be notified of the enquiries made by the Assessment Board, and whether the details of the enquiries and the information provided will be conveyed to the applicant.

The Administration has advised that the Assessment Board is empowered to make rules to provide for the manner and scope of enquiries. It is envisaged that the rules would provide for the applicant's prior written consent for information to be released on a confidential basis, for the applicant to be informed when a request is made and for any information so provided to be disclosed to the applicant at the same time. The Law Society envisages that the most common enquiry will be on matters of conduct, and the firm view of the Law Society Council is that only cases which result in disciplinary action should be disclosed to the Assessment Board.

Mr President, the Law Society has expressed its hope for early operation of the Assessment Board after enactment of the Bill. The Judiciary has indicated that the Assessment Board will come into operation within one month of the legislation coming into force, on the assumption that the legislation will be brought into force in about six months after enactment. The Administration expects that the Board shall be in a position to invite applications about 12 months after the enactment of the Bill. The Bills Committee has agreed that the proposed scheme should be reviewed two years after its implementation and has referred this matter to the Panel on Administration of Justice and Legal Services for any follow-up action.

The Administration will move a number of Committee stage amendments. The Bills Committee supports all of them.

Mr President, these are my remarks on the main deliberations of the Bills Committee.

**DR MARGARET NG** (in Cantonese): President, I will now speak in my personal capacity.

At the beginning, when former Attorney General John MATTHEWS suggested in the Consultation Paper on Legal Services that solicitors in Hong Kong should be granted rights of audience in all Courts by modelling on the newly enacted laws of England and Wales, a great controversy was aroused within the legal profession.

In fact, when the rights of audience were introduced in the United Kingdom, heated debates and a very deep split were caused between the local associations of barristers and solicitors.

In Hong Kong, it is fortunate that with the intervention of the Court, the storm turned into rational and orderly discussions and consultations, and a consensus was reached eventually. I would like to express my deepest gratitude to Justice Andrew LI, the Chief Justice of the Court of Final Appeal (CFA), and Justice BOKHARY, the Permanent Judge of the CFA.

The question of whether or not the rights of audience of solicitors before the High Court should be extended certainly involves the interests of the

profession. And yet, all policy decisions must be measured against public interests, which the whole legal profession and community should agree.

Today, the matter has been settled and we can probably draw a conclusion on it. The rights of audience relate to a major public interest, and that is, to ensure the quality of advocacy. This is because under our judicial system, the determination of cases in Court relies heavily on the legal representatives of the two parties to ensure that cases are heard smoothly and efficiently without any partiality.

In the past, it had been the established practice of the Court to allow barristers, who had given up all other services to focus on advocacy work alone, to solely enjoy the rights of audience before the High Court, so as to ensure the quality of advocacy. Regardless of how successful such a system was in the past, it no longer works today. Reforming the old system and establishing a new one to enable qualified solicitors to be granted the same rights of audience is indeed the natural trend. The new system must achieve the goal of ensuring the quality of advocacy. As a result, the focus of our deliberation on the Bill would definitely be assurance of the quality of advocacy under the new system.

President, after careful deliberation, I sincerely believe the system introduced under the Bill can achieve this goal. This system is superior to that of England and Wales in that the Assessment Board, which will operate under the supervision of the Court, is responsible for quality assurance, including regulation of courses on advocacy training and bodies offering such courses, with a view to satisfying the Board's requirements.

Since Judges have the most frequent contact with solicitors and barristers, they know better than anyone else what their professional attitude and standard are. Legal representatives of poor performance affect not only their clients, but also the Trial Judge most directly. I therefore consider it most appropriate for the Trial Judge to play an important role on the Board.

President, some people find this reform belated, whereas some solicitors and barristers have expressed to me different views. While some colleagues in the legal profession considered the stringent statutory requirements unfair to solicitors, some worried that junior barristers may find it even more difficult to

adapt to future competition. I fully appreciate all these views and would consider how the adverse effects can be minimized at all levels. I believe the Judiciary and the two legal professional bodies will proactively face the new situation.

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

**MS MIRIAM LAU** (in Cantonese): President, first of all, the Liberal Party supports the passage of this Amendment Bill today.

The high litigation fees in Hong Kong have long been a cause of criticism. However, very often, the problem does not lie in the high litigation fees, but in the duplicated procedures. The new legislation on civil proceedings, which was enacted last year, aimed to tackle this problem by streamlining the procedures by all means, thereby speeding up the processing of cases and lowering the litigation costs of both parties with shortened trial time.

Talking about saving litigation costs, many people may relate this to the lawyer system in Hong Kong. There has long been the argument that the division of the legal profession into two branches is the cause of the high litigation fees. Not only is our legal system modelled on the common law system of the United Kingdom, but our lawyer system also followed that of the latter, under which the legal profession is divided into solicitors and counsels (also known as barristers). In Hong Kong, while solicitors can enjoy rights of audience in open court only in the Magistrates Courts and District Courts, barristers can enjoy such rights in all Courts. So, unless a litigant of proceedings in the High Court or above is not represented, he will have to engage a barrister to undertake advocacy via his solicitor, which will thus cost him an extra sum of lawyer's fee.

The Liberal Party considers that the division of the legal profession into two branches does have merits, and the underlying reasons for it have been thoroughly analysed and elaborated by many academics and people with foresight. Hence, I think I need not elaborate on them here. We nonetheless admit that an extension of the solicitors' rights of audience will help lower the litigation costs, particularly civil litigations which involve more complicated proceedings. For cases involving less complicated procedures, there is actually

no need to engage barristers as solicitors can also handle them. Under the existing mechanism, however, this is not possible in some cases. Liquidation cases, for instance, regardless of their scale, must be heard in open court in the High Court. As a result, even for cases of simple proceedings, the parties concerned are required to instruct barristers to represent them in Court through their solicitors. In that case, the litigation costs incurred will be doubled.

Let me cite an example. During the proceedings of a liquidation case, the liquidator may apply to the High Court for a postponement of hearing if more time is needed to handle the case. Given that the parties concerned agreed to the postponement, the Judge will, generally speaking, grant an approval if no extraordinary circumstances exist. The whole process only takes a few minutes as the barristers other than those representing the liquidator are only required to say "agree" or "no objection". The procedure is just this simple. But since the case is heard in open court, it is inevitable that the solicitor must instruct a barrister to undertake the work. If a solicitor can represent his client in Court without the need to instruct a barrister, it will definitely help save the litigant a large sum of lawyer's fee.

In order to resolve similar problems as mentioned by me just now, an extension of the solicitors' rights of audience in the High Court is necessary. Of course, I am not saying that the barristers' rights of audience should be extended, or solicitors are only required to say "agree" or "no objection" in Court. I am only using this example as an illustration here. Very often, some cases are rather complicated. And yet, we are convinced that the passage of this Amendment Bill today will enable qualified solicitors to handle cases in open court in the High Court, thereby enabling members of the public to initiate proceedings at a reasonable cost. From the angle of consumption, the money spent by the litigant will be greater value for money, and the number of people who can afford to pay for the litigation will therefore increase. For this reason, the Liberal Party supports the passage of this Amendment Bill today.

President, I so submit.

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

**MR PAUL TSE** (in Cantonese): President, I speak in support of this motion.

Being a practitioner in the two professional branches, I think I know better than anyone else that barristers and solicitors have their respective strengths and concerns. In fact, this issue has been argued for many years. The most important point is that, in my opinion, the previous argument or the stumbling block that will soon be partially removed is pretty artificial. Take me as an example. On the first day of working as a barrister, I had the rights of audience before the then Appeal Court and even the Privy Council. Actually, I was given such an opportunity way back in my early days of practice. It was only until seven or eight years later when I converted to a solicitor that I lost the rights. Basically, I am still me, and my ability should have increased rather than decreased. So is my experience. However, it is precisely because of such an artificial division that I lost my rights of audience. It is absolutely unacceptable if the division is made purely on one's experience and ability. After all, it is nothing but a conventional and artificial division to avoid territorial fights.

Therefore, from the angle of consumers, I absolutely agree to eliminating such an artificial division as early as possible. What is more, I hope that we will not remain in the same place. Just as Dr Margaret NG said earlier, for instance, the matter has been settled. I hope that the matter has only been settled as a transition, and would soon be revisited to see how the two branches can engage in further co-operation, and even merge into one as in most other common law countries or jurisdictions, where lawyers may choose to become barristers or solicitors, or engage in commercial or other services, and they will not be bound by formalities or restrictive constraints. Also, I hope it will no longer necessary for a barrister to give his qualification before converting into a solicitor, or *vice versa*. I hope that one's choice of future business or specialty would be purely personal, but not bound by any system.

President, regarding some disputes in the past, such as the need to ensure the standard of solicitors or to maintain the barrister's profession by all means — this group of practitioners has all along been considered more adamant or determined in upholding the rule of law, and I believe such an impression certainly has its historical reason. And yet, I believe further elimination of the division between barristers and solicitors would not cause any serious or undesirable effects in this regard (including their independence and standard of service).



Why am I saying this? President, in fact, many countries (even those without such a division) have a group of practitioners who are adamant in upholding the rule of law, while some are pretty commercialized. This is actually no different from other professions, in which some people are more idealistic, some are more willing to speak up, while some are more practical. I do not consider such a division the only criterion for upholding the rule of law.

President, just now I also mentioned that this trend would give consumers a wider choice. In terms of talent, not only has the number of barristers increased at once, thereby enabling more suitable and qualified lawyers to enjoy the rights of audience in the High Court, thereby providing a wider choice of lawyers, more importantly, a client may decide when or at which stage ..... there is no need to instruct a barrister at all, which is very important. This is because, President, whenever a barrister is instructed, time is needed for another group of people to study the relevant papers. Sometimes, in the interest of co-operation, important cases may need more than one lawyer, or have to engage another solicitor, or instruct a barrister and a senior counsel. However, there are cases which do not have such a need. Just as Ms Miriam LAU said just now, in some cases, barristers were instructed simply because of the requirement of the existing system. I hope that this will help lower the litigation costs, and in my opinion, this is a pretty healthy and necessary change.

President, I would like to stress again that I hope this is only a transitional change, and in the interim, the authorities may continue to examine the possibility of removing all artificial obstacles in response to the needs of the market, members of the public and our development. I believe this is the direction that will bring benefits to Hong Kong's legal profession and members of the public.

Thank you, President.

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

**MR LAU KONG-WAH** (in Cantonese): President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I support this motion. I have also participated in the deliberation, which might have started before I was elected a Legislative Council Member. With regard to this topic, a

consultation paper might have been published by the Government 15 years ago. Of course, I believe the debate should be pretty heated when the consultation paper was published as it involved two interested parties, namely solicitors and barristers.

Earlier on, Dr Margaret NG cited a case, probably from the United Kingdom, saying that heated debates were also sparked in the United Kingdom at that time, and had caused a split. According to Dr NG's observation, while there were discussions or disputes in Hong Kong, after an extensive consultation, unanimous support was given by different parties and groupings of the Legislative Council in the end. What is more valuable is, I believe, that during the deliberation, the Bar Association had come to this Council to state their ultimate stance. Although it had expressed concern about the future of young barristers, it supported the present Bill in public interest. Therefore, I think that in the face of problems that are very controversial and involve serious conflict of interests, Hong Kong should remain placid and rational for they can be resolved in the end. Sometimes, even different interests can be accommodated. The more important premises are public interest and whether or not the opponents will be answered. I consider this a very important process.

President, barristers may think that their interests have been undermined, which is entirely understandable. As for the concern about the standard and training of solicitors, I agree that this is a cause for concern. The final solution is therefore the establishment of the Assessment Board. During the deliberation, we had carefully and seriously examined provisions relating to the Assessment Board, the definition of its operating framework, the relevant mechanism, its membership and term of office. These are very important because the provisions on the future Assessment Board refer to representatives of solicitors, barristers, the Government and the Chief Justice, and even the appointment of lay persons. I consider the composition of the Board wisely devised, and we hope that this Board will handle future applications and reviews in a fair and impartial manner.

President, during the deliberation, I also raised a point relating to the term of office of the Assessment Board. As the President may be aware, people appointed to public organizations or bodies to take up public office must comply with the so-called "six-six rule", that is, six years and six boards. The point highlighted by me at that time was: Is it necessary for this Assessment Board to

comply with such a rule? According to the explanation of the Government, such candidates, firstly, are not widely available; secondly, they are not easy to come by. I can understand this, and in response, the Government asked if certain flexibility could be allowed. I recall that the then Chairman Dr Margaret NG also raised the same viewpoint: Should some sort of flexibility be provided? While I consider this acceptable, I think that the flexibility of other advisory bodies should not be neglected, as a matter of fairness and impartially, so long as flexibility has been provided.

Another reason why I am more concerned about the tenure is that, President, the Assessment Board may have an excessive power of controlling one's life and death. So, I do not consider it desirable for anyone to remain in the same position for too long. I therefore call on the Government to consider and listen to Members' views. Given that it has highlighted the importance of flexibility and the need to heed the concerns raised by me, it would be more desirable if the matter can be handled in a fair and impartial manner.

President, these are the views of the DAB, and we support the Second Reading of the Bill.

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

**MR PAUL TSE** (in Cantonese): I wish to declare an interest. I might have mentioned this earlier on but I have yet to make any formal declaration. I am a practicing lawyer and might benefit from this policy. Thank you, President.

**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 Justice to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR JUSTICE** (in Cantonese): President, when I introduced the Legal Practitioners (Amendment) Bill 2009 (the Bill) into the Legislative Council in June 2009, I explained that this Bill sought to amend the Legal Practitioners Ordinance (the Ordinance) to implement the scheme for granting higher rights of audience to solicitors proposed in the final report published by the Working Party on Solicitors' Rights of Audience in October 2007. The Bill, if passed, would enlarge the pool of advocates capable of reaching a high standard of advocacy before the higher courts so that the public could benefit from a wider choice of capable advocates.

Since the introduction of the Bill, four meetings have been held by the Bills Committee on Legal Practitioners (Amendment) Bill 2009 (the Bills Committee). The Bills Committee chaired by Dr Margaret Ng, has thoroughly examined the clauses and the policies behind them. I am most grateful to Dr Margaret Ng and the members of the Bills Committee for their hard work and helpful contributions.

Some changes to the Bill have been proposed and agreed. As a result, I will be moving a number of Committee Stage Amendments (CSAs) later this afternoon. The proposed CSAs primarily relate to clause 4 of the Bill which proposes to add a new Part IIIB incorporating new sections 39E to 39R to the Ordinance.

I will now give a brief outline of the more important amendments.

First of all, it is proposed section 39E(3) in clause 4 — Provisions relating to the Higher Rights Assessment Board (the Assessment Board).

The proposed section 39E(5) provides that the Chief Justice may appoint a panel of persons (the Panel) whom he considers suitable for appointment as members of the Assessment Board and who are not, in his opinion, connected in any way with the practice of law.

The proposed section 39E(3) requires members of the Assessment Board be appointed by the Chief Justice, and that one member must be selected by the chairperson of the Assessment Board from the Panel for the appointment.

Given that members of the Panel shall be appointed by the Chief Justice, the Judiciary thus took the view that the further appointment of a Panel member

to the Assessment Board by the Chief Justice is unnecessary. That view was accepted by the Bills Committee. CSAs will be moved to amend the proposed section 39E(3) to give effect to the proposal. In addition, consequential amendments to the proposed sections 39E(5) and 39F(1) will also be moved for this proposal.

Secondly, it is proposed section 39F(1) in clause 4 — Provisions relating to members of the Panel.

The Bill does not specify an appointment term of the Panel. Given that the proposed section 39F(1) provides that a member of the Assessment Board is to hold office for a term not exceeding three years but may be reappointed, it was proposed that section 39F(1) be amended such that the Panel members would also be appointed to hold office for a term not exceeding three years, but may be reselected. The Bills Committee accepted the proposed amendment and a CSA will be moved to amend section 39F(1) to give effect to the proposal. Consequential amendments to the heading of section 39F will also be moved for this proposal.

Thirdly, it is proposed section 39G in clause 4 — Provisions relating to proceedings of the Assessment Board.

The proposed section 39G(1) provides that the quorum for a meeting of the Assessment Board is seven members, of whom one must be a solicitor who engages in litigation work in the course of ordinary practice, and one must be a senior counsel. The Legal Service Division of the Legislative Council Secretariat expressed its concern that the Bill would allow meetings of the Assessment Board be held and decisions be made without the presence of a member who is an eligible person (namely, a serving or former judge). Furthermore, the proposed section 39G(4) only provides the chairperson of the Assessment Board with a casting vote. The Legal Service Division expressed its concern that the Assessment Board may not be able to make a decision at a meeting where the chairperson is absent and the votes of the members are equally divided.

To address the above concerns, the Bills Committee agreed that CSAs should be moved:

- (a) to introduce a new section 39G(1)(aa) such that the chairperson or a member who is an eligible person must be present at a meeting of the Assessment Board to form a quorum;
- (b) to introduce a new section 39G(1A) such that the chairperson, or if he is absent, a member who is an eligible person nominated by him, must preside at the meeting of the Assessment Board; and
- (c) to amend the proposed section 39G(4) such that the chairperson or, in his absence, the person who presides at a meeting of the Assessment Board, shall have a casting vote.

Furthermore, it is proposed section 39K(1) in clause 4 — Provisions relating to the determination of application by the Assessment Board.

The proposed section 39H(2) provides that an applicant must specify in his application for higher rights of audience whether his application is in relation to civil proceedings or criminal proceedings or both.

The proposed section 39K(1) provides that after an application is made, the Assessment Board must decide whether to grant or refuse the application. It is not clear from this provision as to whether the Assessment Board is entitled to grant higher rights of audience in relation to only civil or criminal proceedings when the application is in relation to both, if the Assessment Board is satisfied that the applicant has complied with the statutory requirements for granting higher rights of audience in relation to one type of proceedings but not the other.

Having considered the views of the Bills Committee, the Administration will move a CSA to introduce a new section 39K(1A) to clarify explicitly that the Assessment Board is entitled to do so. Consequential amendments to the proposed sections 39K(2)(a)(ii), 39L(1)(b) and (c), 39M(3), 39N(a) and 39P(1) will also be moved to give effect to this proposal.

Apart from the above, the Administration will also be moving other CSAs to deal with minor and technical issues.

The House Committee has considered the CSAs that I propose to move and has indicated that it has no objection to them.

President, as Members have emphasized when they spoke on the Bill, public interest is the paramount consideration in this matter. The stakeholders concerned, including The Hong Kong Law Society and the Hong Kong Bar Association (the Bar Association), have taken public interest as the ultimate consideration and this is to be commended. Besides, the Bar Association is willing to accept challenges and this is not easy.

Just now, some Members have put forward their views on issues such as whether the two branches of the legal profession should be fused and whether this scheme has any implications on legal costs. President, these are rather far-reaching and complex issues and there are many factors to consider. I would like to emphasize that the Administration does not have any plan to unify the two branches of the legal profession, given the complexities involved. However, it can be seen from the Bill introduced today that all the stakeholders have reached a consensus. As such, subject to the CSAs proposed by the Administration, I commend the Bill to Members with a view to implementing the scheme as soon as possible.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Legal Practitioners (Amendment) 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): Legal Practitioners (Amendment) Bill 2009.

Council went into Committee.

### **Committee Stage**

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

### **LEGAL PRACTITIONERS (AMENDMENT) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Legal Practitioners (Amendment) Bill 2009.

**CLERK** (in Cantonese): Clauses 1, 2, 3 and 7 to 11.

**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, 2, 3 and 7 to 11 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 4, 5 and 6.

**SECRETARY FOR JUSTICE** (in Cantonese): President, I move that clauses 4, 5 and 6 be amended as set out in the paper circulated to Members.

I explained the purposes of most of these amendments earlier on. In addition, there are a few more suggestions as follows:

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

First of all, the term "the Chairman of the Bar Council" in the proposed section 39E(4)(b) and section 39F(4)(b) in clause 4 is amended to "the Chairman of the Hong Kong Bar Association" in response to a request by the members of the Bills Committee on Legal Practitioners (Amendment) Bill 2009.

Secondly, the proposed section 39F(2) in clause 4 is amended to allow a member of the Panel appointed under section 39E(5) to resign by giving notice in writing to the Chief Justice. The proposed amendment provides consistent treatment on resignation among members of the Panel and the Assessment Board.

Thirdly, the proposed section 39F(3) in clause 4 is amended to allow the Chief Justice to remove from office any member of the Panel appointed under section 39E(5). The proposed amendment ensures consistent treatment on removal from office among members of the Panel and the Assessment Board.

Fourthly, the proposed section 39O(2)(c)(ii) in clause 4 is amended to delete the word "otherwise" to fine tune the drafting of section 39O(2)(c)(ii).

Fifthly, clause 5 introduces a new section 45A. The word "purports" in the proposed section 45A was originally rendered in the Chinese text as "看來

是". After due consideration of the views of the members of the Bills Committee, it is concluded that "其意是" can better reflect the meaning of the word "purports" in section 45A. Hence, it is proposed that "看來是" where it twice appears in the Chinese text of the proposed section 45A be deleted and substituted by "其意是".

Sixthly, clause 6(3) introduces a new section 50A(2). Apart from certain drafting changes on the language of the Chinese text of section 50A(2), it is proposed that the words "看來是" be amended as "其意是" to better reflect the meaning of "purported" in section 50A(2).

The Bills Committee has discussed and expressed support for the above amendments. I hope Members will endorse them.

Deputy Chairman, I beg to move.

*Proposed amendments*

**Clause 4 (see Annex I)**

**Clause 5 (see Annex I)**

**Clause 6 (see Annex I)**

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

(No Member indicated a wish to speak)

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

(Members raised hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 4, 5 and 6 as amended.

**DEPUTY CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 4, 5 and 6 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bills**

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

**LEGAL PRACTITIONERS (AMENDMENT) BILL 2009**

**SECRETARY FOR JUSTICE** (in Cantonese): Deputy President, the

Legal Practitioners (Amendment) Bill 2009

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

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Legal Practitioners (Amendment) Bill 2009 be read the Third time and do pass.

Does any Member wish to speak?

(No member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): The Legal Practitioners (Amendment) Bill 2009.

**Resumption of Second Reading Debate on Bills**

**DEPUTY PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Telecommunications (Amendment) Bill 2009 (the Bill).

**TELECOMMUNICATIONS (AMENDMENT) BILL 2009****Resumption of debate on Second Reading which was moved on 21 October 2009**

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

**MR ANDREW LEUNG** (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Telecommunications (Amendment) Bill 2009 (the Bills Committee), I would like to report on the deliberations of the Bills Committee.

The purpose of the Bill is to prescribe a set of criteria for approving sound broadcasting licences under the Telecommunications Ordinance (the Ordinance), and to empower the Broadcasting Authority (BA) to issue guidelines indicating how it proposes to perform its function of making recommendations on sound broadcasting licence applications to the Chief Executive in Council.

The Bills Committee has held four meetings with the Administration, and received views from the stakeholders, including the sound broadcasting industry. The majority of members of the Bills Committee generally support the legislative intent of the Bill, that is, to set out the condition precedent for an application for a sound broadcasting licence and the licensing criteria to which the Chief Executive in Council, as the licensing authority, is to have regard when deciding whether or not to grant a sound broadcasting licence.

In the course of deliberations, the Bills Committee discussed the availability of frequency spectrum for future development of sound broadcasting

services. In view of the fact that all FM and AM channels available to Hong Kong for territory-wide broadcasting have been allocated to Radio Television Hong Kong and existing commercial radio stations, the Bills Committee is of the view that the Administration should expedite the development of digital audio broadcasting services in Hong Kong so as to supplement the existing analogue broadcasting and improve the quality of AM broadcasting and reception as well as to free up spectrum for the introduction of public access channels. Some members opine that the Government should be more open-minded to community participation in broadcasting, and provide more platforms and channels for different sectors of the community and non-governmental organizations to express diverse views.

The Bills Committee has noted that clause 3 of the Bill amends section 13C of the Telecommunications Ordinance to, *inter alia*, set out the matters (the licensing criteria) to which the Chief Executive in Council is to have regard in exercising the discretion whether to grant a sound broadcasting licence. A member of the Bills Committee has queried whether it is necessary for the Chief Executive in Council to exercise discretion as clause 3 of the Bill already provides for the licensing criteria for consideration in determining whether or not a licence for sound broadcasting services should be granted. The Administration has explained that under the existing provisions of the Telecommunications Ordinance, the Chief Executive in Council already has the power to grant licences. Clause 3 of the Bill, in making reference to "exercising the discretion", only refers to the existing authority of the Chief Executive in Council under the Ordinance. The Bill by no means seeks to expand the Chief Executive in Council's existing power.

Some Members are concerned about the unfettered discretionary power given to the Chief Executive in Council. They are of the view that the Chief Executive in Council is not an independent licensing body as in the case of some overseas licensing regimes. The Administration has advised that many overseas licensing authorities are also appointed by the governments. To ensure that the Chief Executive in Council would be provided with independent advice, all sound broadcasting licence applications are processed and recommended by the BA which is an independent statutory authority established under the Broadcasting Authority Ordinance.

The Bills Committee has noted that, in order to ensure a transparent and fair licensing process, in the event that the BA makes an unfavourable recommendation or the Administration has a negative assessment in respect of the

application, the applicant will be informed of such recommendation or assessment and invited to make representations. The BA's advice, together with the applicant's representations and the Administration's assessment, would be submitted to the Executive Council in confidence according to established practices. The Government would not disclose information relevant to the deliberation of the Executive Council. The Government would also publicly announce the licensing decisions by way of press release and Legislative Council Brief.

A member of the Bills Committee has noted that the process in which the Chief Executive in Council made decisions on licence applications lacks transparency. To enhance transparency and public participation in the licensing process, the member has proposed to add a mandatory requirement for the BA to hold a public hearing in connection with licensing for sound broadcasting services and indicated that amendments to this effect might be proposed. The Administration has responded that the proposal is outside the scope of the Bill and pointed out that there are established procedures in place to consult the public. However, the Administration will still relay the member's proposal to the BA for consideration; where justified, arrangements for public hearings can be implemented via administrative means.

The Bills Committee has questioned why the Ordinance is not amended by repealing "Governor in Council" and substituting "Chief Executive in Council". The Administration has explained that, given the narrow scope of the Bill and the fact that only two existing provisions are amended in this exercise, it would be out of proportion to make the Bill a platform for making adaptation changes to all references to "Governor in Council" in the Ordinance. The Administration holds that such changes should more appropriately be dealt with under a separate adaptation exercise or when the next suitable opportunity to amend the Ordinance arises. The Administration has undertaken to keep the matter in view and take appropriate action in due course.

A member of the Bills Committee has expressed concern that the licensing criterion on financial soundness and commitments to investment will preclude set-ups that have less financial means from being granted a licence to operate community radio service. The member holds that the Administration should consider lowering the financial threshold so that not only resourceful conglomerates, but also smaller community groups that are relatively less

financially capable can also have the opportunity to operate their own channels and participate in community broadcasting. The Administration has explained that the criterion will not in any way specify any threshold whereby an applicant should meet before it will be granted a licence.

Members of the Bills Committee have also expressed concern that the criterion on programme quality might be construed as a means of political censorship to bar groups that hold opposing views to the Government from obtaining a licence for sound broadcasting services. The Administration has advised that new provisions have been added to the Bill to empower the BA to issue guidelines. The reference to the relevant criteria is mainly to ensure that licence applicants are aware of the programme requirements and standards set out in the guidelines issued by the BA.

A member of the Bills Committee is of the view that the criterion on benefits to the local broadcasting industry, the audience and the community as a whole should be relaxed to allow the grant of sound broadcasting licences to specific social/ethnic/religious groups for broadcasting covering a particular locality or region. This will encourage plurality of voices and widen programming choices. The Administration has advised that similar to the other criteria, this criterion does not in any way specify any threshold whereby an applicant must meet before it can be granted a licence. The criterion is not meant to discriminate against applicants with a smaller scale of operation.

A member of the Bills Committee has indicated an intention to move an amendment to add a definition on community broadcasting and insert a separate set of licensing criteria for processing community radio licence applications, so that smaller community groups would have the opportunity to participate in community broadcasting. The Administration has responded that the proposal is outside the scope of the Bill. It also pointed out that the licensing criteria set out under the Bill has not in any way specified any prescribed threshold that would rule out community broadcasting.

The Bill has also empowered the Chief Executive in Council to prescribe additional licensing criteria by order published in the Gazette. A member of the Bills Committee considers that the provision would give too wide a power to the Chief Executive in Council. Since the Bill has already specified the licensing criteria, the member has questioned whether it is necessary to add a provision to



empower the Chief Executive in Council to prescribe additional matters for consideration in making a decision. The Administration has explained that the additional licensing criteria must be published by way of an order in the Gazette which will be tabled at the Legislative Council and subject to the negative vetting procedures.

The Bills Committee has noted that aggrieved parties whose application for a sound broadcasting licence has been refused could seek judicial review against the decision. A member of the Bills Committee considers judicial review costly and procedurally complicated. He has proposed introducing a mechanism whereby the applicant for a licence may appeal to the Court of First Instance regarding the licensing decision of the Chief Executive in Council. He has also indicated that he might propose an amendment to this effect. The Administration has responded that the proposal falls outside the scope of the Bill and would effectively impose an administrative function upon the Court with regard to licensing matters.

The Bills Committee supports the resumed Second Reading of the Bill at the meeting of the Legislative Council. The Bills Committee itself has not proposed any amendment to the Bill.

Deputy President, I wish to take this opportunity to thank the Secretary and legal advisor of the Bills Committee for their efforts. I also thank officials and colleagues of the Bills Committee for their support, which has made it possible for the deliberations to be completed smoothly.

Deputy President, I will present my personal opinions on the Bill.

This Bill is proposed in the hope of specifying a set of objective standards and criteria in black and white for compliance by the Chief Executive in Council in deciding whether an application for a sound broadcasting licence should be approved. As a member of the Bills Committee, like other members, I share the view that airwaves are a very precious resource in the community. It is precisely for this reason that we should all the more exercise caution in processing each and every application for broadcasting licence to ensure that the person or group given approval to operate sound broadcasting has sufficient resources to serve the public by providing quality and stable broadcasting services. At the same time, the applicant should be required to possess the necessary expertise and administrative competence for operation purposes. To

prevent an applicant from dragging its feet in commencing operation after taking up a channel, thereby wasting a radio frequency spectrum channel, I consider it imperative for the Administration to make reference to the practice prescribed in the Broadcasting Ordinance by specifying that the Chief Executive in Council should have regard to the pace of service roll-out in exercising discretion for grant of licence.

Actually, this set of licensing criteria is nothing new. It is based on our established practice and the local experience in scrutinizing broadcasting licence applications, as well as reference made to various countries in drawing up their licensing criteria. In other words, an applicant should first submit an application to the BA, and the application will then be examined and processed according to the established criteria by the BA before submission to the Chief Executive in Council alongside the BA's advice. If the application is not approved, the BA will give reasons for the refusal. Aggrieved applicants can also seek judicial review, as with the practice in other advanced countries in the world. In my opinion, this practice is proven. No new conditions are included, nor any changes made to the existing mechanism in this exercise. Only that the existing format is written in a clearer and more comprehensible manner, so that applicants will understand what they are required to do and, hence, make proper preparations for their applications. We should support this.

At a meeting held on 5 November, a government official stated that an applicant must demonstrate a commitment to invest sufficiently in the proposed project and must possess sufficient financial capability to invest to the level proposed. One of our former colleagues, Albert CHENG, is now making preparations to set up a new station. At the meeting, he told us sincerely that, in order to set up a station for territory-wide broadcasting with the quality of sound and the standard of programming reaching the professional level, the input in terms of investment and resources must be pretty substantial. Therefore, while a clear specification of financial capacity as a factor of consideration is understandable, it should by no means be intended as a threshold barring certain people from applying for radio channels, as there is no provision in the amendments stating the amount of assets an applicant must possess before he or she can submit an application. Each application will be processed depending on its nature and scale of operation. Furthermore, the requirements on applications to operate one channel and more are different. Depending on their own ability, applicants can opt for the scale of operation that suits them. Based on the abovementioned reasons, I support the amendments proposed in the Bill.

Lastly, I would like to briefly discuss the amendment proposed by Ms Emily LAU. As pointed out by me when I spoke on behalf of the Bills Committee earlier, Emily LAU was not the only Member who wished to propose amendments. Moreover, the content of her original amendment was different from the present version. However, the original amendment was rejected by the President who ruled that it had a charging effect and was incompatible with the intent of the amendment. The present amendment, which is amended subsequent to the President's ruling, seeks to require the Chief Executive in Council to give consideration to public opinion, in addition to the Government's original proposal, in exercising discretion in vetting and approving licence applications. This I agree. The Government has also made it clear at the meeting that public opinion has all along been one of the elements considered by the Chief Executive in Council in deciding whether a licence application should be approved. Although this revised version was not discussed by the Bills Committee, I think that a radio station cannot evade taking into account public opinion as it is set up to serve the public. Although the amendment appears to be redundant, it is nevertheless understandable.

Deputy President, I so submit.

**MS EMILY LAU** (in Cantonese): Deputy President, on behalf of the Democratic Party, I speak to oppose the resumed Second Reading of the Telecommunications (Amendment) Bill 2009.

Deputy President, as mentioned by Mr Andrew LEUNG, Chairman of the Bills Committee, in his speech just now, what the Bill seeks to do is actually to write the current practice into the law without adding anything to it or taking anything from it, and certainly not improving it either. The current practice, Deputy President, is that the Broadcasting Authority (BA) provides a form, and anyone who would like to lodge an application has to complete the form and return it to the BA. If the applicant wants something more, he can obtain it from the BA, but there is no transparency at all as to how he can do so. If the BA considers that there is something not quite right about his request, it will notify him or even give him advice, if any; and that person may also make some responses, and then all this will be referred to the Executive Council. Deputy President, once the matter enters this black hole, no one knows what is happening. If the Executive Council rejects the application in future, it will

inform the applicant of the reasons and provide the relevant information to the Legislative Council, and that is all.

Deputy President, the authorities even told us that this regime was based on international best practices. Deputy President, this information was provided by the authorities themselves, and four countries were selected: Australia, Canada, the United Kingdom and the United States, where licences are issued by independent bodies. Some of these bodies also issue television programme service licences, while others issue radio licences. There is not any country like us, where licences are issued by the Executive Council on the advice of the BA. Therefore, when I put this question to the authorities at the Bills Committee, the Deputy Secretary said our Government was executive-led — this is indeed unique in the world, Deputy President — and that was all.

In so doing, how can Hong Kong bring itself on par with the international community? On all fronts, Radio Television Hong Kong (RTHK) participated in many international conferences, Deputy President, and even won awards in some of them. I think our licensing regime should also be on a par with those of the international community. Therefore, we requested ..... actually during the scrutiny process, Deputy President, I was really ready to compromise, *(Laughter)* I also hope ..... all members of the BA are appointed, why do we not transform the BA into a licensing mechanism? We discussed this issue but found it infeasible because the relevant proposal would definitely be regarded as beyond the scope of the Bill. Actually, the scope of the Bill is very narrow, as mentioned by the Chairman just now, and almost all proposals are beyond the scope of the Bill. Besides, I had even asked my assistant to draft a proposal on this but ended up being futile because many ordinances would be involved and many bills would have to be introduced. Under such circumstances, there was nothing I could do but give up.

However, this does not mean we in the Democratic Party and the general public outside agree with the existing practice, and still less will the people from the Citizens' Radio. Deputy President, I am now talking about an accused who has already been given a fine, and there is no knowing whether he will be jailed. Why did the authorities do that? We thought the introduction of the Bill to amend the legislation would be the best opportunity to bring this regime genuinely on a par with those of the international community, so that members of the community who are rich like "Tai Pan" or poor like TSANG Kin-shing may

also lodge applications according to the requirements. However, according to what Mr Andrew LEUNG said just now, the authorities also claimed that the current Bill was able to do so. I wonder whether it is able to do so. We intended to propose including community-based radio stations — all of us know not all radio stations cover the entire territory of Hong Kong because some of them do not have so many resources — however, Deputy President, the authorities said it was unnecessary to write this into the law and that they would be allowed for sure. Can everybody hear that? The authorities said they would be allowed, and if any application is rejected in future, there is no knowing who should be held accountable for it.

Deputy President, if such a regime is already in place, why do the authorities have to introduce the Bill now? They said the aim is to enhance the transparency and clarity of the licensing regime in law. That is to say, you try to seek judicial review? Very well, I will provide you with a legal basis so that you will not be able to get what you want easily. Under these circumstances, Deputy President, first, not many people have the means to do so. However, the Democratic Party would like to ask: if the practice is not right in itself, and it is not fair and not found all over the world, why do we have to provide a legal basis for such an unfair regime? Therefore, I hope the Secretary will really explain to the public why this outdated regime which is unable to meet the needs of the public at all is still allowed to linger on at this time in the Hong Kong Special Administrative Region (SAR). Therefore, the Democratic Party does not support the Bill proposed by the authorities, Deputy President.

We actually very much hope the authorities would put forward various proposals on their own initiative to improve the regime, but the authorities certainly refuse to do so. There is one incident which is frequently mentioned, Deputy President, and you must have learnt about it by now. There are seven FM channels and seven AM channels in Hong Kong, and RTHK operates seven radio channels, which always simulcast programmes. This means the radio station does not have adequate programmes but, like a dog in the manger, it still refuses to release some of its channels. Besides, there are three private radio stations, and that is all. Now the authorities are saying that here comes the rescue — digital broadcasting. What will happen when digital broadcasting is implemented? RTHK will be given more resources and it will become a public broadcaster. This is outside the scope of the debate on the subject today but we still have to express our resentment against it because there is no place in the

world where public broadcasting service is provided by a government department, Deputy President. That is to say, all aspects of our practice cannot be found anywhere else on earth, which shows our practice has deviated from those of the international community.

Deputy President, the authorities said RTHK will have more resources in future, and people will be allowed to engage in broadcasting, and there will also be a fund. Very often, the Government will set up funds and allocate provisions for them. This fund is known as a Community Broadcasting Involvement Fund, and it will provide some financial and technical assistance. This is a good idea, a first step, but, Deputy President, some people would like to operate their own radio stations rather than only approaching the authorities for assistance. They would like to produce some programmes and then broadcast them on RTHK. They may even request to anchor the programmes when they are put on air in RTHK in future. Fortunately, it seems the authorities are now saying that this proposal will be withdrawn. Because if someone is there to express his views but the host does not allow him to do so and even talks over him, Deputy President, he cannot express his views this way. Can this be taken as freedom of expression and speech? Has anything gone wrong?

There is no knowing how long the RTHK issue will take, and it has already been going on for over a decade, and the digital broadcasting service will take three to five years to launch. How much we people in Hong Kong wish to have community-based broadcasting, in particular, those of us who have been marginalized by the mainstream media. Many people from the "post-80s", the "post-90s" and even the "post-whatever generation" wish to have a platform, an avenue to express and voice their views. Actually, it will be helpful to the authorities if they are allowed to present their views. Why? Because it will all be well if they are allowed to make their voices heard. If they are suppressed, it will be disastrous once things go out of control.

Therefore, actually, from whichever perspective, the authorities' present proposal is most inadequate. We wanted to propose an amendment in relation to community-based radio stations, but we were not allowed to do so. We do not know by what criteria can we do so in future. As for public hearings, now public hearings are held even for the licensing and mid-term review of television services, then why was our proposal on holding public hearings disallowed? The Chairman did not allow it, saying that because expenditure would be

involved in various aspects. Actually, this is not a question of whether or not I should be allowed to propose this amendment, but the authorities should include this in the regime on its own initiative. I thought it was only very simple but the authorities even did not allow this, saying that it was unnecessary. When it comes to the appeal mechanism, the authorities said people could seek judicial review; but the request for amendment was again disallowed.

Therefore, Deputy President, all these issues make us feel that the authorities' broadcasting policy has remained exactly the same as the legislation formulated during the colonial era, which aimed at total control, so that members of the public would be completely hamstrung. However, the Internet is actually very popular now, and there are Internet television channels and Internet radio stations. Their development in Hong Kong is a reaction to the control imposed by the authorities and Hong Kong consortia on the mass media, especially the electronic media. Therefore, Deputy President, I hope the Secretary will really think about it. There is no need to distrust and be afraid of the people of Hong Kong to such an extent. What we are asking for now is to converge with the international community and set up more radio stations. The authorities may well take a look at overseas countries. They have more broadcasting stations than one can possibly listen to and watch. Which place on earth has only three radio stations? It is North Korea. We are now converging with North Korea. Outrageous!

Therefore, Deputy President, I am very grateful to some Members for supporting my amendment today, but this amendment is an extremely humble one. As Mr Andrew LEUNG put it, this amendment is actually not necessary. Whether or not it is necessary is one thing, but what is so ridiculous about the Bill is that it has precisely not dealt with what it really has to. Some people may think that stating what has to be given regard to is superfluous. Perhaps Mr Andrew LEUNG and those who would say there is a need to give regard to this aspect may hold this view, but for the Secretary, there is no need to do so and therefore it is not included.

Therefore, Deputy President, we hope no matter how great a victory the authorities will win today, they have to begin to deal with how to make the best use of airwaves and how to enable more members of the public, whether they are for or against the Government, to apply for licences and set up their own radio stations through the implementation of digital broadcasting, so that the people of

Hong Kong will really be able to make their voices heard. With these remarks, I oppose the resumed Second Reading.

**MR LEE WING-TAT** (in Cantonese): Deputy President, the historic background of this Bill is simple. In the past few years, the Government has repeatedly initiated prosecution against members of the Citizens' Radio. I am so honoured to have received one or two summons in this connection, for I have been the guest of the programmes aired by radio stations that the Government claimed to be illegal.

Actually, Hong Kong is a strange place. On the one hand, it claims itself to be an advanced society, but Hong Kong is one of the places with the smallest number of radio stations, particularly after digitization, for Hong Kong can indeed accommodate more radio stations. I often remind the Secretary not to assume that all radio stations in the community are related to TSANG Kin-shing. There are all kinds of community radio stations in this world. Some students of the post-90s generation sitting on the public gallery may also run a radio station. Why not? Only at the meeting of the Commission on Youth held this week, I kicked up a row. All members on the Commission on Youth are older than me, but buddy, I am already 50. However, more than half of the members on the Commission are older than me, how can this be called the Commission on Youth? If there are channels for members of various sectors of society to express their views ..... some people may surely be pioneers but some may be relatively conservative. There may be religious radio stations, community radio stations, youth radio stations and radio stations for the minorities, as well as radio stations especially for music appreciation or calligraphy studies. The development of society has reached a stage that can accommodate these radio stations.

Actually, I do not know why the Government has to be so fearful at this stage. The only conclusion is that it wants to control the expression of opinions. However, I have to remind the Government that — the Secretary of Department is also in this Chamber — the expression of opinions cannot be controlled. Given the advancement of society nowadays, all kinds of channels are available on the Internet for different people, including young people, to express their views. Hence, I think the Government should formulate a policy to provide more channels for these people, so that their engagement — I borrow this word from the Chief Executive — in discussion can be enhanced. However, as



mentioned by a television station, when the Chief Executive talked about the Queen's Pier a few years ago, he already mentioned the need to communicate with the young people, but several years on, he is still saying this. Sometimes, I really doubt the sincerity of the Government about this.

On the issue of radio stations, we have had repeated debates. One important point is that the airwaves are a resource owned not by the Government, but the public. Hence, at this very moment, I still wonder should the Government not at least state in its policy that it supports the operation of different types of radio stations by more people, so that the so-called pluralism of society can be manifested by the availability of different radio stations and channels for the expression of opinions. Certainly, we have proposed to the Secretary opening up the channels for television broadcast, but this is not the subject of the debate today.

But what we intend to do now is to put down in black and white issues claimed to be beyond regulation in the past. From a certain perspective, this is good. However, I asked many questions during the scrutiny of the Bill at the Bills Committee. One of them was related to the licensing authority. I think if the Government is really fair, it has no reason to worry about allowing other organizations to examine and approve licensing applications. Honestly, members of these committees are after all appointed by the Chief Executive. The composition of these committees and even the approval of licenses, will unlikely give rise to unexpected results. But still, the Government refuses to accept this opinion. No matter how, it insists on having the Executive Council to do the vetting, and says that we may as well seek judicial review when we are dissatisfied with the outcome. I consider the explanation unreasonable, though under certain overseas systems, the court is the channel for appeal. However, upon the enactment of this law, it will be difficult for the Court to intervene in the decision of the executive, for the Court will consider the applications for judicial review according to the law. Hence, once the law is enacted, I think it will really become a case of "Whatever they are doing, God is watching". We have to wait and see whether anyone will make such an application in future, and how the Executive Council will vet it.

Surely, money is also a question. Many organizations intent on operating a broadcasting service will first face the problem of whether they have enough

resources to do this. Not everyone can get the support of the wealthy so easily as Albert CHENG does, who can obtain tens of millions of dollars for the operation. At present, certain community-based radio stations, which are prosecuted by the Government frequently, are running at a very low cost, for the machines and equipment ..... I have not asked TSANG Kin-shing of the amount he has spent on those machines. But I think it will be less than several hundred thousands dollars in total. Only if the Director of the radio station can at the same time take up the work of the CEO, the cleaning worker and the Studio Manager, and be responsible for placing various orders, which means one person performing all the tasks, he may start running a radio station. In my view, had not the Government insisted on using financial resources as a requirement for licence application, which aims to turn down applications, the operation of a radio station does not actually incur much expense.

It all depends on how the Government will deal with the applications submitted in future. I hope the Government can see this point. It is impracticable to require all radio stations to make investment on high-end equipment to broadcast with fine sound quality comparable to RTHK. I hope that when the Secretary examines the licensing applications at the Executive Council in future, she will remember ..... I will draw an analogy between the situation and our choice of meals. Some people may dine at the hotel Mandarin Oriental Hong Kong at a cost of several thousand dollars, but we may also choose to have a bowl of fishball noodle at \$20 to \$30. Both ways can satisfy our hunger, and the food from both places is delicious. Hence, I hope the Secretary will not resort to this tool to stifle the various types of community-based broadcast carried out on a smaller scale of operation.

During the deliberation of the Bills Committee, it was learnt that the frequency spectrum of Hong Kong had not been used to full capacity. Members know that given the close proximity between Hong Kong and the Mainland, exchanges with the Mainland authorities on the frequency spectrum are definitely necessary. However, if the frequency spectrum in use is localized, Hong Kong can indeed support different types of community-based broadcast covering a specific locality. At the meeting of the Bills Committee, the Government, for the first time, admitted this point. In other words, if we operate a radio station in Chai Wan, it will not cause interference to signals in Shenzhen, and if the frequency used by the radio station is not too strong, the aero-nautical channel

will not be interfered, and there will be no problem. I hope the Government will consider the issue from this perspective in future. I hope it will cease using the technical issue as an excuse, claiming that these radio stations will have interference in other frequency spectrum and affect air transport.

Deputy President, I think, in view of the present state of affairs, digitization will become a global trend, the next stage we will enter. By then, we will see radio broadcast seeping into every nook and cranny and the number of radio stations will keep increasing. Hence, it is unnecessary for the Government to adopt a very stringent approach in examining the applications of these operators of radio stations. When the development of the frequency spectrum has expanded to that extent, it is indeed unnecessary for all radio stations to operate on a scale comparable to that of Commercial Radio, Metro Radio or RTHK. If the students up there on the public gallery want to start a school radio station, can they do so? My question is: Why not? Let me illustrate this with an example. Suppose this is the first anniversary of their school and they want to launch a month-long commemorative campaign, they then apply for the operation of a radio station for one month. My question is: Why should this be disallowed? Besides, a month passes quickly.

I wonder if Members can recall that a few years ago, when a world-class Chinese leader visited Hong Kong, he was granted a license to broadcast in Hong Kong, which was not covered by the broadcast of the three existing radio stations, and his broadcast lasted for only one to two days. I hope the Secretary will understand that when people apply for broadcasting licences, they do not necessarily want to operate a radio station that run 24 hours a day and seven days a week, nor do they necessarily want to operate it for three to five years. There are all kinds of possibilities in this world ..... which will soon emerge. A new radio station may only operate for a week. Or as I mentioned earlier, a group of young people may just operate a radio station for one month to broadcast information about their school anniversary.

Hence, the Government should streamline the application procedures. Since it is a feasible option, why does it not make available channels for different people to express their views? We always emphasize the need to promote the creative industry. If so, why should creative broadcast be banned? These channels will allow people with creativity to express themselves and their

feelings through the production of radio programmes. They may be in the minority, but with 2 000 to 3 000 students in a school, they may already do so. Why not? Why is it undesirable? It should be feasible. Or say, 50 schools in the Tuen Mun district may launch a joint broadcast lasting for one month. Why not? Hence, I hope the Secretary can broaden her mindset instead of tying herself to the framework of the three existing radio stations, for the broadcasting arena is extremely extensive. I learnt that the Secretary had paid overseas visits to observe how these issues were dealt with. I believe what I said earlier will not be wrong, for more and more radio stations will adopt this mode of broadcast. They do not necessarily broadcast 24 hours a day, seven days a week and for a number of years. This simple mode of broadcast allows the public to make use of the airwaves, and this is becoming more and more popular.

Deputy President, during the discussion, I have examined certain questions about the existing radio stations, and Emily LAU has mentioned some of them earlier. I only want to point out that digitization will be the prevailing trend, but funds will be needed in this course. Certainly, at present, some interested individuals may submit applications. But I would like to tell the Secretary here that it is necessary for RTHK to carry out digitization — the Secretary of Department is here now. The site on which RTHK is located is very expensive, and it does not necessarily be restricted for broadcast purpose. It does not really matter whether the broadcast is carried out in Central or in Tsung Kwan O, for the audience will not know where you hide. Indeed, even if you hide yourself in Shenzhen and do the broadcast there, no one knows, am I right? Members all know that the only condition is that transmission is feasible. The site of RTHK is very expensive. The radio station can actually be relocated to Tsung Kwan O or other places like the Tai Po Industrial Estate. Though it will be a bit far for its staff, the new location will at least offer more spacious working environment for the staff of the radio and television branches, and better and more advanced equipment can be provided.

For this reason, I hope the Secretary and Secretary of Department will think about reaching a consensus on the relocation of RTHK and putting the issue of digitization on the agenda. Though digitization will incur a large amount of money, RTHK will not take up so much spectrum. In my view, with the development in digitization, the operating cost of the television station will be nearly 50%, 60% or even 70% to 80% higher than the existing operating cost of RTHK. The first lump sum to be spent is surely capital investment, but if it is

the world trend, I hope that taxpayers will accept the digitization of radio stations. With the introduction of digital audio broadcast services, the frequency spectrum for radio stations will be freed up to allow more people to operate different radio stations.

Next, I come to another point. Now, the Government proposes that upon the introduction of digital radio broadcast in future, external organizations, including welfare organizations, religious organizations, regional organizations and District Councils, may be allowed to produce some programmes at radio stations. I think this proposal should be considered carefully. The idea is strange. Under the proposal, those programmes must be hosted by members of the radio station concerned. I do not know the reason for that. I wonder if it is a matter of editorial responsibility, or the fear that they may face lawsuits. For instance, when an outsider hosting a programme at RTHK makes some relatively aggressive remarks, RTHK will fear that they will be sued because of the remarks. However, I wonder if it is possible to introduce a certain mode of operation to ensure that hosts of the programmes will be held responsible for the programme. It is unnecessary for RTHK to require that all programmes be hosted by its staff. There is no need to do so. I hope the Secretary will give a second thought to this. I think this is a half-baked proposal and I have reservation about it.

Upon the introduction of digital audio broadcast, the spectrum will cover a lot of radio stations. Different organizations may be allowed to engage in broadcasting on radio stations, what is the problem with this arrangement? Some people often say that the Government has nothing to say. Once, I heard someone say on RTHK that the channel could be given to Donald TSANG, from 6.00 am to 12.00 midnight, and it would be possible. I agree with this arrangement, but the question is whether people will listen to that channel. By the same token, a channel can be granted to Chief Secretary Henry TANG, and he may also talk from 6.00 am to 12.00 midnight. But I have to ask: First, can they be so long-winded as to speak for such a long time? I am not sure about this. Second, do they have so many things to say?

Every time when I attend a forum, I hear people say that the Government should be granted a separate channel. And I would say in response that a channel may as well be given to the Government, it does not matter. In future, with digitization, there will be dozens of channels, and if you want to establish a

central radio station, I will not oppose, provided that different community organizations, welfare organizations and religious organizations can all establish their radio stations. By then, it will be left to the public to decide which radio stations they will tune into, and it all depends on the performance of individual stations. However, I consider it strange that RTHK is willing to adopt the said arrangement. I do not know how to describe that. For under the arrangement, the role of RTHK will become ambiguous. On the one hand, it has to host programmes, but on the other, it does not want other people to "mess up" its work and stand in its way. Hence, I think, Secretary, you have to find a solution to let different organizations to share the airwaves simultaneously after digital audio broadcast is introduced.

Today, I oppose the amendment. I think the arrangement is not good enough. I have particularly put forth an amendment to require the holding of public hearings, which means to conduct public consultation and hold forums. However, I have to commend RTHK, for it is one of the government departments which conduct consultation with public participation every year. I have written to the Secretary of Department and asked him why other departments have not adopted such a practice. The Secretary of Department just said that it is a good suggestion. In my view, if the Government receives these applications, should the Broadcasting Authority also hold some public forums and consultations to allow the public, whether they are for or against the arrangement, to express their views?

Thank you, Deputy President.

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

**MR ALBERT CHAN** (in Cantonese): Deputy President, if the platform is supposedly set up for political figures to speak, it should not be open to Chief Secretary Henry TANG only. It would not be fair unless all the three rumoured candidates for the office of the Chief Executive, including LEUNG Chun-ying and John TSANG, are given the same opportunity to speak.

Deputy President, the broadcasting policy and legislation in Hong Kong are a continuation of the feudalism and hegemony of the former British colony, and

the policy seeks to exercise hegemonism to control the freedom of speech and airwaves. Actually, the relevant ordinance is so old that it can be traced back to the pre-war period. Although the Government often avows to bring us on a par with the world, its broadcasting policy is absolutely outdated. Except for our great Motherland, Hong Kong lags behind North Korea in terms of broadcasting policy and development. Compared to relatively advanced and open-minded societies — not to mention countries — open-minded societies or regions, including Africa and South America, Hong Kong is 100% behind them, especially in terms of the number of radio stations and their freedom and openness. In this respect, the Hong Kong Government should feel ashamed. Hong Kong should really feel ashamed that such an advanced and a so-called technologically developed place could have exploited the freedom enjoyed by Hong Kong people in choices of broadcast with such an unruly, totalitarian, and exploitative attitude because of political reasons.

Deputy President, I was a student in Canada back in the 1970s, or more than three decades ago — I was studying in a university in Central Canada. Not only was the student union of the university allowed to set up a radio station for city-wide broadcasting, many ethnic groups and ethnic minority groups in the university were also given separate time slots for broadcasting and freedom in programming. There are many Chinese radio stations in Canada, am I right? However, there are only two licensed radio stations in Hong Kong. What is more, RTHK has become increasingly like a central people's radio, a government mouthpiece, with some of its persons in charge being Grand Bauhinia Medalists. It is really a classic and inconceivable that some radio hosts of commentary programmes have been awarded Grand Bauhinia Medals.

Incidentally, Deputy President, I would like to declare my interest. A couple of years ago, I tried to apply for a radio licence as stated in the paper. At that time, I set up a formally registered society called Citizens' Radio. Not only did I attempt to hold meetings with Daniel Fung from the Office of the Telecommunications Authority (OFTA), I had also contacted many colleagues of the Office of Telecommunications Authority in an attempt to apply for a radio licence. However, only one FM frequency is left now, and that frequency ..... there is no FM. Deputy President, only one AM frequency is left, and this frequency can only make transmissions at Shek Kong. Moreover, this licence for Shek Kong is not for full-time operation. Furthermore, messages can only reach ..... the farthest places they can reach are Shek Kong, Yuen Long and

Tuen Mun only. Even if someone is willing to set up a radio station, the amount of investment is staggering because the cost of transmission by AM is more than 90 million times higher than that by FM. The construction of a system for AM transmission is very likely to cost tens of millions of dollars. However, transmission by FM would cost only \$100,000 to \$200, 000.

In terms of regulation, the Hong Kong Government is obviously using the exorbitant costs to make it impossible for ordinary people to provide any such services. Coupled with extremely stringent and totalitarian legislative control, it is simply impossible for Hong Kong people to pursue any development in the airwaves.

Deputy President, the new amendments proposed by the Government seek to introduce new licensing criteria for compliance by the Chief Executive in Council in approving applications for sound broadcasting licences. Actually, this represents a further upgrade of "executive hegemony". Although some court rulings have pointed out the deplorable acts of the Hong Kong Government, the Government is now exploiting the opportunity to bring the matter into its hands. Worse still, the Chief Executive can now further formulate guidelines according to his "executive hegemony" model. Although the Ordinance and the power of the executive can already override everything, the newly added guidelines, which will be determined entirely by the Chief Executive and not be formulated by any statutory bodies, will also override everything as they emphasize executive administration, "executive-led" governance and executive hegemony.

Members of the public are left with no choice. Whenever they have any problems, they have to go to the Chief Executive because he holds all the power. However, when things go wrong, the authorities would accuse the public of challenging the Government and blame the post-80s. Having all the powers, the entire Government is behaving in an arrogant manner and, hence, even such a simple licensing guideline has to be formulated by the Chief Executive. I find this most ridiculous. Obviously, the Hong Kong Government dreads freedom of speech very much. Since the reunification in 1997, the "one country, two systems" has been put into practice in Hong Kong. Under the shadow of "one country", Donald TSANG, who was officially appointed by the communist government of China, would act very much like the Communist Party of China,



which regards freedom of speech the most dreadful thing, and become extremely terrified of freedom of speech. This is why he will hold fast to his position and will definitely not slacken in his fight and make compromises.

Therefore, Deputy President, should this situation be allowed to continue, Hong Kong people can only seek to be self-reliant, am I right? However, Hong Kong people are very smart. Although the airwaves are not opened, they know how to pursue development through web stations by means of technology. Now, on Mondays and Thursdays ..... let me do some publicity here. On Mondays and Thursdays, I will appear with WONG Yuk-man, our leader, in a 30-minute programme on My Radio. Before I hosted this programme with our leader, I did not know there were so many people listening to the programme. With a weekly hits of 300 000 to 600 000, the number of people listening to the programme was even greater than those listening to certain other radio stations. Is it not very absurd that such a mode of transmission and programming through a web station without a broadcasting licence and system could have managed to attract even more people than radio stations operated by licensed broadcasters, that is, radio stations broadcasting in the airwaves? We should really thank the Hong Kong Government for such an absurd phenomenon. Obviously, licences can simply be issued on a localized basis — licences are issued on a localized basis in many places around the world. It is unreasonable to let a radio station control seven channels merely for the purpose of broadcasting one programme to people in different areas, am I right? This is the case with many cities around the world. Whenever separate channels are involved, different licences can be issued for control purposes, so as to give people a number of options in tuning in to radio programmes as well as more choices in programmes.

Deputy President, given Hong Kong's prevailing political climate and its coterie electoral system, I will absolutely not harbour any wishful thinking about this executive-dominated Government loosening its grip on and relaxing broadcasting in any way. There are many students up in the public gallery there listening to us. Actually, many schools, including secondary schools, in foreign countries have their own radio stations to produce their own programmes. Radio stations in secondary schools will very often be used as a platform for nurturing the ability of young people in broadcasting, including programme production, technology and public speech. The cultural programmes produced by some schools might include dramas, musical and educational programmes, and so on. Actually, a diversity of programmes can be produced by a secondary school. In order to control public criticisms, the Hong Kong Government has

seriously exploited the general public and young generation in Hong Kong of their chance to pursue development in broadcasting. The broadcasting industry can not only help explore many creative talents in such areas as culture, education and arts, but also provide plenty of opportunities for performance and development. However, because of its fear for opening up the airwaves, the liberalization of the broadcasting policy and freedom of speech, the Hong Kong Government has single-handedly stifled the growth and development of young people in this area. For this reason, the Government must be condemned.

But the Hong Kong Government has still not been awakened, and it is still sleeping, enjoying the freedom of not opening up the airwaves while hiding itself like a tortoise in the Chief Executive's Office, the Government Headquarters and its small circle, oblivious to developments around the world. This is why Hong Kong will only shrink and retrogress gradually. These are the adverse results arising from the existing fossilized bureaucratic governance.

Hence, Deputy President, I would like to make a sincere appeal here — but this appeal will be futile, am I right? I am like a musician playing music to a cow. If it will still not make any difference to the Government even if it is asked to open up the airwaves, it is simply because it has a closed mindset. Basically, control is everything to the Government. It will not care about harmony, right? Insofar as the Government is concerned, opening up the airwaves might disrupt harmony because it will then frequently hear many criticisms. A few years ago, the only two relatively appealing programme hosts, namely "Taipan"<sup>(1)</sup> and Yuk Man, were forced to quit, am I right? Now, the airwave has become a tool for the Government to manipulate public opinion and minds. This practice is a complete replica of the one adopted by the communists. The Government is currently deeply influenced by Communism, especially in manipulating the media, mindsets and the airwaves.

Hence, Deputy President, the amendment proposed by Ms Emily LAU today is, as described by her, very, very humble. What is it all about? Deputy President, as I had not joined the Bills Committee, I was informed of some of the information only afterwards. The amendment seeks to add (aa), that is, "the

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(1) "Taipan" is the nickname of Mr Albert CHENG

opinion of the public", to section 13C(4). I really do not understand why some Members will object to it. I hope Members belonging to the DAB, the Hong Kong Federation of Trade Unions (FTU) and the establishment can rise to speak and tell us why they oppose such a humble amendment. I really have to ask this question: What is wrong with adding "the opinion of the public" to any ordinance? Some people will raise objection no matter what. As with the case in which the FTU was criticized by certain media, I do not know whether ..... no one will raise objection? Then, it would be alright. This will be even better. Should anyone raise objection again, it would be even more ironic and ridiculous than what happened last Saturday when an amendment proposed by me was opposed by the FTU. That amendment was about giving priority to employing local workers for the Express Rail Link (XRL) project. Should any objection be raised this time around, it would be even more ridiculous than the objection raised in connection with the XRL project. If no one objects, I can perhaps assume that some people have at least shown some signs of a waking.

Deputy President, my greatest hope is to point out that, in airwaves licensing — especially in the future development of digitization — actually, digitization has infinite potential. Of course, the Government will not cease to impose restraints for political reasons — can it be opened up a little bit? Even if the League of Social Democrats is not granted a licence, religious, cultural and arts and community groups should be allowed to conduct more diversified activities. The airwaves are public assets. The Government can absolutely not privatize public assets or allow the airwaves to be turned into opportunities for consortia to make gains. What is more, it cannot be turned into a broadcasting tool for the Government to take full control of the voices of the public. Therefore, in such areas as arts and culture, or in terms of nurturing young people, even if political manipulation is to be stepped up, the Government should still provide opportunities for arts and culture and nurturing the talent of young people. I hope the Government will learn from the bitter lesson. Although the scope of the discussion today is narrow in principle, I still hope that the Government can conduct a review.

**DEPUTY PRESIDENT** (in Cantonese): Time is up.

**MR ALBERT CHAN** (in Cantonese): Thank you, Deputy President.

**MS AUDREY EU** (in Cantonese): Deputy President, I speak on behalf of the Civic Party on the resumed Second Reading debate on the Telecommunications (Amendment) Bill 2009 (the Bill).

Actually, the amendments to the Ordinance are long overdue, for it is beset with a lot of problems. Though the Government has put forth a number of amendments this time, the coverage is not comprehensive. In this connection, the Civic Party's position is that: though only a small number of amendments are proposed in the Bill, it is better than none, and hence, we will support, though reluctantly, the resumed the Second Reading of the Bill.

Deputy President, regarding the licensing regime, the proposed criteria to be adopted under the Bill for the financial strength, managerial capability and experience of applicants are of the extremely high standard and very stringent. As a result, perhaps only large consortia will be able to obtain licences for the provision of sound broadcasting services. This will create *de facto* monopolization, which means the ethnic minorities and the underprivileged, including the students and young people present, can hardly have the opportunities to express their views. Since it is the hope of the Government to collect different views from different channels, opening up the airwaves is a very good channel.

In recent years, I have made frequent visits to certain schools and seen that they have provided a lot of creative training to their students, and many training courses on broadcasting, recording or filming are provided. Hence, if the Government can open up the airwaves, it will be easier for them to apply for a licence, and the Government should proceed in this right direction. But regrettably, we can see that the amendments proposed in the Bill fail to achieve this point. Besides, on the approval of licences, the Bill only transfers the power to the Chief Executive in Council and makes it the licensing authority. The Government refuses to accept the idea of transferring the licensing power to an independent committee. The adoption of such a feudalistic system is utterly a step in the wrong direction in the 21st century. Moreover, under the

arrangement, the airwaves cannot be opened up effectively under the Bill, and the advanced digital technologies available cannot be fully utilized.

We may indeed look at the situation around the world. With the advanced development in digital technologies, public broadcast channels are made available in different modes with great diversity. Why is this not allowed in Hong Kong? Regarding the conclusion of this issue, we have had repeated discussions in the Legislative Council. It may probably be attributed to the restraints in democracy, constitutional reform or politics in Hong Kong. Though we have the freedom of expression, it is only nominal, and more often than not, restrictions are imposed on the channels of expression.

We can see from the recent the XRL incident or other consultations conducted by the Government that inadequate information and the lack of communication are common problems, for the Government will only make use of certain conventional channels. Even if a major media organization is involved, more often than not, the perspective taken by it may not be taken from channels commonly used by those who are concerned about the current affairs of Hong Kong current. Take the recent XRL incident as an example. We can see on the Internet some quality discussions and many in-depth questions and queries raised, but they have completely been overlooked in general broadcast or by conventional media. As a result, as indicated by findings of surveys, many people in Hong Kong do not seem to understand the issue clearly. It is evident that the current policies adopted by the Hong Kong Government are just something in an old rut and outdated. It is using some outdated practices to consult the public and disseminate messages, being largely one-way, and it fails to understand and note that times are changing.

Now, we often emphasize the need to promote liberal studies, so that the new generation will develop independent thinking through different channels. However, those in governing positions still stick to the mindset of the older generation, thinking that the young people are ignorant, that they are incited by others to stage the protest walk and hunger strike, and put forth those queries. But in fact, had Members paid attention to the different channels used by the young people or the new generation, Members would have noticed that they had a thorough understanding of the issue, better than the coverage made by the media

in general, and they may even know more than the government officials. Hence, it is reflected in the scrutiny of the Bill that the Government is lagging far behind the developments.

Deputy President, the Civic Party agrees with the resumed Second Reading debate of the Bill today, but we think the effort made by the Government in listening to the views of the public is seriously inadequate. We have to point out particularly clearly that in deciding whether it is necessary to grant a licence, the Government should consider whether the proposed radio service to be provided by the applicant can cater for the needs of different people in society, offering diversity in style, discussion topics and interests. It should take forward the establishment of public channels to be used by community-based radio stations. Moreover, it should introduce digital audio broadcast as soon as possible, and to reserve channels for digital broadcast in digital multimedia broadcast. Actually, we have talked about the work in this aspect many times and I do not want to repeat our arguments once again. However, I consider it necessary to make our stance clear during the resumed Second Reading debate.

Thank you, Deputy President.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, the Telecommunications Ordinance decreed in 1961 was a draconian law under the colonial rule of the British-Hong Kong Government. The Ordinance was made at the time to curb the freedom of expression of certain suspected communists. Upon the reunification of Hong Kong with our Motherland, this draconian law during the colonial era has become a tool for the dictatorial SAR Government to suppress the people of Hong Kong.

Two years ago, the SAR Government invoked the Telecommunications Ordinance to take out a summons against the person-in-charge of the Citizens' Radio for illegal broadcast. Magistrate Douglas YAU ruled that the licensing regime under the Telecommunications Ordinance was contrary to Article 27 of the Basic Law and Article 16 of the Hong Kong Bill of Rights Ordinance which protect the freedom of expression, and the charges were dismissed. The Magistrate was of the view that the wordings of the existing Telecommunications Ordinance were ambiguous, failing to state clearly the licensing criteria, while the licensing procedures were only subject to the regulation of the guidelines, such that the public did not have any clear legislation to follow. In the judgment, the

Magistrate criticized that since all members of the Broadcasting Authority (BA) were appointed by the Chief Executive, and that the Chief Executive in Council was not required to give reasons for its licensing decision, this was unfettered power. Subsequently, the judgment was overturned by the Court of Appeal on technical grounds. For the Court of Appeal considered it beyond the authority of the Magistrates' Courts to rule the Telecommunications Ordinance unconstitutional, and the case was referred to the Magistrate's Court for a retrial. As a result, the Office of the Telecommunications Authority (OFTA) may continue to invoke the draconian law of the former colonial government to initiate prosecution against the Citizens' Radio and the guests of its programmes, including my humble self, Emily and a number of Members of the Legislative Council. Section 23 of the Telecommunications Ordinance is invoked for the prosecution, what a coincidence? We only want to express our opinions, but this is disallowed.

The Telecommunications (Amendment) Bill 2009 (the Bill) provides for the authority of and the criteria to be adopted by the Chief Executive in Council in approving licences, seeking to avoid the danger that the Telecommunications Ordinance be ruled unconstitutional again. This has vindicated the Citizens' Radio of the propriety in staging civil disobedience, for the problem of the Telecommunications Ordinance would not have been brought to light otherwise. However, the amendment to the Ordinance only involves the inclusion of the existing administrative guidelines into the Ordinance, which is in no way conducive to the fight for the opening up of the airwave and upholding the freedom of expression.

The campaign on community-based radio stations has won extensive support for certain historical reasons. At the 1 July March in 2003, 500 000 people of Hong Kong took to the streets to oppose the legislation on Article 23 of the Basic Law. Later, the pan-democratic camp won a remarkable victory in the subsequent District Councils elections. In view of this, the totalitarians tried, by hook or crook, to prevent the democratic camp from winning half of the seats of the Legislative Council in the election in September 2004. For this reason, they used all ruthless means to suppress the freedom of expression, whereby "All Gods standing in their way would be killed". The situation was simply too strong for us to cope. By the end of 2003, Commercial Radio was granted a renewal licence for 12 years. Later, at a prominent position of the station, a couplet written by the boss of the station, George HO, was displayed. It said, "Be

cautious when you speak; be accommodating when you reason with others". In May 2004, certain talk show hosts were forced to go off the air, and the most popular radio programme hosts, Albert CHENG and I, were kicked out of Commercial Radio.

Under the influence of political or economic factors, the problem of self-censorship became more and more serious among mainstream media, and people of Hong Kong aspiring to freedom of expression were dissatisfied with the mainstream media. According to a public opinion survey conducted by the Public Opinion Programme of the University of Hong Kong in 2000, 34% of the respondents considered that the media had practiced self-censorship, and in April 2009, the percentage reached 47%, which indicated that the situation had been deteriorating. It was also indicated that 31% of the respondents thought that the local news media had scruples when criticizing the SAR Government, and over 60% of the respondents thought that the media had scruples when criticizing the Central Government.

In tandem with the problem of mainstream media practicing self-censorship worsening came the birth of the campaign on community-based radio stations. The people of Hong Kong no longer trusted the mainstream media, and they strove for a community-based platform to voice their opinions. Following the broadcast of the Citizens' Radio, another community-based radio station, FM 101, made its first broadcast in December 2009, teaming up with us in staging civil disobedience. It is foreseeable that the opposition in the community will not end till the SAR Government opens up the airwaves.

The Bill proposes that broadcasting licence applications will first be handled by the BA, but the power of approval is still vested with the Chief Executive in Council. The decision on the approval of licence applications should be based on the following nine criteria. These include the applicant's financial soundness and commitment to investment; the applicant's managerial and technical expertise; the variety, quantity and quality of programmes to be provided; the technical soundness and quality of the proposed broadcasting service; the speed of service roll-out; the extent of inconvenience that may be caused to the public where construction work is to be carried out; the benefits it will bring to the local broadcasting industry, the audience and the community as a whole; the applicant's quality control and compliance capability; and whether the applicant and all persons exercising control of the applicant are fit and proper persons.



After the amendment of the Ordinance, the Chief Executive and the Executive Council still possess unfettered discretion to decide the approval or refusal of licence applications. Since checks and balances and public consultation procedures are not put in place, the practice of political censorship that will undermine the freedom of expression cannot be prevented. The Bill has not laid down any statutory or administrative procedures for appeals. Applicants can only resort to judicial reviews, which are expensive and complicated, to challenge the decisions of the Chief Executive and the Executive Council.

Concerning the criterion on the applicant's financial soundness and commitment to investment, it is a condition tailor-made for large consortia, while community-based radio stations with less competitive financial capacity and target at specific audience groups are put in a disadvantage. Small-scale civil radio stations making broadcast in civil-disobedience style, such as the community-based radio stations FM102.8 and FM101, have contributed to the pluralism of the media and the manifestation of freedom of expression. However, upon the amendment of the Ordinance, the doors will be shut on these stations in applying for licences. They will continue to be liable to prosecution and conviction for the expression of opinions. This practice of stifling freedom of expression is totally unacceptable in a civilized and open society.

The Administration claims that the 49 FM channels available have been allocated to the seven FM stations under the three radio stations in Hong Kong, and no more channels are available for use. In an article written by LIAN Yi Zheng, the lead writer of the *HK Economic Journal*, in 2008, the claim of the Government was disputed. He said, "Despite that, has the spectrum been used to the full capacity? No ..... In the same transmission station covering the same region, there are at present seven stations using seven channels. It means that there are unused frequency bands in the spectrum of each region, only that the frequency bands available are different in different regions of coverage. Hence, if 'Ah Ngau' wants to broadcast territory-wide without causing interference to other radio stations, he only needs to identify the different frequency bands available in each of the seven regions. By means of this staggered approach, a total of 49 radio stations can provide territory-wide coverage, and the spectrum will be fully utilized."

Even in North Korea, the most totalitarian country in the world, there are six radio stations, but in Hong Kong, there are only three, so our situation is even worse, not even comparable to that in South Korea and Taiwan. In Taiwan, the ban on press was lifted in 1988, before which radio stations had been subject to restrictions and radio station licences were granted basically with the approval of the Kuomintang, and some 30 radio stations emerged suddenly after the lifting of the ban. By now, there are 178 radio stations in Taiwan, and the number of underground radio stations is numerous. In Wellington, the capital of New Zealand, though it has a population of only 400 000, there are 46 radio stations of different types. Hence, the authorities' claim that the airwave has been used to the full capacity is not at all convincing.

The freedom of expression is certainly very important to Hong Kong, is it not? Last week, Mr CHAN Kam-lam proposed a motion on the promotion of the philosophical thinking of Confucianism, which meant to revive the Chinese culture. In Chinese culture, great importance is attached to the freedom of expression. In a famous article *Fairwell to MENG Dongye* (*Song MENG Dongye Xu* "送孟東野序") written by HAN Yu, it is said that, "Whatever does not attain a state of equilibrium will sound forth. Trees have no sound but will cry forth when the wind stirs them; water has no sound but will sound forth when the wind roils it, leaping out if blocked, speeding along if constrained, bubbling up if heated. Metal and stone have no sound, yet if struck will sound forth. Man with his gift of speech is the same. When there is no other recourse, then he speaks out, singing songs if moved, wailing if deeply touched. Every sound that comes from his mouth shows a lack of some inner equilibrium." This is the nature of all objects to voice out when they are not treated equally, let alone mankind. Thousands of years ago, HAN Yu drew an analogy between the desire for freedom of objects and mankind's aspiration to freedom. FAN Zhongyan (范仲淹) gave an apt description of this desire, "I would rather die from remonstrance than alive in silence".

In Hong Kong, we can speak our mind freely and fearlessly, making all kinds of comments, for there is room for expression in here. In Hong Kong, people do not have to put up with the horror of receiving cruel punishment like exposure of their dead bodies in public for the expression of opinions, nor do they have to be liable to 11 years of imprisonment like LIU Xiaobo for publishing a few articles criticizing the communist party. Am I right? Hence, in a society with freedom of expression, people live in an environment as described by OUYANG Xiu (歐陽修) in one of his famous poems, and I wonder if students on

the public gallery have read it before. The poem is titled The Song of Thrush (*Hua Mei Niao* "畫眉鳥"), it reads, "The thrush warbles freely, rising and lowering its tune in line with the red and violet flowers and trees on the mountain. If it is locked in a golden cage, the songs it warbles will lose the liveliness, not so much as those in the woods I hear." These thrushes love freedom, enjoy flying freely and will warble songs pleasant to our ears. But if they are locked in a golden cage, that is a birdcage, their songs will be filled with sorrow, and they sound extremely mournful. However, in Hong Kong, certain mainstream media deliberately tend to "lock themselves up in the golden cage" by imposing self-restraint and self-censorship. If we are subject to statutory restrictions in this respect, we should strive for the lifting of such restrictions. But if you choose to practice self-censorship where no restriction is imposed in law, you are "digging your own grave, and that serves you right". Certainly, these people, who are reared by the people in power, will curry favour with the people in power. They do what the authorities like, prepared to degenerate. They are willing to act as the eyes of those in power, and they surely have their own plans, and we can do nothing about it.

But in Hong Kong, a society claimed to be open and pluralistic, the existence of the Telecommunications Ordinance today speaks volumes about the shamelessness of the Government. What are the amendments in the Bill for which the Second Reading is resumed? The amendments seek to include in the guidelines and the Ordinance the power and criteria to be exercised by the Chief Executive, it is just that simple. Will the airwaves be opened up? No. Have the authorities ever thought of amending the Telecommunications Ordinance to allow the people of Hong Kong to use the airwaves? No. Have the authorities ever considered amending the Telecommunications Ordinance to enable the emergence of community-based radio stations serving the underprivileged? No.

Some people said that with digital broadcast, the airwaves can accommodate a lot of radio stations, but so far, the authorities have yet to introduce digital audio broadcast. By the way, a Mainlander friend arriving at Hong Kong today rang up and said, "Yuk-man, the infringing copies of your television series on Ultimately Arrogant History and Ultimately Cruel History are now available in the Mainland. Why?" The genuine copies are not allowed to enter the Mainland market, but infringing copies are available for sale. Why do they have to adopt ostrichism and resort to self-deception? The rationale is indeed very simple, is it not? We do not request the Government to make substantial amendment to the Ordinance, which is indeed impossible. The

authorities have only made a very minor amendment, but still, it fears that the amendments will give rise to challenges in Court. I can tell the Secretary, we will continue campaigning for the establishment of community-based radio stations. If you punish us, arrest us and lock us up, it will only highlight the ugly face of the Government.

Under existing laws, it is an offence to appear in a programme of an unauthorized radio station. According to Martin Luther KING, there are two types of laws, just and unjust. We must obey just laws, but not unjust laws. However, if you do not comply with unjust laws, you must challenge the law in person, and you will have to pay the cost and be prepared to go to jail. It is just this simple. We are not saying that despite staging civil disobedience against unjust laws, we are not prepared to be subject to imprisonment. It is impossible, is it not? Hence, when Mahatma GANDHI launched the non-co-operative movement back then, he was prepared to go to jail for a long time and he urged more people to go to jail till the British found the situation difficult to handle. As a result, the authorities had to hold talks with him. This is a kind of non-violent resistance.

Hong Kong is an open and free society, but why do we have to resort to civil disobedience to make the Government consider amending the Ordinance? To date, the amendments proposed are extremely ridiculous, which only lead to wastage of public resources and time. What amendments have been made eventually? Secretary, what have been amended? The Bill only includes the licensing power of the Chief Executive or the relevant guidelines in the Ordinance, so that its power will not be challenged again in Court. But the Court of Appeal has already ruled that the Government wins the case, has it not? We do not want to see this situation continue, but we are helpless, for the Government's totalitarian mindset remains unchanged. Honestly, it is not justified in any place of the world that a cosmopolitan city has only three radio stations. It will only be a laughing stock. If you are not trying to protect large consortia or public broadcasting organizations, what are you up to? It beats me. Definitely, in face of the free flow of information nowadays, the wide coverage and the rapid development of advanced technology, the Government can do nothing about it. Not only does the SAR Government have its hands tied, a totalitarian power like the communist party too has its hands tied in the face of the information flow on the Internet.

With these remarks, I oppose the Second Reading of the Bill.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): I do not have any script today, so in this way my hands will be at ease.

Deputy President, Mr WONG Yuk-man said earlier that the High Court had ruled that we lost our case. Actually, the verdict of the High Court did not rule that we lost our case. The High Court dealt with the issue of constitutionality ..... In other words, the issue of the constitutionality of the existing Telecommunications Ordinance read against the Basic Law in protecting the freedom of expression of the people of Hong Kong, and issue of whether we had committed an offence by staging civil disobedience were handled separately. On that day, I already said that it was improper for the judges to do so. The Court should definitely punish those offenders according to the law, particularly those offenders inflicting injuries to other citizens or damage to the property of other citizens. These people should absolutely be punished according to the law. However, if the Government's action violates the constitution, and in this case contravenes the protection stipulated in the International Covenant on Civil and Political Rights of the United Nations as provided for in Article 39 of the Basic Law, its behaviour is more detestable than that of a criminal. A criminal may commit an offence repeatedly, but if the act of the Government violates the constitution, the Government will be committing such an offence for all the time till its unconstitutional act is sanctioned. Hence, when the Judge of the High Court lobbed the ball back to a lower level Court, and told the Court not to consider constitutionality issue but only whether or not the act of broadcasting without a licence committed by me and others was unlawful. However, this will only solve the legal problem involved but not the problem of whether or not the legislation is unconstitutional.

So, when it is said that the Courts of Hong Kong have solved the problems related to broadcast under the Telecommunication Ordinance, whereas licences are still approved or disapproved by the Chief Executive arbitrarily without giving explanation, it means the issue has not been dealt with in actuality. The Judiciary in Hong Kong fails to solve a problem closely related to the freedom of expression of the 6.9 million people in Hong Kong. It is a matter of great import

that whether the Government has deprived the people of Hong Kong of their right to expression through the airwaves and whether such deprivation is unconstitutional. The issue has not been dealt with.

The Bill under Second Reading today includes piecemeal amendments proposed by the SAR Government in response to the decision of the Court. Let me cite the example of a death penalty imposed and stamped by an emperor on a person for the opinions he had expressed. The emperor should have stamped the sentence or sent the offender to the highest judicial body, Da Li Si, but he forgot to do so. So, today, we are suggesting asking the emperor to stamp that sentence, but it is useless for the emperor to stamp the sentence. Today, despite all the troubles involved, the Secretary has come to this Council for the sole purpose of enabling the Chief Executive to make arbitrary decisions according to his preference to curtail the basic rights of other people, the citizens of Hong Kong. At present, licensed radio stations like Commercial Radio, RTHK and Metro Radio may disseminate information through the airwaves to the people of Hong Kong, but this is only one side of the coin, the side with the Bauhinia on it. What about the other side of the coin? The case is that when we are deprived of the freedom of disseminating information through the airwaves, the right to which all of us are entitled, it means our right to have access to information will also be exploited. When a person is prohibited from making broadcasts, the right of others who want to or have the opportunity to listen to the broadcasts will at the same time be deprived. The SAR Government is depriving the right of the people of Hong Kong on two counts.

I recall the remarks made in the Eastern Magistrates' Courts on my case, which was handled by Judge TONG Man. My colleagues, including Ms Emily LAU, were all found guilty. But the charge against Ms Emily LAU was interesting, for she was charged for taking part in broadcast without a licence. In other words, when you walk into a place where broadcast is made, and the person in charge of the broadcast does not have a licence to engage in broadcasting, you will commit an offence once you speak in the programme. This is definitely an Ordinance aiming to implicate all people related to the case. What is the origin of this ordinance? Students, this ordinance comes from Malaysia. In 1936, a law on telecommunications and broadcasting was enacted in Malaysia. What is the importance of the year 1936 to Malaysia? Do you

know? It was a time when the British colonial rule in Malaysia was facing challenges. The British, being the ruler of the colony, feared that the people in Malaysia, including Indians, Chinese and Malaysians, might disseminate information freely, or they were afraid that people from these three races might listen freely to the information disseminated to them. We naturally understand their concerns, for the United Kingdom imposed its rule through a small number of people. However, the law was copied wholesale and applied to Hong Kong with only some minor amendments in wordings, and this was the Telecommunication Ordinance enacted in 1962. Since 1962, or by 2012, the Telecommunication Ordinance will have been in force for 50 years. How good it could be if the dual arrangements were to be implemented in 2012. The Ordinance has been in force for half a century, being the sole source of authority all along. In the past, the colonial Governor was left to act arbitrarily, making decisions according to his own preferences on granting licences to whoever he liked. Members should all know that when Commercial Radio was first established, the British-Hong Kong Government imposed a condition to require the radio station to speak for the British-Hong Kong Government, and the condition was made one of the licensing conditions. When the Governor imposed such a condition, it was obvious that the Governor was trying to restrict the opinions expressed by the licensee.

It has been a long time, and nearly 50 years have passed, but no amendment has ever been made to the Ordinance. I remember that when I gave my final statement at the Court, it happened to be the day Prof Charles KAO was awarded the Nobel Prize. I told Judge TONG Man that with the optic fibre invented by Prof Charles KAO, large volumes of information could be transmitted from one place to everywhere around the world nowadays, but the Government, on the contrary, feared that the people of Hong Kong might broadcast in the airwaves freely.

Students, and Deputy President, where do you think we can find such restriction? Let me tell you. This can be found in two places, one is North Korea, which is reigned by a family, and the other is Mainland China, our Motherland, which is reigned by a political party. When they consider the entire country should be under their rule, they surely have to impose such a restriction. But regrettably, the Basic Law, for better or worse, has been put in place in Hong

Kong. The problem lies in the contradictions existing between the standard adopted in the international community and the legislation to which Hong Kong has adhered for the past five decades, a law originated from a colonial law in 1936. Since I am the director of the Citizens' Radio, I have been charged by the SAR Government repeatedly. Just think about this. Had the SAR Government been truly sincere, at least in some measure, in enforcing Article 39 of the Basic Law, which assures the freedom of broadcast and freedom of access to information, would I have been put in jail? Would I have to spend my time in jail some time in future?

In fact, Members may ask: Should anyone violate the law? Though draconian laws are laws, they should be opposed, and since they are draconian laws, they should be violated. In the past, in the age of monarchy, there was no constitution. Anyone staging opposition were indeed opposing the throne, and the offender would be punished by decapitation. Now, despite the existence of the constitution, the Government has deprived us of the rights enshrined in the constitution. It suppresses us again and again, and this is called prolonged and invisible violence. This prolonged and invisible violence is also reflected in this legislature where amendments to law can hardly be made. During the examination of the funding for the XRL, President Jasper TSANG said that people should not siege the Legislative Council, and that officials and Members were only acting in accordance to views expressed by the majority public. Sorry, President Jasper TSANG, you are wrong. In this legislature, only Members returned by direct elections are representing the opinion of the majority public in opposing the XRL, the votes represented by these Members can be calculated. You may say that external opinion polls have been conducted, but in this Council, public opinion has been further distorted. In this Council, 14 Members are elected to their present seats by zero votes, and they are here to press the voting button to support the Government. President Jasper TSANG's remark is untenable, for he has blatantly distorted the distribution of representation of public opinion in the Legislative Council. Second .....

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please speak on the content of the Telecommunications (Amendment) Bill 2009.



**MR LEUNG KWOK-HUNG** (in Cantonese): The same applies to the Telecommunications Ordinance. Second, what is invisible violence? Day after day, the opinion of the public in Hong Kong is distorted in the legislature. This rubber-stamp or voting machine produced by distortion causes the opinions of the majority public in Hong Kong to be distorted. The authorities are delivering draconian governance. The Telecommunication Ordinance remaining in force till now is an apt manifestation of such distortion. This is invisible violence. On that day, during the campaign opposing the construction of the XRL, the young people who moved away the mills barriers and staged a silent sit-in revealed this invisible violence in front of the eyes of all the people of Hong Kong. They did not in any way use violence. They did act forcefully. They were full of force, but they did not plan to apply force to hurt others, nor did they apply force on others unrestrictedly. After moving away the mills barriers and being sprayed by pepper spray, they sat down voluntarily. It was a siege .....

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please speak on the content of the Telecommunications (Amendment) Bill 2009.

**MR LEUNG KWOK-HUNG** (in Cantonese): ..... I know. It is simple. On that day, if Secretary Eva CHENG and Members in the pro-government camp wanted to get out of the Legislative Council Building, they might actually do so. Honourable Members, I am already handicapped by the Telecommunication Ordinance, I do not care anymore. The young people staging a sit-in outside this Council on that day were only opposing a kind of prolonged and outrageous violence. But the President of the Legislative Council and government officials, as well as Members from the pro-government camp, smeared these young people; they should thus be cursed forever.

Deputy President, "rather die from remonstrance than alive in silence" is my motto. I oppose the Amendment Bill, which is only some sort of a gloss-over tactic, proposed by the Government (*The buzzer sounded*) ..... Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

**MR PAUL TSE** (in Cantonese): Deputy President, I support the resumed Second Reading of the Telecommunications (Amendment) Bill 2009 (the Bill), but I oppose the rationale behind it.

Deputy President, why do I support it? Because the existing mechanism lacks clarity, and it even confers extensive discretionary power on the Chief Executive, and both of these aspects warrant improvement. If my memory is correct, a piece of legislation on wiretapping a few years ago aroused much controversy and triggered a judicial review also because of the discretionary power conferred on the Chief Executive, which necessitated the regularization of the relevant arrangements and measures by way of legislation.

Deputy President, talking about the freedom of speech, I certainly fully support it, and I have also repeatedly raised questions in this Council about the need to relax existing policies and whether these policies have actually been relaxed so that Hong Kong will become a divergent society, and people from various communities and religions and even those who would like to listen to "Talk of the Town" may have an opportunity to listen to radio broadcasting without having to obtain the service of radio broadcasting licensees.

However, Deputy President, each kind of freedom comes with a kind of self-restraint. Freedom of speech is not absolute, and it has many conditions attached, including self-restraint, or society will not be able to sustain. Mr WONG Yuk-man said just now that he used to host a radio programme and was forced to "go off air". I have had similar experience, too. Years ago, I hosted the programme "Justice with Compassion" in Metro Broadcast, and in co-hosting the programme "Talk of the Town" with another host, Ms Pamela PAK, I was dragged into a rather controversial issue with extensive coverage, and that was the legal battle among the families of TANG Wing-cheung for his estate. I was forced to "go off air" immediately that evening, and therefore I understand very well how it feels to be forced to "go off air". However, despite being forced to "go off air", one should not stretch things too far. The fact that one is forced to "go off air" may involve special reasons, including arguments involving the management, the political struggles behind it all, or the person concerned has

violated some regulations on behaviour or conduct which is totally unacceptable to the management, and therefore he is forced to "go off air". Therefore, we should look into the reasons carefully rather than stretching the matter so far as to put all the blame on the restrictions on freedom of speech and political censorship, which is a lopsided and unreasonable comment. Just now a colleague said we should voice out our grievances about unfair treatment. I would also like to take this opportunity to speak out on behalf of the management of the relevant radio station, in particular, the management personnel I know or the person who suffered personal insults back then. The decision then was not totally due to political censorship but was actually attributed to some personal reasons.

Deputy President, why did I say I disagree with the existing policies? Actually, given the technological advancement in society nowadays, even without a formally issued broadcasting licence, one can still engage in broadcasting through different means, though it may be subject to restrictions, not as convenient as using the airwaves. Actually, we can see that many community-based radio stations are still broadcasting on the Internet. Rather than allowing these Internet radio stations or the relevant people to fire offensive criticisms and broadcast with foul language and make personal attacks, it is preferable to relax the formal licensing mechanism to allow more radio stations to broadcast freely under regulation. After all, many underground or community-based radio stations are already broadcasting, so it is preferable to include them in a regime so that they will be given the opportunity to broadcast and required to bear legal responsibilities at the same time. This is the right direction to take.

I have always stressed that there are two ways to address or handle a problem, one is restriction and the other is diversion. I think in the present social environment, we should employ diversion rather than imposing restrictions and endeavour to relax the restrictions and provide more choices so that people who would like to listen to different kinds of programmes may do so. This way, no one will be forced to listen to certain programmes. If people are unwilling to listen to the programmes, they will be unable to expose the unfairness in society or voice their pent-up angers and discontents through proper channels. I prefer giving people choices because at a certain point when members of the public find the comments and approaches of some radio stations unacceptable, they may choose to tune in to other radio stations even though no restriction is imposed.

Therefore, there will no longer be public complaints about people being forced to watch the programmes of the Television Broadcasts Limited, which has caused much unfairness.

Deputy President, I have said just now that giving clarity to the currently unclear regime is precisely the aim of the Bill. I hope this is only an en route stop rather than a terminus. As in the case of my agreeing to amending the legislation on solicitors' right of audience before the High Court earlier, this is only an en route stop. I hope that with progressive improvement, we will have a more open and better regime instead of keeping the previous uncertainties and maintaining the unclear regime.

Deputy President, another point I would like to raise is I think we should review our existing regime as soon as possible. Even if the Bill is passed this time, the policies should still be reviewed expeditiously to reduce the barriers in the future licensing regime, especially the audit and inspection requirements in relation to finance, equipment and assets, so that more people and organizations, including social and religious groups and individuals, will be able to broadcast and enjoy freedom of speech as long as they so wish and are prepared to be subject to certain restrictions and able to properly meet the condition of affordability. As Mr Albert CHAN said just now, many universities in the United States indeed operate two to three radio stations, this I absolutely support and agree. However, at this stage, as there is a law to allow us to put the regime under regulation and move forward, I think it is worth supporting.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, first of all, I sincerely thank Mr Andrew LEUNG, Chairman of the Bills Committee on Telecommunications (Amendment) Bill 2009 (the Bills Committee), as well as members of the Bills Committee for their efforts in scrutinizing the Telecommunications (Amendment) Bill 2009 (the Bill) and for their valuable input.

The object of the Bill is to prescribe a set of criteria for the grant of sound broadcasting licences under the Telecommunications Ordinance (TO), with a view to providing licence applicants with clear guidelines and laying a more predictable legal basis for the sound broadcasting licensing regime. In addition, the Bill also empowers the Broadcasting Authority (BA) to issue guidelines indicating how it will perform its function of making recommendations on sound broadcasting licence applications to the Chief Executive in Council.

In January 2008, the Legislative Council held a motion debate on sound broadcasting services, calling on the Government to, among others, prescribe in law the licensing criteria for the grant of sound broadcasting licences to enhance the clarity of the legislation. This amendment exercise precisely answers Members' request.

In July 2009, the Chief Executive in Council promulgated a set of licensing criteria for the grant of sound broadcasting licences, and proposed that the TO be amended to expressly provide for these criteria. This set of licensing criteria is based on the local experience in considering broadcasting licence applications as well as overseas best practices.

When considering a licence application, the licensing authority shall, as a prerequisite, ascertain whether any suitable frequency spectrum is available. Other factors to be considered include the financial soundness, managerial and technical expertise as well as programming ability of the applicant, and also benefits to the local broadcasting industry, the audience and the community as a whole. The licensing authority shall also consider whether the applicant is a fit and proper person under the Ordinance. Over the years, we have been adopting these criteria in considering applications for operating sound broadcasting services. Such criteria are also adopted for the grant of television licences under the Broadcasting Ordinance.

Spectrum is a valuable and limited public resource. These licensing criteria can ensure effective allocation and utilization of this resource. The BA will make recommendations to the Chief Executive in Council on sound broadcasting licence applications in accordance with this set of criteria. The Chief Executive in Council, being the licensing authority, will adopt the same criteria in vetting and approving applications for sound broadcasting licences.

During the discussions of the Bills Committee on the Bill, some members and organizations have put forward views and expressed concern that some licensing criteria, including financial soundness, managerial and technical expertise as well as programming ability of the applicant, may result in a situation where only resourceful conglomerates would be qualified to apply for licences. I wish to point out that financial soundness is just one of the licensing criteria to be considered, and the Bill does not specify the minimum or maximum level of investment required. In considering the grant of licences, the authorities will process all the applications fairly according to the criteria proposed in the Bill and the proposals on the operation of sound broadcasting services made by the applicants.

As regards the view that the licensing criteria should have regard to the development of community broadcasting, I wish to reiterate that all applications will be considered according to the same set of licensing criteria, disregarding the scale or profitability of the broadcasting service under application. There will not be any additional threshold to bar or reject any application.

Deputy President, there is consensus among the public that the licensing regime for sound broadcasting services should have transparency and the criteria for considering licence applications should be supported by a clear legal basis. The legislative amendments proposed by us are fully compatible with public aspirations, and they are consistent with the views presented by Members during past discussions in the Legislative Council. The Bill, if enacted, will enable us to process sound broadcasting licence applications under a more refined licensing system.

The freedom of speech is a core value of Hong Kong protected by the Basic Law in express terms. The SAR Government will certainly uphold and defend it. Nobody will question the diversity of platforms and media on the Internet, and the operation of radio on the Internet does not require a broadcasting

licence. The Bill seeks only to set out the licensing criteria for the provision of sound broadcasting services through the airwaves.

Therefore, Deputy President, I implore Members to support the passage of the Bill.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Telecommunications (Amendment) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**DEPUTY PRESIDENT** (in Cantonese): Ms Emily LAU rose to claim a division. The division bell will ring for three minutes.

(While the division bell was ringing, the President resumed the Chair)

**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.

Dr Raymond HO, Dr Margaret NG, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Mr Paul TSE voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Albert CHAN, Mr LEE Wing-tat, Dr Joseph LEE, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi and Mr WONG Yuk-man voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 48 Members present, 32 were in favour of the motion and 15 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

**CLERK** (in Cantonese): Telecommunications (Amendment) Bill 2009.

Council went into Committee.

### **Committee Stage**

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



**TELECOMMUNICATIONS (AMENDMENT) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Telecommunications (Amendment) Bill 2009.

**CLERK** (in Cantonese): Clauses 1, 2, 4 and 5.

**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, 2, 4 and 5 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): Clause 3.

**MS EMILY LAU** (in Cantonese): Chairman, I move the amendment to clause 3, that is, to add (aa) "the opinion of the public" to section 13C(4) proposed in the Bill.

Chairman, I believe you also know why I add "the opinion of the public" to the Bill, and that is to make it one of the considerations in the deliberation of the Chief Executive in Council. Unfortunately, this is not included in the Bill proposed by the authorities. Now that I have proposed to add this to it, somebody regard this move as superfluous. Actually, this is a must, but even a must item is not included. Chairman, I would like to thank you for your lenient treatment because my entire amendment was actually about the need to give regard to the opinion of the public, including but not limited to that expressed at public hearings held pursuant to section 13(p).

Chairman, after studying my proposal, your goodself said this would have charging effect on the Government because the Government said ..... how much did the Government say it would require? Chairman, the Government said \$610,000 is required for organizing a public hearing. Then what is this amount used for? Chairman, it includes the rental for equipment, publicity cost, provision of simultaneous interpretation service, hiring of security guards, and so on, and that is why such a large amount is required. Chairman, I think you are right. I cannot and did not obtain the consent of the Chief Executive. Chairman, I will definitely not seek his consent because I am an upright and legitimate Member of the Legislative Council. Why do I need the authorities' consent for moving an amendment?

Chairman, I also realize, and everybody does, the existence of Article 74 of the Basic Law. Article 74 only regulates the introduction of Bills by Members. Chairman, you should also know the aspect of our history, that the authorities and Members have different views on which kinds of Bill may be introduced by Members. With the consent of the Chief Executive, Members may introduce Bills — even Bills involving public expenditure, political structure and the operation of the Government can be introduced if consent is obtained. If consent is not granted, all these, including amendments, must not be proposed.

Chairman, colleagues of the Legislative Council disagree with the authorities' interpretation of Article 74, but the authorities do not wish us to challenge Article 74 at all. In the past, some Members actually tried to introduce such Bills, but such cases were rare. Therefore, the authorities hope that if there is anything Members wish to propose, they can do so, and if the authorities find the proposals acceptable, they will be introduced by the relevant Secretary by way of Bills, and such cases happened plenty of times in the past. However, Chairman, I think this practice will entrench the public perception that

Members are incompetent because proposals put forward by Members are bound to be unsuccessful, while those proposed by the authorities are always given support. However, this is not the real situation, Chairman. Why? Many proposals put forward by Members at various bills committees were very reasonable and subsequently regarded as sound and acceptable by the authorities. However, the authorities would then suggest that they would incorporate different aspects and put forward the proposals, so that Members would not need to propose them. For reasons unknown, the relevant Members would accept this arrangement like a quail, which has thus enhanced this phenomenon.

Proposals which are not acceptable to the authorities will definitely not be taken on board and then introduced, and other proposals endorsed by all will be introduced by the authorities. Therefore, all Bills introduced by the authorities will receive unanimous support and be passed. Wow, the Secretaries are mighty and competent while Bills put forward by Members will all be negated. This has reinforced the public perception that we this group of people are really incompetent and only know how to stir up controversies all the time, and so all Bills proposed by us will be negated while those proposed by the authorities will be passed. Actually, the bills proposed by the authorities originated from us, and this Article 74 states clearly that the authorities do not wish us to propose certain bills.

The Secretary asked me again whether he could incorporate my amendment today, I certainly replied in the negative. Actually, Chairman, as your goodself gave me leave to propose this amendment just last evening, there is no reason why I should seek your leave for the Secretary to propose this amendment this morning. Therefore, I hope the Secretary ..... actually, this is beyond what the Secretary could do. I hope the authorities understand and respect Members' right to introduce Bills. I hope Secretary Rita LAU will pass this message forcefully to the authorities.

There is nothing I can do, Chairman. I understand your ruling, but you retain "opinion of the public". Some people have certain views about this as well. Chairman, however, I think many people think you are enforcing the Rules of Procedure. I hope Members will support it, despite the query of whether this is superfluous, as raised by Mr Andrew LEUNG. However, this is not the case, Chairman, because this item is not included in the Bill when in fact it should be included. However, it is really not included. Such being the case, including this in the Bill is not superfluous. If it already existed, adding it was

certainly superfluous, and Chairman, your goodself might not have approved it either. Chairman, it is precisely because this item does not exist and it is very important that we think public hearings are essential. The Secretary also knows that public hearings have recently been conducted in respect of the mid-term review of the free television service licences. However, I noticed that the order in the hearings was actually not satisfactory. Nevertheless, this reflected that the public had different opinions and they should be taken on board in an orderly manner.

Why is the Secretary unwilling to conduct public hearings? Is it because of the \$610,000 required or because she is really unwilling to do so? Actually, she once said she could give it a thought. She said she would request the Broadcasting Authority to give consideration to it and, if possible, to deal with it by administrative means. As the authorities have introduced this Bill, then this item may well be included in it.

Therefore, Chairman, first, I hope colleagues of the Legislative Council will really respect "the opinion of the public" — although it only involves five words, and some people said this is the amendment involving the least number of words, I still hope Members will respect and accept it — and I all the more wish to hear the Secretary's personal expression of support in this regard and for my amendment. Thank you, Chairman.

*Proposed amendment*

### **Clause 3 (See Annex II)**

**CHAIRMAN** (in Cantonese): Members may now have a joint debate on the original clause and the amendment.

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

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Chairman, it is proposed in the amendment moved by Ms Emily LAU that the opinion of the public be included among the matters to which the Chief Executive in Council must have regard in determining the grant of sound broadcasting licences. I appreciate that the Honourable Member's intention of making the above proposal is to urge the licensing authority to take on board the opinion of the public. However, I wish to highlight that the element of public consultation has already been included in the current procedure adopted by the Broadcasting Authority (BA) for processing applications for sound broadcasting licences. In submitting its recommendations to the Chief Executive in Council for consideration, the BA will fully and faithfully reflect the public views collected in the course of consultation. The Chief Executive in Council, in vetting such applications, will take into account the public views collected before making a licensing decision. This indicates that the policy of considering public opinion and the work relating to consultation have already been embodied in the current mechanism for processing applications for sound broadcasting licences. For this reason, it is not necessary at all to make any provision for it in law.

In this connection, the inclusion of an additional provision in the Bill will cause no changes to the current policy or procedure in place for public consultation on the grant of sound broadcasting licences. Nor will it have any substantive impact on the object of the Amendment Bill. Hence, we consider the amendment unnecessary, but since we agree with the contents of the amendment, we will not raise objection to it. Thank you, Chairman.

**MR JAMES TO** (in Cantonese): Chairman, I would like to speak.

**CHAIRMAN** (in Cantonese): Mr James TO, what is your point?

**MR JAMES TO** (in Cantonese): Chairman, from the argument advanced by Secretary Rita LAU, I think she does not quite understand what the law is. If it is stipulated in the law that the opinion of the public should be taken into account as proposed by Ms Emily LAU, it will be an offence if it is not considered. As

mentioned by Secretary Rita LAU, they are in fact doing so. However, even though this is really the case, they cannot do so tomorrow. As such, it will not constitute an offence, either. As a matter of fact, if the Government does not consider the opinion of the public tomorrow, it will not have violated the law, only that it is not a good government. Of course, it may even have to step down if a motion of no confidence is passed. Now, if it is stipulated that the Government should consider the opinion of the public as suggested by Ms Emily LAU ..... In other words, let me cite an extreme example. In the course of considering the opinion of the public, if there is any hint that the Government has considered the opinion of the public or conducted consultation, but it is then revealed that it has actually not considered the information so collected, this will constitute an offence and even become a basic reason for lodging a judicial review. However, granting the absence of any stipulation, can it become a reason for lodging a judicial review or claiming that the Government .....

**DR PHILIP WONG** (in Cantonese): Chairman .....

**CHAIRMAN** (in Cantonese): Mr James TO, please hold on. Dr Philip WONG, what is your point?

**DR PHILIP WONG** (in Cantonese): Chairman, according to my understanding, Members are not allowed to speak after the Secretary has spoken. Please make a ruling.

**CHAIRMAN** (in Cantonese): Dr Philip WONG, it is not stipulated in the Rules of Procedure that the Secretary should be the last one to speak in Committee. However, as the Member speaks in response to the content of the speech made by the Secretary just now, I will also give the Secretary a chance to respond after the Member has spoken. Mr James TO, you may continue.

**MR JAMES TO** (in Cantonese): Thank you, Chairman. In fact, Dr Philip WONG has such a high seniority and should have come across this situation. I

have no alternative but to say so. If I did not have any new points nor had I heard of such an astonishing speech made by the Secretary, I would not have done so. It is because I have no intention to speak originally.

Chairman, this is related to the difference between statutory requirements and things not stipulated in law. In the past, for example, in disputes and judicial reviews relating to community radio stations or other licensing issues, it is sometimes not easy for us to find a gap to challenge the Government. Of course, if the Government has done nothing wrong, and if it is not unfair at all, I will not encourage the public to challenge it. However, if it is not stipulated in the law that the opinion of the public should be considered but the Government is actually doing this, it simply means that it is alright for not doing so.

Chairman, I need not talk much about it. Regarding the Independent Police Complaints Council (IPCC), a former non-statutory structure set up by the executive, the Government had also said that it was very important to give it a legal status as it would become part of law. That was the concept. Of course, the then situation was that it had been delayed for 10 years since 1996 or 1997. Why was the Government so scared at that time? It was because the IPCC, which was set up by the executive to monitor the Complaint Against Police Office, might even be disbanded by the Chief Executive. This was the Government's worry in 1996. Therefore, it said that we should set up the IPCC in accordance with the law. By the same token, if it is stipulated in the law that the opinion of the public should be considered, it is not superfluous at all. Rather, it has a very crucial and basic meaning that if the opinion of the public is not considered, it will be an offence in law.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Commerce and Economic Development, do you wish to speak again?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Chairman, I only wish to reiterate once again that at present, it is a

proven policy to consult and consider the views of the public and as always, we will continue to do so. In my earlier speech, I have already clearly expressed my agreement with the contents of the amendment and we will not raise objection to it. Thank you, Chairman.

**CHAIRMAN** (in Cantonese): Ms Emily LAU, do you wish to speak again?

**MS EMILY LAU** (in Cantonese): Yes. Chairman, I shall be very brief. First of all, I would like to thank those colleagues who have not spoken. However, I hope Members can support my amendment, as the Secretary has also said that she will support this amendment which has no substantive impact. Chairman, as I have proposed to add paragraph (aa), if Members vote for it later, it will be stipulated in the Ordinance and become an issue to be considered by the Executive Council first and foremost. I hope the Broadcasting Authority or the authorities can prepare a paper to illustrate how the opinion of the public can be considered and submit it to the Executive Council for consideration. I hope the authorities can really do this. After this statutory requirement has been stipulated clearly, I hope the authorities can comply with it. Moreover, I also hope that Honourable colleagues can support my amendment.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Ms Emily LAU be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Ms Emily LAU rose to claim a division.



**CHAIRMAN** (in Cantonese): Ms Emily LAU has claimed a division. The division bell will ring for three minutes.

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

**CHAIRMAN** (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 Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Dr LEUNG Ka-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.

Dr Raymond HO, Dr Philip WONG, Mr Abraham SHEK and Mr CHIM Pui-chung abstained.

Geographical Constituencies:

Mr Albert HO, 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, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert CHAN and Mr WONG Yuk-man voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 23 were present, 19 were in favour of the amendment and four abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 23 were in favour of the amendment and two against it. 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.

**CLERK** (in Cantonese): Clause 3 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 3 as amended stand part of the Bill.

**CHAIRMAN** (in Cantonese): 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): Bill: Third Reading.

**TELECOMMUNICATIONS (AMENDMENT) BILL 2009**

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the

Telecommunications (Amendment) Bill 2009

has passed through Committee 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 Telecommunications (Amendment) 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.

(Members raised their hands)

Ms Emily LAU rose to claim a division.

**PRESIDENT** (in Cantonese): Ms Emily LAU 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.

Dr Raymond HO, Dr Margaret NG, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Miss Tanya CHAN, Dr Priscilla LEUNG, Dr LEUNG Ka-lau, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Mr Paul TSE voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi and Mr WONG Yuk-man voted against the motion.

Mr CHIM Pui-chung abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that there were 51 Members present, 33 were in favour of the motion, 16 against it and one abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

**CLERK** (in Cantonese): Telecommunications (Amendment) Bill 2009.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2009 and the Poisons List (Amendment) (No. 5) Regulation 2009.

I now call upon the Secretary for Food and Health to speak and move his motion.

## **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of four pharmaceutical products, the Pharmacy and Poisons Board (the Board) proposes to add the

following four substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (i) Lenalidomide; its salts;
- (ii) Melatonin; its salts; when contained in pharmaceutical products intended to be used for the treatment of insomnia;
- (iii) Tocilizumab; and
- (iv) Ustekinumab.

Pharmaceutical products containing the above substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these Amendment Regulations take immediate effect upon gazettal on 22 January 2010 to allow early control and sale of the relevant medicine.

The two Amendment Regulations are made by the Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side-effects of the medicine concerned.

With these remarks, President, I beg to move.

**The Secretary for Food and Health moved the following motion:**

"Resolved that the following Regulations, made by the Pharmacy and Poisons Board on 28 December 2009, be approved –

- (a) the Pharmacy and Poisons (Amendment) (No. 5) Regulation 2009; and
- (b) the Poisons List (Amendment) (No. 5) Regulation 2009."

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

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Food and Health 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. 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, up to 15 minutes, and another five minutes to speak on the amendments; the movers of amendments each may speak up to 10 minutes; and other Members each may speak 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: Suspending the construction of the Government Headquarters at Tamar.

Members who wish to speak in a debate on a motion will please indicate their wish by pressing the "Request to speak" button.

I now call upon Mr Paul TSE to speak and move his motion.

## **SUSPENDING THE CONSTRUCTION OF THE GOVERNMENT HEADQUARTERS AT TAMAR**

**MR PAUL TSE** (in Cantonese): President, a few days ago, wide concerns and even disputes arose from the Council's vetting of the funding application for the Guangzhou-Shenzhen-Hong Kong Express Rail Link. In respect of this motion, some colleagues have asked why it had to be put forward for discussion again. As a matter of fact, with the commencement of works of the Tamar development project in February 2008 under a 39-month contract, the project is scheduled for completion in May 2011. Since the project is *fait accompli*, what is the point of putting it forward for discussion? President, on the surface of it, this motion debate is on the Tamar Project. However, the issue I actually wish to bring out is not limited to or has even gone beyond the pros and cons of the Tamar project. It is my wish to bring out issues related to our notion of governance and vision.

President, I would only give a brief account at this stage. After the debate of our colleagues, I hope to hold a more appropriate and detail discussion.

President, first of all, I would like to talk about our vision in three aspects. President, in the Council's Debate on the Motion of Thanks on the Chief Executive's policy address on 30 October 2009, I spent 30 minutes discussing the development of a new Central, including the Tamar site. I am not going to spend too much time repeating my views in this regard. If someone wishes to find out about the contents of my speech at that meeting, please refer to the verbatim transcript of the meeting on 30 October 2009. From page 739 onwards, I set out my vision of developing a new Central, and more importantly, of how we should further develop Tamar, together with Central or even Wan Chai, into a new international financial centre in the future. I mainly hope that more land can be reserved with a view to further developing this area, instead of dividing it up and allocating the land concerned as Government sites, thus causing many other problems. I will later respond to this issue again if needed.



President, my second vision concerns the concept of a so-called dual CBD or central business district. In my speech at the previous meeting, I did not have the opportunity to elaborate on this point. Please allow me to talk about it this time around.

President, apart from developing a financial centre in Central, we should at the same time tie in with the major development trends of China, particularly the development of Shenzhen in the next few years ..... more specifically, the policy of granting tax concessions to Shenzhen as a Special Administrative Region (SAR) will be completely abolished in 2013. Starting from 1 January 2008, this policy seeks to gradually phase out tax concessions in the Shenzhen SAR and gradually bring tax concessions in Shenzhen with those in other parts of China. By then, the tax regime of Shenzhen will align with that of other parts of China. What will be the outcome?

President, when Shenzhen ceases to be a Special Administrative Region enjoying many concessions, it will no longer attract international organizations to establish their headquarters there. Many other international companies or state-owned enterprises might even opt to relocate to other provinces or municipalities, thus impacting on the economy of Hong Kong significantly. The tourism industry alone will be severely affected since many employees in factories and management staff will no longer be staying in our neighbouring regions and thus be able to visit Hong Kong frequently.

President, I believe the officials concerned in Shenzhen and Hong Kong, in the face of this problem, must have had communication. One of the solutions might begin with the river-loop area, such as expanding the area to allow both parties to undertake co-operation projects in the area make it the SAR of all SARs. By taking advantage of the talents, tax regime and legal system of Hong Kong, and complementing them with the relatively low wages and scientific research personnel of the Mainland, this new setup may become an enormous development area.

President, Shenzhen is one of the most developed commercial areas in China, with its most developed part situated closest to the boundary areas of Hong Kong. Unfortunately, the area across the river on the Hong Kong side is, New Territories North, which the relatively remote and undeveloped. The

infrastructure, facilities and even employment opportunities there are extremely scarce.

President, in my opinion, if the Government really has a vision, it should seriously consider how it can tie in with and make the most of the development of China, that is, the development trend of Shenzhen we have just mentioned, to facilitate the development of New Territories North of Hong Kong. One of the best ways is to relocate the Government's executive organs, administrative departments and administrative facilities to this district or somewhere near this district, or even split them up further in 18 districts. Such that happen, such organs, departments and facilities will no longer be confined to Hong Kong. What is described in the *"Words of a guy in Central"* will become a part of history as our elites, professionals, and senior government officials will be found working in every district. Instead of developing a new Central, we would rather "bring prosperity" to the 18 districts, for this may be even more favourable to Hong Kong.

President, we are talking about not only economic benefits, but also the overall development direction of the community. And this leads to my third vision, that is, how we can fairly distribute the fruits of our economic development to the residents in various districts, or how they can share the benefits and how decentralization can be achieved. We seek not only to achieve administrative decentralization, but also to spread the results of economic development achieved by Hong Kong over the years to benefit the people living in Kowloon and the New Territories, who account for 70% to 80% of the total population of Hong Kong, in addition to those living in Central and on Hong Kong Island.

President, many problems, including the traffic problem can thus be resolved once and for all, because people will no longer need to flock to Central during rush hours, with only very few passengers travelling in vehicles in reversing direction but large numbers of commuters travelling in vehicles in reverse direction when they leave their workplaces. This phenomenon of "empty vehicles in reverse direction" is really a waste.

President, if our administrative centre can be decentralized and set up in the 18 districts in Hong Kong under the executive-led Government, prosperity can be

brought to the 18 districts, particularly the remote ones, effectively and quickly. There will be no need for us to rely on the Hong Kong Jockey Club to set up telebet centres in Tin Shui Wai, for the Government would have taken the lead to give a boost to many districts. By then, there will be no need for us to complain about banks not setting up branches in certain districts due to a lack of patronage, because many senior officials, professionals, and working people would take part in the economic activities in their own districts.

President, this initiative will also solve the problem of disparity between the rich and the poor. At present, many families with very low income have to spend large amounts of money on transportation. The decentralization of the administrative centre can help lower their travelling expenses. If they can work in their own local districts, not only will they save a lot on transportation expenses, their quality of life will also be improved whereas the amount of time spent on travelling will also be shortened.

President, I think I should stop at this point. I wish to thank Chief Secretary Henry TANG for joining us in this debate. I would like to listen to the speeches of the Chief Secretary and other Members before giving my concluding speech in my remaining time.

Thank you, President.

**Mr Paul TSE moved the following motion: (Translation)**

"That, in view of the series of 'Conserving Central' projects to transform the Central District put forward by the Chief Executive in his Policy Address made in October last year, this Council urges the SAR Government to suspend the project of the Government Headquarters at Tamar, and set up offices of government departments in various remote districts (such as Tin Shui Wai and districts near border crossings) and in new development areas (such as the West Kowloon District and the old airport area), according to their respective local characteristics and nature of development; in addition, through providing incentives such as tax and land premium concessions, to encourage international and large local commercial organizations to move their offices away from the city centre and/or to establish divisions/branches in remote areas, in order to:

- (a) increase the traffic to and fro the Central District, other busy residential/commercial areas and remote districts and optimize the use of limited road space and the mass transit system; reduce the traffic and traffic congestion in Central and the neighbouring areas (especially at the harbour crossings) during rush hours, as well as environmental pollution caused by traffic congestion and 'empty vehicles in reverse direction' due to an imbalance of passenger flow;
- (b) increase job opportunities in various remote districts;
- (c) lower the high travelling expenses and reduce the time involved in commuting between workplace and home for residents living in remote districts to facilitate the narrowing of the gap between the rich and the poor;
- (d) promote the economic development of remote districts to assist the fresh school leavers of those districts in finding jobs and opportunities for development; and to provide them with feasible ways to actively engage themselves in society and materialize their vision of upward mobility, thereby easing their negative sentiments in indulgence in excessive enjoyment and drug abuse to escape from reality;
- (e) alleviate the expensive land premium in Central, so as to enhance the appeal and competitiveness of Hong Kong as an international financial centre; to boost the investment value of properties in various other districts; and to spread out developments centrally located in busy areas to remoter districts;
- (f) consider leasing, selling or better optimizing the use of the priceless land lot in Tamar, so as to bring promising wealth for Hong Kong people, and the revenue so generated can be used for offering tax concessions to people, leaving wealth with the people or facilitating the reduction of fiscal deficit;

- (g) further tie in with and make the most of the overall development direction and trend of China, such as the 'Qianhai' development project; and
- (h) foster better conditions in Hong Kong for tourism development through measures such as conserving the urban area, providing more open space, improving transportation and protecting the environment."

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

**PRESIDENT** (in Cantonese): Dr Raymond HO will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Dr Raymond HO to speak and move his amendment to the motion.

**DR RAYMOND HO** (in Cantonese): President, I move that Mr Paul TSE's motion, as set out on the Agenda, be amended.

First of all, I would like to clearly express that I am disappointed with the motion moved by Mr Paul TSE. However, since it is technically impossible for me to amend the long title (that is, the heading), I have to express my disappointment by moving an amendment to the motion. Therefore, I have no alternative but to implore colleagues to vote against Mr Paul TSE's original motion and my amendment.

I believe some of our colleagues still recall that the construction works of the Tamar development project was able to commence in early 2008 after lengthy discussions by Members of this Council. As a matter of fact, the proposal of building a new Central Government Complex (CGC), a new Legislative Council Complex, as well as other community facilities, leisure facilities and open space

at Tamar was put forward in as early as April 2002. The relevant plan was also submitted to the former Panel on Planning, Lands and Works of this Council for discussion. Subsequently, the project was upgraded to Category A. In May 2003, the relevant funding application was scrutinized and endorsed by the Public Works Subcommittee chaired by me at that time. However, due to the economic downturn caused by the outbreak of SARS at that time, the project was put on hold by the Government shortly after in order to review the priority of government spending. It was only until October 2005 that the Chief Executive announced the re-launch of the development project in the policy address. After discussions held by the Council's Panel on Development and the Subcommittee to Review the Planning for the Central Waterfront (including the Tamar Site), the funding application of the development project was endorsed by the Public Works Subcommittee and the Finance Committee on 29 May 2006 and 23 June 2006 respectively.

It is evident that the project has undergone careful planning of the Government and detailed discussions of colleagues of this Council and has Members' final support.

Furthermore, it has been almost two years since the commencement of the construction works in February 2008. The foundation works are close to completion while the superstructure works have already begun. At present, we are well into 60% of the construction contract period. The foundation works and piling of the site have been completed and five stories of the CGC have already been built. It is absolutely unwise to suspend the project at this stage.

Firstly, the proposal to suspend the project will certainly affect the public impression of the Legislative Council. As the Legislative Council has already approved the funding application of the project, people will not understand if the construction works are abruptly brought to a halt while they are in full swing. Secondly, suspending the project will definitely lead to massive litigations by the contractors. According to the present progress of the construction works, it is believed that the contractors have already injected substantial resources into the project and recruited a number of staff. Moreover, they might have already signed agreements with subcontractors of various trades or experts. Moreover, I believe arrangements might have already been made for the procurement of construction materials, construction machinery or equipments. Therefore, the

contractors might institute litigations in accordance with the relevant terms of the contracts. Should this happen, the SAR Government might need to make substantial compensation, and the public will find this very disgusting. Insofar as the large amount of waste generated is concerned, the lifespan of our landfills will also be shortened.

The Tamar development project seeks to provide a solution to the problem of a serious shortage of office space in the Legislative Council and the Government Secretariat, which has remained unresolved over the years, as well as enhancing operational efficiency. Mr Paul TSE has proposed that the Government should encourage large international and local commercial organizations to relocate from the city centre through concessionary policies and other incentives. He should understand that some large international and local commercial organizations have their own considerations in choosing to set up their offices in the city centre, such as convenient transportation, easy communication and contact with business associates, as well as other merits. These organizations might also have some non-pecuniary considerations, such as their image, because this is very important to listed companies or large enterprises. Owing to these considerations, they will still be willing to pay expensive rents in order to have their offices set up in the city centre. Even if the construction of the Government Headquarters at the Tamar site is now brought to a halt, this phenomenon might not necessarily be changed.

As a matter of fact, when the Government developed new towns such as Tuen Mun and Sha Tin in the 1970s and 1980s of the last century, it envisaged that local residents would be able to work in the district where they lived, and consequently underestimated the external transport needs of these new towns. Eventually, residents of new towns still had to work across districts, and in particular, seek employment in the city centre, resulting in congestion of external road connections in Sha Tin and Tuen Mun. The construction of the Tate's Cairn Tunnel and the widening of the Tuen Mun Road and the Old Tai Po Road were solutions proposed to alleviate the traffic congestion of these two places.

The experience gained from Tuen Mun and Sha Tin tells us that detailed preparations and planning are needed for the promotion of economic development in remote districts, and suspending the construction of the Government Headquarters at Tamar will not bring any instant breakthrough in this regard. In

my opinion, on the contrary, suspending the construction works will adversely impact on residents living in remote districts instantly. According to my understanding, during the peak of the Tamar development project, the contractors will employ over 3 000 workers and staff. Suspending the Tamar project will definitely adversely affect the employment of these people. Apart from a large number of litigations arising from breaches of contracts, new rounds of planning and site selection will also increase construction costs. The ever increasing construction cost is another important factor we have to consider. Mr Paul TSE's proposal of leasing, selling or changing the land use of the land lot will also lead to other problems, including whether the five stories of the CGC already built should be demolished and restored to the original state. Should that be the case, the public will certainly query whether such an act will result in wasting of public money and contravention of the environmental protection principle. All these issues will give rise to a lot of controversies in society.

According to the original plan, the Tamar development project, upon its completion, will become the new landmark of the core zone of the Victoria Harbour. Moreover, half of the Tamar site will serve as public open space, which will be conducive to strengthening the greening works of the city centre. Furthermore, the proposal of conserving the Government Hill and converting Murray Building into a hotel put forward by the Government not long ago will bring about better conditions for the development of the tourism industry in Hong Kong, and will also create more open space for the public in the city centre. However, once the construction of the Government Headquarters at the Tamar site is suspended, the development plan will definitely be subject to change. As a result, the public might not be benefited as scheduled, and the tourism industry will also become a loser. I believe Mr Paul TSE will also need to consider this important factor.

With these remarks, President. I urge Members to oppose Mr Paul TSE's original motion and my amendment. Thank you.

**Dr Raymond HO moved the following motion: (Translation)**

"To delete "suspend the project of the Government Headquarters at Tamar, and set" after "this Council urges the SAR Government to" and substitute with "consider setting"; to delete "in addition" after "nature of development;" and substitute with "and consider"; to delete "to



encourage" after "land premium concessions," and substitute with "encouraging"; to delete "(f) consider leasing, selling or better optimizing the use of the priceless land lot in Tamar, so as to bring promising wealth for Hong Kong people, and the revenue so generated can be used for offering tax concessions to people, leaving wealth with the people or facilitating the reduction of fiscal deficit;" after "remoter districts;"; to delete the original "(g)" and substitute with "(f)"; and to delete the original "(h)" and substitute with "(g)".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Raymond HO to Mr Paul TSE's motion, be passed.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I would like to thank Mr Paul TSE for moving the motion and Dr Raymond HO for moving the amendment.

First of all, I will express the Government's stance on the thrust of the motion, that is, to suspend the development project of the Government Headquarters at Tamar. I will then give concrete responses in my concluding speech to other issues raised in the motion.

Undoubtedly, Mr Paul TSE presents a very unique perspective and point of view in moving this motion. Regrettably, the motion is in lack of convincing justifications. If it is really put into practice, a series of problems will arise.

Let me start with the importance of this project and the considerations taken into account in selecting the site at Tamar.

The Government Headquarters and the Legislative Council have been experiencing a severe shortage of office space and limitations to extending the existing buildings in recent years. This problem should be resolved in no time. In 2005, when announcing the re-launch of the Tamar Development Project, the Government already conducted a detailed study and given a full account of the site selection. Apart from Tamar, we had also studied many other proposals in detail.

In comparison with the proposal of in-situ redevelopment of the Government Headquarters and the Legislative Council, the Tamar option can be completed four years earlier, and the shortage of space currently experienced by the Government Headquarters and the Legislative Council can also be relieved promptly.

As for the proposal of locating the Government Headquarters at Kai Tak, the Government had extensively engaged the public during the period from 2004 to 2006 before coming up with the Kai Tak Development Plan. The major facilities include a world-class cruise terminal, a multi-purpose stadium complex and a Metro Park. The Kai Tak Development Plan is now being implemented.

Regarding the West Kowloon Cultural District, it will be developed into an integrated arts and cultural district by the West Kowloon Cultural District Authority. The Authority is now implementing the West Kowloon Cultural District Project with full vigour.

Having studied different proposals and views put forth by various parties, we consider that the Tamar site is most suitable for developing into the Government Headquarters, the Legislative Council and a "civic core" as open space for public use. Insofar as the long-term development of Hong Kong is concerned, the greatest merit of such an arrangement is that the executive authorities and the legislature can be put in the vicinity and close to the hub of economic activities in Hong Kong, that is, the financial centre in Central. Moreover, as the site is easily accessible to foreign visitors and local residents, this can help them liaise with Members of the Legislative Council and government officials.

As for scattering offices of other government departments in various districts, we have established policies to handle this. For those offices which are not required to be located in specified districts, they will be set up in districts where prices are relatively low but transportation is convenient as far as possible. If the situation permits, they will also be moved away from the core business areas. We have a lot of such examples.

As for whether government offices can be relocated to remote districts or new development areas, the Government will consider the relevant factors in a comprehensive manner, including the daily operational needs of the departments

concerned, cost-effectiveness, availability of convenient transportation and impact on public services. Moreover, we must ensure that public resources are effectively utilized and that the efficiency of the Government's operation and the provision of services for the public will not be affected.

However, I have to stress that such policy is based on the assumption that the government departments concerned are not required to be located in specified districts. Insofar as the site of the new Government Headquarters is concerned, having regard to such factors as operational needs and accessibility to the public at that time, we considered that the Government Headquarters should remain in the core business area in Central. Tamar is the best option both in terms of its location and the floor areas available for development.

The implementation of the Tamar project has undergone a long period of study and full consultation. After announcing the re-launch of Tamar Development Project in 2005, we listened widely to views of the Legislative Council and the public through attending meetings of the Legislative Council and District Councils, meeting with representatives of various groups and attending forums and media programmes.

After a long period of in-depth discussions, in the Legislative Council, the project has eventually gained the support of the Legislative Council, with funding approved by the Finance Committee in 2006. Moreover, we have just obtained the approval from the Finance Committee in December 2009 to increase the approved project estimate, so as to provide additional floor areas and facilities in the Legislative Council Complex, as well as additional environmental and energy conservation measures for enhancing barrier free access facilities.

President, scrapping the Tamar Development Project will give rise to a series of problems. The community will also bear serious consequences as a result.

First of all, as we have spent a lot of time to conduct feasibility studies on the sites at Tamar, Kai Tak and West Kowloon and have set the main direction for their respective long-term uses, we cannot and should not reshuffle the cards all over again. Otherwise, the key development plans in three different places on both sides of the harbour will be further delayed.

The second point concerns the integrity of the entire development plan. The contract of the Tamar Development Project covers the Legislative Council Complex and a large public open space. Suspending the construction of the Government Headquarters at Tamar means that the construction of the Legislative Council Complex and the public open space will also be suspended.

The third point concerns the implications on public money. If the project is to be scrapped and start from scratch again, a substantial amount of public money will be involved. The Tamar Development Project commenced in February 2008, and 60% of the works have been completed. They include the completion of the foundation and piling works of the site; the completion of the CGC up to the fifth floor; and the completion of the Legislative Council Complex up to the mezzanine floor. If the Tamar project is to be suspended at this stage, the Government will have to make compensation for all losses. Moreover, a colossal amount of public money will be required to restore the existing site to its original state or use it for other purposes.

The fourth point is a breach of the principle of environmental protection. Suspending the Tamar project will not only involve demolishing the parts which have already been built, but also disposing of components manufactured for the project, thereby generating a lot of construction wastes. This is absolutely against the principle of environmental protection.

In order to demonstrate the Government's determination in protecting the environment, we have strived to ensure that the Tamar project is in compliance with the principle of environmental protection and sustainable, for the purpose of promoting green construction in Hong Kong. Suspending the construction of Tamar means that we will lose such an opportunity to promote green construction.

The fifth point concerns unemployment. Suspending the Tamar project would mean a loss of 3 500 employment opportunities.

To put it simply, the existing Tamar site is selected after thorough consideration and comprehensive consultation. Suspending the Tamar project will give rise to various problems related to resources, environmental protection and employment, which is absolutely not feasible. It is also very irresponsible for us to casually shelve the project which has been scientifically proved, widely

consulted and endorsed by the Legislative Council. I urge Honourable Members to consider it prudently.

Thank you, President.

**MR WONG KWOK-HING** (in Cantonese): President, Mr Paul TSE has moved a motion today to urge the Government to suspend the construction of the new CGC. As the new Government Headquarters at Tamar is already under construction and many workers have started working, the project once undone, will not only smash the "rice bowl" of many workers, but also deprive Hong Kong of the employment opportunities created as a result of the construction project. As a matter of fact, the construction of the Government Headquarters at Tamar had undergone detailed planning and public consultation a long time ago. According to the plan, the new Headquarters will join the new Central Harbourfront as one unit. Therefore, more losses will be incurred than gains if the project is called to a halt precipitately. As this is the case, the four Members from the Hong Kong Federation of Trade Unions (FTU) will not support Mr Paul TSE's motion by voting against it. Regarding Dr Raymond HO's amendment, since Dr HO is unable to amend the title of the original motion, despite amendments to its content, we will similarly cast opposing votes in accordance with the wish of Dr HO.

President, the construction of the new Government Headquarters on the Tamar site was confirmed in 2005. If we look further back, the idea of building the new Government Headquarters was first floated in as early as 1998, and finalized in 2002. It was only later when Hong Kong experienced the economic downturn after being struck by SARS that former Chief Executive TUNG Chee-hwa suspended the project. When the development project was re-launched in 2005, the Administration conducted another round of public consultation to listen to the views of the public and created more employment opportunities during the construction of the new Government Headquarters.

According to a paper submitted by the Public Works Subcommittee on 29 May 2006, up to 2 700 new posts will be created as a result of the construction of the new Government Headquarters at Tamar. However, the latest figure provided by the Secretary just now was 3 500, including basic posts for workers and professional posts. To the construction industry which is still experiencing

high unemployment rates, the number of these posts is substantial. Secretary for Labour and Welfare Matthew CHEUNG pointed out a couple of days ago that the unemployment rate of the construction industry still stood at 7.6% for the quarter lasting from September to November last year. In other words, more than 20 000 workers were out of work. Furthermore, the number of underemployed workers also stood at 40 000. Thus, more infrastructure projects will have to commence in order to alleviate the unemployment situation faced by the construction industry. In fact, when the Legislative Council approved the relevant funding in 2006, the FTU successfully secured an undertaking from the Government that prefabricated units would not be used in the new Government Headquarters project, in order that more local workers can be benefited. Hence, the FTU would like to take this opportunity to urge the Government to honour its undertaking by refraining to use prefabricated units as far as possible, so that more local workers will be employed.

President, item (a) of the motion points out that suspending the construction of the Government Headquarters can improve the traffic in Central, whereas item (e) states that suspending the construction can alleviate the expensive land premium in Central. I am sceptical about these. In fact, the Government has been making continuous efforts in improving the planning and traffic problems faced by Central in recent years, including implementing the construction of the Central-Wan Chai Bypass, conservation of buildings with historical value in Central, planning the new Central Harbourfront, and so on. The new Government Headquarters at Tamar is just one of these initiatives. For instance, the new Government Headquarters will have a two-hectare open space connecting with the waterfront promenade. Therefore, calling the construction to a halt will also affect the planning of the whole Central district. Moreover, it is mentioned in item (f) of the motion that even if the project is suspended, the land lot concerned will be used for leasing or selling only. I believe this arrangement will not be very conducive to traffic and alleviating the land premium, or even be counter-productive.

President, although the four Members from the FTU oppose the original motion, we approve of certain ideas put forward in it. In particular, we express our support and appreciation for Mr TSE's concern for promoting the economy and employment opportunities in remote districts. As a matter of fact, the FTU has similar proposals. For instance, we once proposed developing the local community economy of Tin Shui Wai in the hope of promoting the economic

development and increasing employment opportunities in Tin Shui Wai. However, when good preparations had been made for this constructive proposal, the Government resumed the original land lot, preferring to use it as a car park rather than for development. We were very disappointed. Thus, we hope that the Government can make more vigorous efforts in implementing the planning of these new towns and remote districts, making proper arrangements for exploring business opportunities, attracting more companies and large organizations to set up offices there, developing more local economic activities and, in particular, creating more employment opportunities for residents of Tin Shui Wai and Tung Chung.

I met with a group of residents operating small businesses along the river in Tin Shui Wai the other day. As they can neither afford leasing shop spaces nor obtaining licences for their operations, they can only operate small businesses in a dawn market, or a night market, there. However, their livelihood is not protected as they will still be arrested and detained by the Food and Environmental Hygiene Department. In this connection, I urge the Chief Secretary for Administration to instruct the departments under his purview to allow more room for those who operate small businesses in remote new towns. Of course, I all the more hope that the Government can mobilize more private companies and large organizations to set up their businesses in these communities. Meanwhile, I hope that the Government will really relocate government departments which can move their headquarters to remote districts in the New Territories so as to create more job opportunities, as this will not only relieve the burden on the public in meeting transport of expenses, but will also alleviate unemployment. As a matter of fact, should the Government be able to reduce expenditure on Comprehensive Social Security Assistance, the entire society and Government will be benefited in the end. At the same time, the gap between the rich and the poor can also be narrowed. Thus, we think that some ideas in Mr Paul TSE's original motion should not be negated. We hope that the Government will learn from the spirit of the original motion, make more vigorous efforts in promoting opportunities for employment, setting up businesses and further development, with a view to helping residents in new towns.

With these remarks, President, I oppose the original motion and the amendment.

**MR LEE WING-TAT** (in Cantonese): President, on behalf of the Democratic Party, I oppose this motion. When I first looked at the motion, I really found it baffling. However, I respect Paul. Sometimes his opinions are very unique, and he has his own point of view in many ways. This is very good. Nevertheless, let us consider this. The building is already under construction — of course, anything can happen in this world, even if a building is under construction, it can still be demolished — however, if is demolished, many landfills will be required for the disposal of the construction wastes thus generated. Moreover, compensation will also be involved as I believe many contracts have already been signed. Thus, the proposal put forth in the motion may not be feasible. Instead, I would like to discuss Paul's underlying concept.

Of course, the Democratic Party supports the construction of the Government Headquarters at the Tamar site. When the proposal was first raised by the Government, its scale was enormous. We put forward a series of proposals for discussion with the Government. Subsequently, the Government accepted the views of the Democratic Party, and we also supported the relevant proposals. While expressing our support, we also had our own stance towards the various clusters of government buildings in Central, including our request for preserving the Government Hill. We would like to thank the Government for stating in last year's policy address that the Central Wing and the East Wing of the Government Secretariat would be preserved and would not be demolished. We welcome this move. As the Government will also preserve the Central Market, it will lose a substantial amount of revenue from land auction. In this respect, I believe the Government has already made some improvements in its efforts.

I have discussed with the Director of Administration on several occasions issues relating to the Government Headquarters. First of all, when Donald TSANG attended one of the Question and Answer Sessions of the Legislative Council, I pointed out that the Government Headquarters should not be situated far away from the public, as it is not the official residence of Mr TSANG. It should be the Headquarters of the people. What I mean is, although the Government Headquarters should serve as offices for senior officials and government officials, they should be open to the public like many presidential offices and offices of premiers in overseas countries. Even though the White House is heavily guarded, arrangements will still be made for the public to visit it.



I told the Director of Administration that similar arrangements should be made in the Government Headquarters with the aim of narrowing the gap between the public and the Government. At present, the public is currently not allowed to visit the Government Headquarters because this was not taken into consideration when it was constructed. Therefore, I hope that the Chief Secretary can give me an answer later as to whether the public will be allowed to, as you do, visit your office on the upper floor in future to get a view of the Victoria Harbour. This is because symbolically, the place should be accessible to members of the public.

Secondly, the Government Headquarters is regarded by the Government as a display to Hong Kong, China and the world. So, the design of the building must be satisfactory — its current design is pretty good. More space should also be provided for works of art. According to my understanding, the future Government Headquarters and the Legislative Council Complex will have space to accommodate works of art for public viewing. I hope things can be done even better in this regard.

Thirdly, the day before yesterday, a staff member from the Consulate General of Israel came to the Legislative Council to meet with me. When he saw some people petition and demonstrate at the entrance to the Legislative Council Building, he commented happily that it was wonderful to find that people were allowed to demonstrate at the entrance of the Legislative Council Building in Hong Kong — the Parliament of Hong Kong. I agreed with him and said that this is not allowed even in the United States since people can demonstrate only in places far from the entrances of the White House and the Capitol Complex. I said that this *status quo* should be maintained so that people would still be able to hand their petition letters to the Chief Executive, Secretaries of Departments, Directors of Bureaux, and Members of the Legislative Council in close range. I have once asked the Director of Administration not to place the demonstration area far from the future Government Headquarters and the Legislative Council Complex, because I believe that demonstrators in Hong Kong are peaceful. We should retain this tradition of allowing demonstrators to hand their petition letters to the Chief Executive, Secretaries of Departments, Directors of Bureaux, and Members of the Legislative Council in close range. I have also urged the Government not to build any tunnels. Chief Secretary, you must not allow tunnels leading to different places to become part of the design. Even if we are trapped, we have to leave the Building through the main entrance. In fact, we

were not besieged. When the discussion on the Express Rail came to an end on that day, I walked out of the Building myself. There is no need to build tunnels as this is rather unsightly. We have to leave the Government Headquarters in a dignified manner. We have to leave the Legislative Council in a dignified manner.

Moreover, Mr Paul TSE has also mentioned a point which I think we should discuss, namely whether all major government buildings and facilities should be concentrated in Central, or the commercial area of the Central District, including Central, Wan Chai, Causeway Bay and Tsim Sha Tsui. I have once put forward this point of view to the Secretary. In fact, I do not entirely agree with this. When we develop other districts, it is necessary for us to commit certain resources, including government buildings, cultural, recreational and community facilities, roads, railways, and so on. In our opinion, the major commercial areas of Central are already very crowded. After the completion of the new Government Headquarters, we should not put too many other facilities in the district. Therefore, the Trade Development Council Phase III Development should preferably be carried out in places like the Airport or Kai Tak rather than Wan Chai. The Central District is already very crowded. Should this situation remain unchanged, the phenomenon of "regional disparity between the rich and the poor" will not be ameliorated. We understand that committing resources is the same as bringing certain socio-economic benefits in areas, such as employment, consumption, people or tourism. If we can build major infrastructure in other districts, such as Tseung Kwan O, Kai Tak, New Territories West and New Territories East, the districts will actually be benefited. We think that the Government should give this issue more consideration. Thank you, President.

**MR PAUL CHAN** (in Cantonese): Regarding the proposals put forward in Mr Paul TSE's motion, I agree with the majority of them, such as increasing job opportunities in various remote districts; promoting the economic development of remote districts; and further tying in with and make the most of the overall development direction and trend of China. However, I find it difficult to agree with Mr TSE's proposal of urging the HKSAR Government to suspend the development project of the Government Headquarters at Tamar.

Mr TSE has called for a halt to the construction of the Government Headquarters at the Tamar site on the premise that the Chief Executive had proposed a series of projects with the aim of transforming the Central District in last year's policy address. These projects include drastically lowering the development intensities of Sites 1 and 2 of the new Central Harbourfront, inviting the Urban Renewal Authority to renovate and revitalize the Central Market, converting the original site of the former Central School and revitalizing it into a hub of creative industries, conserving the Central Police Station Compound, preserving the Central Government Offices, converting Murray Building into a hotel, revitalizing the former French Mission Building, and preserving the Hong Kong Sheng Kung Hui building cluster. I agree with the direction of these developments.

However, I believe many colleagues of this Council know that the process of constructing the Government Headquarters at Tamar had involved many twists and turns. At one point, the project was put on hold, and then re-launched. Meanwhile, a Subcommittee to Review the Planning for the Central Waterfront (including the Tamar Site) was formed to study whether there was a need to relocate the Government Secretariat at Central Government Offices and Murray Building, as well as the possible site for relocation. The funding application for the construction of a new Central Government Complex (CGC) and a new Legislative Council Complex was eventually approved by the Legislative Council in mid-2006.

In fact, I am referring to history in a bid to point out that the decision of constructing the Government Headquarters at Tamar was the result of discussions in society and this Council. The Government had also taken into account the economic situation at that time for consideration, including proposing deferring the project during the SARS outbreak in Hong Kong in 2003. In 2005, the Chief Executive proposed that the project be re-launched. If we call a halt to the project today, it would mean undoing everything discussed previously. Of course, there is a need to continuously review and update the planning and development of Hong Kong. But I have doubts as to whether we should, without any consultation and when no drastic or major changes have taken place, rigidly undo a launched project, even though five stories of the building have been built and the project is supported by the community and this Council. Just now, Dr Raymond HO has also advanced some arguments including legal claims to compensation. I think they are relevant factors and should be taken into consideration.

However, just as I mentioned at the beginning of my speech, I agree with the majority of proposals put forward in the original motion, particularly the part that involves the Government's planning for the long-term development of Hong Kong. In 2007, the Chief Executive put forward the concept of "Progressive Development", which advocates the need to strike a balance between three aspects, namely environmental protection, sustainable development, and heritage conservation. Subsequently, the Development Bureau introduced in the Final Report of "Hong Kong 2030: Planning Vision and Strategy" the concept of "New Development Areas". Under this concept, not only will lower-density buildings be developed in designated New Development Areas, there will also be convenient mass transit systems and community facilities, so that additional employment opportunities can be provided for local residents in the course of planning.

I very much hope that this concept of "New Development Areas" put forward by the authorities concerned will not become just a concept. We must learn from the experience in developing New Development Areas, and ensure that these New Development Areas after being developed, will not give people the impression that they are being abandoned and forgotten. In identifying the future New Development Areas, the Government must consider in detail the ancillary facilities and policies and make genuine efforts in providing employment opportunities for residents who have moved to live in these areas in such a way that they will not have to spend a large amount of money and time on travelling to and from their workplace in urban areas.

President, residents currently living in remote districts are now facing the problem of having "difficulties of going to work" due to high transportation expenses. Just as I have always emphasized, the Government should be more generous by extending the Transport Support Scheme to cover every part of Hong Kong and further relaxing eligibility, so that more residents living in remote districts need not worry about high travelling expenses, as this might result in dampening their desire to go to work.

President, I so submit.

**MR CHEUNG HOK-MING** (in Cantonese): President, I am afraid the proposal of suspending the construction of the Government Headquarters at Tamar in today's original motion is a belated proposal.

The funding application for the Tamar development project was approved by the Legislative Council in as early as June 2006, while the contract was awarded in January 2008. Now, with the passage of two years, the foundation and substructure have been completed. If we walk past the Tamar site, we will find that the new Government Headquarters is taking shape. According to the Administration Wing, four stories of the Government Headquarters have been completed. It is estimated that the relevant project will be completed in mid-2011.

In addition, the Government has already had a comprehensive plan to relocate the existing Government Secretariat for conservation and development. Furthermore, as the Legislative Council and its staff are experiencing a shortage of office space, relocation must be effected expeditiously. If the entire development is to be undone and relaunched, according to the experience of the Tamar development project, it will take nearly three years for site selection, discussion and endorsement by the Legislative Council, and a new round of tender and design to be completed, making it difficult to tie in with the relocation plan of the Government Secretariat and the Legislative Council. President, since the title of the original motion is "Suspending the construction of the Government Headquarters at Tamar", the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and I oppose the original motion and the amendment.

President, the DAB had advocated the setting up of the new Government Headquarters at the Kai Tak area before. Our aim was to give a boost to the economy of the neighbouring old districts. However, the authorities concerned subsequently agreed to set up Government Offices in Kai Tak. The benefits thus brought, together with the benefits brought about by developing commercial premises, a Metro Park and a coliseum, will not be far from those proposed by the DAB previously. In response to the requests of DAB, the authorities concerned have also scaled down the Tamar development project and the height restrictions to ensure protection of the ridgeline, provision of extensive open space for public use, and incorporation of environmental protection measures. After detailed

studies, the DAB has finally accepted the proposal. The funding proposal of the project concerned was also endorsed by a majority of the members of the Public Works Subcommittee and Finance Committee in mid-2006.

Apart from suspending the construction of the Tamar development project, the original motion proposes to set up government departments in various remote districts, from the West Kowloon District to the old Kai Tak airport area, and provide incentives, such as tax and land premium concessions, to encourage enterprises to move their offices away from the city centre. We agree with this idea. As a matter of fact, in the study report released by DAB on the future development of Kai Tak in 2006, we pointed out that even if the new Central Government Complex could not be set up in Kai Tak, some government departments dealing with issues relating to people's livelihood could still be concentrated in South East Kowloon through the establishment of a "one-stop" government service centre.

In the two study reports issued by the DAB in 2008 on the overall development strategy in the New Territories, we proposed a balanced community development with a view to achieving self sufficiency. In fact, our target was to introduce an appropriate ratio of government facilities and commercial elements to ensure that the districts concerned have adequate social services and employment opportunities, with a view to alleviating domestic and youth problems without the need for a large number of residents to travel across districts to work, and lowering travelling expenses. These proposals are very close to the ideas of the original motion.

With respect to providing tax and land premium concessions to encourage enterprises to move their offices away from the city centre, we welcome the studies conducted by the authorities concerned. However, we have to point out that in terms of rent and land premium, there is a large gap between the city centre and remote districts. Although the land cost in remote districts is quite appealing, why can remote districts still not attract a large number of enterprises? Clearly, the problem is not simply about "money".

President, to enhance the appeal of remote districts to enterprises, proper planning and ancillary facilities are essential to provide adequate support to enterprises intending to move to the districts, and complementary facilities in

such areas as transportation, business, and retail should also be provided. Meanwhile, we should not confine our mindset to merely concentrating our efforts in encouraging business organizations to operate in New Development Areas. We should also consider introducing education industries, new and high technology centres, expo centres, culture and tourism. These views have been put forward by the DAB in the past after in-depth studies.

Finally, the original motion has mentioned the hope of turning Hong Kong into a better place for tourism development through conserving the urban area, providing more open space, improving transportation and protecting the environment. The DAB not only supports all these, but also hopes that apart from planning properly for the conservation of Central, the authorities concerned can extend this principle to other districts, including the initiatives which have all along been advocated by the DAB — revitalizing the Tuen Mun River, improving the Yuen Long Nullah, and building integrated greening, cultural, leisure and open space. In particular, we can introduce "waterfall parks" and green open space in the Tsuen Wan District and turn it into a "Lan Kwei Fong". We also hope that the promenades in Hung Hom and the Western District can be linked up and landscaping works be carried out to provide more open space to the public. We hope that the authorities concerned can proactively listen to the proposals of the DAB, and demonstrate its determination and resolution in conserving the Central District in other districts as well.

President, I so submit.

**MR TOMMY CHEUNG** (in Cantonese): President, the Liberal Party has all along advocated the relocation of offices of government departments and enterprises to the New Territories, particularly remote districts such as Yuen Long and Tseung Kwan O, so as to boost the flow of people and inject economic vibrancy to the local communities. Nevertheless, the Liberal party does not believe the construction of the Government Headquarters at the Tamar site should be suspended in order to achieve the above-mentioned purpose, because the two are not related.

In fact, Members walking past the Tamar Construction site would learn that the Tamar development project is already in full swing. According to the papers on the progress of the project submitted by the authorities concerned, many major foundation works, such as piling and substructure works, have been completed. At present, five stories of the Central Government Complex (CGC) have already been built. Only one and a half year remains before the entire project is completed. It is indeed too late and puzzling for Mr TSE to put forward the proposal of suspending the construction now.

More importantly, once the construction work is suspended, not only will the construction costs be completely wasted, thousands of professionals and construction workers also have to stop working instantly. What is more, the Government has to face claims for compensation arising from unilateral breaches, and large amounts of public money will thus be wasted. Moreover, the design and work progress of the Legislative Council Complex and public open space on the construction site will be completely disrupted. Thus, the proposal is incomprehensible and impractical, and worse still irresponsible.

President, although the Liberal Party opposes the suspension of the construction of the Government Headquarters, we agree that the Government should adopt measures, including the policy of providing tax concession, to encourage enterprises to set up factories or offices in remote districts, and relocate offices of suitable government departments to these areas, with a view to adding economic vibrancy to remote districts. At the same time, more precious land in urban areas can thus be vacated to be used for other purposes.

As a matter of fact, according to the survey conducted by the Census and Statistics Department in 2008 on the 18 districts of Hong Kong, remote districts in the New Territories were areas badly hard hit by unemployment, with Yuen Long ranking third on the list. On the other hand, according to the latest unemployment data for the period from October to December 2009, the unemployment rates of youths aged 15 to 19 and those aged 20 to 24 were 20.1% and 10.5% respectively, much higher than the overall unemployment rate of 4.9%. These are the problems we need to face and address proactively.

During the discussion on the motion "Strengthening support for Tin Shui Wai" in this Council in as early as 2007, the Liberal Party had already proposed to inject more economic activities into Tin Shui Wai by, for instance, developing



eco-tourism and bazaars with special characteristics and urged the Government to transform Yuen Long into a base for high value-added logistics services through concessionary policies.

On the other hand, when the Liberal Party earlier expressed our expectations for the Budget to be unveiled next month, we proposed introducing a business start-up scheme for disadvantaged communities. Under this scheme, enterprises operating manufacturing industries to support the six industries or employ a certain number of workers in districts particularly hard hit by unemployment may enjoy a double tax deduction for staff remunerations. We believe the proposal will increase employment opportunities for disadvantaged communities and hope that the Government can consider it actively.

In respect of relocating the headquarters of government departments, the Government has been studying the relocation of three government buildings in Wan Chai since 2008. Meanwhile, the Yuen Long District Council has also, since 2008, been campaigning to relocate government offices in Wan Chai to Yuen Long, with a view to boosting the flow of people. It has been two years since the proposal has been raised. I hope the Government will respond to this proposal raised by the Yuen Long District Council.

President, the original motion urged the Government to "consider leasing, selling or better optimizing the use of the priceless land lot in Tamar" so as to "bring promising wealth" after the proposal of suspending "the project of the Government Headquarters at Tamar". This amounts to re-developing the Tamar site for commercial and high-density purposes. Doing so will only attract more vehicle flow and create more congestion. This is basically contradicting to the wordings of item (a), which reads, "reducing the traffic congestion in Central and the neighbouring areas".

Regarding item (g) of the original motion, we basically agree with its proposal to "further tie in with and make the most of the overall development direction and trend of China, such as the 'Qianhai' development project". However, we think careful planning and a clear account of how Shenzhen and Hong Kong can be mutually complement each other are required.

President, we support Dr Raymond HO's amendment, particularly the amendment to item (f). We are supportive of the point that every effort should be made to create more employment opportunities for local residents of remoter districts. Nevertheless, as he cannot change the title of the original motion, we cannot but oppose the amendment.

President, I so submit. The Liberal Party opposes the original motion and the amendment.

**MR CHAN KAM-LAM** (in Cantonese): President, Mr TSE mentioned in his motion today a number of inadequacies in constructing the Government Headquarters at the Tamar site. I agree with his views. He has also expressed some other views, such as the Government Headquarters should be built in remote districts for the purpose of enhancing their development potentials. I also agree with his view in this regard. I remember that in 2005, the Democratic Alliance for the Betterment and Progress (DAB) put forward the proposal of constructing the Government Headquarters in South East Kowloon. In other words, we proposed that the Government Headquarters be built in Kai Tak rather than Tamar, as it is currently planned. Today, if we look back at the circumstances at that time in assessing the reasonableness of the proposal, we will still cling to the decision we made at that time that the site should be Kai Tak, not Tamar.

According to the explanation offered by the Government at that time, there were three advantages for selecting Tamar to be the site for building the new Government Headquarters: first, generating higher yields from the lot; second, the exorbitant rents paid by some government departments for leasing commercial buildings can be saved; and third, 5 000 positions can be created. Moreover, the construction works can be brought forward a few years earlier. Of course, I understand these advantages. However, we also believe choosing Kai Tak can bring similar advantages.

The advantages brought by building the Government Headquarters in Kai Tak are actually more than the three or four major advantages mentioned just now.

For instance, in the urban areas near Kai Tak — transportation is more convenient in some old districts — renewal of its peripheral districts will also be

promoted. Of course, the transport pressure experienced in the vicinity of Central and Admiralty can also be alleviated as a result.

The old districts in South East Kowloon are facing renewal with a direction. We can see that subsequent to the removal of old buildings with the Kai Tak Airport, major development projects have not yet been carried out there. The setting up of the Government Headquarters there can actually boost the development of the entire area and turn it into an administrative, sport, leisure, cultural and tourism district, or a new landmark in Kowloon.

The Tamar site is currently the last piece of land available for development on Hong Kong Island. The construction of the Government Headquarters on the land lot will certainly affect the supply of commercial buildings in Central. If this large piece of land, which is located at the centre, could be sold, the Treasury could have pocketed a very substantial amount of revenue. Not only could the deficit be eliminated earlier, the burden on the public could also be alleviated. In our opinion, if part of the Tamar site could be used for the development of commercial buildings and the remaining 2.7 hectares for public purposes, the density of tall buildings in the Central District would have been alleviated, and the plot ratio would also be lowered accordingly.

However, with the lapse of five years, there have been substantial changes to the actual situation. Subsequent to the approval of the funding application in 2006, the construction of the Government Headquarters at Tamar, officially commenced two years ago in 2008. As at June 2009, the infrastructure works had been completed. As we frequently walked past Central, we could see that the overall construction works at the Tamar site were in full swing, and four to five stories had already been built. As the saying goes, what is done cannot be undone and the ball has already started rolling. There is no turning back. So, how can the construction be suspended and relaunched? Hence, this is something impossible.

Should the construction works be called to a halt, many problems will emerge. For instance, the construction works will not be completed. It will also be difficult for the completed infrastructure works and stories on the construction site to be used for other development purposes. Identifying a new

site would mean that the original design plan has to be replaced. The more difficult problem is to identify a suitable site for the construction of the Government Headquarters. Moreover, we have to take into account the actual situation. The claims for compensation arising from the breaches of contracts by the Government as a result of unilaterally bringing the construction works to a halt will also cause a big headache. Therefore, it is actually impractical for the Government to halt the construction of the Government Headquarters.

President, the DAB has all along advocated that government departments providing front-line services should be set up in places where members of the public are concentrated. Thus, we have been campaigning for the construction of a government services complex in the new development area in Kai Tak to accommodate government departments involving people's livelihood, fees payments, licencing or consultation services, such as the Labour Department, Hong Kong Post, the Transport Department, the Leisure and Cultural Services Department, the Food and Environmental Hygiene Department, the Inland Revenue Department, the Social Welfare Department, the Home Affairs Department, the commerce and industry authorities, the Trade and Industry Department, and InvestHK. All these departments are directly related to people's livelihood and the public. This explains why we fight for setting up a "one-stop" government service centre in South East Kowloon. We are of the opinion that the Government should set up more government offices in the future to ensure that the service centres are better able to meet the needs of the public.

Regarding the amendment moved by Dr Raymond HO today, the DAB thinks it is not absolutely unnecessary. Given the relatively low land premium of districts relatively far away from the city centre, it is simply unnecessary for the Government to provide any concessions or incentives. Such a precedent, if established, will lead to a lot of problems which will be in conflict with public interests. Thus, we oppose this amendment.

President, I so submit.

**MS AUDREY EU** (in Cantonese): President, when the Government sought funding approval of \$5.2 billion from the Legislative Council for the construction of the Government Headquarters at Tamar in June 2006, the Civic Party was against the idea. I did not know where Mr Paul TSE was at that time, nor did I

hear him raise objection. The funding proposal of \$5.2 billion was approved by the Legislative Council at that time, with 40 Members voted for and 10 Members against it. The ten Members who voted against the proposal included six Members from the Civic Party, Mr LEUNG Yiu-chung, Mr Albert CHAN, Mr LEUNG Kwok-hung and Dr Kwok Ka-Ki.

President, the reason why we voted against the proposal at that time was exactly the one currently put forward by Mr Paul TSE, that is, to protect the Government Hill, which is an issue of environmental conservation. We did not vote against it because of dioxin, a reason cited by other people. We did ask the Government to clearly examine this issue, and our objection was mainly based on traffic and environmental protection considerations. At that time, the Government asked for an additional space of 23 744 sq m to be combined with the existing Central Government Offices, which has an area of 42 200 sq m, and the Murray Building, which has an area of 33 800 sq m, to make up a total area of 99 744 sq m. This is why the new Government Headquarters will have an area of 99 744 sq m. The Civic Party objected to the proposal at that time, saying that the shortfall of more than 20 000 sq m can simply be addressed with an environmental-friendly solution as the plot ratio of the car-park at Murray Building had not been fully optimized. We made a model at that time to demonstrate that it was absolutely feasible to construct another 20-storey government complex in Central and build some addition pedestrian links to fully comply with the requirements of the Government. However, the Government insisted that its requirements must be met. The request we put forward at that time concerned the conservation of the Government Hill, cultural inheritance and public engagement. We asked for a "Tamar for the people". Although the objection we raised at that time went unanswered, we were very pleased to learn last October that the government headed by Donald TSANG eventually put forward a plan for conserving Central, including conserving the Central Wing and the East Wing of the Government Secretariat, the Central Market, the former site of the Central School, and the Central Police Station Compound. This also proves that our proposal back then was not completely invalid. Nevertheless, I would like to ask this question once again: Can the current plan of conserving Central really satisfy the aspiration of the community and achieve a bottom-up planning? I particularly hope that Secretary Carrie LAM and Chief Executive

Donald TSANG can read the article written by LUNG Ying-tai in 2006 in opposition to the construction of the Government Headquarters at Tamar.

In her article entitled "Hong Kong Cultural Sovereignty: Whose Tamar Is It?", she pointed out the site identified by a government for the construction of its headquarters manifests its mindset. She said that it was totally unjustified for the Government Headquarters to be constructed on the most expensive site. The recent identification of West Kowloon to be the terminal of the Guangzhou-Shenzhen-Hong Kong Express Rail, for instance, is quite enlightening. I have recently read from a newspaper an interview of a secondary student. In the interview, he was asked whether the terminal of the Express Rail should be built in West Kowloon. His reply actually reflected the mindset of Hong Kong people, even though he is only a secondary student. He pointed out that the Mainland selected Shibi as a terminal for the sake of developing Shibi. He asked whether the Hong Kong Government could develop Kam Sheung into a new town. But his idea was rejected by the Government because it had no interest in developing the New Territories. As a result, the terminal had to be built in West Kowloon, which meant that West Kowloon would have many stations. This reflects the Government's mindset towards sustainable development.

Therefore, on the subject of conserving Central, the Civic Party sees eye to eye with Mr Paul TSE. But unfortunately, Mr Paul TSE's call for halting the construction works now, in 2010, has come too late, given that five stories have already been built. Can you consider the issue of environmental protection? Are we going to demolish what has been built? What are we going to do with the remaining prefabricated units? How are we going to resolve the legal litigations? Therefore, to a certain extent, I agree with Mr Tommy CHEUNG that it is puzzling, or even irresponsible, for Mr TSE to move this motion now.

President, although we opposed the construction of the Government Headquarters at Tamar back then (in the year 2006), we cannot agree with Mr Paul TSE's current proposal of calling a halt now. President, we fully agree with items (a), (b), (c), and (d), proposed by Mr Paul TSE in the original motion. We agree, for instance, increasing job opportunities in remote districts, lowering travelling expenses, promoting the economic development of remote districts, and

providing more open space. However, all this cannot be achieved just by calling a halt to the Tamar development project.

Moreover, the Civic Party cannot agree with Dr Raymond HO's amendment proposing that incentives such as tax and land premium concessions be provided to encourage international and large local commercial organizations to move their offices away from the city centre because the land premium in remote districts is actually cheaper than the premium in the city centre. Providing more incentives such as tax concessions will only complicate the simple tax regime of Hong Kong. Very often, this will also give rise to numerous problems, such as collusion between business and the Government. Some people might doubt why the Government would have suddenly granted land in remote districts at a very low price to some unknown companies for development. This will trigger many problems. Thus, the Civic Party is of the opinion this policy is poorly conceived.

Therefore, our position is, we agree to certain factors raised by the Member, such as not to excessively develop some over-developed areas (such as Central). We absolutely agree with this mindset. It was also based on this reason that we opposed the Tamar development project back then and requested that the site be returned to the public. Nevertheless, even though we agree with the objectives the Member wishes to achieve, we still believe it is wrong to call a halt to the Tamar development project and provide tax concessions to encourage various government departments or international organizations to move to remote districts, as advocated in the motion. President, the Civic Party will oppose the original motion and the amendment.

**MR JEFFREY LAM** (in Cantonese): President, recently when we drove past Tamar, we could see the construction works of the new Government Headquarters progressing in full swing at the Tamar site. Up to now, five to six stories have already been built. I believe the construction works will be completed in about one and a half year's time. I will definitely object to the proposal of calling a sudden halt to the project now.

In 2006, the Legislative Council conducted detailed discussions on the funding application of the Tamar development project and eventually approved

the construction of the new Central Government Complex (CGC) and Legislative Council Complex. At present, major bureaux are scattered in many different buildings, and some of them are even required to rent non-government properties. Furthermore, both the Government Secretariat and Murray Building are over 30 to 40 years old and constantly need to be retrofitted with new facilities, such as telecommunications and electronics equipment. Upon the commission of the new Government Headquarters at Tamar, many currently scattered government bureaux and departments can be rearranged to optimize the use of office space. Moreover, offices set up in non-government commercial buildings can be vacated, so that tens of millions of dollars in rental expenses can be saved annually. These amounts of money are definitely substantial.

As for the Legislative Council, we all know that the Legislative Council Secretariat and Members' offices are now scattered in the Legislative Council Building, the West Wing of the Government Secretariat, and the Citibank Tower. I believe many colleagues have had the experience of walking back to the Legislative Council Building from the Complaints Division in the Citibank Tower. They may also have seen secretaries carrying large bags of papers to and from two different places. It is true that sometimes we can see this kind of hassle. Moreover, should the number of seats of the Legislative Council be increased in the future, a new Legislative Council Complex will be required to meet the need for sufficient space.

It is anticipated by the Administration that the Tamar development project will peak in mid-2010, and 3 000 workers will be working on the site. Should the project be undone and relaunched, the Government will definitely not save money. What is more, the Government might have to face claims for compensation from the contractors. I believe the amount will be substantial. Moreover, a large number of workers may become unemployed. Changing the use of the Tamar site will also involve going through the procedure of the Town Planning Board and a new round of consultation. It will take several years before an unknown option can be devised. So is it worthwhile to do that?

I am not forgetting the past in favour of the new. The development of the Central District has a history of several decades. I absolutely agree that while constructing new buildings to meet demands, we should preserve historical buildings with value at the same time. Thus, we are supportive of the Chief Executive's proposal of conserving Central, as proposed in the policy address,



which includes converting Murray Building into a hotel, and revitalizing the Central Market.

Members had also agreed to the major principle of leaving a "window" for Central and increasing open space during the study of constructing the new Government Headquarters at Tamar. Hence, approximately half of the land at the Government Headquarters has been designated as open space for development for cultural and entertainment purposes for public use. Moreover, the purpose of constructing P2 road is to alleviate congestion, so that the duration of vehicles staying in Central will be minimized and the air quality of the Central District be improved.

When it comes to establishing various government headquarters in various districts, as proposed in the motion, government offices can actually be found in various districts to facilitate civil servants serving different government departments to work in the most efficient manner. As for the planning of New Development Areas, such as West Kowloon and the old Kai Tak Airport, the current options regarding their use are the result of public consultation and detailed design. Take Kai Tak as an example. The relevant plan includes a world-class cruise terminal and a multi-purpose stadium. Site formation for the cruise terminal already commenced in November last year.

Regarding the New Development Areas in North East New Territories, including the "Three-in-One" New Development Area comprising Kwu Tung North, Fanling North and Ping Che/Ta Kwu Ling, the construction of the Liantang/Heung Yuen Wai Boundary Control Point, the Qianhai development, and so on, they are now at the planning stage. I believe their major direction is to implement the concept of "one-hour economic and living sphere" throughout Guangzhou and Hong Kong to facilitate the flow of people and goods, so that residents of the two places will be able to enjoy better and wider living space with the aim of achieving the effect of "one plus one will result in more than two" in pursuing joint development.

President, although Dr Raymond HO's amendment has deleted the wordings of "suspending the project of the Government Headquarters at Tamar", the title of the motion can still not be amended, as several Members pointed out just now. As the title of the motion remains to be "Suspending the construction

of the Government Headquarters at Tamar", making it contradictory to the contents of the motion, we will vote against the amendment as well as the motion.

President, I so submit.

**MR IP WAI-MING** (in Cantonese): President, the Tamar development project is one of the most important projects of the SAR Government in recent years. The funding application of the project was first endorsed by the Public Works Subcommittee of the Legislative Council with an overwhelming majority in as early as the end of May 2006 and then endorsed by the Finance Committee. It is estimated that the construction works will be completed in mid-2011. After detailed preparation, the implementation of the project concerned is now in full swing. Hence, it can be said that the construction of the Government Headquarters at the Tamar site must go ahead, and it is very difficult to call it to a halt. We have to understand that suspending the project will not only result in a substantial loss in public money, it will also severely affect the livelihood of a large number of construction workers. It will also be difficult to explain to the public. Thus, I find it difficult to agree with the proposal of suspending the construction of the Government Headquarters at Tamar, as proposed in the original motion.

As a matter of fact, the construction of the Government Headquarters at the Tamar site has brought many positive impacts to society, such as increasing employment opportunities. There is indeed no need to suspend the construction.

The economic development of Hong Kong has been seriously challenged since the financial tsunami, with the livelihood of the public being adversely affected. Despite the fact that the situation has been improved, employees of certain trades and industries are still facing problems of unemployment and underemployment. The construction industry remains hard hit by unemployment. According to the latest statistics on the local workforce released yesterday by the Census and Statistics Department, the seasonally adjusted unemployment rate fell from 5.1% in the quarter from September to November 2009 to 4.9% in the quarter from October to December 2009. Meanwhile, the underemployment rate also fell from 2.5% to 2.3%. The unemployment rates of the construction industry and the cleaning services industry are still high.

Although there is a lowering trend in the underemployment rate of the construction industry, with the unemployment rate falling for eight consecutive months, the latest underemployment figure still remains high level at 7.4%. In spite of the fact that the number of persons employed in foundation and superstructure works has risen by 6 700, the unemployment rate is still close to 7%. Hence, the employment of construction workers in this regard still has enormous room for improvement.

As we all know, the ageing problem faced by construction workers is becoming evident. There is even a crisis of a gap in supply. In addition, some of the timetables of the 10 major infrastructure projects have not yet appeared. If the Tamar development project is suspended precipitately, not only will a large number of construction workers return to the job market as job seekers, young people will also refuse to join the construction industry or leave the industry sadly due to a lack of confidence in its prospect. Eventually, this will result in a severe loss of talents in the construction industry.

In fact, the decision not to use prefabricated units in the Tamar development project helps create job opportunities, alleviate the unemployment problem faced by the construction industry and protect the livelihood of the relevant practitioners. It is worthwhile for other projects to follow this example. We also hope that the future construction project of the Guangzhou-Shenzhen-Hong Kong Express Rail will adopt this model.

Besides, as regards conservation, one of the reasons for conserving Central, as mentioned in the policy address, is that Central has an important cultural and historical value. Relocating the Government Headquarters to Tamar will provide a respite for the Government Hill, and this will precisely tie in with this objective.

With a greening environment scarcely found in Central, the Government Hill is like an oasis in a desert, and is in sharp contrast to its vicinity where the air pollution index is relatively high. As well as a good place for alleviating work pressure, it is also a three-dimensional picture book featuring the collective memory of Hong Kong people. The remaining buildings are concrete symbols witnessing the history of Hong Kong under colonial rule during the past century. Thus, the value of conserving the Government Hill is far beyond pecuniary gains. Such being the case, the construction of the new Government Headquarters at

Tamar can not only resolve the problem of a shortage of office space experienced by the Government Secretariat and the Legislative Council, but also reduce the wastage of the Government Hill. It is hoped that the Government Hill can perform its function of cultural conservation in the future, deepen the understanding of our next generations of the history of Hong Kong.

President, I oppose the original motion and Dr Raymond HO's amendment. I so submit.

**MR RONNY TONG** (in Cantonese): When I first saw the motion, I found that the objectives mentioned therein embraced two basic principles which have been actively promoted by the Civic Party. President, the first principle was that the Government should respect the rights of public in participating in public affairs and having a say in public affairs; the second in principle was to benefit different sectors through economic development. Therefore, the political vision behind this motion is very noble and worth advocating. However, when I saw the premise of the motion, I was instantly stunned because the premise seemed to highlight two unacceptable mistakes, with one concerned the timing and the other the logic.

President, the mistake with timing is the simplest. To put it rudely, there is no reason for a family planning to be made after one's wife has got pregnant. Of course, one has to resort to family planning before considering having a baby, right? He proposed undoing everything and starting afresh when something was almost half finished. No matter how noble his underlying goal is, he has to consider the consequences of undoing everything and starting anew.

President, first of all, such a sizable construction project involves hundreds of millions of dollars worth of contracts and business collaborations. So, how can these issues be dealt with by legal means? Second, and more importantly, how should the construction wastes be disposed of? President, you may recall that when I first joined the Legislative Council in 2004, New World Development and Sun Hung Kai Properties proposed demolishing the Hunghom Peninsula for the redevelopment of luxury residential units. The entire community was shocked. In particular, some environmentalists questioned why the redevelopment could be allowed and how the construction waste could be disposed of? The impact of the Tamar project which we are now discussing

would be even greater than that of the Hunghom Peninsula project. Therefore, the mistake with timing cannot be taken lightly.

However, the mistake with logic is even more important. President, I find the mover of today's motion, Mr Paul TSE, very strange — Perhaps I should not find him strange, because he proposed a similar motion to suspend funding last Saturday, and yet he voted against his own motion. His logic of acting in that manner seems to be consistent with his logic of moving this motion .....

(Mr Paul TSE stood up)

**PRESIDENT** (in Cantonese): Mr Ronny TONG, please stop for a while. Mr Paul TSE, what is your question?

**MR PAUL TSE** (in Cantonese): His remark is not consistent with the fact ..... I have to clarify the fact first.

**PRESIDENT** (in Cantonese): Mr TSE, when another Member is speaking, you should not interrupt his or her speech unless you have a point of order. Mr Ronny TONG, please go on with your speech.

**MR RONNY TONG** (in Cantonese): Thanks for the President's ruling.

President, if you take a look at those noble and essential principles in the motion, which I have just mentioned, you will find that nearly all of them are applicable to the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project. In item (a), if the "Central District" is substituted by "West Kowloon", it will become completely applicable. Item (b) proposes "increasing job opportunities in various remote districts" and "lowering the high travelling expenses for residents living in remote districts" — not necessarily for travelling to their workplace. The mention of lowering the travelling expenses and the time involved in commuting to and from the Mainland, "promoting the economic development of remote districts", "alleviating the expensive land premium in West Kowloon", "enhancing the appeal and competitiveness of Hong Kong as an international financial centre", and "considering leasing, selling or better

optimizing the use of the priceless land lot in West Kowloon" is completely applicable.

I wonder if Mr TSE will suddenly propose a motion in the Legislative Council to call for the suspension of the XRL project when a major part of the project has been completed and a big hole has been dug in the West Kowloon Station, since all the principles mentioned above must be addressed. President, we are absolutely obliged to address these principles. However, we should bring them up for discussion in society before the project is approved or initiated.

President, this motion has also highlighted a very strange phenomenon. If it is compared with the XRL project, all their considerations are actually mutually applicable. When Mr TSE voted in support of the funding for the XRL project, did he merely look at the interest of the tourism industry — that is, the benefits to be gained by the tourism sector as a result of the XRL project, while ignoring the overall interests as mentioned above? President, is this a blind spot of functional constituencies? When we refer to some major infrastructure projects or policies, their immediate reaction will very often tell us that they merely look at their own interests. When an infrastructure project does not affect their interests, that is, it has nothing to do with tourism, all these considerations will emerge suddenly and be raised. President, this is a serious logical blunder.

Just now, our Party leader Audrey EU explained that the Civic Party was almost the only political party in the Legislative Council which advocated back then that the Government should take these considerations into account. It was for these reasons that we opposed the construction of the Government Headquarters on the Tamar site. But unfortunately, President, we lost at that time. These principles could not be fully implemented because, given this distorted parliamentary system, the truth can never prevail over fallacious arguments. Why would someone uncover the truth when the construction project is halfway completed? President, this logic is absolutely hard to accept. Therefore, President, I will simply say that if this motion were proposed five or four years ago, we in the Civic Party would certainly strive to support it. However, today, we regret that it is difficult for us to act as requested and we can hardly agree with such logic. Sorry, we cannot support the motion.

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

**DR MARGARET NG** (in Cantonese): President, I have estimated that many Members from the pro-establishment camp would not support Mr Paul TSE's motion today. I am sorry that I was not in the Chamber a while ago as I had other things to attend to, therefore, I do not know whether or not Mr IP Kwok-him, Dr Philip WONG and so on had spoken against the motion. It was learnt that the new Legislative Council Building has a secret passage, and Members may leave the Legislative Council Building unnoticed. Last Saturday, some Members left the Legislative Council Building under heavy police escort, if they were in the new Legislative Council Building, they would not have to do so because they could have left the Building using the secret passage. I think that no one has made this point today; nevertheless, I also think that it is one of the reasons worth considering.

President, I do want to support Mr Paul TSE's motion. First, I totally disagree with the construction of Government Headquarters at the Tamar site, not only on environmental or land use grounds, but also because the Government's using a prime site to construct the mightiest buildings in such an arrogant, bossy and philistine way is really a big disgrace and our government culture is negative teaching indeed. We have seen the design, and we have the impression that it is simply overbearing, as if it is a luxurious flat in West Kowloon, and I am not sure who are willing to live in a place like that.

I do not know whether the Legislative Council Building is included in the Tamar Government Headquarters as mentioned by Mr Paul TSE. In fact, I think if I really support Mr Paul TSE's motion, the Secretary General of the Legislative Council will surely cry because she has made so much effort, from the design of the building, to how the facilities in the building can look after public interests, for example, to provide more spaces for the public visiting the Legislative Council, or a constitutional library which I personally desired most. However, President, we have not requested for the Legislative Council Building to be built at the Tamar site all along. In fact, the Legislative Council Commission proposed a number of sites over the past 10 years, but none of them was approved by the Government to be the site for the new Legislative Council Building, and the Administration insisted that it must be built at the Tamar site. Actually, that was the most inappropriate arrangement, because our Legislative Council is a

legislature elected by the people, therefore its style and practice must be as open as possible to facilitate easy access by the public as far as possible. However, tighter and tighter security has been taken at the headquarters of the executive authorities, metal railings are installed and guards are deployed to prevent the public from entering, and even Legislative Council Members who go there to meet with government officials are blocked by many people. The style of the two places is totally different, but both are forced to be located together at Tamar. Moreover, the building of the Government Headquarters is tall and mighty, it looks as if it has a tall gate guarded by ferocious dogs, while the Legislative Council which tries to be as sincere as possible to the public is just like a rice cooker placed at its side. It simply looks as if the Legislative Council is living under another person's roof. So, I think it is very inappropriate. But unfortunately, if we do not agree with the construction of the new Legislative Council Building next to the new Government Headquarters, the Government will not allocate land for the construction of the Legislative Council Building. Therefore, I am resentful, and I actually wanted to support Mr Paul TSE's motion very much.

However, the problem is that our positions have precisely been reversed. Just now Mr Paul TSE hastened to oppose the remarks made by Mr Ronny TONG, and he referred to the motion he proposed at a Finance Committee meeting the other day, strictly speaking, he was not opposing his own motion, he only opposed the idea of dealing with the motion instantaneously on that day. I understand that very well, and perhaps he can think of ways to oppose his own motion, or to explain that even if the motion is passed, it is not tantamount to halting the entire project, and it is unknown whether the issue of halting the project would be dealt with later. In fact, I have noticed that Mr Paul TSE seems to have left the Legislative Council Building together with Secretary Eva CHENG ..... he has not, it does not matter. I hope Dr Philip WONG will make it clear whether he has any special benefit in mind for he expects that such scenes will not be seen if the new Legislative Council Building and the Government Headquarters are constructed together at the Tamar site in the future.

President, in fact, I suspect that the leader of our party, Ms Audrey EU, has not given clearly another reason why we are compelled to oppose this motion. It is because, at this point, President, the Legislative Council has already decided to move to Tamar by the end of 2011. It does not matter, but if we are not relocating to Tamar, this building cannot be handed over to the Judiciary. The



Judiciary has already pointed out that it would restore the true colours of this building, as it was the Supreme Court Building before. In 1911, this building was officially opened as the then Supreme Court. So, in 2011 when it is returned to the Judiciary, in fact, it has been established for exactly 100 years. If we do not hand over the building, the Judiciary may force us to move out. If we want to have a place for relocation, we cannot halt the project at this stage.

President, I have to vote against the motion notwithstanding the fact that I am really reluctant to do so, but I consider that I must make myself clear, and I have also told Ms Audrey EU that I must explain clearly that I actually wanted to support Mr Paul TSE's motion.

**DR PAN PEY-CHYOU** (in Cantonese): Actually, I do not intend to speak on this subject, but as Dr Margaret NG has just asked some of our Honourable colleagues present here about the voting on the funding application of the Guangzhou-Shenzhen-Hong Kong Express Rail Link project at last week's Finance Committee meeting. At that time, some Members and government officials had to escape from the Legislative Council Building in panic, I therefore consider that there are a few points that warrant clarification.

On that day, about 20 Members, Secretary Eva CHENG, Mr Raymond TAM (that is, the Director of Chief Executive's Office) and other officials were left stranded in the Legislative Council Building for as long as six hours. I cannot speak on behalf of other people but I really felt that my personal safety was threatened. For this reason, we decided not to take the risks to leave the building. Why have we made the judgment? We were in the Legislative Council Building within the carpark; we could also see the live telecast of the frenzied behaviours of some demonstrators outside: they snatched mills barriers, pushed police officers, waved flags and shouted loudly, insulted Legislative Council Members and government officials. According to my personal judgment, it could not be guaranteed that a person so emotionally agitated would not resort to violence. That was what I thought at the time, but I was sure that other Honourable colleagues present also thought the same, that is, we decided to stay in a safe place and wait for the police to handle the matter properly. It has subsequently been proved that it was a wise move.

Thirdly, we did not escape hurriedly. What actually happened then was the police were reluctant to use violence to clear up the place — I considered that decision very correct — they did not want to force the demonstrators to leave the scene, so they chose to protect we Members and the government officials with their own bodies so that we could leave this building using the shortest path and the most appropriate methods. We walked out of the Legislative Council Building in a dignified way, thus there was no such thing as we escaped in a hurry.

Fourthly, we would also like to ask: if some Members of this Council had not given the demonstrators outside the building a false impression in the past few weeks by way of filibustering, which made the demonstrators think that, if their filibustering tactic worked, the funding application could be voted down, the emotions of the crowds of people outside would not be built higher and higher to such an extent that even the organizers, the organizing groups and individuals who organized the event could not keep some of their members under control .....

**MR ALBERT HO** (in Cantonese): President .....

**DR PAN PEY-CHYOU** (in Cantonese): ..... I would like to ask whether such a thing would happen. That is, within six hours .....

**PRESIDENT** (in Cantonese): Dr PAN Pey-chyou, please stop for a while. Mr Albert HO, what is your question?

**MR ALBERT HO** (in Cantonese): A point of order. What Dr PAN has said just now has entirely digressed from the subject, I wonder how it is related to Mr TSE's motion today? If he is interested in debating the issue he has just mentioned, I am more than happy to debate that on another occasion, but, as all his remarks have digressed from the subject, I seek your ruling.

**PRESIDENT** (in Cantonese): Dr PAN Pey-chyou, please centre on today's motion subject.

**DR PAN PEY-CHYOU** (in Cantonese): All right, after I have finished making these remarks, I will give an explanation on the subject, because this is important.

**DR MARGARET NG** (in Cantonese): President, I am sorry, I have again forgotten that if I have to clarify my remarks as quoted by another Member, should I clarify them immediately, or should I wait until he has finished speaking?

**PRESIDENT** (in Cantonese): You may clarify your remarks after he has finished speaking.

**DR MARGARET NG** (in Cantonese): Well, I just want to clarify them.

**PRESIDENT** (in Cantonese): Do you want to clarify the part of your remarks just now that has been misunderstood?

**DR MARGARET NG** (in Cantonese): Yes.

**PRESIDENT** (in Cantonese): Dr PAN Pey-chyou, please continue to speak.

**DR PAN PEY-CHYOU** (in Cantonese): Therefore, I would like to say here that, that is, as a matter of fact, if such an incident has not happened before, I believe that the incident in which Members and officials were stranded in the Legislative Council Building for six hours would not have happened. I think we can see from this incident that the design of the Legislative Council Building is certainly not suitable for the Legislative Council to handle similar incidents. I think the new Legislative Council Building will be able to improve the environment of the

Legislative Council, thus the funding arrangement is absolutely appropriate, I therefore oppose the motion and the amendment.

**DR MARGARET NG** (in Cantonese): President, I do not know if I have made myself clear just now. I used the term "in a panic" rather than "in a hurry".

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

(Dr PAN Pey-chyou raised his hand in indication)

**PRESIDENT** (in Cantonese): Dr PAN, what is your question?

**DR PAN PEY-CHYOU** (in Cantonese): I would like to clarify that I used the term "in a panic", I really used the term "in a panic" but not "in a hurry".

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

**MR LEUNG YIU-CHUNG** (in Cantonese): President, I am very surprised to find that today's motion is moved by Mr Paul TSE. There are three reasons. First of all, Mr Paul TSE supports the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL), but, why has he suddenly objected to the construction of this large-scale Tamar project? I find it very strange. The second point that I considered strange is that the project has started long time ago and the arrangements have been finalized, as pointed out by many Honourable colleagues just now. If the project is suspended at this point and arrangements have to be made afresh, there would be considerable damages in the economic and other areas. The Honourable colleagues concerned about environmental protection in particular will realize how serious the environmental problem so caused. Then, why has he proposed such a motion at this time? The third point I considered strange is that this project already got the support of many Members back then, and a few Members, only about 10 Members, opposed it, including me and Members from the Civic Party. Given that the project was

supported by so many Members then, it is quite obvious that today's motion cannot be passed if it is proposed today and there will be serious criticisms. I thus do not understand why he has proposed this motion.

However, having read his motion carefully and listened to his speech just now, I find that he actually does not plan to discuss whether or not the construction of the Government Headquarters at Tamar should be suspended. What is his major objective? His major objective is to criticize the Government's overall policy objectives. I think this is the core issue he has in mind and he also wants to challenge the Government's core values, that is, what is the priority of the Government? I think these two are his main foci.

In fact, I very much support the two points he made and I also support his on-going efforts to point out the problems of the Government. Many colleagues have said the same. The discussion about the XRL this time is in fact the same as our discussions about Tamar back then. Mr Ronny TONG has just revised some terms in the original motion as "West Kowloon" and the revised motion completely tallies with the one about the XRL. Procedure-wise, the Government's consultation on the construction of the Tamar project years ago was also inadequate. The Government keeps saying that the consultation is adequate, but it is in fact inadequate. Just like when we discussed the XRL, Secretary Eva CHENG said that the construction of the XRL had been discussed for 10 years. In fact, the Tamar issue has also been discussed for 10 years and there has been a tumult. For instance, a lot of time was spent on discussing whether the XRL should be built by Hong Kong on its own or jointly with China; these issues have been discussed for a long time but they are internal discussions within the Government and these issues were not discussed in the community. The same is true for the Tamar project. The Government has spent a lot of time discussing whether the project should be regarded as a commercial development or a development by the Administration. Certainly, the case of this project is slightly better because it has been briefly discussed in the community, but not in detail. The final proposal (be it the final proposal of the XRL or the Tamar project) actually involved very little detailed discussions in the community, and the proposal was finalized in great haste. I think these two projects were discussed in much the same way.

Hence, I agree very much with Mr TSE's point just now that we have to target the Government's policy objectives. As a matter of fact, its policy

objectives are widely criticized now. I have looked up our records and I found that on the day the Tamar project was endorsed, I said that the Government had no intention to listen to any more views. Why? As the Government already secured the support of major political parties, it did not need to bother too much and it could have its own way and implement the project. Was the XRL issue not the same? The Government stopped listening to what other Members would like to say as it had secured enough votes for implementing the project. Similarly, I also criticized at that time that the public had not been adequately consulted. In respect of the consultation on the construction of the XRL, one of the reasons why the public objected to the construction of the XRL was inadequate consultation. These situations have happened time and again, and the Government has not keenly learnt lessons. It similarly holds on to its own views and has its own way. That distresses me.

Hence, as far as this point is concerned, I fairly support the motion moved by Mr TSE today. I hold that the Government is too obstinate to change its way. We, as Members of this Council, are duty-bound to constantly make criticisms and point out problems so that the Government can correct its mistakes. The Government cannot continue to act like this. But I would like to tell Mr Paul TSE that in this parliamentary council system we need not beat around the bush and we can criticize the inappropriate policy objectives of the Government in a straightforward manner. We do not need to take the opportunity of the Tamar project to do so; he can refer to this project in a motion criticizing the policy objectives of the Government. Unfortunately, he has used this project as its theme, which invited a lot of criticisms from Honourable colleagues. I think he has actually done a disservice out of good intentions, which fails to be effective.

I hold that with the freedom enjoyed by this Council today, we need not beat around the bush and we can directly denounce the Government sharply, pointing out its faults and that its policy objectives have all along been incomprehensive and inappropriate and failed to respect public opinion. And, as far as core values are concerned, the Government only cares about values that it regarded as core values, yet, these values are completely contrary to its policy objectives. For instance, Donald TSANG always advocates the people-oriented approach, but, how people-oriented, are the Tamar project and the XRL project? The projects simply failed to produce such effects.

Hence, although I appreciate Mr Paul TSE's ideas very much, his current proposal to suspend the project can hardly win our support. Thus, on this point, I can only say that I have sympathy with him.

President, I so submit.

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

**MR CHIM PUI-CHUNG** (in Cantonese): President, the topic of this motion debate today mainly shows a few points.

To begin with, it shows the Government has acted a bit unwisely in respect of overall planning. We know that the headquarters of the Government of the Hong Kong Special Administrative Region are located in several places. But as a responsible Government, it should not use its headquarters to show its authority; it should take into account the overall planning of Hong Kong. Many colleagues have said that the Government Headquarters can be constructed at the old Kai Tak Airport, in the New Territories or even in Central and Sheung Wan. Has the Government considered these proposals in detail? I do not think it has because our Chief Executive Donald TSANG wishes to show that he is able to construct such a grand headquarters in his second term as Chief Executive. This is a symbol of authority. In fact, this is a shadow left behind from the colonial era and a deep-level contradiction. As a responsible Government, what it should do now is to serve the people. The Government should really think deeply about this.

Secondly, the motion shows that the Government lacks confidence in its influence and ability to give impetus because we know that no matter where the Government Headquarters is built, the public and other government employees will have to go there and work, or make all sorts of supporting work arrangements. Hence, no matter where it is built, the public will have to go there, which would be able to make the local district more prosperous. Admittedly, Hong Kong is different from many other countries in the world because it is only a city and it is not as influential as other countries; nonetheless, the Government has to have a better understanding of its influence, yet, it has neglected these factors.

Thirdly, President, the most important point is about transport. Undeniably, we can see that when the Government Headquarters is constructed at Tamar, they will be an additional road along the waterfront, but we should understand that there is already serious traffic congestion in Central now, when another grand building is located there in the future, tourists and local people will make "pilgrimage" there. Will this further aggravate the traffic problems in Central?

President, the fourth point is that the Government should not compete against the financial sector or other popular sectors for land because land is the property of Hong Kong people and very, very valuable. Why does the Government not use less expensive land instead and put the expensive land up for auction so as to increase government revenue? We have noticed recently that Hong Kong basically lacks resources for development and expansion, and land is the only resources that may be occasionally found. Why does the Government not use such a fine piece of land to generate public revenue but use it as a symbol of authority to be shown to other countries instead?

Hence, President, the several problems above show that we need to make assessment and analysis calmly. Only by so doing will a responsible government make progress. The Government should not be afraid of making mistakes. What matters is that it can learn from the mistakes and make people understand its situation and gain their understanding and support. The Government should not make use of this project and say upon completion of the Headquarters in 2011, "Look! How grand it is." This will certainly be the case and the scene at the waterfront will indeed be very beautiful, but the Government has to bear in mind that these are things that only the emperors in the past could do and the Government at present should try its best to avoid doing.

President, Members asked just now whether an underground passage should be built in the future at the Government Headquarters and the Legislative Council Building? Is there such a need in the future and who will be besieged? I do not know. But as a responsible government that needs to protect the rights and interests of various parties, it must have comprehensive plans. As what happened last Saturday, some pro-establishment Members were besieged while some gloated over their misfortune. This mindset is not to be desired. As a responsible government, each and every government department should protect the interests of all Hong Kong people, not just the interests of Members. Hence, the design of the future Government Headquarters and Legislative Council may



not need to include an underground passage. Nevertheless, protecting the safety of all those working there is a very, very important supporting measure.

President, this motion debate today will go down in history in the Legislative Council as a motion negated by the largest number of Members. But, I have to say that, no matter Mr Paul TSE ..... because he submitted this motion a few weeks ago. He will explain it himself later and I do not have the responsibility to explain it for him. But if his motion is supported by the least number of votes, President, you will also be held responsible, why? It is because you approved his proposing this motion. Although you do not have the authority to stop him, as a matter of fact, his motion has your approval. Many colleagues have criticized that his motion does not tally with the facts, but, many things within this Council do not tally with the facts.

**PROF PATRICK LAU** (in Cantonese): President, Mr Paul TSE has proposed a very special motion today. The original motion in fact contains many of the proposals that I and industry players have all along urged the Government to consider seriously, such as implementing overall planning, establishing local characteristics, improving transport networks, promoting job opportunities in different districts and boosting local economies. However, I hold that the Government should continue to take forward and implement these proposals, no matter the Tamar Government Headquarters is built or not. Thus, I wish to thank Dr HO for moving an amendment to delete the part on suspending the Tamar development.

As a matter of fact, it is not feasible to suspend the Tamar project now. We need to note that seven to eight-storeys of the Tamar Government Headquarters have been constructed. If the works are suspended suddenly, the Government will be dragged into a complicated lawsuit for breach of contract and it will have to pay a large sum as compensation. Not to mention that this development project and its design have been selected after a consultation process in which the public have directly participated, and that, to date, the Legislative Council Commission has already done a lot on it. President, you and I in this Legislative Council have also made a lot of efforts in the process and designing the future Legislative Council building; Members have made detailed discussions and decisions on the works. Recently, a television programme specifically

introduced the new building. Do we really wish to contradict ourselves now? I believe Mr TSE who has a legal background would firmly believe that upholding the spirit of contract is most important.

We should not forget that promoting economic development through infrastructural development is the main reason why major projects are implemented. At present, workers in the construction industry and building industry are worn-hit in terms of unemployment. The Tamar project will create job opportunities for many professionals and workers. Suspending the project will trigger many serious social problems.

President, buildings are "dead" and humans are "living". I hold that even if the worst comes to the worst and the completed building is not used as the Government Headquarters or the Legislative Council, there is still nothing to lose. We can then consider how to convert the building for private use in the future. We can also consider changing the use of the space, and there will not be any problems. Thus, there is no need to suspend the project. However, as the site has been planned for public use, and that Tamar has important historical significance, we can conversely allocate part of the site for community use. This is also feasible.

As I have said just now, I very much support the proposal about improving the planning of Hong Kong in the original motion. For instance, the Government is duty-bound to systematically and comprehensively develop remote districts such as the Lantau Island and the new development areas. I always emphasize that when the Government develops new residential/commercial areas, it must learn lessons from the development of new districts like Tuen Mun and Tin Shui Wai, and make sure that all complementary hardware and software such as basic community facilities and transport networks are in place before the residents move into the areas. Many people have said that these areas have planning errors, but there are actually errors in supporting facilities rather than planning. More often than not, after people have moved into these areas, as community facilities have not been completed, they cannot use these facilities, and they find it very inconvenient, and this in turn has created many problems. Our sector emphasizes that the Government should step up its efforts in respect of infrastructure and planning. Now, we should also consider how to attain harmony between Hong Kong and Shenzhen.

President, comprehensive consultation is absolutely paramount to establishing an urban district where people can live in peace and work in contentment. Recently at a Question and Answer Session in the Legislative Council, the Chief Executive has admitted that the usual method of consultation adopted by the Government might not be able to keep abreast of the times and should be reviewed. Hence, I wish to urge the Government again that a large-scale planning gallery should be established on a permanent basis. This is in fact very important; without such a gallery, how can people be able to be informed about the development of Hong Kong? The Government should let the public understand the overall landscape of Hong Kong and its development history; it should display three-dimensional models, provide consultation facilities and display new development projects in the planning gallery for public viewing, so that they can have an opportunity to participate in consultation and understand the direction of development in Hong Kong.

If the public is unable to understand the proposals put forth by the Government, consultation will become meaningless. Hence, in this regard, I hold that the Government should ..... To put it correctly, the planning gallery should be established years ago. Members should be aware that many cities, such as Beijing and Shanghai, also have a large planning gallery to display to the public city planning. I also want to mention in passing here that the existing planning gallery should originally be located within the City Hall, but it has now been provisionally relocated to the Murray Road Carpark. Members can see it when walking along the flyover. But this planning gallery is so small that it is difficult to show to the public how our future planning will be. I hope that when the planning gallery is relocated back to the City Hall in the future, the public can make more visits and the place will be used for consultation purpose, in a bid to enhance the public's understanding of the planning of Hong Kong.

I hold that the public are very interested in the overall planning development of Hong Kong and they are very willing to express their views. Hence, I hope that after listening to my elaboration, Mr TSE would reconsider the demerits of suspending the construction of the Tamar project. And I welcome that he would vote against his motion after proposing it, just as what he did last week at the Finance Committee meeting. Thank you, President.

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

**MR IP KWOK-HIM** (in Cantonese): I oppose Mr Paul TSE's motion. Certainly, many colleagues have already given the reasons why they opposed it, for example, the construction of the building is already underway; the foundation works have been completed; and the building under construction is already two to three storeys tall. Back then, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) proposed many alternative sites and participated in many debates. We held that building the Headquarters at the old Kai Tak Airport in East Kowloon might be more effective in terms of the overall layout. We hold that raising objection now is a wastage of public money and practically unfeasible.

As many colleagues have already spoken, I originally did not intend to speak. But, Dr Margaret NG mentioned my name just now and she said that I escaped in a panic a few days ago, that is, last Saturday. I was surprised at the way she described me. I certainly do not think that I left there in a panic. I left there in a dignified manner as everyone could see. My face appeared on all television stations and Members could see whether or not I left in a panic. Why would she describe me so, that is, I escaped in a panic? I left the place in a dignified way.

I believe the police have already made their best efforts at that time to make arrangements to protect Members so that we could leave safely after the meeting. It was only because of the overall design and historical factor of the Legislative Council Building, Members were unable to leave on that day. Under the restraints of its geographical conditions, the police had to carefully protect us when we left the building. In this connection, I must commend the police for its well-conceived arrangements. However, I wish to point out here that I clearly remember that at our discussion on the design of the new Legislative Council Building, Dr Margaret NG has emphasized all along the need for a barrier-free access to the Legislative Council. We must not assume that an underground access is definitely barrier-free. What is a barrier-free access? It should allow Members to maintain dignity; we can definitely not be under pressure and the safety of Members should not be jeopardized. We can see from this incident that Members may have different views on a certain matter. We saw that some Members were under attack and they were thrown plastic bottles. This time Dr Philip WONG was hit; next time it may hit me or other Members. As such, I truly do not understand why Dr Margaret NG would make such a comment. She has not defended Members, and has actually scoffed at or taken pleasure in other

Members' misfortune. I really find that hard to understand. Nevertheless, coming back to the motion, I hold that we should not stop the Tamar Government Headquarters project now. We oppose Mr Paul TSE's original motion and Dr Raymond HO's amendment. Thank you, President.

(Dr Margaret NG stood up)

**DR MARGARET NG** (in Cantonese): President, I wish to make a clarification.

**PRESIDENT** (in Cantonese): Do you wish to make a clarification?

**DR MARGARET NG** (in Cantonese): Yes. First of all, I did not say escape. Secondly, I did not mean to take pleasure in other Members' misfortune when I spoke just now. In fact, I think that it was very unfortunate that Members had to leave the Legislative Council Building in such a manner last Saturday; and that is why I said that the new building had catered for cases like that. I hope Members would not consider without cause that I took pleasure in their misfortune. President, I only want to clarify this point.

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

**MR WONG TING-KWONG** (in Cantonese): President, I believe Mr Paul TSE has really taken much thought to the matter in his motion, but the motion is actually unfeasible. It is said that there is a tunnel in the new Government Headquarters building because some Members were trapped in the Legislative Council Buildings after the Finance Committee meeting last Saturday, I was one of the Members trapped. But I am really surprised that some Members of this Council were indifferent and sarcastic to Members trapped who were in a difficult situation. No matter whether the term "in a hurry" or "in a panic" is used, their indifference to their colleagues was bitterly disappointing. Thank you, President.

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may now speak on Dr Raymond HO's amendment. You may speak for up to five minutes.

**MR PAUL TSE** (in Cantonese): President, Mr CHIM Pui-chung was right, even if this is not the only motion, this is the motion which received the largest number of negative votes in this Council. However, what will happen even if it is passed? The motion has no binding effect. In fact, as to the entire idea — Mr LEUNG Yiu-chung is not present now — he has basically had a grasp of my ideas. However, I would like to clarify some points .....

**PRESIDENT** (in Cantonese): Mr Paul TSE, you still have a chance to respond later, and these five minutes are especially for you to speak on Dr Raymond HO's amendment.

**MR PAUL TSE** (in Cantonese): Thank you, President. Because I am afraid that it involves the Member's misunderstanding of what I meant, and even this amendment is actually targeted at the subject of the motion, which has forced him to repudiate the motion. I find this very unfortunate because subjects are subjects, contents are contents and debates are debates. Members are often not only focusing on the subjects or contents, they also have to focus on our debates and how we vote, as everything is actually derived from the same origin. If we only focus on one point, what will happen is similar to some Members' misunderstanding of the motions I proposed at last week's Finance Committee meeting. In fact, this can reflect one thing, they are either not thinking meticulously enough, or they have a poor memory, or they deliberately make mistakes or deliberately distort the facts. I consider this one of the reasons, including the point Mr Ronny TONG pointed out just now. I believe he has remembered incorrectly or he made a mistake. However, it does not matter, when the opportunity arises, I will make a clarification.

In fact, I have also clarified this issue in a radio programme this morning. If Members are interested or Members wish to know why I did so, basing on my years of experience in the legal profession or at least my experience of more than a year in speaking and handling issues in this Council, I believe that I would not

be as foolish as some Members who deliberately twisted what I did or thought. I hope they would find out more when they have the opportunities.

As to Dr Raymond HO's amendment, in fact I have nothing more to say, because basically I have never thought that this motion would be passed, and I have never thought that Dr Raymond HO ..... even if he does not withdraw his amendment, I believe and I hope that he just wants to express his views. In this regard, I shall say no more.

President, thank you .

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, at the very beginning, I have stated the Government's stance on continuing the implementation of the Tamar project. Next, I will respond to other questions raised in respect of the motion.

First of all, I wish to stress that although we object to the proposal of suspending the Tamar project, Mr Paul TSE has put forth many concrete suggestions and ideas in his motion, and we agree with quite a number of them.

Mr TSE has proposed that we should, through providing incentives such as tax and land premium concessions, encourage large commercial organizations to set up offices in remote areas. From the prospective of planning, we concur that the economic activities in remote districts and new development area can bring a lot of advantages. The direction of our future development will attach equal importance to both the urban areas and the new development areas.

As for providing incentives, we believe that commercial organizations take many different factors into consideration in deciding the sites where their companies will be located, and land premium and rental are only some of these factors. On the other hand, the Government is implementing a number of measures to encourage owners to redevelop or renovate old industrial buildings, thereby releasing their potential. I think such measures can provide the market with more suitable sites and floor areas for commercial uses.

Moreover, Hong Kong has all along been making every effort to maintain a fair and neutral taxation regime. The location of offices is a commercial decision made by individual commercial organizations. Offering tax incentives to companies that set up offices in remote districts is against the neutral taxation principle.

Regarding the traffic conditions in Central and other busy districts, the Government has all along been encouraging the public to use the mass transit system and advocated that railways should be the mainstay. In recent years, the Government has made plans and implemented the construction and improvement of a number of transport infrastructures in Hong Kong, especially the railway networks. Upon completion of these railway projects, various districts in Hong Kong can be closely linked in an effective manner, which will in turn enhance interchange between different districts and reduce the time taken for residents in remote districts to travel to work. This can help promote economic development in remote districts.

In order to relieve the eastbound and westbound traffic on the Hong Kong Island, the Legislative Council approved funding in July 2009 for the construction of the Central-Wan Chai Bypass, to relieve traffic congestion in areas from Central to Causeway Bay. Upon completion of the Bypass in 2017, it will help relieve traffic congestion along Connaught Road Central and Gloucester Road Corridor and the existing road networks in the district. Moreover, it can also cope with the anticipated traffic growth.

Mr TSE has proposed that the Government should develop various districts, so as to increase job opportunities there. We consider that diversification of land uses can help relieve the burden on transport infrastructures and inject vitality to the local community. Therefore, in planning new development areas, it is our objective to make plans for diversified land uses, so as to create diversified job opportunities. Moreover, we will also work out land use estimates for various districts according to various forecasts about the overall social development and economic needs, so as to ensure sufficient land in various districts for suitable development and the provision of sufficient complementary community facilities. Our target is to distribute sites for employment in a more balanced manner, so as to distribute some of these sites to Kowloon and the New Territories in the future.



As to supporting the public's job searches in remote districts, the Government will set up a "one-stop employment and training centre" in Tin Shui Wai on pilot basis, with a view to integrating the services provided by different organizations. Moreover, the Labour Department will also take diversified measures such as job centres, recruitment centres, various employment schemes and recruitment fairs to enhance the efficiency of the employment market and the flow of information on vacancies, thereby assisting job-seekers in finding jobs more quickly and conveniently.

Regarding travelling expenses, the Government implemented the Transport Support Scheme in June 2007 on a trial basis, so as to encourage residents in remote districts to seek job opportunities and employment in other districts. Moreover, a series of relaxation measures were implemented in July 2008, and more than 30 000 people have benefited so far. A review on this scheme has been actively conducted. We will account for the review results to the Legislative Council as soon as possible.

Mr Paul TSE has proposed that the Government should promote the economic development of remote districts to assist the fresh school leavers in those districts in finding jobs and opportunities for development, and provide them with feasible ways to actively engage themselves in society and materialize their vision of upward mobility, thereby changing their negative sentiments of indulgence in excessive enjoyment and drug abuse to escape from reality. The Government has made a lot of efforts in this regard. Let me give some examples now.

The Government has all along been very concerned about the youth employment problem and it has implemented various schemes to promote youth employment, including the Youth Pre-employment Training Programme and the Youth Work Experience and Training Scheme. Such schemes have also been constantly improved. Moreover, the Employees Retraining Board has launched the Manpower Development Scheme, under which youngsters are provided with training courses and services through training organizations in various districts.

One of the objectives of the Commission on Youth is to develop positive values among youngsters. Among other things, the Commission has, in collaboration with youth uniformed groups and the Agency for Volunteer

Service, rolled out youth volunteer programmes with the theme of "moral development". Through encouraging young people's participation in volunteer service, the programmes aim at helping them develop positive outlooks on life and self-discipline.

As for the problem of youth drug abuse, we are tackling it on various fronts, including social mobilization and community support. We also promote public educational activities, so as to encourage youngsters to participate more in activities which are conducive to physical and mental health and stay away from drugs. Moreover, we have also helped youngsters increase "positive energy" by means of vocational training, mentoring schemes and seminars, so as to enable them to face up to the adverse circumstances courageously.

Regarding the land premium in Central, we believe that land premium and rental are among the factors for consideration of commercial organizations in deciding where their offices should be located. As it is a characteristic for office activities to assemble, commercial activities are concentrated in the urban districts. Therefore, it is not practical to have a large-scale relocation of these activities away from the metro areas.

The distribution of commercial land involves the planning of the whole territory. It is our strategy to integrate and upgrade the complementary facilities in the existing core commercial areas, and develop a hub of quality offices outside these core commercial areas. Regarding the demand for general commercial land, it is anticipated that, through the redevelopment of the existing industrial land and establishment a hub of grade B offices, it can be met through making full use of the potential of development of these sites. There is much flexibility in our planning system, which can meet the market demand for commercial land.

As for Mr TSE's proposal on leasing or selling the land lot in Tamar by the Government, I must point out that changes of land use will be involved if the Government sells the lot to developers or leases it to commercial organizations upon completion of the project. The Government Headquarters has a unique design. Even though it can be leased, it will entail a substantial amount of modification expenses. More importantly, this is against the results of our earlier consultations and studies. As such, we find the proposal unacceptable. As for whether it is suitable or necessary to offer tax concessions or implement relief measures for the public in a certain year, the Financial Secretary, in drawing

up the budget, will take these factors into thorough consideration according to the overall economic environment and the Government's income and expenditure. This has no direct relation with the revenues from the sale of individual land lots.

Regarding the proposal that the Government should tie in with and make the most of the overall development direction and trend of China, we concur with this point. The Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020) (the Outline) promulgated in January 2009 has elevated the development in the Pearl River Delta Region to a national strategic level. It has also stipulated clearly that co-operation between Guangdong, Hong Kong and Macao is an important component of the overall development strategy of China. We will co-operate closely with the governments of Guangdong and Macao, so as to jointly promote the overall development of the region.

In order to implement the Outline, we are working closely with Guangdong in drawing up together a framework agreement for Hong Kong/Guangdong co-operation, which will help translate the macro policies in the Outline into concrete measures. We will continue to work closely with Guangdong, so as to seek to incorporate the relevant initiatives into the National Twelfth Five-Year Plan. Together with Guangdong and Macao, we will also formulate regional co-operation plans on "building a quality living circle" and "cross-boundary infrastructural facilities".

As for the Qianhai development, the governments in Hong Kong and Shenzhen set up the Joint Task Force in late November last year, to explore the direction and focus of co-operation on modern services industries between the two places.

One of the main points of the future development on the Mainland will be the service sector, and Hong Kong has rich experience and talents in this regard. By giving play to the advantages of our being an international centre of financial services, trade and shipping, we have much to contribute to the further development of the Mainland. At the same time, we can make use of the opportunity to enhance and develop our service sector, in order to promote and stabilize the long-term economic development of Hong Kong.

The Legislative Council will also conduct a motion debate on how the SAR Government can tie in with the National Twelfth Five-Year Plan later today. I believe that, at that time, we will have more detailed discussions on how the SAR

Government can further tie in with and make the most of the overall development direction and trend of China.

Mr Paul TSE has mentioned that we should foster better conditions in Hong Kong for tourism development through conserving the urban area. This point is consistent with the Government's policy. We have proposed the concept of "conserving Central" as we respect the history of Central, with a view to striking a balance between environmental protection, quality space and limited land in the commercial centre.

Regarding the proposal of providing more open space, among the 18 districts in the territory, the supply of open space in 16 districts has now exceeded the requirement stipulated in the Hong Kong Planning Standards and Guidelines. As for the Central and Western District and the Wan Chai District, which have yet met such requirement, we have also planned and reserved more open space in these districts according to the population planning.

The Tamar Development Project is exactly in line with the conservation programme in the Central area, which can enable the Murray Building, the Central Government Offices Complex and the Former French Mission Building to be redeveloped on the premise of conservation, thereby providing additional public space and hotel premises to create better conditions for attracting visitors.

President, before deciding to implement the Tamar Development Project, we have conducted numerous researches and consultations over a long period of time. The project is now actively underway. It is really impossible for us to suspend it at this stage.

With these remarks, I object to Mr Paul TSE's motion.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Dr Raymond HO to Mr Paul TSE's motion, be passed. Will those in favour please raise their hands?

(No hands raised)

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

(Members raised their hands)

Dr Raymond HO rose to claim a division.

**PRESIDENT** (in Cantonese): Dr Raymond HO has claimed a division. The division bell will ring for three minutes.

(While the division bell was ringing, Mr Paul TSE stood up to indicate his wish to speak)

**PRESIDENT** (in Cantonese): Mr Paul TSE, although the division bell is ringing, the meeting is in progress. Members are still required to speak according to the relevant rules stipulated in the Rules of Procedure.

**MR PAUL TSE** (in Cantonese): President, I would like to remind Dr Raymond HO to declare interests because he has served as ..... I believe it is still valid. I just want to remind him that if he likes .....

**PRESIDENT** (in Cantonese): This is a point of order. Dr Raymond HO, do you have any interest to declare?

**DR RAYMOND HO** (in Cantonese): I do not know what it is ..... I have already declared earlier that I am the non-executive director of a company which will probably tender for government works. I do not know whether it has put in a tender or its tender has been accepted, because non-executive directors will not participate in tender work, and in general they will not talk about such projects. It is all right to put this down in the record .....

**PRESIDENT** (in Cantonese): Do you have any direct pecuniary interest?

**DR RAYMOND HO** (in Cantonese): There is absolutely no direct or indirect pecuniary interest, thank you.

**PROF PATRICK LAU** (in Cantonese): I also wish to declare interest, apart from having discussed a lot about the work on the new Legislative Council Building in the Executive Council, I have also been an adviser in an architectural design competition.

**MR JEFFREY LAM** (in Cantonese): President, as I will have the opportunity to use the new Legislative Council Building in the future, I also have to declare interest.

**MR CHAN KIN-POR** (in Cantonese): President, as I declared at the Finance Committee meeting last time, I am a salaried director of an international company which will participate in the construction of the Government Headquarters. Because it is a company of a large scale, it will engage in all sorts of projects, I really do not know what I should do, I will declare interest in respect of all these projects from now on, thank you.

(A Member raised the issue whether it would involve direct pecuniary interest)

**MR CHAN KIN-POR** (in Cantonese): The shares I have do not involve indirect pecuniary interest. However, I still have to declare interest.

(The division bell stopped ringing)

**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.

**PRESIDENT** (in Cantonese): Among the Members returned by functional constituencies, none were in favour of the amendment, 23 against it; among the Members returned by geographical constituencies through direct elections, none were in favour of the amendment, 21 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present .....

(Some Members were talking loudly)

**PRESIDENT** (in Cantonese): Members, the meeting is still in progress.

Functional Constituencies:

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mr WONG Kwok-kin voted against the amendment.

Mr LEUNG Yiu-chung and Mr Albert CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present and 23 were against the amendment; while among the Members returned by geographical constituencies through direct elections, 24 were present, 21 were against the amendment and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may now reply and you have six minutes six seconds.

**MR PAUL TSE** (in Cantonese): I have mainly made three points: first, I hope that I could seduce — the term "seduce" has become popular recently — certain ideas, or make use of certain methods to criticize people or issues in a roundabout way for Honourable Members' consideration. I mainly hope to provoke a debate among Members, and see how Members think about this matter and the rationale behind their views. I concur with the views just expressed by Mr LEUNG Yiu-chung on this matter and I am grateful to him for showing a bit of understanding of the rationale underlying my views. That said, I do not agree with one point, which is about the Guangzhou-Shenzhen-Hong Kong Express Rail Link (the XRL) and this issue because the XRL project have no connection with the Tamar project insofar as interest is concerned. However, given that this is a digression, I will make an analysis when an opportunity arises.

Second, I wish to highlight a point that I had raised in the previous debate on the funding application concerning the XRL project. If any Honourable Member or member of the public holds at any stage that there is a need to raise questions, do nitpicking or make criticisms about the Government's administration or any policy — although the construction at Tamar has been halfway completed — they may actually do so in a number of ways. Certainly, on this occasion, I am too late in taking action and my motion will definitely not be passed. Nevertheless, in fact, Honourable Members should not think that



they may put aside their responsibilities now that the motion has been passed. As I remember, at a meeting of the Finance Committee, Ms Audrey EU had raised objection and remarked that the Government had not provided sufficient information on the consultation, therefore she had failed to monitor the situation continuously. I wish to ask a question: After the funding application was approved, what has been done by the Civic Party to monitor the following up of this project? I wish to invite her to give an answer when an opportunity arises.

Third, some Honourable Members have gnashed their teeth and remarked that it is impossible to do so now because there will be a lot of demerits, including a series of problems such as legal issues. Do Honourable Members believe that I really have not considered the issue they raised, including legal and environmental protection issues, the wastage of resources and the matter's being practically unfeasible? If Honourable colleagues really hold that I have not considered these points, there is probably something wrong with them. In fact, Members from a number of political parties and individuals had spoken at that time and opined that the underlying rationale was correct. Then, may I ask what they had done in respect of the funding application in 2006? Had they filibustered? Given their serious filibustering on this occasion, had they filibustered back then? Had they raised any objection? In the absence of assistance from the post-80s youth at that time, had they actively raised objection? In 2005, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) produced a detailed report, stating that it totally opposed the Tamar project while it agreed fully to the proposal on the construction of the Government Headquarters at the former Kai Tak Airport in East Kowloon. So, why has it given up so easily? At that time, the DAB criticized the Government for completely failing to conduct consultation and remarked that it was erroneous for the Government to adhere to the deadline of commencing construction in 2007. Why has it promptly accepted ..... I wonder if this is due to the Chief Executive's lobbying. Why has it given up so quickly? Why have everybody remarked today that many ideas are belated? Mr Ronny TONG has even asked a question about how family planning can be carried out when a woman is already pregnant. Have they stuck to the deadline set in 2006? Has there been monitoring and follow-up? Have they tried to stop it before a woman becomes pregnant?

President, I do not wish to reply to the remarks just made by each and every Member because their remarks are usually based on ..... Certainly, a lot of questions and work should not have been asked and done at this moment. Hence, it is not necessary for me to give answers. What matters is that Honourable Members concur with many underlying rationales and hope that the authorities could treasure this opportunity. Although the funding application regarding the XRL project has been approved, every one of us is duty-bound to take follow-up action when problems arise, including the Tamar site at present. Recently, I sought advice from one of the persons in charge of the most renowned estate agency in Hong Kong: he estimated that the Tamar site was worth \$67.8 billion at present, an amount sufficient for building the XRL.

President, before ending my speech, I wish to give a brief introduction of a person. I am going to talk about Governor MACLEHOSE. He assumed office in 1971 and his tenure of office as Governor is the longest in Hong Kong. What had he done while he was in office? In view of serious corruption at that time, he set up the Independent Commission Against Corruption. As regards housing, he launched in the 1970s the Ten-year Housing Programme in the face of soaring population growth in Hong Kong. Subsequently, he approved the construction of the Mass Transit Railway and introduced in 1978 the Home Ownership Scheme, and the nine-year free education policy. He was the first Governor who visited Beijing and had discussions with DENG Xiaoping on the future of Hong Kong. President, however, Governor MACLEHOSE had not made every effort at that time to promote the construction of the Government Headquarters at Tamar or any Government Headquarters. Thank you, President.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Paul TSE rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Paul TSE 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:

Mr Paul TSE voted for the motion.

Dr Raymond HO, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the motion.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mr WONG Kwok-kin voted against the motion.

Mr LEUNG Yiu-chung abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, one was in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, 21 were against the motion and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second motion: Actively participating in the "National Twelfth Five-Year Plan".

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

I will call upon Mr WONG Ting-kwong to speak and move his motion.

### **ACTIVELY PARTICIPATING IN THE "NATIONAL TWELFTH FIVE-YEAR PLAN"**

**MR WONG TING-KWONG** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Just at the beginning of 2010, a small group of radical "post-80s" youth in society was incited to besiege the Legislative Council in protest against the Express Rail Link funding. They confronted the police on the streets, and demanded a dialogue with the Government in a rude and violent manner. However, what they have not thought of is that violent protests will only undermine the foundation for dialogue and topple the core values of pursuing rationality, peace and rule of law. It will never bring a democratic future and a stable social environment to Hong Kong if one stands stubbornly opposing things for the sake of opposing and incessantly stirring up controversies and confrontations. What is more worrying is that some people only care about their

own interest or the self-interest of a small group to the neglect of the interest of society as a whole, and they will rack their brains to play "political tricks" with the intention of bundling up the general interest of Hong Kong.

The fundamental elements that have kept Hong Kong stable and prosperous over the past 12 years since Hong Kong's reunification with China are being irrationally eroded. Some people try to challenge the Basic Law by introducing the so-called "referendum" in the vain hopes of changing the constitutional status of Hong Kong as a special administrative region of the People's Republic of China, which is extremely dangerous and irresponsible. We should criticize such acts and stem these activities for the well-being of Hong Kong and for every Hong Kong citizen who works for a more democratic and prosperous Hong Kong.

In these 12 years since the reunification of Hong Kong, we have seen that only by compliance with the Basic Law and abiding by the objective and principle of "one country, two systems" and "Hong Kong people ruling Hong Kong" will Hong Kong be able to maintain its prosperity and stability, the talents of Hong Kong youth be brought into full play, and their aspirations be realized.

In these 12 years since the reunification of Hong Kong, we have seen that the future of Hong Kong has been closely linked with our Motherland. The speedy and robust development of our national economy following the reform and opening up of the Mainland has brought pride to all Chinese including the Hong Kong compatriots as well as substantive benefits and development opportunities to the Hong Kong economy. Every time when Hong Kong encounters any hardship, the Central Authorities and the provincial and municipal governments on the Mainland will extend their great support to assist Hong Kong in overcoming hurdles one after another. Only with such strong national backup for Hong Kong can Hong Kong maintain its long-term stability and development.

I think it is very necessary and meaningful to revisit and identify the causal relationship which enables Hong Kong to maintain its development and stability. The general public in Hong Kong also understands that Hong Kong now breathes together and shares the same destiny with our country. Hong Kong cannot deviate its course from the extended family of our Motherland, and go off course

from the Basic Law and the principle of "one country, two systems". Hong Kong needs to develop its economy, create jobs, improve people's livelihood, and develop democracy, all of which require support of our Motherland as well as co-ordination and alignment with the overall development of our nation.

The Year 2010 is the last year of our country's 11th Five-Year Plan (FYP) and a critical year for the country to commence the preparation of the 12th FYP. We must hold tight this rare opportunity and think seriously what role Hong Kong will play, what function it will fulfil, and how the plans should be mapped out to the best interest of its sustained development and the long-term benefit of its 7 million citizens in the nation's overall economic and social development in the next five years from 2011 to 2015

On examining the present situation of Hong Kong, we see that there exist many problems, some of which are deep-rooted conflicts. With the beginning of 2010, surveys in society on Hong Kong's competitiveness show that the competitiveness of Hong Kong has been constantly weakened. According to a survey announced by the Hong Kong Chamber of Commerce on 6 January, 60% of the interviewed members anticipated that it would be difficult for Hong Kong to improve its competitiveness in the next three to five years, while 41.2% considered that Hong Kong's competitiveness has declined over the past year. This adequately reflects the worries of the business sector and their lack of confidence in the prospect of economic development, which deserve serious concern of the SAR Government and all sectors.

Another survey came from the China Institute of City Competitiveness, which announced the 8th Chinese City Competitiveness Rankings on the 30th of last month, revealing that Hong Kong has dropped to the eleventh place from the seventh place in growth competitiveness among major cities all over China with Shenzhen currently ranking the first, and Shanghai rising three places from the fifth place to the second place. The Institute pointed out that despite the fact that Hong Kong still outshined other cities in economic strength, the speed of its development had been surpassed by the neighbouring cities and regions, particularly in view of the rapid emergence of Shanghai and the fast growth steadily achieved by Shenzhen, which very much reflected the slow pace of Hong Kong's progress. In the face of increasingly serious internal attrition, Hong Kong should be on guard against the problem and reflect on itself.

In recent years, provinces and cities on the Mainland have, one after another, taken the initiative to submit development proposals and intents to the Central Authorities, many of which have been recognized and accepted by the Central Authorities, and incorporated into the National Development Strategy. For instance, Shanghai has been identified as a financial centre and a shipping centre at the national level and Hainan Province as an international tourist island, whereas Guangdong Province has to be developed into a modern manufacturing and services centre in China, and Fujian Province will develop the Haixi Economic Zone, and so on.

As an international financial centre in Asia with a long history, Hong Kong has had an experience of operation and development for many years. However, Hong Kong's status as a financial centre is facing powerful challenges from Shanghai. Despite the fact that Hong Kong still maintains its advantages in respect of tax system, legal system, unrestricted foreign exchange and free flow of information, and so on, the gap in other aspects have been gradually narrowing down. It is very obvious that Shanghai, as a national economic hub and a leader in the Yangtze River Delta region, has the advantage of playing the role of a "locomotive". Shanghai has since last year been identified for development into a financial centre and a shipping centre representing the situation of economic development in China. It remains uncertain whether Hong Kong is still able to progress in tandem with Shanghai to become an international financial centre in Southern and Northern China respectively if Hong Kong does nothing to make improvement.

Apart from the financial services industry, the development of other industries in Hong Kong has been making no progress in recent few years. In a situation where the neighbouring regions are developing at high speed, such industries as shipping, trading and tourism in which Hong Kong used to enjoy advantages are fading in varying degrees. In logistics, with the speedy development of railways, ports and airports on the Mainland, Hong Kong's advantage does not exist any more; in trading, with the continued opening up of China and the implementation of the Three Links across the Taiwan Strait, it is inevitable that Hong Kong's export and re-export trade will dwindle, and with the national economy being switched to domestic consumption, the status of Hong Kong as a trading centre will be difficult to maintain; in tourism, it will not last long if Hong Kong merely relies on the Individual Visit Scheme for Mainlanders. We are worried that the greatest attraction of Hong Kong as a "shopping paradise" for Mainland visitors will also face the challenges from the

evergrowing retail industry in provinces and cities on the Mainland in the long run.

The Mainland aside, Singapore, another competitor of Hong Kong, is also adopting active measures. When China begins to make preparations for the 12th FYP, Singapore has been working quietly to secure advantageous positions in many regions in China, including the environmental protection development projects such as the Eco-City and Solar City jointly invested by China and Singapore. In addition, Singapore has also participated in other projects such as the development of Pingtan Island and the joint establishment of a Knowledge City in Guangdong Province.

Hong Kong should understand that it does not have long-lasting advantage. It is like sailing against the current: either you keep moving on or falling behind. You will be marginalized if you remain stagnant. As even our neighbouring competitors are striving for a favourable position in the 12th FYP, how can Hong Kong remain indecisive and hesitant in making decisions?

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is of the opinion that not only should Hong Kong actively participate in the 12th FYP, it also has to put forward proposals to request the Central Authorities, say in regard to enhancing Hong Kong's status as a financial centre, to further strengthen the development of Hong Kong as an offshore centre for Renminbi or an international wealth management centre for Mainland enterprises and individuals, and request the Central Authorities to support Hong Kong in the establishment of an offshore financing centre for national technology and environmental protection industries, and even the development as a carbon trading platform for China, and so on.

Moreover, the professional services industry in Hong Kong has a relatively strong edge, and is well equipped to become a professional services support centre to assist Mainland enterprises to "reach out" internationally. With the recent re-emergence of protectionism in international trade, Mainland enterprises have to face more and more "anti-dumping" investigations around the world. We can absolutely seek for a role for the professionals in Hong Kong to play by employing their expertise to assist Mainland enterprises in resolving issues concerning international trade.



President, as regards the six economic areas proposed by the Government of the Hong Kong Special Administrative Region (SAR), we must also seek and explore more development opportunities at the time when the Central Authorities are making preparations for the 12th FYP.

All in all, with the Mainland economy increasingly booming and its society rapidly developing, it will bring unlimited space for the development of Hong Kong's economy. The DAB believes that it is time for the Government to launch discussions and studies in the community to seek advice and tap the wisdom of the people for formulation of plans to reap good results.

Now, the most pressing tasks for us is that Hong Kong should get tangled things straightened out, awaken from unnecessary arguments and internal attrition, identify the way for future development, participate in the National 12th FYP, and actively find ways for Hong Kong to achieve enhanced competitiveness and sustained development. In this connection, the SAR Government should take up the responsibility to lead the community into in-depth discussion and conduct extensive consultation of public views with a view to tapping the wisdom and fostering support of the people, in order to properly make preparation and lay a solid foundation for the future development and progress of Hong Kong.

With these remarks, President, I beg to move.

**Mr WONG Ting-kwong moved the following motion: (Translation)**

"That, as the research and preparation of the Outline of the Twelfth Five-Year Plan for National Economic and Social Development of the People's Republic of China has commenced, which will map out the economic and social development for the years from 2011 to 2015, this Council urges the SAR Government to expeditiously make plans and examine the positioning and role of Hong Kong in the country's economic development in a new setting of economic development, and actively participate in the early preparation of the 'National Twelfth Five-Year Plan', with a view to laying a good foundation for the future economic development of Hong Kong, so as to facilitate Hong Kong's economic restructuring and resolve the problem of structural unemployment, which has been plaguing Hong Kong for a long time, as well as the deep-rooted problems existing in economic development."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr WONG Ting-kwong be passed.

**PRESIDENT** (in Cantonese): Ms Miriam LAU will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

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

**MS MIRIAM LAU** (in Cantonese): President, I move that Mr WONG Ting-kwong's motion be amended.

In recent years, the Mainland economy has made fruitful achievements. There are many factors for this, but the contribution made by an appropriate national plan is indispensable, as it can provide the Government with macroscopic and clear guideline for resource allocation and policy co-ordination, thus offering more merits than demerits to the long-term economic development.

Hong Kong has all along upheld the governance principle of "big market, small government". However, a globally-engulfing financial storm reveals that it is very dangerous to totally rely on the market force. Besides, in the face of the complicated and volatile external environment, many small and medium enterprises in Hong Kong feel that they are isolated and powerless with a bleak future. Therefore, I believe it will be very beneficial to raising the competitiveness of enterprises and enhancing the economic development if the SAR Government can complement the market force with appropriate economic planning.

Unfortunately, as Hong Kong and the Mainland have, for a long time, maintained a relationship of being independent of each other, coupling with the economic and political impact suffered initially after its reunification with China, there has been no time to build a close relationship of co-operation with the Mainland, hence giving away many important opportunities in which Hong Kong can develop its economy by leveraging on the reform breeze blowing on the Mainland.

So, when our country announced the 11th Five-Year Plan (FYP) in March 2006, there was only a very small part about Hong Kong. In the entire FYP, only a short paragraph at the end touched on Hong Kong. If Hong Kong does not actively strive to participate in the 12th FYP to be announced early next year, it is likely that Hong Kong will be marginalized very soon.

Since last year, the Liberal Party has more strongly called on the SAR Government to participate actively in the 12th FYP, and LIU Yandong, State Councillor, also spared no time to remind that Hong Kong and Macao should participate in the 12th FYP when she visited Hong Kong in early December.

However, the Secretary for Constitutional and Mainland Affairs, Mr Stephen LAM, only went to Beijing as late as on the 14th of this month to discuss with the Mainland how Hong Kong can align with the 12th FYP, which was nearly one and a half month late.

Moreover, Mr Stephen LAM said that he would only discuss with the National Development and Reform Commission how to enhance Hong Kong's status as an international financial centre and a trading and shipping centre, and how to go further on the basis of CEPA. These topics are actually very vague and general. There is not even any specific policy direction. The situation is somewhat worrying indeed.

Actually, according to the decision-making process of the 12th FYP, all Ministries, Commissions and Offices, as well as provinces, regions and municipalities under the State Council have preliminarily completed their planning in the early second half of last year, and submitted their unified and consolidated plan to the State Council. So, the SAR Government is indeed a bit late and slow in its progress.

As such, the amendment that I propose today is to request the Government to accelerate its pace to sort out a more specific policy proposal for submission to the Central Authorities to promote the development of the four pillar industries and the six economic areas with good potential, so as to foster and enhance the status of Hong Kong as an international centre for financial services, trading and

shipping, and so on, and develop the six economic areas into new pillar industries for a more prosperous economy in Hong Kong.

For instance, speaking of the four pillar industries, we consider that we should lower the threshold for Hong Kong's financial institutions in setting up businesses on the Mainland, seek for the expansion of the multiple entry endorsement under the Individual Visit Scheme to cover the entire Guangdong Province as well as other provinces and cities, improve the re-export shipping arrangements, and give support to Hong Kong enterprises on the Mainland.

As for the six economic areas with good potential, we think that we should put in place the entry endorsement arrangements for medical treatment, seek for the Mainland's recognition of the test reports issued by local laboratories and testing and certification institutions, set up more national key laboratories in Hong Kong, and so on.

We put forward these suggestions after having conducted in-depth studies and extensive consultations with the relevant sectors, and hope the Government will seriously consider them.

In addition, I would like to point out that Hong Kong needs to strengthen the development of its software and hardware first to facilitate smooth connectivity while actively participating in the 12th FYP. It is because only through this can Hong Kong really align with the Mainland economically, and enjoy fully the benefits brought about by participation in the 12th FYP.

For example, on software, the Government should strengthen its ability in policy execution, enhance co-operation between departments and minimize bureaucracy with a view to expediting the implementation of policies and avoiding the situation of deliberation conducted without decision and decision made without action.

In addition, the Government should also strengthen its efforts in training. Actually, from the six economic areas to the traditional pillar industries, there exists a general shortage of manpower. For instance, in the testing and certification industry, there is a shortage of as many as 15 000 talents. So, the Government should really map out more specifically a blueprint for manpower

training in order to strengthen training on all fronts and provide talents for all industries.

Apart from software, the Government also needs to upgrade the level of hardware infrastructure as soon as possible. For example, in respect of air transport, the Government should speed up the construction of the third runway at the Airport to raise the air cargo volume.

The Hong Kong section of the Express Rail Link (XRL), for which the funding has just been approved, is in fact an important infrastructure facility. The Mainland has made the construction of a nationwide XRL network a state policy. Once the XRL network across the nation is fully completed, the economic benefits brought about by it are unestimatable. Therefore, the Hong Kong section of XRL must be completed as soon as possible to align with the XRL network on the Mainland, or else Hong Kong will only be marginalized, and it will also be difficult even to maintain its economic dynamics, let alone achieving further development.

Of course, in launching any large-scale infrastructure development, the Government must conduct extensive public consultation, increase policy transparency, and forge a greater consensus in society, so as to avoid the intensification of social division as a result of economic development.

With these remarks, President, I beg to move.

**Ms Miriam LAU moved the following amendment: (Translation)**

"To add "our country's economy has made fruitful achievements in recent years, proving that appropriate planning is conducive to long-term economic development;" after "That,"; to delete "laying" after "a view to" and substitute with "facilitating further development of the four pillar industries and the six industries in Hong Kong, together with expeditious upgrading of the level of our own software and hardware infrastructure to tie in with such developments to lay"; and to add ", thereby consolidating and enhancing Hong Kong's status as an international centre for financial services, trading and shipping, etc., and developing the six industries into new pillar industries, so that Hong Kong's economy will prosper further" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Miriam LAU to Mr WONG Ting-kwong's motion, be passed.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, today I am very pleased to have the opportunity to come to the Legislative Council to listen to the suggestions and views of Members on the work relating to the National 12th Five-Year Plan (FYP), as such work concerns the general direction of the future development of Hong Kong, and there will also be new room of development in various policy areas.

Over the past 30 years, Hong Kong has fully participated in the industrialization and modernization of the coastal areas on the Mainland, and capitalized on many opportunities to achieve the smooth restructuring of its economy since the reform and opening up as well as the "Four Modernizations" of our country.

Since the reunification of Hong Kong, the economy of Hong Kong and that of the Mainland have been developing on the basis of "one country, two systems" and the Basic Law, and the economic co-operation between the two places has actually increased continuously with closer and closer ties with each other. For instance, commencing from 2003, we have implemented 24-hour customs clearance at Lok Ma Chau/Huanggang Control Points. We have, together with the Central Authorities, formulated the policy of Individual Visit Scheme, and signed the Mainland and Hong Kong Closer Economic Partnership Arrangement with the Mainland (CEPA), and so on. This close co-operation relationship has been built up in a gradual and orderly manner over the years, and it is also widely and generally recognized, consented to, and supported by the Hong Kong community.

I believe Members would agree that the policy direction of our country's future development will have a bearing on how Hong Kong can continue to maintain its advantage in global competition. Therefore, the SAR Government attaches great importance to the work in support of the national plan.

In the 11th FYP, the Central Authorities expressly indicated that it "supports Hong Kong's development on fronts such as financial services, logistics, tourism and information services, and the maintenance of Hong Kong's status as an international centre of financial services, trade and shipping". In

order to examine the opportunities and challenges for Hong Kong under the National FYP in a systematic and in-depth manner, the SAR Government held the Economic Summit on China's 11th FYP and the Development of Hong Kong in September 2006, and formed four Focus Groups under the Summit on Trade and Business, Financial Services, Maritime, Logistics and Infrastructure, and Professional Services, Information & Technology and Tourism, which have all submitted reports of their respective sectors to the Chief Executive and put forward a number of strategic proposals. The SAR Government has since been closely following up the implementation of these proposals.

As to how we can tie in with the 12th FYP, the Chief Executive pointed out in the 2007-2008 Policy Address that we will strengthen our communication with the Mainland authorities and put in place appropriate working mechanisms, so that the SAR Government can take every action in supporting the preparation of the National 12th FYP under the principle of "one country, two systems".

The SAR Government has adopted a series of measures to follow up the relevant proposals:

First of all, as early as in end-2008, the SAR Government already established direct working relationship with the National Reform and Development Commission (NRDC), and has since maintained a close contact with it. The Chief Executive has also spoken of the work that the SAR has carried out to tie in with the 12th FYP on various occasions and in meetings with leaders in the Central Authorities.

Second, I led a SAR Government delegation to Beijing and met with the NRDC in May last year to discuss matters on the initiatives taken by the SAR Government to support the 12th FYP.

Third, when a delegation from the NRDC and the Hong Kong and Macao Affairs Office of the State Council came to Hong Kong to attend the Conference on Global and China's Economy and Hong Kong's Future Development organized by the SAR Government in September last year, they also had meetings with the relevant policy bureaux and departments of the SAR, in which we had had direct exchanges on what the SAR Government has done to support the 12th FYP.

Fourth, I, together with colleagues of various policy bureaux and departments, visited Beijing again last week to have meetings with the NRDC to further explore how the SAR can tie in with the National 12th FYP. I met with the media after the meetings to elaborate on the details.

So, I believe Ms Miriam LAU would understand that actually our work did not just start last week and instead, we have been taking it forward since the year 2007-2008. Not only have we embarked on work in these three major policy areas that I mentioned to the media last week, actually we are also well aware that discussions with various ministries and commissions of the Central Authorities on many specific proposals under these policy areas are now in progress.

Therefore, President, in handling the work in supporting the 12th FYP, we have to work for the benefit of Hong Kong and we also need to tie in with the further development of the Mainland.

Since the reform and opening up of our country in 1978, the industrialization on the Mainland has basically completed, especially in the coastal areas. In the days ahead, we hope that Hong Kong and the Mainland can work together to drive forward the Mainland's policy direction of "enhancing the secondary industries and developing the tertiary industries". We also hope that Hong Kong can continue to make contributions. We, therefore, have made some suggestions to the Central Government in various policy areas such as financial services, service industry, tourism, environmental protection, and so on.

There are much for us to do in the future to align with the National 12th FYP. We are confident that Hong Kong will continue to play an active role in the 12th FYP mainly for the following three reasons:

First, the initiatives taken by the SAR Government to tie in with the National 12th FYP are supported by the Central Government. Ms LIU Yandong, State Councillor, said in her visit to Hong Kong in December last year that the 12th FYP would study the functional positioning and mechanism of Hong Kong and Macao in the reform and opening up as well as modernization of the country, and she hoped that Hong Kong could seize this rare opportunity. Moreover, Premier WEN Jiabao also said during the Chief Executive's duty visit



in December last year the SAR Government would be notified of the details of the 12th FYP, so that the SAR Government could have a good knowledge of the direction of national development in mapping out its long-term policies.

Second, we are in full co-operation with Guangdong Province at the regional level. The Chief Executive particularly mentioned in the policy address last year that we have to translate the macro policies of the "Outline of the Plan for the Reform and Development of the Pearl River Delta" (the Outline) into concrete measures conducive to the development of both places through the formulation of a framework agreement for Hong Kong-Guangdong co-operation jointly by Guangdong Province and Hong Kong, with a view to seeking the incorporation of the relevant initiatives into the National 12th FYP. Currently, preparations have been made in various areas for drafting the framework agreement.

Third, all sectors of the Hong Kong community support closer economic co-operation between Hong Kong and the Mainland, especially the Pearl River Delta Region. The Legislative Council passed a motion with an overwhelming majority of vote in March last year urging the SAR Government to implement the Outline as soon as possible, with a view to further enhancing co-operation between Guangdong Province and Hong Kong. In the motion which was passed, Members altogether made as many as 14 proposals. From this, we see that there is a general consensus in the Hong Kong community that we should facilitate co-ordination between Hong Kong and the Mainland in their development.

The Central Government has shown great respect for Hong Kong's high degree of autonomy under the "one country, two systems" principle over the years, and fully attached importance to the issues that Hong Kong has been empowered to handle its own in taking forward economic development.

In future, Hong Kong will be positioned to more closely co-ordinate with the Mainland in development while further bringing Hong Kong's advantages into play in the process to continuously foster our role as an important economy in Asia.

The SAR Government will continue to work actively in support of the National 12th FYP in order to lay a solid foundation for the long-term economic development of Hong Kong.

President, I would further respond to the views expressed by Members later.

Thank you, President.

**MR ALBERT HO** (in Cantonese): President, over the past 30 years and so, the Mainland economy has been developing in high speed, and the economy between Hong Kong and that of the Mainland have also become increasingly close. In early 1990s, a number of Mainland enterprises first came to Hong Kong to raise capital. In the end of 2008, listed China-affiliated companies accounted for 55% of the market capitalization of the Main Board in Hong Kong. In the middle of last year, half of the Hang Seng Index (HSI) Constituent Stocks are China stocks, constituting 57%, which is more than half of the HSI. Mainland telecommunications companies such as China Mobile and HSBC Holdings lead the movement of the Hong Kong stock market every day.

In recent years, the Mainland enterprises have been transformed from attracting foreign investment into making investments all over the world, and involved in mergers and acquisitions of all scales to expand their business. Cities in the Pearl River Delta (PRD) Region will also be transformed from an economy mainly dependent on the low-technology manufacturing industry into one focusing on high-technology industries and service industry.

As compared with the past, Hong Kong's economic landscape has actually changed a lot. Hong Kong, therefore, needs to participate in the national economic and social development plans so as to ensure that Hong Kong continues to maintain its existing advantages, and achieve complementarity and partnership with Mainland cities to avoid Hong Kong being marginalized by the Mainland while maintaining the momentum of continued development. However, President, meanwhile, I must emphasize that Hong Kong has to uphold its autonomy in engaging itself globally, and continue to bring into play the characteristics and dynamics of Hong Kong as a free international metropolis.

I support Mr WONG Ting-kwong's original motion and Ms Miriam LAU's amendment. I think Hong Kong needs to make use to its existing unique advantages including sound legal system, mature financial market, high-standard service industry and highly internationalized environment as a basis to participate in the National 12th Five-Year Plan (FYP).

Despite the fact that the country hopes to develop Shanghai into an international financial centre and a shipping centre in 2020, currently Renminbi (RMB) is still not freely convertible, and there is no definite timetable and roadmap for achieving free convertibility of RMB. As such, Hong Kong still needs to play the role as an offshore RMB settlement centre for the country in the foreseeable future.

In addition, our nation has a huge reserve of foreign exchange amounting to almost US\$2,200 billion, and needs to have channels for overseas investment. Hong Kong can play the role of a financial hub, and assist the Mainland capital in making overseas investments. Hong Kong possesses financial facilities of international standards, and enterprises all over the world can list in Hong Kong to tap Mainland capital. Hong Kong, therefore, needs to participate in the national economic development plan in order to ensure that Hong Kong can co-operate with Mainland cities and complement each other, and avoid unnecessary duplication of roles and even inappropriate vicious competition, with a view achieving a win-win or even all-win situation.

However, there is a point that we must bear in mind and that is, Hong Kong's success is attributed to rule of law and a clean government. All these can protect the general public's legitimate interests, including tangible assets and intangible assets such as intellectual property rights. But here I have to emphasize once again that despite the fact that we have a sound tradition of rule of law and there is respect in society for the value of rule of law, if we do not have a democratic system to go along with it, coupling with the pressure that we unfortunately face as the Central Government has recently proposed the need for "co-operation of the administrative, judicial and legislative powers" in Hong Kong, I can tell Members that the tradition of judicial independence and rule of law will be at stake in Hong Kong. When Hong Kong is to integrate into the National 12th FYP in the future, we also have to emphasize the need to develop our democratic system under the "one country, two systems" principle, implement

dual universal suffrage as soon as possible, and foster Hong Kong's "high degree of autonomy" under the "one country, two systems" principle.

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

Deputy President, though the 12th FYP has far-reaching effects on Hong Kong, currently only officials of the SAR Government can discuss with the Central Government and participate in the planning work. The Legislative Council is the representative of Hong Kong people, and although Members in the democratic camp — as we all know — represent the aspirations of many or even the majority of Hong Kong people, unfortunately there is completely no channel for them to participate directly in the discussion of these plans. The reason is very simple as they are deprived of even the right of going to the Mainland, which is a right that every Chinese should have or the basic right to which every Chinese is entitled. Under the situation of being politically excluded, how can the Legislative Council as a whole and Members from the Democratic Party play an active role in it? As Members may notice, in the Legislative Council Building, for instance, many foreign diplomatic convoys and officials often come to visit us and the President and I can always see frank and sincere discussions with them. Only the officials in the Central Authorities and even some local officials see the Legislative Council as a forbidden area, and they completely hang back when it comes to the Legislative Council. The reason is very simple. It is because they do not want to meet with some Members from political parties or groupings which hold different political views. How can the representatives of the public participate in it under such circumstances? Therefore, I hope the SAR Government can call on the Central Government to change this attitude, respect the legislature of Hong Kong, respect the representatives of the public, and respect all political parties and groupings in Hong Kong, including Members in the democratic camp, so that we can work together to contribute to the future development of our nation, and only in so doing will there be hopes.

**MR CHAN KIN-POR** (in Cantonese): Deputy President, our country has already commenced the research and preparation work for the Outline of the Twelfth Five-Year Plan for National Economic and Social Development, which we refer to as the Outline of the 12th FYP in short. It will map out the way

China will develop in the next five years commencing from 2011. After the financial tsunami, China has determined to go onto the international financial stage, and hence the 12th FYP is very important to the future of Hong Kong.

Hong Kong people know very well how important the economic integration between China and Hong Kong is to Hong Kong. Today, I would particularly like to highlight the importance of the 12th FYP to the financial services industry. After the financial tsunami, our nation has determined to accelerate the internationalization of Renminbi (RMB), in order to get away from the predicament of being controlled by the US dollar in the international financial market, and the Central Authorities have decided to develop Shanghai into an international financial centre in 2020. Obviously, the reform of the financial services industry is of great strategic significance to our nation, and the Central Authorities have embarked on preparations for a comprehensive financial reform.

Facing the rapid changes in the financial environment, Hong Kong should put forward specific planning proposals to the Central Authorities as soon as possible, and strive for the inclusion of the role played by Hong Kong in the plan made by the Central Authorities. Actually, in order to enhance the competitiveness of the financial services industry, the Chief Executive proposed a number of relevant development directions when he announced the policy address in October last year, including strengthening the role of Hong Kong as a testing ground for the regionalization and internationalization of RMB and developing diversified RMB businesses, and so on.

To maintain its status as an international financial centre, Hong Kong must work in line with the overall national strategic development, or else it will be inevitable for Hong Kong to be marginalized. If Hong Kong is to fulfil the role as the testing ground for our nation's financial reform, the first and foremost thing to do for the time being is to strive for the inclusion of this important task in the plan on the national financial reform.

The insurance industry is an important component of Hong Kong's financial services industry, and has high hopes for the 12th FYP. Following the financial tsunami, the insurance industry has been hard-hit. As the Hong Kong market is small and highly mature, we must look for a new way of development if

the insurance industry has to maintain its sustained development. As such, the Chief Executive's proposal of developing diversified RMB business is very much welcomed by the industry.

The Hong Kong market has great demand for RMB insurance products. However, there are presently many barriers, such as insurance companies being unable to open RMB accounts and the lack of RMB investment instruments for hedging risks. So, the insurance industry cannot avail itself of the opportunity even though it is facing a market with huge demand. If Hong Kong is able to become the testing ground for the internationalization of RMB, it is hoped that the industry will be able to overcome all kinds of hurdles, and successfully develop RMB insurance products, which can certainly upgrade the status and competitiveness of Hong Kong's insurance industry and enable the industry to make contributions for our nation and for Hong Kong.

Moreover, Hong Kong's insurance industry has been striving for entry into the Mainland market. However, according to the provisions of the Mainland and Hong Kong Closer Economic Partnership Arrangement, there are very stringent restrictions in the entry requirements for the insurance industry in respect of asset requirement and company history. I think apart from a few multi-national companies, it is simply difficult for Hong Kong insurance companies to meet those requirements. So, if we can assist more insurance companies in developing their business on the Mainland, the insurance industry can make use of their rich international experience to co-operate with their counterparts on the Mainland and develop business in the vast Mainland insurance market, which will be beneficial to the insurance industries of both places.

During his duty visit to Beijing at the end of last month, the Chief Executive expressly relayed to the leaders in the Central Authorities the wish that the country can further make use of the advantages of Hong Kong as an international financial centre in the formulation of the 12th FYP. We are very pleased that the SAR Government has taken a proactive attitude this time and participated in China's economic planning. I hope the Government can seriously listen to the views of all sectors of the community and reflect them to the Central Authorities.

I so submit.

**MS STARRY LEE** (in Cantonese): Deputy President, many Members have mentioned just now the importance for Hong Kong to integrate into the 12th Five-Year Plan (FYP), and that the SAR Government should grasp the opportunity and actively participate in it, so that our views can be included in the Outline of the National 12th FYP. In my following speech, I will speak from another angle to urge the SAR Government to seize the opportunity of the 12th FYP and strengthen co-operation with the regions on the west coast of the Strait, so as to look for new highlights for the development of Hong Kong in the next five to 10 years.

In November last year, the nation's Ministry of Housing and Urban-Rural Development approved the plan for development of urban clusters on the west coast of the Strait, or the development plan for regions on the west coast of the Strait. By "the regions on the west coast of the Strait" or the Haixi zone, it is referred to the regions between Yangtze River Delta (YRD) and Pearl River Delta (PRD) with Fuzhou and Xiamen as the centre, including the four cities of Zhangzhou, Quanzhou, Putian and Ningde, and the radiation zone includes Sanming, Nanping and Longyan, which are the front-line base for opening up and for making exchanges with the Taiwan region.

The concept of the plan for the Haixi zone was put forward by Fujian Province in as early as 2004, and incorporated into the 11th FYP in 2005. However, hindered by the cross-strait relationship at that time, the concept had not been actualized. In 2008, we saw new breakthroughs in cross-strait development. The relationship between both sides of the Strait has progressed further, and the Economic Co-operation Framework Agreement (ECFA) will soon be signed. Under this general situation, the development of the Haixi zone will surely become the nation's development strategy.

Both Fujian and Taiwan have responded enthusiastically to the incorporation of the development of Haixi zone into the nation's development strategy. Fujian Province has formulated the development outline for construction of the Haixi Economic Zone, and Taiwan also hopes to use Haixi as a springboard for entry into markets in YRD and PRD that it could not access. To Hong Kong, the development of Haixi constitutes both an opportunity and a challenge.

Deputy President, one of the main elements in the National 12th FYP is to identify new points of economic growth. In the past few years, the economic growth point was in the PRD Region. Then it moved upward to new highlights such as the Bohai Rim region with Tianjin as the hub, and the YRD region with Shanghai's Pudong New Area as the centre during the period of the 11th FYP. Now, the neighbouring PRD Region has passed the stage of fast growth, and in the days ahead though its growth will continue, the speed will certainly slow down. On the contrary, the Haixi zone along the southeastern coast, which has all along been at a low ebb economically, will be imbued with tremendous potentials and expected even to become a new point of economic growth in the 12th FYP with the new developments in the situation across the Taiwan Strait. The SAR Government must, therefore, have the vision and grasp the "first mover" advantage by strengthening co-operation with the Haixi zone in line with the shift of emphasis in the national development strategy, and striving to achieve economic breakthroughs during the period of the 12th FYP.

Hong Kong has its own advantage in this respect. Hong Kong has all along been the largest foreign investor in Haixi, and its accumulated investment in Fujian Province is nearly three times that of Taiwan investors. Hong Kong enjoys an advantage in the financial services industry, logistics industry or professional services industry. Many academics have pointed out that Haixi has the market and Hong Kong has the services. So, with Hong Kong's participation, the development of Haixi will certainly result in a win-win situation.

However, despite these inherent advantages, Hong Kong cannot be said to be free of worries because the SAR Government must still actively participate in it. Seeing that the development of Haixi is poised to thrive, the Singapore Government together with a company with government affiliation (namely, Jurong International) has long made an effort to take part in the development plan there. Meanwhile, the Taiwan Government has also been actively making preparations to set up offices specifically tasked to study the development in and co-operation with Haixi. Looking back on Hong Kong, it has been reacting at a relatively slow pace without any bold action, and appears to have already lost the first battle or competition which has a bearing on the future role.



In contrast, Fujian Province is more proactive. It has set up eight major platforms for co-operation with Hong Kong, and sought to establish a joint conference mechanism between the two governments so that senior government officials of both places can have direct dialogues. In fact, the relevant proposal has been accepted by the country's Ministry of Commerce. So, I urge the SAR Government to grab the opportunity and respond as soon as possible, and actively research into establishing a high-level meeting and working conference mechanism with Haixi by modelling on the mechanism established some time ago with the Guangdong Provincial Government and the Pan-PRD Region, thereby seeking room for greater participation in the future development of Haixi.

Moreover, the vast majority of Hong Kong companies are small and medium enterprises (SMEs) with limited manpower and financial capacity. They still manage to look for business opportunities in the PRD Region as the PRD Region is located adjacent to Hong Kong with similar social environment and little language barrier. However, in the Haixi zone which is far away from Hong Kong, if the SAR Government does not proactively take the lead to participate in it and map out policies to provide support, I believe there will be great difficulties for the SMEs to open up markets and establish a strong foothold in Haixi. As such, the key lies in how the SAR Government, especially the Economic and Trade Offices on the Mainland, can bring their role into play to assist Hong Kong's SMEs in "reaching out" to develop markets.

Deputy President, the preparation of the National 12th FYP has commenced, and Hong Kong should participate in it more actively at an early stage. The development of Haixi is likely to become an important part of the 12th FYP, and whether the SAR Government can participate in it and grasp the "first mover" advantage may constitute an important factor for Hong Kong's economic development in the next five to 10 years. I so submit.

**MR IP KWOK-HIM** (in Cantonese): Deputy President, a recent Hong Kong film called *"Bodyguards and Assassins"* has had a box office of nearly \$300 million in three weeks since its release in China. ZHAO Shi, Deputy Director of the State Administration of Radio, Film and Television, praised the film as the best Chinese film of the year. Early last year, another Hong Kong film *"Ip Man"* was also a box office hit with a revenue of more than \$100 million

in the Mainland markets, receiving high acclaims in commentaries and sweeping the box office at the same time.

Actually, most of the films with the best box office records in Mainland China over the past few years were films with the involvement of Hong Kong film production companies, directors or actors. Despite that the local film market in Hong Kong has been at a low ebb in recent years, the Mainland market is expanding incessantly. Hong Kong films have achieved remarkable results in Mainland markets in recent years for its creativity and high-standard production, and the cultural industry of the "Oriental Hollywood" in the old days may have the chance to shine again. It appears that the prospect of Hong Kong films is very promising as long as we look northward to the huge market in Mainland China with an audience of 1.3 billion.

In July last year, the State Council approved a plan for revitalization of the cultural industry (the Plan) whereby the cultural industry is incorporated for the first time into the system of industry planning of the State Council. The formulation of the Plan bears very great significance in that the cultural industry has become a national strategic industry. Following the announcement of the Plan, the Ministry of Culture issued the guiding opinions for accelerating the development of the cultural industry, which proposes that the target for developing the cultural industry in the next few years is to strive to achieve a higher speed of development in the cultural industry than China's GDP growth for the same period with a view to gradually increasing its share in the national economy and tripling its growth rate over that in 2007 towards the end of the period covered by the 12th FYP. Meanwhile, efforts will be strengthened to promote the development of the performance arts, comics/animation and games industries to achieve international standards. It can be said that the development of the cultural industry on the Mainland has now entered a booming stage.

The Chief Executive has proposed in the policy address to develop six economic areas, one of which being the cultural and creative industries. The DAB very much supports the development of the cultural and creative industries as these industries, which are premised on culture with creativity as its core, basically involve very little material and resource consumption and are compatible with a green and low-carbon economy. Moreover, the cultural and creative industries can create employment opportunities for young people. The

restructuring of the Hong Kong economy has rendered many young people unemployed, and caused increasing public discontent, which has become a social problem. The development of the cultural and creative industries will create employment opportunities for young people so that they can bring their talents into play. However, as Hong Kong is only a very small market, the main way out for Hong Kong's cultural and creative industries is to actively expand into the Mainland market.

The preparation of the National 12th FYP has commenced, and the preparation of the plan for the development of the national cultural industry has been included in the agenda. It is expected that the Mainland market for cultural industry will grow rapidly with the industry being identified by the country as a key area of planning, and it is certain that Hong Kong will be greatly benefited if it is able to seize the opportunity. It is necessary for Hong Kong to make early preparations to maintain close communication with the relevant departments of the Central Authorities, and work in line with the preparation of the National 12th FYP, taking a proactive approach to promote the further development of Hong Kong's cultural and creative industries.

In fact, Hong Kong is a liberal, open and diversified society embracing a mix of Chinese and Western cultures, hence providing a very good environment for the development of culture and arts. Currently, Hong Kong's cultural and creative industries have achieved development at a certain scale, and possess advantages in a number of areas including films, television, design, architecture, comics/animation and digital entertainment, and so on. In addition, the protection of intellectual property rights in Hong Kong is up to the world standards, and has earned for Hong Kong international reputation. With these advantages and provided that the SAR Government is able to actively align with the drafting of the Outline of the National 12th FYP and strive for an advantageous position in the national development blueprint, it is certain that Hong Kong's cultural and creative industries will have a promising future.

With these remarks, Deputy President, I support the original motion proposed by Mr WONG Ting-kwong, and the amendment proposed by Ms Miriam LAU.

**MR WONG YUNG-KAN** (in Cantonese): Deputy President, there are two points announced in the Central Economic Work Conference closed on 7 December that are worth the attention of Hong Kong, one of which is that the mode of China's economic development will change to cope with the international economic adjustment and the need for domestic economic development. The change will not only take place next year, but also point to the direction for the economic development in China in the longer term. Moreover, the Conference has expressly set the initial themes for the 12th Five-Year Plan (FYP). Hong Kong has to actively participate in the 12th FYP with a view to gaining a more favourable position in the nation's comprehensive economic planning, and bringing into play Hong Kong's advantages, so that Hong Kong may assist in the development of the national economy and benefit from it and hence creating a win-win situation.

The 12th FYP has been placed on the agenda at both national and local government levels. But in Hong Kong, the issue is seldom talked about by government officials and the general public. Hong Kong had not participated in the planning of the 11th FYP, and as a result, there were only a few lines on Hong Kong such as "supports Hong Kong's development on fronts such as financial services, logistics, tourism and information services, and the maintenance of Hong Kong's status as an international centre of financial services, trade and shipping". As a result, Hong Kong has lost a lot of opportunities to be the "first mover" over the past four years. In contrast, the Mainland provinces and cities, especially the Pearl River Delta (PRD) and Yangtze River Delta (YRD) regions, have embarked on various construction and economic development plans in light of the 11th FYP, including the Qinghai-Tibet Expressway, Express Rail Link (XRL) network, Hong Kong-Zhuhai-Macao Bridge, development of tourism industry in Sansha in Hainan Province, construction of a bridge linking Haikou and Zhanjiang, and development of Hengqin Island in Zhuhai, and so on. Many people from the agricultural and fisheries sector in Hong Kong have also headed to the Mainland to develop their business by taking the "11th FYP" train, mostly making investment in the agricultural industry in Northern Guangdong and Southern Guangdong. A farmer who had surrendered his licence to the Government is negotiating with his Mainland partners on the establishment of a cattle farm in Huizhou where he plans to introduce fine-breed cattle from Inner Mongolia and aims to raise a stock of 1 500 cows to become the largest cattle farm in Southern China, and be registered as a farm to provide supplies for Hong

Kong. Some farmers even go as far as to Sichuan to set up pig farms, and quite many farmers are prepared to establish plantations in Ningxia, Yunnan and Hainan Provinces.

Deputy President, as to whether the Outline of the 12th FYP to be announced in 2011 will mention Hong Kong, what we are now worrying is that the Mainland authorities still have not formally made known their position, but State Councillor, LIU Yandong, pointed out in her visit to Hong Kong on 5 to 6 December last year that as the preparation of the 12th FYP is now in progress, research will be conducted to better bring the active role of Hong Kong into play in the modernization of the nation. It is hoped that Hong Kong can seize this rare opportunity, and board the "express train" of our Motherland's development so as to achieve greater development.

Having learned the lesson, the Government, as far as we know, has reflected to the Central Authorities at an early time its wish to participate in the 12th FYP. At the 12th Working Meeting of the Hong Kong/Guangdong Co-operation Joint Conference, Henry TANG, Chief Secretary for Administration, has reached a consensus with WAN Qingliang, Vice-Governor of Guangdong Province, deciding to form a Hong Kong/Guangdong Co-ordinating Committee on Implementation of the Framework for Pearl River Delta Development and Reform Planning with focus on four key areas of co-operation, namely, the financial industry, tourism industry, infrastructure facilities and town planning as well as technology and innovation, and also proposing that a green and quality PRD living area be included in the National 12th FYP. However, while the Mainland's preparation work is in the pipeline, we have not seen that the Government had made any announcement and effort to promote discussions on the 12th FYP among the public and in the community. It makes people feel a bit puzzled as to what the Government is going to do.

Deputy President, the China Institute of City Competitiveness announced the 8th Chinese City Competitiveness Rankings last month. Despite that Hong Kong continued to top the list in comprehensive competitiveness among Chinese cities in 2009, Shanghai rose to the second place overtaking Beijing. However, Shenzhen continued to rank the first in growth competitiveness among cities, followed by Shanghai which rose three places from the fifth to the second, whereas Hong Kong dropped to the eleventh place from the seventh place. The

Institute pointed out that Hong Kong had been surpassed in the speed of development despite that it still outshone other cities in terms of economic strength.

What is most regrettable is that the changes in Hong Kong's social and political ecology in recent years are completely not conducive to enhancing our competitiveness. Some people have been stubbornly opposing things for the sake of opposing. They have incessantly aroused conflicts and confrontations, and plunged society into endless arguments and internal attrition. Some people only care about their own interests or those of a small group without regard to the benefits of society as a whole, and use all kinds of "political tricks" to bundle up the entire economic interests of Hong Kong. For example, last week, the funding for the construction of the Express Rail Link was approved in circumstances where the city was like being besieged by numerous warriors. So, I hope the Government will strengthen communications with the Mainland in this regard, and study how we can better promote economic development, especially in driving forward Hong Kong's participation.

Deputy President, I so submit.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, this year is the last year of the National 11th Five-Year Plan (FYP). Beginning from next year, China will enter the 12th FYP as mentioned in today's motion. Looking back on the 11th FYP, given Hong Kong's little participation in it, during the planning of the 11th FYP, Hong Kong was unable to benefit a lot from the 11th FYP; nor could the 11th FYP help solve the problems of economic restructuring and structural unemployment that have plagued Hong Kong for many years. Now, the National Development and Reform Commission (NDRC) is embarking on the preparation work for the 12th FYP from 2011 to 2015. It is indeed necessary for Hong Kong to take a more active role to participate in the 12th FYP so as to better align with the overall economic development in China, which will be absolutely beneficial to Hong Kong.

Deputy President, in fact, Hong Kong's economy has been heavily relying on the external economic development, hence forming an externally-oriented economy. Among Hong Kong's four economic pillars, the financial services,

tourism and logistics industries are directly affected by changes in the external economic environment. For instance, following the outbreak of the financial tsunami early last year, we had seen a double-digit decline in Hong Kong's logistics industry every month, be it in airfreight or shipping, as compared to the corresponding period in the previous year, and the situation had not been improved until the middle of and latter part of last year. According to the statistics of Hong Kong Air Cargo Terminals Limited, there was a decline of 21.5% in air freight volume in the first half of 2009 as compared to the same period in 2008, which is alarming. Similarly, the tourism industry was also directly hit by the financial tsunami. According to the statistics of the Hong Kong Tourism Board, the number of visitors coming to Hong Kong from the United States and Europe had dropped 9.2% in the first nine months of 2009 as compared to the same period in 2008. This is evidence showing the huge impact of the external economic situation on Hong Kong's economic environment.

Last year, the Government proposed to develop the six economic areas where Hong Kong enjoys clear advantages in addition to Hong Kong's four economic pillars, so as to enable Hong Kong's economy to move towards the direction of diversified development. However, the arrangements for implementing measures in the six economic areas, and even the timetable of the development plan have not yet been provided with concrete details. Moreover, at the time when Hong Kong develops the six economic areas, there may also be similar planning directions in the National 12th FYP. In such circumstances, Hong Kong should better co-ordinate with the Mainland so that there will be better division of responsibilities between Mainland cities to avoid vicious competition. Take financial centre as an example. Besides Hong Kong, Shanghai will also be actively developed into a financial centre, and some people are even worried about vicious competition between Hong Kong and Shanghai to the detriment of each other's development. Therefore, if the SAR Government can actively participate in the National 12th FYP, we can map out a complete planning at an early time to avoid vicious competition and unclear division of responsibilities between Hong Kong and the Mainland.

Deputy President, Hong Kong should also consider the problem of its structural unemployment in the context of the National 12th FYP by looking into how we can resolve the problem through our participation in it. In fact, the structural unemployment problem has plagued Hong Kong for many years, and

right from the outward relocation of Hong Kong industries in early 1980s of the last century, low-skilled workers with low education levels have lost their employment opportunities, and many jobs also require the applicants to have a higher level of education, whether in respect of the four economic pillars of the past or the six economic areas proposed now. So, it does not help much in regard to the employment of the grass-roots workers. Nowadays in Hong Kong when the service industry takes on a dominant role, it is more difficult for the grassroots to find a job, resulting in many Hong Kong people opting to go to the Mainland for employment or starting a business. According to a topical study conducted by the Hong Kong Census and Statistics Department in 2005, there were about 228 900 Hong Kong people working on the Mainland at that time. Under the present circumstances, I believe the number will even be greater. This is why we have seen that the number of Hong Kong people residing or working in Shenzhen has been increasing incessantly. Such being the case, can the SAR Government keep abreast of the times in strengthening its support for Hong Kong people living or working on the Mainland? In this connection, I wish to highlight six areas for the attention of the Secretary. I hope that the Government will actively follow them up and discuss with the Mainland these issues when participating in the 12th FYP. These six areas include first, marriage and childbirth; second, family reunion; third, employment protection on the Mainland; fourth, protection for business start-up on the Mainland; fifth, protection for purchase of real property on the Mainland; and sixth, the question of retirement and pension on the Mainland.

In these six areas, we do not see any comprehensive study and active follow-up by the Government to help resolve the actual problems encountered by Hong Kong people in dealing with Mainlanders. For example, we discussed the issue of China-Hong Kong marriages yesterday. Hong Kong people who live and work on the Mainland as well as marry a Mainlander wife through liberal courtship will have to pay a fee as high as \$39,000 if his wife comes to give birth in Hong Kong's public hospitals because she is a Mainlander. Last year, 3 500 Mainland women whose husbands are Hong Kong permanent residents were in this situation, which is unfair. Civil servants need not pay additional punitive charges, but why are the Mainlander wives of Hong Kong people treated in such manner? Besides, on the issue of employee protection, many people who work on the Mainland have nowhere to seek for help when problems relating to employment arise. Some people who suffer setbacks in starting a business on the Mainland and return to Hong Kong wish to apply for public housing and



Comprehensive Social Security Assistance, but the authorities tell them they do not meet the residence requirement. With regard to all these situations, I hope Secretary Stephen LAM can actively do something and follow them up, and the SAR Government should also address squarely .....

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**MR WONG KWOK-HING** (in Cantonese): ..... Thank you, Deputy President.

**MS LI FUNG-YING** (in Cantonese): Deputy President, this year is the last year of the National 11th Five-Year Plan (FYP). According to press reports, our country held the Central Economic Work Conference last month to initially set out the themes of the upcoming 12th FYP, in which an obvious change is to attach greater importance to the markets for domestic consumption. The 12th FYP will cover the next five crucial years when the Government can build on previous developments to open up new horizons in the future. *The World in 2010* published by *The Economist* has described the future setting of China's economy and its relationship with the world as (I quote): "The entry of China's workforce into the global marketplace has, within a generation, turned the world economy upside down. The demand of its increasingly wealthy consumers for the world's resources will be among the biggest determinants of the planet's future." (End of quote) If the decision on opening up and reform made at the Third Plenary Session of the 11th Central Committee of the Communist Party of China in 1978 has transformed the landscape of the world economy, the National Economic Plan in the next five years will mean another cycle of transformation in the world's future development.

The nation's opening up and reform has had profound and direct impact on the economy of Hong Kong. Many experts have written analytical articles on this, and here I do not intend to show off before the experts. I think the repositioning under the National Economic Plan, like the opening up and reform of the country before, will certainly have far-reaching implications on Hong Kong. At a time when the preparation of the National Economic Plan is still underway, it is incumbent on the SAR Government to take initiatives to strengthen communications and contacts with the relevant authorities responsible for mapping out the future economic development. The purpose of such

communications and contacts is to first understand the nation's future economic development and obtain first-hand information, so that Hong Kong can make early preparations to face up to the future changes rather than just asking for more favour from the country. I think this should be the working principle for Hong Kong's active participation in the National 12th FYP. In 2008, Hong Kong's per capita gross domestic product was US\$30,900, which was 10 times that of the country in the same period. Hong Kong should contribute more to the nation's economic development, instead of asking the nation to accommodate to the development of Hong Kong.

It is impossible for Hong Kong's economy to remain unchanged in view of the changes in the country's economy. However, this bears no direct relationship with the structural unemployment that has plagued Hong Kong for a long time and the deep-rooted problems in economic development. The deep-rooted problems in economic development cannot be solved by relying on economic development alone. Putting emphasis on economic development alone will only intensify the problems, making them even more difficult to be resolved.

Over the past 30 years or so following the opening up and reform of our nation, Hong Kong's economy has changed rapidly from reliance on the manufacturing-based secondary sector to emphasis on the financial services industry, and this has, however, given rise to the problem of low-skilled workers becoming out of sync with economic development. This is an obvious example to show that the social problems cannot be resolved simply by economic development.

Deputy President, it will only be a wishful thinking if we think we can simply rely on the trickle-down effect of economic development and a free market to improve the living of the general public. To solve structural unemployment that has plagued Hong Kong for a long time and the deep-rooted problems in economic development, the Government ultimately needs to change its mindset of governance, and strike a balance between development of the economy and protection of the people's livelihood, or else everything said and proposed will only be fruitless and futile. I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, the economic interaction as well as co-operation between the Mainland and Hong Kong is a major development trend as irreversible and inevitable as "globalization". In fact, even though Hong Kong has not participated in the National 10th Five-Year Plan (FYP) and the National 11th FYP over the last 12 years since the reunification, economic integration between Hong Kong and the Mainland has been increasing. A case in point is the highly controversial Express Rail Link project recently, which serves to illustrate how the planning and development of the two places are closely related.

It can be said that co-operation between Hong Kong and the Mainland at economic and even social levels is a major direction and an obvious trend of development, but while the general circumstances are in support of development, we have to highlight some important issues for the Government to consider and examine carefully.

To start with, there is the issue about the development and understanding of the concept of "one country, two systems".

Recently, Hong Kong has started another round of arguments as to whether the Basic Law has been contravened and whether the spirit of the Basic Law would be violated. Talking about the spirit of the Basic Law, the main thrust is to ensure that "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" are implemented in Hong Kong after the reunification and that the system shall remain unchanged for at least 50 years. The crux of the "one country, two systems" principle is that Hong Kong and the Mainland shall practise two different sets of economic, social and political systems under the sovereignty of one country. To put it more directly, Hong Kong should continue to practise the capitalist system which is different from the socialist system practised in the Mainland.

Of course, if we were to ask the Chinese leaders now what exactly is the socialist system being practised in present-day China and how different it is from the capitalist system practised in Hong Kong, a definite answer may not be forthcoming so easily. Nonetheless, I can tell Members that with China's opening up and reform as well as the development of globalization, the dividing line between the so-called socialist system in the Mainland and the capitalist

system in Hong Kong has become increasingly blurred. But that does not mean that the systems of Hong Kong and the Mainland have been fully integrated without any distinction.

I think if we are to safeguard "one country, two systems", a very important premise is that Hong Kong must be able to firmly maintain and uphold our "autonomy" in economic and social systems, as well as government policies. I must stress that by maintaining our "autonomy", it does not mean that the two places cannot co-operate on economic front. It is just that our co-operation should never undermine the existing autonomy enjoyed by Hong Kong in respect of its economic and social policies. Otherwise, it is simply meaningless to talk about "one country, two systems" any further.

Many people have told me that they also have these worries. They are worried that the SAR Government has changed dramatically under the leadership of Donald TSANG in its attitude from indifference in the past about the Mainland's development to one of servitude begging for help from Grandpa to resolve Hong Kong's economic problems. I think it is very dangerous to adopt this approach as it has completely discarded the independence and autonomy of Hong Kong's economy. It is also something that most people of Hong Kong cannot accept. I think this is something that we must be cautious about when discussing matters in relation to the development and planning of the Mainland under the National 12th FYP. If the planning of Hong Kong's economic development is entirely put in the planning of the National 12th FYP, Hong Kong could possibly become just a small part of the overall economic planning of China, in which case I would be worried that "one country, two systems" will be blatantly turned into "one country, one system".

I want to ask: Is this what the people of Hong Kong are hoping to see? Is this the objective of development that colleagues in this Chamber are hoping to achieve? Is the SAR Government happy to see the implementation of "one country, one system" here? I trust that it is not something we are voting for in our hearts.

Deputy President, I think as far as the economic integration between the Mainland and Hong Kong is concerned, the most important consideration is to preserve the basic principle of "one country, two systems". In addition, we are worried that if, like what happened in the previous development over a period of

time when economic integration between the two places has not been beneficial to the long-term development of wage earners, especially grass-roots workers, in Hong Kong and worse still, it has brought harmful effects to them, I think this will be a big trouble.

In fact, I see that while the closer economic ties between Hong Kong and the Mainland in recent years have facilitated capital flow across the border on the surface and created positive effects, nothing is beneficial to the local grass-roots workers in all aspects, particularly in terms of employment and salary levels. Only negative effects are evident. The fact is the future of Hong Kong's economic development as described by Donald TSANG, whether in relation to the four pillar industries or the recently proposed six economic areas where Hong Kong enjoys clear advantages, has not shown to be bringing about any marked improvements to the serious problems of grass-roots unemployment and wage protection faced by Hong Kong now. Economic integration with the Mainland has in fact further worsened the problem of unemployment among the grassroots in Hong Kong.

As such, I must reiterate that whether in respect of the direction of economic development of Hong Kong or the economic integration with the Mainland, the SAR Government must clearly explain to the people of Hong Kong as to how these developments can uphold the principle of "one country, two systems", and how they can help resolve the employment and livelihood problems of grass-roots workers. Otherwise, I am worried that these so-called economic development and integration will just become a new form of collusion between business and the Government and further worsen the gap between the rich and the poor in Hong Kong. I think this is not what the SAR Government is hoping to see and neither is this what the general public are bargaining for. I think we must understand this point clearly. I also hope that the SAR Government must give a clearly account of this matter to Hong Kong people when taking forward initiatives to further promote integration between Hong Kong and the Mainland.

Deputy President, I so submit.

**MR RONNY TONG** (in Cantonese): Deputy President, the state will soon prepare the Outline of the 12th Five-year Plan (FYP). As we all know, China is a socialist country upholding a planned economy. Even though it has introduced

a market economy in recent years, the preparation and announcement of the Outline once in every five years has always been a very significant project which will determine the development of our state in the next five years and affect the destiny of every Chinese. All Chinese should be actively involved and express their views.

However, participation in the preparation of the Outline is new and even unfamiliar to most Hong Kong people, mainly because we have been upholding the "one country two systems" principle in the past 10-odd years since Hong Kong's reunification with China. Many people also think that economic and social planning which falls within the ambit of Hong Kong's high degree of autonomy should not be intervened by the Central Government. It is also because of this principle that Hong Kong has seldom been included in the two Outlines after reunification. Some of the paragraphs are rather vague, mainly depicting matters of principle. For instance, it is pointed out in the Outline of the 11th FYP that the long-term prosperity and stability of Hong Kong and Macao should be maintained and exchanges and co-operation between the Mainland, Hong Kong and Macao in the areas of economy, trade, science, culture, health and sports should be strengthened and promoted. The only specific proposal concerning infrastructure planning is the construction of a highway linking Beijing and Hong Kong.

Deputy President, the gradual social and economic integration of China and Hong Kong will certainly contribute to the further deepening of the social and economic development of the two places. In our opinion, Hong Kong people should play a certain role and participate in the national planning. In fact, the Basic Law has also protected the rights of Hong Kong people in this aspect. Under Article 21 of the Basic Law, it is provided that Chinese citizens who are residents of the Hong Kong Special Administrative Region shall be entitled to participate in the management of state affairs according to law. Hence, regarding the development of the National 12th FYP, Hong Kong people should have the right to express their views.

Deputy President, there is also a practical need for Hong Kong people to actively participate in the 12th FYP. During the gradual integration process of the two places, there will certainly be contradictions between the two places in respect of the pace, model and direction of development. The recent

controversy over the construction of the Express Rail Link (XRL) has highlighted such contradiction. Despite the fact that demonstrators who oppose the XRL targeted at the SAR Government's mode of decision-making or lack of consultation in relation to the construction of the XRL, it has also reflected the differences in the development concepts between the two places, which should not be ignored. For instance, given that the Mainland's economic development remains in a stage of rapid growth, their needs of socio-economic infrastructure are greater than those of Hong Kong. Imposing on Hong Kong the same rapid mode of development as that of the Mainland will only intensify the conflicts between the two places, thus resulting in unnecessary contradictions. Another example is that while a number of major Mainland cities are transforming themselves into financial services centres, Hong Kong is just doing the opposite and needs to diversify its economy and encourage sustainable development. Another example is that the Mainland's extent of openness in the decision-making process for people's participation is much lower than the expectations of Hong Kong people. These contradictions, which involve the existing planning mechanism of the two places, should be addressed. This is not merely a question of communication as it will become a political issue or a deep-rooted conflict as Premier WEN Jiabao has put it, if not handled properly.

Hence, Hong Kong people should focus not only on the planning of hardware but also software when actively participating in the 12th FYP. In this aspect, the SAR Government should seek to have a greater say on planning concerning the two places, and relevant planning issues should be handled and explained clearly to Hong Kong people with a higher degree of transparency. Deputy President, the development of the XRL is an example and the planning of the Hong Kong-Zhuhai-Macao Bridge is another important example. Up to the finalization of the Hong Kong-Zhuhai-Macao Bridge, Hong Kong people have little knowledge of the project, including details such as sharing of costs. Although the authorities have decided to launch the Hong Kong-Zhuhai-Macao Bridge, the affected residents of Hong Kong still have not been fully consulted.

In previous documents on the 11th FYP, Deputy President, there were many chapters concerning the planning of software, including the system of decision-making in planning and even the development of a democratic political institution. Of course, on the premise of "one country, two systems", we are not

demanding, through the SAR Government, that the Mainland's mode of planning be changed. However, for projects involving the development of the two places, we consider it necessary to enhance Hong Kong people's participation in the existing decision-making and communication process. For instance, the planning of the development of the Pearl River Delta (PRD) is mainly discussed at the Co-ordinating Committee on the Framework for Development and Reform Planning for the PRD. Although press releases will be issued after these meetings, there is no detail concerning the requests made by Hong Kong officials at the meetings or their attitude towards the development of the two places. Another example is that the Chief Executive, at the Economic Summit of the 11th FYP held in 2007, made proposals to tie in with the development of the 11th FYP but he also proposed the action plans on the development of the four pillar industries. But how many of these action plans have been brewed and fermented in line with the needs of our society and with the support of public opinions before submitting to the Central Government for recommendation? Or are they merely instructions handing down from the top to the bottom requiring actions taken by Hong Kong to support the objectives laid down in advance by the Central Government instead of responding to the sentiments of our society?

Deputy President, I support Hong Kong people's active participation in the 12th FYP and active involvement in our country's economic and social development. However, on the premise of "one country, two systems", the SAR Government should first of all establish a specific communication mechanism for the consultation on planning and development. The communication mechanism must be open and fair, ensuring proper participation by Hong Kong people and full reflection of their views. Deputy President, only on such a basis can our society and economy be integrated effectively and fairly with the state.

Deputy President, I so submit.

**MS CYD HO** (in Cantonese): It is rather embarrassing for us to discuss active participation in the National 12th FYP here today because one sixth of the Members in this Council do not have Home Visit Permits and Members of the democratic camp even do not have proper documents and information on the plan. Under such circumstances, how can discussion on the issue be possible?



So, Deputy President, I will speak mainly on two areas in my following speech. First, openness and transparency of information; second, how best Hong Kong can participate in it.

As the Chief Executive is accountable to both the Central Government and Hong Kong residents, Hong Kong people should know how to cope with the development policies of the State, including the preliminary discussion and planning for the National 12th FYP, what Hong Kong has done, and what policies and measures Hong Kong has implemented in the past four years to tie in with the National 11th FYP. Thus, the authorities should take the initiative to disseminate information to the public and the Legislative Council in order to help Hong Kong people and the legislature understand how Hong Kong can participate in the national development. Although there are many NPC Deputies and CPPCC delegates — Deputy President, you certainly have information and I believe you can also offer us advice — the democrats do not have such information. How can we support it without a thorough understanding of it?

I have a document on the proposed National 11th FYP, which was endorsed at the Fifth Plenary Session of the 16th Central Committee of the Communist Party of China on 11 October 2005. However, I got this proposal not from the Legislative Council Secretariat's website or the executive. Rather, it was downloaded from a news website of Mainland China. Therefore, I am not sure whether it is 100% accurate. It may be fake. Yet, we have to discuss the matter with the authorities on the basis of this document, which may be authentic or fake. This is extremely ridiculous and such a mode of disseminating or access to information does not dovetail with the formal practice of the legislature. Therefore, Deputy President, I urge the executive to establish a convention, which is the duty of the Secretary for Constitutional and Mainland Affairs, whereby documents on co-ordination with the Central Government should be regularly presented to the Legislative Council and the public so that all Hong Kong people will be kept fully informed and the Legislative Council can effectively monitor the work of the SAR Government on the basis of authentic and reliable official documents. Meanwhile, the executive should also explain to the public and the Legislative Council what policies and measures for dovetailing with the National 11th FYP have been adopted over the past four years.

Deputy President, let me take the National 11th FYP as an example again. In fact, only in paragraph 43 is direct reference made to Hong Kong. According to the document I have, the authenticity of which has yet to be proven, Hong Kong should strive to develop finance, shipping, tourism and information technology. In this aspect, we certainly know how to exercise monitoring as this is the internal economic development of Hong Kong and our time-honoured duty. There is no problem at all. Besides, the document has also mentioned that Hong Kong should co-operate and conduct more exchanges with the Mainland in respect of economy, trade, science, education, culture, health and sports. So in this we have a general picture. However, we can only see what has happened or what has been done, we cannot see what strategies, objectives and timetables have been formulated for such exchanges and co-operation in these areas. Thus, the legislature is in fact unable to know whether or not the work of the executive is effective. Deputy President, if the NPC and the CPPCC does not disclose the objectives, our monitoring is practically impossible.

In paragraphs 15, 16 and 17 of the National 11th FYP, mention is made of the promotion of regional co-ordination and planning of regional development, including the strategic development of Western China, the radiation of the Pearl River Delta in the urbanization of cities and towns in southern China, and regional co-ordination and interaction. Other than seeing that delegations are sent to the Mainland from time to time to discuss the strategic development of Western China, we have no knowledge of the strategies and objectives of these proposals, although we have also discussed the co-ordination meetings between the "nine cities" and Hong Kong from time to time. However, are these effective? Can the desired objectives be achieved? Hong Kong people are completely kept in the dark. As for the extent of our obligations and rights and the amount of resources which may be involved in the integration and co-operation with the Mainland, and the economic, social, cultural, political and legal impacts on Hong Kong people, Hong Kong people should be provided with full information as we are entitled to the right to know.

I know that our discussion on active participation may cause great embarrassment to the Government. Mr TANG Shu-hung, in his article in the *Economic Journal* on 4 January, said that the last successful breakthrough was really fantastic, resulting in the change of the Chinese wordings in the National 11th FYP from "5年計劃" to "5年規劃", which can better tie in with the free

market and facilitate Hong Kong's participation. However, how best can Hong Kong participate after the National 11th FYP? According to Mr TANG Shu-hung, the executive does not have any clue. He wondered whether it would rely on the Chief Executive who would attend the relevant meetings, or the Chief Secretary for Administration, or the Central Policy Unit. I hope that the Secretary can explain to us later what formal channels are available for us to participate in the preliminary planning in connection with the National 12th FYP. Mr TANG added that if the Chief Secretary for Administration serves as a contact point, various Policy Bureaux are obliged to submit planning documents for discussions in Hong Kong so that the National Development and Reform Commission can be convinced in a more effective way.

So, I hope that the Secretary, while actively participating in the preliminary planning of the National 12th FYP, will also actively promote discussion in Hong Kong on the premise of enhancing transparency of information. I must reiterate that information is currently extremely restricted. I have asked the Secretary for information on Qianhai for the fifth time but to no avail. As information is so restricted, how can participation by Hong Kong be possible? Whenever regional co-operation is put on the agenda, we lack an effective consultation mechanism, not to mention the dissemination of information. The Government, after entering into an agreement with the Mainland, has merely launched the policy in a high-handed manner. This is in fact very dangerous as it will damage the internal governance of Hong Kong and the mutual trust between the Central Authorities and the SAR. Thus, I urge the Secretary to work harder in both aspects so as to win the support of Hong Kong people.

**MR VINCENT FANG** (in Cantonese): Deputy President, when the Chief Secretary for Administration attended the special meeting of the House Committee to brief us on the recent development of Guangdong-Hong Kong co-operation early this month, I noted that no planning on cross-boundary infrastructure projects between Hong Kong and the Mainland had been initiated. Yesterday, the SAR Government signed a memorandum on financial co-operation with Shanghai. I believe many Hong Kong people would wish to know the differences in roles and the division of labour between Hong Kong and Shanghai in the future.

Regarding these issues, I believe we will get a better answer through today's motion: Actively participating in the National Twelfth Five-year Plan.

Hong Kong's development, in both social and economic terms, has been closely linked with the Mainland. Hong Kong used to serve as the entrepot, window, and bridge to attract investments for the Mainland. Nowadays, Hong Kong is even the fund-raising centre for Mainland enterprises. In fact, these are the fruits of the natural development of industry, commerce and economy. However, with the continuous development of the Mainland, the competition between Hong Kong and Mainland cities has also become increasingly keen, so keen that they compete for resources with each other. Hence, vicious competition will appear if their relations cannot be rationalized.

Economic relations is a most delicate subject. For instance, there is competition and yet co-operation is indispensable. Therefore, we can see that many economic zones have emerged in the international community, such as the European Common Market, the North American free trade areas and the Association of Southeast Asian Nations (ASEAN) free trade areas, and so on. Even China, which is such a large economy, has recently joined the ASEAN. The emergence of these economies, which will become economic entities with bargaining power, can also establish the so-called critical mass. No economy can survive on its own, especially a small economy like Hong Kong which needs to integrate with its neighbouring areas so that the limited resources can be pooled for greater efficiency. With whom Hong Kong can integrate? Certainly, the Mainland. How to integrate? It requires joint planning by both sides. If Hong Kong can participate in the Mainland's five-year economic plan expeditiously to reflect our strengths and needs, it would be more conducive to our future economic development.

Perhaps some people may doubt that the FYP proposed by the Mainland is to implement planned economy, which is contradictory to Hong Kong's philosophy of free economy. However, I beg to differ as China has undergone economic reform and opening, the FYP has evolved into the direction of the national economic development.

In fact, in every budget of Hong Kong in the past, the Government had also compiled a five-year Medium Range Forecast, with the purpose of assessing the medium-term economic performance and revenue before planning the direction of our medium-term development.

However, since joining the Legislative Council, I can see that the Government's policies and resource allocation are geared towards addressing the most current needs and there is a lack of vision. Certainly, there is no medium- and long-term planning, not to mention taking the situation and development of Hong Kong's neighbouring areas into consideration. The third phase development plan of the Conference and Exhibition Centre, for example, is still awaiting a decision to date. However, if we take a look at our neighbouring cities such as Shenzhen, Dongguan, Guangzhou, Macao, Taiwan and Singapore, we can see that exhibition centres of more than one million sq feet have been built one after another. Meanwhile, there is no more extra space in Hong Kong to host new exhibitions, thus limiting the prospect of our convention and exhibition industry. Therefore, empty slogans will not help us consolidate the four pillar industries or develop the six new industries.

Under the circumstances that Hong Kong's economic development is increasingly dependent on the Mainland, our co-ordination with the Mainland will definitely bring every benefit to Hong Kong. I strongly believe that the state is also aware of this, and made it a point to include Hong Kong in the report when the National 11th FYP was announced five years ago. However, it is believed that the state later found the coverage inadequate. Hence, Hong Kong and Macao were also included in the Outline of the Plan for the Reform and Development of the Pearl River Delta Region, which was published early last year, to show the great weight it attaches to the integration among Hong Kong, Macao and the Mainland.

In fact, Hong Kong's development planning in the past was not included in the state's planning, thus resulting in a lot of duplicate construction and unnecessary competition. The construction of airports in the Pearl River Delta Region is a good example.

Therefore, if Hong Kong can participate in the Outline of the Twelfth Five-Year Plan for National Economic and Social Development of the People's Republic of China, it will be conducive to the formulation of Hong Kong's medium- and long-term development plans, speeding up our integration with the Mainland, reducing duplication of investment and promotion of healthy competition.

I so submit. Thank you, Deputy President.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Deputy President, concerning the National 12th FYP, I would like to talk about the National 11th FYP and the National 10th FYP. Since the breaking of news about a referendum campaign and the resistance against the construction of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) has become evident, the royalists and communists have remarked that there would be dissipation of our energy caused by internal conflicts. However, what are internal conflicts under their systems?

TUNG Chee-hwa was handpicked by JIANG Zemin to represent the interests of Shanghai consortia. During those seven years, TUNG Chee-hwa had not developed infrastructure for connection with Guangdong, so there were internal conflicts. Since TUNG Chee-hwa was bestowed favour by the "Shanghai Gang", following the logic of the royalists, nothing would be done on connection Guangdong. That was really peculiar.

In 2000, under TUNG Chee-hwa's governance, the construction of the XRL was still empty talk. The present boundary facilities were developed only after TUNG Chee-hwa's resignation. That is an example of politics of preordination, one-party dictatorship and regionalism, right? Why should they seek from afar what lies close at hand? The reason is very simple. We cannot explain that clearly now. Why should TUNG Chee-hwa give up the connection with Guangdong with a view to making Shanghai prosperous only? Why should he rout the property market in Hong Kong to facilitate the development of the Shanghai property market? These are cases of internal conflicts. There were internal conflicts because JIANG Zemin was the leader of the "Shanghai Gang"; for the sake of their prosperity, they gave up the development of closer relations between Hong Kong and Guangdong which was originally proposed. That is so very obvious.

The project was only started and quickly implemented after TUNG Chee-hwa had stepped down. Now that a final decision has been made on the development of the West Kowloon Cultural District (WKCD) — TUNG Chee-hwa was criticized for giving Li Ka-shing advantages; even the consortia fell out with him — after a final decision was made to develop the WKCD, the

XRL will be connected to the WKCD. As the problems of the WKCD project were resolved after TUNG Chee-hwa had given advantages to a consortium, the XRL will be connected to the WKCD to resolve problems.

From 2000 to 2009, the development of the XRL was dragged into internal conflicts. It boils down to the question of how the interests of the XRL should be divided up. This is the first point. The second point is that we frequently talk about the National 12th FYP; I am a Chinese, what is the basis of the National 12th FYP? The premise is the Communist Party of China is reduced to a representative of a state-capitalist consortium that utilizes RMB 4,000 billion yuan to stimulate the economy.

Our country does not have foreign debts, but it has internal debts. What are its internal debts? When the bourgeoisie in various places in Europe and the United States exchange their currencies for RMB in order to reap profits in China, we will receive a lot of foreign currencies which have to be poured into Hong Kong. Borrowing foreign currencies from the People's Bank of China for speculation in Hong Kong, foreign countries and even various parts of the world, and continuously buying US bonds that nobody wanted are the rules of the game — when others give you money, you should give them back some money. Do we not have to repay our internal debts? If, as these royalists have said, China wants to become a powerful economy occupying a pivotal position, can it not exchange currencies? Can it not introduce free currency convertibility? Can RMB be converted into Hong Kong dollars in Hong Kong? Our country is currently built on quicksand; we owe foreigners' debts indefinitely and we have to repay our debts when we are going to introduce free currency convertibility.

We are saying that we should cope with the National 12th FYP, I would like to seek Honourable colleagues' advice on how we should match up with the plan. Why does Shanghai not stop constructing another Disneyland lest our tourism industry should be affected? Why did Shanghai tell us that the construction of a Disneyland would not be carried out within five years but it is now saying that there will be a Disneyland in five years' time? Are these not internal conflicts? I would like to consult those who said that we were creating internal conflicts: when our country used Hong Kong as a venue for financial speculation and our financial services sector became a predominant sector, the

members of the Hong Kong Federation of Trade Unions were eliminated. What had they said for their members? It was said that they had more than 200 000 members, why had they not thought about the members' interests? Buddy, could they do so? No, they could not because they had become members of the All China Federation of Trade Unions and they were represented by the Mainland trade unions. So, in my opinion, internal conflicts refer to the internal conflicts in the interest groups and consortia within the Communist Party of China and they are not created by our resistance. We resist on behalf of the people in China the tyrannical government of our country under state-capitalism and one-party dictatorship.

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, recently the National Development and Reform Commission (NDRC) has been actively preparing the Outline of the Twelfth Five-Year Plan for National Economic and Social Development of the People's Republic of China, and examining the drafting proposals of this plan and the development direction of our country. The Central Authorities have instructed the Office of Regional Economic Development of the NDRC to study the feasibility of regional economic development. The NDRC has earlier released a document entitled the Plan on Promoting the Rise of Central China, which proposed that the clusters of cities along the Changjiang River, Beijing-Guangdong, Beijing-Kowloon, Longhai, Wuhan, the Central Plains, the Anhui River, Lake Boyang and Taiyuan should be incorporated into the development areas under this plan, that is, the development strategy of "two vertical, two horizontal" and "six circles".

Since the reform and opening up of our country, emphasis has all along been placed on the policies on high speed and continuous growth. However, the tone of this plan can be set as balanced development as it has actually manifested the scientific outlook on development, a gradual change from macroscopic development to regional economic development, an attempt to narrow the difference in level of development between big cities and small towns and villages and close the gap between the rich and the poor in society, and provision of sound public services to nationals. Moreover, the Mainland officials have initially set the tone of the National 12th FYP as "not sweeping" and "not comprehensive" development in the hope that adjustment and transformation will be made in a steady manner, which is a drastic change. I think that the contents of the National 12th FYP have shifted the focus of development from the eastern



region to the central region and from the southern region to the northern region. I also believe that the State will orderly adjust the industrial structure, expand internal demands, increase national income and improve the social security system.

Deputy President, as a part of China, Hong Kong should proactively participate in discussions on the National 12th FYP and formulate relevant development strategies as soon as possible. I still remember that, a few years ago, when Mainland provinces and municipalities discussed the National 12th FYP, there was no participation by Hong Kong; as a result, we were just briefly mentioned and lost a development head start in the past four years. Having learnt a lesson from the past, I have noticed that the Government has already done something. When Secretary Prof K C CHAN visited the NDRC last October, he made enquiries with the officials concerned about the roles that Hong Kong could play in the National 12th FYP. Also, Chief Secretary for Administration Henry TANG indicated that Hong Kong should see suitable involvement in the National 12th FYP, especially in co-ordinating the development of the Pearl River Delta Region. We can play an intermediary role to enhance exchanges between the international community and the Mainland, attract the inflow of foreign investments into the Mainland market through Hong Kong, give full play to our advantages, for example, excellent business environment and judicial system, and tie in with and assist in the further development of our country. At the same time, under Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), we can attract foreign investors to establish branches in Hong Kong, which would facilitate the entry of Mainland products to the international markets.

As a matter of fact, CEPA has been implemented for years and certain results have been achieved. Over 3 800 foreign-funded enterprises have established head offices and regional branches in Hong Kong, and the number has increased by more than 20% compared with 2003 when CEPA was freshly signed. Insofar as I am aware, the National 12th FYP will involve various areas of development, including environmental protection, economics, communications and informationization. As Hong Kong has relative advantages in certain areas, we can play an active role in the national development of these industries.

It has been more than 30 years since the reform and opening up of our country; China has passed the stage of laying a firm foundation and entered the stage of development by leaps and bounds. In my opinion, Hong Kong must seize this golden opportunity to cope with the overall development of our country, and develop by leaps and bounds together. In this course, we must insist on preserving and developing further our sound institutions, giving full play to the advantage of "two systems" under "one country, two systems". I still recall that Mr LI Ruihuan, Chairman of the Chinese People's Political Consultative Conference, used a Yixing teapot as a metaphor to describe the characteristics of Hong Kong — insofar as a Yixing teapot is concerned, the tea stains inside the teapot were actually very precious. This metaphor still applies today. Within 12 years after the reunification, Hong Kong people actually treasure these characteristics very much. What are they? For example, our independent and reliable judicial system, the clean and highly efficient Civil Service, free flow of information, freedom of expression, and the widespread use of English. These are valuable assets taken seriously in Hong Kong and throughout the country. We should carefully protect these characteristics when we participate in the development of our country.

In addition, we should always bear in mind that, to participate in the overall planning and development of the national economy, we should put job opportunities for Hong Kong people in top priority. We should proactively create jobs in the process and work hard to achieve the objective; otherwise, further integration will only make the local industries hollow, causing the loss of a large number of jobs and aggravating further the deep-rooted conflicts in Hong Kong.

Summing up, I think that the National 12th FYP gives Hong Kong an important opportunity. The Hong Kong Government should launch a study as quickly as possible and actively organize discussions on the relevant issues among different social strata, for example, Legislative Council Members, District Council members, political parties, political groups, academics, professionals, non-governmental organizations, district organizations and youth groups, so that people from different strata can participate in the planning of our country and Hong Kong and assist the Government in working out a development blueprint with foresight.

I so submit.

**PROF PATRICK LAU** (in Cantonese): Deputy President, at some seminars on the National 11th FYP, I heard many people express the hope that Hong Kong would have a chance to participate in the early preparation of the National 12th FYP. We need to examine early with our country the development outline for the next five years instead of thinking of ways to grasp the opportunities after the outline has been finalized. For this reason, I support the original motion that urges the SAR Government to expeditiously make plans and conduct comprehensive consultations; in particular, it should consult professionals in order to formulate together a plan conducive to the long-term economic development of the Mainland and Hong Kong.

I have consulted the professionals in my sector on this motion. They have particularly stated that, in the wake of speedy development of other Chinese cities, if Hong Kong fails to actively participate in national planning in the next five years, we will be marginalized gradually.

In fact, after the work meeting between the SAR Government and the National Development and Reform Commission (NDRC) on the National 12th FYP, three important directions for follow-up have been proposed, and all of them involve the relevant professional fields: First, further enhancing Hong Kong's status as an international financial centre; second, further strengthening the "Guangdong pilot measures" for Hong Kong professionals and the services sector; and third, encouraging further co-operation between Hong Kong and Guangdong Province and the neighbouring provinces in promoting energy saving, emission reduction and clean energy development.

Deputy President, although CEPA has really made some contributions in two aspects, that is, cross recognition of professional qualifications and the starting of business by Hong Kong enterprises on the Mainland, the industry players have still expressed a lot of views about opening more doors under CEPA and the "Guangdong pilot measures".

According to the Hong Kong Institute of Architects (HKIA), after the approval granted by the State Council, though Hong Kong people who meet the requirements for reciprocal recognition of professional qualifications can complete registration and practise in Guangdong under "early and pilot implementation", architects are not among the professionals granted approval. The HKIA hopes that the SAR Government could strive for the inclusion of Hong

Kong architects in the agreement on reciprocal recognition of professional qualifications, enlarge the scope of reciprocal recognition of professional qualifications, and strengthen co-operation among Mainland and Hong Kong professionals with a view to entering the international construction markets together. Moreover, to realize the principle and spirit of reciprocity in mutual recognition of professional qualifications, the SAR Government should assist first-class registered architects on the Mainland in qualifying as architects in Hong Kong and China through the reciprocal recognition of professional qualifications in becoming "Authorized Persons" in Hong Kong to facilitate their practice in Hong Kong.

In addition, there is still a relatively high threshold for the establishment of architect offices on the Mainland because most architect offices in Hong Kong only provide unitary professional services, and it is actually very hard for them to meet the requirements for establishing "integrated architectural design enterprises" on the Mainland, especially in such aspects as legislation governing operation, capital, personnel and business performance. Therefore, the HKIA has proposed implementing a pilot project in Guangdong Province, allowing Hong Kong architect offices to establish "unitary professional architectural design offices" in Guangdong cities in the form of sole proprietorship or joint ventures, which is one of the key measures among the "Guangdong pilot measures".

Deputy President, I know that a Hong Kong architect and two first-class registered architects on the Mainland had applied for the establishment of a "joint venture architect office" in Shenzhen before but the application was not approved by the authorities concerned without giving any reasons. Furthermore, there has been the first successful case where a "wholly foreign-invested architect office" was established in Shanghai but the application took two years to complete during which applications were respectively filed with three local departments and the Ministry of Housing and Urban-Rural Development; the threshold is obviously still rather high. Thus, I very much hope that measures would be formulated in the course of preparing the National 12th FYP to lower the threshold for the establishment of offices by Hong Kong professionals on the Mainland, in order that architects and other professionals, especially young professionals, will have more opportunities of business development on the Mainland.

Secretary Stephen LAM has said that one of the focal points of the National 12th FYP includes energy saving, emission reduction and clean energy

development. To accomplish this task, we should tie in with the proposal made by the Ministry of Housing and Urban-Rural Development on the Mainland, that is, advancing towards a new stage of energy saving in buildings and the mode of green cities and low-carbon development. For this reason, I think the views of the architectural sector on the National 12th FYP are very important. I hope that, while developing the four pillar industries and the six key industries, the SAR Government will promote integration and participation by the architectural sector. In particular, concerning the development of the creative industry involving environmentally-friendly and energy efficient buildings, I hope the co-operation between Hong Kong and the Mainland will be strengthened through active participation in the preparation of the National 12th FYP, to attain sustainable city development and lay a good foundation for the future economic development of Hong Kong. I so submit. Thank you, Deputy President.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, about the motion proposed by Mr WONG Ting-kwong and the amendment of Ms Miriam LAU, I think that they are mostly focused on the economic aspect.

In fact, the so-called five-year national economic and social development plans of the People's Republic of China are about more than economic affairs. Taking the National 11th FYP as an example, it touched upon cultural construction, political construction, social construction and national defence construction; but the two Honourable colleagues are only talking about economic construction.

There is a planned economy because China is a country that practised socialism, and it basically had a collective economy during the first 30 years. The planned economy now has some elements of free economy. For this reason, if we are more neutral, we may as well call it a planned free economy, which is nothing new. Frankly speaking, the principle of the people's livelihood put forward by Dr SUN Yat-sen years ago was genuine socialism with Chinese characteristics.

I remember that, at the beginning of the 1990s when I could still travel to the Mainland, I participated in an international academic conference in Beijing about Dr SUN Yat-sen. I remember that the representatives from Hong Kong

included Prof Ambrose YEO, Prof L Y CHIU, former Chair of Chinese of The University of Hong Kong, and me. The seminar was jointly organized by the University of Hong Kong, the National Taiwan Normal University and the Historical Research Institute of the Chinese Academy of Social Sciences. The seminar was held in the three places across the Taiwan Strait: once in Taiwan, once in Hong Kong and then on the Mainland. At the seminar, I presented a paper entitled "Socialism with Chinese characteristics is the principle of the people's livelihood". I had written up an outline for the paper and I was about to present the paper. However, one day before I was supposed to present the paper, someone from the Historical Research Institute of the Chinese Academy of Social Sciences asked me if I could change the title. At that time, many Taiwanese representatives, that is, academics from the Republic of China, changed the Republic of China to Taiwan in their papers one after another because they wanted to be politically correct. Nevertheless, people like me insistently preferred to sing a different tune. I was asked to make changes but I did not want to do so; I certainly had not made any changes, buddy. Then, they told me that my paper would not pass the gate if I did not make any changes. So, I told them that I had decided not to present it, and they told me (*in Putonghua*) that they highly respected my freedom to not present my paper.

Later, I posted the paper back to Hong Kong and it was published on the *Hong Kong Economic Times*. The points that I discussed at that time were very simple, that is, socialism with Chinese characteristics or the stage of elementary socialism discussed then basically included market elements in the collective planned economy. We are all clear about the reasons. Thus, for 30 years since the Third Plenary Session of the Eleventh Central Committee in 1978, that is, since the time DENG Xiaoping was back in power and worked on reform and opening, we have clearly witnessed the growth of the whole economy. This proves that the route at the time was correct, yet, it was also a planned economy.

Nonetheless, here in Hong Kong — I am sorry, Deputy President — we uphold the "big market, small government" principle. The Liberal Party especially commends this economic system and the DAB does the same. However, today, I am really puzzled when they say that we should participate in the work on planned economy. The Secretary is present and he is going to respond to this motion in his capacity as the Secretary in charge of Mainland

affairs, but I think there are problems because of his political role. Should the Secretary in charge of commercial affairs give a response? We all know that the motion and the amendment are about economic affairs.

I am more concerned about — I have an information paper at hand, which is the resolution passed at the Fourth Plenary Session of the Tenth National People's Congress on 14 March; it is a resolution on the Outline of the Eleventh Five-Year Plan for National Economic and Social Development and the Outline was approved. Certainly, it was first approved by the Party as that was the way in which the Communist Party of China formulated policies. A decision was first made by the Party and then submitted to the National People's Congress for approval as a routine, and it would then be carried out by the organs of government. The paper contained three chapters (that I was most interested in), that is, Building a Socialist Harmonious Society, Promoting Socialist Democratic Politics, and Promoting Socialist Cultural Development. Honourable colleagues may do an online search for the paper because it is most interesting.

Nowadays, all of us in Hong Kong adopt realistic perspectives focusing on material gains. Having advantages and making gains matter to us; Hong Kong people really know no shame. Our national income is US\$30,755, right? It is 10 times the Mainland's national income, buddy. Do Honourable colleagues remember that the brilliant Premier WEN Jiabao once said that, regardless of how the Chinese economy grew, the number would become very small when divided by 1.35 billion? A very small problem in China when multiplied by 1.3 billion would become a very serious problem. Actually, we often see him frowning, so we know that the pressure he is putting up with is much heavier than that of those of us currently working on the five district referendum campaign. Honestly, I really sympathize with him.

In fact, I am speaking today not in support of the two Honourable colleagues who proposed the motion and the amendment. I just have some thoughts that I would like to express. The DAB follows closely the route of the Central Authorities; in the past, many of its members, including the Honourable and respected Mr TAM Yiu-chung who was a trade union leader, upheld socialism. Yet, they have no alternatives today because of the principle of "one country, two systems". It is specified very clearly that the socialist system shall not be practised in Hong Kong. The socialist system is not practised in Hong Kong, right? Capitalism must be practiced to the letter. Similarly, the SAR

Government emphasizes economic development. Economic growth means more jobs for the benefit of workers. Many people will become unemployed without economic development. This is the golden rule and the philosophy of governance of the Hong Kong Government. Why do Honourable colleagues keep talking about planned economy today?

Hence, I find that very strange, and I would like to use the platform of this Council to express my views, and to tell Honourable colleagues that we might consider doing some soul-searching. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

**MR ALBERT CHAN** (in Cantonese): Deputy President, it is actually most satirical and strange today for so many political parties and Honourable Members support the discussions on actively participating in the preparation of the National 12th FYP. They should all join the League of Social Democrats (LSD) as it is the only political party that really has a clear stand and upholds social democracy. The Liberal Party supports this motion, which is most ridiculous, right? The National 12th FYP is a component of national economic planning, and an act of a socialist government. Concerning the National First FYP for the period from 1953 to 1957, it emphasized concentrating efforts on 156 projects designed by the former Soviet Union. The Second FYP was about developing the heavy industries. And the Third FYP was about vigorously developing agriculture. The principles, spirits and mechanisms of the five-year plans are about planned national economy. Any person who claims to support the "big market, small government" principle or oppose government intervention in the market has no reasons to support the planned economy of the Chinese Government. This is dissociative disorder and schizophrenia.

So, they are saying that Hong Kong should actively participate in the preparation of the National 12th FYP ..... It is really strange and I wonder all of a sudden if this is inconsistent with the Basic Law. It is because the Basic Law has specified that Hong Kong enjoys independence and autonomy except in respect of defence and foreign affairs; why have the Central Authorities not reprimanded us for intervening? We, river water, do not intrude into well water;



China has political and economic plans, especially economic plans. Now, Hong Kong wants to actively participate in the economic planning of the Mainland and our country, and it is a case of well water intruding into river water, to permeate, influence and oppress the administration of the Communist Party of China through intervening in China's economic planning. The Central Government should strongly criticize us for invading the communist economy. Therefore, the whole thinking is extremely contradictory.

(THE PRESIDENT resumed the Chair)

President, the LSD basically opposes the motion today. Apart from the point that it may involve intervention in and influence on the economic autonomy of Hong Kong, what actually is the National 12th FYP? Certainly, regarding the economic plans under the National 12th FYP, the LSD supports in principle a government-led economic system. That is the established position of the LSD, but when we consider the prevailing economic development of China, we will find that traditional socialism is not practised. Today, the economic development of China as a whole has become distorted and deformed. It has become bureaucratic capitalism under the leadership of bureaucrats, and the public assets of our country are gradually becoming bureaucratic. Let us consider the so-called 50 strongest state enterprises; China Petrochemical Corporation ranks first with an operating income of over RMB 146 billion yuan; and the China National Petroleum Corporation ranks second. Among these 50 strongest state enterprises, many are associated with natural assets and banking. However, when we look at these enterprises closely, we will find that they are state enterprises in essence, and all of them can be called "central enterprises". Yet, where have their essential interests gone? A lot of these interests are not given to the people. The National 12th FYP is basically geared towards making the state enterprises or "central enterprises" even stronger and enhancing their monopolization, thus giving people even fewer choices. As a result of monopolization, people have to meet expenses with their incomes and bear responsibilities for the profits of these "central enterprises" or state enterprises, thus leading even harder lives.

President, those figures are really strange. In 2009, the incomes of the 500 strongest enterprises in China were equal to 34.2% of the incomes of the 500 strongest enterprises in the United States. If we talk about profits ..... Buddy, their total assets and operating incomes were just 30% of that of those enterprises in the United States. However, if we talk about their profits back then, the profits of the 500 strongest enterprises in the United States were just US\$98.9 billion. Though they were similarly the 500 strongest enterprises and the turnover of the relevant enterprises in China were just one third of that of those enterprises in the United States, their profits amounted to US\$170.6 billion, almost double the profits of the 500 strongest enterprises in the United States. Where did their profits come from? Most of the 500 strongest enterprises engaged in businesses involving the basic daily necessities of the people, and they reaped exorbitant profits from the money that people earned by hard toil. Capitalism as practised by the Americans is extremely bad, right? In the 1960s, people let loose a stream of abuse against them, yet, China today is even worse than the United States. The profits of the 500 strongest enterprises in the United States only amounted to more than US\$90 billion while the 500 strongest enterprises in China had profits totalling US\$170.6 billion. Have the poor ordinary people in China been exploited to such an extent that they do not even have a little money left?

Therefore, about the National 12th FYP, we have read a lot of documents and also the report on National 12th FYP, and we have basically observed that it is just enhancing bureaucratic capitalism. Those who will be eventually benefited are the children of senior cadres or their family members with political connections, and those who are closely related to the "Crown Prince Party". The masses are exploited, bullied and oppressed, and small-capital enterprises are eaten away, right? Hence, the LSD opposes this motion today.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong, you may now speak on Ms Miriam LAU's amendment. You may speak for up to five minutes.

**MR WONG TING-KWONG** (in Cantonese): Ms Miriam LAU has proposed amendments about "facilitating further development of the four pillar industries and the six industries in Hong Kong", as well as "consolidating and enhancing Hong Kong's status as an international centre for financial services, trading and shipping, and so on, and developing the six industries into new pillar industries". These suggestions have added to my original motion about "Actively participating in the 'National Twelfth Five-Year Plan'" the direction of developing the four pillar industries and the six industries in Hong Kong and consolidating and enhancing Hong Kong's status as an international centre for financial services, trading and shipping, and so on.

As I said in my speech moving the motion, with the Government's proposal to develop the six industries in which Hong Kong enjoys clear advantages, we must grasp the opportunity presented by the Central Authorities' planning for the National 12th FYP to rally more support and explore better development opportunities. It has been clearly stated in the National 11th FYP that the Motherland will "preserve Hong Kong's status as an international financial, trade and shipping centre". When the Chief Executive, Mr Donald TSANG, paid a duty visit to Beijing late last year, he also introduced the concept of developing the six industries in which Hong Kong enjoys clear advantages, and this was supported by the Central Authorities.

Hence, the objective of the proposed amendment is consistent with that of my original motion. For this reason, the DAB considers that there is no conflict between the proposed amendment and the original motion, and we will give them both our support.

Thank you, President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have to thank all Honourable Members who have spoken on Mr WONG Ting-kwong's motion today. I also want to thank Ms Miriam LAU for her amendment as it has broadened the scope of our discussion today.

Before responding to the views presented by individual Members, I would like to further explain the policies of the SAR Government in a couple of areas first.

First, the SAR Government has always been complementing the preparation of the National 12th FYP on the basis of the Basic Law in accordance with the principles of "one country, two systems" and "a high degree of autonomy". In fact, it is only with the great importance we attach to upholding the rule of law and maintaining a system of highly open and free market operations that Hong Kong can continue to play its unique and indispensable role in the development process of our country. Hence, Hong Kong complementing the preparation of the National 12th FYP is mutually beneficial and complementary to both Hong Kong itself and the Mainland.

Mr WONG Ting-kwong has mentioned the positioning of Hong Kong in the national development. In this respect, I believe Members will agree that when complementing the State's preparation of the National 12th FYP, it must be our primary objective to ascertain Hong Kong's position in the overall development of the country. This is also of the utmost importance to maintaining the long-term prosperity and stability of Hong Kong as well as realizing the long-term development strategies of China.

In her amendment, Ms Miriam LAU suggested that we have to consolidate and enhance Hong Kong's status as an international centre for financial services, trading and shipping. In this connection, the Central Government has already pledged its continuous support for preserving Hong Kong's status as an international financial, trade and shipping centre in the National 11th FYP. At present, the SAR Government is working on issues relating to the preparation of the National 12th FYP, precisely for the purpose of discussing with the Central Authorities how concrete measures can be taken to further enhance Hong Kong's status as an international centre for financial services, trading and shipping.

To this end, I have visited Beijing with representatives from the Financial Services and the Treasury Bureau, the Environment Bureau, and the Transport and Housing Bureau last week to meet officials of the National Development and Reform Commission (NDRC). Some initial views were exchanged. I also held a media briefing after the meeting to report on the details of our discussion. In particular, we have touched on three areas of work.

First, the Central Government will jointly study and discuss with the SAR Government the question as to how Hong Kong's status as an international centre for financial services can be further upgraded.

Second, since the implementation of Closer Economic Partnership Arrangement (CEPA) in 2003, positive growth has been achieved for Hong Kong economy. The implementation of pilot measures in the Mainland, especially in Guangdong Province, has also achieved certain results. Based on the foundation of CEPA, we will study how best greater results can be achieved in all aspects.

Third, we understand that the Mainland attaches great importance to initiatives on environmental protection, emission reduction and clean energy development. Hence, the Central Government is very supportive of joint efforts made by the Hong Kong SAR, Guangdong Province as well as other neighbouring provinces and municipalities in promoting environmental protection and emission reduction.

On the macro perspective, we anticipate that in the next stage of national development, the Mainland will make full use of its integration with Hong Kong and leverage on our advantages to improve the industrial structure and expedite the building of modern service systems on the Mainland. This could help promote the further development of the tertiary industry in China. Meanwhile, Hong Kong can leverage on the support given by the Mainland's extensive production network. And the Mainland's domestic market can further become Hong Kong's strategic hinterland so that our market can increase from the local population of 7 million to the 50 million in the Greater Pearl River Delta (PRD) Region, and then radiate out to cover the more than 400 million people in the Pan-PRD provinces.

In this respect, Prof Patrick LAU and Members representing other professional groups have highlighted the need for us to continuously expand the presence of our professionals and other services in the Mainland. This line of thinking is shared by the SAR Government and the industries.

Ms Miriam LAU mentioned that we must develop the four pillar industries and the six key industries. While concurring very much with this idea, we also share Ms LAU's view that it is outdated and obsolete to hold on to the concept of "river water not intruding upon well water" in this area of work. President, the truth is that the more closely connected and strongly co-operative the economies of Hong Kong and the Mainland can become, the more successfully the "one country, two systems" principle can be realized. This is pivotal in strengthening Hong Kong's competitiveness.

Our work in developing the four pillar industries and the six key industries covers many areas, and here I would like to highlight five of them specifically. The first area is financial services. During his duty visit to Beijing at the end of last month, the Chief Executive stated to Premier WEN Jiabao that we are particularly keen to see the State leveraging more on Hong Kong's advantages as an international financial centre in the National 12th FYP. Responding positively to our suggestion, Premier WEN said that the Mainland would leverage on Hong Kong's advantages as an international financial centre and support Hong Kong's consolidation and elevation of its position as an international financial centre. Premier WEN also reiterated support for Hong Kong as a testing ground for China's financial reform.

Premier WEN also highlighted four policy directions. The first two relate to arrangements for promoting the use of Renminbi (RMB) in Hong Kong as the currency for cross-boundary trade settlements and direct investment, expanding the issue of RMB bonds locally, as well as promoting the use of RMB in project financing. A number of new initiatives will be rolled out to increase the circulation of RMB. The remaining two directions are about encouraging more Mainland enterprises to raise funds in Hong Kong through initial public offering (IPO), as well as strengthening co-operation and exchange between the Hong Kong and Shanghai stock exchanges to achieve synergy.

The second area is the service industry. The National 11th FYP has emphasized promoting industrial structure optimization and upgrade as well as accelerating the development of service industries. At present, the service industries account for 92.3% of local Gross Domestic Product (GDP). With sustained economic growth and continuous expansion of foreign trade in the Mainland, its demand for various services will also increase. CEPA has provided an important platform for expanding the scope of development of service industries on the one hand, and for facilitating the co-operation of service industries between Hong Kong and the Mainland on the other. To date, more than 250 liberalization and facilitation measures for the service trade and investment have been announced under CEPA and its six Supplements encompassing 42 service areas which include Hong Kong's four pillar industries of financial services, producer and professional services, tourism and logistics.

In future, the SAR Government will seek opportunities to further broaden and enrich the scope and content of CEPA and to assist Hong Kong service providers so that they can enter the Mainland market more effectively.

The third area is the logistics industry. The National 11th FYP has unequivocally supported Hong Kong in the development of our logistics services and in maintaining our position as an international maritime centre. From 2004 to 2008, air-borne and sea-borne freight throughputs respectively recorded annual growth at 6.5% and 3.7% on average. This shows that Hong Kong will continue to play an important role in this respect.

The fourth area is tourism. The National 11th FYP has also highlighted the importance of enriching consumer services and vigorously developing tourism. In this connection, since the launch of the Individual Visit Scheme (IVS) by the Mainland in July 2003, the IVS has been extended to cover 49 Mainland cities. As at the end of 2009, about 45.95 million Mainlanders have visited Hong Kong under the IVS. The percentage of Mainlanders in visitors to Hong Kong has also increased from 35% in 2004 to 60% in 2009.

In addition, the Central Authorities implemented two facilitation measures in the past year, namely, introducing a one-year multiple-entry IVS endorsement for eligible Shenzhen permanent residents to visit Hong Kong, and implementing arrangements for non-Guangdong residents in Shenzhen to apply for IVS

endorsement in Shenzhen to visit Hong Kong. These measures have a most positive impact on pushing the continuous development of Hong Kong's tourism.

Separately, under Supplement VI of CEPA, Mainland group tour travellers visiting Taiwan would be allowed to enter and remain in Hong Kong in transit. Apart from opening up the Hong Kong-Taiwan multi-destinations itineraries, this also complements the measure of allowing Mainland group tour travellers to travel to Taiwan via Hong Kong on Hong Kong-based cruise liners. Moreover, under the framework of CEPA, Hong Kong travel agents can engage in travel business on the Mainland. Tourist guides and tour escorts from Hong Kong can also obtain relevant Mainland credentials. We will continue to work actively with the Central Authorities and all levels of provincial and municipal governments to promote the development of Hong Kong tourism in the Mainland.

The fifth area is environmental protection. In his 2008-2009 policy address, the Chief Executive elaborated on the concepts of low carbon economy and developing a green and quality living area in the Greater PRD Region (encompassing Guangdong, Hong Kong and Macao) which is founded on low energy consumption and low pollution. The objectives are to improve the environment of Hong Kong and its neighbouring regions and to reduce greenhouse gas emissions.

In March 2009, the Hong Kong SAR Government and the relevant ministries and commissions of the Guangdong Provincial Government have exchanged views on the major specifics of the plan to develop a green and quality living area in the Greater PRD Region. We will actively follow up the relevant work. As for other industries including educational services, medical services, innovation and technology, testing and certification, as well as cultural and creative services, the SAR Government will strive to take forward their development actively.

I will now try to respond to the specific viewpoints raised by Honourable Members. First, Mr WONG Ting-kwong was particularly concerned about Hong Kong holding on to our advantages and how we can compete with Shanghai, the leader of the Yangtze River Delta. Mr WONG as well as other Members have talked about how we are going to compete with Singapore, and Mr Vincent FANG also named Shanghai as our competitor. Mr WONG



Ting-kwong said something about sailing against the current and if we stop moving, we will fall behind. I want to tell Mr WONG and all Members that Hong Kong has not fallen behind and we have three indicators to prove it.

First, in respect of the promotion of tourism, the number of visitors coming to Hong Kong has increased tremendously since 2003. At present, we receive nearly 30 million visitors every year. Second, let us turn to the achievement of the Hong Kong IPO market. In 2009, we were the largest listing market in the world, overtaking the London and New York exchanges, with a total of over \$240 billion raised. Third, the number of regional headquarters and regional offices in Hong Kong has increased by 45% from 1997 to 2009. This significant improvement is also noted by Dr PAN Pey-chyou.

Mr CHAN Kin-por in particular reiterated the need for us to implement pilot measures in Guangdong Province for promoting the development of the insurance industry in the Mainland. I cannot stress enough that we are indeed working towards the same goal and we will continue our efforts at both the level of the Central Government as well as all levels of provincial and municipal authorities.

Ms Starry LEE mentioned in particular the development of the Taiwan-strait West Coast Economic Zone/"HaiXi" Economic Zone. She also pointed out that certain policies would be implemented on a pilot basis in Fujian Province to allow Taiwan enterprises to make investments in Fujian. I wish to state it clearly to the Council that the SAR Government has always been mindful of the improvement of cross-strait relations, and we also have an overall strategy. The SAR Government has already established closer co-operation ties with Taiwan. In this connection, during my visit to Taiwan in June last year, we reached a consensus with the Mainland Affairs Council to set up bilateral business co-operation committees. Our overall aim is to encourage more companies, both from Taiwan and the Mainland, to seek listing in Hong Kong after they have successfully entered the market across the strait. In this way, it will not only help promote Hong Kong's status as an international financial centre, but also bring about further improvement in cross-strait relations. As Fujian is taking the lead to establish stronger economic ties with Taiwan, we will continue to strengthen co-operation with the Fujian Provincial Government.

Mr IP Kwok-him mentioned the cultural industries. I wish to talk about two points here. First, we have been working on three areas to promote cultural industries including arts programmes, audience development as well as arts education and manpower training. We also hope that stronger support can be provided to the performing and arts groups of various sectors so that we can build up an arts brand for Hong Kong.

Regarding the film industry which is a great concern to Mr IP Kwok-him, the Hong Kong Film Development Council will launch a number of major initiatives to promote Hong Kong's film industry. For example, the upper limit of the production budget of a film project supported by the Film Development Fund will be increased from \$12 million to \$15 million, and the upper limit of the contribution per film project from 30% to 35%, and consideration will be given to raising the contribution to 40% under very special circumstances.

Mr WONG Kwok-hing talked about six areas of work and I would like to respond to some of them. First, Hong Kong has a set of policies for the provision of medical services, public housing and social services which caters for the circumstances of the Hong Kong SAR. And these policies apply to all citizens in an equitable manner. Second, I know that the Hong Kong Federation of Trade Unions (FTU) is very concerned about Hong Kong residents living in the Mainland, either doing business or working. They would invariably encounter some problems, such as buying properties on the Mainland. We have, through the Hong Kong Trade and Economic Office in Guangdong of the FTU, provided financial support in resolving the problems encountered by these Hong Kong residents and promoted the services of the FTU. (Appendix 2) In the past two to three years, we have been promoting work in this area.

Both Ms LI Fung-ying and Mr LEUNG Yiu-chung mentioned in particular the economic integration between Hong Kong and the Mainland, specifically the decrease in employment opportunities caused by Hong Kong industries moving north of the border. Certainly, we appreciate their concern in this respect. However, we are, on the one hand, developing new service industries in Hong Kong so that more jobs will be created. On the other hand, our co-operation with the Mainland can in fact provide many additional employment opportunities, such as the tens of thousands of jobs to be created by the implementation of large-scale infrastructural projects.

Mr WONG Yuk-man and Mr Albert CHAN have, in particular, questioned why Hong Kong, as a special administrative region, would need to complement the development of 10-year planning by the Central Authorities. President, I wish to emphasize two points. As I have said just now when commenting on Ms Miriam LAU's amendment, promoting economic co-operation and integration between Hong Kong and the Mainland is completely based on the principle of "one country, two systems." Let us turn the clock back to 2003 when the Central Authorities decided to enter into CEPA with Hong Kong so that the Mainland market would be opened to the goods and service industries of Hong Kong on one hand, and the IVS would be implemented on the other. Why could such an agreement be made at that time? It was because under the Basic Law, Hong Kong could maintain our status as a member of the World Trade Organization (WTO) while China had also joined the WTO in the end of 2001. As two separate members of the WTO, we could then enter into this set of free trade arrangements. Therefore, further economic co-operation between the Mainland and Hong Kong is completely based on the principle of "one country, two systems". Apart from being mutually beneficial, it will also create win-win opportunities for both sides.

The second point which I wish to talk about is how the SAR Government looks at the transition from the National 11th FYP to the National 12th FYP. In the National 11th FYP, the Central Authorities have stated its continuous support for Hong Kong to maintain its status as an international centre for financial services, trading and shipping. Our common aspiration is that under the National 12th FYP, the Central Government will introduce concrete and important policies and measures to promote further co-operation between the Mainland and Hong Kong economies, and to consolidate and enhance Hong Kong's status as an international centre for financial services, trading and shipping. These are all very clear directions of our work and they are entirely consistent with the principle of "one country, two systems". In fact, this also serves to respond to Mr Ronny TONG's specific question about what is our direction in respect of the National 12th FYP.

I have also listened very carefully to Mr LEUNG Kwok-hung's speech today. While Mr LEUNG Kwok-hung always speak with his own logic, I

noticed today that he said the Chinese Government had a lot of national debts. I do not know on what basis he made those remarks, but I have to point out two facts. First, the Chinese Government has huge fiscal reserves. Second, the United States in fact owes a lot of national debts to China as the Chinese Government has bought a lot of reserve bonds issued by the United States Government. Therefore, I think as China sustains its development, it will continue to amass economic power and financial prowess.

Both Mr Ronny TONG and Ms Cyd HO made special mention of how we should account to the public our participation and co-operation with the Mainland in the preparation of the National 12th FYP. I wish to tell all of you that we are very concerned about maintaining transparency in all aspects of our co-operation with the Mainland. For this reason, whenever we convene meetings with the Mainland authorities, we will hold media briefings if any co-operation arrangement or memorandum has been signed. The Legislative Council will also be briefed whenever necessary, such as when funding approval is to be sought. We will also brief the relevant panels of the Legislative Council on major policy developments. I have also listed the scope of co-operation in several dozens such memoranda in reply to Ms Cyd HO's question previously.

Mr WONG Yung-kan specifically highlighted his worry about whether Hong Kong's competitiveness is diminishing. He also mentioned in particular that with further democratization of Hong Kong, the pace of our development might slacken. As Hong Kong opens more channels of democracy, more public consultation would no doubt be held and it may have impact on the implementation of infrastructural projects as well as other developments. We will pay special attention to this and continue to enhance communication with the Legislative Council and District Councils, as well as consulting the relevant sectors and organizations so that we can take on board the views of the community while ensuring Hong Kong's steady development.

While Mr WONG Yung-kan reminded us of the need to balance the progress of democracy on the one hand and the development of infrastructure and other aspects on the other, I have to respond to the opening remarks made by Mr Albert HO who said that apart from economic development, we should also pursue democratic development. I wish to tell Mr Albert HO that Hong Kong is

in fact very lucky because apart from the opportunity to integrate and co-operate with the Mainland in the economic domain, the Basic Law has also provided for the establishment of the Court of Final Appeal of Hong Kong, the maintenance of independent operation of the Independent Commission Against Corruption, as well as the protection of human rights in accordance with the laws of Hong Kong. Moreover, we now have a timetable for elections by universal suffrage. Therefore, we can take forward Hong Kong's economic development on the one hand, and on the other — Mr Albert HO as well as other Members — as long as we can create together a consensus so that constitutional development can take a step forward in 2012, we will have the conditions to implement universal suffrage in 2017 and 2020.

President, I can conclude by saying that 2010 is a critical year. When attending the Conference on "Global and China's Economy and Hong Kong's Future Development" last September, Mr LIU Tienan, Deputy director of the NDRC, said that the Central Authorities had launched the preparation of the National 12th FYP, and that the relevant planning was at a critical stage of building the future on the foundation of the past. The preparation and implementation of the National 12th FYP, will help actualize the phased objective of the modernization of China and realize the solemn commitment made by China to global development. Hong Kong would also play an important role in the process.

Hong Kong, as the important bridge linking the Mainland and other parts of the world, has made enormous contribution to the reform and opening of the Mainland. The rapid growth of the Mainland economy has also developed new space for Hong Kong to achieve economic growth and upgrade its industries. At present, the international economic structure is undergoing significant changes which present new challenges to the economic development of both the Mainland and Hong Kong. In this new development environment, Hong Kong must bring the advantage of "one country, two systems" into full play and strengthen economic co-operation with the Mainland so that we can jointly build up new advantages in the global economic race. This would have very important strategic significance for promoting economic co-operation between the Mainland and Hong Kong.

President, under the guiding principles of "one country, two systems" and "a high degree of autonomy", the SAR Government will actively complement the formulation of the National 12th FYP so that Hong Kong's advantages will be brought into full play and that we will continue to play a unique and important role in national development while pushing our own long-term development.

President, I so submit and hope Members will support the original motion as well as the proposed amendment. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Ms Miriam LAU to Mr WONG Ting-kwong's motion, be passed. 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 WONG Ting-kwong, you may now speak in reply. You have one minute 57 seconds.

**MR WONG TING-KWONG** (in Cantonese): President, first of all, I thank the 16 Members who have spoken on my motion. By sponsoring this motion debate on "Actively participating in the 'National Twelfth Five-Year Plan'", I hope the SAR Government can take early actions to open up new horizons for Hong

Kong's economic development in the future. I do not want to see the SAR Government always resting on its laurels, bragging about its glorious past. Instead, the SAR Government should have a sense of crisis. I have also specifically mentioned that in order for Hong Kong to participate in the National 12th FYP, the SAR Government must bring conventional wisdom into full play and mobilize members of all trades and industries as well as people from all walks of life to brainstorm for ideas.

Some Members have mentioned that they also want to participate in the National 12th FYP but they do not have Home Visit Permits. I for one would like to see them successfully apply for such permits and I feel sorry for them for not having the permits. However, if they do not change their attitude, I think it would be very difficult. There is a saying in Putonghua which means, "you want to go home for meals but you just keep on scolding your mother in the house". Who can take it anyway?

(A Member sought to make clarification)

Therefore, I hope they can get their permits early.

Second, I also noticed that Mr Frederick FUNG has mentioned a rather valid point. According to Mr FUNG, under the concepts of "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy", autonomy is of course very important. But it does not mean that economic integration is precluded. I hope this thinking can bring us some revelation. As far as "one country, two systems" is concerned, I think it is a very important principle for us right now. But in the long flow of history, I hope one day we will have one country one system, as well as one country good system.

**MR LEE WING-TAT** (in Cantonese): President, I do not have a Home Visit Permit but I have not "scolded mother", the Communist Party. I only demanded from it democracy and I was not issued with a Home Visit Permit. Therefore, he should not say that expression to me and I did not use any dirty words.

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, this motion debate has ended. The debate should have come to a close after Mr WONG Ting-kwong has replied. I now .....

(Ms Cyd HO stood up)

**MS CYD HO** (in Cantonese): I stood up just now trying to make clarification but you did not deal with it. Do you allow me to make a clarification now?

**PRESIDENT** (in Cantonese): Has Mr WONG Ting-kwong misunderstood your remarks .....

**MS CYD HO** (in Cantonese): I stood up trying to make clarification when he was speaking.

**PRESIDENT** (in Cantonese): Please clarify.

**MS CYD HO** (in Cantonese): Thank you, President. I mentioned earlier in my speech that it was very difficult to discuss the present motion in this Council because we do not have Home Visit Permits. But I did not say I wanted to participate because there was another more difficult question to follow, and that is, we did not even have any papers on the matter, not even some official papers. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Ting-kwong, as amended by Ms Miriam LAU, 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.

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung 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, Dr Philip WONG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Vincent FANG, Dr Joseph LEE, Mr WONG Ting-kwong, Prof Patrick LAU, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the motion as amended.

Geographical Constituencies:

Mr Albert HO, Mr James TO, Mr LAU Kong-wah, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO, Mr CHAN Hak-kan, Miss Tanya CHAN, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted for the motion as amended.

Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the motion as amended.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present and 17 were in favour of the motion as amended; while among the Members returned by geographical constituencies through direct elections, 18 were present, 15 were in favour of the motion as amended and two against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion as amended was passed.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 27 January 2010.

*Adjourned accordingly at sixteen minutes to Ten o'clock.*

**Annex I**

## LEGAL PRACTITIONERS (AMENDMENT) BILL 2009

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Justice

<u>Clause</u>	<u>Amendment Proposed</u>
4	<p>(a) In the proposed section 39E(3), by deleting “the following members appointed by the Chief Justice”.</p> <p>(b) By deleting the proposed section 39E(3)(a) and substituting –</p> <p>“(a) a chairperson appointed by the Chief Justice, who must be an eligible person;”.</p> <p>(c) In the proposed section 39E(3)(b), by deleting “10 other members” and substituting “9 other members appointed by the Chief Justice,”.</p> <p>(d) In the proposed section 39E(3)(b)(iii), by adding “and” at the end.</p> <p>(e) By deleting the proposed section 39E(3)(b)(v).</p> <p>(f) In the proposed section 39E(3), by adding –</p> <p>“(c) one other member selected by the chairperson from among the members of the panel appointed by the Chief Justice under subsection (5).”.</p> <p>(g) In the proposed section 39E(4)(b), by deleting “Bar Council” and substituting “Hong Kong Bar Association”.</p> <p>(h) In the proposed section 39E(5), by deleting “subsection (3)(b)(v)” and substituting “subsection (3)(c)”.</p> <p>(i) In the proposed section 39E(5), by deleting “appointment” and substituting “selection”.</p>

- (j) In the proposed section 39F, in the heading, by adding “**or of panel appointed under section 39E(5)**” after “**Board**”.
- (k) In the proposed section 39F(1), by deleting everything after “Board” and substituting “or of the panel appointed under section 39E(5) holds office for a term not exceeding 3 years, but may be reappointed or reselected.”.
- (l) In the proposed section 39F(2), by adding “or of the panel appointed under section 39E(5)” after “Board”.
- (m) In the proposed section 39F(3), by adding “or of the panel appointed under section 39E(5)” after “Board”.
- (n) In the proposed section 39F(4)(b), by deleting “Bar Council” and substituting “Hong Kong Bar Association”.
- (o) In the proposed section 39G(1), by adding before paragraph (a) –
  - “(aa) one must be the chairperson of the Board or a member appointed under section 39E(3)(b)(i);”.
- (p) In the proposed section 39G, by adding –
  - “(1A) At a meeting of the Assessment Board –
    - (a) subject to paragraph (b), the chairperson of the Board must preside; or
    - (b) if the chairperson is not present at the meeting, a member of the Board appointed under section 39E(3)(b)(i) and nominated by the chairperson must preside.”.
- (q) In the proposed section 39G(4), by deleting “the chairperson of” and substituting “the person presiding at the meeting of”.

- (r) In the proposed section 39K, by adding –

“(1A) For the purposes of subsection (1), if the class of proceedings in respect of which the applicant is applying for higher rights of audience is that specified in section 39H(2)(c), the Assessment Board may grant the application –

- (a) without modifications to the class of proceedings to which the application relates; or
- (b) only in respect of a class of proceedings specified in section 39H(2)(a) or (b).”.

- (s) In the proposed section 39K(2)(a)(ii), by adding “grants the application under subsection (1A)(b) or” after “if it”.
- (t) In the proposed section 39L(1)(b), by deleting “for which the application is made” and substituting “in respect of which the Board is to grant the application”.
- (u) In the proposed section 39L(1)(c), by deleting “for which the application is made” and substituting “in respect of which the Board is to grant the application”.
- (v) In the proposed section 39M(3), by adding “grant the application under section 39K(1A)(b) or to” after “proposes to”.
- (w) In the proposed section 39N(a), by deleting “for which the application has been made” and substituting “in respect of which the Board has granted the application”.
- (x) In the proposed section 39O(2)(c)(ii), by deleting

“otherwise”.

- (y) In the proposed section 39P(1), by deleting everything after “an application” and substituting “in respect of any higher rights of audience, the Council must issue to the person by whom the application has been made a certificate in respect of those rights.”.

- 5 In the proposed section 45A, in the Chinese text, by deleting “看來” where it twice appears and substituting “其意”.

- 6(3) In the proposed section 50A(2), in the Chinese text, by deleting “某律師看來是以律師身分行使任何較高級法院出庭發言權 (但該律師並非根據第 IIIB 部享有該等權利) 的情況下，代某當事人行事，並已經或將會就他如此行事期間作出的任何事情，代表該” and substituting “並非根據第 IIIB 部享有任何較高級法院出庭發言權的律師，在其意是以律師身分行使該等權利的情況下，已經或將會就他於如此行事期間作出的任何事情，代表其”.

**Annex II**

TELECOMMUNICATIONS (AMENDMENT) BILL 2009

**COMMITTEE STAGE**

Amendment to be moved by the Honourable Emily LAU Wai-hing

Clause

Amendment Proposed

3(2) In the proposed section 13C(4), by adding –

“(aa) the opinion of the public;”.





**Appendix 1****REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for Food and Health requested the following post-meeting amendment in respect of a supplementary question to Question 2**

**Line 2 to 3, third paragraph, page 23 of the Confirmed version**

To amend "..... apart from increasing the places for training, as shown by the information contained in the main reply, on the front of tertiary institutions, the HA will also request an increase in training for qualified midwives. ...." as "..... apart from increasing the places for training, the HA will also request an increase in training for qualified midwives. ...." (Translation)

(Please refer to line 2, last paragraph, page 4299 to line 2, first paragraph, page 4300 of this Translated version)

**Appendix 2****REQUEST FOR POST-MEETING AMENDMENTS**

**The Secretary for Constitutional and Mainland Affairs requested the following post-meeting amendment**

**Line 5 to 6, second paragraph, page 228 of the Confirmed version**

To amend "..... We have, through the Hong Kong Trade and Economic Office in Guangdong of the FTU, provided financial support in resolving the problems encountered by these Hong Kong residents and promoted the services of the FTU. ...." as "..... We have, through the Hong Kong Trade and Economic Office in Guangdong, provided financial support to the FTU for services on advising these Hong Kong residents. ...." (Translation)

(Please refer to line 8 to 11 paragraph 3 on page 4596 of this Translated version.)

**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Mr Andrew CHENG's supplementary question to Question 2**

As regards the number of beds and number of nursing manpower in the Hospital Authority (HA), as at 31 December 2009, the HA provided a total of 26 872 beds and had 19 944 full-time equivalent nurses. As the condition of each patient and complexity of each case varies, the workload of health care staff cannot be assessed simply by referring to the overall ratio of the total number of health care staff to the total number of beds.

## Appendix II

## WRITTEN ANSWER

**Written answer by the Secretary for Food and Health to Dr Samson TAM's supplementary question to Question 4**

As regards the number of stray dogs and cats caught by the Agriculture, Fisheries and Conservation Department (AFCD) implanted with microchips, the Rabies Ordinance requires dog keepers to ensure that their dogs aged five months or above must be micro-chipped. Also, according to the licensing conditions stipulated under the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B), all dogs on sale at pet shops must be implanted with a microchip. The numbers of stray dogs caught by the AFCD in the past three years and the numbers of them implanted with/not implanted with microchips are summarized in the table below:

<i>Year</i>	<i>Stray dogs caught</i>	<i>Stray dogs implanted with microchips</i>	<i>Stray dogs not implanted with microchips</i>
2007	9 030	770	8 260
2008	8 370	950	7 420
2009	7 850	970	6 880

The numbers of stray cats caught by the AFCD in 2007, 2008 and 2009 were 4 920, 4 640 and 4 570, respectively. As implanting microchips for cats are voluntary in nature, the AFCD does not have records for cats implanted with microchips.