

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 10 March 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

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.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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 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 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 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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

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 IP WAI-MING, M.H.

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.

MEMBERS ABSENT:

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

DR THE HONOURABLE MARGARET NG

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

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

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

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

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

PUBLIC OFFICERS ATTENDING:

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

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

THE HONOURABLE 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

THE HONOURABLE AMBROSE LEE SIU-KWONG, G.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

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

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

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

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

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.
SECRETARY FOR THE ENVIRONMENT

CLERKS IN ATTENDANCE:

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): 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:

No. 76 — The Hong Kong Academy for Performing Arts Annual Report 2008-2009, and financial statements and Auditor's report for the year ended 30 June 2009

Report of the Bills Committee on Genetically Modified Organisms (Control of Release) Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Review of Liquor Licensing

1. **MR TOMMY CHEUNG** (in Cantonese): *President, the Efficiency Unit (EU) completed the review of liquor licensing back in 2006 and submitted proposals for legislative amendments to the then Health, Welfare and Food Bureau, with a view to creating a more business-friendly environment for the trade. The proposals include allowing a company or multiple natural persons to hold a liquor licence, so as to avoid the situation of a licensee going on vacation, his departure or death rendering the premises concerned being in breach of the licence conditions or having to cease the sale of liquor and suffer business losses. Some members of the trade have relayed to me that the trade is gravely disappointed as it has been three years since the EU put forward its proposals, but the authorities have so far not introduced the relevant proposed legislative amendments. In this connection, will the Government inform this Council:*

- (a) *why it has still not introduced the bill concerned to this Council to date; whether it has set a legislative timetable in this regard; if so, of the details; if not, the reasons for that;*
- (b) *given that the trade has requested the authorities for years to allow a company or multiple natural persons to hold a liquor licence, and the authorities only responded at a meeting of the Panel on Food Safety and Environmental Hygiene of this Council in 2008 that they would make reference to the Karaoke Establishments Ordinance and study the proposals, of the progress and outcome of the study concerned; whether the authorities have consulted the trade on the proposed legislative amendments and of the outcome of such consultation; if the outcome of the study is not yet available, the reasons for that; and*
- (c) *of the number of applications lodged with the Liquor Licensing Board by liquor licensees each year from 2006 to 2009 to authorize other persons to temporarily manage the licensed premises concerned, and the average time taken to complete the processing of such applications?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the EU began conducting a review on liquor licensing in 2006, with the objective to rationalizing the prevailing regime and procedures for liquor licensing and shortening the overall processing time required in order to provide a more business-friendly environment for the trade. In October 2007, the EU completed the review and submitted its report to the Food Business Task Force under the Business Facilitation Advisory Committee with a list of recommendations. The Food and Health Bureau and the Food and Environmental Hygiene Department have since implemented a series of short- to medium-term measures in the light of the recommendations of the review report which include streamlining the application processes and allowing e-processing of licence applications. With respect to the legislative amendment recommendations put forth in the review, including that regarding the review of the appropriate party for holding a liquor licence, which is of concern to the trade, the Bureau has also considered the proposal in association with other relevant bureaux and executive departments.

Under the Dutiable Commodities (Liquor) Regulations (Cap. 109B), before granting a liquor licence, the Liquor Licensing Board (LLB) should consider the following three criteria:

- (a) the applicant is a fit and proper person to hold the licence;
- (b) the premises to which the application relates are suitable for selling or supplying intoxicating liquor; and
- (c) in all the circumstances the grant of the licence is not contrary to the public interest.

Under the existing legislation, a liquor licence will only be granted to a natural person, which means that it could only be granted to a person but not to a body corporate or a company formed by partnership. The objective of this requirement is to have all premises with liquor licences to appoint a natural person who can be held criminally liable for any breaches of the law or licensing conditions in respect of the premises. The trade is concerned that when there is a change in the employee, the grant of a liquor licence to a natural person may cause the premises to suspend operation temporarily because there is no licence holder. In this regard, the EU recommended in its report that the Government should consider amending the legislation to allow a "company" or multiple natural persons to hold a liquor licence.

When considering the above recommendation, we have been adhering to the principle that all liquor licensed premises should have a designated person who can be held criminally liable for any breaches of the law or licensing conditions in respect of the premises, and that the Administration's existing procedures and strength of enforcement will not be affected. We note that the Karaoke Establishments Ordinance (Cap. 573) has certain requirements on licence applicant. The Ordinance stipulates that the person making an application for a permit or licence is a person who is a fit and proper person to operate the karaoke establishment. That said, the Ordinance provides that where a body corporate or a company formed by partnership wishes to obtain a permit or a licence, a person authorized by the body corporate or a company formed by partnership in that behalf shall apply as the representative of the body corporate or a company formed by partnership and, if a permit or a licence is granted or issued by the licensing authority, it shall be expressed to be granted or issued to that person on behalf of the body corporate or a company formed by partnership. Besides, under Cap. 573, a body corporate or a company formed by partnership

may make an application to the licensing authority to substitute another person for the person whose name appears on the permit or the licence as the representative of the body corporate or the company formed by partnership.

Cap. 573 may serve as a reference in relaxing the appropriate party for holding a liquor licence. We must, however, ensure that the legal responsibility of the licensee and law and order will not be affected and the integrity of the licensing regime will not be compromised. At present, we are carefully examining the impacts of the legislative amendment proposal from the perspectives of legal, enforcement actions and resources, and will consult the trade and the Legislative Council Panel after finalizing our proposal. We will study how to further facilitate the trade on the premise that the work of the law-enforcement agencies in preserving law and order and against crimes will not be affected.

Part (c) of the question enquires on the number of applications lodged with the LLB by liquor licensees to authorize other persons to temporarily manage the licensed premises concerned. Under the Dutiable Commodities (Liquor) Regulations, in case of illness or temporary absence of the holder of a liquor licence, the secretary to the LLB may in his discretion authorize any person to manage the licensed premises for a period not exceeding three months, and during that period the authorized person shall be deemed to be the licensee of the premises. In 2006, 2007, 2008 and 2009, the numbers of applications lodged by liquor licensees with the LLB to authorize other persons to manage the premises temporarily were 313, 352, 382 and 355 respectively. The average processing time of each case is around seven to nine days.

MR TOMMY CHEUNG (in Cantonese): *President, there is something which the Secretary did not state clearly in the first part of the main reply that I would like to clarify with him. First, has he laid down a timetable? He said he is already examining the issue with different departments. When did it begin? When will it be completed? Will he give a full account of it in this Council?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we began examining the issue with relevant departments in October 2007. We have basically implemented all the 16 recommendations put forward by the EU back then. However, there is a very important issue about the liability of the licensee

and how to ensure that he will be held criminally liable for any non-compliances and breaches of the law. We have to discuss and examine this issue in close collaboration with the relevant authorities.

At present, there are over 5 000 liquor licenses, while there are only 500-odd karaoke establishment licences. The proposed change, if implemented, will definitely involve operational and resource considerations. Therefore, more thorough consideration is required. Our tentative timetable is to complete the relevant study within this year and launch consultation with the relevant authorities, Panels and the trade at the end of this year.

MR VINCENT FANG (in Cantonese): *Some people engaged in the entertainment business relayed to me that during licence checks at licensed liquor premises, the enforcement officer would put on record the absence of the licensee, and such record would become a ground for refusing licence renewal applications made by the relevant premises in future. May I ask the Secretary about the rationale behind this practice? Does it mean to have the licensee confined to the premises? Does he have in hand the statistics concerning the number of licence renewal applications being refused as a result of the absence of the licensee during licence checks?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have just said, a condition for the issue of licence is that the licensee must be physically present in the premises. This aims at holding the licensee criminally liable to any breaches of the law and regulations or breaches of licensing conditions, which is very important. However, we also understand that the licensee may have other needs, such as a day off per week. He is therefore allowed to be absent from the premises for one day per week. Besides, we also understand that he may have other reasonable grounds for absence, such as going out for meals. Therefore, if the licensee is absent, the police will consider whether he has breached the relevant licensing conditions, having regard to the circumstances during enforcement. In the event of breaches, the police will impose certain penalties or make records. I do not have the detailed record and statistics in hand, but we can request the authorities to give Members a written reply, if necessary, to provide the relevant statistics. (Appendix I)

MS EMILY LAU (in Cantonese): *President, the Secretary said in the main reply that the EU completed a report in October 2007 and submitted it to the Food Business Task Force under the Business Facilitation Advisory Committee. President, I am the Vice-chairman of this Committee and also a member of the Task Force. President, I have attended many of their meetings and I know the business sector holds lots of grudges against the Government, in particular, the Bureau under the charge of Secretary Dr York CHOW belongs.*

The Secretary already submitted the report in October 2007, and he said some medium-term measures would be implemented before amendments would be introduced. It has already been two years now, but no results have been achieved. May I ask the Secretary whether he understands what business facilitation is all about? During the process, was there any resource shortage or co-ordination difficulty because the discussion would involve many bureaux and departments? If the relevant bill cannot be passed next year or before our tenure expires, how can business be facilitated?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I can only reiterate that regarding business facilitation, all immediate actions, be they short-term or medium-term ones, have already been taken. We have received a total of 16 recommendations, including parallel processing of new applications alongside revocation of old licences, introducing the use of information technology in processing liquor and restaurant licence applications and rationalizing processes for transfer applications*

MS EMILY LAU (in Cantonese): *President, these have nothing to do with my question. I do not want to waste time. My question was why it has taken so long. Is it because resources were inadequate or co-ordination was difficult among so many departments, or there was no way to facilitate businesses? My question was not about what have been done, President.*

PRESIDENT (in Cantonese): *Secretary, the Member's question was why the outstanding work has to take so long.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, what I have to say is we have already taken all possible immediate and short-term actions.

However, as I said just now, we need more time to examine some relatively complicated issues, in particular, law enforcement details. For example, the law enforcement authorities consider that even if changes are to be implemented, they must be consistent with a principle and that is, the responsible person has to be physically present in the premises and be held criminally liable for any breaches of the law and licensing conditions.

MR WONG TING-KWONG (in Cantonese): *President, the problem of the issuance of liquor licence has existed for a long time. I think the liquor licence holder, as the responsible person of the premises, should see to it that the premises in operation are in compliance with the relevant requirements. May I ask about the number of prosecutions instituted over the past three years as a result of the absence of the liquor licence holder from the premises? Are these figures available?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I do not have these figures now.

MR CHIM PUI-CHUNG (in Cantonese): *President, as all of us know, the issuance of liquor licence actually provided a chance for bribery in the past, and a Member of the Urban Council was put to jail because of matters relating to the issuance of liquor licences. May I ask why a licence cannot be issued to three responsible persons in relation to the same premise, so that when the first responsible person is absent, the second or the third one will be held liable? Certainly, I am not referring to the kind of practice adopted by Stanley HO. (Laughter) Will the Government issue three liquor licences to a certain entity or the relevant responsible persons, thereby avoiding chances for imposing penalties, which will affect their operation?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I believe the requirement that the liquor licence holder should assume all criminal liabilities is to ensure that there is a person to be held accountable, so to speak.

If more than one person is to be held accountable, we believe it will be more complicated for the relevant departments to carry out enforcement and investigation.

Therefore, if changes are to be made to the existing system, or if more than one responsible person is to be allowed for one premise, the enforcement process and other issues that will arise, including the issue of resources, must be studied in detail.

MR CHIM PUI-CHUNG (in Cantonese): *President, the Secretary has not given a reply. Is the Government refusing to repent and insisting on not amending the legislation? If it is, what is the use of conducting studies?*

PRESIDENT (in Cantonese): Mr CHIM, I do not get your follow-up question.

MR CHIM PUI-CHUNG (in Cantonese): *That is, is the Government refusing my question just now was whether consideration could be given to issuing the licence to three persons, but his reply suggested that this would not be considered. In that case, what is the use of conducting studies?*

PRESIDENT (in Cantonese): I believe the Secretary has already given a reply. You are only expressing your view on the Secretary's reply.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary's reply was if someone was to manage the premises on a temporary basis, consideration had to be given to the issue of accountability. In the last paragraph of the main reply, the Secretary said there were on average over 300 such applications in each of the past few years, with an average processing time of around seven to nine days. Was there any interface problem, and for how long on average a person is entrusted with temporary management of the premises?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I do not have the detailed information in hand. Generally speaking, however, there is a performance pledge of 30 days regarding the processing of applications for

authorizing a person to manage the premises for the liquor licence holder. So, these can be processed within a short time.

In special circumstances, according to my record, the processing of applications from liquor licence holders could be completed in seven working days.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG, this is your second follow-up question.

MR TOMMY CHEUNG (in Cantonese): *May I ask the Secretary whether reference will be made to other legislation in Hong Kong apart from the Karaoke Establishments Ordinance? I believe under other legislation, criminal liability is not necessarily shouldered by a natural person. For many listed companies, we actually did not know who the director was, but when problems arose, there was someone who could be held accountable. Will the Secretary make reference to all legislation to find out whether there is any existing legislation which does not cause any concern about the shirking of responsibilities, so that this piece of legislation can be amended expeditiously?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we will certainly make reference to other legislation and legislation with similar provisions in this respect to ensure that the principle I have mentioned repeatedly just now is complied with.

However, special attention must be paid, in particular, by law enforcement bodies, such as the police. If we are to make changes to the licensing conditions, they will have to perform enforcement duties. Members have to understand that some liquor licensed premises may be more prone to crimes. Therefore, they are particularly concerned about this.

Therefore, we can only draw reference from related legislation. Members have to understand that we are not trying to make things difficult for the trade, but we must strike a balance among the needs of various parties.

PRESIDENT (in Cantonese): Second question.

Youth Drug Abuse Problem

2. **MS STARRY LEE** (in Cantonese): *President, according to the 2008-2009 Survey of Drug Use among Students (the Survey) released by the Narcotics Division of the Security Bureau at the end of last month, the number of secondary school students who had abused drugs soared 30% to 20 000 when compared to the 2004-2005 Survey. The number of senior primary school students who had abused drugs exceeded 3 000, and among the schools sampled in the Survey, 90% of them had students who had abused drugs. Some organizations indicated that as shown by the Survey results, 90% of the primary and secondary schools in Hong Kong have been infiltrated by drugs, indicating that primary schools have replaced secondary schools as the front line of this anti-drug war. Yet, it was not until July last year that the Government announced the launch of the community-wide campaign against drug abuse. Moreover, as revealed by the Survey, most of the secondary schools students who had abused drugs believed that using drugs would affect their appearance, harm their health and affect their studies. In this connection, will the Government inform this Council:*

- (a) *of the respective measures adopted in primary and secondary schools in the past 10 years for combating the infiltration of drugs into school campus; for early identification and provision of support for primary school students who abuse drugs, of the specific measures put in place by the Government to help primary schools take a more positive attitude in dealing with the problem of drug abuse among their students, so as to avoid the anti-drug efforts on school campus being affected by the worries of schools about their reputation;*
- (b) *focusing on the fact that most of the secondary school students who abuse drugs keep on doing so although they recognize the harm of drug addiction, whether the authorities will review afresh the existing anti-drug publicity strategies and means to fight against the spread of drug abuse, including enhancement of the efforts at different levels in teaching teenagers how to face negative emotions;*

if they will, of the details; if not, the reasons for that; whether they will review afresh the existing supporting measures for assisting teenagers in rehabilitation from drug addiction, including the policy on rehabilitation centres-cum-schools; if they will, of the details; if not, the reasons for that; and

- (c) *given that the Survey outcome reflects that the situation of youth drug abuse is very serious and spreading in schools, yet no student has been found to have abused drugs since the implementation of the Trial Scheme on School Drug Testing in the Tai Po District in December last year, whether the authorities will consider reviewing the effectiveness of the scheme earlier, so as to achieve more effectively the objective of early identification?*

SECRETARY FOR SECURITY (in Cantonese): President,

- (a) The Narcotics Division (ND) regularly conducts large-scale surveys to gain an understanding of the latest drug-taking situation of secondary school students. Findings of the 2008-2009 Survey affirm the trend of rising prevalence of drug abuse in schools and the community as well as the lowering age of drug abusers. The data also corroborate the developments that have been identified through the on-going monitoring system. After appointing the Secretary for Justice in October 2007 to lead a task force to tackle the youth drug abuse problem, the Chief Executive further escalated the anti-drug efforts to a community campaign level last July.

Over the years, the Education Bureau and the ND have made joint efforts to enhance drug education in schools and incorporated anti-drug elements in both the school curriculum and other learning activities. Besides, the ND and the Social Welfare Department (SWD) have been sponsoring non-government organizations to organize anti-drug education programmes for primary and secondary school students. The Department of Health (DH) imparts knowledge of healthy lifestyle through the Student Health Service and the Adolescent Health Programme. The police take an active

role in curbing the spread of drugs to schools through the Police School Liaison Programme. Meanwhile, many schools and voluntary organizations have received funding from the Beat Drugs Fund for organizing activities on healthy living and anti-drug abuse.

The school sector is an important front in preventing drug abuse. To enable early identification of and provision of support for drug-abusing students, and to facilitate anti-drug efforts in schools, the Education Bureau will encourage schools to devise a healthy school policy with an anti-drug element to help students develop a healthy lifestyle, build up positive values, acquire practical life skills and skills to resist temptations. To assist schools to formulate a healthy school policy, the Education Bureau will distribute an anti-drug resource kit to schools next week. The Education Bureau, the ND and the organization which prepared the resource kit will organize briefing sessions for school heads and teachers on the healthy school policy and the application of the resource kit. The Administration will also continue to provide a half-day on-site training programme and a two-day advanced training programme for teachers to enhance their anti-drug knowledge.

To address the problem of drug abuse of primary school students, the Administration will progressively extend the coverage of anti-drug education programmes from senior primary to junior primary level, step up preventive education and publicity against cough medicine and inhalants, and enhance anti-drug training for the management and teachers of primary schools.

- (b) Having regard to the causes of youth drug abuse, such as curiosity, peer pressure and misconception that drugs are not addictive, we will enhance young people's knowledge on drugs through various means. We seek to make them aware that drugs are highly addictive and will inflict serious harm to the body, and that they have a choice and can refuse the temptation of drugs. The Beat Drugs Fund will also specifically encourage anti-drug projects which promote positive peer relationships and life-skill training programmes which teach young people how to face adversity.

Various government departments will actively collaborate with community organizations, uniform groups, women organizations, schools and parents to enhance the provision of activities for physical and mental development, counselling hotlines, and training camps in schools and in the community. The ND and the Action Committee Against Narcotics (ACAN) will continue to make use of the "Path Builders" service platform to assist professional bodies, organizations, and community associations willing to take up this social responsibility. These groups can leverage on their expertise and resources and collaborate among different sectors to help the young people. They can help foster a culture of care for youngsters and guide them to establish positive goals and cut out their path in life.

As regards assistance for young people to quit drugs, the Task Force led by the Secretary for Justice published a detailed report with a host of recommendations and formulated well-defined strategies and measures. On this basis, we published in April last year the Fifth Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong following extensive consultation with the anti-drug sector. The Plan sets out our strategic action plan from 2009 to 2011 and work in the short to medium term. Following the allocation of additional resources in the 2008-2009 and 2009-2010 financial years, funds have also been earmarked in the 2010-2011 Budget for taking forward measures on drug treatment and rehabilitation.

In the long run, we will, in consultation with the ACAN and community stakeholders, develop a structured and tiered intervention framework to provide a continuum of client-based treatment and rehabilitation services and strengthen the roles and functions of health care, education and aftercare services. The Administration has been closely monitoring the change in demand for drug treatment and rehabilitation services. We are exploring with anti-drug agencies the possible models, facilities and equipment, scope of services, and treatment period of more effective rehabilitation services. We will invite proposals in due course.

For youngsters who have drug dependence and require residential drug treatment service, their most pressing needs are kicking the habit, rebuilding confidence and setting new life goals. As an appropriate arrangement in the best interest of young drug abusers, the service provided should also help young drug abusers resist the temptation of drugs and prepare them to return to schools or reintegrate into society. In this regard, gathering student drug abusers in one school may give rise to concerns by some students and parents that this might bring an adverse labelling effect on students. Notwithstanding this, there are treatment and rehabilitation centres which successfully provide treatment service to drug-abusing students in a similar mode. The Administration will therefore continue to provide the necessary assistance to various treatment programmes which have proved to be effective, regardless of whether the services are religion-based, education-based or otherwise, to enrich the service content and offer more options for youngsters who are willing to receive drug treatment services and their parents.

- (c) The Trial Scheme on School Drug Testing in Tai Po District (the Trial Scheme) aims at strengthening the resolve of non-drug taking students to stay away from drugs and motivating youngsters who have fallen victim to drugs to seek help at an early stage.

It is premature at this stage to conclude whether the Trial Scheme is effective or not. We have to take various factors into consideration in our review or research, including whether the Trial Scheme has motivated students in need to undergo voluntary drug treatment, the awareness and ability of students to resist drugs, the attitude towards drugs and drug abusing behaviour, and so on. Since the launch of the Trial Scheme, there is a marked increase in the number of cases from students voluntarily seeking help in the Tai Po district. From this perspective, we believe that the Trial Scheme has already entailed a positive effect. The voluntary participation of more than 12 000 students in the Trial Scheme has sent a positive message of staying away from drugs to all their fellow students in Hong Kong.

The Trial Scheme, which is being implemented as scheduled, will last till mid-2010, when the school year ends. The ND has

commissioned a professional research organization to undertake a research in parallel, including a comprehensive assessment on the design, operational procedures and effectiveness, research on other local and overseas experience in school drug testing, and suggestion of appropriate refinements and improvements to the scheme, before deciding whether or how it should be gradually rolled out to other schools or districts. The entire research will be completed in the third quarter of this year. We will carefully consider the findings of the research and decide on the way forward on school drug testing, having regard to the views of various stakeholders.

MS STARRY LEE (in Cantonese): *President, the scourge of drugs has spread to schools and is poisoning our young people. The latest report tells us about the present situation very clearly. Think about this: The number of primary school students who have abused drugs stands at more than 3 000 and senior primary school students in their teens can already buy drugs. Through what channels do they get the drugs? Have drugs infiltrated the community or become all pervasive in schools and as a result, students can come into contact with them easily and taking drugs has become a fad? On the infiltration and prevalence of drugs in the community, the Government pointed out in response just now that many measures had been taken in the past but the most important thing is to stem the source.*

Recently, one report after another have revealed cases that some drug distributors entice students to abuse drugs across the border and to bring drugs back to Hong Kong in small quantities. Some drug distributors also exploit elderly people and women to run drugs for them because it is easier for them to evade detection by the customs. President, on stemming the source of drugs, may I ask the Secretary whether or not the many measures taken by the authorities have been unsuccessful and hence it cannot achieve the intended results, so a large quantity of drugs has found its way into the community and become so easily accessible by young people? What actions have been taken by the Government against drug distributors? Do the authorities have any plan to conduct reviews, including that relating to the imposition of heavier penalties on drug distributors?

SECRETARY FOR SECURITY (in Cantonese): President, in fact, the youth drug abuse problem is the symptom of a number of family and social problems. To clamp down on or deal with the youth drug abuse problem, of course, law enforcement is an essential aspect but we cannot rely solely on law enforcement to solve the problem completely. Just now, Ms Starry LEE raised a question concerning law enforcement and I can point out to Members that all along, law-enforcement agencies adopt an attitude of zero tolerance towards drugs and never relent in combating drugs. Ms LEE also raised the issue of young people crossing the border to abuse drugs. In fact, the law-enforcement agencies in Hong Kong have all along maintained a close partnership with our counterparts on the Mainland. We exchange intelligence with each other, carry out joint operations and have exchanges regularly, making concerted efforts to combat the problem of cross-border drug peddling and abuse.

In the past year or so, the law-enforcement agencies in Hong Kong have co-operated continuously with their Mainland counterparts in addressing the problem of crossing the border to abuse drugs and anti-drug operations were carried out from time to time. From 2008 to 2009, the Hong Kong Customs and Excise Department launched a number of joint operations with the Mainland. Judging from the figures, the number of young people arrested for involvement in serious drug offences in 2009 has decreased compared with that in 2008. This shows that the law-enforcement departments have succeeded in curbing the rising trend of young people involved in serious drug offences. This does not mean that we are successful. As I said just now, the drug problem is the symptom of many problems, so we have to start with education and the family, and we have to mobilize the whole community, including Members in this Chamber, to work in concert in order to win this battle.

PRESIDENT (in Cantonese): We have already spent more than 15 minutes on this question. Since six more Members are waiting to ask questions, Members please be more concise.

DR JOSEPH LEE (in Cantonese): *President, in his main reply to Ms Starry LEE's question on fighting the drug abuse problem, the Secretary pointed out that a lot had been done but in fact, the report this time around shows that many primary and secondary school students in Hong Kong have abused drugs but*

what is even more shocking is that it was found that so many senior primary school students also abuse drugs. Maybe the Secretary also understands that despite the great efforts made by the authorities, they do not seem to be very effective. Even in respect of measures aiming to stem the sources, the result is also limited. President, may I ask the Secretary if the authorities would consider establishing an inter-departmental team consisting of the Education Department, the ND, the SWD and the DH and focus its work on parents, schools and primary school students, and primary school students in particular, and through this inter-departmental team, formulate an effective action plan to introduce effective measures and performance indicators? We hope that in 2010 and 2011, the authorities will tell us that after this inter-departmental team has come into operation, the number of primary students abusing drugs has been effectively and significantly reduced.

SECRETARY FOR SECURITY (in Cantonese): President, in fact, the Government attaches great importance to this problem. Therefore, more than two years ago, the Chief Executive personally appointed the Secretary for Justice to head an inter-bureau and inter-departmental Task Force in studying this problem because he is also aware that this is a problem calling for concerted efforts from various policy bureaux and departments. Subsequently, the Task Force led by the Secretary for Justice published a report in which some 70 recommendations were made, including ways to step up education in schools to make teenage students understand the harm inflicted by drugs and strengthen their determination in staying away from drugs. It is the responsibility of the ND under the Security Bureau to co-ordinate efforts in implementing the recommendations of the inter-departmental Task Force, which includes colleagues of the Education Bureau and members from the social welfare sector.

I can tell Dr Joseph LEE that in fact, all along, we have an inter-departmental team to carry out the tasks in this regard. In the coming year, we will step up education in schools, in particular, publicity and education in primary schools, to spread the anti-drug message by extending the coverage of anti-drug education from senior primary level to junior primary level, in the hope that children will understand the harm of drugs from a young age and they will be taught the skills to refuse drugs. We hope to step up work in this area in the coming year.

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

DR JOSEPH LEE (in Cantonese): *President, the Secretary said that an inter-departmental team had been established but my supplementary question is about whether or not there are performance indicators which can tell us that in 2010 and 2011*

PRESIDENT (in Cantonese): Please be more concise. Secretary, please give a reply on performance indicators.

SECRETARY FOR SECURITY (in Cantonese): President, we probably do not have any quantifiable indicator but we hope that in the coming year, the figures of the Central Registry of Drug Abuse will decrease, thus showing that our publicity efforts are effective.

PROF PATRICK LAU (in Cantonese): *President, the Secretary said clearly in part (b) of the main reply that it is most pressing to strengthen drug treatment and rehabilitation measures. Since the Government has set aside provisions, may I ask the Secretary if the relevant treatment and rehabilitation centres can be expanded or if more such centres will be established to provide drug treatment service?*

SECRETARY FOR SECURITY (in Cantonese): President, in fact, there are quite a number of drug treatment organizations offering treatment and rehabilitation services to young people or adults who picked up the habit inadvertently but we find that the facilities of many such centres cannot meet the licensing requirements of the Government. For example, the facilities in these centres and even the buildings where these centres are located cannot meet the licensing requirements and at present, they are operating under the so-called exemption clauses. The Financial Secretary has proposed an allocation of \$3 billion in the budget this year for the establishment of a seed fund under the ND, in the hope that we can roll out a more vigorous anti-drug campaign. We

hope that with this fund allocation of \$3 billion and the investment returns from this fund amounting to \$3 billion, some of the resources can be used to provide subsidies to centres not meeting licensing requirements at present in improving their services, so that they can meet the licensing requirements, thereby providing better services to young people or adults quitting drugs or receiving treatment.

MR CHEUNG MAN-KWONG (in Cantonese): *President, at present, the focus of anti-drug measures is on schools but families are neglected. According to the survey report of the ND, the locations at which students abuse drugs have shifted from such entertainment venues as karaokes in the past to more secluded locations, that is, their homes. In fact, 60% of the students take drugs in their own homes or their friends' homes and 15% of them even said that the drugs were provided by their family members. It can thus be seen that the family has become an important location for drug abuse and anti-drug efforts. The Government can regulate such venues as karaokes but it may not be able to regulate families or instances of drug abuse at home. Does the Government agree that this is a very important new trend? What measures has the Government taken to launch anti-drug efforts targeting at the family?*

SECRETARY FOR SECURITY (in Cantonese): I am grateful to Mr CHEUNG for raising this supplementary question. As I said just now, the youth drug abuse problem is the symptom of many problems, including family problems. We agree very much that the family has a very important role to play in fighting drugs. In late June last year, the ND and the organizations concerned introduced an anti-drug resource kit for parents to impart parenting and anti-drug knowledge to parents facing various parenting issues, for example, the attitude they should adopt and skills in getting along with their children, in particular, children abusing drugs. We also finance non-government organizations in organizing seminars for families or parents in all 18 districts of Hong Kong. This year, over 60 seminars and activities will be organized to explain to parents and teachers how to use the anti-drug resource kit for parents.

The ND and the ACAN also disseminate the anti-drug message to the general public, including parents, through the mass media which includes television dramas, radio programmes and other publicity channels, such as public

transport, so as to spread the anti-drug message to families extensively. They also adopt a non-didactic approach that appeals to both parents and young people by conveying the anti-drug message to the public through verbal accounts given by experts and members of the community. The ND also provides to parents a hotline information service manned by social workers and the phone number of the hotline is 186 186, to be provided for 12 months until the end of this year. Parents who face the problem of their children abusing drugs can call the anti-drug hotline at any time to seek assistance. In addition, the Beat Drugs Fund also finances a number of organizations in organizing anti-drug activities for parents and has also produced anti-drug resources suited to parents' needs. We fully understand that parents need assistance and we also hope that the family can become one of our important partners in our fight against drugs, in particular, the youth drug abuse problem.

PRESIDENT (in Cantonese): Members are all very concerned about the youth drug abuse problem. However, since we have spent over 25 minutes on this question, please follow this up through other channels. Third question.

Retirement Protection

3. **MR RONNY TONG** (in Cantonese): *President, the findings of a telephone survey on the Mandatory Provident Fund (MPF) Scheme indicate that 70% of the surveyed employees who are 18 years old or above consider that relying solely on MPF is insufficient to maintain basic living after retirement, especially when the investment return on MPF for most employees has shrunk significantly after the financial tsunami, but the Government still stresses that the three pillars of retirement protection, namely the Comprehensive Social Security Assistance (CSSA) Scheme and Social Security Allowance Scheme, the MPF Scheme as well as voluntary private savings, may sustain and safeguard the retirement life of Hong Kong people. In this connection, will the Government inform this Council whether:*

- (a) *it has, based on the investment returns of the MPF schemes in the past 10 years, projected the respective amounts of MPF accrued benefits that can be withdrawn in a lump sum by employees currently*

aged 45 and 50 with a monthly income of \$10,000 when they reach the age of 65;

- (b) it has, based on the rates of adjustment in and related benchmarks of various categories of CSSA payments in the past three years, projected the respective amounts of monthly CSSA payments for various categories of CSSA recipients (including elderly people aged 65 or above, people with disabilities and low-income earners) in 2033; and*
- (c) it knows the number of employees who have participated in the MPF Scheme to date, and the respective breakdowns by age group (from 18 to 39 years old and from 40 to 60 years old) of the numbers of employees whose MPF accounts only carry the employer's contributions and those whose accounts carry both the employer's and employee's contributions, the respective percentages of such numbers in the total population of Hong Kong, the average amount of monthly contributions being injected into the aforesaid two types of accounts, and whether it has projected the amount of MPF accrued benefits that such employees can withdraw in a lump sum by the time when they reach the age of 65 (calculated on the respective basis that they are currently aged 39 and 60)?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Hong Kong adopts the three-pillar approach for retirement protection, viz the social security system, the MPF System launched in December 2000, and voluntary private savings. As one of the pillars, the MPF System aims to accumulate retirement savings for employees through contributions by both employers and employees. At present, around 2 209 000⁽¹⁾ employees have enrolled in MPF schemes. The amount of accrued benefits that an employee may withdraw upon retirement at the age of 65 will depend on the duration and amount of contributions as well as investment returns.

According to the estimation made by the Mandatory Provident Fund Schemes Authority (MPFA), for two employees now aged 45 and 50 with a monthly income of \$10,000, assuming that they have begun to make contributions since the inception of the MPF System in December 2000 and the

(1) Position as at end December 2009.

annual rate of investment return is 5%⁽²⁾, the amount of their accrued benefits when they reach retirement age of 65 would be \$783,000 and \$557,000 respectively⁽³⁾.

The question also asked for the numbers of employees who are aged between 18 and 39, and between 40 and 60, with monthly income below \$5,000 (that is, which requires contribution by employers only) and \$5,000 or above (that is, which requires contribution by both employers and employees), the proportion of these groups of employees in percentage terms in the total population of Hong Kong, the average amount of their monthly contributions and the estimated amount of their MPF accrued benefits upon reaching retirement age of 65. As MPF schemes are operated by approved trustees, the MPFA does not have information on the age and income of scheme members and can only provide the requested estimates based on the information available from the General Household Survey for the third quarter of 2009 conducted by the Census and Statistics Department.

According to the MPFA's estimation, for two employees who are now aged 39 and 60, assuming they have been making contributions since the inception of the MPF System in December 2000 and the annual rate of investment return is 5%⁽²⁾, the amount of their accrued benefits when they reach retirement age of 65 would be \$169,000 and \$36,000 respectively if the monthly income of the relevant employee is below \$5,000 with a monthly contribution of \$148, or \$1,865,000 and \$398,000 respectively if the monthly income of the relevant employee is \$5,000 or above with a monthly contribution of \$1,635. The relevant estimation⁽³⁾ is set out at Annex for reference.

The CSSA Scheme, being another pillar under the social security system, aims at providing financial assistance to families in need to meet their basic needs. CSSA standard payment rates are adjusted annually according to the movement of the Social Security Assistance Index of Prices (SSAIP), which is compiled by the Census and Statistics Department and reflects the impact of price changes on CSSA recipients. Besides, the Social Welfare Department updates every five years the weighting system of the SSAIP (that is, the relative

(2) This is the annualized return rate from the launch of the MPF System in December 2000 up to end December 2009.

(3) The projection is made on the assumptions that there would be no change to the existing contribution requirements throughout the relevant employment period, and the scheme member concerned only makes mandatory contribution and does not make any voluntary contribution. All figures are calculated on the basis of current monetary value with the salary adjustment rate and the inflation rate assumed to be identical.

expenditure shares of individual items of goods and services covered by the index) on the basis of the Household Expenditure Survey on CSSA Households, so that the index can more accurately reflect the latest expenditure pattern of CSSA households. The above mechanism seeks to ensure that the purchasing power of CSSA payment rates is maintained.

The existing mechanism adjusts CSSA payment rates with reference to inflation/deflation during the 12 months before the annual adjustment cycle (that is, November of each year to October of the following year). It does not have any direct relationship with adjustments to CSSA payment rates and relevant reference indices in the past. In addition, the actual amount of assistance payable to CSSA recipients will differ for various reasons (including the income of their family members and their special needs). The amount of monthly CSSA payment to be received by different categories of CSSA recipients in future therefore cannot be projected on the basis of adjustments to CSSA payment rates and reference indices in the past.

Furthermore, local price changes in the long term involve a considerable number of uncertainties (such as global and local economic situations, international prices of commodities and exchange rate movements, and so on). The Government is unable to forecast such changes and the SSAIP, and as a consequence, is also unable to accurately project adjustments to CSSA payment rates resulting from the price changes in the coming 23 years.

Annex

	<i>Monthly income below \$5000</i>	<i>Monthly income of \$5000 or above</i>
Number of employees who are aged 18-65 and are MPF scheme members (as a percentage of total population of Hong Kong ⁽⁴⁾)	150,000 (2%)	2,081,000 (30%)
Average MPF contribution per month ⁽⁵⁾	\$148	\$1,635
The amount of MPF accrued benefits of a 39-year old employee upon reaching retirement age of 65	\$169,000	\$1,865,000
The amount of MPF accrued benefits of a 60-year old employee upon reaching retirement age of 65	\$36,000	\$398,000

Notes:

- (4) Total population of Hong Kong includes economically inactive population, unemployed population and employed population (including employees and self-employed persons under the MPF System).
- (5) According to the General Household Survey for the third quarter of 2009 conducted by the C&SD in the third quarter of 2009, the MPFA estimates that the average monthly income of employees who are aged between 18 and 65 with a monthly income below \$5,000 is \$2,960, and the average monthly income of those with a monthly income of \$5,000 or above is \$16,350. The MPFA estimates the average monthly contribution of the two groups of person on this basis.

MR RONNY TONG (in Cantonese): *President, I am very disappointed with the main reply given by the Secretary for the fact that he has evaded a lot of issues. I understand that according to the Rules of Procedure I can only raise one supplementary question now, so I hope that other Honourable colleagues will ask questions and if I should get a chance later, I can also follow up other issues.*

President, I wish to follow up the fourth paragraph of the main reply. Honestly, I am very disappointed because the Secretary's reply used \$5,000 as the threshold. The Secretary also talked about the MPF accrued benefits of employees earning a monthly income of less than \$5,000. As we can see, this amount is obviously unable to support the retirement life of the grassroots. The reply given by the Secretary after that is really unacceptable, for the demarcation line drawn by him is \$5,000 or above. May I ask the Secretary, by \$5,000 or above, if that means from \$5,000 to \$500,000, or an even higher figure? If the computation is based on an amount of contribution which is \$1,635 monthly, this is obviously not an amount of contribution made by an ordinary wage earner. So the figure of some \$1.8 million coming out of the computation eventually is, I believe, completely out of touch with the amount of MPF accrued benefits which most wage earners could hope to get. Actually, should the Secretary not respond to this main question by using different bands or categories, such as \$5,000 to \$10,000, \$10,000 to \$20,000, or \$20,000 to \$30,000? This would make the reply more meaningful. If the Secretary uses \$5,000 and an amount which does not have any cap to arrive at such an answer, what sense will that make? Can the Secretary give a reply in greater detail?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): *President, of course we have given a reply according to the question of Mr Ronny TONG. I have explained that since the MPFA does not have figures in many respects, such as it does not have the actual figures on the age and income of employees, so we can only provide estimates in respect of scenarios raised in the main question based on the information available from the General Household Survey conducted by the Census and Statistics Department. Of course, all these estimates can only serve as reference for Members. They can see, if contributions are made at a certain amount, the amount of accrued benefits the employees may withdraw upon retirement at the age of 65. These figures are all meant as reference only. Certainly, if Members wish to obtain*

more detailed information, we can work out figures in this respect by using different average numbers.

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

MR RONNY TONG (in Cantonese): *President, first of all, my main question did not ask him to use \$5,000 as a demarcation line. I do not know why the Secretary has to use \$5,000 to draw the line. This is the first big question mark. Second, if the Secretary does not have any information on hand, why did he not make an enquiry with the MPFA or find out more about it? My supplementary question mainly asked him to provide a figure which would be helpful to the public. Actually, the Secretary should not have used \$5,000 as an example, because the figure could be infinite*

PRESIDENT (in Cantonese): You suggested using various income groups just now.

MR RONNY TONG (in Cantonese): *That is right, President. For example, such groups may range from \$5,000 to \$10,000, and from \$10,000 to \$20,000, and from \$20,000 to \$30,000. Only by working out sums in this way can the Secretary provide information that can be useful to the public. Would it help if estimates are made based on an income of \$5,000 or above? In that case, people with an income like that of the Secretary, that is, some \$100,000 to \$200,000 monthly, will be counted in this group.*

PRESIDENT (in Cantonese): I believe you have put your supplementary question very clearly. Secretary, could you provide relevant figures according to different income groups?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, reviewing the main question from Mr Ronny TONG, he asked about employees whose MPF accounts only carry the employer's

contributions. This refers to cases of employees with a monthly income of less than \$5,000. This is because only when the salary of an employee is less than \$5,000 that there is only the share of employer's contributions. So the figures provided by us are based on that part of his question. As for other data, they are compiled according to the median personal income. Of course, if Members are interested in knowing other figures and other related data, we may provide them.

MR RONNY TONG (in Cantonese): *President, can the Secretary provide such information to us in writing after the meeting?*

PRESIDENT (in Cantonese): Secretary, the Member asked you to work out figures of cases with a monthly income of \$5,000 or above according to income groups.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): We will try to do that. Actually, we are using \$5,000 or above as a median. However, if Members wish to use other figures, we can certainly try to do so (Appendix II)

MR RONNY TONG (in Cantonese): *President, I have said in my supplementary question earlier that the median is useless.*

PRESIDENT (in Cantonese): Mr TONG, I believe the Secretary is clear about your supplementary question and that is, figures should be worked out according to income groups.

MR CHAN KIN-POR (in Cantonese): *The Secretary said just now in the main reply that employees now aged 45 and 50 with a monthly income of \$10,000 would get accrued benefits amounting to \$783,000 and \$557,000 when they reach the age of 65. Since the figures are accrued benefits five to 10 years from now, and the estimates are worked out on the basis of an annual rate of investment return of 5%, may I ask the Government whether or not there is any standard to*

illustrate whether these figures are adequate or on the low side? If they are on the low side, then members of the public should actually be encouraged to make good preparations and personal savings. Owing to the fact that there are so many assumptions behind these figures cited by the Government, it is really hard for us to convert these figures into current terms and see how much they are worth now. Does the Government have any standard of measurement or will it teach the public how to assess whether or not these amounts are adequate or otherwise?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I wish to thank Mr CHAN for his supplementary question. These figures are worked out with reference to the most reliable information we have got. For example, the rate of return is 5%. How do we get this figure? This is based on the return over the past 10 years. We think that this is the most reliable figure to compute a rate of return.

As to the question of whether the figure mentioned by us is adequate or not, it would be hard to determine because this will have to depend on the income of each person and his retirement needs. However, I wish to stress that, just as I said at the beginning of the main reply, the MPF is one of the so-called three pillars of our retirement protection system. We have also pointed out that voluntary personal savings are also important and the MPF is only one of the pillars and voluntary personal savings should be used to bolster retirement protection. How should this be done? We can encourage personal savings and also encourage employees to make voluntary contributions to MPF schemes. So, we can also use the existing arrangements under the MPF System to bolster retirement protection. As at today, if we look at the overall assets of all the MPF schemes, some 10% come from voluntary contributions and the amount involved each month is about \$400 million. Therefore, in this regard, we can encourage greater involvement of the public.

MR PAUL CHAN (in Cantonese): *President, it can be seen from the estimates computed by the Secretary that even middle-class people with a monthly income of some tens of thousands dollars will have savings in their MPF accounts which are far from being sufficient when they retire. This is because the ceiling of employer's contributions is currently set at \$1,000. May I ask the Government if*

there is any plan to lift the ceiling of monthly contributions by employers so that the employers may make greater commitment to the retirement life of their employees?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): What I wish to say is that this ceiling is not limited to employers. Insofar as the MPF System is concerned, employees earning \$20,000 or above are not subject to any mandatory arrangement. So both employers and employees are subject to the same ceiling. What the Member has asked is whether the ceiling applicable to mandatory contributions by employees earning a monthly income of \$20,000 can be raised a bit higher and made different, so that both employers and employees can make more contributions. This arrangement could be reviewed and previously there were suggestions that this be reviewed. We have noted that the people do have different opinions in this respect. Some people would think that if this is done, then employees, or employers and employees rather, may not want to raise that ceiling. We think that a review can be conducted on this.

MR PAUL CHAN (in Cantonese): *My focus is in fact on employers. As for the review mentioned by the Secretary, is there a timetable for it?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The MPFA will undertake a review later this year of these issues and as for the results, I would say that after they have reached some conclusions, we can share them with Members.

MR IP WAI-MING (in Cantonese): *Last Wednesday we raised an oral question on the MPF and two Directors of Bureaux were in attendance. Actually, what I wish to point out is that the Secretary should think about this: for employees earning \$10,000 monthly, they will only have some \$780,000 or \$550,000 in their MPF accounts some 10 years later, and as we pointed out on the last occasion, if an employee is dismissed, the employer can offset the MPF contributions with severance payment, then in the end, the employee will not get the said accrued*

benefits. Right? Besides, employers have defaulted on the MPF contributions of many employees — we handled one case yesterday and the employer concerned defaulted on the MPF contributions of the employees for almost a year. If the Secretary says that the three-pillar approach can solve our retirement problem, then can it be rightly said that the MPF System is like a rotten walking stick that can never be leaned on?

I have this question. Apart from the suggestions made by numerous Members earlier, has the Government considered introducing universal retirement protection? According to the situation described by the Secretary in the main reply, employees earning \$10,000 or \$5,000 monthly cannot practically enjoy the retirement life they should have. Why should the Secretary put it this way? The Secretary said that they should have personal savings

PRESIDENT (in Cantonese): Mr IP, I think you have raised your supplementary question, please be more concise.

MR IP WAI-MING (in Cantonese): *I wish to point out that if it is said that people should have their personal savings, I think that many low-income workers cannot even save up any money. Can the Secretary tell us what is the position of the Government on introducing universal retirement protection?*

PRESIDENT (in Cantonese): Which Secretary would answer this question?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, let me perhaps give a brief response. Secretary Prof CHAN has said that there are three pillars. The Government is actually conducting a study to examine whether these three pillars are financially sustainable. That is to say, can these pillars be maintained in the long run? This is a very important point. Members will know that the Old Age Allowance was increased to \$1,000 last January, that is, January 2009. Therefore, the study will examine, after the increase to \$1,000, how far-reaching can its sustainable effect be? After completing the study on the three pillars, the Government will certainly follow up the many

views expressed in the community. As for the overall impact, follow-up action will be considered at that time.

However, I have to talk about what other factors that should be considered. First, we need to uphold our traditional family values, which is a very important point. Second, we need to maintain our overall economic competitiveness. Third, we need to retain our simple tax regime. The last factor is we have to ensure that there is sustainable development in our social security system because, insofar as the three pillars are concerned, an important one of them is our social security safety net. For example, the latest figures for CSSA applications show that of the 280 000 cases we have got, 153 000 are in fact related to the elderly and that means many elderly persons rely on CSSA to meet their basic needs.

I have another figure which I would like to share with Members and that is, single elderly persons can get \$4,133 on average each month in CSSA payment. What I have said are just some figures for reference by Members. We have holistic planning on that. But the most important task now is to see how sustainable these three pillars are.

PRESIDENT (in Cantonese): Which part of your supplementary question is not answered?

MR IP WAI-MING (in Cantonese): *He always says that studies will be made, but he does not have any concrete*

PRESIDENT (in Cantonese): What is your supplementary question? Please repeat the part which has not been answered and that will be fine.

MR IP WAI-MING (in Cantonese): *All along I have been asking about the basic position of the Government, will it introduce universal retirement protection?*

PRESIDENT (in Cantonese): I think the Secretary has already answered that. Now there are still eight Members waiting for their turn to ask questions. But this Council has spent more than 22 minutes on this question, so Members should follow up through other channels.

Fourth Question.

Legislative Council Functional Constituencies

4. **MR PAUL TSE** (in Cantonese): *President, regarding the composition of the Legislative Council functional constituencies, will the Government inform this Council:*

- (a) *as recently there are views in the community that functional or community groups which are constituted on the basis of communities or economic entities such as teenagers, persons with disabilities, the elderly aged over 60, housewives, ethnic minorities, discharged prisoners, as well as small and medium enterprises (that is, those with less than 20 employees and holding business registration certificates), may be more representative, of the detailed statistical information on the aforesaid communities and economic entities in 2004 and 2008, as well as the overall figure of their projected size in 2012; how this figure compares with the registered electorate of the five additional seats for district council functional constituencies as proposed by the Government lately; whether it will examine which electorate base between them is more representative and meets the actual needs of society better; and whether it has considered allocating these five additional seats to functional or community groups comprising the aforesaid persons and enterprises; if it has not, whether it will do so immediately;*
- (b) *whether it knows the numbers of Hong Kong permanent residents among the incumbent directors and managers of licensed travel agents, hotels and airlines, as well as their staff with work experience over five years and between one and five years; if such*

information is not available, whether it will compile or make an estimate of such figures immediately; whether the Government has considered altering the current electorate base for the tourism functional constituency, which comprises companies only, to one that includes directors, managers, senior staff or even all members of the trade, so as to render the seat for the tourism functional constituency more representative; if it has, of the outcome; if not, whether it will do so expeditiously; and

- (c) *whether it has assessed the shortcomings of electing Legislative Council Members by geographical constituencies through direct elections and evaluated whether and how the functional constituency election with expanded electorate base can compensate for the shortcomings in this respect; if it has, of the outcome; if not, whether it will do so as soon as possible?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President,

- (a) The figures relating to youth, homemakers, ethnic minorities, persons with disabilities and discharged prisoners who are aged 18 or above, as well as those on the elderly aged over 60 and small and medium enterprises are set out in the Annex that has been distributed to Members.

In the "Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012" (the consultation document) published in November last year, the SAR Government proposes that consideration may be given to allocating the five new functional constituency seats to District Councils and having the seats returned through election by elected District Council members from among themselves. Elected District Council members are returned through one-person-one-vote by more than 3.3 million voters. This represents a very high proportion of the Hong Kong population and embodies different sectors within the

community. This proposal, if adopted, will further enhance the democratic elements and representativeness of the Legislative Council. By comparison, the various sectors and population of the community covered by this proposal is wider than the various groups referred to in the question.

- (b) Under existing arrangements, the Travel Agents Ordinance regulates the travel agents; the Hotel and Guesthouse Accommodation Ordinance regulates the building and fire safety of hotel and guesthouse accommodation, and the Air Navigation (Hong Kong) Order 1995 regulates air operators with flights to and from Hong Kong. As these regulatory and licensing regimes do not cover the work experience of the managerial staff and employees in the relevant sectors, the Government does not have the relevant statistics.

We have made it clear in the Consultation Document that we are inclined not to adopt the method of replacing "corporate votes" with "director's/executive's/association's/individual votes" to broaden the electorate base of functional constituencies. This is because the process would be too complicated and involved the interests of many different sectors and individuals. The community has very diverse views about this proposal. There are views that no change should be made to the electorate base of functional constituencies; there are views that the electorate base of functional constituencies should be extended to more than 3.3 million registered voters. It would be very difficult for the community to reach consensus on this proposal.

- (c) The seats returned by geographical constituencies through direct elections in the Legislative Council are returned by more than 3.3 million registered voters of Hong Kong and have a high level of representativeness. As for the 28 functional constituencies in the Legislative Council, they are composed of the industrial and commercial sector, the professionals, the labour groups, and different sectors of the community. They have a sufficient level of representativeness. The current composition of the Legislative

Council embodies both district views and aspirations, as well as those of different functional sectors. This accords with the principle of balanced participation.

According to the decision adopted by the Standing Committee of the National People's Congress (NPCSC) in December 2007, the half-and-half ratio between members returned by geographical constituencies through direct elections and members returned by functional constituencies shall remain unchanged. Through the discussions of the Commission on Strategic Development in 2008, the SAR Government conducted studies on how the electoral base of functional constituencies for the Legislative Council election in 2012 should be broadened, with a view to enhancing the democratic elements of functional constituencies. At that time, we had already considered various options.

The SAR Government has proposed in the consultation document that, for the Legislative Council election in 2012, consideration may be given to having the five new functional constituency seats and the existing District Council functional constituency seats returned through election by elected District Council members from among themselves. This will enable close to 60% of the Legislative Council seats to be returned by geographical constituencies through direct or indirect elections. This can enhance the democratic elements of the election substantially. Having considered all relevant factors, we believe that this proposal can maintain the principle of balanced participation and stands the best possible chance of gaining consensus among the community.

As to the electoral arrangements for the Legislative Council after 2012, we consider that the community should continue the discussion on how the Legislative Council election in 2016 should be further democratized, and how to attain universal suffrage for returning the Legislative Council in 2020 according to a method that will comply with the Basic Law and the principles of universality and equality.

Statistics of the Specified Groups of Persons

<i>Specified groups of persons</i>	<i>Number of persons</i>		
	<i>2004</i>	<i>2008</i>	<i>2012</i>
Figures from the Census and Statistics Department (C&SD)			
(i) Youth aged 18-24 ⁽¹⁾	642 400	646 000	676 400 (Projected)
(ii) Homemakers aged 18 and above ⁽²⁾	643 500	676 700	Not available
(iii) Older persons aged over 60 ⁽¹⁾	999 500	1 105 500	1 291 300 (Projected)
(iv) Ethnic minorities aged 18 and above ⁽³⁾	301 865 (2001)	305 857 (2006)	Not available
(v) Persons aged 18 and above with disabilities ⁽⁴⁾	Not available	344 400 (2007)	Not available
(vi) Small and Medium Enterprises (Services) with fewer than 50 employees	250 800	254 600	Not available
(vii) Small and Medium Enterprises (Manufacturing) with fewer than 100 employees	14 300	12 600	Not available
Figures from the Correctional Services Department			
(viii) Discharged prisoners aged 18 and above ⁽⁵⁾	10 161	9 614	8 880 (Projected)

Notes:

- (1) The numbers of youth and the elderly in 2004 and 2008 were based on the population estimates of the Hong Kong Resident Population released by C&SD, while the figures for 2012 are based on the results of the population projections released by C&SD in 2007.
- (2) Homemakers refer to persons who do not have a job and look after the home without pay. The figures were compiled based on the results of the General Household Survey conducted by C&SD in the corresponding years.
- (3) The number of ethnic minorities was compiled based on the results of the 2001 Population Census and the 2006 Population By-census conducted by C&SD.
- (4) The number of persons with disabilities was compiled based on the results of the Survey on Persons with Disabilities in 2007 conducted by C&SD.
- (5) This indicates the number of local persons discharged from penal institutions in that particular year.

MR PAUL TSE (in Cantonese): *President, some time earlier, I conducted a survey in the tourism sector and found that an overwhelming majority of the voters of the tourism sector considered that the electorate base should be expanded as soon as possible. Based on the fact that the tourism sector and even other functional constituencies are opened to criticism recently, I believe one of the reasons that functional constituencies are subject to censure recently is attributed to the perfunctory and dogmatic attitude adopted by the Government over the years. In this respect, I am afraid that the Secretary has still failed to take a proactive attitude in the main reply he gave earlier, and I may even say that he has not answered my main question.*

In this connection, I hope that the Secretary will provide additional information to us, stating whether the Government has taken into account the present situation when it examined the recommendations proposed by the Commission on Strategic Development in 2008. Has it thought of the possibility of the conduct of a referendum in the five geographical constituencies? If it has not considered this at the time, it should examine the issue immediately, in a bid to enhance the electorate base of functional constituencies, the tourism sector in particular, so that our functional constituency will no longer be queried by various sectors if our electorate base is insufficient or otherwise.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, on the whole, the major direction and principle of gearing towards universal suffrage, as well as promoting the further democratization of the electoral method of the Legislative Council and the system for selecting the Chief Executive, are recognized by all.

Mr Paul TSE made particular mention of the recent discussion on the democratic base and the role of functional constituencies in society, which is a continual discussion of the debate on the review of the constitutional system we started in early 2004.

However, I would like to point out some facts to Honourable Members of this Council for reference. During the three months of the public consultation on the 2012 proposal, a number of universities and opinion poll organizations have conducted surveys. For instance, the Bauhinia Foundation Research Centre released the findings of the following opinion poll in early February, and two of the questions in the poll are quite appropriate. One of the questions in the survey asked whether the respondents agreed that the several new functional constituency seats should be returned through election by elected District Council

members from amongst themselves. The number of respondents who agreed with this idea accounted for 57.7%, while 33.5% disagreed with it. Another question asked: With the existing electorate base of 230 000 of the functional constituencies, will the arrangement of new functional constituency Members elected from amongst elected District Council members enhance the representativeness of the functional constituencies of the Legislative Council? Nearly 60%, which is 59.6%, of the respondents considered that the arrangement could enhance the representativeness. With regard to Mr Paul TSE's main question on whether the conversion of "corporate votes" into director's votes will increase the representativeness of the functional constituencies in the Legislative Council, it is found in the survey that only 24.4% of the respondents agree that the conversion would enhance representativeness, but 62.3% disagree with it.

Certainly, the findings of opinion polls can only serve as reference. I understand that Mr Paul TSE is sincerely concerned about whether the interests of youth, homemakers (housewives) — as shown in my main reply, there are at least over 600 000 of them — should be taken care of. I think that in the course of achieving universal suffrage, the interests of different sectors, particularly those who are not eligible to vote in functional constituencies at present, should be taken care of. As we strive to implement the formation of the Legislative Council by universal suffrage in 2020, not only will it have to comply with the Basic Law, but it will also have to adhere to the principles of universality and equality.

Under our present proposal, the 29 existing functional constituency seats are to be frozen and no significant change would be made to their electorate base, for this, on the contrary, may enhance the representativeness of the District Council functional constituency seats in the Legislative Council, thereby incorporating more views from the community. This is a practical and feasible proposal, as well as a strategy with democratic elements.

MR RONNY TONG (in Cantonese): *President, whenever the Government responds to issues related to constitutional reform, it would nevertheless resort to the response in part (b) of the main reply, saying that "the community has very diverse views about this proposal It would be very difficult for the community to reach consensus on this proposal." President, may I ask the Secretary one question? Does he agree that when the community has different views, he should first apply certain fundamental and constitutional principles, such as "the right to vote and the right to stand for election" that everyone is entitled to under Article 26 of the Basic Law, and certain core values of society,*

such as the social values of justice and equality, and the respect of the views of the majority, to settle those so-called very diverse views? President, should the situation be dealt with according to these principles?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the most important constitutional principles and requirements are stipulated in the Basic Law. We remember that in the 1980s, when the Chinese Government and British Government formulated the Joint Declaration, universal suffrage had not been mentioned. It has only been briefly stated that the Legislative Council should be formed by election, and that the Chief Executive will be appointed on the basis of the results of consultations or elections to be held locally. When the Basic Law was formulated in 1990, the ultimate aim of universal suffrage was laid down as an important foundation and milestone. We recalled that in 2007, when consultation on the Green Paper on Constitutional Development was conducted, the relevant requirements under the Basic Law and the principles of universality and equality had been brought up and stated with extreme clarity in the report. This time around, when we conducted the public consultation on the 2012 proposal, we reiterated that the formation of the Legislative Council by universal suffrage in 2020 has to be achieved, and should be implemented in compliance with the Basic Law and the principles of universality and equality. However, what we need to do now

MR RONNY TONG (in Cantonese): *I ask him why he in handling the issue, but it seems he is digressing from the question.*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR RONNY TONG (in Cantonese): *President, my supplementary question is about his remark that many people in Hong Kong have diverse views about the proposal and the situation cannot be settled. Actually, should certain principles form the basis of solutions to deal with the situation? One of the most important basic principle as stated in Article 26 of the Basic Law, which I have mentioned earlier, is that everyone is equal and has the right to vote Secondly, the core values of society should be complied with; and thirdly, the views of the majority should be respected. Are these important factors that he should consider when he decides how to settle the diverse views? President, this is the supplementary question I put to him.*

PRESIDENT (in Cantonese): I think the Secretary was explaining earlier the principles on which he considered necessary to be based on.

MR RONNY TONG (in Cantonese): *No, he just stated what had been done. He did not say how the issue of diverse views could be settled.*

PRESIDENT (in Cantonese): He is explaining the principles you put forth. Secretary, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have already mentioned the principles. According to the relevant requirements in the Basic Law, we should act in accordance with the voting procedures in Annexes I and II to the Basic Law. We must obtain a tripartite consensus. That is to say, the proposal should be put forth by the SAR Government, endorsed by a two-thirds majority of all the Members of the Legislative Council and have obtained the consent of the Chief Executive, which should then be reported to the Standing Committee of the National People's Congress for approval or for record. All these are constitutional principles. However, Mr Ronny TONG is concerned about how the prevailing situation of diverse and different views should be dealt with. In this connection, we have to follow the requirements provided in the Basic Law, while striving for a consensus within and outside the Legislative Council. Within the Legislative Council, we have to strive for the passage of the proposal by a two-thirds majority of all the Members. Outside the Legislative Council, the general acceptance and support of the proposal of the public and various sectors of society have to be sought. This is the most pragmatic explanation and response.

MR LEE CHEUK-YAN (in Cantonese): *Mr Paul TSE has exhausted every means to apply make up on a dead body, the functional constituency, to make it look more beautiful and hope that it will be accepted by the public. But I think Members should stop thinking about these meaningless gestures. Actually, earlier on, the Government was criticized for being dogmatic. Indeed, the Government has not only been dogmatic in handling the functional constituency, it has also even been more dogmatic in dealing with direct election issues, hence more wanting in progress has been made.*

President, my question is about the Secretary's earlier remark that the 28 functional constituencies elected by the 230 000 voters represents balanced

participation, and I find the remark very ridiculous. If teachers and social workers are excluded from the 230 000 voters, there will only be around 100 000 voters, and these remaining voters will elect the Members for these 20-odd seats. As for the corporate votes are generated from the same corporation, examples can be found in certain companies, such as companies under LI Ka-shing, Sun Hung Kai and LEE Shau-kee ("Fourth Uncle"), so one can imagine how many corporate votes are under the control of each of these corporations? Does the Government have these figures? Can it tell us the number of these corporations, so that Members know how ridiculous it is when the Secretary says that the arrangement represents balanced participation? One corporation can manipulate a dozen or even several dozens of votes. I do not know the figures. Does the Secretary have such figures? How can this be regarded as balanced participation? Since those are corporate votes, so one corporation will manipulate several dozens votes.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, first, I disagree with Mr LEE Cheuk-yan's comment that the SAR Government is being dogmatic. Had the Government been dogmatic, we would not have conducted the public consultation on the Green Paper on Constitutional Development in 2007, nor would we have considered it necessary to advocate the decision on selecting the Chief Executive by universal suffrage in 2017 and forming the Legislative Council by universal suffrage in 2020. Had we been dogmatic, we would not have put forth the present proposal that will allow the composition of the Legislative Council in 2012 to include nearly 60% of seats returned by geographical constituencies through direct election and indirect election.

As for Mr LEE Cheuk-yan's question on the 230 000 registered voters of the existing functional constituencies, our standpoint has always been clear, and the existing electoral mode adopted for functional constituencies does not comply with the principles of universality and equality. As for individual functional constituencies, the relationship of companies (subsidiary companies and holding companies) may differ, but we do not adopt this as the base for voter registration of functional constituencies. The eligibility of voters is laid down according to the composition of different sectors and the law. Actually, the most important point is that balanced participation is realized in the Fourth Legislative Council at present, for the views expressed both by society and at district-levels, as well as those expressed by various sectors are taken such that views from various districts and sectors can be reflected when the Government submits bills and budgets to the Legislative Council, and have taken up a part in the scrutiny concerned.

MR LEE CHEUK-YAN (in Cantonese): *President, he has not answered my*

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

MR LEE CHEUK-YAN (in Cantonese): *Indeed, my supplementary question is about the situation that a holding company may hold "n" companies and become eligible to vote in "n" functional constituencies. I did not say that this complied with the principles of universality and equality, for the present situation certainly does not comply with the principles of universality and equality. He said in his reply earlier that it did not comply*

PRESIDENT (in Cantonese): What is your follow-up question?

MR LEE CHEUK-YAN (in Cantonese): *My follow-up question points out that the arrangement does not comply in the least with the principle of balanced participation. When a corporation can participate in the election of several constituencies, manipulating the votes of several constituencies, an arrangement as such can in no way achieve balanced participation.*

PRESIDENT (in Cantonese): You have already expressed your view.

MR LEE CHEUK-YAN (in Cantonese): *I say that it cannot achieve balanced participation in the very least.*

PRESIDENT (in Cantonese): You are expressing your view. The Secretary has explained the definition the Administration adopted for balanced participation earlier. I believe he has already answered your question.

MS AUDREY EU (in Cantonese): *President, I also want to ask about balanced participation. The electorate base of the existing 28 functional constituencies only accounts for around 6% of the overall electorate base. Recently, I heard*

Mr CHENG Kar-shun of New World Development saying that though voters of functional constituencies only account for around 6% of the total number of voters, their contribution accounts for 60%, so they should have more seats. May I ask Secretary Stephen LAM whether this is the interpretation for balanced participation? They consider that they themselves have made significant contribution, so they should occupy more seats despite their small electorate base. Is this what the Government accede to as balanced participation?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the composition of the Legislative Council, the election of representatives of the functional constituencies and the Election Committee of the Chief Executive all involve the participation of different sectors in the course of election. Indeed, not only the business sector is involved — certainly, functional constituencies include many representatives from business associations. There are other professional sectors, such as teachers, nurses, trade unions and social workers, and so on. Thus, starting from 1985, sectors with an important bearing on Hong Kong society have definite representation in the Legislative Council and been given the opportunity to voice their opinions, they can jointly participate in and scrutinize the public affairs of Hong Kong, and this is balanced participation.

Certainly, the electoral system in Hong Kong cannot halt at a certain point, we have to keep making progress. Hence, we now act in accordance with the decision made by the NPCSC in 2007 with a view to laying a good foundation and paving the way for the implementation of universal suffrage in future. We thus hope that the composition of the 2012 Legislative Council will bring further democratization, and that participation on the electoral arrangement of the Chief Executive will be greatly extended.

MS AUDREY EU (in Cantonese): *He has not answered my supplementary question. My supplementary question is about a remark made by Mr CHENG Kar-shun that though the electorate base of functional constituencies only accounts for 6%, he thought his economic contribution had reached 60% and should thus occupy more seats. May I ask the Secretary whether he agrees that this "pie-sharing" method based on the element of economy — the economic contribution that they claim to have made — should be taken as balanced participation? This is my supplementary question.*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Hong Kong is an open and external economy. Certainly, to Hong Kong, the export trade, the service trade and the business sector are all important. At the same time, the various professional sectors in Hong Kong, such as nurses, teachers and social workers from the social services sector, are of great importance to Hong Kong, too. In addition, the representatives from the grassroots, the labour sector and trade unions also bear great significance. For this reason, there are representatives from these social groupings and sectors in the Election Committee and the functional constituencies. To implement the further democratization of the composition of the Legislative Council in 2012, primarily, we propose freezing the existing 29 functional constituencies, so that they can have continual participation in the 2012 composition of the Legislative Council, as well as participating in the discussion of social and public affairs of Hong Kong in the four years to follow. At the same time, the further democratization of the Legislative Council can be implemented by the election of more representatives of public opinions from amongst District Council members. I believe this can in some measure answer the question raised by Ms Audrey EU and other Members.

PRESIDENT (in Cantonese): This Council has spent more than 24 minutes on this question. The fifth question.

Removal of Unauthorized Building Works

5. **DR PAN PEY-CHYOU** (in Cantonese): *President, in 2001, the Buildings Department (BD) implemented a 10-year enforcement programme against unauthorized building works (UBWs), which includes undertaking large-scale clearance operations each year to clear in one go UBWs on the external walls and in the common areas of selected target buildings. The BD issues more than 30 000 UBWs removal orders on average each year. Yet, some members of the public have pointed out that quite a number of such UBWs still exist despite removal orders having been issued for several years, with more and higher UBWs emerging, and they are gradually becoming urban risks. Regarding the progress of the BD's UBWs removal exercise, will the Government inform this Council:*

- (a) *of the breakdown of the current number of UBWs in Hong Kong by whether or not they belong to the category of immediate enforcement action; the anticipated time needed to complete clearance of all UBWs according to the present progress; what plans the authorities will put in place to remove or deal with the remaining UBWs which belong to the category of non-immediate enforcement action upon completion of the aforesaid enforcement programme by the end of March 2011, as well as the number of such UBWs;*
- (b) *given that some members of the public have relayed to me that there are still many unauthorized signboards and shopfront projections which belong to the category of non-immediate enforcement action in Yau Tsim Mong and Causeway Bay districts, what new measures or proposals the authorities have to prevent such signboards or projections from falling; and*
- (c) *of the current staff establishment at all levels responsible for clearance operations; the respective numbers of civil servants, non-civil service contract (NCSC) staff and staff continuously employed through outsourcing within such establishment; whether the authorities can remove the UBWs concerned as planned with the present establishment; whether the Government will consider recruiting more staff to expeditiously clear the remaining UBWs; if it will, of the number of additional staff required to be employed; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, according to the Buildings Ordinance (Cap. 123), all building works (except exempted works) require the Building Authority's prior approval of plans and consent for commencement before such works can be carried out. Building works constructed not in accordance with such procedures are UBWs in breach of the law.

The problem of UBWs was serious in Hong Kong in the late 1990s. In 2001, the number of UBWs in Hong Kong was around 800 000 as estimated by the BD. Some UBWs, in particular certain large-scale projections such as steel cages and flower racks, were commonly found at that time. In view of the large number of UBWs, the Government had formulated an enforcement policy: when the BD identifies UBWs that are newly constructed, posing obvious danger to life

or property, or constituting a serious health hazard or environmental nuisance, the Department will immediately take enforcement action.

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

- (a) During the 10-year enforcement programme which commenced in 2001, the BD, to date, has removed around 380 000 UBWs, already exceeded its target of demolishing around 40 000 UBWs a year. Up till now, most of the high-risk UBWs have been removed. We anticipate that by the end of the 10-year programme in end of March next year, the BD will have removed more than 400 000 UBWs. We believe that most of the UBWs to be cleared under the above established enforcement policy will have been removed by that time. Should more UBWs that require immediate enforcement action be identified, the BD will take enforcement action swiftly.

We have initially taken stock of the achievements of the 10-year programme and are reviewing the Government's overall strategy for enhancing building safety in Hong Kong. We will continue to adopt a multi-pronged approach to tackle building safety problem in Hong Kong, covering major areas such as legislation; inspection and enforcement; support and assistance measures, as well as public education and publicity. Since the Development Bureau has already explained in detail the various aspects of our work in different areas during the two motion debates of the Legislative Council and the meeting of the Panel on Development held last month, I am not prepared to repeat them here. Nevertheless, when we study the measures for enhancing building safety in the next few months, we will seriously consider the comments and concerns over various issues previously raised by Members. The study will also include enforcement action against UBWs.

- (b) We believe that the measures that planned to be rolled out, in particular the minor works control system, the mandatory building inspection scheme and the mandatory window inspection scheme, will effectively tackle the problem of unauthorized signboards and shopfront projections and will also help to curb the emergence of new UBWs.

Moreover, the BD will continue to carry out inspection and enforcement actions against shopfront decorations and projections

and unauthorized signboards, and handle the public's reports. The BD will also step up inspection of the roadside along pedestrian precincts and areas with heavy pedestrian flow, such as Yau Tsim Mong and Causeway Bay districts. The Department will also launch special operations from time to time to focus on the removal of target UBWs. For instance, in March 2009, the BD embarked on a 12-month special operation to remove 5 000 abandoned signboards on top of the Department's annual clearance target. Up to end February 2010, around 5 500 abandoned signboards (more than the original target) were removed under the special operation.

- (c) Staff of the Existing Buildings Divisions of the BD are responsible for the programmes for removal of UBWs. It is part of their work in connection with other related work concerning building safety and maintenance. As at the end of January this year, there are in total 473 civil servants in the Existing Buildings Divisions of the BD. Also at the end of January this year, there are 482 time-limited NCSC staff for the implementation of the 10-year clearance programme. Moreover, the BD has engaged 32 private consultant firms to assist in carrying out the work. With the existing manpower, the BD expects to accomplish the planned targets of removal of UBWs by the end of March 2011 as scheduled for in the 10-year enforcement programme.

Upon the completion of the 10-year enforcement programme, the relevant resources for the programme will come to an end. The BD will redeploy its regular resources and focus on the implementation of the new statutory control system, public education programme and preventive inspection and repair programme. The Development Bureau will ensure that the BD has sufficient resources to protect building safety in Hong Kong.

The Administration is comprehensively reviewing the strategy and necessary measures to enhance building safety in Hong Kong in the future, including the required manpower resources. The Development Bureau and the management of the BD will keep communicating with the staff of the Department, including NCSC staff. If the contracts of some of the staff are not renewed upon expiry of the existing contracts, the BD will provide appropriate career assistance to help them find new jobs.

DR PAN PEY-CHYOU (in Cantonese): *President, it is mentioned by the Secretary at the end of her main reply that the contracts of some NCSC staff may not be renewed upon expiry of the existing ones. We are concerned about this. At the same time, the Government has allocated an additional funding of nearly \$500 million under the new Operation Building Bright to assist owners of old buildings in carrying out repairs. In view of this, may I ask the Government whether it is possible for this project to absorb the bulk of these NCSC staff, so as to draw on their professional expertise and experience in carrying out the relevant work related to Operation Building Bright? If yes, can the Secretary tell us how many of such staff can be absorbed? If there is no intention of doing so, what is the reason for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): First of all, I must thank Dr PAN for his hitherto concern about our staff, including NCSC staff. Dr PAN has referred to the strategic absorption of NCSC staff. This is in fact our long-standing practice. In the past few years, as the BD resumed the recruitment of civil service staff, we have already absorbed a number NCSC staff previously working in the department. When the 10-year enforcement programme comes to an end in late March 2011, we will certainly continue to adopt this practice to absorb NCSC staff if there are still any NCSC vacancies under other projects. But I am afraid that according to present estimation, there may not be a sufficient number of such posts to absorb the several hundred NCSC staff in question. The reason is that the bulk of the resources for Operation Building Bright, no matter whether we are talking the \$2 billion initially allocated or the additional \$500 million, are devoted to providing subsidies to owners' corporations or to the commissioning of works contractors by the BD, rather than manpower recruitment. Manpower recruitment accounts for only a very minor, not a very great, proportion. But as I mentioned just now, in the coming few months, we will actively review how best we can enhance building safety in Hong Kong. The review will also cover whether we should launch another special operation on the overall situation of UBWs in Hong Kong following the completion of the 10-year enforcement programme. If such special operations lead to any creation of posts and there is a need for recruiting NCSC staff, we will certainly adopt the same practice in absorbing them because they have after all amassed an immense pool of experience and made very great contributions to the department's work in building safety.

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

DR PAN PEY-CHYOU (in Cantonese): *The Secretary has not answered my question because it was on the number of staff that can be absorbed.*

PRESIDENT (in Cantonese): I think the Secretary has already answered the question.

MS LI FUNG-YING (in Cantonese): *President, it is mentioned in the main reply that the estimated number of UBWs in 2001 was around 800 000 then. The department has only removed the majority of the structures by now. Regarding the remaining structures, is it because of any shortage of resources, or the absence of any potential dangers, that there is no need for them to be removed? Has the Secretary ever assessed whether there will be any additional UBWs posing potential dangers 10 years later? If the two figures are added, how will the situation be like?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the problem of UBWs is rather acute in Hong Kong. Precisely for this reason, the 10-year enforcement programme formulated by the authorities in 2001 is a programme with priorities. We have focused on and accorded priority to UBWs posing imminent dangers and those that are newly constructed. The reason is that we hope that by handling newly constructed UBWs, we can contain the problem and prevent its deterioration. In general, therefore, when the 10-year enforcement programme comes to an end, we should be able to complete the handling of the 400 000 or so UBWs that require immediate attention under the programme.

As for Ms LI's question on whether there are any statistical updates, I am afraid that at present, we do not have any more manpower and resources for making any assessments and statistical updates on newly constructed UBWs all over Hong Kong. Concerning the remaining UBWs that have not been removed, I suppose we may have to tackle a good part of them with a more tolerant attitude. Members may recall that on the one hand, there is a Household

Minor Works Validation Scheme under the Minor Works Control System. This means that small-scale household building works, such as laundry drying racks, supporting frames for air-conditioners and small canopies may be exempted from clearance and be retained after the validation process. On the other hand, if the UBWs concerned are non-protruding and will not pose any public safety hazards, the BD is authorized under the Buildings Ordinance 2004, amended with consent from the Legislative Council, to issue warning notices requiring their clearance. If the UBWs concerned are not removed, we will inform the Land Registry of the warning notices for registering an encumbrance against the title deed of the property concerned. The above is our strategy of handling UBWs in Hong Kong, and I do not think that there is any policy objective to require the complete clearance of all UBWs in Hong Kong.

MR FREDERICK FUNG (in Cantonese): *President, I wish to ask a follow-up question on the issue of UBWs and abandoned signboards mentioned in part (b) of the Secretary's main reply. May I ask the Government whether there is any policy that can specifically deal with such unauthorized and abandoned signboards, such as the mandatory registration of all signboards that requires companies or individuals to which or to whom the signboards are related to pay a deposit equal to the cost of clearance, so that in cases of company closure, the Government can still make use of the money for signboard removal, rather than using public money. May I ask whether the Bureau will consider such schemes? If no, why does it refrain from considering the idea?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, in response to Mr FUNG's question, I wish to point out that ever since I assumed office as Secretary for Development, I have considered various schemes similar to the one proposed by Mr FUNG many times. However, having considered the views expressed in our past discussions, the professional advice of the BD and also the recently implemented Minor Works Control System that I have mentioned, we are, at this stage, of the view that such kinds of registration system will not be introduced for the time being. But, on the other hand, the commencement of the Minor Works Control System will see the emergence of an indirect registration system because at present, many signboards are mounted with no formal authorization on the ground that the present system is much too complex, requiring all works to be conducted by authorized persons, hence many

signboards have been erected without obtaining approval under the required procedures. However, following the implementation of the Minor Works Control System, the mounting of ordinary signboards will be classified as minor works to which simplified application procedures will apply. Upon the completion of works, all relevant works details must be submitted to the BD for registration, thus making it possible for us to get hold of more information on signboards. Even if signboards are abandoned and unclaimed in the future, there will be a better basis for us to take enforcement actions. However, I am afraid that the system will not be entirely the same as the registration system proposed by Mr FUNG just now. Anyway, we will conduct continuous review on the work in this respect because I think that we should from time to time look at the issue with fresh mindsets.

MR WONG KWOK-HING (in Cantonese): *President, as rightly put by "Chai Kau", how many decades can there be in one's life? The NCSC staff have dedicated the most precious 10 years in their lives to the BD, helping it clear UBWs. Now, they are ageing, are penniless, and are going to lose their jobs. I wish to ask the Secretary one question via the President. It is stated at the end of the Secretary's main reply, "..... the BD will provide appropriate career assistance to help them find new jobs." These 400 or so employees have dedicated the most precious 10 years in their lives to the Department. But they are faced by impending unemployment. What can be done?*

The day before yesterday, a very serious fire broke out in an industrial building and has uncovered the fact that as many as 650 old industrial buildings are still unequipped with any fire services installations and appropriate sprinkler systems. Can the Secretary create an additional egress for these NCSC staff, so as to tackle the unemployment problem and improve the safety of industrial and residential buildings all at the same time?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, let me first of all clarify that our NCSC staff are by no means ageing and without any bargaining power. Many of them in fact possess professional expertise. Of these approximate 500 NCSC staff members, 90% are professional and technical personnel, such as engineers, surveyors and technicians. Their bargaining power in the labour market can be illustrated by the following statistics: In late

December last year, the total number of NCSC staff employed under the programme stood at 503. As mentioned in my main reply, at the end of this year, the number was just 482. And, when I looked at the records again earlier today, I found that the number was only 464 as at 8 March. In a short span of just two months, 40 NCSC staff members have left us. I believe that they must have found better jobs. Since when Dr PAN took some such colleagues to see me, I already made it clear that these NCSC staff would not be laid off in stages, everyone of them can stay with the BD until March 2011 if they wish to. However, if they can find any better jobs in the meantime (there are still 12 months to go), we will certainly make things easier for them by, for example, handling the requirements on notification periods and contract-end gratuity with flexibility. For this reason, since we have been keeping a close watch over the situation as mentioned above over the past two to three months, we have tried continuously to render our assistance in facilitating their search for new jobs.

Besides, we will monitor the overall situation between now and early next year. If there is only a small number of NCSC staff remaining by that time, and if, in the course of review, we find out we can take on these staff members under some new projects as suggested by Dr PAN just now, we would certainly like to achieve a win-win situation. As for the number of works projects that can take on these staff members, all must depend on whether there is any need for such works. I am sure that the several Members representing the labour sector will not request us to create some posts with public money simply for the sake of absorbing these staff members even when there is no need for launching any projects. Therefore, President, we will make the best use of these staff members' manpower in the light of Hong Kong's overall building safety needs and new policy objectives.

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

MR WONG KWOK-HING (in Cantonese): *President, first, I must make it clear that I am not saying that these workers do not have any bargaining power. The Secretary has not answered the last part of the question I just asked, the part on creating an additional egress. I have quoted the case that at present, 650 old industrial buildings are not equipped with fire services installations*

PRESIDENT (in Cantonese): You wish the Secretary to give a direct reply on the case you have cited, don't you?

MR WONG KWOK-HING (in Cantonese): *Yes, President.*

PRESIDENT (in Cantonese): I have already heard the Secretary given a reply on the creation of an additional egress. Do you now wish the Secretary to give a direct reply on the special case you have mentioned?

MR WONG KWOK-HING (in Cantonese): *Yes, President.*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, a direct reply on this particular case is that we do not have any such plan for the time being.

MR LEE CHEUK-YAN (in Cantonese): *President, according to the Secretary, there are still some 400 NCSC staff at present. And, it is mentioned in part (c) of her main reply that, "The BD will redeploy its regular resources and focus on the implementation of the new statutory system, public education programme and preventive inspection and repair programme." The problem actually lies with the expression "regular resources" here. The resources used for employing these 400 or so NCSC staff are non-regular resources allocated specially for the "five years plus five years" programme. If only regular resources are redeployed, surely these NCSC staff will not get a share. Can the Secretary clarify whether any non-regular resources will be deployed in case any new projects are launched? Certainly, we would welcome the Secretary using regular resources to employ these NCSC staff as civil servants. But the most dreadful thing is a "neither-nor" situation — neither any additional regular resources to take on these staff members as civil servants, nor any non-regular resources to give them jobs to enable them to continue to stay in the BD, so that their employment problem could be tackled. Therefore, will the Administration consider a two-pronged approach of exploring the continual increase of regular resources on the one hand, and of launching new projects with non-regular resources on the other?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the redeployment of regular resources I mention in the main reply refers to the redeployment of such resources for enforcement work, rather than absorbing these NCSC staff. As I mentioned in my reply just now, the most important thing is that as long as there is work to be done, the Government will provide the necessary resources. As far as regular resources are concerned, the current overall establishment of the BD does not exceed 1 000. However, as its regular workload increases, it will receive additional regular funding. One example is the legislation on mandatory building and window inspection that Members are now scrutinizing. No exact figure can now be offered, but I believe that as a result of additional regular workload, the BD will surely be able to obtain extra regular resources, or even resources for increasing its civil service establishment. The reason is that we are not talking about any temporary tasks but tasks that have to be performed on a permanent basis. As for non-regular resources, all must depend on whether there is a need for any special operations, such as the 10-year enforcement programme. The 10-year enforcement programme is actually composed of two five-year programmes. I believe that even in the past, the decision to launch another five-year programme was made only when the review showed that the problem had not been solved after five years of work. Besides, Operation Building Bright is also a special project, and so is the clearance of 5 000 abandoned signboards. Every time where there is a special project, non-regular resources with time limits will be allocated to create more capacity for absorbing these NCSC staff.

PRESIDENT (in Cantonese): The Council has spent more than 22 minutes on this question. Last question seeking an oral reply.

Redevelopment Project at Hanoi Road in Tsim Sha Tsui

6. **MR WONG SING-CHI** (in Cantonese): *President, the redevelopment and planning processes of the redevelopment project at Hanoi Road in Tsim Sha Tsui, which was jointly undertaken by the Urban Renewal Authority (URA) and a private developer, as well as the circumstances surrounding the sales of its flats, have recently aroused public concern. In this connection, will the Government inform this Council, given that it has been reported that:*

- (a) *the Town Planning Board (TPB) has approved a change of land use of the redevelopment site from commercial use to*

commercial/residential use, and permitted a high plot ratio of 12.366 for the project, which is higher than the plot ratio of 10 or 9 generally granted to sites for commercial/residential use, whether it knows the TPB's justifications for making such decisions, why the sale of serviced apartments under the project was permitted, whether the permission for the sale of such apartments has violated any requirement or guideline, and whether this is at variance with the general procedure for approval;

- (b) the aforesaid developer has entered into a partnership with the URA's predecessor, the Land Development Corporation (LDC), to implement the project in its capacity as an owner affected by the redevelopment, and that among the urban redevelopment projects undertaken by the LDC or URA, this is so far the only project in which participation by an affected owner is allowed, whether it knows why the owner is permitted to participate in the project, why the project partner was not determined through public tender, and whether the relevant principles or reasons will be applicable to future redevelopment projects; and*
- (c) some companies which are connected with the major shareholder of the developer have purchased several residential units under the project during the initial sale in the open market, but the transaction details have never been disclosed, whether the authorities will check all information concerning the property transactions under the project to find out if there are other similar purchases, and investigate the incident to ascertain if the developer has made use of the above purchase to produce confusing market information so as to attract buyers to purchase other residential units under the project?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the redevelopment project at Hanoi Road was announced for implementation by the former LDC in 1997. This uncompleted project was taken over by the URA when it was established in May 2001.

My reply to the three-part question raised by Mr WONG is as follows:

- (a) The TPB gazetted the Development Scheme Plan of the LDC Hanoi Road Project in Tsim Sha Tsui as early as in May 1995. The area

was designated "Comprehensive Development Area" (CDA). According to the Notes of the relevant Development Scheme Plan, the maximum development plot ratio of the lot was 12. The Notes did not impose any restriction on the ratio between the domestic plot ratio and the non-domestic plot ratio within the development plot ratio of 12. Moreover, the plan has also been approved by the TPB in accordance with the established procedures. In October 2003, the TPB rezoned this CDA site and the adjacent site originally zoned "Commercial" to be "Comprehensive Development Area (1)" (CDA(1)). Apart from maintaining a similar maximum gross floor area (GFA) under the aforementioned plot ratio, the Notes of the plan also stated that bonus floor area could be granted under the circumstances specified in section 22(1) or (2) of the Building (Planning) Regulations.

At present, the plot ratio of the completed redevelopment project is 12.366, which includes the GFA of the CDA(1) zone, as well as a bonus GFA equivalent to a plot ratio of 0.366 (about 3 000 sq m) granted under section 22(1) of the Building (Planning) Regulations, which I have just mentioned, in return for the dedication of the street frontage along Mody Road, Hanoi Road and Carnarvon Road as a public passage. The bonus GFA is to compensate the building set-back for the provision of a widened pavement for use as a public passage.

The lease conditions of the development project were made with reference to the Master Layout Plan approved by the TPB. The land use of the project as approved by the TPB includes hotel, retail facilities and service apartment. Generally speaking, except for special purposes such as hotel, hospital, social welfare and petro-filling station, there is generally no alienation or split-alienation restriction on properties in land leases. In drawing up the lease conditions for the development project at Hanoi Road, the Lands Department (LandsD) also imposed alienation restriction on the part of the hotel in line with the prevailing practice. In other words, no alienation restriction was imposed on the service apartment of the project.

According to the financial arrangement between the Government and the URA, it has to pay full land premium at market value to the

LandsD in respect of development projects commenced by the former LDC. The URA has paid full land premium for the GFA allowed in the land lease, including the bonus GFA granted under section 22(1) of the Building (Planning) Regulations.

In other words, the plot ratio of the above project and the sale of service apartment under the project have not violated any applicable requirements or guidelines at the time. The project was also approved in accordance with normal procedures.

Based on the explanation above, it can be seen from the planning history of this project that it has not involved any rezoning of the area from "Commercial" to "Commercial/Residential" as mentioned by Mr WONG in his main question. But in line with the prevailing practice of the TPB, when a project located in a CDA zone is completed, the relevant area will be rezoned for the most compatible use under the relevant Outline Zoning Plan. On 20 March 2009, the TPB rezoned the area from CDA(1) to "Commercial (10)" according to this principle.

- (b) Prior to the redevelopment project at Hanoi Road, the LDC has also proposed the introduction of an Owner Participation Scheme for more than 180 owners at the acquisition stage of the H1 project at Queen Street, Sheung Wan (now known as Queen's Terrace). However, in view of the lukewarm response to the proposal from the owners, the LDC decided to abandon the Owner Participation Scheme in favour of a public tender to identify a joint venture partner. It can therefore be seen that the Hanoi Road Redevelopment Project was not the only project for which the LDC had considered implementing an Owner Participation Scheme.

According to our information obtained from the URA, when the LDC launched the Hanoi Road project, all the affected owners were invited to participate in the Owner Participation Scheme. Among the 143 property interest owners affected by the project, 70 participated in the Owner Participation Scheme; 64 accepted cash compensation; while the remaining nine rejected both the Owner Participation Scheme and the cash compensation. Eventually, the LDC applied to the Government to invoke the Lands Resumption Ordinance to resume the remaining interests in November 1998.

The 70 property interest owners who participated in the Owner Participation Scheme were related to 10 companies, including the present developer of the project. Through transfer of company shares, the developer and its associated companies successfully gained control of all the 10 companies within a short period of time. Therefore, at the end, only the developer and the LDC were left to implement the Owner Participation Scheme for the project jointly. In terms of the value of properties held, the developer's share of the project accounted for 80%, while the LDC only 20%.

We have enquired with the URA on whether there was a public tender to determine the project partner at that time and learnt that the arrangement was determined by the LDC prior to the establishment of the URA. The Board of the URA had subsequently discussed the matter and considered that as the associated company of the developer in this project held 80% of the value of the properties, the project should be developed by the developer.

We are conducting a review on the urban renewal strategy. The feasibility and justifications of the Owner Participation Scheme is one of the many topics under review.

- (c) As with other redevelopment projects of the URA, the pricing of all the residential units of the redevelopment project "The Masterpiece" at Hanoi Road in Tsim Sha Tsui must be approved by one of the partners in the development project, that is, the URA. The URA has also engaged two independent international valuers to conduct the valuation to ensure that the pricing of the units is in line with the market price. The developer must put up the units for sale at prices approved by the URA. No one will be offered any concession or discount when purchasing these units. The developer has also followed the prevailing practice agreed between the Government and the Real Estate Developers Association of Hong Kong to publish the price list of units before sale.

It is not specified in the Owner Participation Agreement signed by the URA and the developer that at the stage of public sale of the flats under the project, buyers must disclose their identities to the URA or seek approval from the URA beforehand. However, in view of the

concerns expressed by the community and some Honourable Members of the Legislative Council, the URA will discuss with its Board to see if the existing regulatory measures applicable to the URA staff in the purchase of flats under URA projects (that is, in case any staff member wishes to buy flats under the URA projects, he has to seek a written consent from the Managing Director) should be extended to its joint venture partners, and in particular, the members of the board of directors, the senior management and staff involved in the sale of the subject flats of its joint venture partner.

MR WONG SING-CHI (in Cantonese): *President, at present, the Government only requires developers to release the information regarding 20% of the units or 20 units at most of the first batch of units to be offered in the open sale, while there is no restriction on the channel of releasing such information. In this incident, the developer has sold some units to their own people, and it is also unknown how they boosted the pricing of their units to an astronomical price internally. Under such a situation, the public will get wrong information very easily, thus giving rise to many problems. Will the Government further consider reviewing this percentage? Will it require developers to submit a list prior to the open sale, stating the names of people who have been invited to the internal sale, in particular their own staff? In this way, we can ensure that the public do have more accurate information on the sale of flats for reference. Will the Government consider revising the percentage and require developers to provide such a name list when conducting an internal sale?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I wish to respond to Mr WONG's supplementary question in two aspects. First of all, regarding the projects jointly conducted by the URA and private developers, I have also said in my main reply just now that the URA, in response to the public concern and views of some Honourable Members, in particular, Mr LEE Wing-tat has negotiated with the URA in person, will discuss with its Board shortly to see if any other regulation or control should be imposed on the open sale of these projects in future. Therefore, I cannot give an immediate response to Mr WONG in this regard today, for after all, the URA Board should consider various factors and then make recommendations to its management. Of course, it should also inform the Development Bureau.

All in all, we in fact wish to tell Mr WONG on this occasion that during the open sale, as the URA has not stipulated any special requirement, the open sale of this project is not different from the general sale of flats in Hong Kong. Therefore, in this respect, although this is under the purview of the Transport and Housing Bureau, the Government has kept a keen interest in the regulation of the sale of first-hand, uncompleted private residential flats and messages in the market. Precisely, I understand that the Transport and Housing Bureau will continue to explore ways to strengthen the regulation of the sale of these first-hand private residential flats. What the Government will do has also been highlighted in the budget released by the Financial Secretary recently, stating that we will ensure transparency in property transactions and transaction prices to facilitate effective operation of the market.

MR CHIM PUI-CHUNG (in Cantonese): *President, as stated by the Secretary in part (b) of her main reply, there were 70 owners in total participating in the project concerned at the very early stage. However, the development of the entire project, as stated in part (a), was commenced as early as in 1995. President, this project has lasted 16 to 17 years. Many owners — put badly — have already passed away. Will the Government restrict the duration of these redevelopment projects in future, so as to avoid hindering urban renewal and other arrangements of the public? President, my supplementary question is: Will the Government impose any restriction on the duration of these projects, or simply allow developers to defer them for 20 or 30 years?*

SECRETARY FOR DEVELOPMENT (in Cantonese): I think Mr CHIM's question has pinpointed the difficulty currently encountered in conducting urban renewal in Hong Kong. On the one hand, there are a lot of planning procedures to follow, and on the other, we do encounter enormous difficulties in acquiring titles. For this reason, I launched a review of the urban renewal strategy determinedly in July 2008. Moreover, I have submitted some recommendations on urban renewal to the Legislative Council recently. I believe there is no simple solution to this problem. But I do hope that we can facilitate the implementation of more urban renewal projects in Hong Kong from various perspectives, so as to improve the environment in old districts.

MR LEE WING-TAT (in Cantonese): *President, as we all know, the most worrying point in this incident is that only 30 units were offered in the first round and seven of them were purchased by Mr CHENG Kar-shun and his family members. Last Friday, when I met with Mr LAW, Managing Director of the URA, I already asked him if there was any other information which could be disclosed to us. Much to my regret, he did not disclose certain information to me. In fact, prior to the sale of these 30 units, there was a so-called VIP name list for internal sale. These units had never been offered for open sale before, and they were exclusive to joint venture partners and the relevant people of the New World Development Company Limited. I wonder if the Secretary knows this. I am most furious about this because Mr LAW did not disclose it to me when I met with him last week. I did not know it until my secretary found such information on Monday or Tuesday.*

May I ask the Secretary how such a sale practice can be in compliance with the high transparency pledged by the Government, including the Chief Executive and the Financial Secretary, so as to enable people in the market to conduct their transactions in an informed manner?

SECRETARY FOR DEVELOPMENT (in Cantonese): First of all, I wish to respond to Mr LEE that even the sale conducted before the open sale was conducted fully in compliance with the selling price approved by the URA through its independent consultancy. And the name list for offer submitted was also approved by the URA. Therefore, my response is that, so far, the practice adopted in this project is compliant with the contractual requirements between the URA and the developer.

Regarding the question raised by Mr LEE, I have also stated in my main reply just now that in view of the public concern and the views of Members, including those which I believe Members may raise later on today, we will require the URA to conduct a detailed discussion in its Board and then stipulate the method for sale of flats to be adopted in projects which are implemented in collaboration with private developers in future.

MR JAMES TO (in Cantonese): *President, as stated in part (c) of the main reply, the developer must follow by the URA. President, let me declare my interest first, as I was once a Board member of the former LDC and I became a*

member of the URA again a few years later. For this reason, I have grasped the full picture of this whole case.

President, as stated in part (c), "the developer must put up the units for sale at prices approved by the URA". President, this can ensure that flats will not be sold below the market price. However, society is most concerned about the sale practice, in particular, the URA may have to cope with the Government's policy and sell units of a smaller area (that is, those with an area of about 500 sq ft). If there should be other unknown practices, irrespective of the mode of purchase, and even though the price of such units will not incur any loss, that is, public money will not incur any loss, what society is most concerned about is who can purchase such flats. I wonder if the Government has any stance on this issue, or whether it will state its stance at a meeting in future through its representatives. President, I will of course state my stance, and that is, we should have a relatively fair, open and transparent system in place.

SECRETARY FOR DEVELOPMENT (in Cantonese): Regarding market information on property transactions, I hold that market information does not mean only prices, but also the circumstances surrounding the sale of flats, that is, whether they are sold out rapidly. The market should be given such information under a highly transparent system. I wonder if Mr TO still remembers that the Financial Secretary was once asked if he knew that the public were now concerned about that some new flats were purchased by relatives or associated companies of the developers. He indicated that he was aware of that and was concerned about such a situation, hoping that the relevant bureaux can follow up and look into it. Once there is any market information which is unfavourable to safeguard the interests of buyers of these units, as I have just mentioned, the Government should take actions, and such determination was stated clearly in the budget released by the Financial Secretary recently.

PRESIDENT (in Cantonese): Last supplementary question.

MR LAU KONG-WAH (in Cantonese): *President, the Secretary mentioned a previous experience in part (b) of the main reply, that the authorities had considered introducing an Owner Participation Scheme at Queen Street, Sheung Wan. But the 180 owners had a lukewarm response to it at that time. Also, the*

Secretary is prepared to adopt the so-called "bottom-up" approach for the urban renewal strategy in future. In other words, owners, particularly small property owners, will be allowed to have more participation. In this connection, may I ask the Secretary whether there are any new measures or successful experiences in other regions which can be introduced into Hong Kong, so that urban renewal can be implemented in this direction?

SECRETARY FOR DEVELOPMENT (in Cantonese): In our paper on the Review of the Urban Renewal Strategy, which has already entered Stage 3, submitted to the Panel on Development under the Legislative Council recently, some initial views have been raised, including the so-called "bottom-up" approach mentioned by Mr LAU just now. Moreover, can the URA take up a new role, that is, apart from making decisions direct and acting as a redeveloper, can it act as a facilitator as well? In other words, a group of owners have reached a consensus successfully among themselves and they only wish to have an institution to assist them to carry out redevelopment.

However, I have to put a footnote here, that this may be totally different from the Owner Participation Scheme. To a certain extent, the Owner Participation Scheme may assist a group of owners to carry out commercial acts, which is a kind of profit-making investment, through redevelopment. This explains why I stated at the end of part (b) of my main reply that, even in our current Review of the Urban Renewal Strategy, the so-called Owner Participation Scheme (that is, owners' participation frequently mentioned by us) is one of the many topics under review. However, I have already remarked that what I have to examine is not only the feasibility but also justifications. I need sufficient justifications to invoke the powers conferred by the Government through the URA as an institution with a social mission, including my imperial sword (that is, the Lands Resumption Ordinance) and the compensation mechanism, to assist owners to carry out commercial acts which are basically meant to make profits and investment returns. Therefore, in considering new measures, I make it a point to insist on the great importance of these justifications.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Measures to Broaden Tax Base**

7. **MRS REGINA IP** (in Chinese): *President, there have been comments that being the freest economic entity in the world, Hong Kong has always had a narrow tax base. The government revenue often fluctuates widely as a major part of it is derived from proceeds from land sales, stamp duties and investment return of the Exchange Fund, which are affected by economic cycles and external fluctuations, and its salaries tax and profits tax rates are also at a relatively low level in the world. Such a taxation system fails to guarantee long-term and stable tax revenue and hence is very unfavourable to the Government's provision/expansion of essential social services such as medical services, retirement protection and tertiary education. Such comments have also pointed out that in the long run the Government must broaden the tax base and increase its recurrent revenue to address public aspirations. In this connection, will the Government inform this Council:*

- (a) *given that there were on average some 7 million departures from Hong Kong for Macao in each of the past three years, and the Macao Government imposes HK\$20 departure fee on each visitor, whether the Government will consider raising the existing HK\$11 passenger embarkation fee, commonly known as the poll tax; if it will, of the details; if not, the reasons for that;*
- (b) *given that there have been comments that due to the increasingly intense economic integration of Guangdong and Hong Kong, there were as many as 84 million land departures from Hong Kong for the Mainland in 2009, coupled with the commissioning of various large-scale cross-boundary infrastructural facilities one after another, land departures will definitely continue to rise in the future, whether the Government will re-consider levying a nominal land departure tax/boundary facilities improvement tax of, for example, HK\$5; if it will, of the details, and whether it will consider arranging for departing persons to pay such a tax through Octopus terminals during their departure clearance at the land boundary control points; if it will not consider levying such a tax, of the reasons for that; and*
- (c) *whether the Government has other feasible options to broaden the tax base?*

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

- (a) Currently, the embarkation fee is payable by cross-boundary ferry operators to the Marine Department based on the number of passengers. It is not a type of tax but a fee to recover the costs incurred by the Government in the provision of terminal facilities and related services. The estimated revenue from embarkation fee for 2009-2010 is around \$125 million. In view of the economic co-operation between Hong Kong and Macao, we need to consider carefully whether it is appropriate to impose additional departure tax on passengers departing for Macao. From a revenue-generating perspective, it is quite unlikely that this type of tax could bring about substantial revenue if it is set at a level affordable by the general public.
- (b) The Government introduced the Boundary Facilities Improvement Tax Bill into the Legislative Council in 2003 proposing to introduce a Boundary Facilities Improvement Tax. At that time, there were quite extensive views in both the Legislative Council and the community that the proposal would add to the burden of frequent commuters between the Mainland and Hong Kong. They considered that the proposal would affect adversely the growing integration between Hong Kong and the Mainland as well as the economic recovery at the time. Hence, they opposed the Government's proposal. In view of that, the Government subsequently decided not to take forward the relevant legislative work. Given the same considerations, we do not think it appropriate to put forward the proposal again now.
- (c) We will continue to study options on broadening the tax base.

Execution of MPF Schemes Ordinance

8. **MR CHAN KIN-POR** (in Chinese): *President, regarding the enforcement of the Mandatory Provident Fund Schemes Ordinance (MPFSO) (Cap. 485), will the Government inform this Council whether it knows:*

- (a) *the annual numbers of claims the authorities had filed to the Court to recover contributions to the Mandatory Provident Fund (MPF) schemes in arrears since 2005 and the number of claims so allowed;*
- (b) *the annual numbers of criminal prosecutions the authorities had instituted against companies (including directors or management staff of the companies concerned) or individuals under the Ordinance since 2005, and among such cases, the respective numbers of companies and individuals convicted, as well as the maximum, minimum and average amounts of fines and/or terms of imprisonment imposed on them; what new plans the authorities have to improve the situation of employers defaulting contribution payments; and*
- (c) *among the criminal prosecutions in (b), the number of companies and individuals who had been prosecuted for more than once under the Ordinance; whether the authorities will consider increasing the penalty imposed under the Ordinance to enhance the deterrent effect; if they will, of the details; if not, the reasons for that?*

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

- (a) According to the MPFSO, the Mandatory Provident Fund Schemes Authority (MPFA) would file civil claims to Courts to recover default contributions from employers on behalf of employees. The number of claims handled by the Court and the number of successful claims since 2005 are as follows:

<i>Year</i>	<i>Number of Claims Handled by the Court</i>	<i>Number of Successful Claims</i>	<i>Percentage of Successful Claims</i>
2005-2006	814	809	99.3%
2006-2007	901	886	98.3%
2007-2008	1 074	1 071	99.7%
2008-2009	1 024	1 017	99.3%

- (b) The numbers of criminal prosecutions that the MPFA instituted against employers (including individuals and companies) and directors/managers of companies for failing to enrol an employee in a MPF scheme or make MPF contributions, the numbers of persons convicted, and the amounts of fines involved since 2005 are set out in the table below (cases are classified under a specific year according to the issue date of summons):

<i>Item</i>	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>
(i) Number of summons — the figures in brackets are numbers of defendants/defendant companies	924 (173)	442 (76)	472 (91)	577 (105)
Employers(individuals and companies)	804 (151)	336 (60)	352 (65)	390 (80)
Directors/managers of companies	120 (22)	105 (15)	120 (26)	182 (21)
(ii) Number of convictions — the figures in brackets are numbers of defendants/defendant companies	711 (132)	370 (59)	411 (74)	508 (85)
Employers(individuals and companies)	620 (113)	274 (45)	306 (53)	346 (63)
Directors/managers of companies	91 (19)	95 (13)	105 (21)	157 (18)
(iii) Average fine per summon ^(Note)	\$2,661	\$2,910	\$3,148	\$2,023
Maximum fine involved	\$13,000	\$15,000	\$20,000	\$27,000
Minimum fine involved	\$300	\$1,000	\$1,000	\$200
(iv) Average fine per defendant ^(Note)	\$14,335	\$18,512	\$17,486	\$12,560
Maximum fine involved	\$55,500	\$65,500	\$135,000	\$258,000
Minimum fine involved	\$2,100	\$3,000	\$3,000	\$500

Note:

The amounts of fines were determined by court in accordance with the MPFSO applicable before 1 December 2008, that is, an employer was liable to a maximum fine of \$100,000 and to imprisonment for six months on his first conviction; and to a maximum fine of \$200,000 and to imprisonment for 12 months on each subsequent conviction.

Among the above cases, a non-compliant employer was convicted and ordered to pay a fine of \$258,000 by Court in early 2010 in a default contribution case. No convicted person has been sentenced to imprisonment so far.

According to the MPFSO, the MPFA would take enforcement action against employers who failed to enrol an employee in an MPF scheme or make MPF contributions. Since 1 December 2008, the relevant penalties have been increased from the original maximum fine of \$100,000 and imprisonment for six months upon the first conviction, and maximum fine of \$200,000 and imprisonment for 12 months on each subsequent conviction, to a maximum fine of \$350,000 and imprisonment for three years. For employers who have deducted MPF contributions from employees' wages but failed to remit the contributions, the maximum penalty was increased to a fine of \$450,000 and imprisonment for four years.

The MPFA has taken the following measures to address the issue of default contribution by employers:

- (i) develop an electronic trustee reporting system to facilitate the submission of default contribution records of employers by MPF trustees;
- (ii) allocate additional resources and manpower to speed up the processing of default contribution cases and strengthen enforcement actions;
- (iii) set up a special task force to maintain close liaison with the Labour Department and labour unions to strengthen information gathering and monitor contributions made by non-compliant employers so that appropriate enforcement actions can be taken in a timely manner;
- (iv) strengthen publicity and education efforts to encourage employees to report default contributions by employers as soon as possible.

Apart from abovementioned increase in penalties against non-compliant employers which came into force on 1 December 2008, the Legislative Council also approved the amendments to the MPFSO in 2008 which inter alia empower the court to compel non-compliant employers to enrol their employees in an MPF

scheme and/or to pay default contributions, as the case may be, and also streamline the process of recovering default contributions by removing the 30-day settlement period.

- (c) Since the implementation of the MPFSO in December 2000, a total of 57 employers (including 51 limited companies, three sole proprietorship companies and three directors) have been prosecuted more than once. When filing prosecution, the Department of Justice would provide the Court with previous sentencing records of repeated offenders for the Court's reference in considering judgment. Furthermore, when hearing default cases, magistrates would require defaulting employers to pay the default contributions and surcharges first. If the defaulting employer concerned failed to comply, the Magistrate would take into account this factor in deciding the level of fine.

As stated in part (b) of the reply above, the legislative amendments to increase the penalties on non-compliant employers came into force on 1 December 2008. Therefore, the penalty figures from 2005-2006 to 2008-2009 could not reflect the effect of these legislative amendments. In addition, the MPFA has set up a special task force to closely monitor employers who are repeated offenders. The MPFA would take immediate enforcement action against them in case of further non-compliance.

Fung Yuen Butterfly Reserve

9. **MR ANDREW CHENG** (in Chinese): *President, a survey conducted by a green group in recent months found that the number of butterflies in the Fung Yuen Butterfly Reserve (the Reserve) located in Tai Po had reduced by 20% in 2009 as compared with that in 2008, and it was even uncovered that some species of butterfly faced the risk of extinction. The group suspected that the sharp reduction in the number of butterflies was related to the real estate development project in the vicinity of the Reserve, and they urged the developer to increase the width of the buffer zone between the real estate development project and the Reserve to 100 m or above. In this connection, will the Government inform this Council:*

- (a) *whether it has followed up the change in the number of butterflies in the Reserve; if so, of the details; if not, the reasons for that;*
- (b) *whether it has made clear planning and formulated guidelines in respect of the area and coverage of the buffer zone between the real estate development project and the Reserve; if so, of the details; if not, the reasons for that; whether the authorities will consider the green group's proposal to request the developer to increase the width of the buffer zone to 100 m or above; and*
- (c) *given that the developer has indicated that the real estate development project will include enhancing a piece of agricultural land to make it a more suitable habitat for butterflies, whether the Government has taken the initiative to ascertain and study if the enhancement project for the agricultural land is more favourable to the ecology of butterflies, and whether the developer concerned will be held responsible if the ecology of the Reserve or butterflies is adversely affected by the real estate development project in the future?*

SECRETARY FOR DEVELOPMENT (in Chinese): President,

- (a) The Reserve is managed by the Tai Po Environmental Association (TPEA) as a Management Agreement (MA) project under the New Nature Conservation Policy, which was introduced in 2004. Under the MA Scheme, non-governmental organizations (NGOs), including green groups, educational institutions and community organizations, may apply for funding from the Environment and Conservation Fund (ECF) for entering into MAs with landowners. The NGOs can provide landowners with financial incentives in exchange for management rights over their land or for their co-operation in enhancing conservation of the sites concerned. In 2005, with the funding from ECF, the TPEA established the Reserve on hectares (ha) of private land at Fung Yuen for butterfly conservation. The establishment of the Reserve has enhanced the habitat and diversity of species of butterflies at the site. The Agriculture, Fisheries and Conservation Department (AFCD) meets with the TPEA regularly to review the conservation work and changes in butterfly abundance at

the Reserve, as well as to offer advice to the TPEA on their conservation work.

The Reserve is located within Fung Yuen Valley and occupies less than 5% of the total area of the Valley. Fung Yuen Valley has been listed as a Site of Special Scientific Interest (SSSI) since 1980 to reflect its importance as a major breeding site for butterflies. The Fung Yuen Valley SSSI covers an area of about 43 ha. The AFCD has been regularly monitoring the butterfly habitats and changes in butterfly abundance within the SSSI. To this date, no significant fluctuation in the number of butterflies at the site has been recorded.

According to the AFCD's territory-wide monitoring of butterflies, the number of butterflies in the local natural environment will change from year to year due to various factors, including environmental factors like temperature and rainfall. Hence, the number of butterflies recorded annually in different places may differ. The AFCD will continue to monitor the conservation status of butterflies in the Reserve and Fung Yuen Valley.

- (b) The development in Fung Yuen referred to in the question, which is located to the south of Fung Yuen Valley, is zoned "Comprehensive Development Area (1)" (CDA(1)) on the approved Tai Po Outline Zoning Plan (OZP). According to the requirements of the OZP, the applicant has to prepare relevant technical assessments and submit the Master Layout Plan (MLP) to the Town Planning Board (TPB) for approval. The development in Fung Yuen was first approved by the TPB on 8 December 2000 followed by a number of minor amendments to the approved scheme. The last planning permission was granted on 18 August 2004. According to the approved MLP, a buffer zone of 45 m to 50 m with the growing of appropriate plants will be provided between the residential blocks of the development and the Reserve. The AFCD is of the view that the establishment of the concerned buffer zone could effectively reduce the impact of the development on the Reserve. As the planning application for the development has been approved with conditions and the proposed buffer zone is also clearly indicated in the subsequent building plans submitted to the Buildings Department, the project

proponent can implement the development in accordance with the planning permission.

- (c) The planning permission is attached with conditions including, among other things, implementation of mitigation measures as proposed in the ecological assessment to protect the Fung Yuen Valley SSSI to the satisfaction of the Director of Agriculture, Fisheries and Conservation or of the TPB and submission and implementation of a revised landscape master plan (LMP) to the satisfaction of the Director of Planning or of the TPB.

The LMP should cover the residential portion of the development as well as a piece agricultural land which forms part of the development. When considering the LMP, the Planning Department has consulted the AFCD. The AFCD has recommended the project proponent to grow plants of suitable species in the landscaped area, to provide host plants and nectar plants to butterflies in order to enhance the ecological value of the landscaped area to butterflies.

The relevant government departments will closely follow the implementation of the development. Should there be any unauthorized action of the developer or the contractor which affects the surrounding environment, the Government would undertake appropriate follow-up action.

Staffing Support in Social Security Branch of SWD

10. **MR CHEUNG KWOK-CHE** (in Chinese): *President, I have recently received complaints from quite a number of Social Security Assistants (SSAs) that the workload of the Social Security Branch under the Social Welfare Department (SWD) has increased continuously over the years but there was no increase in its manpower in the past 20 years, resulting in tremendous increase in work pressure on staff. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of Senior Social Security Assistants (SSSAs) and SSAs employed by the SWD at present; the average monthly numbers of cases under the social security schemes needed to be handled respectively by an assistant of these two ranks;*

- (b) *of the changes in the manpower of these two ranks in each of the past 20 years and the average monthly number of cases needed to be handled by an assistant each year; and*
- (c) *whether there are any guidelines specifying a cap on the number of cases handled by an assistant per month; if so, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the SWD operates 37 Social Security Field Units (SSFUs) which are responsible for processing applications for Comprehensive Social Security Assistance (CSSA) and Social Security Allowance, and so on. Both departmental and general grade staff work in the SSFU. Departmental grade staff comprise Social Security Officers and SSAs. In general, SSA grade staff (including SSAs and SSSAs) are responsible for conducting investigation into and assessment on various types of cases while Social Security Officer grade staff (including Social Security Officers II and Social Security Officers I) are responsible for vetting and approving cases and office administration.

My reply to the three parts of the Mr CHEUNG Kwok-che's question is set out below:

- (a) and (b)

When assessing the workload of the SSFU staff, one should not only focus on the number of cases without considering the actual distribution of cases by category and the workflow. As the level of complexity of different categories of cases varies, their handling procedures and time involved naturally also differ.

As at January 2010, there were 557 SSA and 414 SSSA posts in the SSFUs of the SWD. Since the SWD has re-engineered the workflow of SSFUs when the Computerized Social Security System became operational in October 2000, the procedures for and time required in handling cases after October 2000 have become very different from before. It would therefore be inappropriate to make a direct comparison between the figures of the two periods.

The establishment of SSA grade staff and the caseload handled in the past 20 years are at Annex 1 and Annex 2 respectively.

- (c) As mentioned above, SSFUs are responsible for processing applications for CSSA and Social Security Allowance, and so on. As the nature and level of complexity of each type of cases are different (for example, the level of complexity and amount of work required for a CSSA unemployment case is different from those of a CSSA elderly case), and the SWD is responsible for providing assistance and services to all applicants in need in a timely manner, we cannot simply impose a cap on the number of cases handled by a SSA grade staff per month. Nonetheless, the SWD will deploy staff fairly on a need basis and will seek additional resources as and when necessary.

The SWD has implemented various initiatives in the past 10 years to alleviate the workload and work pressure of SSA grade staff, which include:

- (i) creating posts when resources are available;
- (ii) implementing risk management to improve resources allocation and efficiency;
- (iii) streamlining work procedures;
- (iv) re-engineering resources by setting up a centralized unit to handle special cases, including cases involving debt recovery and fraud investigation, and so on; and
- (v) commissioning non-governmental organizations to provide employment assistance services for CSSA recipients participating in the Support for Self-reliance Scheme.

The SWD will continue to review the workload of front-line staff from time to time, deploy or seek additional manpower resources as appropriate, and/or adjust the workflow.

Annex 1

Establishment of SSA Grade Staff in SSFUs

<i>Financial Year⁽¹⁾</i>	<i>Rank</i>		<i>Total</i>
	<i>SSA</i>	<i>SSSA</i>	
1989-1990	429	184	613
1990-1991	424	184	608
1991-1992	387	164	551
1992-1993	355	162	517
1993-1994	393	180	573
1994-1995	395	219	614
1995-1996	395	228	623
1996-1997	405	349	754
1997-1998	420	364	784
1998-1999	452	428	880
1999-2000	426	523	949
2000-2001	318	503	821
2001-2002	386	462	848
2002-2003	386	424	810
2003-2004	386	424	810
2004-2005	386	414	800
2005-2006	386	414	800
2006-2007	386	414	800
2007-2008	466	414	880
2008-2009	557	414	971
2009-2010	557	414	971

Note:

- (1) Except for the figure in 2009-2010 which is up to the end of January 2010, the remaining ones are figures recorded at the end of the financial year concerned.

The Caseload of SSFUs in the Past 20 Years

<i>Financial Year⁽¹⁾</i>	<i>Types of Cases</i>	
	<i>Public Assistance Scheme (up to June 1993)/ Comprehensive Social Security Assistance Scheme</i>	<i>Special Needs Allowance Scheme (up to June 1993)/ Social Security Allowance Scheme</i>
1989-1990	66 288	411 884
1990-1991	66 675	444 517
1991-1992	72 969	482 389
1992-1993	81 975	506 641
1993-1994	95 104	472 781
1994-1995	109 461	486 295
1995-1996	136 201	498 166
1996-1997	166 720	510 091
1997-1998	195 645	517 865
1998-1999	232 819	526 742
1999-2000	228 015	535 452
2000-2001	228 263	550 585
2001-2002	247 192	561 208
2002-2003	271 893	560 215
2003-2004	290 705	563 908
2004-2005	296 688	567 859
2005-2006	297 434	574 135
2006-2007	294 204	583 474
2007-2008	285 773	594 341
2008-2009	289 469	612 128
2009-2010	288 813	625 582

Note:

- (1) Except the figure in 2009-2010 which is up to the end of January 2010, the remaining ones are the figures at the end of the financial year concerned.

Water Mains Replacement and Rehabilitation Programme

11. **DR DAVID LI:** *President, it has been learnt that the Government has since 2000 been implementing the Replacement and Rehabilitation Programme of Water Mains (the R&R Programme) in four stages, with the final stage scheduled for completion in 2015, for the purpose of replacing and rehabilitating about 3 000 km of aged water mains throughout Hong Kong. As of December 2009, 37% of the R&R Programme works had been completed. As such, the remaining 63% of the project is to be completed by 2015, requiring a significantly higher level of construction activities in the remaining five years of the R&R Programme. According to the Water Supplies Department (WSD) website, Stages 3 and 4 of the R&R Programme, which comprise replacement and rehabilitation of about 1 850 km of water mains, will cost some 68% of the total estimated project cost of \$21.81 billion. In this connection, will the Government inform this Council:*

- (a) of the reason for the discrepancy between the total estimated project cost of \$21.81 billion as shown on the WSD website and the total estimated project cost of around \$19 billion in money-of-the-day prices as indicated by the Director of Water Supplies at the Public Works Subcommittee meeting on 20 June 2008;*
- (b) among the estimated 7 700 km of water mains presently under the management of the WSD, of the respective lengths of water mains, which were made of different types of pipe materials (including asbestos cement, ductile iron, polyethylene, polyester woven liner, and so on) as at 31 December 2009 and on the completion of the Programme;*
- (c) whether there are adequate professional and skilled construction personnel in Hong Kong at present to enable the Government to complete the R&R Programme as scheduled, and whether the Government or contractors will need to hire the personnel concerned from overseas; if so, of the number of personnel to be hired and of their skills; and*
- (d) whether it has assessed if the major infrastructure projects now being undertaken by the Government will have any impact on either the schedule or the cost of the R&R Programme; if it has, of the justifications of the assessment outcome?*

SECRETARY FOR DEVELOPMENT: President, the R&R Programme comprises the replacement or rehabilitation of about 3 000 km of water mains in four stages, originally in a 20-year period from 2000 to 2020. In 2005, we decided to compress the R&R Programme to a 15-year period from 2000 to 2015. At this juncture, Stage 1 of the R&R Programme has been substantially completed, site works of Stage 2 and Stage 3 as well as the investigation and design works of Stage 4 are actively underway. About 1 100 km of the water mains (30% of the R&R Programme) have been replaced or rehabilitated since the commencement of the works in late 2000. Currently, the works completion rate is maintained at an average of about 30 km per month.

My reply to the four parts raised in the question is given below:

- (a) The figure of \$21.81 billion given in the WSD's website is the latest update on the cost estimate of the entire project. The increase in the cost estimate is mainly due to the following reasons:
- (i) Increase in cost estimate for the proposed Stage 4 works due to the recent upsurge in tender prices;
 - (ii) Anticipated traffic, environmental and road opening constraints, requiring more sections of the replacement or rehabilitation works adopting the more costly trenchless method; and
 - (iii) Anticipated extra co-ordination for resolving interfacing issues arising from the works.
- (b) The lengths of the different types of pipe under the management of the WSD as at 31 December 2009 and at the conclusion of the project are shown in the following table:

<i>Different Types of Water Mains</i>	<i>Length (km)</i>	
	<i>As at 31 December 2009</i>	<i>At the conclusion of the R&R Programme</i>
Asbestos cement	620	140
Cast iron	570	160
Ductile iron	2 670	3 090
Mild steel	970	920

<i>Different Types of Water Mains</i>	<i>Length (km)</i>	
	<i>As at 31 December 2009</i>	<i>At the conclusion of the R&R Programme</i>
Galvanized iron/Lined Galvanized iron	1 640	1 110
Unplasticized polyvinyl chloride (PVC)	300	210
Polyethylene	1 030	2 170
Total	7 800	7 800

- (c) We have been closely monitoring the human resource requirements in the construction sector generally and on this programme specifically. In respect of professional resources, we anticipate that there might be slight to moderate manpower mismatches but it will unlikely pose a major problem due to the rather high mobility of professionals. As for construction workers and technicians, the Government has been working in close collaboration with the Construction Industry Council Training Academy and the Vocational Training Council to organize various pipe laying and waterworks related courses. We believe that these training courses will attract new blood to join the industry and there will be additional workers/supervisors to meet the manpower requirements arising from the R&R Programme. Overall, we consider that there will be adequate local professional and skilled construction personnel for delivering the R&R Programme and we do not foresee the need for hiring skilled construction personnel from overseas.
- (d) The nature of the R&R Programme is rather specific and specialized and the major infrastructure projects should not have a direct impact on the R&R works. Notwithstanding, these projects, when carrying out in the same geographical areas, would result in additional challenges, demanding greater efforts in co-ordinating traffic and interfacing issues, as well as overcoming environmental and road opening constraints. We have accounted for these factors in our projected increase in the cost estimate for the Stage 4 works and would closely monitor their progress as we take forward the R&R works.

Surveys Conducted by Government Departments

12. **MS EMILY LAU** (in Chinese): *President, it has been learnt that various government departments separately conduct relevant surveys in respect of their policies and programme areas, but there is no standardized mechanism and indicators for conducting surveys. Moreover, although statistical figures of men and women are listed under different situations in the "Women and Men in Hong Kong — Key Statistics" published annually by the Census and Statistics Department (C&SD), quite a number of people have pointed out that the areas covered by the survey are not comprehensive and some government departments have even explained that they had not collected gender-based data because gender was not a factor of consideration in executing their relevant policies. In this connection, will the executive authorities inform this Council whether:*

- (a) the C&SD has adopted the Gender Mainstreaming Checklist to assess the existing concepts and methods for conducting surveys; if it has, of the assessment outcome; if not, the reasons for that;*
- (b) they will formulate a standardized mechanism and indicators for conducting surveys, so as to collate and analyse the data collected by various government departments; if they will, of the details; if not, the reasons for that;*
- (c) they will require various government departments, when collecting information and data, to include information on both genders, so as to grasp more accurately the situations faced by both genders; if they will, of the details; if not, the reasons for that;*
- (d) they will request subvented non-governmental organizations (NGOs) and encourage private organizations to consider analysing the information they have collected from a gender perspective when conducting surveys; if they will, of the details; if not, the reasons for that; and*
- (e) they will collaborate regularly with community groups, women's groups as well as the academia and conduct consultation to collect views on the ways to improve the mechanism currently adopted by the Government for conducting surveys and the use of data; if they will, of the details; if not, the reasons for that?*

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

- (a) The C&SD applies the Gender Mainstreaming concept in various statistical works. For example, in planning and implementing the 2006 Population By-census, the C&SD has applied the Gender Mainstreaming Checklist promoted by the Labour and Welfare Bureau in various areas of work, including questionnaire design and data processing. The sex-disaggregated statistics compiled, including the annual publication "Women and Men in Hong Kong — Key Statistics", lists out various key statistics by gender to facilitate data users to have a better grasp of the situation of both genders in Hong Kong.
- (b) The C&SD follows closely the widely accepted statistical definitions, concepts and methods and classification systems promulgated by international organization in compiling and disseminating statistics. The relevant international organizations have not promulgated any single mechanism and indicator for the compilation and dissemination of statistics by the Government. In collecting applicable data and carrying out analysis in response to their different policy needs and scope of work, individual government departments would make reference to the relevant statistical mechanisms and indicators of other advanced countries and apply the Gender Mainstreaming Checklist issued by the Labour Welfare Bureau as appropriate. The C&SD would render professional advice to individual government departments to assist them in collecting and analysing the data concerned if necessary.
- (c) The Administration actively encourages bureaux and departments to take into account the perspectives and needs of both genders in devising legislation, policies and programmes. As such, the Labour Welfare Bureau encourages bureaux and departments to collect and consider gender-related statistics in a systematic manner in order to have a better grasp of the situation of both genders when they conduct analysis. The "Women and Men in Hong Kong — Key Statistics" published by the C&SD lists out various sex-disaggregated data and provides bureaux and departments with objective data as well as important reference. Bureaux and

departments may make reference to the gender statistics collected by the C&SD for policy analysis or research purposes as necessary.

- (d) The Labour and Welfare Bureau encourages NGOs to take into account the perspectives and needs of both genders. These organizations, including individual subvented NGOs and private organizations, would conduct surveys according to their scope of work and needs. The C&SD would not require them to analyse the relevant information from specific perspectives (including gender perspective).

On the other hand, the Social Welfare Department (SWD) monitors the work of welfare NGOs mainly through a Service Performance Monitoring System to ensure that subvented services of NGOs are in compliance with the requirements under the Funding and Service Agreements and the criteria of the Service Quality Standards. Subvented service operators are required to provide statistics relating to the performance of their service units as agreed with SWD on a regular basis. The Administration will encourage welfare NGOs to collect gender statistics to facilitate them review their service.

The Administration welcomes private organizations to conduct gender-related surveys and to take into account the needs of both genders so as to enhance the gender awareness of the concerned officers and the general public alike.

- (e) In carrying out various statistical surveys, the C&SD would pay attention to the needs and views of data users and conduct consultations with relevant stakeholders. For example, in compiling the annual publication "Women and Men in Hong Kong — Key Statistics", the C&SD has liaised with the Women's Commission and collected views from the relevant women's groups. Relevant views have been incorporated into the publication as far as possible.

Animal Species Kept in Hong Kong Zoological and Botanical Gardens

13. **DR LAM TAI-FAI** (in Chinese): *President, it has been reported that some members of the tourism industry have urged the Government to consider increasing the number of animal species being shown in Hong Kong, so as to*

increase attractiveness to tourists. In this connection, will the Government inform this Council:

- (a) given that the Consultancy Study on the Hong Kong Zoological and Botanical Gardens (HKZBG), which was commissioned by the Government and conducted by a university, was completed in 2003, whether the authorities have implemented all the recommendations proposed in the study report; if so, of the details; if not, the reasons for that, and whether they have planned to review again the positioning of HKZBG;*
- (b) of the reasons for the authorities not introducing larger-sized animals again after the death of the female jaguar "Siu Fa" in HKZBG in 2008; if the reason is that the spaces in HKZBG for keeping animals are limited at present, whether the authorities will consider looking for bigger alternative places to keep these animals; if they will, of the details; if not, the reasons for that;*
- (c) of the details of the animals of endangered species brought in from overseas zoos through the arrangement of the International Studbook Keeper by HKZBG in the past seven years; whether HKZBG has planned to introduce animals of other endangered species at present, and of the ways for introducing animals of non-endangered species;*
- (d) of the details of the animal species brought in by the Government for keeping in other parks under its management in the past seven years;*
- (e) given that there are approximately more than 4 000 species of mammals in the world at present, whether the authorities have assessed if it is sufficient for HKZBG to keep mammals of 17 species only at present; if they have, of the details; if not, the reasons for that; of the reasons for the animals kept in HKZBG are mostly primate; of the criteria considered by the authorities in deciding the animal species to be brought in;*
- (f) whether the Government has planned to strengthen co-operation with overseas zoos, including exchanging animals for free show; if it has, of the details; if not, the reasons for that;*

- (g) *of the respective person-times of students and, local and overseas tourists visiting HKZBG in each of the past seven years; of the measures adopted by the authorities for attracting more overseas tourists to visit HKZBG, so as to promote tourism and local economic development; and*
- (h) *whether it will consider building a zoo of substantial scale in Hong Kong; if it will, what factors it will consider and its impact on the Hong Kong economy; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) The Leisure and Cultural Services Department (LCSD) commissioned the University of Hong Kong and the Hong Kong Baptist University jointly to undertake a consultancy study in 2002 to determine the long-term development of the HKZBG with a view to enhancing its facilities to meet public expectations.

The study was completed in 2003 and the consultants recommended that HKZBG should maintain its present status as a zoological and botanical garden. They considered that HKZBG has kept a good balance of animal and plant exhibits, and this format should be retained. The consultants also considered that HKZBG should serve important recreational, educational and conservation functions.

Since the completion of the study report, the accepted recommendations have already been put in place in HKZBG. They mainly include:

- (i) *Zoological Collection, Conservation and Breeding*
 - Successful breeding of endangered primate species (such as Orangutan and Buff-cheeked Gibbon) and endangered bird species (such as White-naped Crane and Palawan Peacock Pheasant); as well as the implementation of a conservation breeding programme for endangered animal species; and
 - Introduction of local fauna species including Romer's Tree Frog and Chinese Three-striped Box Turtle.

(ii) *Botanical Collection and Conservation*

- Introduction of more local flora including native orchids, Hong Kong Hawthorn and Common Melastoma to the garden for conservation and education purposes;
- Planting of more flowering trees including Hong Kong Orchid to improve the landscape of the garden; and
- Setting up a "Garden for all Seasons" by planting more flowering plants that blossom in different seasons to achieve the seasonal effect;

(iii) *Improvement of Facilities*

- Building of a new education centre which comprises an education room, audio visual display and ancillary facilities;
- Inclusion of more information on the labels for individual exhibit of plant and animal species.

The LCSD has no plan to review the status of the HKZBG at present.

- (b) After the death of jaguar "Siu Fa" in 2008, the LCSD considered that big cats (such as tigers) require much larger activity areas and because of the limited space and other environmental restrictions in LCSD gardens, the Department has no plan to introduce this kind of animal.
- (c) A total of 26 species of endangered creature have been introduced to HKZBG through the arrangement of studbook keepers in the past seven years. The details are as follows:

(i) *Mammal*

- three Emperor Tamarin, two Ring-tailed Lemur, one Golden Lion Tamarin, one Buff-cheeked Gibbon, two Pygmy Marmoset, one Red-handed Tamarin, one DeBrazza's Monkey and one Bornean Orangutan.

(ii) Bird

- Two Bali Mynah, four Edward Pheasant and two Maroon-breasted Crown Pigeon.

(iii) Reptile

- Two Chinese Alligator and four Radiated Tortoise.

The LCSD will continue to introduce endangered creatures through the assistance from studbook keepers. At the same time, LCSD will also introduce rare creatures that are not endangered from overseas zoos through the daily official contacts with these zoological institutions when such opportunities arise.

- (d) A total of 28 species of endangered or rare animal have been introduced to other parks under the LCSD's management in the past seven years, of which 14 species (in brackets) are newly introduced. These include:

(i) Hong Kong Park

- Great Hornbill, Nicobar Pigeon, Crested Pigeon, Mindanao Bleeding-heart, (Red-vented Bulbul), (Golden Pheasant), (Golden Yellow Pheasant).

(ii) Kowloon Park

- (Coscoroba Swan), Palm Cockatoo, (Yellow-headed Amazon), (Yellow-naped Amazon), Mandarin Duck, Crested Pigeon, White-faced Whistling Duck, Ringed Teal, American Flamingo.

(iii) Tuen Mun Park Reptile House

- Ball Python, (Green Tree Python), (Jungle Carpet Python), Leopard Tortoise, (Burmese Starred Tortoise), Burmese Tortoise, Radiated Tortoise, Spurred Tortoise, (Madagascar Day Gecko), (Ocellated Spiny-tailed Lizard), (Fringed Lizard), (Monitor Lizard), (Spectacled Caiman).

- (e) The LCSD considers it appropriate to keep a mammal collection of 17 species consisting of about 70 creatures taking into account the current space available in HKZBG. The Department will regularly review the situation. When selecting a new animal species, the Department will consider the geographic constraints of the garden, the feasibility of introducing particular animal species, adaptability of that species to the new environment as well as whether the mission of conservation and education could be achieved. Since most of the primate species are endangered and the staff of HKZBG has good experience in the husbandry of these animals, the primate collection in the garden is relatively more comprehensive.
- (f) The LCSD has participated in many international endangered animal species conservation breeding programmes. From time to time, HKZBG exchanges some surplus endangered animals with overseas zoos to establish suitable breeding pairs of endangered animals for conservation breeding work. For examples, the garden has introduced an endangered Bornean Orangutan and a rare DeBrazza's Monkey last year from overseas zoos through the arrangement of a studbook keeper.
- (g) Since HKZBG is admission free, it is popular among local and overseas visitors; and is a one of the most visited tourist attractions in Hong Kong. There are about 870 000 visitors to HKZBG every year. Among them, the local visitors comprise about 80% whereas overseas visitors comprise the remaining 20% (around 170 000). There are about 10 000 student visitors who join the school guided visit programmes each year.

In order to provide visitors with a comfortable and enjoyable environment, HKZBG has been making continual improvements to its facilities. The entire garden has recently been replaced with non-slip floor tiling and fitted new railings. On the zoological side, new aviaries and viewing platforms to the animal cages have been provided. The animal collection has been enriched with newly introduced endangered animal species. On the botanical side, the garden has also provided new facilities to enhance its attraction and educational value. These include the herb garden, bamboo garden, camellia garden, palm garden, magnolia garden, rhododendron garden, "Garden for All Seasons" and aquatic plants exhibited in the

glasshouse. These theme gardens are popular among photographers.

In addition, a new education and exhibition centre was built and commissioned for use at the end of 2008. It serves the purposes of training, seminar venue and exhibition centre. The preserved jaguar "Siu Fa" is also accommodated inside the centre for public viewing.

- (h) At present, animal collections managed by the LCSD include HKZBG, the aviary in Hong Kong Park, the bird lake in Kowloon Park, reptile house in Tuen Mun Park and bird pagoda in Yuen Long Park. Since all these facilities are admission free, they are popular among local and overseas visitors. At present, the Department has no plan to develop a new zoo. Nevertheless, the Department will continue to improve the existing zoological facilities to enhance the attraction of the gardens to the visitors, through the introduction of new animal species, increases in guided visit programmes, the beautification of animal and bird cages, and the improvement of existing notices.

Treatment of Patients Suffering from Age-related Macular Degeneration

14. **DR JOSEPH LEE** (in Chinese): *President, it has been learnt that at present, patients suffering from age-related macular degeneration (AMD) receiving treatment in public hospitals under the Hospital Authority (HA) are required to purchase at their own expenses the medicines in the Hospital Authority Drug Formulary (the Formulary) prescribed to them. In this connection, will the Government inform this Council if it knows:*

- (a) *the number of new cases of AMD patients in public hospitals in each of the past three years, as well as the total number of patients at present, and among such patients, the number of those who have purchased at their own expense medicines in the Formulary prescribed to them;*
- (b) *the current number of the aforesaid patients who do not purchase at their own expense medicines in the Formulary prescribed to them; among them, the number of patients who cannot afford the medicine*

expenses, as well as the number of those who eventually lost their eye sight as a result;

- (c) whether the HA or other non-governmental organizations have subsidized those AMD patients who cannot afford self-financed medicines to purchase such medicines; if so, of the eligibility for subsidy, the number of patients subsidized, as well as the amount of subsidies provided; if not, the reasons for that; and*
- (d) whether the HA will expeditiously review the existing system of the Formulary to ensure that patients' treatment will not be affected because of financial problems; if it will, of the details and the timetable; if not, the reasons for that?*

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

(a), (b) and (c)

AMD is an eye disease caused by degeneration of the retina due to old age. This disease can be classified into dry and wet forms. Patients with dry AMD will have degeneration and atrophy of the macula of the eye. At present, the medical profession has yet to establish any definite strategy to treat dry AMD. As for wet AMD, patients will have abnormal blood vessel growth in the macula. Treatment for the condition is still being developed. The HA has all along kept itself abreast of the developments in the treatment methods for various eye diseases and the scientific evidence, and makes assessment on different treatment methods on the basis of clinical evidence.

In the past few years, the medical profession has developed various treatment options for wet AMD, including the use of vascular endothelial growth factor inhibitors to alleviate the conditions. Nevertheless, these drug treatments are still being developed. Their long-term safety, efficacy and cost-effectiveness in the treatment of wet AMD require the accumulation of more established clinical data to prove. These drugs have not been included as standard drugs in the Formulary.

The HA has not subsidized patients with AMD to purchase drugs in the past. We also do not have information on non-governmental organizations providing subsidies to patients for use of the drugs. In 2007-2008, 2008-2009 and 2009-2010 (as at 31 January 2010), there were respectively 110, 321 and 461 patients who bought Ranibizumab (a drug for wet AMD) from HA hospitals on a self-financed basis for the first time to commence the therapy. The HA currently does not have formal statistics on the number of new AMD cases and the total number of patients with the disease. According to estimation by the ophthalmic profession, there are about 3 000 new cases of wet AMD in Hong Kong each year. Patients may seek medical treatment in the public or private health care sector.

The medical profession is now conducting several large-scale studies to compare the efficacy of various vascular endothelial growth factor inhibitors on wet AMD. The HA will pay close attention to the findings of these studies as well as the development of other scientific evidence. It will also consider whether to include individual drugs into the standard drug category of the Formulary for treatment of wet AMD having regard to the scientific evidence of the safety, efficacy and cost-effectiveness and so on, of the drugs.

In the meantime, having regard to the recommendations by ophthalmology experts and with reference to international practice, we have earmarked additional recurrent funding of \$12 million to the HA in this year's Budget. This funding is for the HA to explore providing wet AMD patients under suitable clinical conditions with subsidies for using the drugs on a trial basis through scientific research or other means in 2010-2011. This will allow the accumulation of more local actual experience in the use of the drugs, thereby allowing further assessment of the safety, efficacy and cost-effectiveness of the drugs. This will provide local reference indicators to the HA in considering whether to include the drugs concerned into the standard drug category of the Formulary.

The HA will continue to closely monitor the needs of AMD patients and provide them with appropriate support having regard to their needs.

- (d) The Formulary was implemented by the HA with the main objective of ensuring equitable access to cost-effective drugs of proven safety

and efficacy through standardization of the drug policy and drug utilization in all HA hospitals and clinics. At present, there are about 1 300 standard drugs in the Formulary. All of them are proven to have clinical efficacy, therapeutic effectiveness and cost-effectiveness. Patients who meet the relevant clinical conditions will be prescribed the drugs by doctors and the drugs will be provided by the HA at standard fees and charges.

In accordance with established mechanism, the HA regularly appraises new drugs and reviews the list of drugs in the Formulary through its expert committees (including the Drug Advisory Committee and the Drug Utilization Review Committee) which comprise doctors, clinical pharmacologists and pharmacists. Changes will be made to the Formulary as appropriate to the circumstances. The review process takes into account a number of considerations such as scientific evidence, cost-effectiveness, technology advances in treatment options concerned, actual experience in the use of the drugs, as well as the views of professionals and patient groups, and so on. This is to ensure that public resources are used in an equitable and effective manner for provision of appropriate treatment to patients. We have earmarked additional recurrent funding of \$194 million to the HA in this year's Budget to expand the coverage of the Formulary by incorporating six drugs for rare genetic diseases and two drugs for cancer into the Formulary in 2010-2011. The clinical application of nine drug classes will also be expanded in the same year.

Moreover, the HA will continue to meet regularly with patient groups each year under the patient consultation mechanism on the Formulary as formally established in 2009 as well as through other channels. This is to gauge and consult their views on matters related to the Formulary with a view to making the best use of public resources to help the largest number of patients.

Planning for Open Space and Green Belt in Various Districts

15. **MR KAM NAI-WAI** (in Chinese): *President, it has been learnt that in recent years quite a number of members of the public are very concerned about the planning for open space and green belt in the community. In this connection, will the Government inform this Council:*

- (a) *of the respective total areas which have been zoned as open space and green belt under the Outline Zoning Plans at present, broken down by District Council district, and among them, the respective areas of land which have still not been developed according to such land use, as well as the development timetable for such areas of land; if there is no timetable, of the reasons for that;*
- (b) *according to the standards stipulated in the Hong Kong Planning Standards and Guidelines (HKPSG), of the respective total shortfalls in the areas of open space and green belt in each District Council district at present; and*
- (c) *of the total areas of private land which have been zoned as open space and green belt; whether the Government plans to recover such areas of land for development as open space and green belt; if so, of the timetables; if not, the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the HKPSG suggests that a minimum of 20 hectares (ha) of open space (including 10 ha of local open space and 10 ha of district open space) should be provided for every 100 000 persons. Green belt areas are the existing natural environment and are not formed through development. The purpose of designating appropriate natural environment in built-up areas/urban fringe areas as green belt is to protect the environment from encroachment by urban development. The HKPSG has not suggested the area of green belt that should be provided in Hong Kong. However, it is worth mentioning that out of the 1 100 sq km of area of Hong Kong, 46% of the land are country parks and special areas which are under protection and for the enjoyment of the public.

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

(a) and (c)

Annex 1 lists out the total area zoned as open space on the Outline Zoning Plans by District Council district, and the area of private land thereof. The total area of land zoned as open space will be greater than the area suggested in accordance with the calculation under the HKPSG. The reason is that the former includes slope areas which may not be suitable for development, as well as open space required

to be developed to cope with long-term population growth. The departments concerned will plan the timetable for implementing open space to cope with population growth in various districts, and will consider whether it is necessary to resume private land for such purpose.

In response to part (a) of the question on development timetable, taking the Central & Western District as an example (see Annex 2), the area of existing (developed) open space is 44 ha. The area of open space planned but awaiting development/currently under development is 13 ha, of which only 0.3 ha is private land. The relevant government departments will implement open space on public land (including the Sun Yat Sen Memorial Park under works) according to population growth and subject to the availability of public resources. The development timetable of the small area of open space on private land depends on the development of relevant private projects. The Government has no plan for the time being to develop this small area of open space through land resumption. Annex 1 also lists out the total area of green belt in various districts and the area of private land thereof.

- (b) Annex 2 sets out information on open space that the HKPSG suggests to provide for various districts, as well as information on existing and planned open space. The figure on existing open space includes the "Open Space" on Outline Zoning Plans which have already been implemented according to the planned use, as asked about in part (a) of the question. As shown from the information, out of the 18 districts in the territory, currently only the Wan Chai and Central & Western Districts are short of open space which should have been provided. However, if we count in the open space to be built, the total area of open space of the two districts will exceed the area suggested under the HKPSG. In this regard, we have, based on the planned population of the Central & Western and Wan Chai Districts, planned and reserved sufficient land for open space in the two districts (including Central Reclamation Phase III, the waterfront open space in Wan Chai North, Sun Yat Sen Memorial Park Phase II and a park under the Hopewell Centre II Hotel Development project).

Annex 1

Area of land currently zoned as
"Open Space" and "Green Belt" on Outline Zoning Plans by district

<i>District Council district</i>	<i>Area of land zoned as "Open Space" (ha.)</i>		<i>Area of land zoned as "Green Belt" (ha.)</i>	
	<i>Total area*</i>	<i>Private land thereof</i>	<i>Total area</i>	<i>Private land thereof</i>
1. Central & Western	66.3	1.7	238.6	1.8
2. Wan Chai	34.6	1.5	246.4	4.3
3. Eastern	90.6	9.3	314.4	5.4
4. Southern	73.5	1.4	992.4	27.1
5. Yau Tsim Mong	70.3	1.4	2.2	0.0
6. Kowloon City	165.5	0.5	48.2	0.2
7. Kwun Tong	129.0	0.6	150.6	0.9
8. Wong Tai Sin	64.2	0.5	199.8	0.6
9. Sham Shui Po	92.2	0.6	107.6	0.7
10. Kwai Tsing	156.9	2.2	676.0	8.6
11. Tsuen Wan	140.7	4.5	1 046.4	574.2
12. Sha Tin	302.7	12.9	1 343.4	55.7
13. Tai Po	67.2	1.7	1 569.6	230.5
14. North	58.3	7.9	1 697.1	196.9
15. Tuen Mun	122.9	4.6	1 189.2	74.0
16. Yuen Long	146.6	36.4	1 315.7	377.2
17. Sai Kung	189.0	0.2	1 276.7	118.3
18. Islands	94.1	15.5	1 389.8	281.1
Grand total	2 064.6	103.4	13 804.1	1 957.5

Note:

* denotes that some open space areas include slope areas and are subject to review at the time of implementation.

"0.0" means the area of land is less than 0.1 ha.

Annex 2

Demand and Provision of Open Space

(Existing Population and Planned Population include usual residents, mobile residents, but exclude transients)

District Council district	Year 2008 Pop.	Area of Open Space Suggested under HKPSG (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall of Open Space (ha.) (+ or -)	Planned Pop.	Area of Open Space Suggested under HKPSG (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall of Open Space (ha.) (+ or -)
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
1. Central and Western	250 400	50.1 (LO: 25.0) (DO: 25.0)	14.9 (Pub.: 13.3) (Pri.: 1.6)	28.9 (Pub.: 28.9) (Pri.: 0.0)	0.2	-6.0 (LO: -9.9) (DO: 3.9)	265 900	53.2 (LO: 26.6) (DO: 26.6)	17.3 (Pub.: 15.4) (Pri.: 1.9)	39.8 (Pub.: 39.8) (Pri.: 0.0)	3.9 (LO: -9.3) (DO: 13.2)
2. Wan Chai	155 000	31.0 (LO: 15.5) (DO: 15.5)	13.6 (Pub.: 13.1) (Pri.: 0.5)	15.1 (Pub.: 15.1) (Pri.: 0.0)	0.0	-2.3 (LO: -1.9) (DO: -0.4)	159 200	31.8 (LO: 15.9) (DO: 15.9)	14.7 (Pub.: 13.8) (Pri.: 0.9)	19.4 (Pub.: 19.4) (Pri.: 0.0)	2.3 (LO: -1.2) (DO: 3.5)
3. Eastern	586 100	117.2 (LO: 58.6) (DO: 58.6)	39.9 (Pub.: 18.1) (Pri.: 21.8)	57.0 (Pub.: 57.0) (Pri.: 0.0)	36.0	15.7 (LO: 17.3) (DO: -1.6)	581 200	116.2 (LO: 58.1) (DO: 58.1)	83.4 (Pub.: 61.3) (Pri.: 22.1)	73.4 (Pub.: 73.4) (Pri.: 0.0)	40.6 (LO: 25.3) (DO: 15.3)
4. Southern	275 800	55.2 (LO: 27.6) (DO: 27.6)	22.7 (Pub.: 12.5) (Pri.: 10.2)	32.1 (Pub.: 32.1) (Pri.: 0)	21.4	21.0 (LO: 16.5) (DO: 4.5)	277 600	55.5 (LO: 27.8) (DO: 27.8)	59.1 (Pub.: 47.1) (Pri.: 12.0)	40.7 (Pub.: 40.7) (Pri.: 0.0)	44.2 (LO: 31.3) (DO: 12.9)
5. Yau Tsim Mong	294 300	58.9 (LO: 29.4) (DO: 29.4)	14.9 (Pub.: 10.7) (Pri.: 4.2)	47.2 (Pub.: 47.2) (Pri.: 0.0)	3.1	6.4 (LO: -11.4) (DO: 17.8)	339 900	68.0 (LO: 34.0) (DO: 34.0)	26.3 (Pub.: 15.8) (Pri.: 10.5)	79.1 (Pub.: 79.1) (Pri.: 0.0)	37.4 (LO: -7.7) (DO: 45.1)
6. Kowloon City	362 200	72.4 (LO: 36.2) (DO: 36.2)	26.2 (Pub.: 23.7) (Pri.: 2.5)	53.4 (Pub.: 53.4) (Pri.: 0.0)	8.3	15.5 (LO: -1.7) (DO: 17.2)	485 600	97.1 (LO: 48.6) (DO: 48.6)	60.6 (Pub.: 56.9) (Pri.: 3.7)	103.9 (Pub.: 103.9) (Pri.: 0.0)	67.3 (LO: 12.0) (DO: 55.3)
7. Kwun Tong	592 600	118.5 (LO: 59.3) (DO: 59.3)	34.9 (Pub.: 26.5) (Pri.: 8.4)	43.6 (Pub.: 43.6) (Pri.: 0.0)	71.9	31.8 (LO: 47.5) (DO: -15.7)	669 800	134.0 (LO: 67.0) (DO: 67.0)	129.3 (Pub.: 118.1) (Pri.: 11.2)	102.3 (Pub.: 102.3) (Pri.: 0.0)	97.6 (LO: 62.3) (DO: 35.3)
8. Wong Tai Sin	425 900	85.2 (LO: 42.6) (DO: 42.6)	13.3 (Pub.: 12.5) (Pri.: 0.8)	34.2 (Pub.: 34.2) (Pri.: 0.0)	69.2	31.5 (LO: 39.9) (DO: -8.4)	421 000	84.2 (LO: 42.1) (DO: 42.1)	86.9 (Pub.: 85.7) (Pri.: 1.2)	53.5 (Pub.: 53.5) (Pri.: 0.0)	56.2 (LO: 44.8) (DO: 11.4)
9. Sham Shui Po	373 400	74.7 (LO: 37.3) (DO: 37.3)	19.4 (Pub.: 12.2) (Pri.: 7.2)	51.1 (Pub.: 51.1) (Pri.: 0.0)	31.2	27.1 (LO: 13.3) (DO: 13.8)	471 500	94.3 (LO: 47.2) (DO: 47.2)	58.3 (Pub.: 48.9) (Pri.: 9.4)	60.9 (Pub.: 60.9) (Pri.: 0.0)	24.8 (LO: 11.1) (DO: 13.7)

District Council district	Year 2008 Pop.	Area of Open Space Suggested under HKPSG (ha.)	Existing Open Space (ha.)			Surplus/ Shortfall of Open Space (ha.) (+ or -)	Planned Pop.	Area of Open Space Suggested under HKPSG (ha.)	Existing and Planned Open Space (ha.)		Surplus/ Shortfall of Open Space (ha.) (+ or -)
			Local Open Space (LO)	District Open Space (DO)	Provided by HA				LO	DO	
10. Kwai Tsing	524 300	104.9 (LO: 52.4) (DO: 52.4)	37.4 (Pub.: 28.8) (Pri.: 8.6)	19.0 (Pub.: 19.0) (Pri.: 0.0)	67.4	19.0 (LO: 52.4) (DO: -33.4)	503 300	100.7 (LO: 50.3) (DO: 50.3)	117.4 (Pub.: 108.2) (Pri.: 9.2)	41.3 (Pub.: 41.3) (Pri.: 0.0)	58.1 (LO: 67.1) (DO: -9.0)
11. Tsuen Wan	295 200	59.0 (LO: 29.5) (DO: 29.5)	29.4 (Pub.: 12.7) (Pri.: 16.7)	29.7 (Pub.: 29.7) (Pri.: 0.0)	11.1	11.2 (LO: 11.0) (DO: 0.2)	293 000	58.6 (LO: 29.3) (DO: 29.3)	46.4 (Pub.: 28.1) (Pri.: 18.3)	51.6 (Pub.: 51.6) (Pri.: 0.0)	39.4 (LO: 17.1) (DO: 22.3)
12. Sha Tin	619 800	124.0 (LO: 62.0) (DO: 62.0)	32.1 (Pub.: 24.3) (Pri.: 7.8)	70.5 (Pub.: 70.5) (Pri.: 0.0)	89.4	68.0 (LO: 59.5) (DO: 8.5)	673 500	134.7 (LO: 67.4) (DO: 67.4)	140.7 (Pub.: 127.8) (Pri.: 12.9)	99.3 (Pub.: 99.3) (Pri.: 0.0)	105.2 (LO: 73.3) (DO: 31.9)
13. Tai Po	297 800	59.6 (LO: 29.8) (DO: 29.8)	20.7 (Pub.: 12.4) (Pri.: 8.3)	45.4 (Pub.: 45.4) (Pri.: 0.0)	32.0	38.5 (LO: 22.9) (DO: 15.6)	325 000	65.0 (LO: 32.5) (DO: 32.5)	64.4 (Pub.: 51.1) (Pri.: 13.3)	70.9 (Pub.: 70.9) (Pri.: 0.0)	70.3 (LO: 31.9) (DO: 38.4)
14. North	294 200	58.8 (LO: 29.4) (DO: 29.4)	25.2 (Pub.: 20.7) (Pri.: 4.5)	21.8 (Pub.: 21.8) (Pri.: 0.0)	29.8	18.0 (LO: 25.6) (DO: -7.6)	323 200	64.6 (LO: 32.3) (DO: 32.3)	75.6 (Pub.: 63.7) (Pri.: 11.9)	44.3 (Pub.: 44.3) (Pri.: 0.0)	55.3 (LO: 43.3) (DO: 12.0)
15. Tuen Mun	508 600	101.7 (LO: 50.9) (DO: 50.9)	22.6 (Pub.: 15.4) (Pri.: 7.2)	62.3 (Pub.: 62.3) (Pri.: 0.0)	78.9	62.0 (LO: 50.6) (DO: 11.4)	588 200	117.6 (LO: 58.8) (DO: 58.8)	118.3 (Pub.: 110.8) (Pri.: 7.5)	103.2 (Pub.: 103.2) (Pri.: 0.0)	103.9 (LO: 59.5) (DO: 44.4)
16. Yuen Long	554 200	110.8 (LO: 55.4) (DO: 55.4)	48.1 (Pub.: 36.2) (Pri.: 11.9)	23.0 (Pub.: 23.0) (Pri.: 0.0)	45.3	5.6 (LO: 38.0) (DO: -32.4)	666 200	133.2 (LO: 66.6) (DO: 66.6)	140.9 (Pub.: 111.1) (Pri.: 29.8)	104.4 (Pub.: 104.4) (Pri.: 0.0)	112.1 (LO: 74.3) (DO: 37.8)
17. Sai Kung	416 200	83.2 (LO: 41.6) (DO: 41.6)	24.2 (Pub.: 9.6) (Pri.: 14.6)	19.4 (Pub.: 19.4) (Pri.: 0.0)	41.7	2.1 (LO: 24.3) (DO: -22.2)	510 800	102.2 (LO: 51.1) (DO: 51.1)	81.0 (Pub.: 57.4) (Pri.: 23.6)	71.9 (Pub.: 71.9) (Pri.: 0.0)	50.7 (LO: 29.9) (DO: 20.8)
18. Islands	146 800	29.4 (LO: 14.7) (DO: 14.7)	27.1 (Pub.: 19.9) (Pri.: 7.2)	34.8 (Pub.: 25.0) (Pri.: 9.8)	18.0	50.5 (LO: 30.4) (DO: 20.1)	226 500	45.3 (LO: 22.7) (DO: 22.7)	62.4 (Pub.: 52.7) (Pri.: 9.7)	92.6 (Pub.: 81.3) (Pri.: 11.3)	109.6 (LO: 39.7) (DO: 69.9)

Notes :

- (1) The above data figures are compiled by Planning Department from the planning point of view.
- (2) According to the Hong Kong Planning Standards and Guidelines (HKPSG), a minimum of 10 ha. of local open space (LO) and 10 ha. of district open space (DO) should be provided for every 100 000 persons, which means that a minimum of 20 ha. of open space for every 100 000 persons.
- (3) The HKPSG provides a set of standards and guidelines for concerned Government departments to assess the scale, location and necessity of various public facilities. However, the standards and guidelines should be applied in a flexible manner and other considerations, such as provision and usage of existing facilities, population growth of the district and the availability of resources, should also be taken into account in the planning process.

- (4) According to HKPSG, slope area, which is not suitable for development, has been deducted from open space area, and the sports grounds, water body of beaches, water sports centres, camp sites and holiday villages managed by the Leisure and Cultural Services Department are not counted as open space. However, open space within private developments has been included.
- (5) "Year 2008 Population (Pop.)" is based on the mid-year population projection for Year 2008 prepared by the "Working Group on Population Distribution Projections", which includes the usual residents and mobile residents but excludes the transient population.
- (6) For "Existing Open Space", "Public (Pub.)" represents public open space on Government land and those provided within large private developments for public use, while "Private (Pri.)" includes private open space within large private developments.
- (7) Figures of open space "Provided by Housing Authority (HA)" were provided by Housing Department in June 2008.
- (8) "Planned Pop." is the projected population within a future time horizon having regard to its existing population and future population change as a result of known and planned residential developments.
- (9) In the column of "Existing and Planned Open Space", "Pub." represents public open space on Government land and those provided within large private developments for public use, open spaces managed by the Housing Authority, areas zoned "O" on the Outline Zoning Plans and Development Permission Area Plans, areas zoned "LO" and "DO" on the Outline Development Plans and Layout Plans, while "Pri." includes private open space within large private developments.
- (10) Although there are shortfalls of open space provision in some districts, due to scarce land resource in HK, it is not uncommon that the open space provision cannot meet the minimum requirement, especially in some old built-up districts. However, the Government will gradually improve the situation for meeting the requirement through various measures including urban renewal. Planning Department will continue to review the situation regularly, and liaise with concerned departments to enable the open space provision to meet the public needs.
- (11) Due to rounding error, the summation of "Pub." and "Pri." may be different from the total area.

Progress of Planning of Hong Kong-Shenzhen Western Express Line

16. **MR FREDERICK FUNG** (in Chinese): *President, it has been reported that having considered factors such as economic benefits and short-term urgency, the authorities have decided to defer the commencement of the Hong Kong-Shenzhen Western Express Line (WEL) project (formerly known as the Hong Kong-Shenzhen Airport Rail Link), which was one of the 10 major infrastructure projects included in the 2007 policy address. In this connection, will the Government inform this Council:*

- (a) *of the latest progress of the planning of the WEL project, including the reasons for deferring the commencement of the project, the timetable for its final implementation and whether it will consider shelving the project permanently, and so on;*
- (b) *whether it has considered the impact on the WEL project of the drop in the travellers' demand for domestic flights due to the gradual commissioning of express railway projects on the Mainland; and*
- (c) *of the anticipated impact of the WEL project on the Qianhai area in Shenzhen and the North East New Territories New Development Areas?*

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

- (a) Major railway projects involve huge investment and have significant socio-economic impacts, and hence demand detailed and careful planning. This often takes several years or even a longer period of time.

The proposed WEL is intended to be a multi-function cross-boundary railway. It will provide cross-boundary passengers with environmentally-friendly and efficient railway services. It will also facilitate the development of the Northwest New Territories (NWNT) and Qianhai in Shenzhen. Through this railway project, we would also like to enhance the co-operation between the two airports in Hong Kong and Shenzhen, and provide convenient services for passengers of the two places. This may result in a win-win situation. The planning of the WEL will be rather complicated, requiring careful consideration of a considerable number of planning parameters.

The preliminary feasibility study on the WEL has confirmed the technical feasibility of its alignment. As one of the major functions of the WEL is to promote the development of Qianhai and NWNT, it is important for the design of the WEL to take into consideration the planning of these two areas. With the development of Qianhai and NWNT being pushed ahead, more planning parameters for these areas will be available. This will enable us to conduct more in-depth studies on the WEL, and investigate various alignment options and their respective patronage forecasts, the functionality of the railway, its technical standards, operational and service requirements, and so on. We have signed with the Shenzhen Municipal Government the "Co-operation Arrangement on Advancing WEL", under which both parties agree to continue with the relevant in-depth studies along this direction. Upon completion of these studies, when we have more concrete information on alignment options and other aspects, we will consult the public, inviting the community to express views on the development of WEL.

- (b) The competitive edge of high speed railway (HSR) is normally over areas within 1 000 km in radius. Though the aviation services within the same catchment area will inevitably face competition, HSR can bring along new opportunities to the aviation market, for example, air-railway inter-modal products may attract new clientele for the aviation sector. At present, the Mainland destinations of the Hong Kong International Airport (HKIA) are mainly Mainland cities relatively far away from Hong Kong such as Shanghai and Beijing. There are fewer flights to cities within catchment area of the HSR. More importantly, given the rapid economic development in the Mainland, the demand for domestic flights will continue to increase; and same for the demand of international transit flights via Hong Kong. We believe that the HSR network will not undermine the competitiveness of HKIA. The WEL, linking the airports of Hong Kong and Shenzhen, should help the two cities in achieving a win-win situation by complementing each other and enhancing competitiveness.
- (c) As a multi-purpose cross-border rail link, the planned WEL will facilitate cross-border land transport and promote the socio-economic development of Qianhai and NWNT. Therefore, the WEL has to tie in with the planning of these two areas for maximum benefits.

Control Spread of Human Swine Influenza Among Animals

17. **MRS REGINA IP** (in Chinese): *President, it has been reported that the world's first case of a dog infected with Human Swine Influenza (HSI) was uncovered on the Mainland. The genes of the virus in the infected dog were 99% the same as those in human infections. Experts have pointed out that the virus may spread among dogs and may even be transmitted to humans. In this connection, will the Government inform this Council:*

- (a) *what information on the transmission of the HSI virus among animals or from animals to humans the authorities have got hold of;*

- (b) *whether the Agriculture, Fisheries and Conservation Department (AFCD) has formulated guidelines to prevent animals under its management or detention from contracting the virus; and*
- (c) *whether the AFCD has adopted any concrete measure to prevent the spread of the virus among animals?*

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

- (a) At present, human-to-human transmission of HSI is quite common in the community. Apart from pigs, there is currently no scientific evidence that this virus can spread widely among animals. The World Organization for Animal Health (OIE) also points out that there is no evidence that having contact with animals will increase the risk of spread of HSI virus among humans.

According to the reports and information of the World Health Organization (WHO) and OIE, the HSI virus mainly transmits from humans to humans and sporadically from humans to animals. Recent documents showed that most infected animals had prior contact with persons with flu-like symptoms. These animals only developed mild respiratory symptoms or did not become sick at all. Most of the pigs also made a full recovery afterwards and chances for them to infect human are slim.

The Administration will continue to monitor the development of the HSI globally and locally, paying particular attention to whether there is a genetic mutation of the virus, and whether viral virulence and transmissibility have increased. In addition, the Administration has also been keeping abreast of the latest information announced by the WHO/OIE, strengthening liaison with them as well as Mainland and overseas health authorities, and maintaining information transparency, so as to ensure that effective preventive and control measures are implemented in Hong Kong and that public health is protected. If there is scientific evidence showing the possibility of an extensive transmission among dogs or other animals, we will introduce corresponding preventive and control initiatives immediately.

- (b) The AFCD has formulated operational guidelines for staff responsible for animal care in the Animal Management Centres (AMCs). The guidelines stipulate measures for keeping the AMCs clean and hygienic, and also require that all diseased animals must be quarantined and under medical observation and treatment by a veterinary surgeon, so as to prevent the spread of infectious diseases among animals in the AMCs.
- (c) As mentioned in the reply in part (a), according to the reports and information of the WHO and the OIE, there is currently no scientific evidence that this virus can spread widely among animals other than pigs. Since the emergence of the HSI virus last year, the Administration has been providing free HSI vaccination for personnel involved in pig farming and slaughtering trade. As at 8 March 2010, over one third of them have received vaccination, totalling 527 persons. The AFCD has also increased the frequency of inspections on pig farms and has been closely monitoring the health condition of pigs on local farms. Any pig with clinical signs of HSI will be carefully examined and samples will be taken for diagnosis. The AFCD has also reminded livestock farmers to step up disease prevention efforts and stringently implement bio-security measures, as well as provided them with guidelines and health advice on the prevention of HSI through letters and during farm inspections.

Provision of Lifeguard Services at Beaches and Water Sports Centres

18. **DR PAN PEY-CHYOU** (in Chinese): *President, regarding the speedboat and/or canoe lifeguard services provided by the Leisure and Cultural Services Department (LCSD) at the beaches and water sports centres under its management, will the Government inform this Council:*

- (a) *of the names, listed in table form, of the beaches/water sports centres at which such lifeguard services are available;*
- (b) *whether such lifeguard services were ceased in the past five years; if so, of the names, listed in table form by years, of the beaches/water sports centres concerned, together with the numbers of drowning*

and fatal cases which have occurred at those beaches since the cessation of such services;

- (c) whether it will resume the provision of such lifeguard services at the beaches/water sports centres in (b); if it will, when such services will be resumed; if not, of the reasons for that; and*
- (d) whether the lifeguards providing speedboat lifeguard services at water sports centres are required to possess the qualification stipulated by the Marine Department for using specified government vessels; if so, of the respective numbers of those in possession of such qualification among the lifeguards in the civil service establishment and the seasonal lifeguards at present; the arrangement currently put in place by the authorities to provide speedboat lifeguard services when no lifeguard meets that qualification; and whether it will recruit afresh lifeguards with such qualification in order to maintain the quality of services?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) The LCSD manages 41 gazetted public beaches in Hong Kong. With the exception of nine beaches that are temporarily closed due to poor water quality, all the other 32 public beaches provide life saving services when open to the public. Rescue canoes are provided at each of these 32 public beaches, and five beaches are also provided with rescue speedboats. The rescue speedboats provided at these five beaches can also serve other nearby beaches.

All five water sports centres under LCSD management have rescue speedboats. A list of the public beaches and water sports centres that have rescue speedboats and/or canoes is at the Annex.

- (b) and (c)

In the past five years, the LCSD has not cancelled rescue speedboat and/or canoe services at any of the public beaches or water sports centres under its management.

- (d) Lifeguards who are responsible for operating rescue speedboats at public beaches and water sports centres must hold the qualifications for operating a speedboat specified by the Marine Department, that is, a local Certificate of Competency for Pleasure Vessel Master Grade II and a local Certificate of Competency for Pleasure Vessel Engineer Grade II or a Coxswain Grade 3 Certificate (a local Certificate of Competency) and an Engine Operator Grade 3 Certificate (a local Certificate of Competency) as required by the Marine Department under the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) amended in 2007. Of the lifeguards in the current civil service establishment, about 140 of them have the above qualifications for operating a speedboat. As for seasonal lifeguards, the LCSD does not have detailed information, as an open recruitment exercise is conducted annually depending on the service needs of the swimming season and the possession of a certificate for operating vessels is not an entry requirement for seasonal lifeguards.

Annex

Public Beaches and Water Sports Centres Equipped with
Rescue Speedboats and/or Rescue Canoes

<i>District</i>	<i>Name of Beach</i>	<i>With Rescue Speedboat</i>	<i>With Rescue Canoe</i>
Southern	Deep Water Bay Beach	✓	✓
	Shek O Beach	✓	✓
	Stanley Main Beach	✓	✓
	Repulse Bay Beach	✓	✓
	Middle Bay Beach	-	✓
	South Bay Beach	-	✓
	Chung Hom Kok Beach	-	✓
	Big Wave Bay Beach	-	✓
	Turtle Cove Beach	-	✓
	St. Stephen's Beach	-	✓
	St. Stephen's Beach Water Sports Centre	✓	-
	Stanley Main Beach Water Sports Centre	✓	-
Tai Po	Tai Mei Tuk Water Sports Centre	✓	-

<i>District</i>	<i>Name of Beach</i>	<i>With Rescue Speedboat</i>	<i>With Rescue Canoe</i>
Islands	Cheung Chau Tung Wan Beach	-	✓
	Kwun Yam Beach	-	✓
	Hung Shing Yeh Beach	-	✓
	Lo So Shing Beach	-	✓
	Silver Mine Bay Beach	-	✓
	Pui O Beach	-	✓
	Upper Cheung Sha Beach	-	✓
	Lower Cheung Sha Beach	-	✓
	Tong Fuk Beach	-	✓
Tuen Mun	Golden Beach	-	✓
	Cafeteria New Beach	-	✓
	Cafeteria Old Beach	-	✓
	Kadoorie Beach	-	✓
	Castle Peak Beach	-	✓
	Butterfly Beach	-	✓
Tsuen Wan	Ma Wan Tung Wan Beach	-	✓
Sai Kung	Clear Water Bay First Beach	-	✓
	Clear Water Bay Second Beach	-	✓
	Silverstrand Beach	-	✓
	Trio Beach	-	✓
	Hap Mun Bay	-	✓
	Kiu Tsui Beach	✓	✓
	Chong Hing Water Sports Centre	✓	-
	The Jockey Club Wong Shek Water Sports Centre	✓	-

Remarks: ✓ denotes public beaches and water sports centres equipped with rescue speedboats and/or rescue canoes.

Assistance for Special Schools

19. **MR CHEUNG KWOK-CHE** (in Chinese): *President, the Education Bureau has formulated a five-year teacher professional development framework, under which teachers of primary, secondary and special schools over the territory are provided, starting from the 2007-2008 school year, with Basic, Advanced and Thematic Courses to enhance their professional capacity in supporting students with special educational needs (SEN). Moreover, Education Bureau provides fundings each year for the Learning Support Grant*

(LSG) for application by primary and secondary schools to support students with SEN. In this connection, will the Government inform this Council of:

- (a) the number of teachers who have received training from each of the aforesaid courses so far and the discrepancies between such figures and the five-year targets set by the Education Bureau;*
- (b) the number of primary and secondary schools which applied for LSG in the 2008-2009 school year and the amount involved; and*
- (c) the use of LSG by the schools in (b) whose applications were approved, including the number of additional teaching staff or teaching assistants employed, as well as the details of procurement of outside professional services and purchase of teaching resources and aids?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The Education Bureau has put in place a five-year teacher professional development framework on integrated education in the 2007-2008 school year to provide structured courses, namely, Basic Course, Advanced Course and Thematic Courses on various types of SEN, to enhance teachers' professional capacity in catering for students with SEN. In the 2007-2008 and 2008-2009 school years, a total of over 2 000 teachers attended the Basic Course, over 500 attended the Advanced Course, and nearly 1 200 attended the Thematic Courses.

We are conducting an analysis of the attendance of the Basic Course, Advanced Course and Thematic Courses by teachers of each school. According to the preliminary data, since the implementation of the professional development framework, the overall numbers of teachers who have attended the Basic Course and Advanced Course are generally in line with our expected pace, while the attendance of individual Thematic Courses is to be further analysed. The analysis is expected to be completed within this school year. We will examine the progress of training, and remind the relevant schools to expedite or adjust their school-based staff professional development plans when appropriate.

- (b) In the 2008-2009 school year, 268 secondary schools and 274 primary schools in the public sector applied for and were provided with the LSG to support students with SEN or low academic achievement in the schools, incurring about \$170 million. In the 2009-2010 school year, the numbers of schools having applied for LSG increased to 297 secondary schools and 282 primary schools, involving a total amount of about \$210 million.
- (c) Apart from the LSG, the Education Bureau also provides other additional resources to help schools support students with SEN. These additional resources include the Intensive Remedial Teaching Programme for Primary Schools, Enhanced Speech Therapy Grant, additional teachers for schools with a large intake of Territory Band Three and bottom 10% junior secondary students, Integrated Education Programme and Capacity Enhancement Grant, and so on. We encourage schools to adopt the Whole School Approach and to pool resources together and deploy them holistically and flexibly, having regard to the specific needs of students with SEN and the situation of the schools. In general, schools will make use of the extra resources to employ additional teachers and teaching assistants, hire outside professional services, procure learning aids/equipment/software, conduct school-based teacher training programmes and enhance parent education, and so on. The Education Bureau does not keep detailed items of how schools use the additional funding. We ensure the optimal use of resources by the schools to cater for students with SEN by conducting regular school visits by our professional staff, annual reviews and organizing training and inter-school sharing sessions, and so on.

Employment of Persons with Disabilities by Hong Kong Disneyland

20. **MS EMILY LAU** (in Chinese): *President, it has been learnt that the Hong Kong Disneyland (HKD) currently employs about 300 persons with disabilities. Regarding the employment of such persons by HKD at present, will the executive authorities inform this Council whether it knows:*

- (a) *the percentage of employees with disabilities in the total number of HKD's employees;*

- (b) *the respective numbers of employees with different types of disabilities;*
- (c) *the respective numbers of full-time, part-time and temporary employees with disabilities;*
- (d) *the breakdown of the employees with disabilities by post, as well as the percentages of such figures in the total numbers of employees holding the relevant posts; and*
- (e) *how the remuneration packages and work arrangements of employees with disabilities compare with those of able-bodied employees holding the same posts?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to the question is set out below:

HKD maintains a policy of providing equal employment opportunities for all employees and applicants. Depending on the job characteristics and requirements of individual posts, and after taking into account the safety of performing the job by disabled persons, HKD would offer appropriate employment opportunities. Since its opening, HKD has employed about 300 disabled staff members.

For non-discriminatory reasons, HKD does not require disclosure of disabilities by their staff members. Also, different kinds of work require different employment timetables and there are changes in number of staff members from time to time. Therefore, HKD cannot provide detailed information on disabled staff members in the park. HKD's policy of equal treatment of disabled employees is applicable to promotion, demotion, transfer, layoff, termination, rate of pay and other forms of compensation, education, and training. The current estimation is that the park employs more than 60 disabled persons (including 24 participants of the Disability Apprenticeship Programme to be employed this month, as well as other declared or known cases). They are responsible for different kinds of work including catering, guests services, hotel, sales of goods, and so on, and most of them are part-time staff members. According to HKD's experience, most of the job candidates under the Disability Apprenticeship Programme and their family members prefer part-time employment.

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

PRESIDENT (in Cantonese): Bill. We now resume the Second Reading debate on the Genetically Modified Organisms (Control of Release) Bill.

GENETICALLY MODIFIED ORGANISMS (CONTROL OF RELEASE) BILL**Resumption of debate on Second Reading which was moved on 3 June 2009**

PRESIDENT (in Cantonese): Ms Audrey EU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

MS AUDREY EU (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Genetically Modified Organisms (Control of Release) Bill (the Bills Committee), I wish to report on the Bills Committee's deliberations on the Bill.

The object of the Genetically Modified Organisms (Control of Release) Bill (the Bill) is mainly to give effect to the Cartagena Protocol on Biosafety (the Protocol), control the release of genetically modified organisms (GMOs) into the environment and control the import and export of GMOs.

The term GMO generally refers to a living organism which possesses a novel combination of genetic material obtained through the use of modern biotechnology. According to a survey conducted by the authorities before the introduction of the Bill, only the samples of some papayas and a small amount of soybeans collected from local markets were genetically modified. As all genetically modified soybeans were to be used as food, feed or processing only, the authorities considered that GMOs were not of widespread presence in Hong Kong. However, since the outcome of the survey was very different from the public perception that GMOs were quite common, the Bills Committee requested the Secretary for the Environment to give an account of the researches conducted

by the authorities so far at the resumption of Second Reading debate on the Bill later.

The Bill stipulates that a GMO is released into the environment if it is not in contained use or it is exposed to a condition in which it may grow or reproduce. A person must not knowingly import a GMO that is intended for release into the environment unless it has been approved by the Director of Agriculture, Fisheries and Conservation (the Director) or the Administrative Appeal Board. The Director may, in writing, appoint any public officer or class of public officer to discharge enforcement duties under the Bill. An authorized officer may stop, board and search any transport means if he has reason to suspect that a prescribed offence has been, is being or is about to be committed on the transport means. An authorized officer who has reason to suspect that a GMO is being kept in any place or premises could enter and inspect the place or premises without notice (except for premises used exclusively as a dwelling house). An authorized officer may also stop, search, and detain a person for a reasonable period without warrant if he has reason to suspect that the person has committed, is committing or is about to commit a prescribed offence.

As the Bill only aims to control GMOs, the Bills Committee generally considered the enforcement powers under the Bill overly excessive. According to the authorities, the powers are necessary to enable an authorized officer to take appropriate enforcement action under circumstances that would require an immediate search of the transport means containing suspected GMOs that would pose adverse biosafety effects on the natural environment. To ensure that an authorized officer will exercise his powers in a proper manner, the authorities will set out all the procedures and requirements in the operation manual, including that an authorized officer must seek the consent of a senior officer before exercising the powers. An authorized officer will show his warrant card and state the purpose of the visit to the owner or responsible person before entering and inspecting the place or premises where GMOs are suspected to be present and issue a seizure receipt if any specimens or things are seized. A personal data note will also be issued to the person concerned if any personal particulars are collected. When an operation is completed, the authorized officer will ask the person concerned if he has any complaint.

In response to the Bills Committee's concern, the authorities will move an amendment to make it clear that only public officers not below the rank of Field Officer II will be appointed as authorized officers. In discharging enforcement

duties, authorized officers will carry warrant cards and wear vests with the logo of the Agriculture, and Fisheries and Conservation Department (AFCD) for identification purpose. Besides, the Secretary for the Environment has undertaken to make the gist of the operation manual available for public inspection and clarify the powers of entry and inspection in relation to premises that are used wholly or principally for dwelling purposes.

The Bill provides that the Director may sell or dispose of the things seized after the seizure. Members were concerned that this might run contrary to the object of the Bill to control the release of GMOs into the environment. Members considered that the seized thing should be returned to the owner if its release would not affect the environment, while its sale would not be fair to the owner. Members were also of the view that it was necessary for the authorities to provide compensation for seized things to make up the losses of owners.

The authorities explained that arrangements to sell or dispose of the seized things would be made by the Director only if the safekeeping of the things was not practicable. As for the manners in which the seized things should be handled, the decision would rest with the court or magistrate. Since the situation necessitating the Director to sell the seized things will rarely arise, the authorities have decided to delete this power from the Bill. The authorities will also insert a new clause in the Bill to allow, under prescribed circumstances, the owner of a thing seized to claim for compensation from the Government in respect of the thing. The authorities will move amendments to effect these changes. The Secretary will also make it clear that all necessary care will be taken to keep the seized GMO prior to its return to owner or forfeiture to the Government, unless it is not practicable to keep or it is perishable.

The Bills Committee also examined other clauses of the Bill in detail. The authorities have made active responses and taken on board Members' views and proposed relevant Committee stage amendments (CSAs). The Secretary will also make undertakings on the relevant matters.

The Bills Committee supports in principle the CSAs proposed by the Administration.

President, in the following, I will speak on the Bill in my personal capacity.

President, I would like to raise a few points: first and foremost, this legislative amendment exercise is actually related to the United Nations' Earth Summit held in Rio de Janeiro back in 1992 in which the Convention on Biological Diversity (the Convention) was drawn up by various countries for the conservation of biodiversity and the fair and equitable sharing of the benefits from the use of genetic resources. In 2000, the international community further adopted the Protocol which provided for the criteria governing the safe transfer, handling and use of GMOs. To date, there are over 193 Parties to the Convention, including China, while there are 157 Parties to the Protocol. In December 2003, the then Secretary for the Environment, Transport and Works submitted a consultation document proposing the introduction of a new piece of legislation to regulate GMOs. The consultation document stated that the legislative exercise was expected to complete in 2005-2006. However, the Second Reading of the Bill was not resumed until today, after what seemed an endless wait, and the issues addressed are mainly related to the Protocol.

President, the United Nations has designated 2010 as the International Year of Biodiversity, and various countries will participate in the relevant international conference to be held in Japan in November this year. Up to this moment, however, the Convention has not been extended to Hong Kong. In order to extend the application of the Convention and the Protocol to Hong Kong, the Bill must be passed today to provide the legal basis for the requirements in relation to the regulation of GMOs before the Government can request the Central Government to complete the formalities on the extension of the application of the Convention and the Protocol to Hong Kong. President, by referring to this historical background, I want to highlight the slow progress of the legislative exercise, because this piece of legislation should have long been enacted. As I said just now, it should have been completed in 2005 and 2006, but it is now 2010, which is already five to six years late, and the Convention cannot be extended to Hong Kong in time to tie in with the 2010 International Year of Biodiversity. Actually, the Convention should have long been extended to Hong Kong to enable Hong Kong to fulfil its international obligation, but we are not sure whether the extension can take effect by November this year, that is, before Hong Kong attends the relevant international conference for the International Year of Biodiversity held in Japan.

Besides, President, I would like to point out that we held 11 meetings to scrutinize the Bill. Members thought the Bill would be quite simple and unlikely to cause great controversies, and as environmental issues generally do not have great impacts on the business environment, the deliberations were

expected to be very smooth. But why did we have to hold 11 meetings? President, as I said in my capacity as Chairman of the Bills Committee, many of the powers involved are actually very great, which was a cause of concern for the Bills Committee during the scrutiny process. President, you have to understand that when a piece of legislation is enacted, it may become a model for the enactment of other legislation in future. With such a precedent for conferring on the Government, by way of legislation, such great powers as stopping vehicles and entering premises without notice or search warrant, many actions will be allowed, especially in respect of anti-terrorism or matters affecting human rights and freedom. This environmental protection legislation will be cited as an example to argue that since such legislation was enacted before, the same approach can be followed. Therefore, the Bills Committee paid close attention in this regard and put forward many views. I am very glad that government officials responsible for the Bill responded very actively to Members' questions. Not only did they take on board many views put forth by Members, but they also proposed amendments to the clauses in the ensuing meetings. This is particularly desirable because very often, after Members have put forward their views, government officials would not propose amendments until the eleventh hour, which would make the Clerk work under a very tight schedule and the legal adviser unable to address the issues until the very end. However, the situation this time was very desirable because every time we brought up some issues in a meeting, the relevant officials, having taken on board our views, would provide the amended versions in the subsequent meeting. Therefore, we very much welcome this approach, and I have to make it clear here that we greatly support it.

Besides, President, there is one more special point. As you may also know, usually what would happen when objects are confiscated or seized by the Government wrongfully? Will compensation be provided? The Government would insist that, first, it has not made any mistake; and second, it would be a very bad precedent to provide compensation. This time, however, it has heeded sound advice and taken on board the suggestion of allowing the person concerned to claim compensation, under certain circumstances, for the things which are wrongfully seized. Therefore, President, we think these are worth mentioning, and we welcome these initiatives.

However, I would also like to make a point about the drafting of the Bill. For example, the long title of the Bill states clearly that the object of the Bill is to give effect to the Protocol. We have asked the Government whether this is a consistent approach, that is, if there are other bills relating to other international conventions or protocols, whether their long titles will state this clearly. The

Bunker Oil Pollution (Liability and Compensation) Bill, for example, has not made any reference to the relevant convention. In other words, instead of adopting varying approaches in different cases for different policy bureaux, is there a consistent approach in drafting? However, President, we have not obtained any clear answer for this. Therefore, I have to make this point clear, and I hope improvement will be made in this respect.

Besides, although the Government claimed that "the existing nature conservation policy and measures are generally in line with the objectives and requirements of the Convention", it should still develop strategies and action plans for the conservation of biodiversity as required in the Convention. I hope the Government will develop these strategies and action plans expeditiously.

Extending the Convention to Hong Kong will provide a useful guideline for the preservation of our natural heritage and the active management of biological resources, and it is also the best way to implement sustainable development. As the public does not know much about the potential risks of GMOs, for example, some genetic materials will contaminate traditional or organic crops, and herbicide-tolerant genetic material may be capable of transferring to weeds, thereby giving rise to the vicious cycle of the development of super weeds and the use of more herbicide, I very much hope the AFCD will enhance publicity and public education on GMOs after the passage of the Bill to enhance public understanding of GMOs and educate the public about the value of biodiversity.

Hong Kong has an important bio-diversified environment which we can be proud of — our beautiful country parks and lush and diversified wild vegetation have attracted many local residents and foreign visitors. I hope that after the passage of the Bill today, the Government will expeditiously request the Central Authorities to extend the Convention to Hong Kong, so as to provide us with a guideline to preserve our natural assets and actively manage our biological resources, which is the best way to implement sustainable development. Thank you, President.

MS CYD HO (in Cantonese): President, one of the reasons for introducing this legislation is that we have to fulfil an international obligation, and another reason is that some conventions and protocols relating to biodiversity entered into by the Central Authorities have to be implemented in Hong Kong. However, as Ms

Audrey EU said just now, we have to enact legislation to fulfil many of our international obligations in recent years, so we hope an established practice will be developed. Insofar as the Bill is concerned, besides the long title, the Schedules are also different from other legislation previously enacted to fulfil our international obligations. In this legislation, for example, we have not included the Protocol and the Convention in the Schedules for reference, which will make it necessary for people to search information from different sources or refer to the relevant protocol and international agreements to find out whether this legislation has fully implemented the Convention or gone beyond its scope. However, in some bills on the control of chemical weapons we scrutinized in the past, the entire international agreement was included in the Schedule for easy reference by people affected or their legal representatives in future.

Besides, as for the criteria for deciding whether our international obligations should be fulfilled by way of legislation or administrative means, a thorough review by the Department of Justice together with the legal sector is required. Unfortunately, however, no review or established practice has been conducted or developed so far, and this is my fundamental concern I would like to raise here.

In the following, I would like to talk about the contents of the Bill. The object of the Bill is to control genetically modified (GM) plants to prevent the release of GM material into the environment, in order not to affect the ecology of the surrounding environment. The enactment of this legislation is justified. A few years back, the Chinese University of Hong Kong conducted an experiment in which some kinds of GM rice were grown in an environment which was not properly contained. Despite being definitely very useful in eliminating starvation and addressing food shortage, this technology may lead to some unpredictable consequences. As it is still at experimental stage, we do not know what problems will be caused if GM material is released into the surrounding environment. Therefore, this legislation aims to control the release of GM material to prevent it from affecting the ecology of the surrounding environment. We agree with this legislative intent. However, this piece of legislation may impose control on two groups of people. Apart from academic research institutes or large enterprises which intend to reap huge profits with biotechnology, elderly ladies who casually sow papaya seeds in the land in the countryside to grow papayas for self-consumption are also subject to the regulation of this legislation; and these GM papaya seeds are already commonly

found in Hong Kong. President, I have grown them before; they are very quick and easy to grow, and no special skill is required at all. One only has to sow the papaya seeds in the soil near the house and there will be papaya fruits in one year. It is indeed very difficult to control. However, besides regulating large enterprises, the same piece of legislation will also regulate elderly ladies who grow these papayas near their houses as a past-time or for a living. When the same piece of legislation may affect two different kinds of behaviour and serve two different purposes, many problems will arise. Let me cite an example: clause 8 of the Bill requires that a person must apply to the authorities for growing GM plants and provide details of the risk assessment in the application. I would like to read out some terms in the Bill to see whether people who are literate can understand them — they include "recipient organism", "parental organism", "donor organism", "vector" and "host range". Simple as the words may be, members of the general public may find these terms, either in the Chinese or the English text, very perplexing. However, an elderly lady who wants to grow papayas near her house has to fill out this application form. For her, this is a very difficult task.

Therefore, President, in the scrutiny process, we requested the authorities to prepare a sample of the application form so that residents will only have to fill out their personal particulars and the place where the plants will be grown. Besides, in the long run, when this common, totally genetically-modified plant of papaya has become very popular in Hong Kong, it should be included in a schedule of exemptions. I hope this schedule of exemptions will soon be drawn up to avoid causing any nuisances to or affecting residents who grow papaya as a past-time.

This legislation also aims to provide a legal framework for discussions and dialogues between the authorities and enterprises, but it provides for no corresponding measures to address possible public concerns in relation to GMOs. For example, when approval is granted by the Director for the growing of a GM plant in Hong Kong, members of the general public and concern groups do not have any avenue for appeal to the Director, and neither do they have any opportunity to express their objection to such an approval. Only the applying organization may lodge an appeal against the reasons for approving or refusing its application, the various restrictions and the remedies required upon receipt of the authorities' document. Therefore, we consider this inadequate. This legislation is more of a gesture to fulfil an international obligation than a measure truly aiming to avoid the impact of GMOs on the ecology, which is indeed a pity.

Besides, the Director may impose restrictions on the growing of GM plants by, for example, requiring that they be grown within specified facilities, proper containment measures be adopted or even impermeable liners be installed underground to prevent these GMOs from affecting the ecology of the surrounding environment through the soil. Therefore, when an application is refused — of course, it will only be refused when serious problems exist but not otherwise — the reasons for refusal should be made public, and such information should also be published. Unfortunately, however, the Bill provides that when a certain application is refused, the reasons for refusal will be kept confidential. In response to our question, the Bureau explained that as such information may involve intellectual property rights and trade secret relating to research and development (R&D), the disclosure of such information may affect the interests of the applicant. But how about public interests? Besides, given the absence of public record legislation in Hong Kong, information and records containing the reasons for refusing these applications may be destroyed by civil servants simply because of the lack of storage space. Therefore, we have raised this point during the scrutiny process, and will the Secretary please give an undertaking in his speech later that these records and information will not be destroyed. Why do we have to retain these records? For example, if a certain application is refused today, how much improvement has the applicant made when he submitted an application again in future? To what extent have remedies been made by the applicant in the light of the reasons for refusing his previous application? Therefore, the reasons for refusing an application today have to be put on record for reference in approving future applications. Unfortunately, however, as no legislation on public record is in place under the existing regime, we can only make the least request, and that is the Secretary should give an undertaking in his speech today, although such an undertaking is still not good enough.

Therefore, President, I would also like to mention in passing here that there is a pressing need to enact public record legislation in Hong Kong, so that regulation may be exercised in an official manner to ensure that certain information and records in the public service system will be retained and such information will become public asset or even be made available for public inspection.

President, the scrutiny process of the Bill is actually very pleasant because the officials from the Agriculture, Fisheries and Conservation Department (AFCD) were very dedicated and well-versed in technologies. Therefore, we have learnt a lot about biology during the scrutiny process, such as terms like "donor organism", "recipient organism" and "parental organism" that I read out

just now. Now that I can understand these terms, I may help to explain them to anyone who does not understand them. That said, these officials responsible for R&D on technologies were indeed not very familiar with certain legislative principles, and they often asked for excessive powers which were inappropriate, and Ms Audrey EU has already cited an example of this just now.

Besides, I would like to talk about another legislative principle, which is quite absurd in the Bill. For example, the Bill provides for a transitional period before the legislation comes into effect. During this period, people engaged in the growing of GM plants are required to notify the authorities of the details of the GM plants. However, penalties will not be imposed for failure to do so. How can the authorities see to it that the public will fulfil this obligation when no penalties will be imposed? Upon our repeated questions, the relevant official replied that this was only an advice. If this is only an advice, why should it be included in a legal provision?

President, I have no reason to rebuke officials responsible for R&D on biotechnology, but the Department of Justice, being a team of professionals in law drafting, should exercise due diligence in providing professional input on legislative matters to officials responsible for R&D on biotechnology because in case of lapses, this legislation would become a precedent for including whatever advice from the Government to the public in legislation, which would be very strange. Therefore, I urge the Department of Justice not to treat lightly the drafting of bills which appear to be uncontroversial and it should elucidate to officials responsible for technical matters the legislative principles involved and how a balance can be struck between public powers and the powers of the Government.

Besides, I would take the trouble to acknowledge the assistance and co-operation rendered by officials from the AFCD throughout the legislative process. The numerous legislative amendments we proposed were addressed right away, and amended versions of the Bill were provided without delay in subsequent meetings, which made a very smooth scrutiny process possible. I would like to put this on record, and I also hope officials from other departments will make reference to this good practice and do the same in scrutinizing other legislation in the future.

Thank you, President.

MR CHAN HAK-KAN (in Cantonese): President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I speak on the Genetically Modified Organisms (Control of Release) Bill (the Bill).

As pointed out by many Members in their speeches just now, the Bill was introduced as a result of the Convention on Biological Diversity (the Convention) adopted in 1992 and the relevant Protocol. Although Hong Kong is not a contracting party, China has long entered into the Convention. This legislative exercise only aims to extend the application of the Convention and the Protocol to Hong Kong, and as many trading partners of Hong Kong have also adopted the Convention, Hong Kong is only following this general trend.

Actually, with technological advancement, research on genetically modified organisms (GMOs) and genetic engineering is becoming more and more popular. Although such technology is helpful in promoting scientific development, certain risks are involved.

Our major concern is that genetically modified (GM) species may pose adverse impact on the existing ecological system and contaminate traditional species, triggering an unpredictable chain effect. Therefore, the control of the release of GMOs into the environment is understandable and worth supporting.

President, I think the most crucial parts in the entire Bill are the definitions of "released into environment" and "contained use". The Government stressed that the definition of "contained use" was modelled on that in the Protocol, adding that under normal circumstances, biosafety measures being adopted in laboratories of local institutes were adequate.

However, during the deliberations of the Bills Committee, Members were concerned about whether the relevant definitions accorded with the actual situation of Hong Kong, particularly whether some small-scale institutions, which might not be able to meet the requirements under the legislation, would be prosecuted in the event of inadvertent release of some GMOs into the environment. I hope the Secretary will address the concerns of Members and society.

We welcome the provision of the six-month transitional period to facilitate adaptation of the trade, and we hope the Government will organize more talks and

briefings during this period for the relevant parties, particularly farmers with less support, so that they will acquire an early understanding of the requirements under the legislation.

President, the legislation, after its passage, will be enforced by the Agriculture, Fisheries and Conservation Department (AFCD), and the Director may exercise some of the powers to provide exemptions. For example, the public register proposed in the Bill will contain information on GMO approval applications, but the Director may exclude some confidential information from the register in the light of the applicant's request; and the Director may also attach specific conditions on how a GMO should be stored or contained and decide how to dispose of seized GMOs.

As all of us know, researches on GMOs and genetic engineering are mainly undertaken and promoted by academic institutes, and the Director and staff of the AFCD may not fully keep in view the latest and most advanced technological development. This may affect their decisions made and enforcement actions taken in accordance with the Bill.

Therefore, we support the Government's proposal of establishing an expert group to assist the Director in the vetting and approval of applications and give professional advice on issues concerning the administration of the Bill.

As I have pointed out just now, the Bill proposes to establish a public register in future to set out information on approval applications. This will certainly facilitate the enhancement of transparency, but it should be noted that genetic researches often take a long time and require huge manpower and resources. Coupled with the fact that commercial elements or intellectual property rights are involved in lots of current researches, we hope the department will exercise special caution in disclosing application information in the public register so as to respect intellectual property rights while protecting the public's right to know, giving careful consideration to which information should be made public and which information should be kept confidential.

With these remarks, President, I support the Bill.

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 the Environment to reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, Honourable Members, first of all, I would like to express my sincere thanks to the Chairman and members of the Bills Committee on Genetically Modified Organisms (Control of Release) Bill (the Bills Committee) for spending a great deal of time on scrutinizing the Genetically Modified Organisms (Control of Release) Bill (the Bill). I am also very glad to hear that some Members have given positive comments on the smooth scrutiny process and the participation of colleagues from professional departments.

The Bill was introduced into the Legislative Council in May 2009. The Bills Committee held a total of 11 meetings and invited the participation of and submissions from stakeholders. Here, I would also like to thank the relevant parties for their useful comments.

The Government has all along been committed to promoting nature conservation and the conservation of biodiversity in Hong Kong. The object of the Bill is to give effect to the Convention on Biological Diversity (the Convention) and its Cartagena Protocol on Biosafety (the Protocol) to control the release of genetically modified organisms (GMOs) into the environment and the import and export of GMOs in order to protect local biodiversity from possible adverse effect arising from the release of GMOs.

The Convention and its Protocol are important international agreements on the protection of biodiversity and its sustainable development. The existing nature conservation policy and measures of Hong Kong are, in fact, generally in line with the objectives and requirements of the Convention. However, as we have not put in place any measures to implement the control of the use of GMOs and their release into the environment set out in the Protocol, the application of the Convention and the Protocol cannot be extended to Hong Kong so far. As such, we have to enact this Bill today to provide the legal basis for the

requirements set out in the Protocol in relation to the regulation of GMOs. Subject to the extension of the application of the Convention and the Protocol to Hong Kong, we can reinforce our commitment in co-operating with the international community by making necessary undertakings on environmental protection.

The term GMO refers to any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology. Common GMOs include crops such as genetically modified (GM) papayas, potatoes, tomatoes and soybeans.

The Agriculture, Fisheries and Conservation Department (AFCD) conducted a survey during the period from December 2008 to February 2009 on the presence of GMOs in various imported and locally grown crops from local markets and farms. The outcome of the survey revealed that only some papayas and a small amount of soybeans were genetically modified. About half of the samples of papaya fruits, which were generally home-grown and grown in local farms, were genetically modified. All imported GM soybeans were intended to be used as food, feed or processing (FFP). It was also found that there were some GMOs used in laboratories of local research institutes but they were mostly for contained use. Overall, except for the papayas I mentioned just now, there is no widespread presence of GMOs in the natural environment of Hong Kong.

The main purpose of the Bill is to regulate the release of GMOs into the natural environment in Hong Kong. Anyone who wishes to release a GMO that is not approved into the environment or maintain such a GMO or import it for release into the environment in Hong Kong has to obtain prior written approval from the Director of Agriculture, Fisheries and Conservation (the Director). When making the application, an applicant is required to submit to the Director the risk assessment report regarding the proposed release of the GMO into the environment. Upon the granting of approval by the Director after consultation with the expert group, the GMO may be released into the environment, maintained or imported. No further application has to be made to the Director for further releasing the GMO into the environment, maintaining or importing the GMO in future, but the conditions attached by the Director for the approval of the GMO have to be complied with. Besides, GMOs for export are also subject to regulation. The Bill provides for the relevant application procedures and methods and channels for reviewing the Director's decisions.

As the Protocol mainly aims at monitoring the impact of GMOs on biodiversity, the control mentioned just now does not apply to any GMO that is pharmaceutical product for use by human beings, and neither does it apply to any GMO intended only for contained use or use as FFP. However, in importing and exporting GMOs for these uses, prescribed documentation accompanying their shipments is required. The documentation has to specify the uses and relevant information of the GMOs for inspection by the AFCD. The relevant documentation requirements will be set out in subsidiary legislation.

The Bills Committee has discussed in detail the issue concerning a threshold on adventitious presence of GMOs. Given that there may be unintentional mixing of traditional seeds with GM seeds (such as seed spillages during harvesting or grain residues left in a harvester), which means that, arbitrary mixing may exist, adventitious thresholds are set for non-GMO-FFP in some countries, such as the European Union (0.9%), South Korea (3%) and Japan (5%). Taking into account the small scale of local agricultural industry and the fact that most non-GMO-FFP are not grown in Hong Kong, we therefore proposed that the adventitious threshold for non-GMO-FFP to be set at 5%. However, given the release of seeds mixed with GMOs into the environment may have potential adverse impacts on local biodiversity, no threshold will be set for the adventitious presence of GMOs for seeds intended to be released into the environment, that is, seeds of all GMOs that are not approved. Except with prior approval of the Director, these seeds must not be released into the environment, irrespective of the percentage of GMOs.

The Bill also provides that the AFCD must establish and maintain a register containing all relevant information and decisions relating to every GMO approval application and post it on the AFCD website for inspection by members of the public free of charge. However, the register certainly must not contain any information classified as confidential as requested by the applicant and agreed by the Director.

The Bill confers powers on the AFCD to enforce the provisions of the Bill, including the power to search any place or premises, seize, remove and detain things and dispose of things seized. Clause 29 of the Bill provides that unless on the issue of a warrant, an authorized officer must not enter any premises that are "used exclusively as a dwelling house". Some Members considered this expression rather difficult to define and requested me to explain it in my speech during the resumption of Second Reading debate. In this connection, President,

at the Committee stage later, I will give a detailed account of my proposed amendment to the relevant provision to replace the phrase "used exclusively as a dwelling house" with "used wholly or principally for dwelling purposes" in order to provide a more objective basis for defining the relevant premises. In enforcing the legislation, an authorized officer will decide whether actions should be taken having regard to the area and principal use of the premises.

The Bill also provides for how the Secretary for the Environment should make regulations to provide for the exemption of certain GMOs or descriptions of persons from restrictions such as those regarding approval applications. Other provisions include those on the appeal arrangement, matters relating to the establishment of an expert group, the Secretary's power to make regulations, transitional provisions and information to be furnished by the applicant.

During the scrutiny of the Bill, the Bills Committee requested me to make the following undertakings here. Let me go through them one by one.

First, regarding the application procedures set out in clauses 9 and 10, the Bill provides, in accordance with the Protocol, that the Director must issue a written acknowledgement to the applicant confirming the receipt of the application and make a decision on whether or not the application is approved within a certain period after the receipt of the application (90 days and 270 days respectively). I hereby undertake that the AFCD will, upon receipt of an application, issue a written acknowledgement of receipt to the applicant and process the application in an expeditious manner within the prescribed period. The AFCD will also spell out this performance pledge in its practice guidelines for the trade.

Second, regarding the non-disclosure of confidential information in the register stipulated in clause 26, while the Bills Committee agreed that it was inappropriate to disclose certain sensitive information under some circumstances due to the need to respect intellectual property rights, some Members considered that as certain GMOs might have long-term effects on the environment, the AFCD should maintain a record of such non-disclosed information to facilitate future reference. We will take on board this view of the Bills Committee. In this connection, the AFCD has undertaken to maintain a record of such information.

Third, regarding enforcement, it is our policy intent to mainly target at persons, certainly including enterprises, who or which knowingly produce and

use GMOs in contravention of the legislation. Our enforcement will not target at members of the public or certain organizations, such as schools and hospitals, who or which might have inadvertently grown or kept GMOs. We will include this in the operation manual for enforcement officers of the AFCD and make its main contents available to the public to enable members of the public to understand our enforcement intent.

Fourth, some Members were concerned about whether GMOs seized during enforcement actions would be treated properly. In this connection, we undertake that all necessary care will be taken to keep the seized GMOs prior to their return to owner or forfeiture to the Government, unless they are not practicable to keep or they are perishable.

Fifth, the Bills Committee also requested me to give a detailed account of the types of GMOs being considered for exemption. At present, papaya is the only type of GMOs being considered for exemption. Given that the cultivation of GM papaya is practised extensively in local farms and papaya is the sole member in the family of Caricaceae in Hong Kong, and considering that the release of GM papaya into the local environment will unlikely to have adverse impact on the natural environment, we therefore plan to exempt GM papaya from the application for approval for import and export and for release into the environment under clause 42. After the passage of the Bill, we will propose that this be discussed by the expert group, and subject to its agreement, we will implement this proposed exemption.

Apart from the above undertakings, we have decided to move certain amendments in response to the Bills Committee's concerns in order to:

- (i) clarify the enforcement powers of authorized officers of the AFCD to allay Members' concern about their excessive powers;
- (ii) regarding the documentation requirements for import and export of GMOs, provide a clear legal basis in the Bill;
- (iii) establish a mechanism for providing compensation to the owner of a thing seized in the enforcement process so that the person concerned will, under specified conditions, receive reasonable compensation;

- (iv) make appropriate notification arrangement for the maintenance of lives of GMOs that were in a state of being released before the transitional period; and
- (v) make technical amendments to improve the clarity of certain provisions.

I will explain each amendment in detail at the Committee stage later.

President, subject to the passage of the Bill, we will step up our work in publicity and education, and upon completion of other necessary preparatory work, we will request the Central People's Government to complete the arrangements for the extension of the application of the Convention and the Protocol to Hong Kong.

Here, I would like to implore Honourable Members to support the Bill and the amendments to be moved at the Committee stage.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Genetically Modified Organisms (Control of Release) Bill 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): Genetically Modified Organisms (Control of Release) Bill.

Council went into Committee.

Committee Stage

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

GENETICALLY MODIFIED ORGANISMS (CONTROL OF RELEASE) BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Genetically Modified Organisms (Control of Release) Bill.

CLERK (in Cantonese): Clauses 1, 4, 5, 7 to 14, 16 to 19, 22, 23, 24, 40, 41, 44, 45, 47, 48 and 49.

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, 4, 5, 7 to 14, 16 to 19, 22, 23, 24, 40, 41, 44, 45, 47, 48 and 49 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 3, 6, 15, 20, 21, 25 to 39, 42, 43, 46, 50 and 51.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, Honourable Members, I move the amendments to the clauses read out just now, namely, clauses 2, 3, 6, 15, 20, 21, 25, 26, 27, 28 to 39, 42, 43, 46, 50 and 51. I also move that four new clauses be added to the Bill, namely, clauses 24A, 24B, 33A and 38A. As these amendments are inter-related, I will speak on all of them here.

The amendment to clauses 2 and 51 serves to put the phrase "任何一名" before "漁農自然護理署助理署長" in the Chinese text. This amendment seeks to specify more clearly the rank of the officer responsible for decision making to bring it more in line with the English text. Therefore, this is a technical amendment.

Clause 3 is amended in response to the Bills Committee's request for improving the Chinese text to provide a clearer definition of "contained use". This is also a technical amendment.

Two amendments are made to Clause 6. The first one serves to specify more clearly that if a GMO that is not an approved GMO is granted an exemption by the Secretary for the Environment under clause 42 in relation to its release, no notification to the Director of Agriculture, Fisheries and Conservation (the Director) is required, except when any condition for the exemption has not been complied with. This amendment enables the provision to reflect the policy intent more clearly. The second amendment to Clause 6 is made in response to some Members' concern. As originally drafted, the provision implies that all persons who have control of a GMO must inform the Director of the release of the GMO. However, under certain circumstances, many people may be deemed to have control of a certain GMO, for example, staff members of a laboratory may be deemed to have control of the same GMO. It is therefore necessary to avoid duplicative notification of the same release of the GMO. The provision as amended specifies that if a person who has control of a GMO has informed the

Director of the release of the GMO, other persons who have control of the GMO are not required to inform the Director of the release.

Clause 15 is amended in response to the Bills Committee's request for setting out more clearly the criteria to be adopted by the Director for deciding on an applicant's non-disclosure request, that is, the request for not entering the relevant information in the register which is available for inspection by the public. These criteria include entering the information would adversely affect the applicant's interest, and not entering the information would not be contrary to the public interest.

The amendment to clauses 20 and 21 serves to obviate the need for the Director to return to the applicant confidential information in relation to a withdrawn approval application or variation request. As originally drafted, clauses 20 and 21 stipulate that if a GMO approval application or variation request is withdrawn, the Director must return to the applicant any confidential information contained in the relevant documents and records. Some Members considered that there might be a need for the Government to retain certain confidential information for future reference. While the Protocol has specified the need to respect the confidentiality of information, it does not have any requirement for not returning confidential information to applicants. Therefore, having considered Members' view, we think that so long as the Administration keeps the information submitted by applicants properly, not returning the confidential information to applicants upon withdrawal of their applications would still be consistent with the Protocol.

The amendment to clause 25 serves to stipulate more clearly that these records are available for inspection by members of the public through the Internet or at the office of the Agriculture, Fisheries and Conservation Department (AFCD) free of charge. This is also a technical amendment.

The amendment to clause 26 seeks to spell out more clearly the information that is not to be entered in the register. This is also a technical amendment.

Clause 27 is amended in response to the Bills Committee's request for making it clear that officers of the AFCD to be authorized to enforce this piece of legislation must be of a rank not below that of Field Officer II.

Clause 28 is amended in response to the Bills Committee's request for clarifying the Government's enforcement intent. Clause 28 stipulates that an authorized officer may stop, board and search any transport means if he has reason to suspect that a prescribed offence has been, is being or is to be committed on the transport means. An authorized officer may also stop, search, and detain a person for a reasonable period without warrant if he has reason to suspect that the person has committed, is committing or is to commit a prescribed offence.

We consider the power to search any transport means conferred by clause 28 necessary to enable an authorized officer to take appropriate enforcement action under circumstances that would require an immediate search of the transport means containing suspected GMOs that would pose adverse biosafety effects on the natural environment. However, in order to specify the power of enforcement officers more clearly, we will replace the phrase "has reason to suspect" with "reasonably suspects" so that an enforcement officer may only exercise this power when more objective criteria are met. I will also move consequential amendments to clauses 29, 31, 32 and 33.

Some technical amendments are also made to clauses 28 and 33 to replace "to" with "about to" so as to specify more clearly the time when an authorized officer may exercise this power.

Amendments to clause 29, apart from the one mentioned just now, also include replacing the phrase "premises that are used exclusively as a dwelling house" with "premises that are used wholly or principally for dwelling purposes". As I have mentioned in my speech delivered at the resumption of Second Reading debate just now, some Members were concerned that it might be difficult to define the phrase "premises that are used exclusively as a dwelling house". Therefore, we move this amendment to facilitate the discharge of enforcement duties.

The amendment to clause 30 serves to allow the magistrate to specify the duration of and time for the execution of a warrant. Clause 30 originally provides that a warrant issued by a magistrate continues in force until the purposes which necessitate an authorized officer to enter a place or premises have been satisfied. In response to some Members' concern about the extensive

power of an authorized officer with a warrant who could enter and search any premises at any time using necessary force, I therefore move an amendment to the way the provision is expressed in this respect.

Amendments to clause 33, apart from the ones mentioned just now, serve to further restrict the power of an authorized officer to require a suspect to prove his identity under certain circumstances. As originally drafted, clause 33 provides that if an authorized officer suspects that a person has committed, is committing or is to commit an offence under this Bill, he has to require the person to prove his identity. Given that some Members had reservation about the power conferred by this provision on an authorized officer, I move that this power be confined to certain offences under this legislation, that is, offences under clauses 5, 7, 23, 24B and 40 mentioned just now.

The amendment to clause 34 concerns the power of the Director to sell the things seized after the seizure. Clause 34, as originally drafted, empowers the Director to sell these things immediately after the seizure. However, some Members considered that the sale of these things, which might cause the release of GMOs into the environment, was not in line with the object of the Bill to control the release of GMOs. After consideration, we think that in reality, the situation necessitating the Director to sell the seized things will rarely arise. We therefore move an amendment to delete this power of the Director, and I also move that consequential amendments be made to the relevant provisions in clauses 35 to 38.

Besides, I will also move that the new clause 38A be added to the Bill. Clause 37 originally provides that in the case where no prosecution has been brought by the Director in respect of a seized thing, the court or magistrate must order the thing to be forfeited to the Government if the owner of the thing is unknown or cannot be found. However, the court or magistrate may, if satisfied as to the complainant's title to the thing concerned, order such amount of compensation as decided by the court or magistrate to be paid by the AFCD to the complainant.

The Bills Committee considered it unfair for the owner to be allowed to claim for compensation only if no prosecution is brought. Some Members even pointed out the need for the Government to provide compensation for seized things, particularly those which have limited or specified life span, to make up for

the losses of owners as a result of the seizure. After taking this into account, we have decided to take on board the Bills Committee's view. We will delete the provision for compensation from clause 37 and insert a new clause, that is, clause 38A, in the Bill to allow the owner of a thing seized in the course of enforcement of the Bill to claim for compensation from the Government in respect of the thing under prescribed circumstances, irrespective of whether or not prosecution has been brought.

The amendment to clause 39 serves to specify more clearly that only an applicant under a GMO approval application or variation request may appeal to the Administrative Appeal Board against certain decisions or directions made by the Director. This is also a technical amendment.

Clause 42 is amended in response to some Members' request for setting out the general factors which the Secretary for the Environment may take into account in deciding on exemptions. Under this clause as amended, in exempting any person or any GMO from the requirements of the legislation, the Secretary for the Environment must be satisfied that the adverse biosafety effect that may result from the exemption is of an acceptable or manageable level. This amendment serves to more clearly reflect the policy intent in this respect. It is worth noting that an exemption granted by the Secretary for the Environment will be a piece of subsidiary legislation subject to the negative vetting procedure.

Clause 43 is amended in response to some Members' request for clearly reflecting the legislative intent by spelling out that the expert group should consist of members who are public officers and members who are not public officers, and members who are not public officers should be appointed from different sectors, including the farming, biotechnology, environmental protection, academic and trading sectors. Clause 43 is also amended to provide that the Director should refer any question in connection with the granting of exemptions by the Secretary for the Environment to the expert group for advice. This amendment also seeks to better reflect the legislative intent of the provision.

Clause 46 empowers the Secretary for the Environment to make regulations to, among others, provide for the requirements relating to the documents to be furnished by an importer or exporter of a GMO intended for direct consumption as food, feed or processing (FFP). The Bills Committee was concerned about the legality of the provision since a GMO intended for direct consumption as FFP is not a subject of control under the Bill. After taking the Bills Committee's

view into account, we have decided to revise clause 46. Besides, we will also add new clauses 24A, 24B and 33A to the Bill to specify clearly the documents to be furnished for the import and export of GMOs intended for FFP, contained use or release into the environment, and that if an authorized officer reasonably suspects that a GMO is being imported or exported, the officer may require a person who has control of the GMO to produce any document that is related to its import or export for inspection.

Clause 50 is amended in response to the concern expressed by the Bills Committee. As the Bill has no retrospective effect, members of the public should not be required to inform the Director of GMOs which were released or maintained before the commencement date. We have taken on board Members' view and will move an amendment in this regard. Clause 50 as amended provides that a person is only required to inform the Director if he, during the transitional period, maintains the life of a GMO that was in a state of being released into the environment before the commencement date. A person who contravenes this provision is liable to a fine at level 1.

These amendments have received the Bills Committee's support. I implore Members to support these amendments. Thank you, Chairman.

Proposed amendments

Clause 2 (see Annex I)

Clause 3 (see Annex I)

Clause 6 (see Annex I)

Clause 15 (see Annex I)

Clause 20 (see Annex I)

Clause 21 (see Annex I)

Clause 25 (see Annex I)

Clause 26 (see Annex I)

Clause 27 (see Annex I)

Clause 28 (see Annex I)

Clause 29 (see Annex I)

Clause 30 (see Annex I)

Clause 31 (see Annex I)

Clause 32 (see Annex I)

Clause 33 (see Annex I)

Clause 34 (see Annex I)

Clause 35 (see Annex I)

Clause 36 (see Annex I)

Clause 37 (see Annex I)

Clause 38 (see Annex I)

Clause 39 (see Annex I)

Clause 42 (see Annex I)

Clause 43 (see Annex I)

Clause 46 (see Annex I)

Clause 50 (see Annex I)

Clause 51 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 3, 6, 15, 20, 21, 25 to 39, 42, 43, 46, 50 and 51 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 2, 3, 6, 15, 20, 21, 25 to 39, 42, 43, 46, 50 and 51 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New heading before new clause 24A	Part 3A Documentation Requirements For Import and Export of GMOs
New clause 24A	Application of this Part
New clause 24B	Documentation requirements for import and export of GMOs
New clause 33A	Power to require production of documents related to import or export
New clause 38A	Compensation for seizure etc.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move the Second Reading of the new heading and new clauses read out just now. As I have already explained them in my previous speech, I am not going to repeat what I have said, Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new heading before new clause 24A, and new clauses 24A, 24B, 33A and 38A be read the Second time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the new heading and new clauses be read the Second time. 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): New heading before new clause 24A, and new clauses 24A, 24B, 33A and 38A.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Chairman, I move that the new heading and new clauses read out just now be added to the Bill.

Proposed additions

New heading before new clause 24A (see Annex I)

New clause 24A (see Annex I)

New clause 24B (see Annex I)

New clause 33A (see Annex I)

New clause 38A (see Annex I)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new heading before new clause 24A, and new clauses 24A, 24B, 33A and 38A be added to the Bill.

CHAIRMAN (in Cantonese): I now put the question to you as stated. 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): Schedules 1 to 6.

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 Schedules 1 to 6 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

GENETICALLY MODIFIED ORGANISMS (CONTROL OF RELEASE) BILL

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the

Genetically Modified Organisms (Control of Release) Bill

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 Genetically Modified Organisms (Control of Release) Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Genetically Modified Organisms (Control of Release) Bill.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Public Finance Ordinance.

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

PROPOSED RESOLUTION UNDER THE PUBLIC FINANCE ORDINANCE

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The purpose of this motion is to seek funds on account to enable the Government to carry on its services between the start of the financial year on 1 April 2010 and the enforcement of the Appropriation Ordinance 2010. This is a long established and essential procedure. The specific arrangements also follow those of last year.

In response to Members' past comments on the resolution, we have, since last year, made some changes to the arrangements for the resolution. First, we have scheduled this motion to be moved at least two weeks after the announcement of the Budget, in order to allow more time for Members to examine the resolution. Second, in respect of Subhead 689 and Subhead 789 Additional Commitments, we are seeking funds on account only on a need basis. The above arrangements have received the support of Members.

We have determined the funds on account sought under each subhead in accordance with the fourth paragraph of the resolution, by reference to the relevant provisions shown in the 2010-2011 Estimates of Expenditure. Incorporating the requirements at subhead level, the initial amount of funds on account under each head is provided in the form of a footnote to this speech. Prior to the enforcement of the Appropriation Ordinance 2010, the aggregate amount of funds on account is \$58,957,489,000.

Subject to the above aggregate amount not being exceeded, the resolution enables the Financial Secretary to vary the funds on account in respect of any subhead, but these variations must not cause an excess over the amount of provision entered for that subhead in the 2010-2011 Estimates of Expenditure. To increase transparency, the same as last year, we undertake to submit reports to the Finance Committee of this Council in case the Financial Secretary has exercised this authority to meet necessary requirements.

The vote on account will be subsumed upon the enactment and enforcement of the Appropriation Ordinance 2010.

President, I beg to move.

Footnote

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
21 Chief Executive's Office	82,591	16,519
22 Agriculture, Fisheries and Conservation Department	943,104	223,547
25 Architectural Services Department	1,535,891	307,179
24 Audit Commission	121,638	24,328
23 Auxiliary Medical Service	65,004	15,747
82 Buildings Department	867,834	174,628
26 Census and Statistics Department	599,165	119,969
27 Civil Aid Service	78,268	15,812
28 Civil Aviation Department	726,398	145,486
33 Civil Engineering and Development Department	2,132,587	437,574
30 Correctional Services Department	2,845,482	594,809
31 Customs and Excise Department	2,509,384	535,852
37 Department of Health	4,560,090	1,211,638
92 Department of Justice	1,009,882	203,105
39 Drainage Services Department	1,808,389	403,878
42 Electrical and Mechanical Services Department	400,857	185,132
44 Environmental Protection Department	2,248,453	585,853

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
45 Fire Services Department	4,092,855	1,123,529
49 Food and Environmental Hygiene Department.....	4,543,431	1,023,031
46 General Expenses of the Civil Service	2,792,747	712,076
166 Government Flying Service.....	553,530	404,383
48 Government Laboratory	355,005	118,549
59 Government Logistics Department.....	491,806	199,158
51 Government Property Agency	1,770,012	369,165
143 Government Secretariat: Civil Service Bureau	410,245	82,247
152 Government Secretariat: Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch).....	1,259,804	361,304
55 Government Secretariat: Commerce and Economic Development Bureau (Communications and Technology Branch).....	291,421	196,193
144 Government Secretariat: Constitutional and Mainland Affairs Bureau.....	569,686	244,170
138 Government Secretariat: Development Bureau (Planning and Lands Branch)	1,179,116	1,075,824
159 Government Secretariat: Development Bureau (Works Branch)	259,202	53,113
156 Government Secretariat: Education Bureau	39,220,055	9,060,139
137 Government Secretariat: Environment Bureau	70,641	22,158
148 Government Secretariat: Financial Services and the Treasury Bureau (Financial Services Branch)	160,788	32,398
147 Government Secretariat: Financial Services and the Treasury Bureau (The Treasury Branch).....	685,754	531,927
139 Government Secretariat: Food and Health Bureau (Food Branch).....	70,810	14,162

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
140 Government Secretariat: Food and Health Bureau (Health Branch).....	34,584,171	7,673,648
53 Government Secretariat: Home Affairs Bureau.....	1,348,265	311,161
155 Government Secretariat: Innovation and Technology Commission.....	466,126	140,650
141 Government Secretariat: Labour and Welfare Bureau.....	537,939	149,520
47 Government Secretariat: Office of the Government Chief Information Officer	580,499	116,100
142 Government Secretariat: Offices of the Chief Secretary for Administration and the Financial Secretary	524,735	107,095
96 Government Secretariat: Overseas Economic and Trade Offices	303,747	68,870
151 Government Secretariat: Security Bureau	245,479	49,096
158 Government Secretariat: Transport and Housing Bureau (Transport Branch)	134,358	30,382
60 Highways Department.....	2,194,355	438,871
63 Home Affairs Department.....	1,639,685	379,105
168 Hong Kong Observatory	215,940	43,660
122 Hong Kong Police Force.....	13,042,384	2,809,954
62 Housing Department	128,712	25,743
70 Immigration Department.....	3,039,401	614,740
72 Independent Commission Against Corruption	814,174	163,587
121 Independent Police Complaints Council.....	27,177	5,716
74 Information Services Department	373,769	74,754
76 Inland Revenue Department.....	1,273,893	254,779
78 Intellectual Property Department.....	96,086	19,218
79 Invest Hong Kong	105,776	41,825
174 Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service	19,975	3,995
80 Judiciary	1,115,639	245,323
90 Labour Department	1,166,267	421,758

<i>Head of Expenditure</i>	<i>Amount shown in the Estimates \$'000</i>	<i>Initial amount of funds on account \$'000</i>
91 Lands Department.....	1,793,355	360,519
94 Legal Aid Department	752,971	150,595
112 Legislative Council Commission	414,367	85,515
95 Leisure and Cultural Services Department.....	5,454,665	1,220,809
100 Marine Department.....	964,272	228,568
106 Miscellaneous Services.....	17,600,787	1,182,472*
114 Office of The Ombudsman.....	88,487	17,722
116 Official Receiver's Office	138,577	27,838
120 Pensions	18,587,447	3,735,717
118 Planning Department	475,571	109,871
136 Public Service Commission.....	16,474	3,295
160 Radio Television Hong Kong.....	497,227	133,409
162 Rating and Valuation Department.....	403,603	81,681
163 Registration and Electoral Office	247,231	49,447
169 Secretariat, Commissioner on Interception of Communications and Surveillance.....	13,932	2,787
170 Social Welfare Department	39,645,722	10,762,128
173 Student Financial Assistance Agency	3,559,297	1,123,616
180 Television and Entertainment Licensing Authority	78,954	15,890
181 Trade and Industry Department.....	993,808	774,444
186 Transport Department.....	1,269,196	363,432
188 Treasury	339,140	69,313
190 University Grants Committee.....	10,982,174	2,196,435
194 Water Supplies Department.....	5,944,267	1,200,854
	<u>255,552,001</u>	<u>58,910,489</u>
184 Transfers to Funds	30,047,000	47,000
Total.....	<u>285,599,001</u>	<u>58,957,489</u>

Note:

* The initial amount of funds on account under Head 106 includes \$1,000,000,000 under Subhead 789 Additional commitments mainly for contingency.

The Secretary for Financial Services and the Treasury moved the following motion:

"RESOLVE that –

1. Authority is hereby given for a sum not exceeding \$58,957,489,000 to be charged on the general revenue for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2010.
2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure as shown in the Estimates of Expenditure 2010-11 laid before the Legislative Council on 24 February 2010 or, if the Estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, as shown in the Estimates as so changed.
3. Expenditure in respect of any head of expenditure must not exceed the aggregate of the amounts authorized by paragraph 4 to be expended in respect of the subheads in that head of expenditure.
4. Expenditure in respect of each subhead in a head of expenditure must not exceed –
 - (a) for an Operating Account Recurrent subhead of expenditure, an amount equivalent to –
 - (i) except if the subhead is listed in Schedule 1 to this Resolution, 20% of the provision shown in the Estimates in respect of that subhead;
 - (ii) if the subhead is listed in Schedule 1 to this Resolution, the percentage of the provision shown in the Estimates in respect of that subhead that is specified in that Schedule in relation to that subhead; and

(b) for an Operating Account Non-Recurrent subhead of expenditure or a Capital Account subhead of expenditure, an amount equivalent to –

(i) except if the subhead is listed in Schedule 2 to this Resolution, 100% of the provision shown in the Estimates in respect of that subhead;

(ii) if the subhead is listed in Schedule 2 to this Resolution, the amount that is specified in that Schedule in relation to that subhead,

or such other amount, not exceeding an amount equivalent to 100% of the provision shown in the Estimates in respect of that subhead, as may in any case be approved by the Financial Secretary.

SCHEDULE 1

[para. 4(a)]

	Head of Expenditure		Subhead	Percentage of provision shown in Estimates
46	General Expenses of the Civil Service	013	Personal allowances	40
59	Government Logistics Department	225	Traffic Accident Victims Assistance Scheme – levies	100
90	Labour Department	280	Contribution to the Occupational Safety and Health Council	30
		295	Contribution to the Occupational Deafness Compensation Board	30
106	Miscellaneous Services	284	Compensation	40
120	Pensions	026	Employees' compensation, injury, incapacity and death related payments and expenses	50

	Head of Expenditure		Subhead	Percentage of provision shown in Estimates
152	Government Secretariat: Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch)	000	Operational expenses	25
155	Government Secretariat: Innovation and Technology Commission	000	Operational expenses	25
170	Social Welfare Department	157	Assistance for patients and their families	100
		176	Criminal and law enforcement injuries compensation	25
		177	Emergency relief	100
		179	Comprehensive social security assistance scheme	30
		180	Social security allowance scheme	30

SCHEDULE 2

[para. 4(b)]

	Head of Expenditure		Subhead	Amount \$
106	Miscellaneous Services	689	Additional commitments	4,085,000
		789	Additional commitments	1,000,000,000
184	Transfers to Funds	984	Payment to the Capital Works Reserve Fund	0"

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

DR PRISCILLA LEUNG (in Cantonese): President, I have a question about Head 163 under "Head of Expenditure", under which it is stated that the amount shown in the Estimates and the initial amount of funds on account are some \$247 million and some \$49 million respectively. May I ask the Secretary whether or not all the expenses on the by-elections to be held on 16 May have been subsumed in these two amounts? If we pass this vote on account today, does it mean that the expenses on the by-elections amounting to 20% of the relevant expenditure are already included in it?

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

MR WONG KWOK-HING (in Cantonese): President, regarding the resolution proposed by the Government under the Public Finance Ordinance, since it includes part of the expenses on the by-elections for the five geographical constituencies (\$159 million for this purpose), I made a request some time ago for the Government to remove this item for separate discussions, but it was rejected by it. For this reason, I have proposed this amendment.

Today, the Government has proposed the resolution according to normal practice to seek funds on account. Although I support this vote on account, it does not mean that I agree with the practice of bundling up the expenses on the by-elections for the five geographical constituencies and the Budget together. I still hope that in future, the Administration will propose to remove this item for separate discussions and voting in this Council.

Given the nature of the Government's application for funds on account, which is made according to normal practice, I agree with this resolution, but it does not mean that I agree with the wastage of public money amounting to \$159 million on conducting the by-elections for the five geographical constituencies.

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

(No Member indicated a wish to speak)

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the aggregate amount of funds on account in the resolution is calculated by earmarking a certain percentage or amount of the full-year provisions under each subhead in the 2010-2011 Estimates of Expenditure as the funds on account. For this reason, we have followed the established practice. The vote on account includes 20% of the recurrent expenditure of the Registration and Electoral Office (REO), that is, some \$49 million, so that the REO can meet the expenditure to be incurred before the passage of the Budget, including a small amount of expenses on the preparatory work for the by-elections for the five geographical constituencies of the Legislative Council. Let me say it once again. Making arrangements for by-elections is a statutory responsibility of the Government. It is also a conventional practice to subsume the funds required in the Estimates of Expenditure and account a small portion of it to the vote on account.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury 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 the motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Advocating a low carbon life.

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

PRESIDENT (in Cantonese): I now call upon Mr CHAN Hak-kan to speak and move his motion.

ADVOCATING A LOW CARBON LIFE

MR CHAN HAK-KAN (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, in these days, we have been troubled by our clothings. Since the weather has been changing from one extreme to the other, both beauty-conscious ladies and slovenly men are perplexed about their clothings. I recalled that on the first day of the Lunar New Year, the temperature was only 14°C to 15°C, but it suddenly dropped to 8°C to 9°C. We thus had to take out our down-jackets, overcoats and scarves kept at the bottom of our chests. But unexpectedly, the temperature went up gradually a few days later. Just two days ago, we again had to take out our summer clothes from our chests, for the temperature had risen to 25°C to 26°C. But today, before we came to the Legislative Council, we could not but take out the overcoats from our chests once again, for the temperature is only 10°C today.

In the short span of just a few weeks, the people of Hong Kong have experienced all the four seasons, all because of the dramatic climate changes.

Mankind should take the blame, for we have been emitting greenhouse gases for many years in the past.

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

To alleviate the problem of a warming climate, an important approach is to reduce the emission of greenhouse gases, particularly the emission of carbon dioxide (CO₂).

Hence, I have proposed the motion today to arouse the concern of the Government and the public about this topic.

We see that the Government has made some efforts in promoting a low carbon life recently, but how effective are those measures? To prepare for this motion, I looked up some information and found that the CO₂ emission in Hong Kong had shown an upward trend since 2000. Even if the emission is calculated on a per capita basis, we have seen only increases but not decreases. However, we notice that the rate of increase has actually slowed down in the past couple of years. In view of the above trend, it is evident that the Government has to step up its efforts in this regard and work really hard to promote carbon emission reduction and encourage the public to lead a low carbon life.

Talking about a low carbon life, one of the crucial links actually is the establishment of a mechanism that enables the public to quantify their own carbon emission. If specific figures are available for reference, they will know whether they are living a low carbon life or emitting a high level of CO₂. Otherwise, all these will be mere empty talk. In this connection, we can see that the Governments on both sides of the Strait are doing much more than Hong Kong.

Deputy President, I have a model on my desk and I would like to introduce it to Honourable Members. The name of this polar bear model is "Ah Kwong", which is designed by the Bureau of Energy under the Ministry of Economic Affairs of Taiwan. It is not an ordinary toy, for it carries the mission of educating the public to lead a low carbon life. It even has its own Facebook account, teaching the public how to save electricity and reduce carbon emission. I am also one of its fans on the Internet. On this dedicated webpage of Taiwan,

some specific emission reduction measures are introduced to the public in straightforward terms, for their ready comprehension.

On the Mainland, the Ministry of Science and Technology has published the Handbook on National Energy Conservation and Emission Reduction. Many specific examples are proposed in the Handbook. For instance, by buying one less piece of clothing, one can reduce carbon emission by 6.4 kg. And by reducing the use of disposable chopsticks by 10%, carbon emission can be reduced by 100 000 tons per annum.

Though the information provided by the Mainland and Taiwan can serve as reference for Hong Kong, we have to understand that the living environment and habits of the people of Hong Kong are different from that of the people on both sides of the Strait. Instead of using their figures as reference, why do we not formulate a mechanism for calculating carbon emission according to our actual situation? I think we can work on the establishment of such a mechanism on two fronts to help the public know how much CO₂ they emit every day.

First, the carbon emission figures on energy consumption should be shown on electricity and gas bills to provide a clear picture to consumers. At the same time, the CO₂ emissions of the previous month and the current month should also be listed for comparison.

Actually, during the debate on the motion "Formulating a roadmap for a low-carbon economy" held in this Council in November 2008, I already put forth this proposal. At that time, the Secretary gave a proactive response, but no official and concrete reply has been provided so far. I hope the Secretary will give an account of the progress in this respect later.

The second issue that should be accorded priority is the presentation of carbon emission information for high-energy-consumption products. We know that electrical appliances now carry energy efficiency labels, will the authorities consider including the carbon emission information on the labels at the same time? In the case of vehicles, will the authorities require vehicle manufacturers to provide the carbon emission information of different models for consumers' reference when the vehicles are offered on the market? I believe this arrangement will not pose a great difficulty, for vehicles have to undergo various tests before they come off the assembly line, and vehicle manufacturers only need

to provide additional data to meet the requirement of including carbon emission information. I know that in certain European and American countries, a mandatory requirement has been imposed for the disclosure of carbon emission data of vehicles.

Deputy President, when we know the carbon emission condition of our daily lives, we can then consider how best to reduce our carbon emission.

I know that we have to change our habits if we are to lead a low carbon life. However, if the Government's policies can offer incentives for the purpose of promotion, the public will have greater motivation to change their habits of living. Hence, I have made a number of proposals in my motion for the Government's reference, and one of them is the "carbon emission reduction bonus point scheme".

During the consultation in respect of the budget, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) already proposed this scheme to the Financial Secretary, hoping to encourage the public to step up their efforts in energy saving and emission reduction. According to our proposal, the public can redeem bonus points upon the purchase of energy-saving products, whereas the bonus points are set according to the energy saving efficiency of the products, and products with higher energy saving efficiency will be accorded more points. The authorities may consider expanding the coverage of the scheme in the light of the actual situation. For instance, bonus points may be awarded to the public who recycle used electrical appliance through specified channels, or who manage to reduce their electricity consumption constantly.

We propose that the bonus point be used to pay fees of government services, such as rates and water tariffs, or rental of recreational facilities of the Leisure and Cultural Service Department, at a rate of one bonus point to \$1. In this way, not only will no extra expense be incurred to the Government, but the public will be encouraged to participate more in cultural and recreational activities. The arrangement can achieve several goals at one time.

Members may say that CHAN Hak-kan's idea is a castle in the air. But I would like to tell Members that a similar scheme has been introduced in South Korea since 2008. The bonus points saved by the Koreans can be used for paying government fees as well as public transport fares. Japan launched a similar plan last year, which has been well received by the public. The Japanese

Government then extended the duration of the scheme and beefed up the subsidy. It is worthwhile for Hong Kong to draw reference from these examples of success.

Deputy President, in addition to energy consumption, the carbon emission of the transport industry is the second major source of emission. Hence, the development of green transport is also an important link in promoting a low carbon life.

In the Budget last year, the Financial Secretary announced that he would lead a steering committee to study the wider use of electric vehicles in Hong Kong. During the past year, certain vehicle manufacturers started to eye on the electric vehicle market in Hong Kong, while The Link Management and the two power companies set up charging stations at various venues in the territory. It is evident that the Government is geared in the right direction on this front.

However, I think the next step we need to take is the introduction of complementary policies. Apart from the provision of charging facilities in all parts of the territory and the exemption of the licence fees of existing electric vehicles, does the Government have any new initiatives?

I may perhaps make one simple suggestion as an example, say the Government may allow electric vehicles to use the bus only lanes during peak hours. It may as well offer special concession on tunnel tolls for these vehicles and allow them to use special access roads. These arrangements will not only offer convenience to electric vehicle owners, but also encourage more people to use electric vehicles.

Deputy President, another consideration or option is the introduction of cleaner energy. Last year, the Legislative Council held a discussion on the introduction of the use of biodiesel. But so far, this is just empty talk, for we have seen no oil companies putting forward any plans for introducing biodiesel to the Hong Kong market.

The DAB thinks that to promote the extensive use of biodiesel in Hong Kong, the Government may take the lead by requiring the Government Vehicle Fleet to switch to biodiesel. Second, the authorities may include in the terms for the construction or renewal of petrol filling stations to require oil companies to supply biodiesel, offering one more choice to drivers.

Surely, insofar as road transport is concerned, public transport accounts for a certain percentage, and specific measures should be introduced to reduce the carbon emission of the transport industry. The Financial Secretary proposed in this year's Budget the establishment of the Pilot Green Transport Fund for application by the transport industry. The DAB supports the idea, but I think the positioning of the Fund is somehow awkward.

Let me use a bus company as an example to illustrate the point. If the bus company switches to more environmentally-friendly new bus models, which are sold at \$3 million each, the bus company can only purchase 100 new buses for replacement with the Fund under the present calculating method. But Members must note that the Fund is set up not solely for bus companies, for minibuses and taxis may also apply for subsidies. How much subsidies will they actually receive? The amount may be minimal compared with the enormous cost involved.

Deputy President, I am not requesting the Government to provide full subsidy to bus companies through the Fund, I am only worried about the Fund not meeting objective expected by the Financial Secretary. Secretary Edward YAU said in a radio programme the other day that the Fund was only meant as an incentive to encourage more research and development organizations and vehicle manufacturers to invest in Hong Kong and co-operate with public transport organizations in developing green technologies. But is it feasible? We have to wait and see.

Deputy President, when it comes to green transport, I must sing praises of residents in the New Territories, for they have long since developed this concept.

We notice that many residents in the New Territories will ride to the MTR stations on bicycles and change to the MTR to travel to the urban districts every day, or they will just go to schools, go to work and go to the market on bicycles. Bicycles can serve as a green means of complementary transport, for cycling is not only friendly to the environment but also good for our health. It is thus worthy of promotion.

However, the Government only considers cycling as some kind of a leisure sport, not a means of transport. As such, it has not considered developing a comprehensive cycling network in town planning, particularly in the New Territories. Cycling tracks are not well-linked but disconnected, and the design

is full of faults. At certain public transport interchanges, the shortage of parking spaces for bicycles is serious. All these problems have discouraged the public from using bicycles, a green means of transport.

I know that the authorities have reviewed the planning to make better use of cycling tracks, and I hope the Government will pay attention to the problems raised by me earlier. For only by doing so will it be able to take into account the actual situation and complete the projects concerned, so that the public may commute on bicycles, which generate zero emission, and support the promotion of a low carbon life.

With these remarks, Deputy President, I beg to move.

Mr CHAN Hak-kan moved the following motion: (Translation)

"That the governments of various places are actively motivating their people and enterprises to lead a low carbon life so as to address global climate change; in this connection, this Council urges the SAR Government to lead Hong Kong to become a low carbon city through comprehensive policies and setting work targets and timetables, and the relevant measures should include:

- (a) to study the establishment of an effective mechanism to enable people to calculate carbon emissions in daily life on their own so as to understand their carbon footprints;
- (b) to study the introduction of a "carbon emission reduction bonus point scheme", whereby the purchase of energy-saving products and reduction in electricity consumption can be exchanged into bonus points which can be used to pay fees of government services and facilities, so as to encourage people to save energy;
- (c) to study further expansion of the coverage of the "Mandatory Energy Efficiency Labelling Scheme";
- (d) to actively promote the "Water Efficiency Labelling Scheme", review its effectiveness and study the feasibility of its mandatory implementation;

- (e) to formulate effective policies to enhance source separation of waste, facilitate food waste recycling and reuse, and optimize the use of landfill gas;
- (f) to expand the scale of the Government's green product procurement and formulate a labelling system in this respect, so as to facilitate the development of a market for green products;
- (g) to promote the development of local organic agriculture and fisheries and improve the labelling system for organic products, so that people can purchase agriculture and fishery products with low carbon footprints;
- (h) to encourage enterprises to make efforts to reduce carbon emissions, including offering assistance in conducting carbon audits, upgrading emission reduction technology, and obtaining accredited certification, etc;
- (i) to strengthen greening efforts to achieve the objectives of improving cityscape and reducing heat island effects;
- (j) to actively develop green transportation, including electric vehicles, and expand cycling tracks to reduce carbon emissions arising from transport needs; and
- (k) to step up publicity and education to encourage people to live a low carbon life."

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

Three Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the three amendments.

I will call upon Ms Audrey EU to speak first, to be followed by Mr KAM Nai-wai and Dr Priscilla LEUNG; but no amendments are to be moved at this stage.

MS AUDREY EU (in Cantonese): Deputy President, in November 2008, I proposed a motion urging the Government to submit a timetable and a roadmap for low carbon economy and step up its efforts in this respect. When I proposed the motion, many people asked what a low carbon life was. As Mr CHAN Hak-kan has proposed a motion debate which is also related to low carbon emission today, I hope Members will no longer consider low carbon emission an unfamiliar topic. Actually, the coverage of this topic is very wide, and Members may put forth suggestions that can support a low carbon life on various fronts. As mentioned by Mr CHAN Hak-kan just now, we experienced in the first month of this Lunar New Year the climates of the four seasons. This speaks volumes about the alarming climate change and the extreme urgency of the problem.

Deputy President, given the time constraint and the vast coverage of the topic, it is impossible to cover every aspect of it. Thus, I can only highlight the several concerns espoused in my amendment. Most of the proposals included in the original motion and the amendments were indeed mentioned in the motion moved by me in 2008 on the timetable and the roadmap for low carbon economy. Therefore, I will support all the amendments and the original motion later when they are put to the vote.

I would like to highlight several points today. It is undeniable that, Deputy President, any discussion on low carbon emission will definitely involve the issue of costs. Take power generation as an example. To induce power companies to develop renewable energy, the Government offers monetary incentives under the new Schemes of Control Agreement by setting the rate of return for developing renewable energy at 11% and that for conventional power generation using fossil fuels at 9.99%. We can see that when it comes to carbon emission reduction and the use of cleaner energy, it will definitely involve expensive electricity tariff. Hence, I would like to discuss in particular the assistance to be provided to the disadvantaged.

I will also talk about the ways to ameliorate roadside air pollution, and the replacement of old vehicles is naturally an option. Deputy President, you did not attend the meeting of the Subcommittee on Improving Air Quality held today. Had you been there, you would have a lot to say. For Under Secretary Kitty POON pointed out that the subsidy scheme involving \$3.2 billion — I believe the Deputy President should remember that — would expire by the end of this month, and she asked Members to consider increasing the licence fees, particularly that of old vehicles causing serious pollution, from 1 April onwards.

Actually, many concern groups and green activists attending the meeting today support that the Government should not only wield the stick but should also offer carrots. In other words, it should offer some subsidies. This is the point I would like to highlight in particular.

Deputy President, to promote electric vehicles I wonder if you have noted a news report today stating that an electric car manufactured by Mitsubishi costs as much as \$500,000. Members can see that it is several hundred thousands more expensive than conventional diesel vehicles.

Mr CHAN Hak-kan said in his speech just now that the authorities would provide \$3,000,000 subsidy for the replacement of buses. But as far as I understand it, that \$3,000,000 is not for subsidizing the replacement of buses but for research and pilot schemes. It will in no way be used for subsidizing the replacement of buses.

The Legislative Council has actually reached a consensus. To promote a low carbon life and cleaner air, the Government must subsidize the replacement of old buses, and expeditiously. It is practically impossible to request bus companies to replace their fleets of their own accord, lest they will definitely increase bus fares. Hence, in promoting low carbon economy, the Government is obliged to consider in particular the provision of assistance to the disadvantaged or the trade to enable them to make respective efforts. They too want to protect the environment, and they just hope that some assistance can be provided to them.

Deputy President, I have brought along a prop, an LED light bulb. Deputy President, we are told that this LED light bulb has a service life of 30 000 to 50 000 hours, which can save more than \$10,000 in electricity tariff a year. All of us are happy to hear that for we can save a lot. More often than not, this is the essence of low carbon economy. However, Deputy President, do you know how much this LED light bulb costs? I have an invoice here, and its selling price is \$118. Surely, it is claimed that the luminosity of the LED light bulb, which is only 5 W, equals to an 11 W compact fluorescent lamp (CFL) or a 50 W incandescent light bulb, so it is a good device. But on second thought, its selling price is as high as \$118, and for users who only have conventional light bulb receptacles, they will have to buy new ones compatible with the LED light bulb before they can use LED light bulbs. Deputy President, the user has to spend another \$10 for the bulb receptacle.

Though the authorities tell us that low carbon economy is a good practice, and we should all work on it, we have to think about it. When the authorities request the grassroots to shift to the use of LED light bulbs, but only provide meagre subsidies, I believe it will be extremely difficult. I wonder if the Secretary will inform Members later on of the progress of the voucher scheme on CFL, and whether we can switch to LED light bulbs. So, Deputy President, in comparison with incandescent light bulbs selling at \$10 for two and CFL of \$20-odd each, Members can imagine how difficult it will be to mobilize the grassroots to support and lead a low carbon life.

Precisely for this reason, Deputy President, I point out particularly in my amendment the need to enhance the support for the grassroots and the disadvantaged to reduce the costs borne by them in the transformation of society. The so-called "best available technology" is surely an extremely important factor. To practise environmental protection, we have to be geared in the direction of technological development. We often hear the Government mention environmental industries, which refers to high-technology industries. Deputy President, I agree with this approach. But in actuality, enormous support must be offered in promoting this policy, so that it can take root. Take the switch to LED light bulbs as an example. In the case of public rental housing, will the authorities replace the existing light bulbs with LED light bulbs for tenants on Comprehensive Social Security Assistance and public housing estate tenants? Deputy President, the Government must introduce proper matching measures for the policy before implementing it in the community.

Mr CHAN Hak-kan mentioned the cycling tracks earlier, Deputy President, and I very much agree with his views. Disconnected cycling tracks are not a problem unique to the New Territories, for I think the problem also exists on Hong Kong Island. Actually, there are many scenic spots along the coastline of Hong Kong Island, and the development of cycling tracks will help to promote cycling as an alternative means of transport. I surely understand that it is difficult to go to work on a bicycle on Hong Kong Island, but people may ride a bicycle for a certain section of their journey and change to other means of transport. Besides, cycling is a way to train our body. Many places along the coast of Hong Kong can be developed into desirable cycling tracks, and examples abound overseas. However, Deputy President, the coastal areas of the Central and Western District and the Wan Chai Bypass now under discussion have all been used for the construction of highways and surrounded by kerbs. What a waste. Hence, I support the development of cycling tracks.

My amendment also mentions the installation of escalators. Deputy President, when I learnt that the Government had proposed to install escalators on Ladder Street, I was startled. For the Ladder Street is a declared monument, forming a cluster of monuments together with the Man Mo Temple and the Chinese Young Men's Christian Association of Hong Kong. I hope the Government will not install escalators on Ladder Street. Actually, many District Councils have put forth similar proposals to the Legislative Council, the Central and Western District Council in particular. The latter has given consideration to installing escalators at Peel Street, Shing Wong Street, Gough Street, Hollywood Terrace, the former police quarters at Hollywood Road and Caine Road. I earnestly hope that the Government will consider these issues, but it should not consider installing escalators at monuments like Ladder Street. I wish it would not end up doing a disservice despite all the good intentions.

Moreover, Deputy President, insofar as the development of low carbon economy is concerned, I hope consideration can be given to some economic aspects. For instance, in addition to audits of low carbon emission or environmental protection, can consideration be given to introducing trading in carbon emission rights? Earlier on, I heard that the Hong Kong Exchanges and Clearing Limited would consider introducing similar products, but the issue was left unsettled. I wonder if the Environment Bureau should take charge of this, or should negotiations be held among relevant government departments related to economic affairs, so that Hong Kong will be developed into a centre for carbon emission trading. We may promote the comprehensive development of carbon emission grading and a carbon emission certification system, and strive for the establishment of certification organizations recognized by the United Nations in Hong Kong, which will take Hong Kong one step forward in achieving a Clean Development Mechanism. This will support the Government's policy on developing green industries and the inspection and certification industry.

Deputy President, there are many possibilities which the Government may explore, but it is most imperative that more consultations will be conducted and completed as soon as possible. Thank you, Deputy President.

MR KAM NAI-WAI (in Cantonese): Deputy President, Mr CHAN Hak-kan has proposed a motion today to initiate a discussion on a low carbon life but, as pointed out by Ms Audrey EU earlier, many people may not know clearly the meaning of low carbon emission. Actually, carbon refers to carbon dioxide,

which is a kind of greenhouse gases. People may not know much about it — Ms Audrey EU said it is not about burning charcoal. I saw Mr CHAN Hak-kan put a polar bear signboard on his desk earlier. Sometime ago, there was a programme titled "Investigating the Arctic Ocean" on the television. Members would have learnt about the actual climate change if they had watched that programme. I believe the recent experience of the people of Hong Kong of climate change is indeed shared by many nations around the world. Members may have noticed the changes in different places. Some places have been struck by cold spells, turned into a world of snow and ice, while others have been hit by abrupt heat waves. If the situation continues, certain countries, such as Maldives, will disappear as a result of the rising water level. The situation is most critical.

Recently, I have read an article, in which it is pointed out that the carbon emission of Hong Kong people in their daily life amounts to nearly 18 kg per day on average, which is 50% higher than the international standard of emission. I do not know what standard the Government will adopt. The Government always talks about Hong Kong being a cosmopolitan city, a world city in Asia, but as a cosmopolitan city, what commitment should we make in leading a green life and a low carbon life? How much have we achieved? Concerning the motion today, several Members have put forth many different proposals. Mr CHAN Hak-kan, in particular, has mentioned the establishment of an effective mechanism to calculate carbon emission, so that we can know the saving or carbon emission reduction we can achieve in using certain facilities. The establishment of such a mechanism is definitely important, for it may raise the awareness of the public of the issue. Members have mentioned several examples in our daily life earlier, such as switching off the lights when we leave the rooms, reducing the use of disposable utensils, using reusable and recycled products more often, or introducing mandatory energy efficiency labels, and so on. We often mention these measures, but how far have the people of Hong Kong put them into practice? How far can the Government practise what it preaches?

Actually, Members should pay attention to the resource invested by the Government in implementing the various measures. The two examples cited by Ms Audrey EU just now are more obvious cases. The first example is CFLs. The Government proposes offering a subsidy to the public for the purchase of CFLs, but it turns out that it is tied to an increase in electricity tariff. This is how the Government formulates its policy. Originally, we also intended to propose the reduced use of incandescent light bulbs and the extensive use of

CFLs, which is a desirable thing *per se*. But whenever the Government introduces environmental protection measures, it gives the public an impression that it is doing a disservice despite all the good intentions.

The situation this morning is a case in point. This morning, when we discussed the issue of commercial diesel vehicles, the Government adopted the same practice. Initially, the Government set aside \$3.2 billion to provide a subsidy to owners of Pre-Euro and Euro I diesel vehicles for the replacement of their vehicles, but only some \$500 million has been granted to owners, and more than 70% of the owners have not replaced their vehicles as per the request of the Government. The Government then said that it would increase the licence fees of such vehicles from 1 April onwards. When the Government set aside the \$3.2 billion subsidy, had it considered the overall complementary measures? The Government should make known to the public that the Government would only provide the subsidy for two years and an increase in licence fees would be introduced after that. Had the Government dealt with the issue in a holistic manner, it would not have to face the present situation. Indeed, certain owners chose not to replace their vehicles on financial grounds, but the Government suddenly said that it would increase the licence fees. This has caused an outcry in society at large. The Government's approach is terribly poor. This is particularly so with the introduction of environmental protection policies, for its approach is extremely disappointing. How great is the Government's commitment to this?

Some colleagues talked about the issue of electric vehicles mentioned in the original motion and the installation of escalators in an amendment. As we all know, power plants are one major source of carbon dioxide (CO₂) emissions. Apart from roadside pollution, existing power plants in Hong Kong are the major source of CO₂ emission, which is affecting the air quality. Sometime ago, I asked a question on the use of electric vehicles at a meeting of the Legislative Council: Since electric vehicles are driven by electricity, and power plants emit a high level of CO₂ emissions, how should the issue be dealt with? The Government said in its reply that the actual impact on roadside air quality and pedestrians caused by the use of electric vehicles was far less severe than the exhaust emission produced by ordinary vehicles on roads. In other words, the Government focuses mainly on roadside air quality, but attaches no specific importance to the problem caused by power plants. I consider this disappointing.

Concerning the request for power plants to use cleaner energy instead of coal in electricity generation, we will put forth the questions in this respect later. On the development of electricity generation by wind power, the two power companies are eager to participate and they both claim they will develop wind power. Do Members know the cost of building a wind turbine at sea? Representatives from the power companies told us that the construction cost of a wind turbine would amount to \$100 million. How will this expense be met? By that time, the electricity tariff will probably be increased, and the public will oppose it. What commitment has the Government made? These examples show that in the promotion of a low carbon life generally I hope the Secretary will explain later on the commitment made by the Government. This is very important. If the Government merely places all the responsibility on the public The incident of CFLs is a case in point. The Government offers a subsidy to the public for the purchase of CFLs, but the expense so incurred is met by an increase in electricity tariff. It gives the public an impression that the Government is only engaging in empty talks without bearing its share of responsibility.

Moreover, I propose in my amendment the provision of subsidies to franchised bus companies for the replacement of their highly-polluting old-model vehicles. If the Government does not provide subsidies to the bus companies, they will increase bus fares, and the public will oppose the proposal then. I would like to stress that the Democratic Party does not mean to request the Government to bear all the responsibilities, nor meet all the expenses, but the Government should at least make known to the public its commitment. For instance, subsidies provided to bus companies need not be restricted to the realignment of bus routes. The Government may actually provide incentives through transport policies, say extending the franchises of bus companies, so that they can spread out their investment over a longer period. I think the Government can achieve this policy-wise. Regarding the subsidies for bus companies in the replacement of old buses, will the Government share part of the fare increase that may be imposed by bus companies, say part of the \$1 increase? The Government should let the public see its commitment.

I will now come back to the several proposals put forth in my amendment today, including enhancing the development of footbridges and subway networks to encourage people to travel more on foot. Ms Audrey EU raised the issue of Ladder Street earlier. We should encourage people to use stairs more often.

We also encourage Members to use stairs instead of lifts in the Legislative Council Building. But the Government now proposes to install escalators at Ladder Street. It really baffles me. I wonder how the Government conducted the consultation. It said it had consulted the District Council. But I, being a Member of the Central and Western District Council, have never heard of Members of the District Council mentioning this arrangement for Ladder Street. It is again fabrication by the Government.

Moreover, insofar as the air quality guidelines are concerned, I hope that, upon the completion of the consultation, the Government will tell the public expeditiously how the guidelines will be amended. Will the guidelines adopted by the World Health Organization be used as the benchmark for drafting the amendments? Unequivocal legislation should be put in place to give the public a clear idea of the relevant benchmarks, as well as the determination of the Government in improving air quality. Actually, air quality has a very important bearing on a low carbon life.

Besides, I hope that the Government will pay attention to the last item in my amendment, which is a proposal related to CFLs. Recently, I have replaced the lights in my home with CFLs. The cost is expensive, for the price of certain CFLs is nearly 10 times that of incandescent light bulbs. The Government should provide direct subsidies to the public in order to change their habits of living. I hope the Government will step up its efforts and make a greater commitment to this. I hope the Secretary will respond to this later.

Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, last week, several newspapers published a moving but sad photo: a polar bear cub snuggled up against his mother on an ice floe. The pair became stranded after climbing onto the chunk of ice during an expedition for food, and the ice floe melted rapidly and drifted farther and farther away from the shore.

The media of the United Kingdom gave the following description of the state of the pair: "No one knows whether the mother polar bear and her cub can eventually survive", "it is good and wishful thinking that under the influence of global warming, polar bears can only fend for themselves helplessly in the world

of ice". The mother polar bear and her cub may luckily survive the predicament, but how about the humankind. In the face of global warming, rising water levels and temperatures, and frequent strikes by natural disasters, will the humankind be left to fend for themselves too? Will the Earth survive this calamity?

The day following the publication of the article on the polar bears, one of the free newspapers in Hong Kong published a comic titled "you will come to this same pass", and the image of the mother polar bear and her cub was replaced by that of human beings. A mere comparison of the two pictures will remind us of the need to give serious thoughts to our present situation. I hope we will not end up sighing wearily because of the low carbon policy.

Mr CHAN Hak-kan has proposed this motion today to urge the SAR Government to keep up with the pace of the governments of various places in the world to actively motivate the public and enterprises to lead a low carbon life. In view of the efforts made by the SAR Government in transforming Hong Kong into a "livable city" in the past, many people cannot help heaving a sigh of disappointment when they hear the issue of low carbon emission.

Deputy President, in May last year, in this very same Chamber, a debate was held on the motion "Promoting green economy". I repeatedly emphasized that I hoped the Government would allocate funds to support and promote green procurement. It should assume a leading role in promoting green procurement and green consumption by enterprises.

During the consultation on the previous Budget, I too proposed to the Financial Secretary that the Government should provide subsidies to departments vigorously enforcing green procurement, and provide an extra 10% of resource annually to these departments. Moreover, the Government should provide tax exemption and concession to attract private enterprises, particularly small and medium enterprises, to implement a green procurement policy. Many countries overseas have already adopted this policy which includes encouraging the use of renewable materials and recycled paper and reducing the power-on time of computers and air-conditioning. The objective of the policy is to establish a platform for co-operation among the government, the business sector and the community.

Members often talk about collusion between the Government and business, but the two can indeed work on a united front, particularly in the environment issues. I absolutely agree that the practice will create more business opportunities.

The formulation of a reliable and independent green labelling scheme well-received by the public is vitally significant. Deputy President, green labelling is the most effective means for effective promotion of green procurement. I have to declare my interest here, for I have been the Chairperson of the Green Council for 10 years. The Green Council focuses mainly on the promotion of the Hong Kong Green Label Scheme and the certification programme for green products, which cover electronic products, chemical products and garments. More than 30 companies have participated in the programme, and by now, 80 products have been awarded the certification.

Last year, I pointed out that more than 70 types of green labelling schemes were implemented around the world, including our Motherland. The Chinese Government has already implemented a green procurement system, and products with China Environmental Labels will be accorded priority in procurement. Moreover, Korea and Japan, two of the four Dragons in Asia, are outstanding examples of the implementation of green procurement among governments. Hence, Hong Kong as a cosmopolitan city should definitely not lag behind the Mainland and many other international cities. We must put in place a reliable and independent green labelling scheme well-received by the public to facilitate consumers in differentiating green products from the vast variety of similar products.

The Government has been promoting the development of the six industries, and environmental industry is one of the important emerging industries. To create a new industry, it is necessary to foster a group of consumers who prefer the products produced by the new industry. Hence, the authorities have to encourage the people of Hong Kong to become green product consumers, and a lot more have to be done in this regard actually.

A green labelling scheme should seek to encourage consumers to purchase green products with improved recyclability, reduced packaging, greater durability and higher recycled content, and commend people and enterprises promoting green consumption.

Deputy President, according to the survey findings released by Norway last year, the people of Hong Kong have a per capita carbon footprint of 29 tons per year (the topic today is on a low carbon life), the second highest in the world, and second only to Luxembourg's 33 tons.

According to the Intergovernmental Panel on Climate Change (IPCC) of the Government, since the middle of the 20th century, the constant rise in the concentration of greenhouse gases has caused a significant rise in global temperature, whereas global warming has caused rising sea levels, increased the intensity of extreme weather events, such as flooding and drought, and so on. I will not list them *seriatim* here.

To enhance the awareness of the public of reducing carbon dioxide emission, I agree with Mr CHAN Hak-kan's proposal in the motion that we should facilitate the public in calculating their "carbon footprints" in their daily life. It is hoped that the arrangement will arouse the concern of the public for environmental conservation and protection, so that all of us can make concerted efforts to reduce gas emission.

But how should carbon footprints be calculated? Last year, the Green Council and I set up a "Carbon Footprint Calculator" on the Internet. One needs only spend five minutes to log in to the site to try it. People will then gain an idea of their domestic energy consumption, the fuel they consumed in the past year in taking air journeys and driving, and so on.

These games on the Internet are surely inadequate. We should take one step further to establish a mechanism for the public to assess their carbon emission. The mechanism should be user or consumer-oriented and product-based, so that green activists, housewives, the elderly and children will know their carbon emission when they do their shopping in supermarkets and toy shops, and so on. To take it further, passengers at bus stations and the airport should be able to learn about the adverse impact they will cause to the Earth for every minute of journey they enjoy.

Deputy President, I hope the Secretary will explain this later, and state whether the Government had stepped up its incentive policy in the past year.

In the Budget this year, the Government proposes setting aside \$300 million to subsidize green public transport, and I think the proposal is

desirable. It will advocate the development of electric vehicles as well as hybrid vehicles powered by fuel and electricity. Some newspapers cited the transport sector as commenting that members of the trade were not interested in the scheme. In my view, though there are dissenting voices, here I bid the Secretary not to give up, for it is likely that people have not yet been warmed up in coping with these new programmes. This again brings us back to the previous problem, that is, in the course of promoting a low carbon life, environmental protection economy or green economy, we must work on instilling the concept in consumers.

On the day following the announcement of the Budget, we staged the Seminar of the Development of Green Commercial Truck to examine issues relating to the applied technology of hybrid vehicles and electric vehicles, and the development plans of overseas vehicle manufacturers on hybrid commercial trucks. The response to the seminar was most encouraging. Hence, I think continual efforts should be put in this respect.

At present, restricted by range, charging facilities and propulsion, electric vehicles are not suitable for use as commercial vehicles. I believe the introduction of the hybrid vehicle industry and vigorous development of it will offer opportunities to both customers and owners to achieve energy savings.

I reiterate the proposal we put forth to the Secretary last year, that is, in the light of the prevailing trend of green economy, the Government should consider establishing an advisory committee on opportunities in a green economy. The committee should include not only conventional environmental protection experts or green activists, but also members of various trades and industries and the grassroots. As I mentioned earlier, many people are potential consumers. Some new small and medium enterprises are interested in examining and joining this emerging industry, but better consultation has to be carried out to facilitate participation in the new industry — other than job seekers. Product manufacturers have to gauge the actual feedbacks of the market.

Hence, I hope that the Secretary will reconsider our proposal. Deputy President, I so submit.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, Honourable Members, first of all, I have to thank Mr CHAN Hak-kan for proposing the motion on "Advocating a low carbon life", and Ms Audrey EU, Mr KAM Nai-wai and Dr Priscilla LEUNG for their amendments.

Global warming is an indisputable fact, yet our urban lifestyle causes further increase in carbon dioxide or green house gases emissions. Hence, the alleviation of the problem of climate change requires the co-operation of the Government, enterprises, the public and all sectors. As a member of the global village, each and every one of us has to shoulder the responsibility and work on it, for it can brook no delay.

The Government has all along endeavour to promote environmental protection. In recent years, the Government has set a clear direction in administration in establishing a clean, low-carbon and green city. We do not work in this direction in Hong Kong alone, for we co-operate with other places in the region to achieve this target. Hence, this direction of administration is consistent with the targets proposed by the Honourable Member in the motion earlier. Mr CHAN Hak-kan has set out certain measures covering both general and specific areas, particularly measures involving the participation of the public. The amendments by Ms Audrey EU, Mr KAM Nai-wai and Dr Priscilla LEUNG respectively put forth various constructive proposals along the line of the motion, which will achieve the same objectives. I do not intend to spend too much time on my initial response at this stage, but would rather listen to the views of Members and respond to them altogether later.

Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, the issue of carbon emission reduction and low carbon life raised by Mr CHAN Hak-kan today is precisely the new lifestyle that should be advocated in society, and also the solution to the problem of global climate change.

Deputy President, insofar as low carbon life, carbon emission and carbon footprints are concerned, I believe many people, particularly the grassroots, may not necessarily know what this is all about. However, if a low carbon life is interpreted as saving water and electricity, reducing waste and stepping up recovery and recycle efforts, and so on, the grassroots will surely agree,

understand and support it. For they have all along been leading a simple, economical and frugal way of life. Hence, in advocating a low carbon life in Hong Kong, the Government should vigorously introduce promotion policies and measures to foster such a culture in society on the one hand. On the other hand, it should implement policies and measures to encourage families and trades to practise reduced emission or low carbon life, in a bid to offer material incentives to them to further advocate such practices. Regrettably, the Government has hitherto done very little in these two aspects. More often than not, those so-called green measures or emission reduction measures are mere lip-service without any concrete actions.

Deputy President, why did I say that the Government's work on advocating emission reduction and low carbon emission is mere lip-service? For many of those emission reduction measures are implemented at a snail's pace. Take rooftop greening and vertical greening as an example. This is a feasible measure agreed unanimously by society at large, and discussion on this has been ongoing for many years. But when we pass by Mong Kok, Central and Causeway Bay nowadays and look at the top of the buildings there to check how many of them are actually wearing "a green cap", we will find that nearly none, or merely a few, of these buildings have a green rooftop, but curtain walls are found everywhere. In the case of public rental housing estates, at present, rooftop greening work is only carried out in new public rental housing estates, but the implementation of greening in old housing estates is nowhere in sight. Regarding the Greening Master Plan, by now, it has only been implemented in several districts in the urban area, but the examination of the plans for the New Territories has been delayed without any signs of commencement. As the Government is just making a feeble attempt to advocate a low carbon life and emission reduction, no wonder the public does not feel the need to do so.

Deputy President, when it comes to separation of waste at source, the problem of inaction by the Government is even more serious. Take the policy address this year as an example. The Government points out that a food waste recycling centre will be constructed in Siu Ho Wan. It seems to have done something at a glance, but at a closer look, it is found that the recycling centre will only come into operation in 2013 the earliest, and it can only process 200 tones of food waste daily, which is only the tip of the iceberg compared with the 2 995 tons of food waste generated in Hong Kong daily. At the same time, the Government fails to introduce any measure to assist and encourage private organizations to develop food waste recycling facilities to make up for the

shortfall. Given this attitude of the Government, the environmental and recycling industries have come to a standstill, making no progress. As a result, the authorities revert to the use of landfill and incineration as means of waste management, and once again, local residents are affected. Deputy President, obnoxious facilities are mostly located in New Territories West, where the proposed construction of an incinerator in Tuen Mun is a case in point. Had the Government followed the practice of Taiwan by making determined efforts in promoting waste separation and recovery, residents in Tuen Mun would not have to face the "huge chimney", nor would the landfills in Hong Kong reach capacity one after another.

Deputy President, Mr CHAN Hak-kan proposes in his motion that the Government may consider establishing a bonus point scheme, under which the public may redeem bonus points by achieving carbon emission reduction and energy saving and use the points to pay government fees. I very much agree with this proposal. After all, many people now leading a low carbon life and good at saving water and energy are not very well-off. The Government can provide some material incentives to them in response to their economical actions. This can promote low carbon economy on the one hand and provide assistance to them in their daily life on the other, which is a win-win approach. In my view, this proposal is much better than the Government's proposal of giving away compact fluorescent lamps, and the Government should give careful consideration to the proposal.

Deputy President, as regards other proposals put forth in the motion today, the Hong Kong Federation of Trade Unions (FTU) supports most of them. However, on the request made by Mr KAM Nai-wai in his amendment "to expeditiously legislate to ban idling vehicles with running engines", the FTU does not agree with it fully. On the issue of banning idling vehicles with running engines, the transport sector still has strong views. It is glib to say that they oppose banning idling vehicles with running engines, for they are indeed worried that in the absence of a consensus coming out of negotiations, the unilateral implementation of the measure may affect their work. Hence, I think they are not opposing the ban of idling vehicles with running engines, but they demand the Government to enter into serious negotiations with them. We have to understand that it is really difficult and inhuman as well to require taxi drivers to work in a cabin with a temperature of over 40°C. For this reason, the FTU has persistently requested that negotiations be opened with the environmental protection authorities with a view to reaching a consensus expeditiously. Hence,

we cannot but abstain at the vote on Mr KAM Nai-wai's amendment. At the same time, I hope that the Government and the transport sector can reach a consensus as soon as possible, so that the ban on idling vehicles with running engines can be implemented.

Deputy President, the general public can easily lead a low carbon life and reduce carbon emission. For instance, they may switch to compact fluorescent lamps, switch off electrical appliances not in use, use air-conditioning properly, purchase electrical appliances with energy efficiency labels, cease using disposable utensils, and separate and recycle food waste after every meal. All these actions will help reduce carbon emission, and they can contribute to environmental protection. Apart from the efforts made by individuals, the Government too should fulfil its responsibility by implementing measures to reduce carbon emission and other emissions. I hope the Government will give serious consideration to the proposals put forth in the original motion to develop Hong Kong into a low carbon city as soon as possible.

I support the original motion and most of the amendments.

MS STARRY LEE (in Cantonese): Deputy President, it is very cold outside today. However, the overall temperature in Hong Kong is rising while winters are becoming shorter. This is a fact known to all. In Hong Kong, 60% of the greenhouse gas emission comes from power plants, while the electricity consumption of buildings accounts for 90% of the total electricity consumption in Hong Kong. Therefore, in order to achieve an actual reduction of carbon emission in Hong Kong, to a certain extent, we have to figure out how to make high-rise buildings save more electricity.

Unfortunately, the efforts made by the Government in this regard, in terms of both intensity and pace, can hardly meet the actual requirement. In the following, I will express my opinions on three aspects, namely a district cooling system, mandatory implementation of the Building Energy Codes (the Codes) and roof greening.

Deputy President, in the policy addresses of the last three years, there are mainly two points concerning energy efficiency of buildings. The first one is the establishment of a district cooling system at the Kai Tak Development Area, and the second one is the mandatory implementation of the Codes.

Let me talk about the district cooling system first. The Government proposes to establish such a cooling system at Kai Tak. I fully support this proposal as an 35% saving of electricity can be achieved compared to the traditional air-conditioning, which is remarkable. But the question is, before the reunification, the Energy Efficiency and Conservation Sub-committee under the Energy Advisory Committee had proposed that priority be accorded to examining the energy efficiency of air-conditioning systems of commercial buildings. Moreover, the Electrical and Mechanical Services Department also commissioned a consultancy in 2000 to conduct a study on the territory-wide use of water-cooled air-conditioning systems. As a result, after considering the technological and financial viability as a whole, the report identified 15 districts in Hong Kong where district cooling systems could be set up. If all these 15 district cooling systems can be established, by 2020, 200 million kWh of electricity can be saved each year, which is equivalent to a reduction of 140 000 tons in carbon dioxide emission or the electricity consumption of 45 000 households for a year.

The vision really bodes well, but what is the actual situation? After the release of the policy address, the Government has only conducted some researches on South East Kowloon, that is, the current Kai Tak Development Area, Wan Chai and Causeway Bay. We will have the first district cooling system at the Kai Tak Development Area only in 2013, that is, more than 10 years after the commencement of such researches. According to my understanding, the district cooling system at Kai Tak is meant for voluntary participation only, which may not necessarily become a complete cooling system.

Undoubtedly, the district cooling system is new to Hong Kong. However, such systems have been in operation for 40 years all over the world. According to the information in 2004, in Japan, there were 142 registered district heating and cooling installations; while in Singapore, the first district cooling system network was established in 2000, showing that Hong Kong is far lagging behind in this regard.

Being a member of the Public Accounts Committee, I have also noticed that, as revealed in the Report No. 53 released by the Audit Commission last year, district cooling systems should only be established in newly developed areas for cost-effectiveness considerations. I understand this point. Even so, apart from Kai Tak, what is the stance of the Government regarding the recommendation made in the consultancy report that district cooling systems should be established in nine other newly developed areas? Is further consideration necessary? Or

such systems simply cannot be established due to other restrictions? The authorities should inform residents of this.

Deputy President, let us turn to the Codes. The Government launched an energy efficiency labelling system for buildings as early as 1998. Due to the unsatisfactory participation by private organizations, it has recently proposed to mandate implementation of the Codes by way of legislation. But the question is, the low participation rate of the Codes has been here for some time, not today. Neither should we pass a judgment with the benefit of hindsight. It is because as early as in 2005, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) already stated clearly in a motion on "Conservation of energy" in this Council that the participation rate of the Codes was far from satisfactory. Why did the Government fail to introduce any bill until the end of 2009, that is, a decade after the implementation of the Codes?

Deputy President, I do not mean to criticize frequently here that the Government is wasting time, only that time will never wait for us. After the reunification, the electricity consumption in Hong Kong has increased by 40%. How many more decades can Hong Kong wait? Therefore, the SAR Government should figure out how to save energy and reduce emission promptly without delay.

Buildings in Hong Kong are densely located, which has intensified the heat island effects. However, from another perspective, this also highlights the effectiveness of roof greening on lowering temperatures and reducing power consumption on air-conditioning in our city. In 2007, as revealed in the *Study on Green Roof Application in Hong Kong* released by the consultancy commissioned by the Architectural Services Department (ASD), there is already evidence in local researches to show that with roof greening, the surface temperature can be substantially reduced in summer, ranging from 18°C to 26°C.

Regrettably, the Government has not implemented roof greening in a proactive manner. During the period from 2001 to 2008, the ASD only completed the greening of about 60 roofs. As for roof greening promoted by the Government, such as those in schools, hospitals, community facilities and government quarters, there are only several dozens to a hundred per year. Of course, the number of government buildings is limited. Therefore, the principal objective of the Government greening its own roofs is merely to take the lead, to

showcase, so to speak. A more important initiative is to formulate appropriate measures to provide financial incentives, such as providing subsidies to meet the costs of roof greening works or making it a tax deductible item. The question remains, has the Government so far drawn up any goals, timetable and financial incentives to encourage private organizations to promote roof greening vigorously?

Deputy President, as the saying goes, "Past experience, if not forgotten, is a guide for the future". The effort made by the Government in promoting buildings to save energy reminds me of the Construction Waste Disposal Charging Scheme, which took 10 years to implement. As for the Policy Framework for the Management of Municipal Solid Waste released in 2005, the levy on plastic bags is the only item that has been implemented so far. I am very worried that eight to 10 years from now, the pace of energy saving and emission reduction by buildings is still a far cry from the public's expectation.

With these remarks, Deputy President, I support Mr CHAN Hak-kan's motion on "Advocating a low carbon life" today.

MR IP WAI-MING (in Cantonese): We are all actually very clear about the question, that global warming has given rise to climate change and we can also feel it now. Many countries and cities have taken part in the so-called reduction of carbon emission actively to advocate a low carbon life, in the hope to reduce greenhouse gas emission and slow down the speed of global warming which will impose burden on the environment.

During the Lunar New Year — as also mentioned by Mr CHAN Hak-kan just now — we experienced great fluctuations in weather, sometimes being very cold and sometimes being very hot. Although we were affected by the chill and it was very cold during the Lunar New Year, the weather last month was still warmer and more humid than normal, with an average temperature of 17.9°C, which is 1.6°C higher than normal. According to the records of the Hong Kong Observatory (HKO), over the past 50 years, the average temperature in February in Hong Kong has risen by about 0.4°C every decade since 1960. It is thus evident that the phenomenon of global warming is becoming increasingly obvious while our winters have become shorter. As stated by the former Director of the HKO, we might have no winter in future. Therefore, within 10 years, we may wear T-shirts and shorts during the Lunar New Year.

Under the same sky, we are all living on the same Earth and should therefore do our utmost to advocate a green living style. We can start from various fronts, such as optimizing the use of resources, taking green transport, recycling resources and leading a low carbon life. I think there should also be support from the Government and various trades and industries, so as to make Hong Kong become a low carbon city.

On the issue of optimizing the use of resources, many Honourable colleagues have in fact mentioned some clean energies, such as water power, wind power and solar energy. We should continue to proactively advocate and examine the feasibility of using such energies in Hong Kong, so as to reduce the use of non-renewable energies. Moreover, the living style of an individual can also reflect his carbon footprint. If every one of us knows the carbon emission of our daily living, unnecessary wastage can be reduced.

I mentioned on the last occasion that the World Wide Fund for Nature has a game which can enable us to get an idea of our carbon emission. I agree with Mr CHAN Hak-kan that the Government should compile similar programs or data, so that the public can measure their carbon emission, thereby improving their living and reducing unnecessary wastage.

As regards green transport, I propose that we should use private cars less frequently. If we drive one day less each month, 98 kg of carbon dioxide emission can be reduced per car each year. If we choose to use public means of transport or bicycles, the carbon dioxide emission can be further reduced.

We all know that transportation is an important element of our social and economic activities. However, in the interest of our children, we hope that the Government and every one of us can continue to use public means of transport with low pollution. At the same time, I hope the Government can conduct detailed tests of green vehicles and provide subsidies to the transport sector, so that they can rest assured and switch to green vehicles expeditiously. In this way, it would obviate the excessive reliance on rail transport, thereby reducing the impact of unitary development on the transport sector.

Talking about cycling, we subscribe to the views put forth by Honourable colleagues, that the development of the cycling sport and cycling economy is conducive to the reduction of carbon emission. We hope that the Government

can link up the cycling tracks in various districts. Moreover, we consider that developing the cycling economy will bring about another benefit. As we can see, the development of cycling tourism has created a great deal of economic benefits in other countries and regions. I hope the Government and the public can realize that developing environmental protection and leading a low carbon life can in fact boost the economy and employment simultaneously. They may not necessarily be mutually exclusive.

In respect of the recycling of resources, the FTU considers that the development of green industries should be expedited. It is extremely necessary for the Government to draw up a set of effective policies for the development of environmental protection in future, such as enhancing source separation of waste and promoting recycling and reuse of food waste. At present, we dispose of nearly 3 000 tons of food waste daily. Although the Government has planned to construct a food waste treatment centre on Lantau Island, it can only handle 200 tons of food waste daily, which is far less than the amount of food waste being discarded every day. We hope that the Government can expand the scale of the centre and promote actively the so-called "save food" campaign among the public, so as to reduce wastage.

Coming now to a low carbon life, we think that each of us can change our personal attitudes of living through spending, so as to enhance the public's awareness, learning and experience of low carbon life. We think that this is not merely a slogan. Taking the purchase of clothes as an example, as simple as an ordinary piece of clothing, there will be carbon dioxide emission from its raw materials to production and even disposal. In refusing to buy an unnecessary piece of clothing, we can reduce 2.5 kg of carbon dioxide emission. In fact, as far as habits of living are concerned, it is worthwhile for us to draw reference from the living habits of many elderly people in the old days. I remember that my mother would carry a shopping basket to buy groceries in the past. Without our noticing it, these shopping baskets have disappeared and we now advocate the use of shopping bags instead. To me, shopping bags and shopping baskets are the same. Just as what we have seen in the movie "Echoes Of the Rainbow", some of these habits in life have disappeared. But actually, they are some habits of low carbon life. I hope we can pick up these memories and habits again.

Deputy President, I so submit.

MR TOMMY CHEUNG (in Cantonese): Deputy President, the draft resolution number one of the Chinese People's Political Consultative Conference this year is to promote "the development of a low carbon economy" in the Mainland. As we can see, the relevant authorities in the Mainland also attach importance to this subject. The Liberal Party has all along supported green living, hoping that we can lead a "low carbon life" and reduce greenhouse gas emission jointly.

In order to promote "low carbon living", I think the public should have a basic idea of the total carbon emission caused by our daily life first, that is, our carbon footprints, and then improve our living habits and start leading a low carbon life. But, unfortunately, the calculation of carbon footprints currently provided by some concern groups only cover household energy consumption and transportation, that is, calculating the emission by housing and transport only. However, it seems that there is no calculation of dining at home and consumer products as in foreign countries which have a comprehensive calculation covering clothing and food as well.

I think the Government can take the lead and work in collaboration with green groups, making reference to foreign standards to tailor-make a simple calculation method of carbon footprints for Hong Kong, so as to enable the public to fully understand their personal carbon footprints. At the same time, the Government should also stipulate a method for calculating "enterprise carbon footprints" especially for various kinds of enterprises. Taking Taiwan as an example, the local government provides subsidies for green groups to advise enterprises on how to save energy and reduce waste. If Hong Kong can also adopt this method to facilitate more than 200 000 small and medium enterprises (SMEs) in joining the low carbon campaign, we can not only enhance the effectiveness of emission reduction, but also reduce the operational expenses of SMEs and promote "low carbon economy" at the same time, thus killing three birds with one stone.

Deputy President, in order to encourage society to move towards the target of "low carbon living" and "low carbon economy", the Government, apart from setting a good example, should also step up education and publicity and launch a series of policy initiatives in support of this.

To encourage people to save energy and reduce emission, apart from the "carbon emission reduction bonus point scheme" proposed in the original motion,

whereby the purchase of energy-saving products can be exchanged into bonus points that can be used to obtain some government services, the authorities can also adopt the "power-saving coupon" scheme put forth by the Liberal Party a long time ago, so as to encourage the public to foster a habit of conserving energy persistently. That is to say, if a household can reduce its electricity consumption by a certain percentage over a period of time, say 5% to 10% compared to the same period of the previous year, it can receive a certain amount of rebate in electricity tariff.

By the same token, we also agree with the original motion that greening efforts should be strengthened. But the Government can take a further step to consider waiving part of the rates as an incentive for owners of residential flats to carry out roof greening. I am sure that this can greatly promote large-scale roof greening works in urban areas, so as to reduce the heat island effects. Moreover, it can even be developed into a green industry.

Regarding green procurement, the Liberal Party considers that the Government should make reference to overseas countries and stipulate a clear green procurement policy. Moreover, it should give priority to the use of green products and services produced locally where circumstances permit.

Although the authorities have expanded the green procurement list to nearly 70 items, it is only applicable to procurement by government departments, not some of the government contractors. Taking the green bricks produced locally as an example, its development has been greatly impeded because no government contractors use them and the market is limited.

Therefore, the Liberal Party proposes that the authorities should extend the applicability of its green procurement policy to contractors of government works, outsourced service providers and subvented organizations, requiring them to use suitable green or energy-efficient construction materials, so as to tie in with the Government's policy on "low carbon economy".

Moreover, public officers can actually contribute their share of effort in terms of personal reduction of carbon emission. For example, the Chief Executive and senior officials, who have to fly on overseas visits frequently, would emit a lot of carbon dioxide indirectly. Have they ever thought of

participating in "carbon compensation", so as to set a good example for the public to follow?

For example, Secretary YAU, in attending the Climate Change Conference held in Copenhagen in December last year, emitted 2.6 tons of carbon dioxide on his trips to and fro there. Should he donate \$600 as "carbon compensation"? I wonder if the Secretary has ever thought of making such "carbon compensation".

Regarding the amendments, the Liberal Party supports the supplementary amendments made to the original motion by Ms Audrey EU and Dr Priscilla LEUNG.

The Liberal Party also supports Mr KAM Nai-wai's amendment on enhancing the linkage networks for pedestrians, subsidizing franchised bus companies in replacing their fleets and subsidizing people in purchasing energy-efficient products. We also subscribe to the World Health Organization's Air Quality Guidelines, only that in drawing up a timetable for implementation, we should take account of the actual situation and cannot be too idealistic.

As for banning idling vehicles with running engines, the Liberal Party hopes that the authorities can act prudently. Before introducing the bill, they should fully consider the worries of the transport sector and offer them necessary exemption according to their actual operation, such that the differences in opinion can be narrowed.

Lastly, Secretary, I also wish to say a few words about one point, namely, in the next few years, I hope I can lead or assist the sector to make more efforts in this regard by all means. Actually, in relation to the problem of cooking oil or food waste — Mr IP Wai-ming mentioned the problem of food waste just now — I have received complaints from the sector recently. Originally, they are supposed to hand over food waste to a company for disposal. However, the operation of this company has ceased recently as it is located on farmland in the New Territories. Now, they do not know how to dispose of such food waste. The problem of food waste involves two aspects. First, as we have some food left, we have to consider how to dispose of it. Second, we have to think about cooking less food. These are the problems we should deal with. Therefore, over the past few months, I have started working on various aspects, including cooking oil, used cooking oil or food waste, and even power saving and energy

resources, with a view to helping Hong Kong in this regard. In particular, I hope that the catering industry can reduce emission and save energy.

Deputy President, I so submit.

MR PAUL CHAN (in Cantonese): Deputy President, the Legislative Council has all along been concerned about how to develop Hong Kong into an international metropolis with low carbon living and low carbon economic development. Today, I wish to focus on the part concerning "to encourage enterprises to make efforts to reduce carbon emissions, including offering assistance in conducting carbon audits" mentioned in Mr CHAN Hak-kan's original motion.

There is a commonly used jargon, "Bottom Line", in the industrial and commercial sectors to which great importance is attached. This jargon is translated literally as "底線" in Chinese, meaning that whether the business performance stated in the profit and loss statement of a company during its financial reporting period is a profit or a loss at the end. However, in recent years, this concept has changed substantially. Now, we do not only focus on such a simple concept of gain or loss. Rather, we are concerned about the so-called concept of "Triple Bottom Line". This concept consists of three Ps, namely "People", "Planet" and "Profit". In evaluating the performance of a company, we are not only concerned about whether it can make profits or not. Rather, we should also examine if it has caused any impact on people and the Earth. As for people, it refers to the safety and health on the work premises of the company, protection of the rights and interests of its staff, their turnover rate and conditions of employment, the number of ethnic minorities among its staff as well as the level of diversity. As for the Earth, it refers to the production procedure and operation of this company, the impact brought about by its products or services on air, water quality, land, ecology and even human health. In other words, Deputy President, in evaluating the performance of a company, we no longer merely examine if it can make money or not. Rather, we should also be concerned about its performance in the social and environmental protection aspects, so as to ensure a balance and sustainability in social and economic development. As a matter of fact, the concept of "Triple Bottom Line" emerged in 1987, with the objective of requiring a company to be responsible to all stakeholders affected directly or indirectly by its operation, rather than being responsible to its shareholders only.

I wish to cite a survey released by the accountancy sector in 2002 here. According to this survey, there is an increasing trend for companies in Europe and America to adopt the information disclosure required by the concept of "Triple Bottom Line" in their annual statements. According to the statistics, nearly two thirds of the large enterprises in Europe have disclosed such information, while in the United States, 41% of the large enterprises have adopted it.

As such disclosure involves measuring the performance on society and the environment, companies, especially those in Asia, still have some reluctance and hesitation in adopting the concept of "Triple Bottom Line" in general. Such kind of statements is still budding in Asia. However, the declaration of "Triple Bottom Line" is undoubtedly a very useful method for enterprises to disclose meaningful non-financial information to society, showing their commitment to social responsibilities. Hong Kong is one of the most economically advanced cities in the region. I hope the business sector in Hong Kong can also grasp this global trend and demonstrate its concerns for society and environmental protection.

In fact, the business sector in Hong Kong has taken the initiative to organize the Climate Change Business Forum in the middle of last year. Moreover, they have released *The Hong Kong Business Guide to Carbon Reduction*, so as to enable companies in Hong Kong to understand that they should reduce carbon emissions as early as possible for easier adaptation to the requirements in the relevant legislation to be implemented by the Government in future. In this way, these companies, in considering their business development and pursuing profits, can also give regard to the impact brought about by greenhouse gas emissions concurrently.

As also mentioned in the Guide, some countries are considering the implementation of compulsory carbon declaration. For example, the United Kingdom is now making every effort to encourage all listed companies to include the details of greenhouse gas emission in their annual reports. In Australia, companies are also required to state their carbon emissions in their annual reports, so that such emissions can be included as part of the national carbon reduction scheme.

I hope that the Hong Kong Government can make reference to more overseas experiences in providing support and incentives to the business sector in Hong Kong to engage in carbon emission reduction efforts. This can not only

help foster a low carbon environment in Hong Kong, but also assist the Hong Kong Government to achieve the specified emission targets.

Deputy President, I so submit.

PROF PATRICK LAU (in Cantonese): Today is already the 10 March, and even the Waking of Insects (the third solar term) has passed. As we all know and also mentioned by Mr CHAN, the temperature is 9°C today. According to the Hong Kong Observatory, the weather has been changing during these past few months, with great fluctuations in temperature and humidity. Many people fall sick as they can hardly adapt to it. Under such a situation, even those who have all along had no knowledge of environmental protection and greenhouse effect cannot help but ask, "What happened to the Earth?" And do we have any solution to these problems?

As we also know, carbon dioxide emissions give rise to the greenhouse effect, which is mainly attributed to the fact that hot air in the atmosphere cannot rise, resulting in warming of the Earth. But why is the weather so strange? Both the Kyoto Protocol and the Copenhagen Conference are some international agreements and conferences which attempt to cope with the greenhouse effect. I also wish to reiterate the problem of greenhouse gas emissions. In this regard, I agree that the Government should formulate a comprehensive policy expeditiously, so as to promote the awareness and practice of a low carbon life among the public.

In my opinion, the "carbon emission reduction bonus point scheme" proposed in the original motion is a good suggestion that can enable the public to enjoy the advantages of leading a low carbon life directly. The sector represented by me has even pointed out that many people in Hong Kong simply keep turning on such household electrical appliances as air-conditioners unconsciously, thus consuming a great deal of electricity and emitting a huge amount of greenhouse gases. I wonder if the Government can distribute and help the public install a meter to indicate the household electricity consumption free of charge — this is in fact not difficult to do so — so as to tie in with the "carbon emission reduction bonus point scheme" and encourage the public to save more electricity. At the same time, we can also discuss how much contribution we can make.

As for the proposal of expanding the coverage of the Mandatory Energy Efficiency Labelling Scheme, given that the major source of carbon emissions is energy wastage by buildings, I think the Government should enhance its collaboration with the Professional Green Building Council, the BEAM Society and the newly-established Hong Kong Green Building Council, so as to tie in with the labelling system of green buildings. Most importantly, different professionals, including engineers, surveyors and architects, can work jointly to grasp the opportunity of the Buildings Energy Efficiency Bill being scrutinized by the Legislative Council, so as to offer assistance in conducting carbon audits and handling accreditation certification.

As a matter of fact, green construction is greatly conducive to the reduction of carbon emissions. I have designed a number of green buildings before and visited them together with the Secretary. As we all know, the most important point is to design some buildings with good ventilation and sufficient sunlight, so as to reduce the use of electrical lamps and air-conditioning. Also, we can use solar energy to generate electricity, reuse water and implement roof greening, so as to extend the scope of application of renewable energies. Moreover, it is most imperative for the Government to take the initiative to encourage the conduct of more researches on this and put them into practice.

Extending the scope of application of renewable energies is also an effective way to reduce emissions. However, at present, the application of renewable energies in Hong Kong is less than 1%, which is lower than that in other countries and cities. Therefore, in my opinion, the Government should formulate measures to encourage more households to use renewable energies with low pollution. I agree to the target that 5% of household electricity be supplied by renewable energies in 2020.

Deputy President, in order to advocate a low carbon life and transform Hong Kong into a low carbon city successfully, we should have a development direction with foresight. Both the sector and I consider that the Government should work closely with the education sector to promote the importance of the new concept "carbon sinks" to all members of the public, irrespective of their age and gender. "Carbon sinks" refer to some natural or man-made environments which can absorb and store materials containing carbon dioxide. Natural carbon sinks include oceans, soils and forests. However, we can also establish some man-made carbon sinks. For example, we can plant a bamboo grove. In the past, there were a lot of bamboo groves in Sha Tin. Why do I stress the

advantages of planting bamboo groves? It is because it takes less time to plant bamboos than tress. Moreover, bamboos offer a wide range of applications. As we all know, bamboo is a kind of environmentally-friendly construction materials featuring oriental characteristics. Besides, man-made carbon sinks can collect and store carbon dioxide through various carbon collection and storage technologies, so as to prevent it from entering the atmosphere. A power plant has adopted such technologies now.

In my opinion, we should adopt a simple method to educate the public of the important role played by carbon sinks in environmental protection, so as to enhance their awareness of loving and planting trees and forests, as well as supporting greening of urban districts and rooftops. Many Honourable Members have also mentioned that we should preserve oceans, promote low carbon and weather-friendly technologies and develop the concept of low carbon economy. All these are very important to the sustainable survival and development of human beings. With this, the Government can definitely get twice the result with half the efforts in implementing the corresponding policies for low carbon living.

Thank you, Deputy President.

MR WONG YUNG-KAN (in Cantonese): Deputy President, I would like to talk about the subject from the perspective of the agriculture and fisheries industry today by focusing on item (g) of Mr CHAN Hak-kan's motion, that is, "to promote the development of local organic agriculture and fisheries and improve the labelling system for organic products, so that people can purchase agriculture and fishery products with low carbon footprints", so as to elaborate what contribution the industry can make towards low carbon living.

Undeniably, we can find many carbon footprints from farm to table. For example, in livestock keeping, their faeces and gas emissions are one of the major sources of greenhouse gases. The global meat production accounts for 18% of the global greenhouse gas emissions. As revealed in a survey, producing one kg of beef will generate 36.4 kg of carbon dioxide. For those people who mainly feed on meat, their average carbon emission per annum is three times higher than that of vegetarians. At the same time, chemical fertilizers, which are widely used in the farming industry, are also one of the by-products of petroleum. In other words, using more chemical fertilizers will increase greenhouse gas emissions.

Moreover, with the development in transportation and improvement in refrigeration technology, long-haul shipment has become much easier. However, as a lot of energy is required for transportation and refrigeration, carbon emissions will be increased. Therefore, many regions advocate changes in diet of their people by consuming more local agricultural produces and food produced by organic farming, so as to reduce carbon footprints.

Deputy President, organic production has been gaining an increasing degree of attention in the international community. According to the report on *The World of Organic Agriculture — Statistics and Emerging Trends 2004*, nearly 100 regions in the world are currently practising organic agriculture with an area of about 24 million hectares, representing an increase of 10% over that in 2003. Regarding the market of organic products, Australia has the largest area of organic lands in the world. Although most of them are grasslands, the value of production is US\$170 million per annum. In Japan, although its organic farmlands cover an area of about 5 000 hectares only, the value of production is as high as US\$2.5 billion, the second largest market in the world. The European Union is the largest market of organic products, with a value of production of US\$8 billion. According to the information provided by the International Trade Centre under the World Trade Organization, in 2002, the value of production of the organic food market in the world was about US\$23 billion to US\$25 billion, with a growth rate of 5% to 15% per annum.

European countries are actively promoting a change of the existing farmlands from intensive production to organic agriculture. Among them, the Netherlands and Norway have set a target of changing 10% of their farmlands to organic agriculture in 2010. Germany has set its target at 20%, while the United Kingdom, which is more aggressive, has set its target at 30%. Moreover, the United States has provided support to organic agriculture proactively. Each year, farmers can receive subsidies of more than US\$20 million to change their farmlands into organic lands. Meanwhile, a provision of US\$5 million is made every year for conduct of researches on organic agriculture.

In December 2000, the Agriculture, Fisheries and Conservation Department (AFCD) launched the Organic Farming Conversion Scheme and drew up the Protocol for Organic Crop Production, for purposes of motivating conventional farmers to change from their original mode of production of using pesticides and chemical fertilizers to organic farming as per the requirements

stipulated in the Protocol. In December 2002, the Hong Kong Organic Resource Centre was established with funding from the Agricultural Development Fund of the Vegetable Marketing Organization (VMO), which was the first certification centre for organic products set up under the Fund. Eversince, it has stipulated after extensive consultations and a number of amendments the Organic Production and Processing Standard which is applicable to Hong Kong, and officially provided independent certification services for organic farmlands and processing plants since 2004.

As at September 2009, the number of organic farms in Hong Kong is estimated at 305, including those being operated by conventional farmers as family-based operations, those self-proclaimed organic farms and others being operated by institutions, as well as holiday farms used mainly for education and leisure purposes. On average, these farms produce 3 tons to 5 tons of various kinds of fresh vegetable daily for sale at supermarkets, health food stores, the Farmers' Market and markets. The AFCD and the VMO have been working closely to collect vegetables for farmers who have opted for conversion and then transport them to the Cheung Sha Wan Wholesale Market for sale.

Despite all this, I think that the effort made in Hong Kong to promote organic farming is still insufficient. Although Hong Kong has its certification mechanism for organic foods, it does not have any legislation to regulate claims of organic food. Worse still, the different labellings employed by other countries and regions have made the public feel very confused in purchasing organic foods, not knowing how to differentiate them. Therefore, I consider it necessary for the Government to formulate relevant legislation and provide for a viable organization for organic certification in law.

To this end, I think that the AFCD and the VMO should also provide some sale channels for farmers. With good sales, organic farming will find room of development. Recently, the Government is conducting researches on organic aquaculture with some fishermen. I hope all these can open up new horizons in the development of carbon emission reduction.

Deputy President, I so submit.

MS CYD HO (in Cantonese): Deputy President, the subject today is a low carbon life. Certainly, we agree with it, no objections. The conduct of audits is proposed by Mr CHAN Hak-kan, who said that the Government has to carry out simple audits to remind them how much carbon dioxide they have discharged. In our daily life, to what extent are we actually accomplices in damaging the environment? I do not see any problem with this at all and some simple methods can be adopted. In fact, if we want to know how much energy each member of the public uses at home, we can learn about this simply by looking at the electricity bill. However, apart from the electricity bill, there is also an interesting online game that lets us know to what extent we have damaged the environment, and this is also a very desirable form of public education. Therefore, we support this proposal.

However, no matter how interesting and how much fun such online games are and how good a reminder they are, in fact, they remain at the level of choices in personal life. In fact, the choices in personal life are to a great extent dictated by government policy and the mode of service offered by many monopolistic companies. For this reason, I hope that even as we carry out carbon audits on our personal life, we will also look at the energy policy of the authorities and the mode of commercial operation adopted by some companies. I hope that our way of making amends will not just be confined to planting whatever number of trees because of the number of flights we have taken since everyone has the duty to protect the environment indeed. Even those people who do not fly on airplanes should strive to plant trees, or if we are supposed to plant 10 trees, we should not think that so long as we have offset the flight mileage travelled that it would suffice. In fact, if it is within our ability to plant more trees, we should do more.

Therefore, Deputy President, I believe there is no problem in promoting public education and debate through carbon auditing. However, if we stop at auditing and do not scrutinize the public policies adopted by the authorities, there will be some inadequacies.

The most important energy policy is related to the method of electricity generation. Certainly, the authorities have now found natural gas for electricity generation, which is a much cleaner energy source. However, just think about this. If the electricity supply of a city is still completely reliant on coal-fired generation, no matter how responsible members of the public are and how alert they are in switching off lights on leaving rooms, using dimmer lights or

energy-saving light bulbs, the result still cannot match that of promoting the development of renewable energy sources to enable all inhabitants in a city to choose to use renewable energy sources, which is an even more effective approach. For this reason, Deputy President, if we want to become a low carbon city, I hope the authorities will step up their efforts at the policy level. At present, overseas countries have been quite successful in implementing cross-subsidization among energy sources. There are already overseas examples for our reference, that is, when the cost of conventional coal-fired generation is still relatively low and the costs of renewal energy sources are higher, in fact, subsidization can be adopted to enable the public to opt for clean energy sources until the demand for them has increased to such a level that the costs of clean energy sources are on a par with that of conventional coal-fired generation. In that event, the subsidy can be withdrawn. For this reason, Deputy President, the authorities have an unshirkable responsibility in this regard.

In addition, regarding other policy areas, I also wish to cite another example, that is, item (g) in the original motion concerning promoting the development of local organic agriculture and fisheries, including using a labelling system to facilitate purchase by the public. However, before all else, there must be organic agricultural and fishery produces. Without such produces, whatever labelling is used, we will still not be able to buy any such organic produces. However, the development of organic agriculture and fisheries in Hong Kong is actually related to the land policy. If the land in New Territories North to be released by the authorities is only turned into suburban areas or new towns or container yards or places for dumping, as is the case now, what land will there be for us to develop the production of fresh organic agricultural and fishery produces?

Deputy President, on a lighter note, I wish to talk about the renowned British chef, Jamie OLIVER. He encourages the public to procure locally and buy from their local food suppliers, in particular, in such places as rural towns. According to him, it is all the more unnecessary to buy food supplied by monopolistic supermarkets. Rather, they should buy food produced by local farmers. If we do so, not only is this beneficial to the development of individual farms and organic farming, it is also possible to eliminate the high transport costs incurred by monopolistic supermarkets in shipping produces from places of cheap labour to the sale points, as well as the energy consumed in transportation.

In fact, what we are talking about is just the shift from one mode of economic operation to another, which will serve to reduce our carbon emission substantially. However, in that event, we are broaching the issue of hoarding of land and monopolization by big corporations. Do the authorities have the ability to step into such no-go zones? Or are they just responding to the public in a perfunctory manner by providing an online game for them to calculate their carbon footprints on the Internet, and then think that they have already fulfilled their responsibilities?

Apart from procuring fresh food locally and carrying out productions locally, we also have to look at the policy on public health. In the past few years, we could see Secretary Dr York CHOW of the Bureau for Food and Health embark on campaigns to exterminate chickens and pigs. If this goes on, this kind of local organic food from animal husbandry would no longer be available to us. In this regard, the Government really has to pay attention to what kind of balance we have actually struck between development and protection of the environment.

In addition, on the heat island effect and how town planning should impose restrictions on building size and height, the interests of consortia are also at stake. For this reason, Deputy President, even as we talk about personal responsibility, I also call on the Government to seriously consider how we can protect the environment and whether or not we have the stamina and gumption to focus on these monopolistic economic activities.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

DR SAMSON TAM (in Cantonese): Deputy President, Hong Kong is a commercial city and if we want to promote low carbon economy, I think one of the most effective ways is to approach this issue from the commercial perspective and there are also many studies in various countries showing that the application of information and communications technology (ICT) can really help commercial societies reduce energy consumption considerably. What actually can Hong Kong do in this regard?

Recently, I had a meeting with an international climate organization and in its report, this organization estimated that the application of ICT can help the world reduce carbon emission significantly. According to its figures, it is estimated that if properly done, by 2020, that is, a decade later, carbon emission can be reduced by a total of 7.8 billion tons, which is equivalent to 15% of the emission at that time.

Why can ICT help reduce emission? The report points out in simple terms that ICT can help in five areas. Which five areas are they? Here, I will talk about three of them and explain one area in particular to the Secretary. Among these five areas, first, with ICT, dematerialization can be achieved and second, intelligent logistics can be introduced: Since a lot of logistics is handled by Hong Kong, how can storage time be better co-ordinated? This will help reduce energy consumption significantly. The third area is intelligent buildings as it is also the biggest source of carbon emission in Hong Kong. Today, I will focus on dematerialization in particular.

What is dematerialization? The original meaning of dematerialization is that with the application of ICT, it would no longer be necessary to use a lot of materials or to take a lot of actions. What does material or action refer to? According to the projection of the organization, by 2020, many actions, such as commuting, would be replaced because often, people in Europe and America have to spend one or two hours driving to work but by then, such instances will have decreased significantly. The report suggests that telecommuting is a major trend that will prevail throughout the world in the next five to 10 years. As a result of telecommuting, workers do not have to drive or take transport to work every day and there is also no need to reserve so much space for offices, thus obviating the duplicated construction of buildings. I know that at present, some companies in Hong Kong already allow some of their employees to exercise flexibility on one or two of their work days by allowing them to work from home, thus indirectly reducing the energy and time used in commuting.

I wonder what the Government's idea is in this regard. In particular, I wonder if the Government has ever consulted civil servants on whether or not they support working from home, if it has ever studied how to step up the application of ICT and if it will offer incentives to make the business sector introduce schemes of working from home. If the answer is in the affirmative, I hope the Secretary can tell us what general ideas they have in this regard.

A very clear example of dematerialization is to reduce the consumption of items. An example is the documents lying beside us, and the books, magazines and newspapers that we read. Experts predict that in the next five to 10 years, with electronization, the tens of thousands of trees wasted by us daily can be spared, that is, the waste of this kind of material that will eventually be reduced to carbon can be avoided. Therefore, I hope very much that the Government can speed up its programme on a paperless office. In order to implement a paperless office, we have to promote electronic technology, so I hope that the Government and the Legislative Council can adopt paperless operation more often. Each time a meeting is held, we would receive some nicely printed documents in both Chinese and English, so I think the Government should consider enacting legislation to reduce this kind of wastage.

In overseas countries, a most advanced concept is being promoted, that is, cloud computers and cloud terminals. By using cloud terminals, databases can be pooled together. If data can be handled collectively, not only can the number of documents be reduced, the amount of electronic waste generated in the course of computing can also be reduced because in that event, it would not be necessary to upgrade them so quickly. The use of cloud terminals can definitely reduce the amount of electronic waste. For this reason, I also hope that the Government can consider if it will implement more projects on cloud computing.

Deputy President, the use of ICT can certainly reduce a great deal of emission, but many people say that the use of computers also consumes an enormous amount of electricity, which is also true. At present, the speed of computers is getting faster and that means they consume even more electricity. Here, I encourage users not to keep their computers on all the time and think actively about ways to save electricity when using computers.

Recently, I had a meeting with the Green Council to explore how intelligent software can be introduced because asking colleagues to turn off their computers and checking whether or not all computers in standby mode have been turned off may not be the most effective approach. For this reason, I hope that the industry can introduce intelligent software, so that when computers are not used, they will automatically cut the power supply to the monitor quickly, or when people are not logged onto the Internet, the speed of the computer will slow down, so that it will enter an energy-saving mode. How can we promote such software or measures in the business sector in the future? I have been holding

meetings with the Green Council, in the hope that when such intelligent software is launched in future, the Government can promote it vigorously and take the lead in including such intelligent software in its procurement list. In this way, electricity consumption by computers will be greatly reduced.

On another front, I think that apart from software, the energy-efficiency standard of hardware can also be raised further in many ways. At present, the Government requires electrical appliances to carry energy efficiency labels. I hope that this kind of labels can also be applied to computers or such peripherals as printers, so that when buying computer accessories and hardware, the public can also attach greater weight to environmental protection in their consideration.

All along, I believe that ICT can help turn Hong Kong into a knowledge-based city and I also believe that ICT can turn Hong Kong into a low carbon green city.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Hak-kan, you may now speak on the three amendments. You may speak for up to five minutes.

MR CHAN HAK-KAN (in Cantonese): Deputy President, first, I have to thank the three Members for proposing their respective amendments and making additions to my original motion, and I also thank Members who have spoken on my motion just now for putting forward many valuable views. As regards the three amendments proposed by Ms Audrey EU, Mr KAM Nai-wai and Dr Priscilla LEUNG respectively, the DAB supports all of them. I shall give a consolidated response now.

In the course of debate earlier, we heard Members voice their doubts about some proposals and Members have different views on the issue of banning idling

vehicles with running engines. This proposal has been mooted for some time but so far, no formal announcement has been made. There may be a great deal of controversy on these environmental protection policies and various groups in society have many other views. For this reason, we hope that before rolling out these two proposals, the Environment Bureau can consult various interest groups in society carefully to understand their concerns, then reduce the inconvenience caused by these policies to the public as far as possible.

Second, there is an amendment proposing the construction of more escalators and the improvement and development of footbridge and subway networks. We believe these facilities will help encourage the public to take transport less often, thereby reducing carbon emission. At the same time, they can facilitate the launch of minor works in local districts, so I support them. However, we have to pay attention to the design of these complementary facilities to ensure that they can really bring convenience to the public. Deputy President, we can see that many escalators are under-utilized after completion, thus making them a waste of resources and yielding the opposite effect.

Finally, I wish to respond to the issue concerning the role of the Government in implementing environmental protection policies, which several Members mentioned in their speeches. I often say that to promote a low carbon life and green economy, tripartite co-operation among the public, companies and the Government is called for if we want to see better results.

I believe that this issue of environmental protection is a concern not exclusive to the middle class or the rich. The grassroots are equally concerned about it because one of the underlying notions of a low carbon life is frugality, or to use only what is necessary. We can also see that in the process of promoting an environmental protection policy or leading a low carbon life, the costs of certain items would increase and these costs would eventually be passed onto members of the public, in particular, the burden borne by some members of the grassroots would increase. Mr WONG Kwok-hing has already pointed this out, so I hope that when the Government promotes its environmental protection policy, it has to take the lead in bearing some of the expenses and encourage some companies to share some of the costs, so that the burden of the public can be eased. Only in this way will tripartite co-operation and the sharing of expenses among the Government, the public and companies be possible and an all-win situation created. Thank you, Deputy President.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President, Honourable Members, first of all, I would like to express my gratitude to you all for raising this Seemingly, we all talk in the same vein with full support for this motion, that is, how to advocate a low carbon life in Hong Kong. I believe today's debate is not a question of whether we are for or against the motion. Rather, it is a question of how.

In particular, I wish to thank Mr CHAN Hak-kan for mentioning in his motion — as he has remarked in his conclusion just now — that in order to advocate a low carbon life, the Government, enterprises, people, the whole community and every one of us should put in efforts to make it a success. I also note particularly that those Members who have spoken today have looked at this question from various fronts, as well as from the perspective of society as a whole in a positive and proactive manner. Some Members even boldly advanced some controversial views. I heard Ms Audrey EU suggest that in implementing green policies, sometimes we have to adopt a two-pronged approach. Apart from providing incentives, we should also introduce some punitive measures. However, I can tell Ms Audrey EU or those who have attended the meeting of the Subcommittee this morning that I do not have such political power to increase the licence fee on 1 April. However, it is important and necessary to propose a motion, so that both sides can hold discussions on it.

I also wish to thank Dr Priscilla LEUNG for urging the Government time and again to implement green procurement. We fully agree with this view. Mr IP Wai-ming has specially urged for a reduced use of cars. Many Honourable Members present here and people in Hong Kong have their own cars. Although 90% of the people use public transport, our efforts made in this regard will also help.

I consider a point raised by Mr WONG Kwok-hing very good, and he has explained profound theories in a few simple sentences that we should "save water and electricity". Moreover, he has elaborated the meaning of leading a low carbon life to the general public with some lively examples. As for Ms Starry LEE, apart from urging the Government to put in more efforts on certain work, she has also revisited the question of whether we should move further in respect of the levy on municipal solid waste, which is a controversial issue. I also wish to thank her for raising this issue.

Mr Paul CHAN and Dr Samson TAM have put forth their views on how best the business sector can be encouraged to foster this culture. In particular, we wish to thank Dr Samson TAM for mentioning a most oracular notion — dematerialization. It turns out various sectors can participate in it, and this also bears testimony to a remark, that each sector has its own green DNA.

I agree with Ms Cyd HO that all of us a duty-bound and able to do more for implementing carbon compensation. Mr Tommy CHEUNG reminded us of implementing "carbon offsetting" whenever we take flights. I can tell Members that I have done so. On the flight to Copenhagen, I spent some money on "carbon offsetting", which is also our prevailing practice. However, I think Ms Cyd HO meant not merely the implementation of "carbon offsetting". In fact, we can take a further step, such as planting one more tree.

Among all these views, I understand that in any discussion on this topic, it is inevitable to ask what the Government should do. For this reason, I may have to respond to this point in my speech later, that is, how the Government can take the right remedial steps and set a good example, and explain its overall policy outline in this regard. In particular, I will talk about carbon bonus points, carbon audits, green business opportunities and the relationship between the implementation of low carbon economy and the disadvantaged.

(THE PRESIDENT resumed the Chair)

First of all, I think that although Honourable Members may have mentioned some basic information, it is worthwhile to make a further elaboration it. In coping with the global climate change, the overall carbon footprint of Hong Kong does merit our consideration. Earlier on, Members also mentioned the carbon footprint of individuals. I have mentioned Hong Kong's carbon footprint in this Chamber in the past. As far as the whole territory is concerned, we generate about 47 million tons of carbon emission each year, accounting for about one thousandth of the global emission. This is roughly proportionate to our population. Therefore, in terms of per capita emission, Hong Kong people make about 6 tons of carbon emission on average per year. This is the latest figure, which is comparable to and just a little bit lower than the global average of 7 tons. Comparing with our neighbouring regions, say Singapore, its carbon

emission is 9 tons, which is about 50% higher than ours. In Japan and the United Kingdom, the rate is 10 tons; while in the United States, the rate is 23 tons, which is nearly four times higher than ours.

Several Honourable Members have also mentioned just now that our carbon footprint is in fact concentrated on one or two areas. While 62% is related to electricity generation, 16% is related to transportation and the remaining 20% is related mainly to waste disposal as well as industrial and agricultural operations. As I have just said, electricity generation accounts for 62% of our carbon emission, and most of it — nearly 90% — is generated by electricity used in buildings. Therefore, in the final analysis, any focused attempt at reduction of carbon emission in Hong Kong in fact boils down to several main objectives, which are also the areas that have seen the Government injecting resources and making efforts with keen determination during the past few years.

First of all, we should of course endeavour to use cleaner and low carbon resources expeditiously where possible. Many Honourable Members have also mentioned this point. Secondly, it comes to the question on how to enhance energy efficiency, in particular, energy consumption of buildings. It is because on the whole, this accounts for more than 50% of our carbon footprint. Thirdly, we should encourage and promote green transport. Fourthly, we should reduce land filling and gradually implement measures to convert waste into energy. And finally, how we can change the behaviour of social enterprises and even individuals — which has also seen much mention — so as to foster a greener way of living.

Regarding the use of clean energies, we have in fact made a start during the past two to three years. We are all very clear about this. At present, we rely on burning coal, which has the highest carbon emission, to generate electricity. We should not rely on it anymore. For this reason, after signing an agreement on west-to-east gas supply with the Mainland in 2008, we hope that with the connection of gas pipes in 2013, the percentage of gas-fire generation can gradually be increased from the existing 28% to 50% at least. It is because by using natural gas, carbon emission will be reduced by half compared to coal-fired generation.

How about the other half? Should we further curb coal-fired generation? This is our overall direction. Is there any method which can enable us to use more environmentally-friendly fuels or even some renewable energies for generating electricity inside or outside Hong Kong? This is our direction, and we should consider it jointly with the two power companies and our counterparts in the region.

Energy efficiency management is a very important task. It is because in enhancing the cleanliness of energies, we can at the same time put more efforts in demand management. Moreover, the result so achieved will benefit all. In this regard, based on what I have just mentioned, there are a lot of buildings in Hong Kong and they account for nearly 90% of the total electricity consumption. This explains why the Government has keen on enhancing energy efficacy through making legislation and subsidizing and promoting green building.

This year, I hope Honourable Members can help us to scrutinize and pass the Buildings Energy Efficiency Bill. Granting this, we can achieve energy saving of 2.8 billion kWh within the first decade and reduce 2 million tons of carbon emission. Last year, we launched a \$450 million scheme to fund energy audits and energy efficient installations. We have received more than 1 000 applications in just one year. Many people ask if the Government has any determination in making such commitment. In this scheme alone, we find that it is welcomed by the public and has achieved encouraging results. For 1 000 buildings have lodged applications, accounting for about one sixth of all the buildings in Hong Kong. These buildings, once granted the subsidy, will commence carbon audits or engage in improvement works for energy saving direct. This can on the one hand save energy, and on the other, reduce their electricity consumption.

Insofar as promoting green building is concerned, I of course agree with the remark made by Prof Patrick LAU just now. We will work in collaboration with the professional sectors to promote work in this regard. For example, the Professional Green Building Council will formulate standards for existing and newly-built buildings. I also agree with Mr CHAN Hak-kan that we should promote energy efficiency labelling. As we all know, after including three types of electrical products in the first stage of the labelling scheme, another two products will also be included in the second stage. We have all agreed on this. These five types of products already account for 67% of our daily household

electricity consumption. As mentioned by Dr Samson TAM just now, some products, such as computers, have been included in our voluntary labelling scheme.

In addition to energy, green transport is the second major direction for reducing carbon emissions. In this regard, apart from extending the public transport system continuously, mass transit and railway systems in particular, through the implementation of measures to improve air pollution, we actually hope to upgrade some old transport means where possible.

In particular, the Budget of this year has proposed to set up the Green Transport Fund, which is aimed precisely at tackling our short-term difficulty currently. It is because in adopting innovative green transport technologies, the Government may not necessarily be able to grasp such technologies wholesale. Even operators, such as bus companies and those operators of taxi and public light bus services, may not have such technologies either. Instead of arguing over the amount of subsidy to be offered, is it possible for us to encourage research and development institutions and producers to introduce overseas experiences into Hong Kong through this Pilot Fund, and then work in collaboration with the existing operators to try out these innovative green transport technologies? This is what we wish to achieve through this \$300 million fund. Hopefully, when consulting members of the trade later, we can listen to Members' views in the Legislative Council again to see how this \$300 million fund can be utilized.

By accelerating the introduction of tax deduction for capital expenditure on environmentally-friendly vehicles as well as providing continued tax exemption or deduction for such vehicles we in fact hope that these measures can increase the demand for such vehicles by enterprises or individuals. We also note that there is a close relationship between electric vehicles and Hong Kong, hoping that there will be about 200 electric vehicles running in Hong Kong in the coming year.

As mentioned by some Honourable Members just now, some innovative technologies may be a little bit expensive initially. We also notice that the costs of many of these products will become lower after development. The important point is that this type of green technologies, such as electric vehicles, will reduce the recurrent cost substantially. I have also mentioned before that electric vehicles, in running a journey of 100 km, can make a saving of about 70%.

Apart from green transport, we note that turning waste into energy is in fact a very important direction because nearly 10% of our greenhouse gas comes from landfills. Moreover, landfill gas, according to scientific calculation, has a concentration 21 times higher than that of general carbon emissions. At present, Hong Kong relies merely on landfills to dispose of waste. This is in fact not a long-term solution, nor does it meet the green and low carbon requirements. Regarding source separation of waste, we have made substantial progress in the last couple of years. For example, over the past four years, recycling of domestic waste has increased by one fold, while the amount of waste discarded also saw a real reduction of 4% the year before. As for food waste, a reduction of about 10% has also been seen over the past few years. However, we still have a huge amount of waste to handle after all.

Recently, I have visited other places and found that turning waste into energy can in fact dispose of waste on the one hand, and achieve reduction of greenhouse gas emission on the other. Therefore, we hope that in the near future, if the integrated waste treatment facilities can be established for handling about 3 000 tons of waste in Hong Kong daily, 460 million kWh of electricity can be supplied to about 100 000 households and 400 000 tons of carbon dioxide emission can be reduced per year.

Members are all concerned about the Government's responsibility and commitment. I wish to reiterate here, albeit running the risk of being repetitive, that the Government has in fact been promoting low carbon economy by setting a good example itself. Although some of the examples are seldom mentioned, they are positive examples. For instance, the Code of Practice for Energy Efficiency mentioned by Members will become law. In implementing this Code over the past 10 years, 800 buildings have complied with it voluntarily. Among them, 75% are government buildings. Obviously, the Government has taken the lead to implement it.

Secondly, I have issued an internal circular with the Secretary for Development jointly last year, requiring that government buildings should adopt a better standard of environmental protection. This is a target-oriented standard which includes *inter alia* that newly built government buildings, especially those with an area of more than 10 000 sq ft, should adopt a building environment assessment method recognized internationally or locally, and should obtain a grading not lower than the second highest one. That is to say, government buildings should meet a high standard during construction.

Moreover, we also hope that new buildings should achieve an energy efficiency standard of 5% to 10% higher than that stipulated in the general code of practice, and a reduction of 10% to 20% in energy consumption. As for those significant buildings newly built by the end of 2011, we will also conduct carbon audits financed by the Government, hoping that this can promote green building and raise the relevant standard.

Thirdly, as Members may recall, the Government deliberately extended its green procurement in the middle of last year. This is exactly in line with the point raised by Dr Priscilla LEUNG. Currently, we have some 60 major types of products that may be procured to green procurement specifications. Let me cite green vehicles as an example, the Government may in fact be the largest user in the territory. Some Members mentioned biodiesel just now. The Government has also undertaken that after the enactment of legislation, it will take the lead to use it by all means. These are some examples of successful efforts made by the Government.

Regarding the Government's commitment, we can take a look at its commitment on green facilities, which is not small actually. On infrastructure projects, apart from providing green facilities, it has also approved funding for the construction of a district cooling system. In terms of subsidies, in addition to the allocation of some \$3 billion and the additional funding of \$500 million in the Budget of this year to encourage the public to replace their vehicles with green models, the allocation of \$450 million for subsidizing buildings to implement the energy efficiency programme is also a substantial amount of funding. Coupled with other measures in tax exemption and reduction, the financial commitment made by Government, compared to many similar cities, is not small at all.

As for the calculation of carbon bonus points and carbon audits mentioned by Mr CHAN Hak-kan in his motion, the Government is fully in support of it and also hopes to promote it. The Government, which has started conducting carbon audits for buildings since July 2008, is also moving in this direction, hoping that carbon audits can be conducted in those sectors which have the highest energy consumption and carbon emission.

Just as I said just now, with the allocation of \$450 million, we are in fact promoting such efforts on buildings in this regard. Moreover, in particular, we work in collaboration with enterprises to launch the "Green Hong Kong —

Carbon Audit" campaign, so as to enable enterprises of various sizes to take part in it jointly, thereby promoting the work in this regard and identifying some successful examples. I have also mentioned on other occasions that a press, with participation in carbon audits, can save \$500,000 in electricity tariff within the first six months, though it has spent about \$40,000 conducting the audits. I hope these successful examples can bear testimony to the fact that it is worthwhile to conduct carbon audits.

Regarding carbon audits by individuals, other Members have also mentioned that we can find some carbon calculators in society and on the Internet for conducting carbon audits. Moreover, green groups or commercial organizations also have such calculators. In this connection, these calculators conduct the audits by using a formula applicable to Hong Kong. I believe some Members have also used these calculators to calculate their own carbon emissions. Mr CHAN Hak-kan has once queried if the two power companies can assist in calculating electricity consumption. I know that the two power companies have in fact adopted Mr CHAN Hak-kan's view. If the public visit their websites, they can calculate their carbon consumption according to their electricity tariff.

In the long run, if Hong Kong can implement carbon audits gradually and accumulate some carbon bonus points, this is definitely conducive to Hong Kong using such bonus points as an incentive, which is even be used for transactions in future. From a macroscopic perspective, although the HKEx may not conduct carbon transactions in the near future, I notice that enterprises are examining the feasibility of providing certification for the so-called voluntary carbon emission reduction in Hong Kong and the possibility of it becoming a business opportunity with the accumulation of such carbon bonus points through voluntary carbon emission reduction.

President, in the green and low carbon economy, many different business opportunities can in fact be created. It is because costs can be reduced by energy saving, while green business opportunities can also bring about a lot of employment opportunities. I agree with Ms Audrey EU's particular allusion to support for the disadvantaged in her amendment, as climate change will cause the same impact on all strata in society. It will not only affect the industrial and commercial sectors, building and energies, but also exert certain impact on the life of the general public. Put simply, if the climate is becoming warmer, our

electricity consumption will be higher, that is, we will turn on air-conditioners and fans more frequently. Therefore, in moving towards a low carbon life, measures that can benefit the grassroots will certainly complement the cause.

Here, I wish to mention in particular that energy efficiency can in fact bring about a win-win situation. If we can use more energy efficient facilities to reduce the electricity tariff, this can, of course, be beneficial to the lower stratum in society. I take pleasure to cite an example here, for we have established a waste recycling centre in the EcoPark jointly with a social welfare agency in the mode of social enterprise. This can not only reduce the creation of waste, but also employ 100 staff there, including the disadvantaged. Very often, in implementing environmental protection, the disadvantaged will stand to benefit.

Dr Priscilla LEUNG has also mentioned that the Government should formulate a reliable, independent and widely accepted eco-labelling system. I agree that this will be an opportunity with great development potential in future. It is because we consider that environmental protection, verification or certification is one of the pillar industries. As for how co-operation can be fostered in these two aspects, I believe that not only the Government, the sector, experts and academics can in fact further explore it and bring themselves into play.

As Members have mentioned, in order to become a low carbon city, it is necessary to get the whole community involved. In this regard, public education is indispensable. In the past, the Government has made a lot of efforts in public education. Whenever I visit schools or talk to youngsters, I will find that the new generation has a greater awareness than us in this regard. Anyway, schools are an important venue. For this reason, we have introduced the Green Lunch Charter recently, which is not only a green measure, but also a medium for promoting environmental protection in schools.

The Environment and Conservation Fund (ECF) has subsidized more than 310 schools to conduct different kinds of carbon reduction and energy-saving projects over the past two years, including roof greening mentioned earlier, which is also a matter of concern to many people, as well as some measures which apply renewable energies, windmills and those for handling food waste, so as to enable our new generation to experience green living in schools. The ECF Committee

has worked jointly with and allocated funds to community groups over the past two years, so as to encourage them to take part in various activities. I am not going to repeat the details here.

As regards water efficiency mentioned by Mr CHAN Hak-kan in his motion, I am very delighted to tell Members that the Water Supplies Department (WSD) has specifically formulated the Water Efficiency Labelling Scheme to invite suppliers of installations and appliances to take part in it on a voluntary basis. In this regard, the first group of products for implementation of the labelling scheme includes showers for bathing. The scheme was open to application in September last year and 14 types of showers have already been labelled so far, that is, are relatively water-saving. The WSD is preparing to include water taps and washing machines in the labelling scheme.

Mr WONG Yung-kan has mentioned organic farming in particular. I subscribe to his views. Although Hong Kong is just a small place, we still have green areas and space to conduct organic family. At present, there are totally 138 farms participating in the Organic Farming Conversion Scheme organized by the Agriculture, Fisheries and Conservation Department, involving nearly 60 hectares of farmland. Moreover, since 2002, the Vegetable Marketing Organization has supported the Hong Kong Organic Resource Centre to implement a voluntary and independent certification scheme. At present, 67 farms have received such certification in Hong Kong.

President, in conclusion, I believe today's debate is meant to arouse public awareness of leading a low carbon life. I also hope that we can all think about, particularly in respect of Hong Kong as a whole, enterprises and individuals, the areas in which can reduce carbon emissions through leading a low carbon life. The Government has also ascertained that in terms of policies, resources and legislation, it will keep on moving in this direction. After implementing various schemes, we will continue to bear the new costs. I also hope that the local community can fully utilize the ECF grants allocated the year before. If there is any scheme which merits promotion, we are very happy to work in collaboration with different groups, especially the District Councils and even professional organizations, so as to make it a greater success.

President, I hereby wish to thank Honourable Members once again for moving this motion and speaking on various amendments, hoping that they can

give us the greatest support when we introduce the relevant policies and motions or seek funding approvals in future.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Ms Audrey EU to move her amendment to the motion.

MS AUDREY EU (in Cantonese): President, I move that Mr CHAN Hak-kan's motion be amended.

Ms Audrey EU moved the following amendment: (Translation)

"To add ", as" after "That"; to add "and develop the environmental industry" after "global climate change"; to add "and quality" after "become a low carbon"; to add "install more escalators" after "electric vehicles,"; to delete "and" after "transport needs,"; and to add "; and (l) to enhance the support for the grassroots and the disadvantaged, so as to reduce the impacts on them caused by the society's transformation process to a low carbon city" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Audrey EU to Mr CHAN Hak-kan's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr KAM Nai-wai, as Ms Audrey EU's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

MR KAM NAI-WAI (in Cantonese): President, I move that Mr CHAN Hak-kan's motion as amended by Ms Audrey EU, be further amended by my revised amendment. I have nothing to add, President.

Mr KAM Nai-wai moved the following further amendment to the motion as amended by Ms Audrey EU: (Translation)

"To add "; (m) to improve and develop footbridge and subway networks, and encourage people to make more use of public transportation and mass transit systems; (n) to expeditiously legislate to ban idling vehicles with running engines, subsidize franchised bus companies to replace their high-polluting old-model vehicles, designate 'low emission zones' in areas with serious air pollution and restrict the entry of heavy diesel vehicles with high emissions into such zones, so as to improve roadside air quality; (o) to adopt the World Health Organization's Air Quality Guidelines for setting air quality benchmarks and the timetable for achieving such benchmarks, and amend the Air Pollution Control Ordinance to make 'protecting public health' a statutory requirement; and (p) to expeditiously and directly subsidize people to use compact fluorescent lamps and other energy-saving products" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr KAM Nai-wai's amendment to Mr CHAN Hak-kan's motion as amended by Ms Audrey EU be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, as the amendments by Ms Audrey EU and Mr KAM Nai-wai have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak for up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

DR PRISCILLA LEUNG (in Cantonese): President, I move that Mr CHAN Hak-kan's motion, as amended by Ms Audrey EU and Mr KAM Nai-wai, be further amended by my revised amendment. I have nothing to add.

Dr Priscilla LEUNG moved the following further amendment to the motion as amended by Ms Audrey EU and Mr KAM Nai-wai: (Translation)

"To add "; (q) to provide tax allowance or concession for private enterprises which are willing to procure products with eco-label certification; and (r) to actively develop hybrid vehicles and advocate the use of biodiesel" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr Priscilla LEUNG's amendment to Mr CHAN Hak-kan's motion as amended by Ms Audrey EU and Mr KAM Nai-wai be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, you may now reply and you have one minute and 47 seconds.

MR CHAN HAK-KAN (in Cantonese): President, last week, two news reports on animals aroused the concern of society. The first case occurred in Sheung Shui, where a cat had its left front leg violently chopped off. The second case was about a mother polar bear and her cub stranded on an ice floe, where by now, it remains unknown whether they are alive or not.

In the case of the abused cat, we may at least rely on the subordinates of Secretary Ambrose LEE to track down the culprit and bring the culprit to justice. But in the case of the mother polar bear and her cub, where the fate of the pair is unknown now, I think it is unnecessary to track down the culprits who have made them homeless, for the culprits are nowhere far away but right in front of us.

You and me, and everyone in this Chamber, probably should take the blame, for we are all involved in accelerating the warming of the climate.

I would like to point out that, if we do not put our words into actions swiftly to reduce carbon emission, but allow damages to be done to the environment continuously, the homeless polar bears we see today will be a true reflection of our future state or that of our children. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Hak-kan, as amended by Ms Audrey EU, Mr KAM Nai-wai and Dr Priscilla LEUNG, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Second motion: Establishing a scheme for sexual offences records checks for child-related work.

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

I now call upon Dr Philip WONG to speak and move his motion.

ESTABLISHING A SCHEME FOR SEXUAL OFFENCES RECORDS CHECKS FOR CHILD-RELATED WORK

DR PHILIP WONG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

As we all know, sexual abuse has a profound impact on the victims, particularly children. In recent years, a number of incidents of sexual abuse of children by people undertaking child-related work have happened and I feel very much concerned about this. From the newspapers today, I also learnt about a piece of news: Someone made use of the Internet and money to molest dozens of underage girls and in sentencing, the Judge stressed the need to strengthen the protection for children. A number of people in the judicial profession, including senior judges of the High Court, District Courts and the Court of Appeal, all concurred when expressing their views on judicial matters that there is a great need to plug the loophole in the existing judicial system. Many schools, parents, lawyers, doctors, teachers' groups, women's groups and the mass media all hope that children can be protected from sexual abuse and demand that people undertaking child-related work be subject to sexual offence records checks. This is indeed an issue that must be resolved.

In early February this year, the Law Reform Commission (LRC) published a report recommending the establishment of an administrative scheme to enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons to check the criminal conviction records for sexual offences of job applicants. A "clean" check result would not be recorded in writing, but would be communicated verbally to the job applicant or his employer. The check would reveal only convictions of a specified list of sexual offences. Convictions that are regarded as "spent" under the Rehabilitation of Offenders Ordinance (Cap. 297) would not be disclosed. The LRC also recommended that in the absence of legislation, employers will not be compelled to carry out such checks, and the application for a record check will have to be made by the job applicant himself. The scheme, being applicable to both existing and prospective employees, should be implemented in phases, with only prospective employees covered in the initial phase.

I fully agree with this sexual offence records checks mechanism recommended by the LRC. I believe that this is an effective method in solving the problem as well as a pragmatic and progressive approach that will be conducive to truly enhancing the protection for children and socially

disadvantaged groups. The LRC recommended that administrative measures be adopted first, to be followed by the enactment of legislation. The LRC also made the undertaking that it will further consider a comprehensive set of law reform proposals to enhance the regulation of sexual offences records checks for child-related work. As this will take some time to complete and the scrutiny can be protracted, the LRC has therefore put forward the interim proposals for consideration and implementation in the meantime. This approach has shown the holistic and forward-looking nature of the LRC's consideration of this issue. Various sectors of the community have waited for a number of years and if nothing is done as soon as possible, it is possible that more children would be victimized and I believe all of us would not bear to see this.

Here, I wish to raise several points about the mechanism and hope that Members will discuss them actively.

First, under the existing judicial system, a check can be conducted in relation to certain professions or areas of work where there are specific statutory provisions. For instance, there are provisions allowing criminal record checks of school managers and teachers registered under the Education Ordinance (Cap. 279), child-minders under the Child Care Services Ordinance (Cap. 243), and social workers registered under the Social Workers Registration Ordinance (Cap. 505). However, there remains a wide range of persons who have close contact with children in the course of their work in respect of whom channels of criminal record checks are currently not available. Such examples include laboratory/computer technicians and support staff in schools, tutors, music teachers, dance instructors, sports coaches, staff in children's wards, and volunteer workers at youth centres and in religious and other organizations. This loophole has to be plugged indeed.

Although the proposals of the LRC are interim in nature, the mechanism can already plug the loophole in the judicial system effectively to enable employers of child-related jobs, including parents, to ask job seekers to declare on their own whether or not they have any record of criminal conviction and provide channels to the former to verify and learn about the real background of job seekers. Without this arrangement, some sex offenders who have not reformed themselves may deliberately conceal their past conviction records to deceive employers and win their trust, so that they can continue to work in the relevant fields and look for opportunities to prey on children again.

Second, before the release of the report, the LRC had spent nearly four years on deliberating this matter and considering all the arguments. It also launched a public consultation in July 2008 to encourage the public to take part in the discussion actively. Subsequently, it received some 200 written responses from various sectors of society, mostly stating their views in detail and supporting the recommendations of the LRC.

Before making its recommendations, the LRC had already listened to the views of various parties as far as possible and struck a balance among various considerations carefully by considering the basic human rights of sexual ex-offenders on the premise of protecting children and socially disadvantaged groups from abuse. From Chapter 2 of the report, it can be seen that the LRC has already considered several important factors carefully, such as the right to privacy, the freedom of choice of occupation and the need of rehabilitation for ex-offenders, thus balancing the views of the academia, various groups and members of the public.

In my view, compared with the measures adopted in such countries and regions as the United Kingdom and the United States, the LRC recommendations can be considered moderate and the impact on ex-offenders minimal. For example, in the United States jurisdiction, there are criminal offender registers available for inspection by the general public. The recommendation of the LRC only makes use of the criminal records kept by the police and is only limited to job applicants for positions that give them access to children or the disadvantaged groups. Without this mechanism, employers may be given the incentive to make use of registers prepared privately by other people to screen job applicants. As the accuracy of these registers is doubtful, the impact on the rehabilitation of ex-offenders may be even greater.

Third, I believe that after putting in place the measures recommended by the LRC, it does not mean that employers would reject all applicants with sexual offence records indiscriminately. I believe that Hong Kong is an open society and many employers are open-minded and enlightened. So long as ex-offenders can convince employers that they have reformed themselves and have been completely rehabilitated, employers would probably be willing to accept and support these rehabilitated people and give them equal opportunities in employment, so that they can reintegrate into society smoothly and turn over a new leaf.

Of course, we note from time to time cases of sex offenders molesting children again and many such cases are set out in the report to highlight the need to take this problem seriously or step up the counselling and therapy for sex offenders and improve the rehabilitation system, so as to prevent their reoffending.

Fourth, a considerable length of the report is devoted to putting forward to the Government specific ways to implement this mechanism, so detailed and useful information has been provided to the authorities in considering the establishment of the relevant mechanism. Since the proposed mechanism is only an interim administrative measure, it does not require the enactment of legislation for expeditious implementation, so I hope the Administration can consider this proposal seriously and implement it as soon as possible, so as to address the grave concerns of the education sector, parents, Judges, various groups and the mass media.

I wish to take this opportunity to ask the Administration about the progress in studying the report. Has it considered the actual difficulties in implementing the relevant mechanism? Does it consider the recommendations in the report moderate? What are the inadequacies requiring improvements? When considering the establishment of the relevant mechanism, what measures will be taken to protect personal information and privacy?

In sum, I believe all of us will agree that children need protection. As regards how best such protection can be provided, we can put forward proposals. I think that the proposals of the LRC are pragmatic and feasible. We should look for common grounds, embrace differences, and resolve the simple issues before the difficult ones and it is always better to do something than otherwise. It is only by taking the first stride resolutely to lay the groundwork for enacting legislation in the future that we will not fail the expectations of various sectors of society for us and let down innocent children and helpless parents.

Thank you, President.

Dr Philip WONG moved the following motion: (Translation)

"That, as employers at present do not have any channel for checking the past sexual offences conviction records of applicants when recruiting personnel for posts which have close contact with children, this Council

urges the Government to expeditiously implement the recommendations in the Law Reform Commission Report to establish a scheme for sexual offences records checks for child-related work, so as to enhance protection for children against sexual assault."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Philip WONG be passed.

PRESIDENT (in Cantonese): Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will call upon Ms Emily LAU to speak first, to be followed by Ms Audrey EU; but no amendments are to be moved at this stage.

MS EMILY LAU (in Cantonese): President, the Law Reform Commission (LRC) released this report last month, but its title is rather odd, President. It is, "Sexual Offences Records Checks for Child-related Work: Interim Proposals". President, once we had the Provisional Legislative Council and for this reason, it was challenged in Court and now, we have these interim proposals. President, in fact, the LRC has released a large number of reports but most of them are just put aside to gather dust. The Secretary for Justice can tell us the reasons for this later. President, maybe the LRC also knows that this report would also be put aside to gather dust, so it made these interim proposals not requiring the enactment of any legislation.

As Dr Philip WONG said just now, the historical background of this matter is that in April 2006, the Secretary for Justice and the Chief Justice of the Court of Final Appeal proposed a subject for study by the LRC, namely, a review of sexual offences and laws related to sexual offences. In fact, this study was conducted and considered by the same party because the Chairman of the LRC is sitting here. Of course, the study of this subject was not conducted by the LRC itself, President. At that time, the LRC established a subcommittee. This subcommittee was established in July 2006 but after three months, President, its terms of reference were expanded to that of "to consider whether a scheme for the registration of offenders convicted of such offences should be established, and to

recommend such changes in the law as may be appropriate." President, this is still related to law reform.

However, in July 2008, the subcommittee released a consultation paper entitled "Interim Proposals on a Sex Offender Register" and the subject changed from a very wide perspective in law to the very narrow one of interim proposals on a sex offender register. Since the proposal is an interim mechanism that does not require the enactment of legislation, many controversies have arisen now due to this point and this is also the reason for my amending Dr Philip WONG's motion.

Dr WONG said just now that he hoped the authorities would deal with this matter expeditiously. When I raised this matter with Dr WONG just now, he was very nice and expressed support for my amendment. However, if he supports my amendment, the authorities would not be able to deal with this matter expeditiously. President, I think this matter warrants discussion in the community. President, why is it necessary? Paragraph 12 of the report says that if the established practice is adopted, it would take considerable time, President, and the report also mentions that this matter is very controversial. Therefore, the subcommittee asks the authorities to consider introducing an interim measure.

President, in fact, in this report, reference has been made to the experience of several countries, including the United States, England and Wales, Canada, Australia and South Africa, but these countries have all enacted legislation on this. Maybe I have read the report too quickly and overlooked some parts, so later, the Secretary for Justice and the Secretary can tell me if this is the case. What lessons has the Government drawn after looking at these countries and is it going to deal with this matter provisionally by means of interim administrative measures? This is rather controversial, and I agree that it is necessary to hold discussions. President, it would not do to find a short cut to deal with some matters through administrative measures on the ground that they are controversial and require discussions. President, I think this would not work.

President, there are views — in fact, the subcommittee also pointed this out — that if we were to proceed with this matter, a balance must first be struck. Dr Philip WONG talked about the abuse of children earlier on. We absolutely understand this and all of us feel very angry. For this reason, President, this

subcommittee pointed out that it is utterly and extremely backward and also most puzzling that we do not have a mechanism to deal with this situation. Such mechanisms can be found throughout the world. Since our jurisdiction is so mighty, why is such a mechanism absent here? Since we do not have such a mechanism, the Secretary for Justice and the Chief Justice proposed a study in 2006 and the study lasted from 2006 to 2010, but only an interim administrative mechanism has come out of this study to deal with this matter, so this is really outrageous.

President, the report mentions that if we want to proceed, a balance must be struck between two areas. All of us surely agree with the protection of children and the report mentions the obligations under the International Covenant on Civil and Political Rights (the ICCPR) and United Nations Convention on the Rights of the Child, namely, to ensure that children are free from sexual exploitation. This is our constitutional responsibility. However, President, on another front, the report also says that offenders' right to privacy has to be given due regard. Article 14 of the Hong Kong Bill of Rights provides that an offender's privacy has to be protected and shall not be subjected to interference or attacks. Article 26 of the ICCPR stipulates that all persons are equal before the law and entitled without any discrimination to the equal protection of the law. In addition, Article 33 of the Basic Law talks about the freedom of choice of occupation.

For this reason, President, there are a lot of matters requiring our attention in respect of these two areas and a balance must be found. If we rashly formulate an administrative mechanism now, can a balance be struck? This report also tells us that consultation has been conducted and many views have been received. Among them, 69 organizations responded to the first item concerning the provision of records for checking, with 47 supporting it and 17 opposing it. The remaining views were either neutral or did not express any clear position. Sometimes, many people in Hong Kong are like this but anyway, President, it can be seen that this proposal is quite controversial.

President, one of the grounds of opposition is that if this is an administrative measure, the Legislative Council will not be in a position to scrutinize it closely, as in the case of a bill. However, the Secretary may say that we need not worry as it would be submitted to the Legislative Council for examination anyway. Just now, I said that in overseas countries, this is dealt with by way of legislation, and having made reference to the experience of other

countries, we have chosen to devise another approach, so what lessons have we actually drawn? In addition, to deal with sexual offence records by means of an interim measure may lead to such problems as infringement of the privacy of sexual offenders. President, this may lead to challenges in Court. At present, the Court deals with this kind of cases every day, so do the authorities want to take this course of action? Some groups have pointed out that if such a register is compiled, this will reinforce the negative perception of this group of offenders and make them feel being discriminated against. Why do we not put in place a register for drug traffickers or violent criminals? Some groups even pointed out that doing so is even more unfavourable to the rehabilitation of this kind of offenders as they too want to turn over a new leaf.

President, with such a lot of problems, what proposals have they got? President, ultimately, it is necessary to return to the initial proposal of conducting a comprehensive review. The Government has to review the practices in all relevant legislation, then formulate a comprehensive package of proposals and a register may be one of them. But the Government has not done so.

As regards the Equal Opportunities Commission (EOC), I am grateful that on the day of the meeting of the relevant panel, Mr LAU Kong-wah hastily intervened — everyone in the world is in a hurry — and it was in this way that the discussion on the EOC was introduced. Yesterday, the EOC gave us a letter. President, due to the lack of time, we received it only yesterday and it is only in English (even the EOC does not know what equality is and only gave us an English version). The EOC letter says that due to the lack of time, it had no time to examine this matter in detail, so the views in the letter are only that of its Chairman. The letter says that this is desirable and a balance can perhaps be struck. However, when dealing with this matter, we have to take into consideration human rights, natural justice, privacy, equal opportunities, record protection, and so on. Moreover, parents and employers have to be taught how to strike a balance and understand the legislation. President, in fact, these things should have been done long ago.

For this reason, when the meeting is held on 8 April, we will probably see a very impressive scene and all the people will engage in discussions. If a consensus can be forged in the process, we can proceed accordingly. Otherwise, I hope the authorities will get back to the right track by looking at how the legislation can be amended, so that we can proceed with this matter as soon as

possible. The Democratic Party does not want Members to get the impression that we do not support taking action. We only hope that there can be a consensus, so that we can deal with this matter properly according to international practice before introducing regulation on this. Thank you, President.

MS AUDREY EU (in Cantonese): President, in recent years, there have been many news reports arousing grave concern and they were all related to sexual abuse involving people undertaking child-related work.

In fact, these cases made all of us see what the problem is and there is indeed a pressing need to deal with it. I have read the relevant report published by the Law Reform Commission (LRC) and found that paragraph 48 says that employers offering child-related work in other jurisdictions are provided with this much needed information, namely, on whether or not a job applicant has any record of sexual offence. It is also said that it is something of an anomaly that in Hong Kong, employers offering child-related work can ask an applicant to provide information about his sexual conviction record, but the employer has no means of finding out whether or not the applicant is honest with the declaration.

In addition, it also says at the beginning that the existing problem in Hong Kong and the loophole in law is that there is no mechanism to prevent a person who has previous convictions for serious sexual offences from applying for certain jobs in schools except in the case of registered teachers. If we look at this issue from a broader perspective, nowadays, many people would hire tutors, piano teachers or coaches to give their children lessons. However, in the present circumstances, how can we know whether or not someone has any record of sexual offence? Of course, this is a very serious matter, also a highly controversial one because, as Ms Emily LAU said earlier in her speech, this matter is dealt with by way of legislation in many other places. Moreover, in addition to considering the privacy of the offenders, it is even more important to consider their rehabilitation.

For this reason, President, I have proposed an amendment today. In principle, I strongly support the original motion moved by Dr Philip WONG and the spirit behind the LRC's proposals. However, I want to add this amendment because although I support them in principle, I believe that before implementing the specific arrangements, it is necessary to spend some time discussing them. If we decide quickly that administrative measures should be adopted and we

proceed with this on the basis of the major principle agreed by us, this would lead a lot of problems. For this reason, my amendment mainly seeks to call upon the academia, parents, concern groups and the general public to actively participate in the discussion and present their views, not just to the LRC but also to the Government, so as to work out a proposal that can afford protection to children and assure the human rights of former sex offenders and facilitate their rehabilitation.

President, I wish to raise the issue of rehabilitation in particular because we can see that in other places, some legislative bodies or statutory bodies have actually conducted many studies and found that the most effective way to prevent reoffending among sex offenders is to provide a great deal of counselling and psychological therapy to offenders. In the United Kingdom, for example, the efforts in providing therapy and rehabilitation services to sex offenders are more systematic and comprehensive, and according to the information there, the reoffending rate among sex offenders is less than 1%. The studies in Canada also indicate that the reoffending rate among sex offenders who have received counselling is 10%, lower than the 17% of those who have not received counselling.

Take Ontario in Canada as an example, the related services there include pre-imprisonment assessments for sex offenders. Sex offenders serving a term of imprisonment of more than two years have to undergo a risk assessment with various tests conducted by correctional services personnel on the basis of such information as police reports, victim's statements and court records. Correctional services personnel will provide the offender with appropriate imprisonment arrangements according to the risk posed by them and their needs in counselling and rehabilitation. Regarding some sex offenders with a tendency of reoffending, the Canadian Government will also provide them with intensive counselling programmes for a period of seven months. Some sex offenders if necessary may also get individual counselling services. Counselling services are provided by professional psychologists and health care personnel and such services are designed mainly to understand the reasons for these sex offenders committing the offences and help them solve such problems as emotional control, interpersonal relationships and sexual cognition, so as to effectively formulate a therapeutic and rehabilitation programme for them. At the same time, correctional services personnel will also teach them social and occupational skills to help them turn over a new leaf.

According to a study conducted by the Canadian Government, parole can help sex offenders' reintegration into society and enhance public safety. For this reason, the National Parole Board of the Canadian Government once dealt with parole applications from sex offenders regularly. Paroles could be classified into day parole, full parole and statutory release. If an offender violates the conditions of parole, for example, refusing to undergo psychological counselling or therapy in hospital, the parole officer in charge can suspend the offender's conditional release status and the latter has to return to prison immediately to continue to serve his term of imprisonment. Parole officers are also expected to maintain close ties with the offender's family, friends and employer to verify the offender's employment or education and residence status as reported to the Government through scheduled and unscheduled site visits, and to monitor the offender's compliance with all parole conditions.

Apart from Canada, in fact, a similar psychological therapy and rehabilitation system for sex offenders can also be found in Taiwan. After sentencing, offenders will serve their sentences in local prisons. Two years before they can be released on parole, they will be transferred to other places, for example, the Taipei Prison to undergo therapy. After such therapy, they will return to their original prisons to be released on parole. The therapy includes sexual education, knowledge to prevent reoffending and relevant legal concepts. After prisoners have completed their therapy, they also have to undergo an assessment and if they cannot pass it, they have to continue to undergo therapy. However, if a prisoner is suitable for parole, after parole or release from prison, they still have to receive physical and psychological therapy, counselling and education provided by the Sexual Assault Prevention Centre. If the result of the assessment is not favourable, the parole will be revoked.

Therefore, Members can see that in various places, there are actually different rehabilitation systems, counselling services and therapies in this regard. However, if we only adopt the administrative measure of a register check in Hong Kong without considering how to help these people, in fact, this may lead to many problems.

In addition, President, I also wish to point out that if we approve in principle that checks should be conducted on these people through the adoption of an administrative measure, how can the scope be determined? For example, I find that a series of offences is set out in the report of the LRC, but are these offences the most appropriate ones for inclusion in the register?

Another question is: On what kind of people can checks be conducted? I said just now that many people would hire tutors to give tuition to their children at home. This being the case, can all such people be checked? For example, if I plan to hire a certain person, since I can conduct a register check, I can call the department concerned or go through a process of enquiry. The other side would then give you some information orally. If this is the case, everybody can learn about what sex offences some people have committed because everyone can request such checks. If no safeguard is put in place, many problems will arise in this respect.

Of course, another question is: What kind of people does the mechanism target? For example, the LRC report says that prospective employees would be targeted first, that is, if you plan to hire someone, this kind of register checks can be made or confirmation can be sought. However, the report also says that in future, the checks can be conducted on all employees, including existing employees.

Therefore, regarding these issues raised by the LRC, we can see that it is particularly necessary to consider these issues or provide safeguards in implementation. In this area, some front-line social workers may have a lot of experience or advice to offer.

As a Member of the Legislative Council, I feel concerned. In principle, I strongly support giving protection to children in this regard and I also think that it is absolutely necessary for us to strengthen such protection. However, if we immediately go to the stage of an administrative measure once we have agreed among ourselves, this may lead to many problems in implementation. President, you may also recall that when we discuss the introduction of drug tests in schools, even though all of us think that this is desirable in principle, there are indeed many things requiring consideration in implementation.

Therefore, President, I have proposed this amendment in the hope that we can have more discussions before proceeding cautiously, so that the interests and rights of various parties can be given due regard. For this reason, I hope both Dr Philip WONG and Honourable colleagues will all support my amendment.

Thank you, President.

SECRETARY FOR SECURITY (in Cantonese): President, first of all, I would like to thank Dr Philip WONG for proposing this motion debate to express his concern for the protection of children and to urge the Government to expeditiously implement the recommendations made by the Law Reform Commission (LRC) to establish a scheme for sexual offences records checks for child-related work.

The care and worries of Dr WONG show again public concern and expectations. We agree that children should be sufficiently protected. In particular, we are concerned about sexual offences cases in which children are the victims. The police have all along been committed to combating these crimes. As Dr WONG has mentioned in his speech, during the past few years, there have been a considerable number of cases in which after the sexual offenders are released from prison, they have applied again for posts of child-related work. Through their contact with children at work, they have assaulted the children again. Such cases are most heartrending.

We have heard clearly the strong demands from various sectors across society, including the Judiciary, schools, child protection concern groups and parents, all reflecting the gravity of the problem. They request the Government to devise practical measures so that when an employer is to hire persons to fill positions related to children, they can make reference to some objective scheme and check whether the applicants have any record of conviction related to any sexual offences. This will prevent the applicants from hiding their records of such offences on purpose and commit sexual assaults against children again through contact with children in the course of their work.

In response to such a strong demand in society, the Sub-committee on Review of Sexual Offences in the LRC began a study as early as in 2006 and a public consultation exercise was conducted subsequently to examine if a registration system for sex offenders should be set up. Ms Emily LAU, it is not true that there was no public consultation. The Sub-committee is comprised of a number of independent and senior members of the legal profession and scholars and at the invitation of the LRC, a number of government departments like the Department of Justice, the Security Bureau, the police and the Social Welfare Department also sent their representatives to take part in the discussions of the Sub-committee.

As we understand it, in the course of the deliberations made by the Sub-committee under the LRC, the urgency of the problem was fully appreciated

and attention was paid to the strong public demand expressed for the expeditious implementation of a registration system. In view of the fact that the implementation of a comprehensive statutory registration and verification system would require a long time on discussion and preparation, therefore the Sub-committee suggested that the authorities should introduce a series of administrative measures and establish the mechanism expeditiously so that both employers and parents may check whether or not applicants for child-related work have any records of past convictions of sexual offences. Although this is an administrative scheme, we must ensure that it will comply with the following main conditions and principles, such as (1) the scheme should be clearly lawful and does not constitute any infringement on human rights; (2) it can be implemented soon by way of administrative guidelines issued; and (3) the objectives and arrangements of the scheme should not run counter to any long-term reform objectives of the rehabilitation of sexual offenders.

After careful discussions on the advantages and practicable options of the relevant administrative scheme, and also making reference to the practices adopted in overseas jurisdictions like the United States, the United Kingdom, Canada, Australia, and so on, the Sub-committee released a consultation paper in July 2008 and began public consultation on whether or not a scheme for sexual offences records checks should be established and on how such a scheme should be enforced. A total of about 200 written responses were received from schools, groups and individuals.

Of the views collected in this public consultation exercise, 72% supported establishing the relevant scheme. These views came from schools, educational institutions, family service organizations, child concern groups, parents, health care organizations, and so on. Written responses from schools and groups alone showed that 82% were in support of the recommendations made by the LRC. These groups which showed support for the proposed scheme also made recommendations on the implementation details to the LRC. As to those views opposing the proposed scheme, the main concern expressed was that the scheme might not be conducive to the rehabilitation of offenders or that it might infringe on human rights and discriminate against sexual offenders.

After examining these responses and the specific recommendations made, the LRC released a report in February this year and formally proposed that the Government should establish an administrative scheme as an interim measure. This will enable employers of persons undertaking child-related work and work

relating to mentally incapacitated persons to check the criminal conviction records for sexual offences of employees.

The LRC points out in its report that with respect to posts which require integrity, the background of applicants is very important to the employers. If work for posts involves contact with children or the mentally incapacitated, information on the conviction of any sexual offence is related to assessing the suitability of an applicant. It is reasonable, responsible and necessary to introduce a system whereby the employers or parents can be certain that a person who assumes any post related to work with children has or has not been convicted of any sexual offence. It is the view of the LRC that the implementation of such a scheme is fully justified and it will reduce the risk to which children are exposed. Should the measure undermine the right to privacy of persons convicted of sexual offences, it is considered necessary and justified for the sake of protecting the children.

The Sub-committee has closely examined each and every concern expressed by all sectors across society and a detailed response is made to these concerns in the report. A number of measures are also introduced to the scheme to address issues of human rights and rehabilitation of offenders. For example, considering the need for the rehabilitation of sexual offenders, what the report suggests is not a scheme whereby former sexual offenders are automatically forbidden to engage in any work related to children. On the contrary, it is up to employers and parents to decide in full knowledge of the matter whether to employ any person who has been convicted of a sexual offence in any work related to children. Besides, the proposed scheme is only applicable to work related to children or the mentally incapacitated and this will not affect all other work types such as catering, reception, retail, real estate, transport, logistics, and so on. So the report considers that even if people who have been convicted of a sexual offence are unable to work in a post related to children, they can rejoin society through other means. The report also suggests that the scheme for sexual offences records checks should not disclose any record of convictions regarded as "spent" under section 2 of the Rehabilitation of Offenders Ordinance.

Furthermore, to address the right to privacy of sexual offenders, the report does not recommend adopting some of the practices used in certain foreign places such as publicizing the list and personal data of sexual offenders in the community. Besides, under the proposed checks scheme, an application for a records check must be submitted by the job applicant himself and not by the

employer. The employer will only be informed whether or not the job applicant concerned has or has not committed any sexual offence. The authorities will not hand over the written information of any record of conviction to the employer directly but will give the information to the job applicant concerned. If the job applicant agrees, he can give this information to his employer for reference.

The report also points out that the proposed scheme has tried its best not to create any social division. Under the scheme, if the result of a check of records for convictions of sexual offences shows that the applicant is clean, the result would not be recorded in writing, but would be communicated verbally to the job applicant or his employer. This will prevent the emergence in society of a group of people unable to produce proof of no sexual offence conviction record and hence their rehabilitation from being affected.

We welcome these recommendations made by the LRC. We understand that sexual assault produces a far-reaching impact on the body and mind of the children and it is a cause of concern to us. We must strive to minimize such risks. We agree that it is necessary to introduce this measure to prevent former sexual offenders from molesting children again. When considering the establishment of this scheme, we will strive to strike a balance between protecting children and the rehabilitation of sexual offenders.

We are presently studying the various recommendations made in the report. The motion proposed by Dr Philip WONG today has given us one more opportunity to listen to the views of Members on establishing a scheme for sexual offences records checks. I will respond later after listening to the views of Members.

Thank you, President.

MR CHEUNG MAN-KWONG (in Cantonese): President, in the recommendations made in its report Sexual Offences Records Checks for Child-Related Work: Interim Proposals, the LRC has addressed the concerns of Judges, parents and the education sector. The recommendations touch on the rehabilitation of offenders, privacy, and the right of the child to be protected from sexual assault. The Legislative Council needs to conduct a consultation on these recommendations and seek a balance in human rights.

Over the past four years, there were as many as 54 cases of sexual offences involving teachers. Of these, eight cases are pending a verdict, while in 15 cases the offender was found not guilty and in 31 cases the offender was found guilty. The continual rise in the number of these cases has caused a great shock and an alarm in the public. It is not acceptable for teachers to sexually assault students. Even in the absence of the LRC recommendations, there ought to be some reasonable mechanism in place to prevent children from being sexually assaulted. Teachers who are repeated sexual offenders and paedophiles are found in universities, secondary schools, primary schools, the Education Bureau and tutorial schools. It is only in the kindergartens that no such persons are found. The most serious case is a teacher who sexually assaulted a 12-year-old primary school pupil 280 times and arranged for an abortion for the girl when she became pregnant. The teacher was passed a stiff sentence of 10 years of imprisonment. This teacher is really a shameless person, a disgrace to the education sector.

It is a great shock that such a case could have happened in the education sector. We cannot tolerate such cases, not even one. But the fact is, 31 cases have happened during the past four years, though they may differ in terms of their severity. Parents send their children to school because of their trust in the teachers and the children may at times readily listen to their teachers than their parents. If some people would exploit their position as teachers and seek to satisfy their lust and assault the children while organizing some activities or holding some tutorial classes for them, then where is the right of the children to be free from sexual assaults?

The most dangerous persons are the paedophiles, for once they are in a school, they will pose dangers to the pupils. The LRC report points out that according to statistics from the Correctional Services Department (CSD), the recidivism rate of a sex offender is 6%. However, due to the loose criteria set, it is afraid that the real situation may not have been reflected. The report also cites some overseas studies undertaken since 2007 which state that the recidivism rate of sex offenders ranges from 10% to 50%. Of the 31 cases of sexual offences involving teachers during the past four years, at least five involve paedophiles. The percentage is already 13%. This is far higher than the figure of 6% from the CSD. In some of these cases, the teachers regarded the girls as sex objects who were either threatened or lured to have sex with them for years until they were discovered. Also, there was also a paedophilic teacher from a subvented school who, after his release from prison, worked in a tutorial school and continued with his paedophilic activities until he was jailed again. Dr LEE Sing of the

Psychiatric Department at The Chinese University of Hong Kong said that the cause of paedophilic tendency was unknown and there was no cure for it. Hence, paedophiles should not work as teachers, or else they would find it hard to control themselves as they are subject to more frequent fantasies and stimulations. Therefore, a mechanism should be set up to prevent sex offenders like paedophiles from assaulting children again after their release from prison.

Also, there are teachers who are alleged to have committed certain sexual offences but have narrowly escaped the long arm of the law because the students concerned are not willing to testify or because of the loopholes in law. However, a teacher's professional qualifications do not permit the commission of a criminal offence or an act in breach of professional ethics. I have referred 44 cases of teachers involved in sexual offences to the Education Bureau for follow-up and of these cases 29 of the persons concerned are found guilty — there are 29 such cases — but in the end, only 10 teachers in these cases have their teacher's licence revoked. For the other 34 cases, the teachers concerned continue to teach in tutorial schools and universities under confidential conditions and there is nothing the Education Bureau can do. In addition, there are teachers who have been issued a warning or undergone disciplinary action, but their licences are not revoked. As for some other cases, they are in a prolonged appeal process and although some teachers have been sentenced because of sexual offences, their licences are not revoked and they can still teach and come into contact with students.

From this it can be seen that insofar as the handling of teachers who have committed sexual offences is concerned, the Education Bureau still has a lot of shortcomings in its practices. Teachers who have committed sexual offences but have been given a light sentence do not have their licences revoked and so schools know nothing at all when they employ these teachers. Even for those teachers facing serious charges, as the appeal proceedings are still ongoing and the appeal process is long, they can still teach in their original schools. There are even cases of teachers changing their names and switching to another school for teaching and the school concerned knows nothing about what they have done before. There are even cases in which teachers are stripped of their licences or jailed, but after release, they can cover up their identity and work in schools as non-teaching staff or teach in a tutorial school. Some even open their own tutorial schools and hence come into contact with a lot of children and even those with intellectual disabilities. Some of these people are paedophiles who are

extremely dangerous. The education sector hopes that laws can be enacted to improve this state of affairs. But before laws are enacted, society should not pay no attention to the dozens of children who have been sexually abused evident in court cases.

I agree very much with the comments made by Justice Michael STUART-MOORE of the Court of Appeal that whenever a paedophile is at large in society, it means a constant threat to the children. Justice STUART-MOORE suggests establishing a register in Hong Kong and making an official record of people who have been found guilty of paedophilic offences. He also suggests that such people should be barred where practicable from engaging in work that occasions close contact with children. Therefore, there is a practical need for the education sector to set up a register of sexual offenders. But I have to stress, a balance must be struck between protecting the right to privacy and the rights of the child.

Article 24(1) of the United Nations International Covenant on Civil and Political Rights and Article 19 of the United Nations Convention on the Rights of the Child state that a government has an unequivocal duty to undertake reasonable and necessary measures to protect the child from being sexually abused, harmed and exploited. The setting up of a checks register for sexual offenders is meant to protect the children. This is because if a child is sexually abused and the abuser is a teacher or another adult whom the child has trust in, the kind of physical and mental trauma experienced by the child will last throughout its life. Children are a disadvantaged group in present-day society and they cannot voice out their demands. But the protection of the rights of the children is a responsibility of the international community and it must not be overlooked or viewed with contempt. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, Hong Kong has always been proud of its rule of law. The rule of law is like the statute of the goddess of justice placed on the roof of the Legislative Council Building — it is blindfolded and unafraid of power. It holds a sword in one hand and a balance in the other, always ready to uphold justice. However, in certain areas our laws look feeble, where the goddess of justice holding a sword and a balance cannot protect the most basic rights of certain disadvantaged groups. The grass-roots workers and children are the most vulnerable groups in society and they are badly in need of

comprehensive protection of their rights in law. I have been involved in defending labour rights for decades and there are numerous cases in which justice cannot be upheld because of loopholes in the law and where basic rights are not protected.

The LRC released a report last month called Sexual Offences Records Checks for Child-Related Work: Interim Proposals. It is a step forward in the direction of protecting the rights of the child. According to the proposal made by the LRC, a scheme should be set up to enable prospective employers of persons undertaking child-related work and work relating to mentally incapacitated persons to check the criminal conviction records for sexual offences of employees. The LRC hopes that this scheme which enables employers to check if prospective employees have any records for sexual offences should be put into force as soon as possible.

President, I do not think anyone will object to the principle that children should be protected and efforts should be made to reduce their chances of getting harmed. But the proposal made by the LRC undoubtedly has some great limitations and grey areas and hence should be discussed in greater detail and clearly defined. The greatest limitation of the proposal is that it can only reduce the risk of sex offenders sexually assaulting children or mentally incapacitated persons again. But it cannot prevent any offence committed on the child by first-time offenders. Another limitation that requires clear determination is that the proposed measure only targets employees, whereas employers are not bound by the records checks scheme and they do not have to declare their criminal conviction records of their sexual offences.

I wish to cite a case presented in the LRC report. A tutorial school teacher with a criminal conviction record was jailed for 30 months and upon his release, he changed his name and opened a tutorial school. Subsequently, he was put into prison for indecent assault involving five children. This sex offender changed his name and opened a tutorial school. His position is not an employee but an employer or a self-employed person. I suspect the LRC only aims at a notification system for employees and this cannot prevent such unfortunate things from happening again.

Why do employees of a tutorial school have to declare their sex offences records whereas the employers can be exempted? I do not want to raise the

issue to the level of discrimination, but if this proposal of the LRC is to be put into practice, this problem must be solved.

Another issue which is a concern to me is that the LRC suggests including volunteers in the scope of regulation. The scope would then become very wide indeed. If any social service organization or voluntary agency holds any activity related to young people below the age of 18 or children, the volunteers taking part in the activity will need to declare their sexual offences record. In that case, the arm of the law may be stretching too far and this may cause great annoyance to the organizations concerned and the volunteers.

Let me cite an example. The Federation of Hong Kong and Kowloon Labour Unions to which I belong will encourage from time to time family members of members of the Federation to join our voluntary service. There are some activities concerning the young people, so it would be hard for me to imagine that when we encourage our members or their family members to take part in voluntary service, they are required to declare whether they have any sexual offence records. Therefore, there is some difficulty for social service groups if they are required to enforce this proposal and put volunteers on the same par with employees.

President, I am a woman, also a mother. Of course, I would like very much that there will be more measures available to enhance the protection of children from sexual assaults. But I have some reservations when I consider the fact that there may be some young people who, because of a fleeting and impulsive act, have to bear a sexual offence record for the rest of their life. They will encounter some permanent obstacles when they want to find a job later. President, I understand the motion proposed by Dr WONG and that is, to hope that the contents of the report can be put into practice as soon as possible. But on the other hand, as I have said before, the recommendations made by the LRC are very far-reaching indeed. There are some crucial issues that warrant further consideration and improvement. So I support the views expressed in the amendment in urging the Government to take the lead to initiate in-depth discussions in society and identify reasonable and practicable measures to enhance the protection for children against sexual assault.

Thank you, President.

MRS REGINA IP (in Cantonese): President, I am grateful to Dr Philip WONG for timely proposing the motion debate today. This is especially true when we read about a shocking story in the newspapers recently about a 60-year-old professional who sexually assaulted some young girls making use of the Internet. Mr CHEUNG Man-kwong told us just now in great detail that such problems do exist in the education sector. I therefore think that there is a great need to set up such a checks scheme.

I have also heard Honourable colleagues proposing the amendments point out that it is hoped that such work could be carried out by way of legislation and that consultation should be extended. I agree very much with this view. But the gravity of the problem has indeed shocked many other people and me. The reason is despite the practice of compulsory education in Hong Kong, there are still so many young boys and girls who could be so easily deceived and misled by others and even sexually assaulted. The authorities must do something about this expeditiously. While I agree that the Government should conduct more consultation and there are merits in enacting legislation on this, I would also agree with the interim proposals made by the Government, that a checks scheme should be introduced.

I would like to share with the Secretary of Departments, the Directors of Bureaux, the President and Honourable colleagues the experience I got from my observations abroad. I have heard many Honourable colleagues say that any laws or measures in handling such problems may infringe on human rights and the right to privacy. I fully agree to that. However, I think many Honourable colleagues would know that the measures we adopt — regardless of whether they are administrative or legislative measures — should be commensurate, that is, they must be commensurate with the severity of the situation. In the United States, the state of sexual assaults there is very serious. President, I will first put aside cases of children sexually assaulted. Recently, the *Time* magazine carried a report about the women members of American troops stationed in Iraq who did not dare to go to the latrines at night and they did not dare even drink any water. This is because once they left the barracks to the latrines, they could be raped. It is reported that one third of the American women soldiers stationed overseas have been raped. Such things are not only covered up by the Army but many victims would prefer not to disclose such things for fear of affecting their career. In countries like the United States, sexual offences are rampant. As we have heard from Mr CHEUNG Man-kwong, it is difficult to treat these sex offenders and

once they develop such a perversion, it would be very difficult to treat it medically. I notice that the list of sex offenders in the United States is publicized, because the country is vast and many sex offenders would move to another state to live upon their release from prison so as to avoid making their identity known to their neighbours. Therefore, the law requires that the list of these sex offenders should be made public. This is because sex offenders should be restricted from engaging in work which has contact with children, and they are very likely to reoffend. Of course, the law would give a stringent definition to reoffending sex offenders, and they are required to wear an electronic bracelet and their whereabouts would be monitored by electronic devices. It is already proven in the United States that this type of offenders is likely to reoffend. Many innocent people would be harmed, and they are not just raped but killed.

So I think that this problem should be discussed and studied in depth. At the end of the day, legislation should be enacted to delineate what types of people and applicants to which types of work must furnish the relevant information and whether or not any further measures should be adopted. However, since it takes time to legislate, I would also agree to the proposal made by the LRC on setting up a checks scheme as an interim measure. Thank you, President.

MR PAUL CHAN (in Cantonese): President, children are the masters of society in the future and this is a saying we are so much familiar with. Both the Government and society are duty-bound to protect the rights of children and with respect to sexual offences involving children, we must have zero tolerance for them and we must try our best to prevent such things from happening. Ever since the publication of the report entitled Interim Proposals on a Sex Offender Register in mid-2008 by the Sub-committee on Review of Sexual Offences of the LRC, I have been very concerned about the specific measures recommended by the LRC after consultation, as well as how relevant government departments would respond and when these measures can be implemented. This would prevent our children from being sexually assaulted.

In February this year the LRC finally released a report entitled Sexual Offences Records Checks for Child-Related Work: Interim Proposals. In my opinion, there is great urgency with this problem and the relevant authorities should expeditiously implement these proposals to enhance the protection for our next generation.

Actually, if we only look at Chapter 1 of the consultation paper, we will find that there are seven court cases as well as remarks made by the Judges. And after listening to the speeches given just now by Honourable colleagues in this Chamber, we will know that we cannot afford to wait anymore to deal with the problem of child-related sexual offences. Let me first cite from a judgement found in the consultation paper. In mid-2006, Justice Michael STUART-MOORE, Vice-President of the Court of Appeal pointed out when hearing a case concerning a 21-year-old piano teacher who had sexually harassed two girls that the case highlighted a loophole in the judicial system of Hong Kong in that there was no system in Hong Kong like that in the United Kingdom in which some kind of formal record was kept of persons convicted of such offences; that there was no formal register to record the names of paedophilic offenders; and that parents had no way to warn their children of the possible risk to which they might be exposed. Justice STUART-MOORE strongly suggested keeping such kind of information, such that the details can be easily accessible later. He also suggested that a register should be set up in Hong Kong to formally record persons convicted of paedophilic offences. Similar remarks made by Judges can be found in other judgements as well.

After the publication of the consultation paper for more than a year, the number of judgements on child-related sexual offences has increased and we are all very sorry to hear that.

If we look up the documents on the rights of child for discussions conducted in this Council in the middle of last year, we can find that the number of child-related sexual offences in which victims sought help from the police had increased throughout the period from 2001 to 2005 and the number of such cases rose from some 500 to nearly 700.

In a recent survey, the End Child Sexual Abuse Foundation — it was co-founded by Ms SIAO Fong Fong who is the President of the Foundation and she is regarded as the person in whom most Hong Kong people would place their trust — points out that a total of 2 563 telephone calls for help were received from 2005 to last year. Of these calls, 511 were about child sexual abuse and the youngest victim — and you may not believe it — is only one year old and most victims are children aged four to six and this group accounts for 28% of the cases.

The figures quoted by me and the cases cited by various Members should suffice to make all of us realize that we cannot afford to tolerate the large number and severity of child-related sexual offences cases.

The LRC report suggests that the Government should set up an administrative scheme because a complete statutory mechanism would require a long period of time to undertake the relevant work and in order to respond to the concern expressed by the Judiciary and the public as well as owing to the urgency of the problem, I think that we should support administrative measures which will reduce the risk of children being exposed to sexual assaults. Of course, I also agree with Members when they say that at the end of the day, we should have a set of statutory procedures to affirm such a scheme.

Another area which is a concern to me is the rehabilitation of sex offenders and helping them rejoin society. I know that the Panel on Security has recently discussed the issue of employment support for rehabilitated persons. At the meeting a large number of rehabilitated persons told us their personal experience, saying that they had reformed but they were not accepted by society. I have great sympathy for their predicament. I hope that through civic education and other practical support measures, these rehabilitated persons who are prepared to turn over a new leaf can be accepted by society.

However, before deciding to support the original motion proposed by Dr Philip WONG or not, I would state that my prime concern is the protection of children. This is especially the case with children who have been harmed in cases that came to light in recent years. In many of these cases, they were harmed by people whom they trust, like teachers. I agree with the amendment proposed by Ms Emily LAU which proposes "expeditiously consult various sectors" and "implement as soon as possible reasonable and practicable administrative and legislative measures". As for the amendment by Ms Audrey EU, sorry, I cannot give it my support because it does not say that child-related sexual offences should be dealt with expeditiously. Thank you, President.

MR RONNY TONG (in Cantonese): President, as many Honourable colleagues have pointed out in their speeches earlier, the LRC proposed at the beginning of last month to set up an interim administrative mechanism. President, on the one hand the proposal has rejected the feasibility of setting up a sex offender register for public access, but on the other, it proposes to adopt a non-mandatory system which allows employers or prospective employers to require employees or

prospective employees who wish to engage in child-related work to check with the police whether the latter have any records of sexual offences, *a la* the certificate of no criminal record. If the result of the check is clean, the police will inform the employers or prospective employers verbally and no written record is left.

President, it has all along been a very controversial issue as to whether a sex offender register should be set up in Hong Kong. Cases of sexual assaults on children or mentally incapacitated persons are reported from time to time and in some of these cases, professionals who often have contact with such persons may also be involved. Mr CHEUNG Man-kwong has cited strong evidence in this aspect. According to figures from the End Child Sexual Abuse Foundation, of the some 2 500 telephone calls received for help over the past five years, close to 20% are surprisingly cases involving child sexual assaults. The youngest victim was only one year old. Victims aged four to six are the largest in number, taking up 27% of the total number of cases. President, these figures have really sounded an alarm, waking us up to the fact that our work done in child protection is clearly inadequate and children are exposed to the risk of sexual assault every day. As Ms SIAO Fong Fong, President of the End Child Sexual Abuse Foundation has advocated, our society should adopt a zero-tolerance attitude towards child sexual abuse. The Government should exert all of its efforts and resources to prevent such unfortunate incidents from happening again.

It follows that various suggestions have been made in society to address the problem of child sexual abuse. One of them is the setting up of a sex offender register modelled on the practice adopted in some Western countries so that employers can avoid hiring persons with records of child abuse. This will prevent such persons from facing the temptation and creating the environment and motivation for them to reoffend. As for the checks scheme proposed by the LRC on this occasion, although this is not a sex offender register in name, quite a lot of restrictions are imposed on the power of accessing the information, the identity of people accessing the information, the method of communicating the information, the contents of the information and the scope of offences involved. In terms of the mode of operation, it is in essence a sex offender register or a sex offender database. It follows that problems with such systems cannot be avoided in the checks scheme as well.

President, on this sex offender register or database on sex perverts, it has always been questioned that these are effective means to prevent sex offenders from reoffending. The United States is the first country which practises a sex offender register. In 2008, the report of a survey done by the New Jersey Department of Corrections sponsored by the US Department of Justice shows that the sex offender register had practically no effect at all in prolonging the time a sex offender reoffending, reducing the chance of reoffending in a sex offender, reducing the form of reoffending sexual offences, reducing the number of victims, and so on. Although the number of convictions of sexual offences prior to the passage of the law on sex offence register was double that of after the passage of the law, the prison terms served by offenders in total is almost the same before and after the passage of the law. This means that although the number of reoffending offenders may drop, the severity of the offences has not in any way become less. More importantly, the cost of maintaining this sex offender register has increased from the original some US\$500,000 to close to US\$4 million in such a short span of time as 17 months. This is a drastic surge by eight times. But the result gained is nil.

Apart from practical results, we are all the more concerned about the impact of the checks scheme on the rehabilitation of sex offenders. Many studies have pointed out that the most effective way to reduce reoffending in sex offenders is to subject them to therapy. An example is to require sex offenders to take part in behavioural change programmes. The recidivism rate of sex offenders after therapy is 10% and the recidivism rate of sex offenders not having undergone therapy is 20% to 30%. As for offenders of different ages, their recidivism tendency will vary. Young sex offenders will have a lower recidivism tendency than adult sex offenders after therapy. In addition, not all sex offenders are interested in children. If all sex offenders are presumed to pose a threat to children, it will be unfair to sex offenders who are determined to reform themselves. It will also run counter to the objective advocated by us all along, and that is, the Government should lend its support to the rehabilitation of offenders and help them rejoin society. What is more worrying is that suppose we shift our focus and put our resources on a sex offender database, will the Government use this as an excuse to cut the resources for rehabilitation services and therapy programmes which are already constrained by a lack of resources?

Of course, our greatest concern is that although the checks scheme is non-mandatory, since the scheme will be invoked when people look for jobs, as

people look for jobs and when it is hard to get one these days, job applicants facing financial pressure will certainly accede to the request of employers and let them check the database despite the absence of any mandatory requirement in law. So on the surface, the employees are willing to be checked and that is voluntary, in terms of operation, the effect is no different from a mandatory system. What then is the protection of the privacy of the employees, especially their personal data and that of those who have not committed any offence?

President, according to information from the Correctional Services Department, the recidivism rate of sex offenders within a three-year period is only 6%. This figure is not entirely about sex offenders who assault children. Though this is not a good figure in any sense, it is lower than the recidivism rate for other types of offenders. The proposal made by the LRC on this occasion should be studied in many aspects and we should not do anything rashly such that a crime prevention measure will make a wrong start and also undermine the determination of rehabilitated persons to rejoin society.

Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, as many Honourable colleagues said earlier, in the report published by the LRC entitled Sexual Offences Records Checks for Child-Related Work: Interim Proposals, the proposals raised *inter alia* are very controversial. Therefore, I agree that the Government should be cautious with this and lead various sectors of society to engage in more discussions before finalizing a decision.

President, I agree entirely that it is imperative for the Government to take effective measures to prevent the occurrence of sexual offences, especially protecting disadvantaged groups like children and mentally incapacitated persons. Actually, even one case of sexual assault against a person from a disadvantaged group is too many. However, I also think that in any policy or measure, consideration should be given to the basic rights of persons who have committed sexual offences and their rehabilitation.

With respect to the rights of the two parties, we should not emphasize either one of them to the neglect of the other. We cannot look at the problem as a simple dichotomy. On the contrary, I would think that the issue should be

viewed from a proactive angle, that is, how the rights of the two parties can be given due regard, hence reducing or even eliminating the occurrence of sexual offences.

Actually it does not matter if we support or oppose such proposals. But the proposal made by the LRC to set up a sexual offences records checks scheme can at most address the symptoms and never prevent sexual offences from occurring. In my opinion, a more effective way to prevent reoffending by sex offenders is to establish a complete counselling, therapy and rehabilitation system, a system which has regard for their human rights. Piecemeal and fragmented measures should not be implemented. In any case, as some people from some human rights organizations have said, any measures launched by the Government should be legally justified and reasonable and efforts should be made to ensure that these measures will strictly comply with the relevant principles in human rights and provisions in law, otherwise the legality of these measures will be subject to challenges in Court.

International experience shows that an effective way to prevent reoffending by sex offenders is to approach from the counselling and psychological therapy of these offenders. Also, they must be given a chance to rejoin society and lead a normal life. If they can lead a normal life, their chances of reoffending will decrease. Therefore, I think that the Government must address the problem at root. First, a policy on preventing reoffending by sex offenders should be devised and enforced. It must not be like the present situation in which some compartmentalized, piecemeal measures are implemented to only address the symptoms but not the root causes. The LRC has not undertaken any comprehensive assessment and proposed policies that can effectively prevent reoffending by sex offenders. What it has done is to propose in a piecemeal manner the disclosure of conviction records of sex offenders. Obviously, this proposal fails to address the problem and it is too simplistic in nature.

The Civil Rights Education Centre of the Society for Community Organization has pointed out that the LRC proposal has led to another major problem of principle and that is, it overlooks and even seriously infringes on the rights of most rehabilitated sex offenders released from prison, this includes their right to privacy and the right to employment.

President, I believe Members will also agree that the rights of sex offenders should not be absolute. We have reasons to protect children from abuse and we should achieve a balance in this value of the utmost importance. But I think if we act according to the proposal made by the LRC, in the end it is very likely that all persons who have committed sexual offences will not enjoy any job opportunities again. Therefore, from the human rights perspective, the proposal made by the LRC is disproportionate in terms of striking a balance between human rights and curbing the incidence of crime. Although the LRC emphasizes that the checks scheme will not disclose information of rehabilitated persons whose records are cleared under the Rehabilitation of Offenders Ordinance. But the clearing of records only applies to offenders upon first conviction and whose prison term does not exceed three months, whereas most sex offenders will serve a prison term of more than three months, the result is that a person once committed a crime will never have his records cleared.

Another great problem with the LRC proposal is that it resorts to an administrative mechanism instead of legislative means to implement this checks scheme for criminal conviction records. President, from the legal point of view, if the Government adopts the proposal of the LRC in a wholesale manner, it is definitely dangerous because the checking of criminal records would entail privacy considerations. So if the Government only uses an administrative mechanism, the infringement on the right to private life of sex offenders will be subject to judicial review. The Court may at that time rule that the administrative measure in question violates the Hong Kong Bill of Rights Ordinance and even the Basic Law. This would lead to more losses instead of gain. I think the Government must be very careful in dealing with this issue.

Actually, although the LRC emphasizes that the proposal is entirely voluntary, that is, the applicant may apply for a checking of his sex offences records or refuses to have such records checked, but this is practically not possible. Why? It is because if a job applicant does not agree to the checking of his personal information by the employer, the employer may not consider hiring him. In actual operation, in a bid to get the job, the job seeker can only accede to the request even though he is extremely reluctant to do so. In such case, the argument that the scheme would help them cannot be true.

President, the positive side of the motion debate today is that it will enable different views and points of contention to be advanced and so leading to more discussions in society, instead of simplifying the problem. So President, I have to reiterate, in order to protect the children effectively and reduce the incidence of sexual offences, the Government must come up with an integrated proposal to prevent and reduce sexual offences and conduct a public consultation, and it must not introduce measures like this in a piecemeal manner before a holistic and comprehensive reform proposal is in place.

President, I think an effective way to prevent reoffending by persons who have committed sexual offences is to give them counselling and help them in their rehabilitation. All along government efforts in providing counselling and assistance to rehabilitated persons are seriously inadequate. I hope the authorities can enhance work in this respect.

President, I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): President, after protracted discussions, the LRC has finally released a report on interim proposals on sexual offences records checks for child-related work. Looking around at the international community, we will find that measures of child protection in Hong Kong are indeed fewer in comparison. The related laws here are very backward and they fail completely to catch up with other developed countries.

There have been voices in society for years calling for enhancing the protection given to children, including their freedom from abuse and sexual assaults, but the Government has not heard these demands. It is only after children have been repeatedly assaulted by offenders with previous convictions that the Government begins to take some hasty actions. So from the macro perspective, I welcome such a proposal and I hope that it can be implemented soon.

However, I still have reservations about the interim proposals made by the LRC because the proposal resorts to administrative measures to effect checking of the sexual offences records so that the sexual offences records of those who engage in child-related work can be checked. As the proposal recommends the

use of an administrative measure instead of legislative means, people concerned about this issue in society, civil organizations and the Legislative Council do not have a chance to examine the specific contents of the measure. Moreover, there is a lower degree of transparency in the enforcement of administrative measures and it is very likely to affect the innocent or becomes very much dictated by the whims of those in power. Though the measure may protect the safety of children, it is very likely to sacrifice the right to privacy of the rehabilitated persons and their chance of reform and turning over a new leaf.

I have recently met with many groups in the hope of gauging the views of civil organizations. They all agree that there is an urgent need in society to set up a checks scheme for sexual offences records in order to ensure that children will not be assaulted by sex offenders physically and mentally. Even if an interim administrative measure is put in place, legislation should be enacted for this purpose within a short time.

It remains of course that various groups still have many misgivings about the interim proposals and one such misgiving which badly needs to be addressed is: What is the effect of similar measures implemented in other countries and places? The LRC report is silent on this. As we all know, the setting up of a sex offences records checks scheme will involve human rights issues and it also produces a certain impact on the wage earners. If we take a rash move without gathering the relevant data, it is likely that a lose-lose situation will result, which is no good to society in general.

Meanwhile, how best privacy can be protected is also an issue of enormous concern. According to the proposals made by the LRC, the result of a check will only be communicated verbally to the person requesting the same. But large organizations or enterprises may store the information related to the checks conducted in their own databases. In so doing, this may contravene the Personal Data (Privacy) Ordinance and increase the risk of information leakage.

Although a privacy law is enacted in Hong Kong, the penalty for divulging information is not stiff. In most cases, the matter is considered settled after an apology is given. The case of information leakage by the Independent Police Complaints Council speaks volumes about this. A victim lodged an application with the Legal Aid Department but the latter told the victims that it was very

difficult to determine the damages suffered by the victims and in the absence of precedents to follow, at most a nominal sum of \$10 could be claimed from the police. So the application was rejected. I think the Government should adopt a two-pronged approach in that while setting up the checks scheme, it should also impose heavier penalties on the leakage of personal information. This will ensure that the employers will act in a more prudent manner when handling personal information.

Also, many organizations have conveyed to me that they are worried about recruitment of volunteers in future, for if all these volunteers will need to have their sex offences records checked, this will add to their administrative expenses. This especially applies to certain large-scale activities involving children where more than 100 volunteers will have to be recruited. They are at a loss as to what they should do. I think the Government must state clearly how much is the checking fee, who should pay and under what circumstances can that be waived. This will allay the misapprehensions of the sector.

Irrespective of whether legislative means or administrative measures are used to implement this sex offences records checks scheme, the Government should look into the possibility of mandating sex offenders to receive psychological therapy so as to reduce their recidivism rate. This is because many overseas studies have shown that the recidivism rate can be significantly lowered if offenders are given therapy. In so doing, children can be protected from harm and rehabilitated persons can rejoin society. This would be the best service done to society.

Moreover, it is very important to promote social education, especially educating the children. Children should be taught to say no to strangers and to build up their self-defence mechanism. This is the basic preventive measure we must take forward. I appeal to the Government here that it should not just respond to the proposal on setting up a sex offences records checks scheme, of equal importance are therapy, rehabilitation and educating the children. The work to protect our children is something we cannot afford to delay, because once the vulnerable minds of children are harmed, the harm done can be permanent. I hope that after listening to the views expressed by Members and society, the Government can devise some specific measures as soon as possible and submit them for in-depth discussions in the Panel on Security in order that a balance can

be struck among all sides. Lastly, I would like to ask the Government to tell us clearly the administrative measure concerned and the timetable for legislation in order to facilitate monitoring by society and this Council.

President, I so submit.

MR LAU KONG-WAH (in Cantonese): President, one oft-repeated saying is that the safest place is often the most dangerous place. This can be used to describe the situation faced by our children, our next generation. In schools or in tutorial centres, or when they receive skills training with their coaches, they may well be molested. They may even be molested by former sex offenders. How should our society look at this problem? After a four-year in-depth study and a public consultation exercise, the LRC has put forward some positive proposals. I think we should first express our appreciation of the LRC's work.

Understandably, this topic is highly contentious. Following four years of study and a consultation exercise, the LRC has put forward the present proposal, and I think one sentence in the executive summary of the report should give us much food for thought — "To educators and parents from jurisdictions with comprehensive mechanisms to ensure the safety of children, the current situation in Hong Kong would be unthinkable." "Unthinkable" means "inconceivable". Hong Kong is such an advanced place, but in contrast to countries in America and Europe, Hong Kong has not put in place any scheme for protecting children, with the result that parents, teachers and headmasters are unable to check the records. This is a lacuna in the protection of children, something unthinkable to the outside world.

President, some have advanced one viewpoint with very great worry. This is about a question of human rights: should sex offenders' rights be protected after conviction? I think their rights must be protected, and so must their privacy. It is a question about their personal rights, which is very important. However, children's right to protection and their parents' right to protecting their offspring must not be ignored either. I therefore think that the balance proposed by the LRC is important. Some people have also raised a question about employment. They wonder, "Will ex-prisoners be deprived of their freedom to choose jobs?" President, actually, this point was already considered during our discussions on security guards. At that time, we all wondered whether their

freedom would be restricted. However, the social consensus at that time was that there must be some form of restriction in this regard. The viewpoint is that if they want to secure employment again, if they really want to engage in guarding services, then they must be subject to certain restrictions. I therefore think that this is no novel viewpoint. From the overall perspective, I think that it is appropriate to establish a register for inspection by the public and even employers under appropriate circumstances that do not affect privacy.

However, how should we choose between administrative measures and the enactment of legislation as a means of implementing the scheme concerned? I have heard many Members put forward various opinions. My opinion is that even if administrative measures are chosen to implement the scheme, it is still necessary to go through many procedures and scrutiny in the Legislative Council. And, Members will raise lots of suggestions in the process. Time-wise, I do not think that the enactment of legislation must be slower, and the adoption of administrative measures must be faster. Therefore, I personally think that we should follow the direction of narrowing the scope of the present recommendations, conducting consultation and public hearings step by step in the meantime, and proceeding with the enactment of legislation afterwards. This is a more appropriate approach.

President, while I fully support establishing a scheme for offences records checks, I also hold the view that many problems may arise from two recommendations in the report in the course of implementation, including the one relating to the recruitment of voluntary workers as mentioned by Ms LI Fung-ying and Mr CHEUNG Kwok-che just now. Since it is impossible to estimate the number of voluntary workers, I do not think that when implementing the recommendation, the Government should make the scope so extensive, so extensive that not only voluntary workers but also self-employed persons and trainees are covered. I think that this is not necessary as the first step. Rather, the scope should be narrowed down to employment relationships at the beginning. Another problem is about "verbal notifications". From the perspective of privacy protection, I think that this may not be the safest practice. Or, I would say that this may even cause disputes. As I observe, it is mentioned in the report that many organizations which were consulted recommend the adoption of written notifications. I think this point should merit consideration. I do appreciate the LRC's good intention, but verbal notifications may not be the safest practice.

President, this topic was already discussed at the meeting of the Panel on Security in February. There is also this debate in March, and in April, a public hearing will be held. I do not think that our work on this should come to an end after going through this process. I very much hope that the Government can make known its position on the LRC's recommendations and formulate a direction of its future work as soon as possible.

Regarding the original motion and the two amendments, I would say that the spirit of Dr Philip WONG's original motion is proper. But it gives me the impression that he wants to get all things done immediately. What I mean is that he wants to implement all the recommendations right away regardless of what they are about. But what I want to point out is related precisely to this — there are still some defects and inadequacies. In contrast, Ms Emily LAU's amendment is based on a progressive approach, and I think it is more appropriate to implement the recommendations in a progressive manner. Ms Audrey EU's amendment, together with Mr Ronny TONG's speech just now, gives me the feeling that they are not quite so supportive of establishing a scheme for sexual offences records checks. That is why I may not agree to their viewpoints. In the final analysis, our aim is to protect children because children are basically naïve and innocent. It is therefore necessary to protect them, which is also compatible with the aspiration of the public.

MS MIRIAM LAU (in Cantonese): President, protecting children is the intrinsic duty of parents and even the responsibility of a government and society. Article 19 of the United Nations Convention on the Rights of the Child provides, "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse."

As a matter of fact, in Hong Kong, we do from time to time hear of child sexual abuse cases that make our hackles rise. The End Child Sexual Abuse Foundation received 95 requests for assistance in connection with child sexual abuse last year. In other words, there was an average of four cases a day. The situation is indeed extremely worrying.

The Liberal Party thinks that one case of child sexual abuse is too many. It is imperative for the Government and society to adopt every possible measure

to reduce the incidence of such offences. Therefore, the Liberal Party supports the proposal of the original motion to expeditiously establish the mechanism recommended by the LRC, so that employers can check the records of people seeking child-related jobs. It is believed that this will have positive effects on preventing ex-offenders from coming into contact with children without any checks. To say the very least, this recommendation of the LRC can serve as a layer of protection for children.

President, in the past, there were actual cases in which ex-offenders were able to commit crimes again after conviction or release from prison. For example, in one case adjudged in March 2008, the accused admitted having indecently assaulted five girl students during the operation his tutorial centre. But it was discovered that he had already committed a number of similar crimes from 1976 to 1997 and was once sentenced to two and a half years of imprisonment. Mr Justice Louis TONG responsible for hearing the case said in meting out the sentence that the accused had once claimed that he might consider giving private tuition to students again after release from prison. He thus wondered whether the public and parents should have the right to know the backgrounds of private tutors. He recommended the authorities to make an appropriate decision after balancing the interests of all sides. His comments were both to-the-point and resounding, bringing home to us the urgency of establishing a scheme for records checks.

What is more, Ms SIAO Fong Fong, President of the End Child Sexual Abuse, has pointed out that according to the research in other countries, the recidivism rate of sex offenders is three times higher than those of other types of offenders. When he spoke just now, Mr Ronny TONG also remarked that even a scheme for records checks would not help deter sex offender recidivism. President, the current situation is exactly like this. We are unable to prevent reoffending by sex offenders. We must adopt some necessary measures to protect children from harm.

However, the Liberal Party observes that even after the implementation of the scheme, there will still be some loopholes. It is particularly worth noting that several categories of persons who may have close contact with children, such as persons in charge of tutorial centres and nurseries, foreign domestic helpers and expatriate teachers, are not covered by the scheme for records checks. Besides, offences "outraging public decency", such as clandestine photo-taking

and nudity in public, are similarly excluded from the scope of records checks. One therefore cannot help thinking that the effectiveness of the scheme for records checks may be significantly reduced.

The Liberal Party therefore requests that while implementing the scheme, the authorities must seek to plug all these loopholes. In the case of foreign domestic helpers and expatriate teachers, for example, can the authorities obtain their relevant criminal records through the consulates concerned or other channels? Such criminal records should be about the crimes they might have committed in other countries, and the purpose is to give assurance to employers and parents in hiring them.

President, the Liberal Party understands that society must strike a balance between protecting children and giving sufficient opportunities to rehabilitated offenders. We hold that the LRC's recommendation can already achieve this aim.

To begin with, the LRC has not recommended copying the foreign practice of establishing a sex offenders register/database open to the public. This can protect sex offenders' privacy. In marked contrast, in the United States, where human rights and privacy are upheld so strongly, sex offenders' personal information, such as names, addresses, photographs and even fingerprints, are all open to the public; and, in serious cases, the offenders concerned are even required to wear electronic-fetters to enable the police to know their whereabouts.

And, the LRC has not recommended to require employers to check the sexual offences records of job applicants either. Nor has it recommended to prohibit employers to employ staff with sex offences records. In comparison, the approach is very mild. What is more, an employer making a telephone check will only be told whether the job applicant has any records of sexual offences. The specific details will not be disclosed to the employer.

We do understand that the two amendments are meant to address the concern about offenders' privacy. But as I have pointed out, the present recommendations of the LRC are already very lenient, rather than seeking to shut all doors on them.

I have also listened very carefully to Members' remarks. Some of them wonder whether the enactment of legislation will be better than the adoption of administrative measures as currently proposed. They also wonder whether it is possible to allow more exemption and narrow the scope of the LRC's recommendations. We will adopt an open attitude towards all these views. Actually, whether we adopt any administrative measures or enact any specific law, we must invariably conduct extensive consultation. However, I must still point out that we have already reached a stage where we should no longer keep conducting consultation without making any decision. We need to use the LRC recommendations as a basis and perfect them. We should also provide children with concrete protection as soon as possible. This is what we should do.

Thank you, President.

MS CYD HO (in Cantonese): The rights of the child should be protected by society by all means, not least because any sexual molestation will leave a child with a trauma in the rest of its life. Worse still, continuous sexual molestation will turn a child into another sex offender when it grows up. Therefore, we should seriously discuss this motion topic today. But I must point out that we must not replace the enactment of legislation by administrative measures.

Wire-tapping is a good example. In the case of wire-tapping, the rationale is to confer the required power on the executive authorities for the purpose of investigation. But since the enactment of legislation was delayed again and again, such power was eventually challenged by the application for judicial review filed by a member of the public. In the end, legislation had to be enacted. Worse still, the enactment had to be made in very great haste. Therefore, if we do not go about this present task conscientiously through the legislative process, the administrative power conferred hastily will be unable to stand the challenge of judicial review.

The relevant recommendation makes it clear that checks will not be made mandatory. The reason is manpower shortage. I do not know whether the present unwillingness to enact legislation is once again due to manpower shortage, nor do I know whether this is also due to insufficient time, the need for implementing the recommendation as early as possible. But the point is that once the scheme is implemented, all job seekers will be requested by their

prospective employers to obtain verbal or written proof for verification, despite the fact that checks are not mandatory. Non-mandatory checks will not make the demand any smaller. The reason is that all institutions, be they sponsoring bodies of schools and child services organizations, must hold themselves accountable to the public. School headmasters are under the pressure of parents and must entertain the demands of school sponsoring bodies, so they will certainly request job applicants to provide proof. Therefore, the authorities must not use manpower shortage as an excuse because the demand will not become any smaller. Actually, once the administrative guidelines take effect, all outgoing teachers may simply request school headmasters to add a statement at the end of their reference letters. This will turn such letters into some kind of standard documents proving teachers' durations of service and their clear records of sexual offences. This may well be the case in the future. Therefore, why do we not activate the legislative procedure at an earlier time, so that all details can be discussed and a meticulous piece of legislation can be enacted to regulate the problems connected with such details?

Some Members have mentioned that not only the education sector but also many industries involving contact with children may similarly need such records checks. Actually, in the case of certain industries, there should be proportionate measures for conducting offences records checks. For instance, such checks must be conducted in the case of disciplined services because if one has any records of offences Well, it still depends on whether the offence committed was illegal parking. But if there are records of criminal offences, the applicant will definitely not be recruited. The crux of the problem actually concerns a number of questions. Who should be empowered to conduct checks? How is the mechanism to be activated? Who are supposed to access the information? How long should the time limit be? Do we allow rehabilitation or "spent conviction"? The authorities cannot possibly allay public anxieties simply by issuing the administrative guidelines, not least because when we scrutinized the legislation on wire-tapping last time, Members were all concerned about the possibility that those civil servants accessing the information might use it for various misdeeds, such as blackmailing. How should we impose control? Can the problem be solved simply by issuing the administrative guidelines?

Therefore, President, while I support protecting children, I must say that a proper balance should be struck between protecting the rights of the child and the rights of sex offenders to rehabilitation. We should discuss this issue, but I

absolutely disagree to the replacement of the legislative process by the issuing of administrative guidelines.

When it comes to the enactment of legislation, we must discuss one related policy, that is, the rehabilitation of offenders. Some think that the protection of children's rights must supersede the rehabilitation policy. But I wish to point out that if we totally deny offenders of any rehabilitation opportunities, we will in effect be driving them into a corner. In that case, the incidence of recidivism will be much higher. We should therefore consider whether they should be entitled to "spent conviction" in the light of the gravity of their offences. It is necessary to discuss this issue.

Honestly, society will want to see the rehabilitation of all ex-offenders. In theory, social isolation aside, another purpose of imprisonment is to make the offender reflect on his faults during the prison term. In other words, society should be prepared to accept an offender as a reformed person upon his release from prison. This includes enabling the offender to find a means of earning a living. Naturally, society will require rehabilitated offenders to undergo a "trial period", and this "trial period" will be longer than the time required by ordinary people to look for jobs. Therefore, we are deeply worried that even existing employees must be subject to such checks under the present proposal. The reason is that these people have spent nearly three years on re-establishing themselves in the workplace, and they have not since committed any further sexual offences. But since the proposed administrative guidelines require records checks, someone envious of another person's upcoming promotion may well ask for a records check, in the hope of knocking the person out of his way to promotion. The person in such a case should otherwise have a chance of starting a new life, but due to the administrative guidelines, he is once again marginalized by society. Is this what we want to see?

Therefore, President, any measures of protecting children's rights should be preceded by a meticulous legislative process during which all details should be discussed.

Thank you, President.

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

MR JAMES TO (in Cantonese): President, I have deliberately deferred giving my opinions until after listening to Members' remarks (Of course, more Members may still speak after me). President, I actually agree that we must proceed with prudence, because there are so many problems with balancing various interests as mentioned by Members. Honestly, even after exploring the risks faced by society as a whole and whose interests should be considered more important, it will still not be so easy to strike a balance.

What I want to say is that after careful thoughts, I think the present proposal is only about the very minimum. It will be fine to conduct further consultation. But if after such consultation We have heard so many different views, and unless there are any insights that have never been expressed publicly (I cannot say that there are none, but the possibility may not be very high) We have heard the views of many organizations, including those belonging to the "human rights school" and the "children's protection school" (Let me first describe them as the two extremes). In case the proposed measure is still not implemented after the present consultation exercise, I do not think that anyone can possibly offer any convincing justifications. Some Members have remarked that we may first adopt an administrative measure on the condition that the Government must undertake to enact legislation at a later time. I think this is very important because if a piece of legislation can really be enacted at the end of the day, there will be a high chance of success in entrenching the measure against challenges and preventing it from being beaten so easily.

I therefore think that if the Government agrees that this should be done, and this is the minimum that should be done Of course, I cannot rule out the possibility that the Government may consider the whole thing again and decide to do more after consulting the LRC for the second time. But if it subsequently fails to enact any legislation on this most minimum measure, I simply fail to see how it can continue to call itself a responsible government. If the Government says that no legislation will be enacted and the administrative measure will be here to stay in, say, the next 10 or 20 years, I frankly cannot imagine how the situation will be like.

Second, frankly speaking, when it comes to resources for counselling, as I have mentioned many times before, such resources are really inadequate. If sufficient resources are not allocated to helping such offenders or reformed persons, people will certainly make various criticisms, complaining that an administrative measure is going to be introduced to check whether anyone has

committed any related crimes. But are there any ways for us to obtain sufficient counselling resources? In the case of those offenders who are willing to receive counselling, if a doctor responsible for counselling has any reasonable scientific evidence that can prove the conditions of an offender after therapy, can he obtain sufficient resource support from the Government, so that he can issue to the offender a certificate of therapy or a certificate of recovery? If the answer is no, some will think that the Government is just intent on evading all risks. And, I must say that at present, it really looks like no one actually wants to see the curing of such offenders. Or, at least, the situation is something like this.

I have of course asked many experts, seeking their advice on whether such perversion can be completely cured and also on the chances of recovery. I have asked such questions because they are exactly what we are discussing now. According to experts, it is indeed difficult for any therapy to make an offender lose all interest in such activities. But if the aim of therapy is just to dissuade them from committing such crimes, such as sexual molestation and possession of child pornography (This is also a crime) Another kind of crimes which may be found in foreign countries is about the organization of tour groups especially for such activities. This is also a form of sexual molestation. But such activities are only found in foreign countries. It is possible for therapy to dissuade offenders from doing the things I have mentioned, and the chances are reasonably high indeed.

As can be expected, the resources involved (for the therapy) will be huge. But I really think that it should be done. It may well be argued that for possible situations involving close contact with such offenders, precautions can actually be taken, because if an offender is under employment, his employer may search for information about him and listen to others' advice. However, Members must bear in mind that if offenders have not completely recovered, they may still commit the crime of molestation elsewhere. Am I correct? We cannot do anything about them. We cannot possibly lock them up in prison forever, right? In most cases, we will not do this to offenders. Nor are we able to do so either. Therefore, regarding resources for therapy, I hope that the Government can give us some information. For example, can the Government tell us whether the resources committed to this area will be increased more vigorously after all the studies conducted in the past few years? I think this is also very important.

And, following the establishment of such a register No, not a register. I am sorry. Following the introduction of the administrative measure or the

proposed register in the future, I suppose, people must learn to look at this issue with a more liberal attitude. Besides, people must learn how to judge whether they are over-worried or overly lenient in the course of assessing the risks involved. For example, if an offender has not committed any such crimes for a certain number of years (One may of course argue that all is only because the offender has not been caught), should one (as the person in charge of a school or tutorial centre, for example) think that the offender must never be taken on? In this connection, people must realize that if society as a whole adopts such an attitude, there will emerge a very discriminatory situation. But how can we make sure that liberal-minded employers can be reasonably well-informed and can thus make sensible judgements? For example, can we allow employers to know whether the crimes committed by offenders were of a serious nature? Are there any means or psychological assessments that can serve such a purpose? For instance, in case the offender agrees and the employer also agrees, is it possible to make a further psychological assessment, so that the employer can consider the assessment findings against the offender's past criminal records and then make a sensible decision after a prudent evaluation of the risks involved? Such are the details, and I hope that the Government and the LRC can continue to carry out studies on them.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Dr Philip WONG, you may now speak on the two amendments. You have up to five minutes.

DR PHILIP WONG (in Cantonese): I am very pleased that like me, Ms Emily LAU and Ms Audrey EU are also concerned about the protection of children, and that they have proposed amendments to my motion. Actually, the two Members' amendments both aim to urge the Government to expeditiously establish a mechanism for protecting children from sexual abuse. My purpose of proposing the motion is precisely to raise the social awareness of this topic, in the hope that the Government can, at the soonest possible time, put forward a consensual scheme to plug the loopholes of the present system as mentioned by the Law

Reform Commission (LRC), so that certain ex-sex offenders released from prison can be barred from coming into contact with children and molesting them again in their work. That way, we can afford children further protection.

Prior to publishing the report, the LRC already conducted very extensive public consultation and received nearly 200 submissions from various sectors of society. Most of the views received by the LRC are in support of its proposals. We should all listen to more opinions and put forward a balanced and feasible scheme to enhance the protection of children. In this regard, there are no fundamental differences between my views and those of Ms Audrey EU. The Panel on Security of the Legislative Council has decided to hold a public hearing on 8 April to gauge the views of various social sectors on the recommendations of the LRC. Many Members and I all hope that the relevant social sectors can pitch in enthusiastically to express their views. The Government has also said that it will consult the relevant bodies and organizations.

Ms Emily LAU said that administrative and legislative measures must be expeditiously implemented to protect children. I do not rule out the enactment of legislation as a long-term solution to the problem. Therefore, there are no differences between my view and that of Ms LAU here. But what we must consider now is the question of priority. It is pointed out in Ms LAU's amendment that this is a highly controversial topic. But I would think that this is in fact a very urgent topic. Even the LRC can notice the urgency. Therefore, on the one hand, it has accorded priority to the enactment of legislation on this matter, and on the other, in anticipation that law reforms will take a very long time, it has also recommended the introduction of an administrative measure by the authorities.

In regard to the enactment of legislation, we know that the LRC has not stopped its efforts, and it has undertaken to continue with its studies on comprehensive law reforms, so as to perfect the whole mechanism. That being the case, I hold that it will be more pragmatic to introduce an administrative measure first and enact legislation at a later time. This can also fully reflect the LRC's holistic approach to the problem.

In Chapter 2 of the report, the many requests of the judicial sector for the establishment of a scheme for sexual offences records checks are quoted, and many cases of children being molested by ex-sex offenders are set out. Mr

CHEUNG Man-kwong has also pointed out that he has recorded more than 50 cases of child sexual abuse in the education sector alone. All this can show the gravity of the problem. If more innocent children are victimized because of our delay, I will indeed be very sad. I therefore hope that Members can appreciate my feeling. I hope that they can seek common grounds while tolerating differences and support my original motion and the two amendments. Thank you, President.

SECRETARY FOR SECURITY (in Cantonese): President, I have listened very attentively to Members' remarks. To begin with, I wish to express my thanks to Members for putting forward so much valuable advice on the motion. In the course of exploring the establishment of a scheme for sexual offences records checks by employers under specified circumstances, we will certainly give full consideration to the views expressed by Members.

In the debate just now, I heard many Members say that since child sexual abuse may inflict life-long harm or even irreparable impacts on children, they were very concerned about such cases. Several Members also strongly requested the Government to expeditiously set up the mechanism for records checks as recommended by the Law Reform Commission (LRC), so that employers and parents wanting to employ others for child-related work can ascertain the sex offence records of applicants for the protection of children.

As pointed out by some Members, in recent years, Judges hearing cases of child sexual abuse involving ex-sex offenders have stated in their judgements that it is necessary for Hong Kong to set up a mechanism similar to those found in other countries, so that the public can be given appropriate and effective protection, and ex-sex offenders can be prevented from molesting children again through contact with them in the course of their work. The public consultation on the proposed mechanism conducted by the LRC also shows that most opinions are in support of the establishment of a mechanism for sexual offences records checks. Therefore, I believe that society has already forged a consensus on the establishment of a scheme for sexual offences records checks for child-related work. It can even be said that there is a strong demand for this.

Various Members have made suggestions on the workings of such a scheme for records checks, and some of them recommend the authorities to enact a piece of legislation on the implementation of the scheme. Other Members, on

the other hand, are concerned that the new measure may affect the rehabilitation of ex-sex offenders and infringe upon their privacy.

We will thoroughly consider all such advice offered by Members. As I pointed out at the beginning of this debate, the LRC report has actually conducted thorough studies on and given detailed replies to all these major concerns. And, every attempt has been made to strike a balance between child protection and the rights of rehabilitated offenders under the proposed administrative records checks system.

The sexual offences records checks mechanism proposed by the LRC mainly aims to foster the protection of children, so as make sure that we can prevent ex-sex offenders released from prison from being employed to perform child-related work without the knowledge of employers and parents, and from having any more chances of molesting children. The recommendations in the report are not meant to be mandatory. Quite the contrary, under the proposed records checks mechanism, a job applicant can continue to have his own say. It is only when the applicant gives his consent that the employer can conduct a check to ascertain whether he has any records of sexual offence convictions. Under this arrangement, an employer can decide on an informed basis whether he is going to take on an applicant with records of sexual offence convictions to perform child-related work or tasks related to mentally incapacitated persons. The report also notes that according to the study conducted by the LRC, child-related work employers in other overseas jurisdictions are already provided with such information, and such an arrangement can help foster the protection of children and other vulnerable persons.

On the other hand, the LRC has also proposed to introduce various measures to protect the privacy of ex-sex offenders and give them chances of rehabilitation, including the requirements that an application for a records check must be filed with the consent of the job applicant, that the application must be made by the applicant himself, and that such checks shall be applicable to child-related work or tasks relating to mentally incapacitated persons. Under the proposed mechanism, an employer will only receive a simple verbal notification, that is, he will only be told whether the applicant "has" or "does not have" any sexual offence convictions. The authorities will not directly provide the employer with any particulars of the offences or conviction records.

In the following part of my speech, I shall respond to the views expressed by Members in the debate.

Some Members hold that a law should be enacted for the implementation of the proposed mechanism. In this regard, the LRC has already explained that it will continue to study whether a comprehensive and legally-binding regime should be introduced for the mechanism. The proposal on legislative enactment requires both careful consideration and extensive consultation, and this will take a very long time. But the public generally think that the mechanism should be implemented as early as possible to reduce the risks faced by children and mentally incapacitated persons. The LRC report therefore recommends that an administrative checks mechanism should first be introduced as a transitional arrangement. In this connection, the Administration is agreeable to the concern and recommendation of the LRC.

Some Members have expressed the concern that the proposed checks mechanism may infringe upon the privacy of ex-offenders. As I remarked just now, the mechanism proposed by the LRC has taken account of privacy protection and the need for striking a balance. And, the recommendation has actually been put forward after considering the advice of the Privacy Commissioner for Personal Data. As a matter of fact, detailed replies on rehabilitation and human rights considerations are already given in paragraphs 4.16 to 4.28 of Chapter 4 of the report. During the consultation exercise, some people also put forward opinions on and concerns about such considerations. The LRC has already considered all such views thoroughly. We must not forget that the LRC and its working groups are made up of Judges, senior counsels and scholars. They are confident that the recommendation will not infringe upon any human rights. Besides, the LRC report also points out that criminal conviction records are public records, so their disclosure should not be completely prohibited for reasons of human rights infringement. As a matter of fact, in individual professional sectors, the conviction records of job applicants are also regarded as an important factor determining whether they are suitable for practice in the professions concerned.

In regard to overseas experience, the LRC mentions that conviction records have long since been classified as records in the public domain, and in some jurisdictions, there are even some private sex offender registers compiled on the basis of news reports. The LRC does not wish to see any such registers in Hong Kong because the information contained in private registers may be incomplete and may easily lead to mistaken identity. In this connection, we agree entirely

to the recommendation that the authorities concerned should be responsible for setting up the checks mechanism.

There is the view that such a mechanism is in contravention of Article 33 of the Basic Law, which reads, "Hong Kong residents shall have freedom of choice of occupation". It is pointed out in the LRC report that sex offenders are not forbidden to apply for or take up any child-related work, only that employers are permitted under the new mechanism to know whether an applicant has any sexual offence conviction records before deciding whether the applicant is suitable for the work concerned. On this very premise, the LRC formed the view that an administrative records checks mechanism will not infringe upon sex offenders' entitlement to the protection stipulated in Article 33 of the Basic Law.

The Government absolutely recognizes and is also very concerned about the rights and privacy of ex-sex offenders. However, we must stress that it is still necessary to strike a balance between different rights and interests. The LRC report mentions that Article 24(1) of the International Covenant on Civil and Political Rights imposes a clear obligation on the Government to take all reasonable and necessary measures to protect children from any abuse and exploitation by sex offenders. Besides, Article 19 of the United Nations Convention on the Rights of the Child also provides that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Therefore, the Government is under clear obligation to take appropriate measures to prevent children, including children with disabilities, from being exposed to circumstances in which sexual abuse may arise.

Some Members are concerned about whether the establishment of a records checks mechanism will lead to any discrimination against ex-sex offenders, and whether their rehabilitation will thus be affected. In this regard, the report makes it very clear that the proposed mechanism is not meant to totally or automatically prohibit the employment of rehabilitated offenders in the jobs concerned. If an employer is satisfied that an ex-sex offender has already reformed completely, he may by all means decide to recruit the offender to perform the work concerned. He may also decide to take appropriate measures

to minimize the risks of recidivism by, for example, forbidding the ex-offender to stay alone with any children during work without the supervision of others.

Besides, the mechanism will only be applied to work related to children and mentally incapacitated persons. All other occupations will not be affected. This can enable rehabilitated offenders to have sufficient opportunities of reintegration into society. As a matter of fact, assisting rehabilitated offenders in reintegrating into society is a very important part of the Security Bureau's portfolio. I can assure Members here that we would definitely not reduce the resources devoted to the rehabilitation of offenders if we were to implement this checks mechanism in the future. We will certainly make the same efforts to assist the ex-prisoners. This naturally covers the reintegration of ex-sex offenders into society. The Government has already put in place a series of measures to assist ex-offenders, including sex offenders, in reforming themselves. Such measures include employment assistance.

To sum up, we are of the view that the study conducted by the LRC is very comprehensive and has considered and balanced the views of various social sectors. The authorities will study the recommendations very carefully. It is hoped that a reasonable, lawful and feasible checks mechanism can be introduced as soon as possible to enhance the protection of children and mentally incapacitated persons. In the process, we will consult the relevant stakeholders. And, the setting up of a checks mechanism will necessitate the establishment of a new computer system. We hope that we can roll out the mechanism for public use next year at the soonest.

With these remarks, President, I implore Members to support Dr Philip WONG's motion. Thank you, President.

PRESIDENT (in Cantonese): I now call upon Ms Emily LAU to move her amendment to the motion.

MS EMILY LAU (in Cantonese): President, I move that Dr Philip WONG's motion be amended.

Ms Emily LAU moved the following amendment: (Translation)

"To delete "," after "That" and substitute with "the occurrence in recent years of a number of incidents in which persons who engaged in

child-related work committing sexual offences against children has aroused widespread concern"; to delete "this Council urges the Government to expeditiously implement the recommendations in" after "with children,"; to delete "Report to establish" after "the Law Reform Commission" and substitute with "('LRC') released a report in February this year, putting forward interim proposals for, as an interim measure, the establishment of"; and to add ", and this Council notes the contents of the report; in view of the highly controversial nature of LRC's proposals, this Council urges the Administration to expeditiously consult various sectors and, after balancing the views of various parties, implement as soon as possible reasonable and practicable administrative and legislative measures" after "child-related work".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Emily LAU to Dr Philip WONG's motion, be passed

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Ms Audrey EU, since Ms Emily LAU's amendment has been passed, you may now move your revised amendment. You may speak for up to three minutes to explain the revised terms in your amendment.

MS AUDREY EU (in Cantonese): President, I move that Dr Philip WONG's motion as amended by Ms Emily LAU, be further amended by my revised amendment.

President, I wish to draw Members' attention to this revised amendment because it only adds a few more words to Ms Emily LAU's amendment, which has just been passed. In particular, I wish to say a few words to Mr Paul CHAN and Mr LAU Kong-wah because Mr Paul CHAN remarked that I did not seem to think that it was necessary to proceed so quickly, and Mr LAU Kong-wah commented that despite my apparent support for child protection, I did not really think so deep down my heart. I wish to draw their attention to the present wording of my revised amendment. I must ask them not to look at me through tinted glasses just because of my championing of the *de facto* referendum. I fully support Emily LAU. The words she uses are all found in my amendment — "this Council urges the Administration to expeditiously consult various sectors and, after balancing the views of various parties, implement as soon as possible reasonable and practicable administrative and legislative measures to enhance protection for children against sexual assault". The only change I have made is to add several words at the end. Let me read them out aloud, "..... while safeguarding the human rights of former sex offenders and facilitating their rehabilitation." Only these few words are added. I therefore call upon Members to support my amendment. Thank you, President.

Ms Audrey EU moved the following further amendment to Dr Philip WONG's motion as amended by Ms Emily LAU: (Translation)

"To add ", while safeguarding the human rights of former sex offenders and facilitating their rehabilitation." immediately before the full-stop".

(Mr LAU Kong-wah raised his hand in indication)

PRESIDENT (in Cantonese): Mr LAU Kong-wah, do you have any question?

MR LAU KONG-WAH (in Cantonese): She misunderstood my remark.

PRESIDENT (in Cantonese): Mr LAU Kong-wah, what is your question?

MR LAU KONG-WAH (in Cantonese): President, she misunderstood my remark. I wish to make a clarification.

PRESIDENT (in Cantonese): Do you want to clarify a point in your speech which has been misunderstood?

MR LAU KONG-WAH (in Cantonese): President, I cannot see through Ms Audrey EU. But I do speak with all my heart.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Audrey EU's amendment to Dr Philip WONG's motion as amended by Ms Emily LAU be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Dr Philip WONG, you may reply now. You have up to three minutes and 33 seconds.

DR PHILIP WONG (in Cantonese): President, it is three minutes and 33 seconds. It is 333 in other words. Mrs Regina IP said that it is a good omen just now. *(Laughter)* This should bode well for youngsters in Hong Kong, so that they will not become innocent victims.

I am very grateful to the 10-odd Members who have spoken. To sum up, I think most Members agree on four points. First, there must be no inaction. Second, actions must be taken quickly. Third, actions must be sensible. Fourth, there must be further public consultation. I therefore hope that the Government can listen seriously to Members' speeches today, conduct extensive public consultation again and roll out a feasible and reasonable scheme as soon as possible, so as to reduce the possibility of innocent children being victimized.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Dr Philip WONG's motion as amended by Ms Emily LAU and Ms Audrey EU be

(Mr Paul CHAN stood up)

PRESIDENT (in Cantonese): Mr Paul CHAN, do you have any question?

MR PAUL CHAN (in Cantonese): President, a point of order.

PRESIDENT (in Cantonese): What is it about?

MR PAUL CHAN (in Cantonese): Rule 41(5) of the Rules of Procedure provides, "A Member shall not impute improper motives to another Member." Ms Audrey EU remarked just now that perhaps because she had been championing the *de facto* referendum, I looked at her with tinted glasses when I spoke. Do you think that in making this remark, she actually imputed improper motives to me?

PRESIDENT (in Cantonese): Mr Paul CHAN, what I heard was that Ms Audrey EU asked Members not to look at her through tinted glasses just because she had been championing the *de facto* referendum. She did not say that any Members had any improper motives. Therefore, I do not think that it is necessary to handle the "point of order" raised by you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Dr Philip WONG's motion as amended by Ms Emily LAU and Ms Audrey EU be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 17 March 2010.

Adjourned accordingly at fourteen minutes past Seven o'clock.

Annex I**GENETICALLY MODIFIED ORGANISMS (CONTROL OF RELEASE) BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for the Environment

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	In the Chinese text, in the definition of “署長”, in paragraph (c), by deleting “漁農自然護理署任何一名” and substituting “任何一名漁農自然護理署”.
3(2)(a)	In the Chinese text, by deleting “在某一設施、裝置或其他實體屏障內進行的作業涉及該生物” and substituting “該生物屬在某一設施、裝置或其他實體屏障內進行的作業所涉及者”.
6(1)	<p>(a) In paragraph (a)(ii), by deleting “or”.</p> <p>(b) By adding –</p> <p>“(aa) if the GMO is not an approved GMO but is exempted under section 42 from the application of section 5 –</p> <p>(i) the GMO has been released into the environment;</p> <p>and</p> <p>(ii) any condition for the exemption of the GMO, as set out in the register, has not been complied with; or”.</p> <p>(c) In paragraph (b), by adding “and is not exempted under section 42 from the application of section 5” after “approved GMO”.</p>

- 6 By adding –
- “(2A) Subsection (2) does not require a person to inform the Director of the release if –
- (a) another person also has control of the GMO; and
 - (b) that other person has informed the Director of the release in compliance with that subsection.”.
- 15(2) By deleting everything after “that” and substituting –
- “_
- (a) entering the information would adversely affect the applicant’s interest; and
 - (b) not entering the information would not be contrary to the public interest.”.
- 20(2) By deleting everything after “must” and substituting “cease to process the application or request.”.
- 21(2) By deleting everything after “must” and substituting “continue to process the application or request as if the information or document had not been provided.”.
- New By adding –

“PART 3A

DOCUMENTATION REQUIREMENTS FOR
IMPORT AND EXPORT OF GMOs

24A. Application of this Part

This Part does not apply to or in relation to a GMO that is a pharmaceutical product for use by human beings.

24B. Documentation requirements for import and export of GMOs

(1) When being imported or exported –

- (a) GMOs that are intended for direct consumption as food or feed, or for processing;
- (b) GMOs that are intended for contained use; and
- (c) GMOs that are intended for release into the environment,

must be accompanied by the documents prescribed by regulations made under section 46(1).

(2) Subsection (1) does not require GMOs falling within paragraph (a) or (b) of that subsection to be accompanied by the prescribed documents if –

- (a) the GMOs are imported or exported in a lot together with other living organisms;
- (b) the GMOs are unintentionally mixed with those other living organisms; and
- (c) the percentage of the quantity of the GMOs to the total quantity of living organisms in the lot does not exceed the prescribed percentage.

(3) If subsection (1) is not complied with, the person

who imports or exports the GMOs commits an offence and is liable to a fine at level 3.

(4) In any proceedings for an offence under subsection (3), it is a defence for the person charged to establish that the person did not know and could not with reasonable diligence have known that GMOs falling within subsection (1)(a), (b) or (c) were being imported or exported.

(5) In subsection (2)(c) –
“prescribed percentage” (訂明百分比) means –

- (a) the percentage prescribed by regulations made under section 46(1) for the purposes of that subsection in relation to GMOs falling within subsection (1)(a) or (b); or
- (b) if no percentage is prescribed, 0%.”.

25(2) By deleting “, including in a form other than a documentary form”.

25(3) By deleting everything after “public” and substituting –
“, free of charge –

- (a) through the Internet; and
- (b) at the office of the Agriculture, Fisheries and Conservation Department during normal business hours.”.

26(3) By deleting everything after “contain” and substituting –
“–

- (a) any confidential information in relation to a GMO approval application or variation

request; or

- (b) any GMO approval application or variation request, or any information provided for the purposes of the application or request, that has been withdrawn before it is to be entered in the register in accordance with section 13.”.

- 27 By deleting “or class of public officer” and substituting “of the Agriculture, Fisheries and Conservation Department not below the rank of Field Officer II”.
- 28(1)
 - (a) By deleting “has reason to suspect” and substituting “reasonably suspects”.
 - (b) By adding “about” before “to be committed”.
- 28(2)
 - (a) By deleting “has reason to suspect” and substituting “reasonably suspects”.
 - (b) By adding “about” before “to commit”.
- 29(1)
 - (a) By deleting “has reason to suspect” and substituting “reasonably suspects”.
 - (b) In paragraph (b), by deleting “has reason to believe” and substituting “reasonably suspects”.
- 29(2)
 - (a) In paragraph (a), by deleting everything after “used” and substituting “wholly or principally for dwelling purposes; or”.
 - (b) In paragraph (b), by deleting everything after “used” and

substituting “wholly or principally for dwelling purposes.”.

- 30(1)(a) By adding “about” before “to be committed”.
- 30(2) By deleting “A” and substituting “Unless otherwise specified in it, a”.
- 30(3)(a) By adding “at the time specified in the warrant or, if no time is specified,” after “may”.
- 31(1) By deleting “appears to the officer” and substituting “the officer reasonably suspects”.
- 32(1)(a) By deleting “has reason to believe” and substituting “reasonably suspects”.
- 33(1) (a) By deleting “has reason to suspect” and substituting “reasonably suspects”.
- (b) By adding “about” before “to commit”.
- (c) By deleting “this Ordinance” and substituting “section 5, 7, 23, 24B or 40”.
- New By adding immediately after clause 33 –
- “33A. Power to require production
of documents related to
import or export**
- If an authorized officer reasonably suspects that a
GMO is being imported or exported, the officer may, for the
purpose of verifying compliance with section 24B, require a

person who has control of the thing suspected to be the GMO to produce any document that is related to the import or export of the thing for inspection.”.

34 In the heading, by deleting “**sell or dispose of certain things immediately**” and substituting “**dispose of certain things**”.

34(1) By deleting everything after “may,” and substituting “after the seizure, dispose of the thing in any way (except by way of sale).”.

34 By deleting subclause (3).

35(1) By deleting “, or any proceeds of sale of that thing are,”.

35(2) By deleting “, or any proceeds of sale of that thing”.

35(3) By deleting “, or any proceeds of sale of that thing”.

35 By adding –

“(4) This section does not apply to a thing seized under section 31 if it has been disposed of under section 34.”.

36 By renumbering the clause as clause 36(1).

36(1) By deleting “, or any proceeds of sale of that thing”.

36 By adding –

“(2) This section does not apply to a thing seized

under section 31 if it has been disposed of under section 34.”.

37(1) By deleting “or any proceeds of sale of that thing”.

37(2) By deleting “or any proceeds of sale of that thing”.

37(3) By deleting “concerned or any proceeds of sale of that thing”.

37 By deleting subclauses (4) and (5) and substituting –

“(4) This section does not apply to a thing seized under section 31 if it has been disposed of under section 34.”.

38 In the heading, by deleting “**sell or**”.

38(1) By deleting “sell, or dispose of in any other way,” and substituting “dispose of in any way (except by way of sale)”.

38 By deleting subclause (2).

New By adding immediately after clause 38 –

“38A. Compensation for seizure etc.

(1) Subject to subsection (2), if a thing has been seized under section 31, the Government is liable to compensate the owner of the thing for any loss suffered by the owner –

(a) by reason of the seizure; or

(b) by reason that the thing dies, perishes or deteriorates, or is lost or damaged, during the time when the thing is seized or

detained.

(2) The owner is not entitled to compensation for the loss if –

- (a) the owner has been convicted of an offence under this Ordinance in relation to the thing; or
- (b) the thing is forfeited to the Government by an order of the court or magistrate under section 35, 36 or 37 (except where the thing is forfeited pursuant to section 37(3)).

(3) In any proceedings against the Government in respect of a claim for compensation on any of the grounds referred to in subsection (1), the amount of the compensation recoverable is an amount that is just and equitable in all the circumstances of the case, including the conduct and comparative blameworthiness of –

- (a) the owner of the thing seized;
- (b) the person in charge of the thing at the time when it was seized;
- (c) the agents of the persons specified in paragraphs (a) and (b); and
- (d) authorized officers, public officers and other persons concerned.

(4) No proceedings are maintainable in respect of a claim for compensation on any of the grounds referred to in subsection (1) unless the proceedings are commenced –

- (a) in the case of a claim for compensation in respect of any thing that was seized but

subsequently returned to its owner by order of the court or magistrate or by any person having authority to return the thing to the owner, not later than 6 months after the return of the thing;

- (b) in the case of a claim for compensation on the ground that the thing died, perished or deteriorated, or was lost or damaged, during the time when the thing was seized or detained, not later than 6 months from whichever of the following is the earlier –
 - (i) the discovery by the owner of the existence of the ground;
 - (ii) the date on which the owner could, by the exercise of reasonable diligence, have discovered the existence of the ground.

(5) A claim for compensation under this section may be made –

- (a) in the Small Claims Tribunal, if the claim is within the jurisdiction of the Tribunal; or
- (b) in the District Court, irrespective of the amount claimed.”.

- 39(1)
- (a) By deleting “a person” and substituting “an applicant under a GMO approval application or variation request”.
 - (b) By deleting “or 38(3), the person” and substituting “, the applicant”.

39 By adding –

“(1A) If a person who is directed under section 38(3) to dispose of a thing is aggrieved by the direction, the person may, within 28 days after receiving notice of the direction, appeal to the Administrative Appeals Board against that direction.”.

- 39(2) (a) By deleting “person” and substituting “applicant”.
- (b) By deleting “that is the subject of the appeal” and substituting “to which the appeal relates”.

- 39(4) (a) By adding “or (1A)” after “(1)”.
- (b) By adding “applicant or” before “person”.

42 By adding –

“(3) The Secretary must not grant an exemption under subsection (1) unless the Secretary is satisfied that the possible adverse biosafety effect that may result from the exemption is acceptable or manageable.”.

43 By deleting subclause (1) and substituting –

“(1) The Secretary must establish an expert group consisting of –

- (a) members who are public officers; and
- (b) members who are not public officers and who are appointed from different sectors, including the farming, biotechnology, environmental protection, academic and

trading sectors.

(1A) Members are appointed by the Secretary.”.

43(2) By adding “and the granting of exemptions,” after “non-disclosure requests,”.

46(1) (a) By deleting paragraph (a) and substituting –
“(a) to prescribe the documents required to accompany
GMOs falling within section 24B(1)(a), (b) or (c) when
those GMOs are being imported or exported;”.

(b) By adding –
“(aa) to prescribe the percentage referred to in paragraph (a)
of the definition of “prescribed percentage” in section
24B(5);”.

50 By deleting subclause (1).

50(2) By deleting everything before paragraph (b) and substituting –
“(2) If a person, during the transitional period,
knowingly maintains the life of a released GMO that is in a
state of being released into the environment, the person must,
before that period expires –
(a) inform the Director of the maintenance by
written notice; or”.

50 By adding –
“(2A) A person who contravenes subsection (2)
commits an offence and is liable to a fine at level 1.”.

- 50(3)(a) By deleting “released or”.
- 50(4) By deleting “release or”.
- 51 In the proposed item 67, in the Chinese text, by deleting “漁農自然護理署任何一名” wherever it appears and substituting “任何一名漁農自然護理署”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Mr Vincent FANG's supplementary question to Question 1**

As regards the number of liquor/club liquor licences refused for renewal due to the licence holder found not on the premise, in the past three years, among all the liquor/club liquor licence applications refused for renewal, only one case of club liquor licence renewal application was refused as the licence holder was found not on the premise. In that case, the police's repeated inspections and subsequent enquiry suggested that the licence holder was not living in Hong Kong for a considerable length of time during the licensed period. Hence, the licence holder was unable to manage the licensed premise in person and this contravened the condition set out in his licence. The Liquor Licensing Board endorsed the recommendation from the police and refused the application for renewal of a club liquor licence.

Appendix II

WRITTEN ANSWER

Written answer by the Secretary for Financial Services and the Treasury to Mr Ronny TONG's supplementary question to Question 3

Regarding the amount of Mandatory Provident Fund (MPF) accrued benefits that a 39-year old employee and a 60-year old employee may get upon reaching retirement age of 65, as per Member's request, the Mandatory Provident Fund Schemes Authority (MPFA) has made estimation according to different income groups who have monthly income of more than \$5,000. The estimation results of different income groups and the relevant information are set out at Annex for Members' reference.

It should be noted that according to the maximum relevant income which is set at \$20,000 per month under the Mandatory Provident Fund Schemes Ordinance, for employees whose monthly income is at \$20,000 or above, the total amount of mandatory contributions to be made by each of them and their respective employers is the same at \$2,000 per month. As such, MPFA has included all employees with monthly income at \$20,000 or above into the same income group when making the above estimation.

Annex

<i>Monthly Income</i>	<i>(i) Below \$5,000</i>	<i>(ii) \$5,000 to below \$10,000</i>	<i>(iii) \$10,000 to below \$15,000</i>	<i>(iv) \$15,000 to below \$20,000</i>	<i>(v) \$20,000 or above</i>
Number of employees who are aged 18 to 65 and are MPF scheme members ⁽¹⁾ (as a percentage of total population of Hong Kong ⁽²⁾)	150,000 (2%)	835,000 (12%)	520,000 (7%)	242,000 (3%)	484,000 (7%)
Average MPF contribution per month ⁽³⁾	\$148	\$749	\$1,172	\$1,633	\$2,000 ⁽⁴⁾
The amount of MPF accrued benefits of a 39-year old employee upon reaching retirement age of 65 ⁽⁵⁾	\$169,000	\$854,000	\$1,337,000	\$1,863,000	\$2,282,000
The amount of MPF accrued benefits of a 60-year old employee upon reaching retirement age of 65 ⁽⁵⁾	\$36,000	\$182,000	\$286,000	\$398,000	\$487,000

Notes:

- (1) The MPFA estimates the number of employees who are aged between 18 and 65 under respective income bands based on the General Household Survey for the third quarter of 2009 conducted by the Census and Statistics Department.

WRITTEN ANSWER — *Continued*

- (2) Total population of Hong Kong includes economically inactive population, unemployed population and employed population (including employees and self-employed persons under the MPF System).
- (3) Based on the average monthly income of employees in the General Household Survey for the third quarter of 2009 conducted by the Census and Statistics Department, MPFA estimated that the average monthly income of the five income groups of (i) to (v) above were \$2,960, \$7,490, \$11,720, \$16,330 and \$36,630 respectively. MPFA estimated the monthly mandatory contributions made by the employees and their employers on this basis.
- (4) According to section 10 of the Mandatory Provident Fund Schemes Ordinance, employers and employees are not required to make mandatory contributions in respect of the relevant income exceeding the maximum level of relevant income. As the maximum level of relevant income is currently set at \$20,000 per month, the total amount of monthly mandatory contributions for employees with monthly income at \$20,000 or above is the same at \$2,000.
- (5) Assuming the relevant employee has been making contributions since the inception of the MPF System in December 2000 and the annual rate of investment return is 5%, which is the annualized return rate from the launch of the MPF System in December 2000 up to end December 2009. The projection is made on the assumptions that there would be no change to the existing contribution requirements throughout the relevant employment period, and the scheme member concerned only makes mandatory contribution and does not make any voluntary contribution. All figures are calculated on the basis of current monetary value with the salary adjustment rate and the inflation rate assumed to be identical.