

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 9 June 2010**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

**MEMBER ABSENT:**

THE HONOURABLE TIMOTHY FOK TSUN-TING, 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 MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION

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

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

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

MS JULIA LEUNG FUNG-YEE, J.P.  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

MR YAU SHING-MU, J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

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

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Country Parks (Designation) (Consolidation) (Amendment) Order 2010 .....	72/2010
Declaration of Increase in Pensions Notice 2010 .....	73/2010
Widows and Orphans Pension (Increase) Notice 2010.....	74/2010
Employees Retraining Ordinance (Amendment of Schedule 2) Notice 2010 .....	75/2010

**Other Papers**

No. 98 — Broadcasting Authority Annual Report 2008-2009

Report No. 13/09-10 of the House Committee on Consideration of  
Subsidiary Legislation and Other Instruments

Report of the Bills Committee on Inland Revenue (Amendment) Bill 2010

**ORAL ANSWERS TO QUESTIONS**

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

**Development of Self-financing Universities**

1. **MRS REGINA IP** (in Cantonese): *President, the Government has indicated that it will actively develop self-financing universities to address the*

*shortage of post-secondary places and six sites, including a site of over 100 000 sq m at the former Queen Hill's Camp, have been reserved for this purpose. In this connection, will the Government inform this Council:*

- (a) of the assessment and vetting procedure required for education institutions to be recognized as universities;*
- (b) given that it took Shue Yan College more than 10 years from application to being upgraded as a university, whether a similar duration is required for vetting and approving applications made by other education institutions; if so, of the measures adopted by the authorities for guaranteeing the standard and quality of the universities when education institutions and school sponsoring bodies request to shorten the time for vetting and approving their applications; and*
- (c) given that the Government has indicated that the development at the Lok Ma Chau Loop (the Loop) will focus on higher education, whether the higher education to be developed in that area will operate in a self-financing or publicly-funded mode, and how many school places will be offered; whether it has considered if using all the six reserved sites and the Loop for the development of higher education will lead to an oversupply of school places; what plan the authorities have to prevent the problem, as well as how they will co-ordinate the use of such sites?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, with regard to the three parts of the Member's question, my answer is as follows:

- (a) Under the existing legislation, except for those institutions established pursuant to their respective ordinances<sup>(1)</sup>, any institutions seeking to award local degrees must register as a post-secondary college under the Post Secondary Colleges Ordinance (Cap. 320) (the Ordinance).

(1) At present, institutions established pursuant to their respective specific ordinances include the eight University Grants Committee-funded institutions, the Open University of Hong Kong and the Hong Kong Academy for Performing Arts.

Before registration, an institution is required to go through an Institutional Review by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ), to ensure that its governance structure, academic standards and quality, teacher quality, quality assurance mechanisms and financial condition, and so on, meet the requirements. Subsequently, every degree programme that a registered post secondary college proposes to offer is subject to a separate Programme Validation process to ensure that its academic standard is up to degree level. Finally, the institution is also required to obtain the approval of the Chief Executive in Council in accordance with the Ordinance before it can award degree for the programme concerned.

Generally speaking, after an institution has been approved to operate degree programmes, the programmes are subject to Programme Revalidation at five-year intervals. With the degree programmes having completed at least two cycles of Programme Revalidation and a proven track record in the areas of the validated programmes, an institution may apply to the HKCAAVQ for Programme Area Accreditation (PAA) status in the same areas of study. With PAA status, an institution may offer new programmes and award qualifications in the respective programme areas without the need for individual programmes to undergo separate validation by the HKCAAVQ.

Upon acquiring PAA status, an institution may make an application for the university title to the Chief Executive in Council under the Ordinance. When considering an application, the Chief Executive in Council will take into account its specific circumstances and the institution's internal governance, quality assurance mechanisms and research capability, and so on, before deciding whether the institution should be granted the university title.

- (b) For an institution to offer self-financing degree programmes and be upgraded into a university, it involves a due process and the time required varies from institution to institution. The most crucial factor is teaching quality, which is subject to stringent academic accreditation and has to be confirmed by a proven track record.

With regard to academic accreditation, the HKCAAVQ will make professional judgment based on the merits of each institution. It treats all institutions alike and will not change the accreditation timeframe or criteria to make allowances for the background of individual institution.

- (c) On the development of the Loop, the governments of Hong Kong and Shenzhen initially considered that higher education could be the leading land use in the Loop, complemented with high-tech research and development facilities, as well as cultural and creative industries. Based on this intent of co-operation, the two governments commenced the Planning and Engineering Study on Development of Lok Ma Chau Loop in June 2009. The study is expected to be completed by the end of 2011. The present thinking is that the higher education to be developed in the Loop will operate in a self-financing mode. As regards the number of places to be provided, it will depend on the findings of the study and the sector's interest in development. At this stage, we do not have any specific targets on the number of places to be provided.

We cannot emphasize too much the importance of quality assurance in the development of education. It is not our objective to provide a large number of self-financing degree places within a short period of time. In promoting the development of the self-financing higher education sector, we will continue to adopt a prudent approach and accord priority to quality assurance.

**MRS REGINA IP** (in Cantonese): *President, the Secretary has mentioned the consensus between Shenzhen and Hong Kong, but the idea to designate the development of higher education as the leading land use in the Loop is not proposed by me, as a citizen, to the Government regarding the Loop's development. Of course, he has taken other opinions into account. May I ask the Secretary when such a consensus was reached? After the Chief Executive proposed the development of education industry last year, six sites have been reserved in Hong Kong. With such an abundant supply of land, is it still necessary to focus the development of the Loop on higher education? If school places are available but not jobs, the graduates will also have to face the serious problem of career prospect, as is the present situation, unless the Secretary's*

*objective is to generate revenue by enrolling students from outside Hong Kong. Can the Secretary give an account of his objective? As six sites are now available, is it still necessary to focus the development of the Loop, which is just a small piece of land, on higher education?*

**SECRETARY FOR EDUCATION** (in Cantonese): Members have to understand that the Loop is not a large piece of land, and we have held an internal consultation on the planning of the Loop. As regards whether the area is suitable for the development of higher education, we had consulted the opinions of the higher education sector of Hong Kong. It was only after the consultation that we decided to discuss with Shenzhen the direction for the Loop's development, and have subsequently come to the present conclusion on planning. We have such a basis.

On this basis, we are not going to use the whole area exclusively to develop higher education. This is only part of the use, to be complemented with research and development facilities as well as creative industries. Regarding the land required for each aspect of development, a decision has yet to be made. As mentioned in my main reply, we will give an account in the report to be completed by the end of 2011.

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

**MRS REGINA IP** (in Cantonese): *President, the Secretary has not answered the part about time. I asked him when the consensus was reached, was it reached before the Government proposed the uses of the aforesaid six sites? Since six sites were made available, does the Secretary think it is necessary to develop higher education in the Loop, which is just a small piece of land? Will the Secretary please clarify?*

**PRESIDENT** (in Cantonese): Mrs Regina IP, are you asking the Secretary when the consensus was reached?

**MRS REGINA IP** (in Cantonese): *Yes.*

**SECRETARY FOR EDUCATION** (in Cantonese): Before the proposed land use of the six sites.

**MR CHEUNG MAN-KWONG** (in Cantonese): *President, has the Government considered that providing land alone without any financial assistance is not sufficient for some newly established private self-financing universities to compete healthily with the eight publicly-funded universities? Apart from land, will the Government consider introducing a voucher scheme for private universities, under which students having met the university admission requirements will be given a voucher to enrol in private self-financing universities, such that on the one hand, private universities will be assured of the availability of fund for quality enhancement; on the other hand, students who pass the examination will be given reasonable subsidies in school fee?*

**SECRETARY FOR EDUCATION** (in Cantonese): To encourage the establishment of self-financing institutions, apart from granting land, we have provided other financial assistances, of which I will explain one by one. First, the Start-up Loan Scheme, we provide interest free loans to institutions for a period of ten years to help them enhance quality and improve students' learning experience. Second, the Quality Enhancement Grant Scheme, we support projects or initiatives which can enhance the quality of post-secondary education. Third, as I mentioned earlier, institutions are subject to academic accreditation prior to establishment, which involves a substantial amount of money. We have also in place an academic accreditation support scheme to fund the academic accreditation exercise undertaken by non-profit post-secondary institutions, covering the full fee for initial evaluation and institutional accreditation, as well as most of the fee for programme validation.

As regards students, of course, we extended the scope of the student financial assistance scheme in 2008-2009 from publicly-funded programmes to the self-financing sector. Therefore, upon the establishment of all institutions, students with financial difficulties may apply for student loan to complete their studies. Lastly, the recently launched Fifth Matching Grant Scheme has now

extended to allow application by self-financing institutions. Therefore, we offer different assistance to self-financing institutions in the light of their different circumstances. As such, we have not considered any form of a voucher scheme.

**MR LAU KONG-WAH** (in Cantonese): *President, if Hong Kong is to maintain its competitiveness, it is of utmost importance to draw in talents from different places to Hong Kong. As to whether there is an oversupply of school places, as mentioned in part (c) of Mrs Regina IP's question, the key lies on whether there is a demand or even an incessant demand in this respect. Therefore, I would like to ask the Secretary, are there any figures or indicators, for example, as shown from past experience and the provision of education services, that can reflect our future planning and demand, such that the Government can make the planning decision to keep on establishing this kind of university?*

**SECRETARY FOR EDUCATION** (in Cantonese): We all know that in our current post-secondary education system, there are bachelor's degree and associate degree places, with the latter outnumbering the former at present. We can see that many associate degree graduates hope to pursue further studies for articulation to bachelor's degree courses. Therefore, we have begun to increase the number of degree places for articulation, and will continue to do so, so that associate degree graduates can pursue further studies in Hong Kong in a seamless manner.

At present, we provide land to the self-financing sector. We also hope that such a tradition will continue so that more opportunities will be offered for students to obtain a degree in Hong Kong. Of the six sites we have reserved, it is roughly estimated that about 18 000 school places will be provided, given the current land requirement. As such, this will help boost the number of people obtaining a degree in Hong Kong.

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

**MR LAU KONG-WAH** (in Cantonese): *The Secretary has not answered the figures he based on to conclude that there will be such a demand in future.*

**SECRETARY FOR EDUCATION** (in Cantonese): Of course, the figures that we currently have is based on the kind of education and subjects that we offer. More options should be make available. We do not want the self-financing institutions to provide the same university programmes that we have now, as these programmes are provided by quite a number of institutions. At present, we hope to encourage self-financing institutions to offer some emerging programmes for us to consider, that is, programmes that are currently unavailable in universities, such as tourism, hotel services, design, and so on.

**MISS TANYA CHAN** (in Cantonese): *I have just heard the Secretary mention the various financial assistance schemes which can be applied by students having financial difficulties. However, I believe many students now undertaking associate degree courses are aware that they have genuine financial problem — even though the problem is not that serious at first, yet it will become more serious after their completion of the associate degree course. Now that you ask them to further their studies at private universities, their financial problem will aggravate. Mr CHEUNG Man-kwong has just asked the Secretary about the voucher scheme only. I have this question for the Government: I know that the Government is now reviewing comprehensively the loan scheme, if the Government does not have a better loan scheme in place, how can students be attracted? Nowadays, many associate degree graduates cannot find a job, and they are even being labelled. May I ask the Government or the Secretary, are there any ways that can, upon the establishment of these private universities, enable such students to find a job and build a future for themselves after graduation, rather than enhancing their financial problem?*

**SECRETARY FOR EDUCATION** (in Cantonese): I think Miss CHAN has her own assumptions in arriving at such a conclusion, and we may not agree to her assumptions and reasoning. In fact, as I have explained earlier, the self-financing institutions we are talking about have to go through many steps before becoming universities, among other things, whether their programmes are designed to meet relevant demand. They have to offer appropriate programmes

according to the social circumstances of the time, so that graduates can bring their talent into full play in society. Therefore, institutions have to go through such stringent processes. As I have mentioned, we are not saying that self-financing institutions can become a university easily. They have to go through these stringent steps, and we hope to ensure that throughout the processes of planning and approving in future, the pathway of these university students can be guaranteed after graduation.

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

**MISS TANYA CHAN** (in Cantonese): *In fact, he has not made a direct reply to the issue of financial difficulties.*

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

**MISS TANYA CHAN** (in Cantonese): *The Secretary has just said that I have some assumptions. In fact, the Secretary knows that they are not assumptions, that is, there are cases of owing a debt of some \$100,000 or even \$200,000 .....*

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

**MISS TANYA CHAN** (in Cantonese): *..... For associate degree graduates, how can their future be guaranteed without adding to their financial burdens? That is, they can pursue further studies at universities under the current system without adding to their financial burdens. Are there any other means financial assistance for students?*

**SECRETARY FOR EDUCATION** (in Cantonese): President, I found this question very strange. We all think that pursuing university studies is to enhance our knowledge so that we can make more contribution to society. But

at present, one seems to become less capable after completing university studies; we pursue university studies in order to become heavily indebted. As I have mentioned earlier, she has some different assumptions, which I do not agree to.

**DR RAYMOND HO** (in Cantonese): *I believe that the Secretary also understands that many countries and regions link university and the development of technology together when drawing up plans for future development, such as Hsinchu of Taiwan. We now have science technicians and it is said that there will be new technological development in the Loop. Moreover, the Secretary has just mentioned that prior to the reservation of the aforesaid six sites, a decision has been made to establish self-financing universities there. In this connection, when was it decided to pursue new technological development in the area? Has any thoughts been given to link technological development and university clusters together, as in the case of other places, so as to speed up the pace of technological development?*

**SECRETARY FOR EDUCATION** (in Cantonese): As I have mentioned earlier, the development plan for the Loop is only a direction that we have devised, and is currently at the stage of planning. I have said that we cannot make any assumption on the outcomes of planning. As regards the proportion of scientific research, university education and creative industry, we do not have any prescribed proportion at present. Therefore, we can only provide further information after the studies on planning have been conducted.

**PRESIDENT** (in Cantonese): This Council has spent more than 21 minutes on this question. Second question.

### **Subsidized Places in Nursing Homes and Care and Attention Homes for Elderly**

2. **MR LEUNG KWOK-HUNG** (in Cantonese): *President, I have received complaints from quite a number of elderly people and organizations that there is currently an acute shortfall in the supply of subsidized places in the nursing homes (NHs) and care-and-attention (C&A) homes for the elderly, resulting in quite a long waiting time for such places. As at 30 April this year, there were*

*19 577 and 6 257 people waiting for these two categories of places respectively, while the ancillary facilities provided by the C&A homes participating in the Enhanced Bought Place Scheme and other private homes are unable to meet the demand of some elderly people for a high level of care. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of elderly people who died while waiting for subsidized places in NHs and C&A homes last year;*
- (b) how the additional subsidized places in NHs and C&A homes to be provided by the Government in the next three years can improve the current queuing situation and reduce the number of elderly people who die while waiting for the places; whether the Secretary for Labour and Welfare, a Principal Official under the Accountability System, will resign on account of the problem that some elderly people died while waiting for subsidized residential care places for the elderly; if so, when he will resign; if not, of the reasons for that; and*
- (c) whether the Government will reconsider "fully subsidizing" "all" subsidized NHs and C&A homes currently located in detached buildings to build additional storeys, setting aside the first to fourth floors of all newly completed public housing blocks, and "fully subsidizing" non-governmental organizations (NGOs) to build subsidized NHs and C&A homes, so as to shorten the current waiting time for such places, as well as immediately allocating government premises which are currently vacant (including the premises owned under the title of the Government of the Hong Kong Special Administrative Region or the Financial Secretary Incorporated) and Government lands for the provision of NHs and C&A homes, and "fully subsidizing" NGOs to convert the buildings into subsidized NHs or C&A homes or build such homes, so as to optimize the use of land, increase the supply of NH and C&A places, create job opportunities and alleviate the queuing situation for the places; if so, whether it will be implemented in the next three years; if not, of the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, the Government's elderly care policy is to encourage elders to "age in place", which is in line with the wish of most elders and also the international trend. Our principle is supporting "ageing in place as the core, institutional care as back-up". In fact, not all elders with long-term care (LTC) needs have to stay in residential care homes for the elderly (RCHes), and even for those who have to, not all of them require subsidized residential care places. With adequate community care and support, elders with LTC needs can also continue to age at home.

For those elders waiting for subsidized residential care places, the Government is providing them with various kinds of assistance and services, including subsidized residential care services of a lower care level, subsidized community care services and Comprehensive Social Security Assistance, and so on. Overall, there are some 25 000 elders waiting for subsidized residential care places. About 55% of them are receiving Government's assistance and services.

My reply to the various parts of Mr LEUNG Kwok-hung's question is as follows:

- (a) Last year, the numbers of elders who passed away while waiting for subsidized NH places and C&A places were 1 822 and 2 716 respectively.
- (b) At present, the Government is providing a total of about 26 000 subsidized residential care places for the elderly, serving about 44% of all elders staying in RCHes throughout the territory.

In view of the relatively long waiting time for subsidized NH places and the limited supply of places that can cater for the needs of frail elders requiring nursing care in the private market, the Government decided last year to focus its effort on increasing the provision of NH places and C&A places offering a continuum of care. Through the implementation of a series of novel initiatives, the "Enhanced Bought Place Scheme" and the construction of new residential care homes, 1 556 additional subsidized residential care places for the elderly will be provided in the next three years, including 950 subsidized NH places and 606 subsidized C&A places. The additional subsidized NH places alone account for about 43% of the existing provision of subsidized NH places (that is, 2 191 places).

The waiting situation of frail elders for subsidized residential care places is expected to improve.

However, as the waiting time for subsidized NH places and C&A places is affected by a number of factors (for example, the special preference of applicants in terms of the location, diet, religious background of the RCHEs, whether the applicant have requested to join family members and/or relatives in the allocation of homes, the turn-over rates of individual RCHEs, and so on), it is difficult to estimate the extent to which the waiting time could be shortened by the new supply of subsidized places. But I wish to supplement that the current waiting time for C&A places is only two to three months if elders have no particular preferences for the RCHEs to be allocated.

- (c) Part (c) of the question is about the identification of sites for the construction or extension of subsidized RCHEs. In exploring whether a particular site is suitable for development as an RCHE, the Social Welfare Department (SWD) will look into various factors, including the area, location, environmental quality of the site concerned; whether there are suitable facilities and development projects in the vicinity; and whether it can comply with the provisions under the Residential Care Homes (Elderly Persons) Ordinance regarding fire safety, and so on.

The SWD has been proactively identifying suitable sites for the construction of new RCHEs throughout the territory and has been exploring with relevant government departments (including the Lands Department, Planning Department, Housing Department and Government Property Agency (GPA)) on the feasibility of providing RCHEs in new development/redevelopment projects and vacant buildings.

As regards government premises, the GPA circulates information on vacant government premises to all bureaux and departments on a regular basis to invite applications to use such premises. However, there are no vacant premises suitable for converting into RCHEs for the time being.

Regarding public housing estate development projects, the Hong Kong Housing Authority will make reference to the "Hong Kong Planning Standards and Guidelines" on the provision of social welfare facilities when planning new housing estates and will also consult the SWD and District Councils, so as to accommodate welfare facilities in the development projects as far as practicable. Of the 16 subsidized contract RCHEs that have come into operation since 2001, 14 are indeed located in public housing estate developments.

As regards the Member's suggestion of building additional storeys on subsidized NHs and C&A homes located in stand-alone buildings, NGOs operating subvented RCHEs in stand-alone buildings can at any time apply to the SWD for redeveloping or extending their premises to increase the number of residential care places, and seek approval from relevant departments as necessary.

On the extension or redevelopment costs, the SWD will consider providing funding through the Lotteries Fund (LF), having regard to the needs of individual NGOs and whether the redevelopment or extension projects will enhance the support for frail elders, and so on. In 2007, Helping Hand secured funding from LF for merging and reprovisioning three RCHEs at its holiday centre for the elderly in Tai Po, with a view to improving the living environment. In addition, the Tung Wah Group of Hospitals also secured funding from LF in 2009 for conducting a feasibility study on the redevelopment of its David Trench Home for the Aged in the Southern District of Hong Kong Island.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, "All people have a heart which cannot stand to see the suffering of others". I have heard what the Secretary said in his reply and it seems to me that he is really very apathetic. He is a Doctor, as the saying goes, "The 'learned Doctor' who intended to buy a donkey had scribbled a three-page contract without even mentioning the word donkey". I asked him three questions but he answered none.*

*Last Saturday, the Legislative Council held a hearing on social welfare planning but he did not attend. How then could he listen to the people's voices? He is now telling me that he has heard the voices of the elderly. A lot of elders were present that day, only he was absent.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please ask your supplementary question directly.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I have the right to monitor accountable officials, I just do not want to waste this chance of asking a question.*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *He should not think that having worn this "All Wrong" badge, he can be "All Wrong" here, buddy. The last time I used unparliamentary language in this Chamber was when he answered a question I asked in this regard. That was a year ago.*

*I would like to seek his advice regarding part (c) of the main question. I will not ask him if he will resign. I specifically ask him whether the first to fourth floors of all public housing estates can be set aside for RCHEs and whether he will make funding available. This question has taken up a hundred to two hundred words but he fails to answer. Can the first to fourth floors be set aside for RCHEs? Will the Government vacate government organizations and premises owned under the title of the Financial Secretary Incorporated?*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *He has not answered my question. Will the Government vacate or not vacate? Right? I am asking him, President .....*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, will you please ask him in a louder voice? Your voice may be too gentle, hence he is not afraid. Please ask him loudly whether the first to fourth floors of public housing blocks and premises under the Government will be vacated. Buddy, the Government has wasted billions of dollars constructing the government headquarters, and Donald TSANG will eventually be asked to cut the ribbon. Would you please speak up and ask him because he cannot hear.*

**PRESIDENT** (in Cantonese): You have raised your supplementary question. Please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Is the Secretary giving a reply?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I thank Mr LEUNG for his concern. In fact, residential care for the elderly and community care services are currently our main initiatives. We have the Elderly Commission, and we know very well that in the last two years, it has conducted a very in-depth study and has come up with some directional proposals. Currently, it is further looking into ways as to how community support can be improved.

Mr LEUNG's supplementary question is whether we have fully utilized those vacant units in housing estates to provide relevant services. I have explained in the main reply that since 2001, we have 16 contract RCHes, with 14 of them located in housing estates. We hope to try our best to provide services to the needy elderly residing in housing estates. This is our emphasis. We will strive to look for sites.

I agree that we have to double our efforts in this respect, therefore, if Members are aware, we have introduced new mindset in this year's policy address, with special attention to catering the nursing needs of the frail elders. We are focusing our effort on tackling the source. My answer is thus very clear: regarding Mr LEUNG's supplementary question, in the coming three years, we

will have over 1 500 additional places, over 900 of which provide nursing service. So long as there is a pressing need, we will make an effort. These are the new mindsets of the Government. Apart from buying places from private institutions, we will also buy places from self-financed institutions. The quality of self-financed institutions is very high. We will increase the ratio of NH places in contract institutions from 5:5 to 9:1. By saying so, I would like to tell Mr LEUNG that the Government is very concerned about this problem and will strive to resolve it.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *I asked him if he has had his meal, but he said he has stomach problem .....*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *He has broken the record. He is "The 'learned Doctor' who intended to buy a donkey had scribbled a four-page contract without mentioning the word donkey". I am not talking to Doctor CHEUNG now. He is just nagging with no substance.*

**MR WONG YUK-MAN** (in Cantonese): *On this issue, the League of Social Democrats has asked numerous questions during the last session. I believe the Secretary will remember. Now, when the Secretary was answering part (a) of Mr LEUNG's main question, he said there were 1 822 elders plus 2 716 elders who passed away while waiting for places. In other words, last year alone, over 4 000 elders passed away. Last time, we asked the Secretary in this Chamber whether he had watched a Japanese film titled "Narayama bushiko". Secretary Matthew CHEUNG is quite shameless. Actually, not only is Secretary CHEUNG shameless, so are all accountable officials. Take a look at the Secretary's main reply, all answers given are irrelevant .....*

**PRESIDENT** (in Cantonese): Mr WONG, please raise your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): *Such a heartless and unjust government. Do you all know that among the most advanced regions in the world, take Hong Kong as an example, our annual per capita income stands at US\$30,000, but Hong Kong is the place where elders are most badly treated .....*

**PRESIDENT** (in Cantonese): Mr WONG, please stop expressing your views.

**MR WONG YUK-MAN** (in Cantonese): *Every year, over 2 000 elders who are waiting for places pass away. The Secretary is telling me now that in the next three years, there will be in total an additional 2 000-odd places, the aggregate number of deaths of those people .....*

**PRESIDENT** (in Cantonese): Mr WONG, please raise your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): *Is this a conscientious government? We all hear that. What kind of government is this? Right? When the Secretary gave his main reply, he was just echoing what was written, nagging, then went on saying he was very much concerned .....*

**PRESIDENT** (in Cantonese): Mr WONG, please stop immediately.

**MR WONG YUK-MAN** (in Cantonese): *President, I am asking him, over 2 000 elders who are waiting for places pass away every year, has he shown much concern? It should be 4 000-odd, even I have it wrong. The figure should be more than 4 000.*

**PRESIDENT** (in Cantonese): You have raised your supplementary question, please sit down. Secretary, please reply.

**MR WONG YUK-MAN** (in Cantonese): *I am asking him to reply .....*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down.

**MR WONG YUK-MAN** (in Cantonese): *I am really outraged.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Thank you Mr WONG for his concern on this matter.

**MR WONG YUK-MAN** (in Cantonese): *You do not have to thank me.*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): First, I have to emphasize two points. On the front of residential care service, let me reiterate that this is one of our major tasks. Members are all aware that in 1997, there were only 16 000 subsidized places but now, the number has risen to 26 000, representing a 60% increase. Moreover, Mr WONG, our input into residential care service is also on the increase, in 1997 .....

(Mr WONG Yuk-man stood and clamored)

**PRESIDENT** (in Cantonese): Mr WONG, please sit down.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): The expenditure in 1997 was \$1.6 billion, now it has increased to \$3.9 billion. Of course, we are definitely sad to see elders pass away while waiting for places. So, we are implementing an initiative whereby in respect of waiting for NH places .....

(Some Members talked to one another)

**PRESIDENT** (in Cantonese): Will Members please remain silent.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): For elders who are waiting for nursing places, we now have a new initiative in place, and it has been announced in this year's Budget. Maybe he has been away from the Council in the past few months, therefore he may not be aware that we have rolled out new initiatives. One of our new initiatives is to implement a pilot programme in Kowloon and Sai Kung. We will be providing elders waiting for NH places with enhanced home care services, that is, we will bring services to their homes until they are admitted to an institution. President, this is a stark example to prove that we are moving forward, and we do have new mindset.

**MR ALBERT CHAN** (in Cantonese): *President, the Government's new mindset is to keep on letting elders pass away while waiting for places, and then dispose the dead by sea burial. This may be its new mindset. President, the question is, I have discussed with the Secretary over and again, and have put forward concrete ideas to the Government, pointing out that since there are so many vacant secondary and primary school premises, some of which being vacant for five to six years, even if it is only an interim measure, it would be fine ..... If the Government has a little conscience, it should do something for the elderly. If it can minimize bureaucracy between government departments and expeditiously convert vacant school premises into RCHes so that elders can have somewhere to reside .....*

**PRESIDENT** (in Cantonese): Mr CHAN, please raise your supplementary question.

**MR ALBERT CHAN** (in Cantonese): *President, every week, I receive complaints from elders and their family members in the district. They tearfully express their worries about resettling in elderly homes, they having been waiting for a long time, but still have not been given a place. Can the Secretary wake up, act on your conscience .....*

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

**MR ALBERT CHAN** (in Cantonese): *Can you show a little concern for elderly welfare? I have raised this question with you and that is, can you take speedy actions, and when can some vacant secondary and primary school premises be converted into RCHEs, without having to see the death of thousands of elders every year? Government officials enjoy high salaries, they keep on nagging but when faced with problems concerning the elderly, they are like quails, their hands are tied.*

**PRESIDENT** (in Cantonese): Mr CHAN, please sit down.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I have explained very clearly in the main reply that we are sparing no efforts in identifying suitable sites, including of course all vacant government premises and school premises as he has just mentioned. Actually, the Legislative Council has set up a special subcommittee to look into the supply of places for the disabled and the elderly. The subcommittee is still holding meetings and the upcoming one is scheduled on June 28. We will have in-depth discussion and a list has been submitted to the subcommittee, (Appendix 1) detailing which of the premises may or may not be suitable. We have already explained that. I have also told many friends of the joint alliance why there are restrictions for schools. For some village schools in the New Territories, the area is too small as our institutions should at least have over 100 places .....

**MR ALBERT CHAN** (in Cantonese): *President, I am not referring to village schools. I am talking about schools with 32 classrooms, not just village schools.*

**PRESIDENT** (in Cantonese): Mr CHAN, please sit down.

**MR ALBERT CHAN** (in Cantonese): *President, he has twisted what I said.*

**PRESIDENT** (in Cantonese): Please let the Secretary finish replying first.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, perhaps let me provide some supplementary information. I said earlier that we will not give up any premises which can be utilized. Mr CHAN, we definitely will keep on identifying suitable premises. If some schools ..... Of course, we have to take into account whether there are other uses for those schools. For example, if the Education Bureau intends to convert them into international schools, we cannot turn them into RCHEs. Nonetheless, we will spare no efforts in fighting for all premises, with the hope that more places will be available. Meanwhile, we have to enhance home care service so that elders can have a choice. If we have the ancillary measures in place, the pressure on elders and their carers can be relieved. Thus, we are walking on two legs.

**MR ALBERT CHAN** (in Cantonese): *President, he has not answered my supplementary question. I ask him when can we have the first RCHE converted from a school? He has not replied at all. He is simply beating around the bush.*

**PRESIDENT** (in Cantonese): Mr CHAN, I think the Secretary has replied. The Council has spent over 20 minutes on this question.

**MR ALBERT CHAN** (in Cantonese): *Not in the foreseeable future. Elders will pass away before they can wait for their turn to get admitted into the institutions.*

**PRESIDENT** (in Cantonese): The last supplementary question.

**MR ALAN LEONG** (in Cantonese): *President, this Council has been wrestling with the Government over the shortfall in elderly institutions, and I come to the following conclusion: since the Government implemented the lump-sum grant scheme, it has not the slightest intention to make any further commitment in this*

*respect. The Secretary has the opportunity afterwards to explain why he was absent from last Saturday's meeting on social welfare planning.*

*My supplementary question centres on part (a) and (b) of the main reply. It was mentioned in part (a) that among elders waiting for NHs and C&A homes, 4 538 passed away last year, that is, 12.5 elders died on average every day. Although he said he felt sorry about that, the Government has the power, it can take actions. In part (b), the Secretary explained that, for elders waiting for C&A places, they will be allocated places after waiting for two or three months, except those with special preferences. Last year, seven elders passed away daily while waiting for places, did they all have special preferences? What are those special preferences?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Mr LEONG's supplementary question is very much to the point. The difficulty facing us is what I said just now, if elders have no special preferences for C&A places, they can be allocated a place within two months, but what makes them wait so long? One of the reasons is that many elders choose some specific locations of the institution. We have carried out a survey and found that about 96% of the elders on the waiting list have special preferences for the particular institution they want to get admitted. For example, they prefer an institution which can tie in with their religious belief, or an institution close to their family's residence so as to make it easier for family members to pay visits, or they have other family members who are already inmates of a particular institution, for example the wife wants to join the husband to get admitted in the same institution and would rather wait. All these are beyond our control. I would like to analyse two very objective figures: if they do not have any preference, we do have many places under the Enhanced Bought Place Scheme, and they can be allocated places within say two months. Furthermore, for subsidized places, which are in great demand, the waiting time is only 17 months instead of the lengthy 40 months. (Appendix 1)

We want to bring this message to the public: if there is no special preference, we can in fact satisfy their aspiration rather swiftly, and provide them with places. This message is very important. Thank you for giving me this opportunity to bring it out.

**PRESIDENT** (in Cantonese): Six Members are unable to raise supplementary questions. Third question.

### **Publicity Strategies for 2012 Constitutional Package**

3. **MISS TANYA CHAN** (in Cantonese): *President, the Government has recently launched a massive publicity and promotional campaign, including advertising on television, radio, newspapers, bodies of public transportation vehicles or in transport stations, to call on the public to support the package of proposals on the methods for selecting the Chief Executive and for forming the Legislative Council in 2012 (the 2012 constitutional package). In this connection, will the Government inform this Council:*

- (a) *of the estimated expenditure for the publicity and promotion of the 2012 constitutional package conducted by the Government, together with a breakdown by publicity item;*
- (b) *whether it has assessed if the video and audio publicity messages on the 2012 constitutional package broadcast in electronic media are political advertisements, or rather public information generally broadcast during the airtime for publicity messages; if the assessment outcome is that they are not political advertisements, of the justifications for that; if the assessment outcome is that they are, and given that there are restrictions imposed by the Broadcasting Ordinance on the broadcasting of political advertisements on radio and television at present, whether the Government had consulted the Broadcasting Authority (BA) before releasing such advertisements, and what the outcome of such consultation is; if the BA had not been consulted, of the reasons for that; and*
- (c) *given that the publicity materials for the Legislative Council by-election for the five geographical constituencies held earlier did not encourage the public to vote, but the publicity materials for the 2012 constitutional package called on the public to support the package, of the criteria based on which the Government decided to adopt the aforesaid completely different approaches; whether the*

*Government will continue to conduct political publicity using the airtime for publicity messages; if it will, of the reasons for that?*

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

- (a) The Government published in April 2010 the 2012 constitutional package to summarize the views received during the three-month consultation exercise from November 2009 to February 2010, and to set out the Government's proposed package for the above two electoral methods in 2012. To tie in with the release of the proposed package, the Government has launched a publicity exercise to appeal to the public for their support of the 2012 constitutional package.

At this stage, the Government has set aside about \$9 million for the publicity exercise. A breakdown is set out in the table below. The Government may make further adjustments to the funding earmarked, if necessary.

	(\$ million)
TV and Radio APIs	3.3
Posters and Leaflets	0.1
Newspaper and website banner advertisements	2.5
Advertisements on Bus, Tram, Taxi bodies, and inside MTR stations	1.5
Buntings, outdoor wall banners, other display and miscellaneous items	0.6
Contingency	1.0
Total:	9.0

- (b) It is the Government's policy to enhance the democratic elements in the two electoral methods in 2012 by pursuing the proposed package put forth in April 2010. The Government will continue to make its best endeavours to secure the public's support and Legislative Council's endorsement of the proposed package.

Hong Kong has reached a critical juncture for its democratic development. The Legislative Council will soon vote on the two motions regarding the amendments to the two electoral methods in 2012. The TV and Radio APIs produced in relation to the release of the proposed package are aimed at facilitating the public to better understand the meaning and significance of rolling forward Hong Kong's constitutional development in 2012. The Government's publicity on the package does not promote the interest of any specific organization, commercial concern or individual, nor does it advertise the interests or merits of any specific political organization or personality. Instead, it touches upon a matter of concern and interest to the community as a whole. The Government's publicity on the subject is a campaign to promote a government policy. It is entirely different from political advertisement.

- (c) It is not appropriate to compare the publicity for the Legislative Council By-election in May 2010, and the publicity for the 2012 constitutional package. The two exercises are entirely different.

On the Legislative Council By-election in May 2010, the consistent position of the HKSAR Government is that this by-election is unnecessary and could have been avoided. Under the existing legislation, the Government has the responsibility to arrange for a by-election when a vacancy in the Legislative Council arises. The Government has also launched a publicity exercise to inform electors of the arrangements for the by-election. It is for individual electors to decide for themselves as to whether, and if so how, they should vote at the election.

As regards the 2012 constitutional package, it can enhance the democratic elements of the two elections in 2012, in particular through the participation of elected District Council members who have a broad electorate base in forming the Election Committee and the Legislative Council. This can also pave the way for implementing universal suffrage. The mainstream view within the community is that constitutional development of Hong Kong should take a step forward in 2012, so as to pave the way for implementing

universal suffrage. If Hong Kong can achieve consensus on the 2012 electoral methods, we will have more confidence and will be in a better position to implement universal suffrage in 2017 and 2020.

As stated in part (b) of my reply above, the Government's publicity on the 2012 constitutional package is a campaign to promote a government policy. It is entirely different from political advertisement.

**MISS TANYA CHAN** (in Cantonese): *President, this is one of the "Act Now" ..... First of all, given that President is always very strict with pronunciation, I wonder if you have advised the Chief Executive that "起錨" should not be pronounced as "起錨 (laau4)", rather, it should be pronounced as "起錨 (naau4)". As we can see, the line written here: "Act Now is tantamount to the devil, it will ruin your life" — this is just a coincidence.*

*The Secretary told us that this is only "a campaign to promote a government policy. It is entirely different from political advertisement". This answer is genuinely "all wrong", why do I say so? If this is the case, it means that political parties can post advertisements in future. Also, if a prospective Chief Executive candidate, say, the Chief Secretary Henry TANG — certainly all these are assumptions, but there is a possibility — calls on the public to vote at the Chief Executive election (if we have "one person, one vote" when universal suffrage is implemented), is this appeal be considered as a political advertisement? What exactly will be considered as political advertisements? The advertisements promoting constitutional reform this time are absolutely political advertisements. They are very different from all previous advertisements in that there is a very clear stance. My supplementary question is, given that the Government said that this is purely a promotional campaign, will other political parties or individuals have the opportunities to launch advertisements with positions different from the Government through public broadcast channels and airwaves? Or will the Government play fair by stating the opposing views on its promotional materials?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will respond in three aspects. Firstly, anyone who stands for election, be at present or in future, must act in compliance with the guidelines of the Electoral Affairs Commission and the relevant electoral regulations, and this should apply to promoting their platforms and appealing for public support. Secondly, matters concerning political advertisements should be dealt with pursuant to the guidelines of the BA. Thirdly, Hong Kong is a free and open society, different political parties and personnel can certainly publicize the positions they consider worth promoting through the local media, as long as they act in accordance with the laws and the guidelines of the BA.

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

**MISS TANYA CHAN** (in Cantonese): *President, he has not replied what are political advertisements?*

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

**MISS TANYA CHAN** (in Cantonese): *Say, for example, as I mentioned in the main question, the limitations on political advertisements .....*

**PRESIDENT** (in Cantonese): Please repeat the part of your supplementary question that you think the Secretary has not answered.

**MISS TANYA CHAN** (in Cantonese): *My supplementary question is, in the Secretary's eyes, what are political advertisements?*

**PRESIDENT** (in Cantonese): Miss CHAN, this is not the supplementary question you raised just now.

**MISS TANYA CHAN** (in Cantonese): *I have mentioned it in the main question, but the Secretary has not replied to that, is it possible .....*

**PRESIDENT** (in Cantonese): Nevertheless, you think that the Secretary has not answered your supplementary question. Insofar as your supplementary question is concerned, which part do you think the Secretary has not answered?

**MISS TANYA CHAN** (in Cantonese): *If political parties broadcast political advertisements through public broadcast channels, or broadcast publicity messages through public airwaves, are they be allowed to do so?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, political advertisements should be defined in accordance with the guidelines of the BA.

**MR ALAN LEONG** (in Cantonese): *President, regarding the sum of \$9 million as stated in part (a) of the Secretary's main reply, I notice that this sum does not include the expenditure on buying air time from television and radio stations. Therefore, I assume the advertisements are broadcasted in the form of the so-called "announcement of public interest" (API) commissioned by the Government. This is my assumption. As far as I can remember, the last time when APIs were used in such an extensive scale can be traced back to the SARS incident. Back then the publicity was extensive, yet this time, it goes much further.*

*President, my question is, insofar as these APIs are concerned, how should a yardstick be adopted? Are there any guidelines? Will they affect editorial independence, say, will they affect the editorial independence of the radio stations concerned? I would like the Secretary to elaborate in this regard.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, under the licensing arrangement, the electronic media in Hong Kong undertakes that they will reserve some time slots and air time for the

SAR government to carry out public broadcast. Over the years, the Government has been promoting all sorts of public messages in line with our policies, such as the prevention of the spread of SARS as mentioned by Mr LEONG, anti-smoking, anti-drug, and so on. This practice has been implemented for years. The colleagues of the Information Services Department compile the time table for APIs according to the needs of various Policy Bureaux and departments.

**MR ALAN LEONG** (in Cantonese): *My supplementary question is, what criteria and guidelines are used to assess the use of APIs? Will this affect editorial independence?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, certainly this will not affect editorial independence since the television and radio stations have full discretion on making judgments and decisions in producing the news reports and current issues programmes. As for the air time for APIs, our major principle is to promote public messages in line with government policies.

**PRESIDENT** (in Cantonese): Before continuing with the question time, I would like to explain to all of you that our arrangement is to give Members who have resigned and returned to this Council through by-election the priority to ask questions since they have not asked any questions during the question time before returning to the Council. However, after handling several questions, I notice that other Members do not have any chance to follow up after those few Members returned have finished raising their questions. Hence, I urge Members to be precise with their questions as far as possible so that other Members can have more opportunities to ask questions.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, if government policies and administration has nothing to do with politics, I think the sun will not rise in the east, this is but a kind of sophistry. I only want to ask about one thing, President, I will be very precise.*

*Secretary LAM, can you ask the Secretary not to chant slogans from a cue card (someone made noises) ..... ask the Chief Executive not to ..... "super embarrassment" (sounding similar to the word "Chief Executive")? By doing so, he would give people a very bad impression. My email account is overloaded as many Chinese friends in Canada have sent me the question: "Who is this dunce who chanted slogans from a cue card?" They queried: "Hey, when you propose, you show real feelings, will you propose with a cue card?"*

**PRESIDENT** (in Cantonese): Mr LEUNG, please ask your supplementary question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Let me ask directly, can you ask Donald TSANG not to bring shame to Hong Kong people by chanting slogans from a cue card and saying something not from his heart ..... do not try to shout louder than others, next time I will give ground to him, I will confront him in person without a loudhailer.*

*I repeat, you tell Donald TSANG not to bring shame to Hong Kong people by chanting slogans from a cue card. The YouTube is already exploded with a hit rate of more than 200 000.*

**PRESIDENT** (in Cantonese): Mr LEUNG, you are repeating yourself.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Straightforward.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will respond in several aspects. Firstly, any government policies, especially the relatively important policy, will often involve political elements and disputes. Take the minimum wage legislation proposal currently under scrutiny by the Council as an example, naturally various parties have different political views, but we have to promote it as it is a government policy. We have made use of the television and radio air time for APIs to do the promotion in line with government policies.

Secondly, Mr LEUNG mentioned that, the whole political team led by the Chief Executive, took to the streets to come into contacts with the public. We all hold that it is absolutely worthy of our efforts as we firmly believe that the constitutional system of Hong Kong should move a step forward in 2012.

Thirdly, Mr LEUNG said that we need not bring a loudhailer, or we can bring a loudhailer while he will not bring his. Whether he likes to bring a loudhailer or not, we are always willing to listen to him. But we hope that after all of us have expressed our views, they will not hamper the constitutional system of Hong Kong from progressing.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, when he said "listen", does that mean he will go back and tell Donald TSANG not to chant slogans from cue cards? I repeat: In that case, is he going to tell Donald TSANG not to chant slogans with cue cards? I am asking him, buddy, be true to your conscience.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please save some time for other Members to raise questions.

**MR ALBERT CHAN** (in Cantonese): *President, it is those "castrati" like "Eunuch LAM", Stephan LAM, who are obstructing constitutional development, the constitutional reform package put forth by them keep distorting this .....*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I hold that Mr CHAN's remark is insulting, I would like to ask you to rule.

**PRESIDENT** (in Cantonese): Mr CHAN, I think you have addressed the official with insulting and offensive words, please withdraw those words.

**MR ALBERT CHAN** (in Cantonese): *President, I would like you to clarify. Last week, I made the same remark and the Secretary accepted it without saying that it was offensive. How come when I made the same remark in this Chamber last Wednesday, he gladly accepted it and said he would leave it to the public to comment — that was what he said, yet today he regards the same remark offensive?*

**PRESIDENT** (in Cantonese): Mr CHAN, please sit down.

**MR ALBERT CHAN** (in Cantonese): *Did he accept being called "castrati" last week, but now .....*

**PRESIDENT** (in Cantonese): Mr CHAN, you must stop talking at once and sit down.

We have a number of precedents in which even though certain expressions have never been questioned or objected to when they were raised in previous meetings, that is not tantamount to such expressions are appropriate. Once a concern is raised and I hold that the expression has violated the Rules of Procedure, I will make a ruling pursuant to the Rules of Procedure.

**MR ALBERT CHAN** (in Cantonese): *President, can you explain why the word "castrati" is insulting? This is a word commonly used to satirize the eunuchs of ancient times. This have been mentioned in all history books. Why is this word ..... President, I hope you can explain why this remark is offensive when you make the ruling.*

**PRESIDENT** (in Cantonese): Mr CHAN, we have already spent a lot of question time on this. I have made the ruling. If you want me to explain, I am happy to give you an explanation after this meeting.

**MR ALBERT CHAN** (in Cantonese): *President, will the post-meeting explanation be provided to all Members in written so that everyone will be clear about that?*

**PRESIDENT** (in Cantonese): Please do not waste our time and raise your supplementary question right away.

**MR ALBERT CHAN** (in Cantonese): *President, the focal point of my supplementary question is about the programme "Letter to Hong Kong" of Radio Television Hong Kong (RTHK). According to my understanding, the Chief Executive's Office (CE Office) has made phone calls to the RTHK requesting "Letter to Hong Kong" .....*

**MR WONG KWOK-KIN** (in Cantonese): *President, a point of order. You have just ruled that Mr Albert CHAN should withdraw his insulting words, but he has not done so. President, why do you not follow up?*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down. Mr CHAN, I request you to withdraw the insulting words that you said just now.

**MR ALBERT CHAN** (in Cantonese): *President, I will withdraw them for the time being as you will explain the reasons to me afterwards. I think we have to be fair to the eunuchs and should not insult them.*

*President, the Government's political propaganda is very extensive as they can conduct political publicity and public broadcast through the RTHK. The CE Office has made phone calls to the RTHK requesting to promote the constitutional reform by the Chief Executive in the programme "Letter to Hong Kong". In that case, the independence of the RTHK has already been affected.*

*Secondly, regarding APIs, the Government can make use of public channels for political propaganda, but none of the political parties and members of the public are allowed to do political propaganda under the policies of the BA .....*

**PRESIDENT** (in Cantonese): What is your supplementary question?

**MR ALBERT CHAN** (in Cantonese): *My supplementary question is, is that the privilege of the Government? Is that the privilege exercised under the approval of Stephen LAM, and is it a typical example of calling a stag a horse?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will respond in two aspects. Let me talk about the television APIs and radio APIs first. In fact, the broadcast and publicity launched through the electronic media are only restricted for the purpose of promoting government policies. Given this is the most significant government policy relating to the Government's provision of public services, we have therefore launched a publicity exercise in this regard through the electronic media. This is the Government's role. Nevertheless, on the other hand, I have noticed that the programme "Letter to Hong Kong" (be it broadcast on the English channel or Chinese channel of RTHK) has invited some Legislative Council Members to participate in the programme from time to time. For example, during the last three months since March, out of the 14 episodes of "Letter to Hong Kong" broadcast on the English channel on Sunday .....

**MR ALBERT CHAN** (in Cantonese): *He is wasting our time. What I am saying is that the CE Office phoned the RTHK indicating that the Chief Executive wish to promote constitutional reform through the programme "Letter to Hong Kong", I am not saying "Letter to Hong Kong" or RTHK send invitation to the CE Office. Hence he is wasting our time. He has distorted the question and wasted the time of this Council.*

**PRESIDENT** (in Cantonese): Please let the Secretary finish his reply first.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have almost finished. Out of the 14 episodes of "Letter to Hong Kong" broadcast on the English channel of the RTHK during the last three months, 12 Legislative Council Members have been featured. The last

thing I want to say is, if a directorate officer requests to broadcast on the radio, whether to accept this request or not is up to the RTHK, and this practice is totally consistent with the editorial independence of the RTHK. Besides, all of you may remember that before 1997, the incumbent Governor Mr Chris PATTEN had broadcasted once every four weeks for two years. When the broadcast exercise was over, the broadcast contents had been compiled into a book. As such, we cannot treat things with different attitudes. We should not adopt one criterion back then, yet adopt another criterion today.

**MR ALBERT CHAN** (in Cantonese): *President, he has not answered my second question: The Government can use APIs for political propaganda while public bodies and political parties cannot, is that a privilege? Is this a typical example of calling a stag a horse? He has not answered the second question.*

**PRESIDENT** (in Cantonese): Mr CHAN, Members are only allowed to ask one supplementary question. I think your second question is the same, that is whether the Government .....

**MR ALBERT CHAN** (in Cantonese): *Privilege.*

**PRESIDENT** (in Cantonese): ..... has any privilege in the area of publicity through public broadcast? Secretary, do you have anything to add?

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, our broadcast concerns government and public policies. As for other parties, individuals and political players, I believe they would find other room for expressing views and positions through the open media in Hong Kong.

**PRESIDENT** (in Cantonese): Members, this Council has spent more than 23 minutes and 30 seconds on this question, even if the time for the remark I made just now is taken into account, it has exceeded the time generally spent on a

question. As all of you can see, seven Members who are on the queue cannot ask their questions. Therefore, I would like to reiterate that Members should avoid making long speeches in asking questions so that other Members can have more opportunities to ask questions. Fourth question.

### **Implementation of MPF System**

4. **MR WONG KWOK-KIN** (in Cantonese): *This Council enacted the Mandatory Provident Fund Schemes (Amendment) Ordinance 2009 (the Amendment Ordinance) last year, which, among other things, allows employees to transfer the accrued benefits derived from their personal contributions from an account under a Mandatory Provident Fund (MPF) scheme on a lump-sum basis to another MPF scheme of their own choice once a year. The Amendment Ordinance is scheduled to come into operation in early 2011. In this connection, will the Government inform this Council:*

- (a) *given that financial institutions will introduce various kinds of investment products upon the implementation of the aforesaid Amendment Ordinance, whether the authorities have any plan to strengthen the regulation of MPF investment products, so as to prevent employees from being misled into choosing high-risk investment products (such as leveraged derivatives); if so, of the details; if not, the reasons for that;*
- (b) *given that with the enactment of the aforesaid Amendment Ordinance, the number of MPF intermediaries (including corporate and individual intermediaries) reached 27 795 on 30 April this year, how the authorities will effectively regulate the selling of products by intermediaries; and*
- (c) *whether the Government will, upon the implementation of the aforesaid Amendment Ordinance, provide appropriate support and complementary measures for employees and, through publicity and education, enable them to transfer their MPF contributions according to their individual risk tolerance level; if it will, of the details; if not, the reasons for that?*

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

- (a) The Mandatory Provident Fund Schemes Authority (MPFA) adopts a three-pronged approach to protect the investments of MPF scheme members, such that they will not be invested into high-risk investment products with leveraged derivatives after the implementation of the Employees Choice Arrangement (ECA). The measures include:

The first measure is about the imposition of restrictions on MPF investments. The Mandatory Provident Fund Schemes (General) Regulation (the Regulation) already contains provisions that strictly regulate the permissible investments of MPF constituent funds. This includes restricting MPF funds from carrying out relatively high-risk activities, such as those relating to borrowing and leveraged investments, so as to minimize risks as far as practicable to protect the interests of MPF scheme members. For example, the Regulation has express provisions to prohibit the use of derivatives which will result in funds being leveraged. It has also imposed the restriction that funds can only be invested in financial futures contracts and financial option contracts traded in stock exchanges approved by the MPFA and such investments cannot exceed 10% of the assets of the fund. In addition, the Regulation has imposed requirements on the spread of investments, including the requirement that the total amount invested in securities and other permissible investments issued by any one institution must not exceed 10% of the total funds of a fund.

The second measure relates to the monitoring of the strict compliance with the investment requirements. The MPFA will inspect the statutory declaration forms and reports submitted by trustees, conduct on-site inspections and require trustees and fund managers to set up appropriate internal supervision measures. The MPFA will continue to strengthen its efforts in this regard.

The third measure pertains to the requirements for the disclosure of information. Existing codes already provide that trustees have to

set out in the offering document and the Fund Fact Sheet the investment objectives, portfolio allocation, the risk levels, and so on, of relevant constituent funds to ensure that scheme members have sufficient information to choose the appropriate constituent funds, having regard to such relevant factors as individual investment preferences and risk tolerance level.

The MPFA will continue to pay close attention to the market development and will consider further strengthening the regulation of MPF funds if necessary.

- (b) Currently, all MPF intermediaries have to be registered with the MPFA and comply with the Code of Conduct for MPF Intermediaries made by the MPFA. In preparing for the implementation of the ECA scheduled for next year, the MPFA is drawing up relevant guidelines for intermediaries, which will require them to explain clearly to clients the contents of different schemes and fund types, including fees, investment objectives, the risk levels, and so on, when selling MPF schemes or funds and assist the latter in choosing appropriate schemes and funds for making the transfer based on their investment objectives and risk tolerance level after taking into account all the relevant information. Furthermore, the MPFA has made the Best Practice Note for MPF Trustees to guide trustees on how the promoters of their MPF schemes should be supervised, in order to ensure that their MPF intermediaries will market and sell MPF schemes and products properly.

Separately, the MPFA will raise the examination and training requirements for MPF intermediaries to ensure that all the existing and new intermediaries will understand the various requirements of the ECA, as well as their roles and responsibilities as intermediaries.

The Government and the MPFA will review the arrangements for regulating the sale of MPF products from time to time to ensure that they can meet the prevailing needs and achieve effective regulation. When necessary, we will put forth improvement proposals for public consultation.

- (c) The MPFA has always put much emphasis on MPF investment education. In the light of the implementation of the ECA scheduled for next year, the MPFA has kicked start a series of activities this year to educate the public on the relevant factors for consideration before making investment decisions. The MPFA will also publicize the implementation details of the ECA through different means and platforms, including publications, advertisements and news articles. In addition, the MPFA has held over 160 MPF investment education seminars in collaboration with employers' and employees' bodies and other partners in the past six months. Over 20 000 individuals have participated in these seminars. The MPFA will continue to arrange a variety of investment and publicity activities, so that scheme members can be more familiar with the operational details of the ECA and the relevant factors for consideration when making a transfer of their accrued benefits.

**MR WONG KWOK-KIN** (in Cantonese): *President, according to the Administration's reply, under the so-called "quasi-free choice" scheme, employees must understand their risk-taking capacity and how to choose their new trustees and funds. However, the present publicity and promotional work conducted by the Government, as mentioned in the main reply, is far from adequate. The Secretary has mentioned in the main reply that some 160 seminars have been held, with 20 000 or so participants. That said, there are as many as several million employees in Hong Kong — approximately 3 million. If only 20 000 or so people have participated in such seminars in half a year, it means that some 20 000 people will participate in the coming six months, thus adding up to a total of 40 000 to 50 000 people. When compared with the number of wage earners in Hong Kong, which accounts for some 3 million, has the Secretary examined how the publicity and promotional work can be stepped up and expedited? In the light of the prevailing situation, the publicity and promotional work is really inadequate.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, we are prepared to expedite the introduction of more publicity work, which will be some time around next year. Prior to next year, that is, nearer the time of the operation of the Ordinance, we will step up our

publicity campaign. In fact, we have earmarked an estimate of \$30 million for the relevant publicity work and this amount is two times of those in previous years.

**MS LI FUNG-YING** (in Cantonese): *President, everyone knows that investments may incur losses or gains, as well as risks. Since the investments made under the "quasi-free choice" arrangement of the relaxed MPF scheme are the investments to be made by employees who have to take the risk for their future plans of retirement, and given the remark made by the Secretary just now that the Government, in effecting the relaxation arrangement, will adopt a three-pronged approach to protect the investments made by MPF scheme members, can the three-pronged approach ensure that the investments made by employees will not end up in failure, which may otherwise render them out of means of living in their retirement life?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, the relaxation arrangement we have mentioned will actually enable employees to have more choices. In other words, in the past, it was the employers who specified which schemes or funds offered by a trustee the employees would join. However, employees are now free to choose other trustees because they may think that the returns in previous years were unsatisfactory. In fact, we have not relaxed the requirements for investing in relatively high-risk products. Hence, judging from this perspective, we have not enhanced their risks, only that more choices are provided.

Certainly, with choices available, will employees choose funds that are inappropriate to their "liking" for risk? In this regard, we will step up our publicity and education work. Having regard to the increase in such activities, we will also enhance our law-enforcement actions, inspections and monitoring work, as well as raising our vigilance and enhancing monitoring in related areas.

**MR IP WAI-MING** (in Cantonese): *The Secretary has indicated in the main reply that the monitoring of intermediaries will be enhanced in future. Particularly, disclosure needs to be made in respect of fees, investment objectives, the risk levels, and so on. However, last week, I mentioned to the*

*Secretary that currently the information on management fees of MPF schemes was not detailed enough. Even for banks, the Government now requires banks to indicate to borrowers the effective rates of interest for loans. May I ask the Government whether it has any plan to require fund managers to inform workers of the actual amount of management fees and set out the fees concerned on annual statements?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): In fact, the present Fund Expense Ratios (FERs) have a high degree of transparency. Over the past two years, all the FERs have been listed on the website of the MPFA and various fees are already included in the FERs. In this way, at the minimum, scheme members can make choices and compare the fees charged by a certain type of fund. In addition, as accrued benefits will be transferable, we will issue guidelines to intermediaries and, among other things, examine the new requirements currently proposed by the Securities and Futures Commission or the Hong Kong Monetary Authority (HKMA) for the disclosure of information. We will examine the appropriateness of adding these new requirements to the existing requirements for intermediaries. Having regard to the changes in the market and the overall monitoring environment, we will raise the requirements for disclosure on an ongoing basis.

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

**MR IP WAI-MING** (in Cantonese): *President, since the fees in question are now listed in the form of a percentage, I wish to ask the Government whether it has any intention to require MPF trustees to indicate on the statements the actual management fees charged each year, because not all workers have attained such a high level to be able to understand the fees concerned.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): As we require that items such as investment objectives be set out on the Fund Fact Sheet, the management fee charged annually is already contained therein.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, the question I am about to raise has its immediate significance. When I got up at 9 o'clock this morning, I received a phone call from a group of steel-fixing workers, who said that there would be a labour movement because their employers had defaulted on the MPF contributions. It is as simple as that.*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *Hence, may I ask the Secretary whether or not she can go to see this group of workers some time later? They suffer from strong wind and heavy rain; their employers refuse to make MPF contributions — this issue is under the policy purview of your Bureau. They are workers from the site of Ocean View, Po Tai Street, Ma On Shan ..... I merely wish to hold her accountable. She should go there to understand public sentiment, rather than blowing her own trumpet here. Those workers .....*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down first. This question is about how monitoring can be enhanced when the proposal of transferring accrued benefits on a lump-sum basis is implemented. This relates to the MPF .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, my answer is very simple and that is, time and place make no difference to serving the public. Even if there is only one accountable official in the Government, when the public have needs, he should serve them.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down first.

**MR LEUNG KWOK-HUNG** (in Cantonese): *One hundred people are braving the strong wind and heavy rain, buddy.*

**PRESIDENT** (in Cantonese): Mr LEUNG, the question you raise is very important and of great urgency. However, it is not included on today's Agenda. I hope you can actively follow it up through other channels.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I know that, President. I have finished what I have to say.*

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, in order to address the present issue of retirement, the Government has focused its efforts on the MPF system. However, the purpose of this "free choice" scheme is to allow employees to choose other investment trustees. Despite the Secretary's earlier reply given to Ms LI Fung-ying's question that monitoring will be stepped up, it is still about investment after all and market operation is involved. For these reasons, regardless how monitoring is enhanced, problems relating to the financial tsunami or financial crises will still occur. In that case, can the MPF system achieve the expected effect, so that employees can receive retirement protection ultimately? I am very worried about this. So, may I ask the Secretary, under the present "free choice" scheme, if the MPF system eventually fails to attain any success under your supervision and provide retirement protection because problems have cropped up, whether the Government has any other means to help resolve the issue of old age retirement, for example, to consider immediately the implementation of a universal retirement protection system?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): As Mr LEUNG has said, more choices have been provided to employees at present. Since stock prices on the market may go up or down, if individual employees wish to choose a relatively conservative investment strategy, that is, to preserve capital, there is currently such type of fund available in the market, and it is entirely intended for preserving capital. Investing in this type of fund may probably be more or less the same as making deposits at banks. In other words, if employers had not chosen this type of fund in the past, employees may choose it after the ECA has been launched. However, it certainly does not mean that complete protection will be provided. Mr LEUNG asks whether employees can rely completely on these pensions upon their

retirement. As we already pointed out in this Council in the past, the MPF system is only part of the retirement protection, allowance from other parts of the relevant system are also needed.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, my question is: If the implementation of the "free choice" scheme eventually deprives employees of any retirement protection, how will the Government handle this situation? The Government says that other options are available but I have no idea about what they are. Can the Secretary give a detailed account of the courses of action concerned? I have offered a way out for her consideration, that is, a universal retirement protection scheme. Will she give consideration to it?*

**PRESIDENT** (in Cantonese): Mr LEUNG, I believe you also remember that this question has actually been raised a number of times and the Government has also repeatedly explained the three-pillar model; however, Members disagreed. I believe it is difficult for the Government's reply to go beyond this scope. Let me see if the Secretary has anything to add.

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

**PRESIDENT** (in Cantonese): If the Member is not satisfied, I am afraid he has to follow up through other channels.

**MRS REGINA IP** (in Cantonese): *President, just now, a number of Honourable colleagues asked questions about the protection of MPF benefits. May I ask the Secretary if she has read an important article published by Mr Tony LATTEER, the former Deputy Chief Executive of the HKMA, in the South China Morning Post*

*last year? In that article, it is pointed out that the establishment of the MPF system is "too little, too late". It suggests that the Government should make reference to the practice of the Government of Singapore and inject money into the MPF with its huge reserves, so that it can genuinely preserve capital. In Singapore, the provident fund aims to preserve capital and ensure a return of 5%. It also has the element of re-distribution, allowing the disadvantaged groups to enjoy more benefits. Will the Government consider undertaking a more in-depth review of the policy in question?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): In launching the MPF system, there had been much discussion in society on the various systems to be adopted. Eventually, this practice, which is recognized by the World Bank, was adopted. In Singapore, the fund is centrally invested and managed by the Government. In Hong Kong, we utilize the private market to provide diversified choices. We hold that after years of implementation, there are already reasonable returns and the average rate of return is 5%. For these reasons, the effectiveness of our MPF system compares favourably with the Singapore's.

**MR LEE CHEUK-YAN** (in Cantonese): *The Secretary remarked just now that the average rate of return was 5% and she appeared to have much confidence in the investment return of the MPF. In my view, if the Government really has so much confidence, it should act as an "underwriter", and guarantee a 5% return; if the return falls short of 5%, it will top up the amount. The Secretary may say that the so-called "moral hazards" will arise but in fact, it will not, for she has so much confidence in capitalism. None of the MPF investments can be made in leveraged products. At the most, they can only be invested in stocks. If the Secretary is really confident that the stock price will rise, the Government should act as an "underwriter", rather than shirking its responsibility to members of the public, saying that if they suffer from losses in future, this is due to the fact that they have made a wrong choice. In the future, the Government will certainly make such a remark and will not provide any assistance, simply because they have made a wrong choice. So, my supplementary question is very simple: if the Government is really that confident, it should let the public make choices of their*

*own free will while it acts as an "underwriter" because in any case, it claims that its monitoring is good. Can it act as an "underwriter" and guarantee a return of 5%?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): The approach taken by us is to let the market make choices and employees can make choices of their own free will. If they wish to choose more aggressive investments, they should subscribe to funds with a higher proportion of investment in stocks. If they wish to make conservative investments, they should subscribe to funds similar to banks' certificates of deposit. In this regard, each employee has different "likings". Hence, we do not consider it necessary to offer the minimum rate of return or have the central government do the same, for so doing is not in line with our established market philosophy.

**PRESIDENT** (in Cantonese): We have spent 22 minutes on this question. Fifth question.

### **Methods for Selecting Chief Executive and for Forming Legislative Council in 2012**

5. **MR ALBERT HO** (in Cantonese): *The executive authorities will soon present the motions on the methods for selecting the Chief Executive and for forming the Legislative Council in 2012 to this Council for voting. In this connection, will the executive authorities inform this Council whether they have assessed, in the event that the motions are negatived, if Chief Executive needs to:*

- (a) take the blame and resign to shoulder the political responsibility; or*
- (b) dissolve this Council under Article 50 of the Basic Law; if the assessment outcome is that there is no need to dissolve this Council, of the reasons for that?*

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

- (a) In accordance with the Basic Law, the Chief Executive and the Members of the Legislative Council both have the constitutional responsibility to deal with Hong Kong's constitutional development.

The Chief Executive has, within six months after assuming office in 2007, secured a clear timetable for universal suffrage for Hong Kong: universal suffrage may be implemented for the Chief Executive in 2017 and for the Legislative Council in 2020.

In order to further democratize the two elections in 2012 and pave the way for implementing universal suffrage, the HKSAR Government has put forth a package which will enhance the democratic elements of the two elections. The proposed package has responded to the reasons for which Members of the pan-democratic parties and groupings vetoed the proposed package in 2005 by proposing that only elected District Council (DC) Members who are returned by one-person-one-vote should participate in the election of the DC seats in the two elections, and that for the Legislative Council election, aside from increasing five geographical constituency seats through direct elections, all five new functional constituency (FC) seats will be returned through election from among elected DC members. Close to 60% of all seats in the 2012 Legislative Council will be returned through geographical direct or indirect elections. Under the framework of the Standing Committee of the National People's Congress (NPCSC) decision of 2007, we have already strived for maximum latitude in putting forth such a package.

We believe that the general public will see that the Chief Executive and the HKSAR Government have strived to balance the aspirations of different sectors of society and the Legislative Council, and have put forth a package that is generally accepted by the public and political parties and groupings of the Legislative Council. We will continue to make our best endeavours to obtain the support of Legislative Council Members for the proposed package, so as to avoid another stalemate in constitutional development.

Regardless as to whether the proposed package is eventually endorsed by the Legislative Council, we believe that the public will appreciate the efforts made by the Chief Executive and the HKSAR Government in rolling forward democracy.

- (b) The consistent position of the HKSAR Government is that the concept of "important bill" under Article 50 of the Basic Law only applies to local legislation.

Amendments to the methods for selecting the Chief Executive and for forming the Legislative Council are, by nature, amendments to the provisions of Annex I and Annex II to the Basic Law. This is part of the constitutional arrangements and should not be regarded as amendment to local legislation. The amendments to the electoral system will be given legislative effect only after they have received the endorsement of a two-thirds majority of all Legislative Council Members, the consent of Chief Executive, and have been reported to the NPCSC for approval or for the record.

In other words, Article 50 of the Basic Law does not authorize the Chief Executive to dissolve the Legislative Council in the event that the constitutional reform package is not passed.

**MR ALBERT HO** (in Cantonese): *President, if the 2012 constitutional reform package is vetoed, will the Chief Executive take the blame and resign to hold himself politically accountable? The focus of the Secretary's reply seems to speak for the Chief Executive, indicating that he has already made his best efforts. Although he did not go into the details, the best efforts that he referred to might include launching district campaigns and chanting the slogan "Act Now", or organising a televised debate. Naming such actions in the limelight as his "best efforts" seems not to care much about the outcome, or rather, the outcome does not show that he has exercised his political accountability.*

*The crux of my question is, this is already the second time the Chief Executive proposed a constitutional reform package, the first package had*

*already been vetoed. To date, he is unable to convince the Central Authorities to give the Legislative Council a package with concrete progress, a prospect and a date for the ultimate implementation of universal suffrage; neither is he able to win the confidence of the people so that they recognize it as an improved package and pledge their support. An opinion poll to be announced tomorrow indicates that only 40% of the people support this constitutional reform package and they are outnumbered by the opponents, while the hardline opponents are quite large in number. The situation within the Legislative Council is apparent; to date, this Council has less than 40 Members voting for the package.*

*May I ask the Chief Executive through the Secretary: as he claims to be a politician, can he act with the bearing of a politician by taking the blame and resign if he fails this time to fulfil his campaign promise to tackle the constitutional reform problem, just like what Yukio HATOYAMA of Japan did recently, so as to manifest the genuine spirit of accountability of a politician? Why can he not do so?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will answer the question in three parts.

First of all, it is about the views of the people. The One Country Two Systems Research Institute announced its latest opinion poll yesterday, in which almost 59% of the public hold that the Legislative Council should endorse the 2012 constitutional reform package proposed by the Government. Regarding the model of the Legislative Council election, the 1 200-strong Election Committee for the Chief Executive, the 70 seats in the Legislative Council, as well as the five new FC seats to be returned through election by elected DC members from among themselves under the proportional representation system, the support rates are also very high. We are thus confident that this constitutional reform package has received public support.

On the other hand, Mr Albert HO particularly asked what the Chief Executive has fought for in the past few years. As a matter of fact, we have made our best endeavours to fight for the following from the Central Authorities. To begin with, in December 2007, we secured a timetable for universal suffrage, that is, universal suffrage may be implemented for the Chief Executive election in

2017 and for the Legislative Council election in 2020. This is a very important achievement and a milestone, something which no previous Chief Executive or previous terms of the HKSAR Government have attained.

Second, in 2005, the pan-democratic parties and groupings demanded that only directly elected DC members should participate in the selection of the Chief Executive and in the election of Legislative Council Members from among themselves. We have already managed to do that.

Third, we have insisted that no new traditional FC seats will be added.

Fourth, Members are concerned whether appointed DC members will be retained. We have also made it clear that we will adopt an open and active attitude towards this issue. After the passage of the 2012 package, we can table a local legislative proposal for discussion by the Legislative Council and the public.

Thus, we have strived to respond to each and every issue that is of concern to Members.

The third point that I wish to say is, in the past few months, apart from the views of the Democratic Party and the Alliance for Universal Suffrage, we have also fully reflected Members' views. Then on 14 April the Deputy Secretary-General Mr QIAO made a public remark that the legality of the timetable for universal suffrage is indisputable and the door to universal suffrage is open; when the five steps are completed, universal suffrage can be implemented in Hong Kong. On 7 June, in response to Members' aspirations, Deputy Secretary-General Mr QIAO again .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, I wish to seek an elucidation from the Secretary. Does he want to stand for the election of the next Chief Executive? How can he act so impudently and shamelessly?*

**PRESIDENT** (in Cantonese): Mr LEUNG, this is not the time for debate .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *He has acted so impudently and shamelessly. I wish to seek an elucidation from him. Does he wish to stand for the election of the next Chief Executive?*

**PRESIDENT** (in Cantonese): Would you please sit down. Would Member please comply with the Rules of Procedure and respect the speaking public officer. Secretary, please continue with your reply.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will continue with my speech. On 7 June, Deputy Secretary-General Mr QIAO made another remark, making it clear that the core details of universal suffrage is that there will be equal election rights for everyone when universal suffrage is implemented. Moreover, after the HKSAR Government had reflected the situation to the Central Authorities, the latter designated the Deputy Director of the Liaison Office of the Central People's Government in the HKSAR (the Liaison Office) to meet with and listen to the views of the Democratic Party and the pan-democratic Members.

President, there is in fact a very important point in the events that I have mentioned above. By opening this door to get in touch with the pan-democrats, the Central Authorities have made a very important step in taking forward the constitutional development; it enables the Central Authorities to directly listen to the views of the pro-establishment as well as pan-democratic parties and groupings. I believe this will have an impact on the final package for the Legislative Council election in 2016, the Chief Executive election by universal suffrage in 2017 and the Legislative Council election by universal suffrage in 2020.

Thus, my reply is that we have made every possible effort to do what we could in the past five or six years. We now hope that the Democratic Party will not pass the responsibility over to the executive authorities so hastily; we must work hand in hand to accomplish this task in the next two weeks.

**PRESIDENT** (in Cantonese): Secretary, please sit down. Mr WONG Yuk-man.

**MR WONG YUK-MAN** (in Cantonese): *He has to answer the question. President, would you please tell him that he has to answer Mr Albert HO's supplementary question; instead of answering the question, he acted like a "human tape-recorder" again and repeated what he had repeatedly said in the past.*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down. When a public officer or a Member is speaking .....

**MR WONG YUK-MAN** (in Cantonese): ..... *a waste of time* .....

**PRESIDENT** (in Cantonese): Mr WONG, please sit down. When an official or a Member is speaking, you can only interrupt under two conditions: first, you have a point of order; or second, you intend to seek an elucidation. If you intend to seek an elucidation, you need to get the consent of the speaking public officer or Member and the President. Hence, would Member please do not interrupt a speaking public officer or Member at will.

Secretary, please be concise and complete your reply.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Hence, my conclusion is, in the next two weeks, both the Government and the political parties and groupings must work together and strive for the passage of the 2012 package. As for the Democratic Party, I earnestly hope that they can cherish this channel of communication with the Central Government and continue to advance the democratization of Hong Kong.

**MR LEE WING-TAT** (in Cantonese): *President, I have a point of order. Given that Secretary Stephen LAM has used nine minutes to answer a supplementary question, President, will you consider extending the time for asking supplementary questions to allow more Members to raise supplementary questions? Otherwise, if he uses 10 minutes each time, only two Members will be able to ask supplementary questions.*

**PRESIDENT** (in Cantonese): Mr LEE, please sit down. I will appropriately adjust the time for asking supplementary questions by Members. May I also remind Members and the Secretary not to be copious in asking and answering questions.

**MR WONG YUK-MAN** (in Cantonese): *President, Mr Albert HO was asking an old question because he has made similar suggestions in the past. But the Secretary really has not provided him with an answer of substance. He makes use of the answering time to enlist continuously the Democratic Party's support. Right? He makes use of this opportunity to say: "I have created a new path for you, and now the Central Government is willing to meet with you. How wonderful that is, right? We can communicate with ..... but you refuse to toe the line." The Secretary is now telling the Democratic Party to toe the line ..... Right? He has made use of this oral question time to lobby for their support of the constitutional reform package .....*

**PRESIDENT** (in Cantonese): Mr WONG, if you continue to act like this, I am obliged to stop you from speaking .....

**MR WONG YUK-MAN** (in Cantonese): *..... to enlist the Democratic Party's support. President, may I ask the Secretary to answer me: does he plan to use the time for answering oral questions to make his last effort to enlist the Democratic Party's support, so as to swing their nine votes to support this constitutional reform package? President, would you please ask the Secretary to answer this question.*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down. I hold that your question is irrelevant to the main question.

**MR ANDREW CHENG** (in Cantonese): *President, the Secretary stated in part (a) of the main reply that the Chief Executive has strived to balance the aspirations of different sectors of society and the Legislative Council. However, President, as we can see, the Chief Executive chants the "Act Now" slogan in his*

*recent district campaigns, he calls people holding different views as extremists, and then shifts the responsibility onto the people and political parties opposing the government package. In this way he not only provokes conflicts but also breaks up society. This should never be the way a Chief Executive should act. I have this question for the Secretary. Having come to this stage, is the Chief Executive being regarded or perceived as incapable of balancing the interests of different parties and unifying different views, and thus he should take the blame and resign?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I wish to respond to Mr Andrew CHENG and other Members that balancing different interests in society is something we have to deal with every day. But as I have stated to Members just now, we have made every possible effort in the past five to six years to balance different views, as well as examine how we can pave the way for securing a timetable for universal suffrage. In the area of local legislation, we raise the proposal hoping to achieve genuine progress. Thus, in the interim between now and the time to vote on 23 June, we will make our best endeavours to balance different interests and views and fight for genuine progress.

**MR ANDREW CHENG** (in Cantonese): *President, he has not answered my supplementary question.*

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

**MR ANDREW CHENG** (in Cantonese): *What I am saying is, if you have made your best endeavours, you should make an effort to keep on making district visits, assembling people with different views together instead of naming them as extremists, or even laying the blame on them.*

**PRESIDENT** (in Cantonese): Mr CHENG, you are making a speech now.

**MR ANDREW CHENG** (in Cantonese): *No. He has not answered that part of the question.*

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

**MR ANDREW CHENG** (in Cantonese): *I ask the Secretary whether he agrees with the Chief Executive's actions? Is the Chief Executive no longer qualified to be the Chief Executive due to such acts? Why is he still qualified to be the Chief Executive? He may be qualified to be the leader of a political party though.*

**PRESIDENT** (in Cantonese): Mr CHENG, you are making personal comments.

**MR WONG TING-KWONG** (in Cantonese): *It goes without saying that the democratic bloc vetoed the 2005 package because they claimed that there was no timetable, and they held that appointed DC members should not have the right to vote five new FC seats for DCs. The constitutional reform package proposed this time has been revised according to their idea. As it is stated in the main reply that the Chief Executive and the Members of the Legislative Council both have a constitutional responsibility to deal with Hong Kong's constitutional development, may I ask Secretary Stephen LAM, in the event of the 2012 package being vetoed, what responsibilities Members of this Council should bear? Can Secretary Stephen LAM briefly explain the situation?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, according to the Basic Law, it requires the Executive Government of the Chief Executive to table a proposal; the proposal shall have to be endorsed by a two-thirds majority of all Members of the Legislative Council; the endorsed proposal shall then have to obtain the consent of the Chief Executive and be reported to the NPCSC for approval or for the record. Only with the consensus of the three parties and completion of the five steps can this mission be accomplished. Thus, different political parties and groupings and independent

Members within this Council have to deal with this constitutional reform package and proposals in accordance with the views they have received from society and the stances of the parties and groupings. This is very normal. However, at a certain stage, we truly wish that different political parties and groupings can, for the sake of Hong Kong's future interests, take forward the development according to our overall future interests.

On the other hand, I wish to ask Members to think about the following: has this 2012 package offered any actual progress in democracy? If it has, why is vetoing it a better choice for Hong Kong? Or will vetoing it actually do harm? Second, if this package is vetoed, will it make the election of the Chief Executive by universal suffrage in 2017 more difficult and lay down unnecessary obstacles to the election? Hence, President, in a nutshell, both the Executive Authority and the different political parties and groupings in the Legislative Council have a constitutional role to deal with the constitutional development of Hong Kong, so as to roll forward the democratization of Hong Kong. As there is such a role, there is such a responsibility.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, this is indeed my first time listening to Secretary Stephen LAM's interesting logics.*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *Okay. I wish to ask Secretary Stephen LAM a very simple question. You are the Secretary, I had once asked you but you did not answer me. In relation to the lobbying work of the constitutional reform package, have you met with the officials of the legal section of the Liaison Office? How many times have you met with them? How many times have you met with Mr LI Gang since the beginning of the year? How many times have you met with other officials of the Liaison Office? You are accountable to this Council, because, President, I am .....*

**PRESIDENT** (in Cantonese): Mr LEUNG, I think your question is irrelevant to the details of the main reply. This main question is about the Chief Executive

and the Legislative Council which, in the event of this constitutional reform package being vetoed, .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *I have not finished my question. If you have not met with the officials of the Liaison Office, do you think the Chief Executive is derelict in his duty for not asking you to meet with the officials of the Liaison Office? Because the meeting of Mr LI Gang with the Democratic Party and other pan-democratic parties and groupings to discuss the constitutional reform package has been regarded as an important event, an ice-breaking event. They have sought to break the ice, but you have done nothing. If you have done nothing and the Chief Executive has not asked you to do anything, should he not resign? Regarding the low ranking official .....*

**PRESIDENT** (in Cantonese): Enough, please sit down. I believe your supplementary question .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *Buddy, I have grounds.*

**PRESIDENT** (in Cantonese): I believe you have already asked your supplementary question. Secretary, please reply.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I will reply in three points. First, I do know the officials of the legal section of the Liaison Office. Second, regarding the meeting between Deputy Director of the Liaison Office Mr LI Gang, designated by the Central Authorities, and the Democratic Party and other pan-democratic parties and groupings, it was facilitated by the Chief Executive who has relayed the views of the Democratic Party and other political groupings to the Central Authorities. Third, regarding the handling of the issue of constitutional reform, including the 2012 package now in discussion, it is also taken forward by the SAR Government. Hence, we are the one to collate and summarize the views of the Democratic Party's Alliance for Universal Suffrage, the Alliance for Constitutional Development and other political parties and groupings; and after

consideration of these views, we propose a package for the methods of selecting the Chief Executive and of forming the Legislative Council.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, he has not answered whether he has met with the officials and how many times he has met with them; whether the Chief Executive has asked him to do so; and if not, whether the Chief Executive should resign.*

**PRESIDENT** (in Cantonese): I hold that the Secretary has already replied.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Fine. Thank you.*

**MR LEE WING-TAT** (in Cantonese): *President, although the Secretary said in the main reply that this resolution concerning the elections of the Chief Executive and the Legislative Council is not a piece of legislation, it goes without saying that leaders of all countries and regions will shoulder the political outcome and resign if an important policy or bill they propose during their term of office fails to be endorsed. Yukio HATOYAMA of Japan, who has only failed to fulfill his campaign promise of closing an American military base on the island of Okinawa, took the blame and resigned. The Chief Executive has already failed to secure the passage of his first package proposed in 2005 and his second package in 2010. I believe this is the most important policy he has proposed during his term of office. Why can he not set up a political example and resign to take the blame? WONG Ting-kwong asked just now what responsibilities Members of this Council should take. Directly elected Members of this Council have to stand the test of election every four years. Voters have the right to vote for us or vote for others. The biggest problem with the Chief Executive is that he is not returned by universal suffrage. If he is returned by universal suffrage, I will not heckle. President, may I ask the Secretary why the Chief Executive will not and cannot be the one to start this political practice or norm?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the third Chief Executive Mr Donald TSANG did pledge in his election campaign that he would actively deal with the issue of universal suffrage and he has done so. Within six months after assuming office he has secured a timetable for universal suffrage from the NPCSC as laid down in the Decision, that is, universal suffrage may be implemented for the Chief Executive election in 2017 and for the Legislative Council election in 2020. Hence, in this regard, he has already fulfilled the plank that he promised in his political platform that he would deal with the issue of universal suffrage.

Second, under the constitutional system of Hong Kong, a motion on the handling of the constitutional reform has to be introduced by the Chief Executive or the executive authorities and endorsed by the Legislative Council. Be it the executive authorities or the Legislative Council, including different political parties and groupings in this Council, they all have a part to play and a responsibility to take. Hence, our Chief Executive has already strived to lead the third SAR Government to deal with this issue.

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

**MR LEE WING-TAT** (in Cantonese): *He has not answered my question. This motion has to be passed before he can claim that his campaign platform has been achieved. May I ask the Secretary whether he is calling a stag a horse? If his motion is to be vetoed twice, how can he claim that the issue has been dealt with?*

**PRESIDENT** (in Cantonese): Mr LEE, please repeat your supplementary question and do not make comments.

**MR LEE WING-TAT** (in Cantonese): *Let me repeat my supplementary question. If he said that this issue had been dealt with, should he wait until the motion has been passed before he can make such a claim? Unlike what the*

*Secretary has said, he should not claim that the issue has been dealt with by the few efforts that he has made.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, my view is quite the contrary. Mr LEE Wing-tat and his party members should consider the fact that 60% of the public supported the DC package in 2005, but they acted against popular mandate and bundled 20-odd pan-democratic Members to veto the package. Today, should they act against popular mandate again? 60% of the people aspire that the Legislative Council will pass this package. Must you veto it?

**MS EMILY LAU** (in Cantonese): *President, the question is about whether the Chief Executive would take the blame and resign, and the Secretary maintained that the Administration would not do so. President, a few years ago, a motion on "vote of no confidence" was moved in this Council, which could have a chance to be passed. But the public officer concerned had resigned before we had a chance to vote. Will the Chief Executive display his integrity and resign before another motion on "vote of no confidence" is passed or is very likely to be passed?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, as far as the 2012 constitutional reform package is concerned, we believe that the package has gained the support of the majority public and we hope that the package can be endorsed by the Legislative Council. We have followed the popular mandate to present this package to Members. We also believe that over half of the Members will support this 2012 package. We are confident about this, and in the next two weeks we will lobby for the pan-democratic Members' support of the package.

**PRESIDENT** (in Cantonese): This Council has spent more than 26 minutes on this question. Last oral question seeking an oral reply.

**MTR Fares and Station Facilities**

6. **MR ANDREW CHENG** (in Cantonese): *President, the MTR Corporation Limited (MTRCL) will increase its fares by 2.05% on average with effect from 13 June this year. Regarding the fares and station facilities of the MTRCL, will the Government inform this Council:*

- (a) *given that the MTRCL had earned a net profit of over \$72,200 million in the past decade, whether the Government will immediately study the allocation of the revenue from dividends distributed by the MTRCL to the Government annually to establish a fund to stabilize train fares, so as to relieve the burden on members of the public; if it will, of the details and the work timetable; if not, the reasons for that; whether it knows if the MTRCL will introduce Day Pass, Weekly Pass and Monthly Pass schemes for all railway lines; if so, of the details and the implementation timetable; if not, the reasons for that;*
- (b) *given that after the fare increase, there will be situations in which "Octopus fares will be higher than single journey ticket fares" for individual journeys, whether the Government knows the route combinations in which such situations will occur and their details; whether the MTRCL has any solution; if so, of the details; if not, the reasons for that; whether such situations are contradictory to the original intent of setting up the Octopus Card Payment System; and*
- (c) *whether it knows if the MTRCL will cancel the extra charge of 10 cents for each Octopus journey for the retrofitting of platform screen doors (PSDs); if it will, of the details and the timetable; if not, the reasons for that; of the MTRCL's progress and expected completion date of collating and analysing the test data of the trial of the mechanical gap fillers (MGFs) system; what method the MTRCL has to prevent the recurrence of accidents of passengers falling onto rail tracks at those stations which have not yet installed PSDs or automatic platform gates (APGs); whether the MTRCL has further plans to provide toilets at the various stations; if so, of the details and the timetable; if not, the reasons for that?*

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

- (a) The MTRCL's fare adjustment mechanism (FAM) was formulated during the rail merger after extensive discussion at the Legislative Council. Upon the rail merger in December 2007, the MTRCL has reduced its fares immediately and committed not to increase fares on or before 30 June 2009. After 30 June 2009, the MTRCL's fares are to be adjusted according to the FAM which is objective and transparent. Under the mechanism, fare adjustments will be made in accordance with a direct-drive formula linked to changes in the Composite Consumer Price Index (CCPI), Nominal Wage Index (Transport Services Sector) and a fixed productivity factor. The CCPI used in the FAM reflects the macroeconomic environment and public affordability to a certain extent. Nominal wage index reflects staff cost.

The FAM has only been implemented since 2009 and fares will be increased for the first time in 2010. We do not have any plan to change the newly set up FAM at present.

As regards fare concessions, the MTRCL has announced that the fare concessions which are due to expire on 30 June 2010, including "Sheung Shui-East Tsim Sha Tsui Monthly Pass", "Tuen Mun-Nam Cheong Monthly Pass", "Tuen Mun-Hung Hom Monthly Pass" and "Tuen Mun-Nam Cheong Day Pass", will be extended for one year to 30 June 2011.

The Government will continue to encourage public transport service operators, including the railway corporation, to provide fare concessions to passengers taking into account the operators' respective operating conditions.

- (b) 2010 is the second year that the FAM has been implemented by the MTRCL. According to the FAM, the overall fare adjustment rate for 2010 is +2.05%.

As regards the calculation of individual fares, the FAM allows MTRCL to apply the following principles which MTRCL has used in its calculation:

- (i) adjustments to Octopus fares are rounded to the nearest 10-cents; and
- (ii) adjustments to single journey fares are rounded to the nearest 50-cents,

but the weighted average of all individual fare adjustments shall equal to +2.05%.

According to the MTRCL, in calculating individual fares in accordance with the above principles, some single journey fares (most of which are concession fares for children and the elderly) would have a substantial increase if they are to be adjusted by 50 cents. Therefore, the MTRCL has decided not to adjust these single journey fares now and address the issue in the next fare adjustment. Although the arrangement would mean that a small number of Octopus fares are 10 to 20 cents higher than the single journey fares of the same journey, the MTRCL has considered that adjusting such single journey fares would represent a substantial increase and decided to maintain these single journey fares at their existing levels. Passengers using Octopus will still pay a lower fare than using single journey tickets in most journeys. Moreover, using Octopus is very convenient and can benefit from a wide variety of promotions offered by the MTRCL.

Based on the information provided by the MTRCL, there are only around 100 journeys under which Octopus fares are slightly higher than those of single journey fares, representing a very small portion out of a total of 40 000 fare combinations. Details of these journeys are at the Annex. The MTRCL has uploaded such information on its website.

- (c) At present, the MTRCL collects 10 cents per Octopus journey for the retrofitting of PSDs at 30 underground stations and APGs at eight

aboveground or at-grade stations. The former MTR Corporation Limited announced its plan to retrofit PSDs at underground stations in phases in early 1999. As the works require a high capital cost of HK\$2 billion which was not covered in the original investment plan of the urban lines of the MTR, after discussion in the Legislative Council, half of the project cost would be borne by the Corporation while the remaining half of the project cost would be met through collecting 10 cents per Octopus trip from passengers.

Subsequently, the MTRCL decided to retrofit APGs at the eight aboveground and at-grade stations in the former MTR system in 2008. The cost of the retrofitting works is about \$300 million, half of which would also be funded by collecting 10 cents per Octopus trip from passengers.

Collection of the 10 cents per Octopus trip began in July 2000. By the end of 2009, \$730 million had been collected. The MTRCL indicated that the 10-cent collection arrangement will continue according to the original programme until the said cost is recovered in full. Based on the estimates of the MTRCL, it is projected that the arrangement will continue until 2017. The actual time it would take to fully recover the project costs will depend on patronage levels.

As regards retrofitting APGs on the East Rail Line, as there are platforms with relatively greater curvatures and wider platform gaps at some stations of the East Rail Line, the problem of wide platform gaps has to be properly resolved before APGs are installed at stations along the line in order to reduce the risk of passengers inadvertently stepping into the platform gaps because of sight line obstructions caused by the APGs. Therefore, the pre-merger Kowloon-Canton Railway Corporation decided to study the effect of installing MGFs at station platforms with wider gaps first. The MGF system is new and has never been used in Hong Kong. In fact, it is also uncommon in other railway systems internationally. As such, the MTRCL needs to develop a MGF system that is suitable for the East Rail Line and conduct on-site trial at platforms during train service hours to test its effect. The MTRCL's trial on MGFs was conducted

at Lo Wu Station in three phases. The whole trial commenced in July 2008 and was completed at the end of last year.

The MGF system needs to have a sophisticated interface with various railway systems, such as signaling, train control, and so on. During the trial, the MTRCL found that, since elaborate verifications for the communications between the MGF system and the various railway systems are required, additional platform dwell time and lengthening of total journey time are incurred. The MTRCL is now collating and analysing the data collected to assess the system's performance and implication on train service.

We understand the public's views on the installation of APGs at platforms. However, before installing any facilities in the railway system, consideration has to be given to implications on operational safety and railway service. Based on the test data collected by MTRCL from the trial on the MGF system, preliminary analysis shows that reliability of the MGF system was not satisfactory. Also, the operation of MGFs still incurs additional platform dwell time and some technical difficulties. The signaling system and trains may have to be substantially upgraded to solve the problems. Hence the MTRCL has to continue to study the matter.

The design of the existing station platforms in the railway system is safe. The MTRCL has also taken measures, including installing platform gap fillers to narrow the gap and installing illumination and flashing lights under the platforms and at the edge of the platforms respectively at locations where the gap between the platform and the train is relatively wide so that passengers would pay attention to the gap. Yellow tactile strips are also installed along platform edges to remind passengers not to stand beyond the yellow line. Door chimes are broadcast before train doors close to remind passengers not to charge doors and public announcements are made on platforms and in train compartments in Cantonese, Putonghua and English to remind passengers to mind the platform gaps. Moreover, the MTRCL conducts education activities from time to time to raise the safety awareness of the public. Furthermore,

CCTV system is installed at platforms to facilitate effective platform monitoring and management.

With regard to the provision of public toilets near MTR stations, as most pre-merger MTR stations were built in the 1970s and 1980s, in view of the short travelling time and availability of public toilets in the vicinity of most commercial buildings or shopping arcades located in the urban areas, public toilets were not a built-in feature for those MTR stations. Substantial technical difficulties have been identified in retrofitting public toilets at existing railway stations.

In fact, amongst the 84 stations in the system, public toilets are already available in 38. Public toilets have also been built by the MTRCL in the public transport interchanges connecting to four stations on the Tseung Kwan O Line. At other stations, passengers may request to use staff toilets in the stations. The MTRCL has also agreed to provide public toilets within, or adjacent to, stations of future new lines and extensions.

In addition, the MTRCL has conducted a survey on the location of public toilets in the vicinity of stations within a walking distance of 200 metres (that is, an approximately four-minute walk). It ascertained that, with the exception of Ngau Tau Kok, Prince Edward and Quarry Bay Stations, public toilets are available within a 200-metre distance of all other stations within the MTR system.

The toilets at Ngau Tau Kok and Quarry Bay Stations will be retrofitted at street-level of the stations. The MTRCL indicated that they would complete the procedures required for such retrofitting works as soon as practicable.

For the plan to provide public toilets in the vicinity of Prince Edward Station, the MTRCL previously proposed two locations and submitted initial design proposals to the relevant government departments for consideration and consultation with the local community. However, the proposals were rejected. As the Government will implement the Area Improvement Plan for the Shopping Areas of Mong Kok, which includes a greening project for

Nullah Road, the MTRCL is making initial contact with the relevant department implementing the project to explore the feasibility of providing a public toilet under this programme.

Annex

Journeys that MTR Octopus Fares are higher than Single Journey Fares

Child/Elder Concession Fares

<i>Octopus Card</i>	<i>Single Journey Ticket</i>	<i>Stations</i>	
\$3.1	\$3.0	Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong	Hung Hom
		Mong Kok East	Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong, Kowloon, Austin
\$4.1	\$4.0	Hung Hom, Mong Kok East	Fan Ling, Sheung Shui, Tai Shui Hang, Heng On, Ma On Shan, Wu Kai Sha
		Kowloon Tong	Fan Ling, Sheung Shui
		Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong, Kowloon, Austin	Tai Wai, Sha Tin
		Che Kung Temple, Sha Tin Wai, City One, Shek Mun	Tsim Sha Tsui, East Tsim Sha Tsui
\$4.6	\$4.5	University	Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong, Kowloon, Austin

<i>Octopus Card</i>	<i>Single Journey Ticket</i>	<i>Stations</i>	
\$5.6	\$5.5	Tin Hau, Fortress Hill	Mong Kok East
		Fan Ling, Sheung Shui	Jordan
\$8.1	\$8.0	Mong Kok East	Yuen Long, Long Ping, Tin Shui Wai, Siu Hong, Tuen Mun
\$8.6	\$8.5	Kam Sheung Road	Hung Hom

## Adult Fares

<i>Octopus Card</i>	<i>Single Journey Ticket</i>	<i>Stations</i>	
\$7.7	\$7.5	Tsuen Wan West	Jordan, Kowloon, Austin, Wong Tai Sin
\$8.2	\$8.0	Hung Hom, Mong Kok East	Tai Shui Hang, Heng On, Ma On Shan, Wu Kai Sha
		Kowloon, Austin	Tai Wai, Sha Tin
\$8.6	\$8.5	Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong, Kowloon, Austin	Fo Tan
		Tai Po Market, Tai Wo	Prince Edward, Shum Shui Po, Shek Kip Mei, Lok Fu, Wong Tai Sin, Nam Cheong
\$9.1	\$9.0	Mei Foo, Lai King, Kowloon Bay, Ngau Tau Kok, Kwun Tong, Kowloon, Austin	University
\$11.6	\$11.5	Mei Foo	Kam Sheung Road

**MR ANDREW CHENG** (in Cantonese): *The Secretary has to understand, the MTRCL had made a net profit of \$72,200 million over the past 10 years, and yet it still collects, until 2017, a surcharge for the retrofitting of PSDs, and \$730 million had been collected so far. The issue highlights that the MTRCL only cares about maximizing its profits to the utmost, without paying due regard to its social responsibility. Actually, does the Secretary have the power to request the MTRCL to cancel the surcharge of 10 cents per Octopus trip? A lot of PSDs have yet to be retrofitted, and toilets are unavailable. I hope the Secretary can candidly tell us, with respect to the questions I have just raised, whether the Government has any power to cancel the surcharge and expedite the retrofitting of PSDs and the provision of toilets? In addition, as regards the establishment of a fund to stabilize train fares, President, not a word is mentioned in the main reply. What is the Government hiding from? Is the Government incompetent?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as regards the issue on fares, it has been clearly explained in the main reply. At present, we have no plan to change the existing fare adjustment arrangement, which was set up after discussions during the rail merger. We need to have a fare adjustment arrangement which is transparent and stable. Concerning whether a fund should be established to stabilize the fares, as the revenue derived from the MTRCL, that is, the share dividends payable to the Government, will actually go to the Government coffers. The Treasury will then allocate funds to areas in need after giving an overall consideration. Therefore, it is not desirable to allocate funds separately for fare adjustment purposes.

Regarding PSDs and toilets as mentioned by Mr CHENG, we have, in fact, proactively considered various feasible proposals, particularly the retrofitting of APGs on the East Rail Line. Given the great curvature of some platforms, we must consider the issue of safety. In other words, we do not want to see passengers in greater risk when they use the new facilities. Therefore, we will not proceed with the retrofitting haphazardly if the problem has not been completely resolved. We are fully aware of the aspirations of members of the public, and we will urge the MTRCL to continue its efforts in this regard.

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

**MR ANDREW CHENG** (in Cantonese): *He has utterly not answered the part about the cancellation of surcharge for the retrofitting of PSDs. The fee collection arrangement will continue until 2017. This is really maximizing the profits to the utmost extent.*

**PRESIDENT** (in Cantonese): Please sit down.

**MR ANDREW CHENG** (in Cantonese): *Would he please answer the question?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I have said in the main reply, the decision to collect the extra charge was made by the former MTRCL Corporation Limited having regard to its investment plan and the need to share the cost with the passengers. Now, the decision continues to be implemented on the basis of such an understanding.

**MR JAMES TO** (in Cantonese): *President, in part (b) of the main reply, the Government has confirmed that there are 100 journeys under which Octopus fares are higher than those of single journey fares, and the principles used in calculating fares was stated in the preceding paragraph. President, does the Government consider it unacceptable, as a matter of principle, if Octopus fares are higher than those of single journey fares? Can the Government, as far as it can exert influence, request the MTRCL to lower the Octopus fares for these 100 journeys and not to maximize its profits to the utmost? Does the Government think it should take such an action, so that it can at least give the public an impression that the Government will regulate the MTRCL against reckless deeds? The Government has the responsibility for regulation.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Regarding the matter of principle mentioned by Mr TO, the MTRCL has all along adopted the practice of keeping Octopus fares or the former Common Stored Value Ticket fares lower than single journey fares as far as practicable. In the

overall design of fare adjustment this time, we believe the MTRCL has considered, and hopes to continue with such practice. However, if some single journey fares must be adjusted by 50 cents in this exercise, the increase will be quite substantial and hence not very satisfactory. Nonetheless, even if the fares of some journeys remain the same, fares for other journeys may have to increase, so as to maintain the overall fare adjustment rate to 2.05%. As such, despite there is a difference of 10 to 20 cents for several journeys, we think that the problem is relatively not very serious in the context of the entire network. We also believe the problem will be addressed in the next fare adjustment.

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

**MR JAMES TO** (in Cantonese): *He has not answered whether it is possible not to increase 50 cents for some journeys, and not to increase fares for some other journeys, in this way, it will not maximize its profits to the utmost by increasing fares to the full rate of 2.05%. That is where the problem lies. The principle will be violated if fares are to be increased to the full rate of 2.05%. The Secretary has not answered that question.*

**PRESIDENT** (in Cantonese): Your follow-up question is very clear. Secretary, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as the MTRCL's fares are calculated according to the formula provided in the FAM, I believe it is consistent with the flexibility allowed in the formula.

**MR JAMES TO** (in Cantonese): *President, according to the mechanism, it may not be necessary to increase to the full rate of 2.05%.*

**PRESIDENT** (in Cantonese): Mr TO, I believe the Secretary has already answered your question.

**MR TAM YIU-CHUNG** (in Cantonese): *President, given the wider platform gaps at some stations and the existing technical problem with the MGFs remain unresolved as mentioned in the main reply, may I ask the Secretary if there is any information or record on the number of passengers who were injured as they had been tripped over or fallen onto rail tracks due to the platform gap in the past three years? Are there any such figures for the past three years? According to the cases handled with by me, no compensation will be awarded in such situations, that is, the MTRCL is not liable for that. Is that fair?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I do not have the specific figures on hand regarding the number of passengers who had been tripped over purely because of the platform gap, and I am prepared to provide the figures later. (Appendix I) Nevertheless, we have reminded the public of the danger of the gaps through many ways. We are now considering retrofitting the MGFs to mitigate this problem. We are particularly worried that after the retrofitting of the APGs, the vision of passengers will be blocked, and if they step out immediately after the APG is open without paying attention to the platform gap, the risk will even be greater. On the contrary, passengers are now aware of the gap as they have already got used to it. As such, we think we have to solve the problem of wide platform gaps first before retrofitting APGs. The study conducted by the MTRCL was targeted at resolving the problem of blockage of vision. These two problems are not identical.

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

**MR TAM YIU-CHUNG** (in Cantonese): *I have said in the last part of my supplementary question that currently the MTRCL offers no compensation and admits no liability in the event that a passenger is tripped over and thus injured because of the gaps. Is that fair? He has not answered this part.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Regarding the issue of compensation and liability, generally speaking, we will act

in accordance with the law. It depends on the liability on the part of the passenger, and the liability on the part of the MTRCL with regard to the design or its management. I think the law is quite clear in this aspect.

**MS MIRIAM LAU** (in Cantonese): *President, as regards the 100 fare combinations of journeys where Octopus fares are higher than single journey fares, the MTRCL has given an explanation, which appears to be justified on the face of it. However, it is still unfair from the perspective of members of the public.*

*It is mentioned in the main reply that passengers using Octopus can benefit from a wide variety of promotions offered by the MTRCL. I have a suggestion which, I think, can achieve a win-win situation in the handling of this issue by enabling the Octopus passengers to recover the overcharged 10 cents or 20 cents in their return journey on the same day, without affecting the principle of fare increase by 2.05% or the policy of the MTRCL in offering promotional benefits. Why do I describe it as a win-win situation? It is because on the one hand, the discontent of passengers can be assuaged as they will not be overcharged provided that they take another journey, and on the other hand, the passengers will not stop using Octopus out of anger and buy single journey tickets in order to save the overcharged 10 cents. It will also cause trouble to the MTRCL if too many people are queuing to buy single journey tickets. By adopting this method, we can achieve a win-win situation, where the passengers can be benefited and the MTRCL can avoid the confusion. Will the Government consider proactively recommending this proposal to the MTRCL?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): I thank Ms Miriam LAU for her proposal, and I am much prepared to relay it to the MTRCL for its consideration.

**PRESIDENT** (in Cantonese): We have spent more than 23 minutes on this question. Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Review of MPF System**

7. **MR LEUNG YIU-CHUNG** (in Chinese): *President, it has been learnt that the Government will conduct, within this year, a review of the Mandatory Provident Fund (MPF) system, which has already been implemented for almost 10 years. In this connection, will the Government inform this Council:*

- (a) of the specific areas, contents and timetable of the aforesaid review;*
- (b) which bureau and government department are responsible for co-ordinating the aforesaid review; of the role of the Mandatory Provident Fund Schemes Authority (MPFA) in the aforesaid review; and*
- (c) whether it will, when conducting the aforesaid review, collect the views of the public and organizations; if it will, of the means and channels used to collect views; if not, the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, since the inception of the MPF system in December 2000, the MPFA has reviewed the arrangements in various areas under the existing system in the light of the experience gained from actual operation, the latest market development and the opinions of various stakeholders. The MPFA has maintained close liaison with the Financial Services and the Treasury Bureau in respect of the review results to explore improvement measures and implement the proposals, including legislative amendments. In the past 10 years, the Legislative Council has passed seven Bills to amend the MPF legislation. Major amendments include increasing the level of penalties against default contributions, allowing employees to transfer accrued benefits derived from their own contributions during current employment, and simplifying and improving the operation of the MPF System.

The MPFA will continue to review and improve the operation of the MPF system. The MPFA is now reviewing the adequacy of the contents of the information disclosed and the channels of disclosure of information to scheme members. The MPFA is also reviewing the existing arrangement under the

Mandatory Provident Fund Schemes Ordinance (MPFSO) whereby, unless in specified circumstances (including early retirement at the age of 60, death, permanent departure from Hong Kong, total incapacity and accounts with accrued benefits do not exceed \$5,000), scheme members are not allowed to withdraw their accrued benefits before reaching the age of 65, as well as whether scheme members who have reached the retirement age of 65 should be allowed to withdraw their accrued benefits by phases. The MPFA aims to complete the relevant review this year. The Bureau and MPFA will consider appropriate follow-up actions in the light of the review results and will consult the Legislative Council on any proposals for legislative amendments. In formulating the relevant proposals, the MPFA will consult and consider the views of the Mandatory Provident Fund Schemes Advisory Committee (MPFSAC) and the Management Board (MB) of the MPFA. The membership of MPFSAC and MB includes individuals who come from the employers and employees sector as well as from other professions.

Apart from the above, the MPFA will complete a review of the minimum and maximum relevant income levels in accordance with the MPFSO this year, and submit recommendations to the Government after consulting MPFSAC and MB. We will consult the Legislative Council on the review findings thereafter.

### **Dental Services for Elderly**

8. **MR WONG KWOK-HING** (in Chinese): *President, the Financial Secretary indicated in his Budget Speech of this year that, the Working Group on Primary Care, chaired by the Secretary for Food and Health, has put forward a number of proposals to strengthen primary care services, which include proposals on enhancing primary dental services and oral health promotion programmes, particularly those for the elderly. The Secretary for Food and Health has also indicated that there is a plan to allocate \$21 million for the enhancement of services provided under the dental care scheme for the elderly in need. In this connection, will the Government inform this Council:*

- (a) *of the latest progress of the aforesaid scheme and when the details of the scheme will be announced (including the expected number of elderly people to be provided with the services, the scope of services and eligibility criteria of the participants for the scheme);*

- (b) *whether the aforesaid scheme will involve public-private partnership; if so, of the details, and how the authorities will, in implementing the public-private-partnership scheme, monitor the fees charged by private health care institutions, so as to ensure that such charges are set at reasonable levels and thereby safeguard the interests of members of the public; and*
- (c) *given that there have been comments that the utilization rates of the Elderly Health Care Voucher Pilot Scheme have been on the low side because the age requirement set for eligible elderly recipients is too high and the amount of subsidy is too small, hence failing to achieve the expected result, whether the authorities will draw on the experience gained and set a lower age requirement for eligible elderly recipients as well as a higher level of subsidy amount when launching the aforesaid scheme, so as to benefit more elderly people?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Working Group on Primary Care chaired by the Secretary for Food and Health has put forward a series of strategic proposals to enhance primary care services, including proposals on primary dental services and oral health promotion. The Government has earmarked \$22 million in the estimates of expenditure for 2010-2011 for implementing the proposals on enhancing primary dental services and promoting oral health, with particular consideration given to providing appropriate dental services for the elderly in need.

The Government is working in collaboration with the dental profession, including the Hong Kong Dental Association, to devise feasible programmes to enhance primary dental services and promote oral health. Matters to be discussed include identification of target groups, models of collaboration with the dental profession and other dental service providers (for example, public-private partnership), subsidization model, and so on, and how to provide appropriate dental services targeting at the elderly in need. It is expected that details of the service programmes can be finalized and announced around end of this year.

The Government launched a three-year Elderly Health Care Voucher Pilot Scheme on 1 January 2009 to provide five health care vouchers of \$50 each

annually to elders aged 70 or above to partially subsidize their use of private primary care services, including preventive care services. The vouchers can also be used for dental services. As at 30 May 2010, a total of 229 dentists have enrolled in this Pilot Scheme and about 11 580 attendances involve the use of vouchers to receive dental services.

### **Post-service Employment of Former Commissioner for Tourism**

9. **MS LI FUNG-YING** (in Chinese): *President, it has been reported that following the resignation of the former Commissioner for Tourism (former Commissioner) in December last year, the Civil Service Bureau soon gave permission, after imposing conditions to disallow her participation in the expansion project of the Hong Kong Convention and Exhibition Centre (HKCEC) within one year, and so on, for her to take up the post of Deputy Executive Director of the Hong Kong Trade Development Council (HKTDC) in April this year. In this connection, will the Government inform this Council:*

- (a) *of the details of the measure restricting the former Commissioner from participating in the expansion project of the HKCEC within one year; the reasons for adopting the measure; whether the Government has imposed other restrictions on her application for taking up post-service employment, as well as details of such restrictions;*
- (b) *whether the Government has any measure to ensure that upon the expiry of the one-year restriction period, the former Commissioner will not participate or be engaged in any work of the HKTDC that has actual or potential conflict of interest with her previous service in the Government, in order to avoid negative public perception, which will embarrass the Government and tarnish the image of civil servants; if so, of the details of such measures; if not, the reasons for that; and*
- (c) *given that it has been reported that the former Commissioner had given up part of her paid leave accumulated during her service in the Government in order to assume office as early as possible, making it necessary for the HKTDC to make pecuniary compensation to her, whether the Government knows the amount of*

*the compensation, the nature of such expense and whether it was paid out of the funds allocated by the Commerce and Economic Development Bureau?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, in general terms, for each post-service outside work application from a directorate civil servant, the decision authority will consider whether the proposed outside work will give rise to real, potential or perceived conflict of interest with the applicant's duties during his/her last three to six years of government service. If the applicant's proposed outside work will give rise to real conflict of interest, the application will be rejected. If the applicant's proposed outside work does not constitute any real conflict of interest with his/her duties before leaving government service but may give rise to potential or perceived conflict of interest, the authority will consider whether the application should be approved on its own merit. If it is decided that the application should be approved, the authority will, in addition to the standard work restrictions<sup>(1)</sup>, impose further work restrictions on a case-by-case basis to further reduce potential or perceived conflict of interest.

Regarding part (a) of the question, the decision authority, in approving the application from the former Commissioner to take up post-service employment as Deputy Executive Director of the HKTDC, imposed the following conditions in addition to the standard work restrictions:

- (i) the former Commissioner may only take up the proposed appointment after she ceases to be a civil servant but not earlier than the expiry of the three-month sanitization period;

- (1) Under the standard work restrictions, the applicant should not:
  - (a) be personally involved, directly or indirectly, in the bidding for any Government land, property, projects, contracts or franchises;
  - (b) undertake or represent any person in any work including any litigation or lobbying activities that are connected in any way with:
    - (i) the formulation of any policy or decisions;
    - (ii) sensitive information;
    - (iii) contractual or legal dealings;
    - (iv) assignments or projects; and/or
    - (v) enforcement or regulatory dutiesin which he/she was involved or to which he/she had access during his/her last three years of government service; or
  - (c) engage in any activities which will cause embarrassment to the Government or bring disgrace to the civil service.

- (ii) the former Commissioner should not use or disclose any classified or sensitive information acquired while she was in government service in the course of her employment with the HKTDC; and
- (iii) the former Commissioner should not be involved, directly or indirectly, in the first 12 months of her appointment with the HKTDC, in the work relating to (1) the HKCEC expansion project; (2) the review and determination of subvention to the HKTDC, and (3) the formulation of the HKTDC's stance and response to the Government's competition policy and any draft competition legislation, including participating in any discussion between the HKTDC and the Government on competition policy and any draft competition law.

The decision authority did not consider that the former Commissioner's proposed employment would have real or potential conflict of interest with her duties before leaving government service. Taking into consideration that the Tourism Commission is under the Commerce, Industry and Tourism Branch (CITB) of the Commerce and Economic Development Bureau, and that the CITB is responsible for policy matters on Hong Kong's external commercial relations, inward investment promotion, intellectual property protection, industry and business support (including development of exhibition and convention services), consumer protection, competition and tourism, and so on, the decision authority considered it possible for a perception of conflict of interest to arise. Therefore, the additional conditions as set out in paragraph two above were imposed to mitigate perceived conflict of interest.

Regarding part (b) of the question, the decision authority did not consider that the former Commissioner's proposed employment would constitute real or potential conflict of interest with her duties before leaving government service. There might only be perceived conflict of interest. Imposing the additional conditions as set out in paragraph two above could mitigate perceived conflict of interest.

As for part (c) of the question, we understand from the HKTDC that it is required to follow established procedures in appointing senior staff. Suitable candidates will be selected by a selection panel before approval for appointment is sought from the Council of the HKTDC. As regards the terms of employment between the HKTDC and the former Commissioner, including the pecuniary

compensation referred to in the question, the HKTDC, as the employer, considers it inappropriate to disclose the information.

At present, about 17% of the HKTDC's annual revenue comes from Government funding. This funding is used as the HKTDC's operating funds to meet its daily operation expenditure, and there is no specific itemized breakdown.

### **E-learning Programmes on Internet for Civil Servants**

10. **MR PAUL CHAN** (in Chinese): *President, in reply to my question on the estimates of expenditure of this year, the Government indicated that the expenditure for all e-learning programmes (including Internet-related training) in 2009-2010 was about \$3 million. It has been learnt that the sum was mainly spent on the Cyber Learning Centre Plus (CLC Plus), a web-based self-learning portal for civil servants. In this connection, will the Government inform this Council:*

- (a) *of the resources allocated by the Government for providing e-learning programmes for civil servants in the past five years, as well as a tabulation, of the name, content, number of persons enrolled, number of persons who completed the programme, number of persons who were awarded the certificate of attendance and number of view rates in respect of each of the programmes organized;*
- (b) *which ranks and grades of civil servants are required to enrol in e-learning programmes, and the number of civil servants involved; whether any user target has been set for e-learning programmes, so as to ensure that a certain number of civil servants will receive training; and*
- (c) *apart from the aforesaid programmes, what other programmes on Internet technology application are provided by the Government for civil servants, the resources involved and how it assesses the cost effectiveness of such resources?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, for part (a) of the question, the Civil Service Bureau has allocated an average of about \$3 million annually in the past five years to the Civil Service Training and Development Institute to purchase and develop e-learning resources, and to manage and update the e-learning platform CLC Plus for the purpose of promoting continuous learning among civil servants. The wide variety of learning resources cover web courses, articles, video clips, library collection information, learning tips, e-books and publications, guidelines and best practices as well as course reference materials.

On the CLC Plus platform, the above learning resources are divided into 14 categories, amounting to some 1 900 items and covering various subjects. A brief description of the content of each category is set out below:

<i>Learning Resource Category</i>	<i>Content</i>
English Corner	Articles on English writing skills, grammar, pronunciation, and web courses and reference materials.
Chinese Language Corner	Resources on Chinese writing skills and Putonghua, which include web courses, reference tools, templates of official writing.
National Studies	Latest updates on Mainland development, with articles and information on the political system, economic development, legal system and civil service system.
Basic Law	Information about the Basic Law, promotional activities and self-assessment. Major topics in the Basic Law are captured in the Basic Law Modular Web Course.
Legal Corner	An overview of various provisions of laws, ordinances and conventions relating to work, for example, United Nations Convention and Disability Discrimination Ordinance.
IT Zone	Tips, guidelines and references on software usage and application, and web courses on information technology security and Internet application.

<i>Learning Resource Category</i>	<i>Content</i>
Induction Resources	Articles and video clips on guidelines on code of conduct, introduction to government structure and practices, as well as references and links to the Basic Law, information technology, green management and occupational safety.
Management	Articles, web courses and video clips to enable civil servants to address communication and management issues in daily work. Other topics include project management, resource management and knowledge management.
Human Resource Management	Articles on principles, guidelines and best practices and information on human resource management.
Quality Service	Learning resources to facilitate the promotion of quality service and a people-based service culture in the civil service. Topics include customer service, work improvement, human resource management and development, the Civil Service Outstanding Service Award Scheme, performance pledges, public engagement.
Leaders' Corner	Articles and video clips on interviews and seminars on various topics for directorate officers, for example, leadership skills, public policy, change management and communication skills.
Work-life Balance	Information on work-life balance, such as improving the quality of life, enhancing work efficiency, relieving stress, as well as activities to keep one's body and mind in good shape.
Books and Media	Information on books and journals available in the Learning Resource Centre of the Civil Service Training and Development Institute, book summaries, links to magazines and news channels.
Departmental Resources	Learning resources supplied by other departments (for example, Civil Aviation Department, Customs and Excise Department, Labour and Welfare Bureau) for viewing by officers in the department concerned and/or general users of CLC Plus.

The majority of the learning resources on the CLC Plus platform are job-related reference materials (for example, guidelines, best practices, articles, learning tips) aimed at facilitating civil servants' continuous work improvement. Web courses account for a relatively small proportion among the various types of resources. The web courses are normally divided into different modules. Users would select the most relevant modules that suit their needs. As the objective of e-learning is to provide timely and practical knowledge or skills, we measure the e-learning utilization by the number of hits rather than course completion. The hits of learning resources in the past five years are tabulated below:

<i>Year</i>	<i>Hits of learning resources</i>
2005	534 600
2006	949 679
2007	950 000
2008	987 500
2009	1 100 000

For part (b) of the question, all civil servants can access the learning resources on the CLC Plus platform for continuous learning anytime anywhere. A civil servant is not required to enrol in any e-learning programme. As mentioned in paragraph three above, the CLC Plus platform mainly offers information and quick tips for the users' timely reference according to their specific needs. As such, no mandatory user targets are set for e-learning.

For part (c) of the question, the Civil Service Training and Development Institute of the Civil Service Bureau provides courses on Internet technology application through contractors of the PC-related Training Services Contract to cater for various training needs. Courses include "Introduction to the Internet", "Workshop of Effective Use on Internet", "Enjoying Free Internet Services for Communication and Storage" and "Introduction to Internet Security", and so on. Some 5 800 civil servants attended around 350 courses on Internet technology application organized in 2009, costing about \$1 million, which meant that the average cost of each participant was about \$170.

To ensure the effective use of resources, we have defined the quality requirements of the courses in the contract. A course will only be considered up to standard when 80% of the trainees rate its overall effectiveness as

"Outstanding" or "Very Effective" (that is, the top two rankings on a five-point scale). All trainees are invited to evaluate the courses on their scope and coverage, suitability and job applicability. In 2009, about 90% of the trainees attending courses on Internet technology application rated their overall effectiveness as "Outstanding" or "Very Effective".

### **Regulation of Football Betting**

11. **MR WONG SING-CHI** (in Chinese): *President, regarding the regulation of football betting after its authorization, will the executive authorities inform this Council:*

- (a) *whether they know the current number of off-course betting branches (OCBBs) operated by the Hong Kong Jockey Club (HKJC) in which television sets have been installed for live telecast of football matches; whether matches of the 2010 World Cup or other football matches will be telecast live in HKJC betting branches; if so, how HKJC ensures that young people who stand outside such branches watching the matches will not be influenced by gambling information;*
- (b) *whether they know if the HKJC will consider making reference to the practice adopted at the betting branch in Yat Tung Shopping Centre of Tung Chung and covering all external walls of its betting branches with posters, or requiring all television sets installed in its betting branches to be located at such places where on-lookers will not be able to watch the telecast from outside the branches, so as to avoid young people from gaining access to gambling information while watching football matches outside betting branches;*
- (c) *whether they know the number of additional pari-mutuel betting and bet types introduced by the HKJC for the 2010 World Cup as compared with those of the 2006 World Cup; of the estimated proceeds to be generated from such new bet types; and whether the Government has examined how the HKJC can be effectively regulated so that it will not continue to introduce new pari-mutuel betting and bet types in an attempt to boost betting turnover;*

- (d) *of the respective amounts of funding earmarked by the Ping Wo Fund for launching front-line publicity and enhancing gambling counselling services during the 2010 World Cup, so as to alleviate the adverse effects of football betting;*
- (e) *what measures the Government has to avoid mingling of football betting information by the media with world football news which is popular with young people, so that newspaper sports columns will not turn into football betting pages; and*
- (f) *given that quite a number of additional bet types have been introduced by the HKJC for football betting, whether prior approval has been sought from the Government in this regard; what measures the Government has to deter gambling; and how the Betting and Lotteries Commission (BLC) will tackle the problem of rampant gambling?*

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

(a) and (b)

All 105 OCBBs operated by the HKJC are installed with TV sets which can broadcast live non-World Cup football matches. Among the 105 OCBBs, 47 of them are installed with TV facilities that are able to broadcast live 2010 World Cup football matches.

The HKJC has stringent measures to prohibit persons below 18 from entering its OCBBs. The measures include:

- (i) all entrances/exits of OCBBs are manned by full time and trained security guards to ensure all persons entering OCBBs are above 18. In case of doubt, security guards would conduct identity card checks;
- (ii) customer service staff would patrol inside OCBBs to prevent any persons below 18 from entering; and

- (iii) staff of the ticket sales counters are trained not to accept bets from persons below 18 or allow them to collect prize money.

The TV sets in OCBBs are installed some distance away from the entrances/exits or external walls. Security guards at OCBBs would also urge underage persons who gather or loiter outside OCBBs to leave. There is no imminent need to cover the external walls of all OCBBs for the time being.

(c) and (f)

The number of bet types available for the 2010 World Cup has increased by three as compared with that for the 2006 World Cup. The HKJC considers it difficult to forecast the proceeds to be generated from the new bet types at this stage.

In accordance with section 6I of the Betting Duty Ordinance (Cap. 108), a licence for football betting is issued by the Secretary for Home Affairs to the HKJC for conducting football betting. While the licensing conditions do not restrict the bet types of football betting, the HKJC is required to formulate and promulgate rules for regulating the general procedures of football betting for submission to the Secretary for Home Affairs, and inform the Secretary for Home Affairs of any significant amendments to the rules, including those arising from the introduction of new bet types. The Betting and Lotteries Commission (BLC) was set up to advise the Government on the monitoring of betting activities and the HKJC's compliance with the licensing conditions. BLC can request the HKJC to give further elaboration on bet types. Regarding measures to deter gambling atmosphere, the Administration will continue to work jointly with the Ping Wo Fund Advisory Committee (PWFAC) to enhance promotion and education efforts in order to minimize the impact of gambling on the public.

- (d) Around \$3 million of the Ping Wo Fund would be spent in 2010 to step up publicity and education efforts during the World Cup. The

series of activities includes new television announcements of public interest on the negative impact of gambling, television programmes, publicity efforts through the Internet, inter-school football matches and carnival. These programmes aim to enhance public awareness of the negative impact of excessive gambling, as well as introduce ways to prevent and alleviate gambling-related problems.

In addition, the total annual allocation of the Ping Wo Fund for the four counselling and treatment centres for problem and pathological gamblers has increased by 14.6% from \$9.6 million in 2009 to \$11 million in 2010. Apart from counselling and treatment services for gamblers and their family members, the four centres also provide training programmes for professionals such as social workers. By conducting school publicity and education programmes, the four centres also strengthen students' awareness of problem gambling.

- (e) The way of how the media publish information on different aspects involves freedom of press and freedom of editorial choice. The Administration has urged the media to separate sports news on football matches from information on football betting. The BLC and PWFAC also convey the same message to the media from time to time.

## Greening Works

12. **MR JAMES TO** (in Chinese): *President, the Government has enhanced greening in recent years. Apart from formulating Greening Master Plans (GMPs) for various districts, the Government also submitted a paper to the Panel on Development of this Council at its meeting on 18 December 2007 to seek the views of this Council on the way forward in greening. Yet, in its recent reply to my enquiry, the Government indicated that the greening works under the GMPs for Yau Ma Tei and Mong Kok districts had been completed at the end of last year, but the two greening works at Argyle Street and Shanghai Street had been cancelled due to "some unforeseeable difficulties encountered during the construction stage" and "the strong opposition from the stakeholders and shop*

*tenants in the district" respectively. In this connection, will the Government inform this Council:*

- (a) given that in formulating GMPs, the Government appoints consultants to conduct technical studies and holds a number of district consultation meetings to collect public views, whether the Government has assessed the reasons why it was not until the construction stage that the aforesaid greening works were forced to be cancelled; if an assessment has been made, of the outcome;*
- (b) among the greening works implemented under GMPs, apart from the two aforesaid greening works, of the number of those which were cancelled during construction, together with the locations and information on the original designs of such works;*
- (c) whether there is any objective indicator (such as the number of plants planted or the size of the greening area) for assessing if the works under GMPs for various districts have been completed as planned; if there are such indicators, of the outcome of the Government's assessment of the works under various GMPs; if not, how the Government conducts its assessment;*
- (d) given that the Government had indicated at the aforesaid meeting that it would continue to explore opportunities for collaboration with quasi-government bodies and the private sector to promote greening, among the completed works under GMPs, how many were completed by the Government in collaboration with quasi-government bodies or the private sector, together with the locations and contents of such works;*
- (e) given that the Government had indicated at the aforesaid meeting that the authorities were developing quality parks and open spaces, had embarked on a number of pilot schemes on vertical greening and were pursuing new techniques in greening, of the progress of each of the schemes and initiatives; and*

- (f) *apart from continuing to promote rooftop greening and green buildings, what new strategies the Government has to promote urban greening?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, the Government has proactively promoted greening across the territory to create a quality urban environment and enhance our quality of life through extensive planting, visually pleasing landscape designs and proper vegetation maintenance. My reply to Mr TO's question is as follows:

- (a) In the process of GMPs, the Civil Engineering and Development Department (CEDD) and the District Participation Groups formed by District Council members jointly organize community fora and conduct site visits to collect the views of residents in the districts. Before implementing the greening works, the CEDD will further consult the shop proprietors and residents near the planting spots. The CEDD's experience shows that most planting proposals under the GMPs are welcomed by shop proprietors and residents. However, objections may be encountered occasionally. In such circumstances, the CEDD will strive to implement the greening measures by proactively explaining the proposals to the parties concerned. The CEDD had to cancel certain greening measures in individual cases due to differences in views in the local community.
- (b) Under the GMPs for Yau Ma Tei and Mong Kok districts, 23 planting proposals (apart from the planting proposals at the two locations mentioned in the question) were cancelled due to strong opposition from the shop proprietors and residents in the vicinity. 15 planting proposals could not be implemented according to the original plans due to densely placed underground utilities identified at the proposed planting locations during detailed site investigations. Although some of the greening proposals could not be implemented, the CEDD has enhanced planting in other suitable locations in the districts to achieve the objective of beautifying the landscape in the districts. In addition, to tie in with other public works or railway

works, four planting proposals will only commence after the completion of the related works. The planting proposals mentioned above are set out at Annex 1.

- (c) When evaluating whether the GMPs have been completed as planned, we focus mainly on the quality and the quantity of planting achieved. In terms of quality, the greening works under the GMPs have resulted in significant improvement in the local environment, and the CEDD has received positive feedback from many locals. In terms of quantity, every GMP has specified a target planting quantity. In respect of those GMPs for which the short-term greening measures have been completed (that is, GMPs for Tsim Sha Tsui, Central, Mong Kok, Yau Ma Tei, Sheung Wan, Wan Chai and Causeway Bay), the total actual planting quantity exceeded the original target having increased from about 5 100 trees and 1 110 000 shrubs in the original plan to about 8 200 trees and 1 670 000 shrubs.
- (d) In the process of formulating the GMPs, government departments have discussed collaboration in greening works with various quasi-government organizations and the private sector, for example, introducing greening elements as far as practicable and adopting greening designs that drew upon the planting themes and the recommended plant species of the relevant GMPs in the projects of these organizations. To date, a total of 12 joint greening projects have been implemented. Please refer to Annex 2 for details.
- (e) Given that the built-up areas in Hong Kong are densely populated with little room for planting, we have proactively promoted new greening techniques (such as vertical greening and rooftop greening) to beautify our cityscape and to reduce the heat island effect. The progress of the pilot schemes on vertical greening and the studies on new greening techniques mentioned in the paper submitted by the Development Bureau to the Legislative Council Panel on Development on 18 December 2007 is set out in Annex 3.

The Leisure and Cultural Services Department, with the assistance of the Architectural Services Department, has been providing a variety of parks and open spaces for enjoyment by the public and has been adopting designs of a good quality. For the 10 parks and open spaces in the abovementioned paper submitted to the Legislative Council Panel on Development which were under construction at the time, they have all been completed. For the 10 planned parks and open spaces under planning then, two of them have been completed, six are under construction and the remaining two are under planning. As regards the development projects with quality design to suit the needs of different districts, examples include the Aldrich Bay Park (which adopts a design theme of an old fishing village and provides several viewing points inside the park for the public to appreciate old fishing boats and to learn about the way of life of fishermen), recreational facilities on the Jordan Valley Former Landfill, Kwun Tong (which is a park with a variety of facilities, including a radio-controlled model car racing circuit) and Ngau Chi Wan Recreation Ground, Wong Tai Sin (which is a park with a variety of facilities, including an archery court on natural turf).

- (f) The Government is committed to the long-term objective of turning Hong Kong into a greener city. We will seek to increase greening opportunities in the early stages of land planning and design, for example, reserving adequate space for greening, providing planting zones along roads that are free of underground utilities, and considering specifying a greening ratio for specific sites, and so on. In addition, we will promote rooftop greening and vertical greening to the construction and landscaping sectors. We will also provide technical support to the industry, for example, conducting studies and compiling information on suitable species for rooftop greening and vertical greening, organizing seminars for experience-sharing, and so on. To achieve a sustainable green environment, we will formulate and promulgate technical standards, guidelines and best practices on quality landscape design, planting and vegetation maintenance, and organize technical sharing sessions, and so on.

Cancelled Planting Proposals and Deferred Planting Proposals  
to Tie in with Construction Works  
under the GMPs for Yau Ma Tei and Mong Kok

- (1) Cancelled planting proposals due to opposition from shop proprietors and residents nearby

<i>Item</i>	<i>Location</i>	<i>Planting Quantity Involved</i>	
		<i>Trees</i>	<i>Shrubs</i>
1	Boundary Street near Tai Kok Tsui Road	4	0
2	Boundary Street near Sai Yeung Choi Street North	2	0
3	Boundary Street near Boundary Street Recreation Ground	9	2 500
4	Boundary Street near Mong Kok Stadium	18	0
5	Sai Yee Street near Playing Field Road	12	0
6	Sai Yee Street near Hong Kong and Kowloon Chiu Chow Public Association Secondary School	14	0
7	Shum Mong Road near West Kowloon Disciplined Services Quarters	4	1 500
8	Bedford Road	13	0
9	Fa Yuen Street	2	0
10	Sai Yeung Choi Street South	3	0
11	Mong Kok Road	9	1 500
12	Tung Choi Street	4	0
13	Argyle Street/Sai Yeung Choi Street South	3	500
14	Argyle Street/Nathan Road	13	1 000
15	Sai Yeung Choi Street South	18	0
16	Soy Street	4	0
17	Reclamation Street	5	0
18	Pitt Street	7	0
19	Shanghai Street near Waterloo Road/Wing Sing Lane	4	0
20	Tak Cheong Lane	0	1 500
21	Waterloo Road near Fruit Market	27	3 500
22	Public Square Street	9	500
23	Man Sing Street/Man Ying Street	7	0

- (2) Cancelled planting proposals due to densely placed underground utilities identified during detailed site investigation

<i>Item</i>	<i>Location</i>	<i>Planting Quantity Involved</i>	
		<i>Trees</i>	<i>Shrubs</i>
1	Nathan Road near Mong Kok Police Station	8	0
2	Nathan Road near Bute Street	15	2 000
3	Nathan Road near Public Square Street	19	0
4	Nathan Road near Pak Hoi Street	15	0
5	Gascoigne Road	9	0
6	Willow Street	18	0
7	Maple Street	12	0
8	Prince Edward Road West near Flower Market	16	0
9	Sai Yee Street	45	0
10	Chi Wo Street	16	0
11	Yan Cheung Road	14	0
12	Kansu Street near Jade Market	22	0
13	Wylie Road near Queen Elizabeth Hospital	12	0
14	Wylie Road near Hockey Ground	14	1 500
15	Playing Field Road/Tung Choi Street	13	0

- (3) Deferred planting proposals to tie in with the completion of public works or railway works

<i>Item</i>	<i>Location</i>	<i>Number of trees</i>	<i>Number of shrubs</i>
1	Prince Edward Road West near Fa Yuen Street	3	600
2	Sham Mong Road/Chui Yu Road	7	1 300
3	Austin Road West	31	7 000
4	Lin Cheung Road near Kowloon Station	10	5 000

## Annex 2

Completed Greening Projects undertaken by Government in Collaboration  
with Quasi-government Organizations and the Private Sector

<i>Item</i>	<i>Location</i>	<i>Project Description</i>
1	Streets surrounding Landmark, Central	Greening and streetscape beautification works
2	Streets surrounding Chater House, Central	
3	Streets surrounding Jardine House, Central	
4	Hollywood Road (from Lyndhurst Terrace to Man Mo Temple), Central	
5	Street surrounding Western Market, Sheung Wan	
6	Morrison Street and Wing Lok Street, Sheung Wan	
7	Street surrounding the Former Marine Police Headquarters, Tsim Sha Tsui	
8	Mody Road and Mody Lane, Tsim Sha Tsui	
9	Peking Road (between Canton Road and Kowloon Park Drive) , Tsim Sha Tsui	
10	Canton Road (between Salisbury Road and the Gateway) , Tsim Sha Tsui	
11	Streets surrounding MTR Kowloon Station, Yau Ma Tei	
12	Ivy Street and Tai Tsun Street, Tai Kok Tsui	

## Annex 3

Progress of Vertical Greening Pilot Projects and  
Studies on New Greening Techniques

1. Pilot project on the effects of modular type Vertical Green Panels (VGPs) at Yau Lai Estate adjacent to the Eastern Harbour Crossing — The objective of the project, which was jointly conducted by the Hong Kong Housing Authority and The Chinese University of Hong Kong at Yau Lai Estate, was to study how VGPs would reduce the urban heat island effect and improve the cityscape. Completed in 2009, the project demonstrated that the application of VGPs could effectively lower indoor temperature;

2. Vertical greening studies carried out by the Drainage Services Department (DSD) — The main objectives of the study, which was jointly conducted by the DSD and the University of Hong Kong in 2009, were to identify plant species and environmental conditions suitable for vertical greening as well as the cooling effect of vertical greening. The study is expected to be completed by end 2011;
3. Vertical greening works for noise barriers at Tseung Kwan O Road and Tsing Tsuen Road — The works for Tseung Kwan O Road were completed in May 2010 and the works for Tsing Tsuen Road in August 2010; and
4. Study of thermal and energy performance of green roof systems carried out by the Electrical and Mechanical Services Department (EMSD) — the EMSD commissioned the University of Hong Kong to conduct the study to collect information on the effect of green roof systems on indoor temperature in the pilot project. Findings from the study, which was completed in 2009, showed that the green roof systems could help reduce heat transfer to the indoor environment and the rate of heat reduction would vary with different building structures and green system designs.

### **Traffic Accident Black Spots**

13. **MR LAU KONG-WAH** (in Chinese): *President, it has been reported that another fatal accident occurred again recently at the crossroads at the junction of Tai Chung Kiu Road and Sha Tin Wai Road in Sha Tin, where a number of traffic accidents had occurred before, and after the accident, the police and the Transport Department (TD) held different views as to whether the location was a traffic accident black spot (TABS). There was a red light camera (RLC), commonly known as "pigeon cage", installed at the accident location, but it was removed by the authorities when road widening works were conducted last July. In this connection, will the Government inform this Council:*

- (a) *of the reasons why the authorities removed the aforesaid RLC; why they have not reinstalled a camera at the location since then; and whether they will reinstall it;*
- (b) *of the numbers of TABSs and potential black spots in Hong Kong in the past three years and their district distribution; whether the police and the TD will standardize the criteria for defining traffic accident*

*black spots, so as to facilitate the co-ordination of efforts in preventing traffic accidents;*

- (c) of the respective numbers of locations installed with speed enforcement camera (SEC) housings and RLCs in the past three years and their distribution and, among such devices, the respective numbers of those installed at TABSs and potential black spots as well as those having been removed subsequently;*
- (d) of the criteria for determining locations for installing SEC housings and RLCs, as well as the criteria for removing them; and*
- (e) whether the authorities will consider installing more SEC housings and RLCs at TABSs and potential black spots; if they will, of the details; if not, the reasons for that?*

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

- (a) The junction between Sha Tin Wai Road and Tai Chung Kiu Road is not a TABS. A RLC housing was located at Tai Chung Kiu Road westbound near Garden Rivera to deter inappropriate driving behaviour. The RLC housing concerned was demolished to facilitate road widening work. Reinstallation of the RLC housing was not carried out immediately upon completion of the works because of insufficient space at the original site for the camera system. The TD is examining in detail with other relevant departments the feasibility of reinstalling the RLC in the vicinity. Separately, the police will continue to step up enforcement actions at the junction.
- (b) The purpose of specifying TABSs is to carry out focused studies on locations where the frequency or severity of traffic accidents is relatively high, so that common characteristics of the contributory factors could be deduced, and proposals could be introduced to improve the road environment that may attribute to accidents.

The following criteria are adopted by government departments for classification of a TABS:

- (i) a location with six or more traffic accidents involving pedestrian injuries over the past one year; or
- (ii) a location with nine or more traffic accidents involving personal injuries over the past one year; or
- (iii) a location with two or more fatal traffic accidents over the past five years.

Criteria (i) and (ii) have been adopted by the Administration since 1992 while criterion (iii) has become effective from the first quarter of 2010. The TD updates the list of TABS on a quarterly basis and uploads the list onto its website for public information. The numbers of TABSs during the period between 2007 and 2009 and their distribution are at Annex. The Administration has not formally defined any locations as "potential black spots", but individual police formations may formulate their own enforcement strategies according to traffic condition of the districts concerned with a view to enhancing road safety.

- (c) At present, there are 78 digital RLCs in 78 housings and 10 speed enforcement cameras (SECs) for 63 housings over the territory. The expansion works for the RLC system commenced in September 2008 for completion in the third quarter of 2010. The expansion works for the SEC system commenced in mid 2009 for completion in the first quarter of 2011. Upon completion of the works, there will be 155 digital RLCs in 155 housings and 20 SECs for 120 housings over the territory.

The RLCs or SECs are located where traffic accidents caused by red light jumping or speeding have taken place. These sites spread over various districts. In the past three years, six RLCs and one SEC installed were removed subsequently due to changes in road environment (such as narrow pavement after road works, or improvement in the situation of red light jumping/speeding). Most of them have been reinstalled at other suitable sites.

- (d) In general, the Administration selects sites for installation of RLC or SEC housings according to the following criteria:
  - (i) record of traffic accidents caused by red light jumping/speeding by vehicles at the site;

- (ii) prevalence of red light jumping/speeding by vehicles at the site;
- (iii) the need for an even distribution of RLC/SEC housing sites to provide an area-wide deterrent effect on motorists; and
- (iv) physical environment, including whether the pavement is too narrow, or whether there are underground facilities (such as pipes and cables) at the site that cannot be removed.

In selecting the sites for SEC housings, the Administration also consider whether the road section in question is part of a strategic or trunk road with high vehicular speed and traffic flow, and whether the site is at a road bend or on a long steep downhill road.

If the sites installed with RLCs or SECs fail to meet the criteria due to reasons like changes in road environment or reduction in number of traffic accidents, the Administration may consider removing the cameras.

- (e) The programmes on the expansion of RLC and SEC systems have commenced. Upon completion of the programmes, the Administration will be able to combat traffic offences more effectively. The TD will analyse the data, trends and causes of traffic accidents for devising corresponding measures, including exploring the need for further expanding the RLC and SEC systems. Separately, the police will continue its enforcement actions vigorously. Individual police formations will continue to keep a close watch over traffic accidents and offences within their respective regions, perform patrol duties and institute prosecutions against offenders.

Annex

#### Number of TABSs and their Distribution

<i>Location</i>	<i>Number of TABSs</i>		
	<i>2007</i>	<i>2008</i>	<i>2009</i>
Central and Western	5	2	2
Eastern	3	2	1
Southern	0	1	0

<i>Location</i>	<i>Number of TABSs</i>		
	<i>2007</i>	<i>2008</i>	<i>2009</i>
Wanchai	3	2	5
Kowloon City	24	21	25
Wong Tai Sin	3	1	1
Kwun Tong	6	4	7
Yau Tsim Mong	57	46	53
Sham Shui Po	20	23	20
Sai Kung	0	0	2
Kwai Tsing	0	0	3
Tsuen Wan	0	0	4
Sha Tin	1	0	1
Tuen Mun	0	0	1
Yuen Long	0	0	1
Total	122	102	126

### **Broadcasting of International Sports Games on Free Television Stations**

14. **MR IP WAI-MING** (in Chinese): *President, it has been reported that through the Government's mediation, three television broadcasters, namely Hong Kong Cable Television Limited (Cable TV), Television Broadcasts Limited (TVB) and Asia Television Limited (ATV), have earlier reached an agreement on the television coverage of the 2010 World Cup, under which the World Cup's four core matches, highlights of matches and special programmes are arranged to be broadcast on digital terrestrial television (DTT) channels of the two free television broadcasters. The agreement has made it difficult for the grassroots who do not have television sets with built-in DTT decoders or DTT set-top boxes to watch this once-every-four-year football event free of charge. In this connection, will the Government inform this Council:*

- (a) *during the discussions with the aforesaid three broadcasters, whether the authorities had clearly requested that, under the premise of public interest, the broadcasters should broadcast the matches concerned on their free television channels with the widest coverage, in order to allow all people of Hong Kong to watch the matches; if they had, of their co-ordination efforts made, and whether they have considered broadcasting the World Cup's core matches and*

*highlights of matches during the television and radio airtime of Radio Television Hong Kong (RTHK) and on RTHK's Internet platform;*

- (b) whether the authorities will consider opening the Government's indoor complexes and community centres for broadcasting the matches so that the grassroots who do not have digital television services may watch the matches free of charge; if they will not, of the reasons for that; and*
- (c) given that there have been comments that an increasing number of exclusive broadcasting rights of large-scale international sports matches and sports games are successfully bid by pay television broadcasters, making it difficult for the grassroots to watch the matches and for the related sports to be promoted and become popular, whether the authorities will consider taking measures to ensure that all Hong Kong people can watch such large-scale international sports matches, so as to avoid recurrence of disputes similar to that arising from the broadcasting of the World Cup?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the broadcasting arrangements for the 2010 World Cup matches have been made by the Federation Internationale de Football Association having regard to its need in organizing the matches and market demand. Broadcasters around the world would decide whether to take part in or purchase the rights of broadcasting the matches and work out their broadcasting strategies with reference to their own commercial and operational considerations. Generally speaking, governments would not intervene in the process and Hong Kong is no exception.

As regards the three parts of the question, our reply is as follows:

(a) and (b)

The Government has all along been paying attention to the negotiations on broadcasting arrangements among the three television broadcasters, namely, Cable TV, TVB and ATV. We

have been monitoring the development closely. We have also expressed to these broadcasters our wish for them to negotiate an agreement which is in the best interest of the viewing public so as to allow members of the public to watch the matches through a free platform.

With the Government's facilitation and encouragement for the broadcasters to negotiate amongst themselves, Cable TV, TVB and ATV reached a commercial agreement in April this year on the broadcasting arrangements of the World Cup matches. Under the agreement, TVB and ATV will broadcast some of the matches on their digital channels. Currently, Cable TV has about one million subscribers, and about 1.2 million households in the territory have television sets, set-top boxes or computers capable of receiving digital television signals.

Moreover, we understand that many restaurants, bars and large shopping malls across the territory will show the World Cup matches live, thus providing more viewing opportunities for football fans. As regards Government venues, the Housing Department will arrange the live broadcast of four key matches, including the final, at five shopping centres of public housing estates, namely, Tin Yan Shopping Centre (Tin Shui Wai), Kwai Chung Shopping Centre (Kwai Chung), Mei Tin Shopping Centre (Sha Tin), On Kay Court Commercial Centre (Ngau Tau Kok) and Hoi Lai Shopping Centre (Sham Shui Po).

- (c) Major sports events are held around the world each year. Broadcasting arrangements are mainly made by the organizers based on the nature of the events and their operational needs. It is therefore difficult to tell which company would acquire the broadcasting rights of the relevant events, whether the rights are exclusive and whether a fee is charged for watching the events. Since the broadcasting rights of events involve commercial decisions, it would be most desirable for the broadcasting arrangements to be decided through commercial negotiations. If there is obvious demand from the community, market forces will drive commercial organizations to explore business opportunities to

show the events in restaurants and shopping malls through different channels to cater for the need of the public.

### **Licensing Examination of Medical Council of Hong Kong**

15. **DR PAN PEY-CHYOU** (in Chinese): *President, the Medical Council of Hong Kong (MCHK) has indicated that all medical graduates who wish to register as medical practitioners with MCHK, other than graduates of the University of Hong Kong and The Chinese University of Hong Kong, are required to pass MCHK's Licensing Examination and successfully complete a period of pre-registration internship training and assessment in approved hospitals or institutions. In this connection, will the Government inform this Council of:*

- (a) *the number of candidates who sat the Licensing Examination last year and, among them, the number of those who passed the examination;*
- (b) *the five countries or regions where most of the candidates, who sat and passed the Licensing Examination in each of the past three years, had completed their medical undergraduate education, as well as their percentages in the total numbers of candidates (set out in the table below); and*

	Candidates who sat the Licensing Examination		Candidates who passed the Licensing Examination	
	Country or region where the most candidates completed their medical undergraduate education	Percentage in the total number of candidates	Country or region where the most candidates completed their medical undergraduate education	Percentage in the total number of candidates
(Year)	1.			
	2.			
	3.			
	4.			
	5.			

- (c) *the respective numbers and percentages of medical graduates of Mainland universities and Mainland qualified doctors among the candidates who sat and passed the Licensing Examination in each of the past three years (set out in the table below)?*

	<i>Candidates who sat the Licensing Examination</i>		<i>Candidates who passed the Licensing Examination</i>	
	<i>Number and percentage of medical graduates of Mainland universities</i>	<i>Number and percentage of Mainland qualified doctors</i>	<i>Number and percentage of medical graduates of Mainland universities</i>	<i>Number and percentage of Mainland qualified doctors</i>
<i>(Year)</i>	<i>persons (    %)</i>	<i>persons (    %)</i>	<i>persons (    %)</i>	<i>persons (    %)</i>

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, the Medical Council of Hong Kong (MCHK) is an independent statutory body established under the Medical Registration Ordinance. It is empowered to handle registration and disciplinary regulation of medical practitioners in Hong Kong. One of the main functions of the MCHK is to administer and conduct the Licensing Examination for medical graduates from non-local medical schools.

With the exception of graduates of The Chinese University of Hong Kong and the University of Hong Kong, all persons who wish to register as medical practitioners with the MCHK, regardless of whether they have obtained qualifications to practise as a medical practitioner outside Hong Kong, are required to sit the MCHK's Licensing Examination and successfully complete a 12-month internship training in Hong Kong before they can register as medical practitioners in Hong Kong. To be eligible for taking the Licensing Examination, they must satisfy the requirements set out in section 7A of the Medical Registration Ordinance, Cap. 161 of the Laws of Hong Kong. Under section 7A, it is stipulated in subsection (1)(b)(i) that an applicant must satisfy the MCHK that at the time of the application, he/she has satisfactorily completed not less than five years full time medical training of a type approved by the MCHK and is the holder of a medical qualification acceptable to the MCHK.

The Licensing Examination of the MCHK aims to ensure that those who wish to register as medical practitioners in Hong Kong after having received medical training outside Hong Kong have attained a professional standard comparable to that of local medical graduates. This is to safeguard the quality of our medical services and hence public health. The MCHK will ensure that the standard of the Licensing Examination is consistent with that adopted by the two faculties of medicine in Hong Kong for assessing their medical graduates. Papers of the Licensing Examination are also prepared by the teaching staff appointed by the two faculties of medicine and vetted by the Examination Sub-Committee of the Licentiate Committee under the MCHK.

The Licensing Examination is held in Hong Kong annually and consists of three parts, namely, Examination in Professional Knowledge (Part I), Proficiency Test in Medical English (Part II), and Clinical Examination (Part III). Candidates are required to have passed or have been exempted from Part I and Part II before they are allowed to take Part III. Candidates must have passed all three parts of the Licentiate Examination in order for them to be regarded as having passed the Licensing Examination. A pass in Part I will be valid for five years. Candidates are required to pass the remaining parts of the Licensing Examination within the validity period; otherwise, the pass obtained in Part I will become invalid. No validity period is set for a pass obtained in Part II.

Our replies to various parts of the question are as follows:

- (a) The number of candidates who sat various parts of the Licensing Examination and among them, the number of those who passed the examination last year are as follows:

<i>Examination in Professional Knowledge (Part I)</i>		<i>Proficiency Test in Medical English (Part II)</i>		<i>Clinical Examination (Part III)</i>	
<i>Number of candidates who sat the examination</i>	<i>Number of candidates who passed the examination</i>	<i>Number of candidates who sat the examination</i>	<i>Number of candidates who passed the examination</i>	<i>Number of candidates who sat the examination</i>	<i>Number of candidates who passed the examination</i>
158	41	39	22	48	15

- (b) The respective numbers of candidates who sat and passed various parts of the Licensing Examination from 2007 to 2009 (by the top

five countries/regions where the candidates received their medical education) are set out below:

### Part I: Examination in Professional Knowledge

Year	<i>Candidates who sat the examination</i>			<i>Candidates who passed the examination</i>		
	<i>Country/Region where the candidates received their medical education</i>	<i>No.</i>	<i>Percentage in the number of candidates who sat the examination</i>	<i>Country/Region where the candidates received their medical education</i>	<i>No.</i>	<i>Percentage in the number of candidates who passed the examination</i>
2009	Mainland	76	48.1%	United Kingdom	14	34.1%
	United Kingdom	36	22.8%	Mainland	13	31.7%
	Taiwan	9	5.7%	Australia	4	9.8%
	Australia	8	5.1%	New Zealand/ South Africa/ United States	2 for each	4.9% for each
	Philippines	6	3.8%			
2008	Mainland	65	47.1%	United Kingdom	6	50.0%
	United Kingdom	29	21.0%	United States	2	16.7%
	Taiwan	10	7.2%	Mainland/ Taiwan/ Australia/ Russia	1 for each	8.3% for each
	Australia	9	6.5%			
	Ireland	8	5.8%			
2007	Mainland	52	44.4%	United Kingdom	10	45.5%
	United Kingdom	21	17.9%	Mainland	3	13.6%
	Australia	11	9.4%	South Africa	3	13.6%
	Taiwan	10	8.5%	Australia	2	9.1%
	India	5	4.3%	Taiwan	2	9.1%

### Part II: Proficiency Test in Medical English

Year	<i>Candidates who sat the examination</i>			<i>Candidates who passed the examination</i>		
	<i>Country/Region where the candidates received their medical education</i>	<i>No.</i>	<i>Percentage in the number of candidates who sat the examination</i>	<i>Country/Region where the candidates received their medical education</i>	<i>No.</i>	<i>Percentage in the number of candidates who passed the examination</i>
2009*	Mainland	35	89.7%	Mainland	19	86.4%
	Belgium	2	5.1%	Belgium	2	9.1%
	Taiwan	2	5.1%	Taiwan	1	4.5%
2008*	Mainland	33	86.8%	Mainland	20	80.0%
	Taiwan	4	10.5%	Taiwan	4	16.0%
	Russia	1	2.6%	Russia	1	4.0%
2007*	Mainland	27	79.4%	Mainland	26	78.8%
	Taiwan	5	14.7%	Taiwan	5	15.2%
	Germany	1	2.9%	Germany	1	3.0%
	Philippines	1	2.9%	Philippines	1	3.0%

Note:

\* Candidates trained in the countries/regions listed constituted all candidates for that year.

## Part III: Clinical Examination

Year	Candidates who sat the examination			Candidates who passed the examination		
	Country/Region where the candidates received their medical education	No.	Percentage in the number of candidates who sat the examination	Country/Region where the candidates received their medical education	No.	Percentage in the number of candidates who passed the examination
2009	Mainland	13	27.1%	United Kingdom	5	33.3%
	United Kingdom	13	27.1%	Australia	4	26.7%
	Australia	8	16.7%	Mainland	2	13.3%
	United States	4	8.3%	Ireland	2	13.3%
	Ireland/New Zealand/South Africa	2 for each	4.2% for each	Taiwan/New Zealand	1	6.7% for each
2008*	United Kingdom	9	39.1%	United Kingdom	6	75.0%
	Mainland	3	13.0%	Mainland	1	12.5%
	Australia	3	13.0%	South Africa	1	12.5%
	South Africa	2	8.7%			
	Taiwan/Ireland/India/Philippines/Russia/United States	1 for each	4.3% for each			
2007	United Kingdom	14	37.8%	United Kingdom	10	55.6%
	Mainland	5	13.5%	Mainland	3	16.7%
	Australia	4	10.8%	India/South Africa/Ireland/Canada/United States	1 for each	5.6% for each
	Taiwan/India/Ireland/South Africa/Canada	2 for each	5.4% for each			

Note:

\* For 2008, candidates trained in the countries/regions listed constituted all candidates.

- (c) The number of medical graduates from the Mainland who sat and passed the Licensing Examination over the past three years is set out in part (b). As candidates are not required to have first acquired a qualification for medical practice outside Hong Kong in order to be eligible for taking the Licensing Examination held pursuant to the

Medical Registration Ordinance, the MCHK has not collected information on whether candidates had acquired a qualification for medical practice outside Hong Kong (including the Mainland) before they sat the Licensing Examination.

### Measures to Prevent Traffic Accidents

16. **MS MIRIAM LAU** (in Chinese): *President, a fatal traffic accident occurred recently in Sha Tin, in which a public light bus fell into a subway after colliding with a taxi at a crossroads, resulting in one death and six injuries. It has been reported that this traffic accident was suspected to have been caused by red light jumping by either one of the drivers. A red light camera (RLC) was once installed at the crossroads, but was removed more than two years ago allegedly due to the location not meeting the criteria for installing RLCs. In this connection, will the Government inform this Council:*

- (a) *of the number of traffic accidents caused by red light jumping in the past five years and, among such accidents, the number of those which occurred at crossroads or traffic accident black spots, the types and number of vehicles involved as well as the resultant casualties;*
- (b) *of the number of RLCs which were removed in the past five years because the installation locations concerned did not meet the installation criteria, as well as the number of proposals or plans for installing RLCs which were rejected or aborted because the suggested locations did not meet the installation criteria, and the number of cameras involved; among those locations which did not meet the installation criteria, the number of those which were crossroads or traffic accident black spots; when it is not possible to install RLCs, what remedial measures the authorities have to combat speeding and red light jumping by vehicles, in particular late at night and early in the morning; and*
- (c) *focusing on the safety at crossroads, whether the authorities will carry out territory-wide site inspections, and in the light of actual*

*road and traffic conditions, classify different junctions into categories according to their levels of risk and adopt remedial measures accordingly (for example, erecting more warning signs, adjusting traffic light signal durations and cycle times, as well as installing more RLCs, and so on); if they will, of the details and the timetable; if not, the reasons for that?*

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

- (a) In the past five years, the numbers of traffic accidents involving failure to comply with traffic signals, the resultant casualties, and the types and numbers of vehicles involved are provided at Annex.
- (b) In general, the Administration selects the sites for RLC housings according to the following criteria:
  - (i) record of traffic accidents caused by red light jumping by vehicles at the site;
  - (ii) prevalence of red light jumping by vehicles at the site;
  - (iii) the need for an even distribution of RLC housing sites to provide an area-wide deterrent effect on motorists; and
  - (iv) physical environment, including whether the pavement is too narrow or whether there are underground facilities (such as pipes and cables) at the site that cannot be removed.

In the past five years, six RLC housings were removed due to changes in road environment (such as narrow pavement after road works or improvement in the situation of red light jumping). Most of the removed RLC housings have been reinstalled at other suitable sites. Besides, five installation proposals were rejected because they did not meet the installation criteria. All of the above 11 sites are at road junctions, and only one of them is a traffic accident black

spot. The installation of RLC system facilitates prosecution against drivers suspected of red light jumping and helps deter such improper driving behaviour. In parallel, the police take vigorous enforcement actions. Individual police formations will continue to keep a close watch over traffic accidents and offences within their respective regions, perform patrol duties and institute prosecutions against offenders.

- (c) The Transport Department (TD) will continue to review the territory's traffic accident data. Focus studies will be carried out on locations (including road junctions and non-road junctions) where the frequency or severity of traffic accidents is relatively high, so that common characteristics of the contributory factors may be deduced, and proposals could be introduced to improve the road environment that may attribute to accidents. The improvement proposals include providing new traffic signals or altering traffic signals; improving road environment, pedestrian facilities, traffic signs and road markings; and installing RLCs.

The programme on the expansion of RLC system has commenced. Upon completion of the programme, the Administration will be able to combat the traffic offence concerned more effectively. The TD will analyse the data, trends and causes of traffic accidents for devising corresponding measures, including exploring the need for further expanding the RLC system.

The TD will continue to inspect regularly traffic facilities in various districts throughout the territory. It will also listen to views from District Councils, local communities and other members of the public through various channels, and will take appropriate improvement measures to enhance road safety if necessary. Separately, the police will investigate the causes of each traffic accident. If they find that there is scope for improvement to the road environment, they will reflect their views to the relevant departments (such as the TD and Highways Department), for follow-up actions.

## Annex

Number and Casualties of  
Traffic Accidents Involving Failure to Comply with Traffic Signals

<i>Year</i>	<i>Number of Traffic Accidents</i>	<i>Casualties</i>	
		<i>Death</i>	<i>Injury</i>
2005	331 (254)	3	605
2006	256 (193)	4	430
2007	298 (214)	5	502
2008	274 (186)	5	521
2009	213 (159)	0	370

Note:

- ( ) Figures in brackets represent the numbers of traffic accidents at road junctions or at traffic accident black spots.

Numbers and Types of Vehicles in  
Traffic Accidents Involving Failure to Comply with Traffic Signals

<i>Year</i>	<i>Motorcycle</i>	<i>Private car</i>	<i>Taxi</i>	<i>Public light bus</i>	<i>Public bus</i>	<i>Light goods vehicle</i>	<i>Medium and heavy goods vehicle</i>	<i>Bicycle</i>	<i>Others</i>	<i>Total</i>
2005	13	134	78	15	15	37	14	45	3	354
2006	6	94	61	20	9	33	8	35	3	269
2007	8	98	91	27	13	38	9	34	5	323
2008	13	106	70	17	15	39	9	22	4	295
2009	9	76	68	19	4	23	5	11	6	221

### Demand and Supply of Baby Formula in Hong Kong

17. **MR ABRAHAM SHEK:** *President, it has been reported that there has been a rapid increase in the Mainland customers' demand for baby formula in Hong Kong. Such demand resulted in a 10% to 20% shortage in the supply of*

*baby formula in Hong Kong as estimated by the Hong Kong General Chamber of Pharmacy Limited. As such, some parents in Hong Kong have started stockpiling baby formula even though they already have weeks of stock. In this connection, will the Government inform the Council:*

- (a) of the monitoring measures and co-ordination mechanism currently adopted by the authorities to ensure a stable supply of baby formula in Hong Kong;*
- (b) given that under the short-term food assistance projects funded by the Social Welfare Department, non-governmental organizations which implement the projects provide short-term food assistance including baby formula for target service users, whether the Government has assessed the impact of the aforesaid shortage in the supply of baby formula in Hong Kong on the provision of baby formula to such service users; if an assessment has been made, of the details (including the number of service users affected and the assistance provided to them between 2008 and 2010);*
- (c) of the maximum quantity of baby formula allowed for travellers in each export clearance for personal effects in Hong Kong at present; and*
- (d) whether it will consider imposing additional restriction on the quantity of baby formula to be exported from Hong Kong as personal effects; if it will, of the details of the implementation schedule; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH:** President,

- (a) The Government's policy on the supply of non-staple food is to ensure that the food market and food trade are highly open and competitive, with diversified sources and food types, with a view to maintaining a stable food supply.

Food products (including baby formula) from around the world can be imported into Hong Kong for distribution according to market demand as long as they comply with the statutory requirements in Hong Kong. Consumers can choose from a wide variety of food products at varying prices.

When the melamine incident happened in 2008, local parents flocked to buy baby formula. At that time, the Food and Health Bureau promptly liaised with major suppliers of baby formula and encouraged them to increase the quantity of import, so as to ensure a stable supply. The Consumer Council also liaised with the trade on the incident, kept in view the prices of baby formula in the market and disseminated consumer information. The Government will continue to keep in view the supplies of major food products and maintain liaison with the trade.

On the other hand, the Government is committed to promoting, upholding and supporting breastfeeding. Breastfeeding provides optimal nutritional, immunological and emotional nurturing for the growth and development of infants — its benefits are unequalled. Workshops are provided by the Department of Health to educate pregnant women about the importance of early initiation of breastfeeding and exclusive breastfeeding. Counselling service is also provided to support breastfeeding mothers. In public hospitals, the Hospital Authority provides clinical instructions to pregnant women to help them acquire breastfeeding skills. In parallel, the Government makes available baby care rooms in government premises, as well as promotes and provides guidance for setting up baby care rooms in commercial premises.

- (b) The Labour and Welfare Bureau indicates that according to the non-governmental organizations operating the short-term food assistance service projects, the supply of baby formula for the service has remained steady since the service began in February 2009 and is sufficient to meet the service demand. Up to the end of April 2010, about 5 000 cans of baby formula had been provided for 830 service users.

(c) and (d)

Hong Kong embraces free market economy and free trade. To meet market demand, the trade always reacts swiftly and flexibly to changes in demand and supply of overseas and local markets. The demand and supply of food are also determined by the market. The Food and Health Bureau will not impose any control on export of food where there is no particular concern on grounds of public hygiene and prevention of diseases.

### **Emissions from Franchised Buses**

18. **MR LEE WING-TAT** (in Chinese): *President, regarding emissions from franchised buses, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of pre-Euro, Euro I, Euro II, Euro III and Euro IV buses deployed daily on average by each franchised bus company to ply the bus routes passing busy areas (including Hennessy Road, Queensway, Causeway Bay and Yau Tsim Mong District, and so on);*
- (b) *of the current number of buses which are 12 years old or above in the fleets of the various franchised bus companies, with a breakdown by age (one year per group);*
- (c) *whether it had, in the past three years, computed the quantities of various types of air pollutants emitted by franchised buses meeting different emission standards; if it had, of the outcome of computation; and*
- (d) *given that the Government has indicated that it will study the feasibility of designating low emission zones (LEZs), and when it considers restricting the entry of franchised buses with higher emissions into these zones, it will also study the impact of such restriction on the overall road transport, public transport services, passengers as well as areas outside the restricted zones, of the*

*current progress of various items of the study, as well as its details and the completion timetable?*

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

- (a) As at end February 2010, the various franchised bus companies deployed a daily total of about 2 360 franchised buses to run on busy corridors including Yee Wo Street, Hennessy Road, Queensway, Des Voeux Road Central and Nathan Road. Of these buses, about 58%, 25% and 17% were operated by Kowloon Motor Bus Company (1933) Limited, Citybus Limited<sup>Note</sup> and New World First Bus Services Limited respectively. All the franchised buses running on Yee Wo Street, 93% on Hennessy Road, 93% on Nathan Road, 84% on Queensway, and 89% on Des Voeux Road Central were of Euro II or above emission standards. Long Win Bus Company Limited and New Lantau Bus Company (1973) Limited do not operate any bus route along the above busy corridors.
- (b) All franchised bus companies are required to operate their franchised bus services with buses under the age of 18, and have been replacing their serving buses accordingly. As at end February 2010, there were a total of about 5 800 buses from the various franchised bus companies in operation. Among them, about 2 300 or 40% were between 12 and 17 years old. The number of buses aged 12, 13, 14, 15, 16 and 17 years were 770, 390, 400, 350, 250 and 140 respectively.
- (c) The vehicle emission inventory for 2009 is still being compiled. The table below shows a breakdown of the estimated quantities of major air pollutants, including respirable suspended particulates (RSP), nitrogen oxides (NO<sub>x</sub>) and sulphur dioxide (SO<sub>2</sub>), emitted from franchised buses of different emission standards in 2007 and 2008:

Note:

This refers to the two franchises held by Citybus Limited, one for providing bus services for Hong Kong Island and cross-harbour routes, while the other for providing bus services for North Lantau and Chek Lap Kok Airport routes.

<i>Emissions Standard</i>	<i>2007</i>				<i>2008</i>			
	<i>Number of Buses<sup>#</sup></i>	<i>Emission (tonnes)*</i>			<i>Number of Buses<sup>#</sup></i>	<i>Emissions (tonnes)*</i>		
		<i>RSP</i>	<i>NOx</i>	<i>SO<sub>2</sub></i>		<i>RSP</i>	<i>NOx</i>	<i>SO<sub>2</sub></i>
Pre-Euro	609	20	280	<10	482	20	230	<10
Euro I	1 351	30	670	<10	1 344	30	680	<10
Euro II	2 711	40	900	<10	2 695	40	920	<10
Euro III	1 205	10	310	<10	1 226	10	320	<10
Euro IV	13	<10	<10	<10	47	<10	10	<10

Notes:

# figures as at year end

\* rounded up to the nearest 10 tonnes

The annual changes in the emissions from franchised buses are due to various factors, such as vehicle mileage, replacement of buses, ageing of inuse buses, and the progress of retrofitting buses with emission reduction devices, and so on. The levels of SO<sub>2</sub> emitted from franchised buses have been very low since the switching to ultra low sulphur diesel or better motor vehicle diesel in 2001.

- (d) We are studying the feasibility of setting up pilot LEZs targeting at franchised buses, which account for a relatively high proportion of vehicular flow along busy corridors in Causeway Bay, Central and Mong Kok. For instance, franchised buses could account for up to 40% of the vehicular flow along Yee Wo Street, Causeway Bay. As such, pilot studies on franchised buses can effectively test whether LEZs can significantly improve roadside air quality. The implementation of the pilot LEZs may be delayed if the pilot scheme covers all vehicles at the same time, as we will need to resolve complicated legal and traffic management issues, and consult the transport trades.

While our study is to consider operating the LEZs on franchised buses as a pilot, the crucial factor lies in whether franchised bus companies can provide and deploy sufficient environment-friendly buses to run in the pilot LEZs. We are discussing with franchised

bus companies about possible options to speed up the availability of more environment-friendly buses for the pilot LEZs through, for example, looking into the feasibility of retrofitting Euro II and Euro III buses with selective catalytic reduction devices to reduce NOx emissions. This will facilitate the formulation of practicable proposals on setting up LEZs and the assessment of its impact on the overall road transport, public transport services, passengers as well as areas outside the restricted zones. Our target is to start conducting the trial on the feasibility of retrofitting of selective catalytic reduction devices on Euro II and Euro III buses within 2010. Moreover, we have been working with the Legislative Council, District Councils and others concerned on bus route rationalization. Subject to the agreement from different parties, bus route rationalization will also help reduce the roadside air pollution at busy corridors materially.

### **Assistance for SMEs**

19. **DR LAM TAI-FAI** (in Chinese): *President, at the meeting of this Council on 21 April this year, the Financial Secretary announced that the application period for the Special Loan Guarantee Scheme (SpGS) would be extended for the last time for another six months until 31 December this year. Subsequently, the Secretary for Commerce and Economic Development said publicly in May that after the expiry of SpGS at the end of this year, the Government will review how the existing SME Loan Guarantee Scheme (SGS) can be improved and introduce new schemes to provide assistance for small and medium enterprises (SMEs). Regarding the assistance for SMEs, will the Government inform this Council:*

- (a) *of SpGS's actual default rate and number of enterprises involved in default claims at present, as well as their types of businesses;*
- (b) *whether it has assessed the impact of the European debt crisis, foreign exchange pressure and the increase in uncertainties in external markets in recent months on SMEs in Hong Kong in aspects such as receiving orders and collecting payments; if an assessment has been made, of the details; if not, the reasons for that; whether the Government will, in response to changes in actual market*

*conditions, change its decision of not extending SpGS after its expiry at the end of this year;*

- (c) whether it has assessed if the banks will once again tighten their credits for SMEs, resulting in their having problems in financing, when SpGS expires at the end of this year, as well as the impact of not extending the application period for SpGS on the revolving credit line arranged by banks for SMEs which at present have been granted loans; if an assessment has been made, of the details; if not, the reasons for that;*
- (d) whether it has assessed if the institutions providing similar schemes under the existing market system or a new intermediary institution to be established can replace the role of guarantor played by the Government under SpGS; if an assessment has been made, of the details; if not, the reasons for that;*
- (e) whether it has drawn up a timetable for introducing new schemes or measures to provide assistance for SMEs in the future; if it has, of the details; if not, the reasons for that; and*
- (f) how it ensures that the new schemes or measures for providing assistance for SMEs can maintain continuity with SpGS and meet the actual needs of SMEs?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the Government launched the SpGS on 15 December 2008 with a total guarantee commitment of \$100 billion. As at 7 June 2010, the Trade and Industry Department (TID) has received 35 474 applications, of which 32 835 have been approved, involving a total loan amount of over \$79.5 billion. The Scheme has benefitted over 18 000 enterprises (95% of the beneficiaries are SMEs), which has helped to stabilize over 310 000 employment.

In response to Dr LAM Tai-fai's question, the reply is as follows:

- (a) As at 7 June 2010, TID has received 89 default claims, involving a total claim amount of about \$96.74 million. The default rate so far is about 0.15% of the total guaranteed amount of the approved cases. The default cases come from various industries, including the

manufacturing sector (for example, electronics, metal products, textiles and clothing) and the non-manufacturing sector (for example, import and export trade, wholesale and retail).

However, it must be pointed out that the existing default rate has yet to fully reflect the actual situation as most of the loans have been approved for less than a year. Moreover, under the SpGS, the borrowers are allowed to pay interest only in the first six months. We do not preclude the possibility that the number of default cases will continue to increase. We will continue to monitor the situation closely.

(b) to (d)

The SpGS is a temporary initiative introduced to tackle the credit crunch arising from the global financial crisis in 2008. With improved external environment, Hong Kong's economic situation is also taking a favourable turn. The problems encountered in business operations and credit crunch have been largely relieved. According to Government's forecast, the Hong Kong economy is expected to grow at 4% to 5% in 2010 as a whole. Since the purpose of introducing the SpGS has been largely achieved, it is an opportune time to let the credit market gradually resume its normal operation. Although the worst moment of the financial tsunami is over, some unfavourable factors in the external environment are looming large recently. The recovery of the global and local economy may be bumpy. The trade may need some time to consolidate their business. The Financial Secretary has already announced on 21 April to extend the application period for SpGS for the last time until the end of 2010.

The maximum guarantee period for loans granted by the Government (including term loans<sup>(1)</sup> and revolving loans<sup>(2)</sup>) is five years or up to 31 December 2015, whichever is earlier. Although the application period for the SpGS ends in end 2010, the

(1) The starting date of the guarantee period is the date on which any funds are first withdrawn against the approved loan.

(2) The starting date of the guarantee period is the date on which that facility is made available to the borrower.

Government's guarantee for the revolving loans will continue to be effective until the end of the guarantee period.

After the end of the SpGS' application period, the existing SGS will continue to render assistance to SMEs in obtaining loans. At present, 35 lending institutions have joined the SGS. We have since November 2008 implemented a series of enhancement measures to the SGS, providing more flexibility to SMEs in the use of loans and extending the maximum guarantee period. Similar to the SpGS, the SGS provides Government guarantee to enable SMEs to obtain a loan of up to \$12 million, and the maximum guarantee period is five years. We believe the enhanced SGS should be able to address SMEs' financing needs.

The idea of allowing the market mechanism or an intermediary organization to replace the Government's role as the guarantor involves many complicated issues and requires careful consideration by various parties. The Government will continue to provide guarantee under the SGS to help SMEs obtain loans from the commercial lending market. We have no intention to change Government's role in this aspect at the moment.

(e) to (f)

SMEs are the pillars of Hong Kong's economy. The Government attaches great importance to SMEs' healthy development and is committed to providing them with a conducive business environment and appropriate support. The SME funding schemes administered by the TID aim at providing support to SMEs on various fronts, for example, business operation, marketing and promotion, acquiring business equipment and enhancing competitiveness. The Innovation and Technology Fund and the Research and Development Cash Rebate Scheme administered by the Innovation and Technology Commission render assistance to enterprises in pursuit of technological upgrading and innovation. The Design-Business Collaboration Scheme under CreateHK seeks to encourage SMEs to invest in design and its commercialization through products and services.

To enable SMEs to embrace their future opportunities and challenges, we will explore ways to consolidate and make better use of the existing resources of the Commerce and Economic Development Bureau with a view to helping SMEs in enhancing their productivity and competitiveness. We will take into account all relevant factors, including views of the trade, to ensure that appropriate support and services are made available for SMEs.

### **Staff Salary Structures of Subvented NGOs**

20. **MR CHEUNG KWOK-CHE** (in Chinese): *President, the Lump Sum Grant Subvention System (LSGSS) has been implemented since January 2001. Under the System, the staff salary structures of some subvented non-governmental welfare organizations (subvented NGOs) have been delinked from those of the civil service. I have received complaints that despite the continuous downward adjustments in the overall remuneration of staff in subvented NGOs in the past few years, the salaries of the management staff in certain non-governmental welfare organizations (NGOs) have increased instead. In this connection, will the Government inform this Council:*

- (a) *of the 10 subvented NGOs which were allocated the highest amounts of subventions in each of the past two financial years, and whether it knows the respective annual salaries of the five staff members of each of such NGOs who had the highest annual salaries in the relevant year;*
- (b) *whether, apart from developing a Best Practice Manual, it will reconsider taking other measures to prevent subvented NGOs from adopting a salary structure which rewards the upper-ranked staff generously but gives the lower-ranked staff a niggardly pay; if it will, of the details of such measures; and*
- (c) *whether the Social Welfare Department (SWD) will require the subvented NGOs to provide information on their staff salary structures and make public such information; if it will not, of the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, under the LSGSS, the Government no longer imposes rigid requirements on the staff establishment, salary structure and individual items of expenditure of NGOs.

Hence, NGOs have greater autonomy as long as they are able to meet the requirements of the relevant Funding and Service Agreement. They can flexibly deploy the Lump Sum Grant and re-engineer their services to meet the changing needs of the society. NGOs' boards of directors or management committees are free to formulate their own policies on human resources management according to their individual circumstances, and flexibly use the resources provided by the Government to pay staff remuneration and make salary adjustments based on their policies and the conditions of the labour market.

NGOs can also expand their scope of welfare services on a self-financing or fee-charging basis. In fact, the service scope of many NGOs is not limited to the provision of Government-subvented welfare services. Some of their staff members, particularly the senior staff at the management level, may need to take charge of work relating to other service scopes, and their source of remuneration may not be limited to the subvention provided by the SWD. Members may wish to bear this point in mind when considering the remuneration of staff members, particularly that of their senior staff, in subvented NGOs.

My reply to the questions raised by Mr CHEUNG Kwok-che is set out below:

(a) and (c)

The 10 NGOs that received the highest amount of annual subventions under the LSGSS from the SWD in 2008-2009 and 2009-2010 are set out at Annex. Under the LSGSS, the SWD does not have information on the annual salaries of individual staff members or the pay structure of the NGOs.

(b) In view of the growing public demand for transparency in the remuneration policies governing senior executives in Government-subvented bodies, the Lump Sum Grant Independent Review Committee (LSGIRC) recommended that the SWD should consult the subvented NGOs and implement the Government guidelines on the monitoring of remuneration of senior executives in subvented bodies (the Guidelines). The SWD has issued a letter to NGOs requesting them to review the remuneration of their top three-tier staff in accordance with the Guidelines and to submit a review report on the preceding financial year to the SWD on an annual basis. If any anomalies of practice are identified in the review reports, NGOs will be requested to take appropriate

follow-up actions. As a measure to enhance public accountability, NGOs should also set up channels for public disclosure of the relevant information in the review reports, such as posting the information at their notice boards or annual reports; or issuing special circulars, or newsletters, and so on; or informing the public of the means to obtain the information.

Besides, in accordance with the LSGIRC's recommendation, the SWD will commission a consultant to develop the Best Practice Manual in collaboration with the Lump Sum Grant Steering Committee and the welfare sector. The Manual will set out feasible practice standards on NGOs' management matters, including formulation of fair pay policies, budgeting of resources for staff remuneration and salary adjustments, and so on, so as to ensure the fairness and transparency in their human resource policies and to help them strive for excellence in management.

Annex

The 10 NGOs receiving the highest amount of subventions from  
SWD in 2008-2009 and 2009-2010  
(in alphabetical order of English name)

1. Caritas — Hong Kong
2. Fu Hong Society
3. Hong Kong Christian Service
4. Hong Kong Sheng Kung Hui Welfare Council
5. Po Leung Kuk
6. SAHK (formerly known as "The Spastics Association of Hong Kong")
7. The Boys' and Girls' Clubs Association of Hong Kong<sup>(1)</sup> (2009-2010)
8. The Hong Kong Society for the Aged<sup>(2)</sup> (2008-2009)
9. The Salvation Army
10. Tung Wah Group of Hospitals
11. Yan Chai Hospital

Notes:

- (1) The Boys' and Girls' Clubs Association of Hong Kong was one of the 10 NGOs receiving the highest amount of subventions from SWD in 2009-2010.
- (2) The Hong Kong Society for the Aged was one of the 10 NGOs receiving the highest amount of subventions from SWD in 2008-2009.

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

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Inland Revenue (Amendment) Bill 2010.

**INLAND REVENUE (AMENDMENT) BILL 2010****Resumption of debate on Second Reading which was moved on 12 May 2010**

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR CHAN KAM-LAM** (in Cantonese): President, I submit the Bills Committee's report in my capacity as the Chairman of the Bills Committee on Inland Revenue (Amendment) Bill 2010 (the Bills Committee). The Bills Committee convened one meeting to discuss with the Administration. Regarding the proposed one-off reduction of salaries tax and tax under personal assessment by 75%, subject to a ceiling of \$6,000 per case, the Bills Committee has no objection.

In regard to the proposal of profits tax deduction for capital expenditure on environment-friendly vehicles, the Bills Committee noted that the Environmental Protection Department (EPD) would review the qualifying standards annually for vehicles qualified for remission of first registration tax under the two current tax incentive schemes administered by EPD, so as to ensure that only vehicles of truly outstanding emission performance and/or fuel efficiency performance are entitled to enjoy concessions for first registration tax. Some members were concerned that the Administration should promote the wider use of environment-friendly vehicles, in this regard, the Bills Committee agreed that the matter should be referred to the Panel on Environmental Affairs for consideration.

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

Details of the Bills Committee's deliberations were already set out in the written report.

Deputy President, the benefiting policy involving tax concessions announced in the Budget was most concerned by the public. The Budget this year accepted tax reduction proposals put forward by various industries and the public, and certain concessionary revenue measures were adopted. As the amendment to the Inland Revenue Ordinance is to give effect to this tax relief measure, the DAB gives its full support.

Following the financial tsunami, we are at an early stage of economic recovery and the economic situation of the public has slightly improved. Nevertheless, the public is still facing various livelihood pressures brought about by the heavy burden on housing and medical expenses, children's school fees and other fees and charges. The escalating food prices also led to a rise in their daily expenses. The tax concessions will be able to ease their financial pressure, in particular for many middle and low income families, their tax burden can be directly relieved. As such, I and the DAB are in support of the proposed reduction of salaries tax and tax under personal assessment, and hope that the Government can, after fully balancing public needs and the surplus of the Treasury, further reduce the salary tax as far as possible to benefit more members of the public.

In addition, the Bills Committee also supported the exemption of the first registration tax for qualified environment-friendly vehicles, and the referral of matters involving encouraging the wider use of environment-friendly vehicles to the Panel on Environmental Affairs for further consideration. I support the Government's continuous initiative in implementing and encouraging the use of environment-friendly vehicles. Apart from exempting the first registration tax, it may also consider subsidizing the installation of battery charging devices at car parks, and requiring car parks to allocate dedicated parking spaces for environment-friendly vehicles, so as to actively promote the use of environment-friendly public transportation. It should also reduce the annual licensing fees for qualified environment-friendly vehicles, as well as implement tax incentives and offer tax concessions, so as to encourage the public to switch

to using environment-friendly vehicles, thereby ensuring that we have fresh air and a good living environment.

Deputy President, I so submit and support the passage of the Bill.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, in the 2009-2010 Budget (the Budget), the Financial Secretary mentioned that the impact of the financial tsunami on many people was not yet over, and some people had yet to enjoy a salary rise in line with the revival of the economy. To relieve their livelihood pressure and encourage consumer spending, the Government proposed a series of one-off measures, including accepting some of the proposals put forward by the Federation of Trade Unions in respect of the Budget. As regards the one-off reduction of salaries tax and tax under personal assessment by 75% for the year 2009-2010, subject to a ceiling of \$6,000 per case, I support this proposal as it can benefit 1.4 million taxpayers. However, I am of the view that the Government can do more and do better.

Deputy President, for the majority of wage earners, though the tax reduction measure may not fully meet their livelihood needs, it can at least help them relieve their financial burden in the face of economic uncertainties. Notwithstanding that the economy is picking up, most grass-root people are still facing a lot of difficulties in their daily lives, especially the spate of price increases. According to Government's latest economic forecasts, the inflation for the entire year is expected to be between 2% to 3%, posing a direct threat to people's livelihood. While the global economy is still unstable, with the appreciation of Renminbi and escalating prices of consumer goods, even canned food has become a luxury unaffordable by less well-off people.

More regrettably, given the circumstances, public utilities have recently increased in fares, tariff and tolls one after another. In addition to an increase in electricity and gas charges, even the Tate's Cairn Tunnel has recently applied again for an increase in tolls despite having a profit of over \$100 million. The MTR Corporation Limited, though having enormous profits, asks for hikes all the same, as if for fear of lagging behind in increasing fares. Under this situation, although there may be a slight increase in wages — most employees actually have their pay frozen — the level can hardly keep up with the soaring prices of consumer goods.

According to the outcome of a pay trend survey conducted in January by the Hong Kong Institute of Human Resource Management, it was found that when compared to the same period last year, though the overall salary increase of companies interviewed has risen 1.2%, it was still maintained at the level of 1.7%. As for the civil service, notwithstanding the Government's recent announcement of a salary rise of 1.6% for upper band civil servants and 0.56% for middle and lower bands, their situation is the same as all other wage earners, that is, the increase in their salary is lagging far behind the rising prices.

Deputy President, although the concessionary measures of reducing salaries tax and tax under personal assessment may provide some timely help for the public, leaving some more cash in their pockets, the benefits brought about by the relief package adopted by the Government in alleviating the financial burden of the public are offset by the increase in transport fares and utilities charges. For this reason, I hope the Government can seriously consider our repeated requests, to release as soon as possible the outcome of the review on the Transport Support Scheme and implement the monthly pass system for wage earners. Besides, as the consultancy report on the feasibility study for buying back tunnels will be submitted to the Government in the middle of this year, I hope the Government can consider the recommendations seriously and drag its feet no more in coming up with conclusions.

Deputy President, as shown in relevant information, in the first quarter of 2010, our GDP had a substantial growth of 0.2%, the annual real growth of private consumption expenditure rose 6.5%, while the overall consumer price index further increased to 2.4%. On the face of it, our economy is taking a turn for the better, however, the size of poor population is growing. Only 1.1% of these poor families are capable of breaking away from the Comprehensive Social Security Assistance (CSSA) net, reflecting our economy is in a kind of V-shaped rebound.

On Monday, the Financial Secretary presented to us the development of our economy, and submitted a paper on Hong Kong's recent economic situation and short-term outlook. From this paper, it is revealed that households with average monthly income below \$4,000 amounted to 190 600 in the first quarter in 2010, when compared to the same period last year, there was an increase of 13 400 households, and the figure is more than double the 92 300 households in the first quarter of 1997. It shows that on the one hand, our economy has continued to

develop, but on the other hand, the poor population is also growing. Economic growth does not mean that the grassroots can share the fruit of prosperity. From the figures I just quoted, we can see that it is an undisputable fact that the gap between the rich and the poor is widening.

Though the Government has provided wage earners with tax concessions, benefiting 1.4 million taxpayers, we hope it can also take into consideration the plight of low income households whose income fail to meet the taxable income thresholds and cannot benefit from the current relief measures implemented by the Government. For instance, for those aged 65 or below living in private housing, as they are not public housing tenants, they cannot enjoy the two-month rent payment by the Government. Besides, as they are under the age of 65 and may not meet the relevant means tests, they are also not eligible for the "double pay" of the "fruit grant". Furthermore, as they are not CSSA recipients, they will not be given an extra month of CSSA payment. If the person in question is not disabled, he will surely not be granted an extra month of Disability Allowance payment. None of the measures in the relief package introduced by the Government can benefit these people with "five noughts" or "n noughts", and we do not see the Government has taken any measure to strengthen the service provided by the food bank.

The Chief Secretary of Administration is here right now, I very much hope that he can do something for those people who cannot benefit from the relief package or those with "n noughts". I would like to urge the Chief Secretary of Administration to relay today's message to high ranking officials in the Administration, and to look into it seriously with the Financial Secretary.

Deputy President, I also want to point out that the policy adopted by the Government at present has made it difficult for wage earners to purchase their own home. Given the soaring property price, even though the Government has launched the "nine measures and 12 requirements" and put up more land for sale, is it implementing a high land premium policy? That is the question I put to the Financial Secretary on Monday. The Secretary answered directly that the Government did not have a policy of high land premium. However, the fact tells us that the policy of high land premium and high rental are eroding the income and gains of the grassroots. Yesterday, a valuable site at Valley Road, Ho Man Tin was sold at an "astronomical price" of \$10.9 billion, that is, \$12,000 per sq ft.

It is expected that completed flats will be sold at an exorbitant price of at least \$20,000 per sq ft. If that is the case, wage earners can only become "no-shell-snails", who can hardly afford to buy their own home.

Though a number of measures have been proposed in the Budget to relieve the public's financial burden in purchasing property, the situation is indeed not the case. As such, I would like to take this opportunity to tell the Government, the salary tax reduction of \$6,000 alone is inadequate to help wage earners. Therefore, on this occasion, I want to urge the Government once again to consider building more public rental housing (PRH) units, and live up to its pledge to maintain the waiting time for PRH at three years. I also want to urge the Government to resume the construction of Home Ownership Scheme flats on an appropriate scale each year, and consider afresh the Tenants Purchase Scheme. Only by adopting these pragmatic housing policies can the Government genuinely help the poor and relieve their plights, so that they can live and work in peace and contentment. If people can really live in prosperity and contentment, there will be social stability and harmony. I hope the Chief Secretary of Administration and the Financial Secretary can hear my solemn call.

Deputy President, against the backdrop of economic recovery and the buoyant property and stock markets, many people in the middle and low income groups cannot share the fruits of prosperity; on the contrary, they are faced with problems of rising inflation and soaring prices. When prices of goods in supermarkets are adjusting upward, public utilities increase their fees and charges, coupled with the successive tariffs increases of transport companies, how can the public not cry out for help? To genuinely achieve the objective of relieving people's difficulties as the Financial Secretary proposed in the Budget, I believe that the salary tax reduction is only the first step to be taken. This Government must implement more appropriate relief measures, so as to ride out the storm with the public.

As such, after the passage of the Bill, I hope the Government would not just sit back and do nothing. High ranking officials should further come up with different means to help the grassroots most in need. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for 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): Deputy President, first of all, I have to thank Mr CHAN Kam-lam, Chairman of the Bills Committee on Inland Revenue (Amendment) Bill 2010 (the Bills Committee), members of the Bills Committee and colleagues of the Legislative Council Secretariat for completing the deliberations within a short period of time and their support for the second reading of the Inland Revenue (Amendment) Bill 2010 (the Bill). I also thank Mr WONG Kwok-hing for his speech just now, giving us a number of views on the relief measures.

The Bill was submitted to the Legislative Council for scrutiny in May this year. The purpose of the Bill is to amend the Inland Revenue Ordinance, so as to give effect to two proposals concerning tax concessions in the Budget for the 2010-2011 financial year.

As Mr CHAN has just said, in order to alleviate taxpayers' financial burden at an early stage of economic recovery and having considered the overall financial situation of the Government, the Financial Secretary proposed a one-off reduction of salaries tax and tax under personal assessment by 75% for the year of assessment 2009-2010, subject to a ceiling of \$6,000 per case. 1.4 million taxpayers will be benefited by the above one-off measure.

The second measure implemented by the Bill is to provide a 100% profits tax deduction for capital expenditure on environment-friendly vehicles in the year of purchase. At present, depreciation allowance under profits tax is provided for motor vehicles (including environment-friendly vehicles) like ordinary machinery or plant. In general, businesses claiming depreciation allowance for motor vehicles will be granted an initial allowance at 60% of the purchase cost in the year of purchase and an annual allowance at 30% of the reducing value. To

encourage the business sector to purchase environment-friendly vehicles, the Budget this year proposes to accelerate a 100% profits tax deduction for capital expenditure on environment-friendly vehicles in the first year of purchase.

At the meeting of the Bills Committee, the Administration has explained to members the practical operation in detail. For instance, for individual category of environment-friendly vehicles, the Environmental Protection Department will review the qualifying standards annually in the light of technological development and the prevailing statutory emission standards so as to ensure that only vehicles of truly outstanding emission performance are entitled to enjoy the tax concessions.

In conclusion, the Bills Committee is in support of the amendments proposed in the Bill. I implore Members to support the Bill.

Deputy President, I so submit. Thank you.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) Bill 2010 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Inland Revenue (Amendment) Bill 2010.

Council went into Committee.

**Committee Stage**

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

**INLAND REVENUE (AMENDMENT) BILL 2010**

**DEPUTY CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) Bill 2010.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bills**

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

### **INLAND REVENUE (AMENDMENT) BILL 2010**

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

Inland Revenue (Amendment) Bill 2010

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

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) Bill 2010 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Inland Revenue (Amendment) Bill 2010.

## **MOTIONS**

**DEPUTY PRESIDENT** (in Cantonese): Motions. Two proposed resolutions under Article 73(7) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and section 7A of the Hong Kong Court of Final Appeal Ordinance.

First motion. I now call upon the Chief Secretary for Administration to speak and move his motion.

## **PROPOSED RESOLUTION UNDER ARTICLE 73(7) OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND SECTION 7A OF THE HONG KONG COURT OF FINAL APPEAL ORDINANCE**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, I move that the Legislative Council endorses the appointment of Justice Geoffrey MA as the Chief Justice of the Court of Final Appeal (CFA).

The Chief Justice is the President of the CFA and the head of the Judiciary. He is charged with the administration of the Judiciary and the execution of various statutory powers and functions vested in him.

Pursuant to Article 88 of the Basic Law and the Judicial Officers Recommendation Commission (JORC) Ordinance (Cap. 92), judges of the courts of the Hong Kong Special Administrative Region (HKSAR) shall be appointed by the Chief Executive on the recommendation of the JORC. Moreover, Article 90 of the Basic Law provides that in the case of the appointment of judges of the CFA, the Chief Executive shall obtain the endorsement of the Legislative Council.

The incumbent Chief Justice of the CFA, Mr Andrew LI, will cease service on 31 August 2010. The JORC has recommended to the Chief Executive the appointment of the Chief Judge of the High Court, Mr Geoffrey MA, as the Chief Justice of the CFA with effect from 1 September 2010.

The curriculum vitae of Justice Geoffrey MA has been set out in the Administration's paper issued to the Legislative Council on 8 April 2010. Justice MA was appointed as a Recorder of the High Court in November 2000 until his appointment as a Judge of the Court of First Instance in December 2001. He heard cases involving various aspects of civil law. Justice MA was appointed as a Justice of Appeal of the Court of Appeal of the High Court in November 2002, hearing both criminal and civil appeals. Justice MA was appointed as the Chief Judge of the High Court in July 2003, leading the High Court both judicially and administratively.

Justice MA is an outstanding lawyer with exceptional judicial, professional and personal qualities. He is a man of high integrity and commands strong respect within and outside the Judiciary, and he is held in high esteem by members of the legal profession. Having served with distinction as the Chief Judge of the High Court for nearly seven years, Justice MA also has proven administrative and leadership qualities. The Chief Executive is pleased to accept the JORC's recommendation on the appointment of Justice Geoffrey MA as the Chief Justice of the CFA. Subject to the endorsement of the Legislative Council, the appointment would take effect on 1 September 2010.

In accordance with the procedures previously endorsed by the Legislative Council, the Administration informed the House Committee on 8 April 2010 that the Chief Executive had accepted the recommendation of the JORC on this appointment. Representatives from the Administration and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments set up under the House Committee on 4 May and responded to members' questions. I would like to thank Dr Margaret NG, Chairman of the Subcommittee, and other members of the Subcommittee for their support of the proposed appointment.

I invite Members to endorse the appointment.

**The Chief Secretary for Administration moved the following motion:**

"RESOLVED that the appointment of the Honourable Mr Justice Geoffrey Ma Tao-li as the Chief Justice of the Hong Kong Court of Final Appeal pursuant to section 6 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) be endorsed."

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

**DR MARGARET NG** (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Proposed Senior Judicial Appointments, I briefly report on the deliberations of the Subcommittee.

The Subcommittee has noted the curriculum vitae of Justice Geoffrey MA, Justice Robert TANG, Justice Frank STOCK and Justice Michael John HARTMANN as provided by the Administration, and supports the proposed appointments of Justice Geoffrey MA as the Chief Justice of the Court of Final Appeal (CFA). The Subcommittee also supports the motion that the Chief Secretary for Administration is going to move later on the appointment of Justice Robert TANG, Justice Frank STOCK and Justice Michael John HARTMANN as non-permanent Hong Kong judges to the CFA.

While the Subcommittee is supportive of the proposed appointment, some members have expressed grave concern that three serving Justices of Appeal of the Court of Appeal of the High Court are being made non-permanent judges of the CFA. They consider that the arrangement of allowing the same pool of judges to sit in both courts could give the public the impression that they are denied a real appeal in the CFA, and would erode public confidence in the administration of justice.

Members are of the view that the crux of the problem is the relatively small number of permanent judges in the CFA. Members agreed with the need to review the relevant arrangement and the judicial manpower situation in the CFA and other levels of Courts.

Members also expressed reservation about the membership of the Secretary for Justice, being a Principal Official under the Political Appointment System, on the Judicial Officers Recommendation Commission.

The Panel on Administration of Justice and Legal Services will follow up the related policy issues.

Deputy President, below are my personal views.

**DR MARGARET NG:** Deputy President, it is the constitutional duty of this Council to uphold judicial independence which is pivotal to the rule of law. Our power of endorsement must be exercised in such a way as to serve this purpose.

This means in the first place, we must safeguard the process of judicial appointment from being politicized, but more than that, we must ever remain vigilant of the erosion of judicial independence by any means. Further, we should educate ourselves on what practical support is necessary to allow judicial functions to be carried out effectively, independently and with all due dignity and decorum. It is our duty to explain to the community why certain measures are important for judicial independence.

For example, it may not be readily understood why judges' remuneration must not be subject to reduction, even in an economic downturn. Likewise, personal remarks against a judge cannot be made in this Council except in accordance with specific rules of procedure. This is not because judges are above criticism, but because we, who have a constitutional duty to safeguard judicial independence, must carefully avoid any perception of interfering with it ourselves, shielded behind our parliamentary privilege.

No less is it our duty in our proceedings to voice the high expectation the community has of our Judiciary, what this consists of, and what issues are troubling the public that the expectation may not be met. We should facilitate measures which will allay the public's concern. This is a delicate role, but it is one that we must diligently seek to fulfil.

Deputy President, lest there be any misunderstanding, judicial independence is not for the benefit of the judges, but a fundamental public

interest, because it is essential to the rule of law. And so judges have no less a responsibility than anyone else to uphold judicial independence.

Judicial independence can be undermined not only from without, such as by direct political interference. It can also be undermined from within the Judiciary itself. Overt political interference is, in a way, easier to deal with, than the erosion from within, when judges compromise on impartiality and fearlessness, or the quality of their judgments and standards of judicial conduct. When that happens, the rule of law and judicial independence will be subverted, and the harm will be irreparable.

How then can we safeguard against such erosion from ever arising? I believe that first and foremost, we rely on the quality of the people appointed to high judicial offices, and the collegiate excellence of the courts. If judges are selected from practitioners and jurists who have a deep knowledge of the common law and the principles which underpin them, and who are dedicated to the service of the law, then they are unlikely to allow the law to be compromised. Judges are not isolated from one another but have a collegiate life, and the excellence of some will naturally spread to make all aspire to excellence. And that is why the appointment of judges of great standing as non-permanent judges to our Court of Final Appeal is an important aspect of the system of the HKSAR. It is also why the selection of a Chief Justice is of crucial importance — he is not only responsible for the administration of the courts, but personifies those values by his speech and conduct.

Next in importance as guardians are the legal profession from whom most of our judges are drawn. More than the wider public, the profession know the law and are bred in the code of conduct expected of people who practice in the law. They go before the Court every day. They have the greatest occasion to note any change in judicial culture and standard, and to speak up fearlessly in defence of what is right if anything is going wrong. In an increasingly competitive business environment, the need to cultivate a successful practice can be overwhelming, but this is not an excuse to neglect our duty to the public.

The ultimate guardian of judicial independence is the community in which judges dispense justice according to the law. It is said that the rule of law is only as good as what the community is prepared to do to maintain it. All

evidence shows that the Hong Kong public prize an impartial and independent Judiciary almost above all other public institutions, and I say: Long may that last!

Deputy President, this is the first occasion for the elected legislature of the HKSAR to endorse the appointment of a Chief Justice. I would like to take this opportunity to pay tribute to Mr Andrew LI, the outgoing Chief Justice. He has served in that office for the most crucial first 13 years of the Hong Kong Court of Final Appeal with distinction, and our record will not be complete without acknowledgment.

By upholding fundamental rights and freedoms in his judgments right from the beginning, when the world wondered if "two systems" can prevail under "one country", he has boosted confidence in the rule of law in Hong Kong and made an essential contribution to Hong Kong stability. He has taken as his chief mission to build up a court of final appeal of stature and prestige. Among our non-permanent judges from overseas jurisdictions are former Chief Justices of Australia, a Lord Chief Justice of England and Wales, several Law Lords, former judges of the Supreme Court of New Zealand — judges who are household names to serious practitioners of the law. He has persuaded an unprecedented number of the best and brightest of Hong Kong's legal practitioners to abandon their lucrative practice to join the bench. He has established regular and fruitful exchanges with the Judiciary in the Mainland and overseas. But above all, he has kept in touch with the sentiments of the ordinary men and women of our community, and taken every appropriate occasion to address their concern. As Chief Justice, he will leave an indelible mark in the annals of the history of the HKSAR.

We now look to the future. The Chief Justice has chosen to take early retirement. Speculations are rife as to the "real" reason. This is because the public is deeply worried that this signals an era in which judicial independence will gradually yield to the influence and intervention of Beijing. There is no doubt that the new Chief Justice will face challenges in the new era. But I believe the challenges have always been there, openly at times, but unceasingly as an undercurrent. This is inevitable given the fundamental difference between the two systems and the thinking and traditions underpinning them. And I believe that the new Chief Justice will rise to the occasion, as he continues to be supported by the high expectations of the community. Mr Geoffrey MA comes with the unanimous approbation of the Bar and the Law Society, and I am sure,

the good wishes of everyone of us in this Council, because we know how important it is to Hong Kong that he should succeed in upholding the independence of the Judiciary and the rule of law which stands between our rights and freedoms and tyranny.

Deputy President, with these words, I support the motion.

**MS EMILY LAU:** Deputy President, I rise to speak in support of the resolution moved by the Chief Secretary for Administration that Mr Geoffrey MA should be appointed as the Chief Justice of the Court of Final Appeal to succeed Mr Andrew LI, who will step down at the end of August.

As the Chief Secretary just said, the Chief Justice is the President of the Court of Final Appeal and the head of the Judiciary. He is charged with the administration of the Judiciary and the execution of various statutory powers and functions. This is a very important job, Deputy President.

Hong Kong has no democracy, but the people enjoy certain political freedoms. This is partly due to the people's vigilance in safeguarding their basic rights. Another key reason is the people's respect for the rule of law and an independent judiciary.

Because the Chief Executive and the Legislative Council are not democratically elected, they lack legitimacy and mandate. Under these circumstances, the Judiciary is often regarded as the last fortress of a free society, upholding universal core values such as personal liberty, freedom of expression and freedom of assembly. As the head of the Judiciary, the Chief Justice plays a pivotal role in defending the valuable attributes of a free society. Thus he must have high integrity, independence and the courage to defend his own convictions. Many people believe Mr MA possesses these qualities and have high expectation that he will be able to deliver.

Deputy President, 13 years after the change of sovereignty, Hong Kong is still regarded as a relatively free society, and one key reason is the independent Judiciary, which acts as a powerful check on the excesses of the executive authorities. Thus any erosion of judicial independence is a matter of grave

concern and I am confident Mr MA is aware of the people's aspirations as well as apprehension.

One reason why many people are worried is that senior Beijing officials have repeatedly questioned the notion of separation of powers. Last November, an official of the Hong Kong and Macao Affairs Office praised Macao for being constructive in co-ordinating the executive, legislative and judicial branches of Government. This has alarmed many people in Hong Kong and overseas.

Deputy President, as you well know, the separation of powers refers to a tripartite system whereby the executive authorities, the legislature and the judiciary act to check and balance each other in order to prevent abuse of power and excessive behaviour. Such a system has been the foundation of many democracies.

However, the authorities in Beijing are upset that Hong Kong Courts regularly overrule both executive and legislative branches by finding their actions unlawful. Some Mainland officials cannot accept that judges are not controlled by the executive authorities. They have even described this phenomenon as "judges ruling Hong Kong".

It is no secret that there has been a marked increase in the number of judicial review cases, in which litigants ask the Courts to examine whether an action or measure undertaken by the executive authorities, or a law passed by this Council, is in fact lawful both under existing statutes and under the Basic Law. On many occasions, the Courts have ruled that the executive branch and the Legislative Council have overstepped their authority. These rulings is an important manifestation of the doctrine of separation of powers and of the Judiciary's role in checking the authority exercised by the executive and by this Council.

Responding to criticisms by Mainland officials, the Chairman of the Hong Kong Bar Association, Mr Russell COLEMAN, defended the doctrine of separation of powers. He said the Judiciary is not part of the government team and its role is to check and control abuse of executive and legislative power. He said the Judiciary must stay free from pressure and interference and this very important point has been repeatedly emphasized by the current Chief Justice Mr Andrew LI.

The increase in the number of judicial review cases is a direct result of Hong Kong's severe democratic deficit. Faced with such a situation, many people decide to use judicial review as a mechanism to co-opt the Courts into making what are effectively policy choices which should normally lie in the domain of the democratic discourse.

If the executive and the legislative branches are democratically elected, it is likely that far less people would question their decisions in this way, and the Courts would probably have far less patience in dealing with such cases. After all, in a democratic society, if the people are unhappy about the Government spending \$67 billion on an express railway line, they can chuck the Government out of office in the next general election. But alas in Hong Kong, we do not have such luxury.

This explains why the Courts have become a proxy mechanism for checking government policies and public expenditure. This trend is anything but healthy because the Judiciary is being asked to make what are in effect political decisions. But given the constitutional conundrum, the Courts may have to continue to perform this exceptional role.

The new Chief Justice may not like it, but he has to accept this task which is a consequence of the very unsatisfactory and even infuriating political situation. In addition, the number of civil disobedience cases may also increase, as more and more people are impatient, and they decide to challenge the authorities in different ways. Many people expect the Chief Justice and the Courts to handle these cases patiently, impartially and fairly.

Apart from the unwelcome remarks by Beijing officials, many people have been unnerved by the surprise decision of the current Chief Justice to step down more than four years before reaching retirement age. When Mr LI made the announcement last September, it shocked the community. Some people said their confidence in the stability and independency of the Judiciary has been shaken. Although Mr LI said his resignation was due to personal reasons, many people suspect otherwise. I guess we will never know the real reason, but one thing is for sure — Hong Kong cannot afford another surprise resignation.

As for the new Chief Justice, Deputy President, I agree with the Chief Secretary that Mr MA is an outstanding lawyer with exceptional judicial,

professional and personal qualities. He is a man of high integrity and commands strong respect within and outside the Judiciary, and is held in high esteem by members of the legal profession. Leading the Judiciary in these challenging times is no easy task, but I am sure Mr MA will do his utmost to maintain and defend the credibility, integrity and independence of the Judiciary, uphold social justice and protect the rights of the downtrodden and underprivileged. In so doing, he will have the full support and the respect of many Hong Kong people.

Deputy President, I also want to take this opportunity to pay tribute to the current Chief Justice, who has served Hong Kong with distinction in the past 13 years. Many of us are very sorry to see him go, and would like to wish him a very happy and peaceful retirement. With these remarks, I support the appointment of Mr Geoffrey MA as Chief Justice.

**MR RONNY TONG** (in Cantonese): Deputy President, I have to make a declaration before I speak. I have known Mr Justice MA the first day he set foot on Hong Kong. We are good friends and have worked together in the same chamber for many years. As such, I have to declare our relationship.

Deputy President, when Chief Justice Mr Andrew LI announced his plan for early retirement last year, almost every one in Hong Kong was shocked. Deputy President, some colleagues and I have made comments about the choice of successor to the post of Chief Justice. These comments have invariably been mistaken by all media and some colleagues of the Legislative Council as an attempt to politicize the process of judicial appointment. Deputy President, I hope to take this opportunity to explain why I and so many legal practitioners, including my colleagues in this Council, have worries about the existing appointment system.

Deputy President, it is exactly because we do not want to see the appointment system of the Chief Justice be politicized that we have commented on the composition and operation of the Judicial Officers Recommendation Commission (JORC). Our objective is to ensure that the rule of law of Hong Kong will be safeguarded and more importantly, the independence and credibility of our Judiciary upheld. Deputy President, I must start with the historical background first. As far as I can recall, the Secretary for Justice (or the Attorney General before Hong Kong's reunification) has always been a member

of the JORC. Although the position, rank and functions of the Secretary for Justice have remained the same both before and after the reunification, his role has basically changed. Before the reunification, the office of the Attorney General as well as his relationship with the Government is similar to that of the Attorney General of the United Kingdom. As far as I know — I have also double-checked with Dr Margaret NG just now — the Attorney General of the United Kingdom is a non-cabinet minister. Although he has the right to attend cabinet meetings, he is, strictly speaking, more of an independent chief legal advisor to the Government and he is also officially (rather than spiritually, I would say) the leader of the Bar of the United Kingdom. Before the reunification, the Attorney General of Hong Kong was likewise the leader of the Bar officially.

However, honestly, I do not know since when this unwritten constitutional order has changed. It is quite evident that since the reunification, the office of the Secretary for Justice has changed fundamentally, especially since 2000 when Hong Kong implemented the so-called political accountability system and the Secretary for Justice became one of the governing team comprising three Secretaries of Departments and 11 Directors of Bureau. So far, Chief Executive Donald TSANG has been telling the people of Hong Kong very clearly that he will not allow people with different political views in his governing team. He must ensure that all members of the team, which of course include the Secretary for Justice, share his political ideas. In this respect, we can see that in the past few days or the last couple of weeks, a very awkward Secretary for Justice was waving his fist while chanting the slogan "Act Now" in the streets. Although I find his demeanor very awkward, this might well be an indication that he is not wholeheartedly committed to "Act Now". Nonetheless, from the eyes of the public, he is a member of the governing team and represents the political ideology of the Chief Executive. And this man is a member of the JORC.

Deputy President, apart from representatives of judges and the legal profession in the JORC, there are of course other members appointed by the Chief Executive. If I am correct, there should be another three members appointed by the Chief Executive. Together with the Secretary for Justice, there would be four members appointed by the Chief Executive in the JORC. My understanding is that these four appointed members do not have veto power in respect of either the nomination or the appointment of judges. However, as the operation of the JORC is neither open nor transparent, the people of Hong Kong

can never know for sure what sort of influence the Secretary for Justice and the other three appointed members have over the appointment of the Chief Justice or other judges during the discussion process.

As I have said before, our Secretary for Justice is a politically appointed official and has a political background. When someone with a political background sits on a committee in which its operation is neither transparent nor readily understood by all the people, the appointment proposals raised by the committee can easily undermine our judicial system. Both the people of Hong Kong as well as the international community would have considerable doubts over the integrity of our judicial independence.

Deputy President, today is the first time this Council endorses the appointment of a new Chief Justice since the reunification. That is exactly why we are gravely concerned about the composition and operation of the JORC at this historic moment. As I have said just now, our concern is the strong undertone of political influence both in the composition and operation of the JORC. Many of us in the legal profession consider that in order to clear up this undertone of political influence, the Secretary for Justice should not be a member of the JORC given his current political status. To a larger extent, the JORC should not have any ex-officio members so as to ensure its independence and that its recommendations are totally independent from political considerations and the SAR Government.

Of course, the most important point is, as Ms Emily LAU just ..... sorry, as Ms Emily LAU has just said, the SAR Government now is not democratically elected and the Chief Executive is not selected by universal suffrage. If the Chief Executive has enough mandate from the people, while it would still be a problem for the Secretary for Justice to sit on this committee, the extent may be not that serious. However, it is exactly because the SAR Government has no mandate from the people that I think, when its political thinking goes against the people of Hong Kong, there would be a problem to have a member of the governing team on the JORC.

Just as I said just now, luckily, this so-called "Act Now" campaign did not commence before the discussion surrounding the selection of the successor to the Chief Justice post. Otherwise, I think many people would have great reservation about the present appointment and nomination. Luckily, this so-called "Act Now" political campaign commenced afterwards. But there is no guarantee that

political problems would not arise when other judicial appointments are to be made. Hence, Deputy President, the comments I made when this issue first arose were not meant to politicize judicial appointments. Instead, I hope judicial appointments are to be kept neutral in accordance with our long-standing judicial independence. This is also a very important element in safeguarding the rule of law of Hong Kong.

Deputy President, I hope the SAR Government will seriously consider whether it is the right time now to review the composition and operation of the JORC and whether legislative amendments are necessary.

Deputy President, lastly, I would like to take the opportunity to say that I am very honoured to be acquainted with the current Chief Justice Mr Andrew LI and I respect him very much. Since the reunification, he has steadfastly guarded the gate of Hong Kong's judicial independence. Of course, I understand that he has personal considerations as regards his decision for early retirement. However, many people do feel disappointed about the change of Chief Justices at this moment. My only slight consolation is that Mr Justice MA that I know of would certainly try his best to stay committed to upholding judicial independence and safeguarding the rule of law, just like the current Chief Justice Mr Andrew LI. As to whether he can actually do so, let us wait and see. I hope that he can at least measure up to the current Chief Justice, or even fare better.

Deputy President, I support this motion. Thank you, Deputy President.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Deputy President, among the Members of the Legislative Council, I am the one who frequently go to the court. I have also met the two Judges, Mr Andrew LI and Mr Geoffrey MA. Once I lost the court case, but Mr Andrew LI awarded costs to my side because he considered that in my case, questions of unconstitutionality about the Public Order Ordinance were brought to the Court of Final Appeal for decision and as a result, legislative changes were made. This award was of course made at his discretion. And as Dr Margaret NG has just said, judges do not only work to uphold judicial independence or for the legal profession, they have to respond to

the concerns of ordinary citizens as well. This is a very plain example. This is particularly important when the legislature is manipulated by small-circle elections and hence, it becomes extremely difficult to make legislative changes. The power of the court to interpret the laws or the constitution is all the more important.

In fact, to be fair, the tripartite separation of powers can easily become bipartite, right? We all understand that it is a global trend that the relationship between the judiciary and the executive authorities is getting closer. I am deeply worried about this. Looking from another perspective, as far as I know, the conviction rate of the courts is very high in Hong Kong. The conviction rate of our magistracy is almost the highest in the world. For a place that still enjoys certain judicial independence, this conviction rate is indeed very high. I think the unsuccessful rate of judicial review cases at the High Court is also very high and in fact, the Judges responsible for judicial review cases have just been replaced. Of course, I have neither the evidence nor the qualification to doubt about the thoughts of judges, but when the Government or the "Grandpa" of the Government always proclaims that the Judiciary has to work in co-ordination with the executive authorities and the proclamation is made publicly, no one would dare refute.

Under the chilling effect, if, occasionally, an important person suddenly comes to Hong Kong and makes a proclamation — if he is making a speech in a faraway place, I can surely ignore it, for example, this man RAO Geping, I flatly refuse to buy his book and pay no attention to him; yet this time, it is Mr XI Jinping who comes to Hong Kong to expound that notion, does the society have any reaction? Do our judges have any reaction? All the more so, does Mr Geoffrey MA, who is likely to become the Chief Justice, have any reaction? Dr Margaret NG also mentioned in her speech that the Chief Justice should not only rule in the Court. He should seek to establish deeds of virtue, speak words of wisdom and achieve deeds of merit. In the Court, making sound judgments may render meritorious service. However, he should also establish deeds of virtue and speak words of wisdom. In other words, when the society expects him to be the head of an organization independent of all public powers, can he interpret the rule of law from his perspective? I think there were ups and downs in the past 13 years. Firstly, there were TUNG Chee-hwa and Donald TSANG who repeatedly "played foul" or "acted foul". Whenever they "played foul" to seek

an interpretation from the National People's Congress (NPC) on the Basic Law, the community reacted with a sense of helplessness. I have also heard people saying that in future, there will be an interpretation on universal suffrage, that is, to give an interpretation on what is meant by universal suffrage.

Unfortunately, I heard that QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of NPC (NPCSC) had used the expression "as I understand" in his speech yesterday. The expression is worth noting. What does he understand? He is the Deputy Secretary-General of the NPCSC and what he does he mean by saying "as I understand"? For what he said, I think his understanding comes from a man named RAO Geping, a member of the Committee for the Basic Law of Hong Kong and a professor. What is RAO's understanding of universal suffrage? In the last page of his book, GAO also said "I think" and it turns out that his understanding of universal suffrage is only limited to the universality and equality of the right to vote and it has to be restricted in the context of the current international scene. However, he has not explained why there should be restrictions and why all provisos cannot violate the principles of universality and equality, that is, no restrictions can violate the principles of universality and equality.

Now, Hong Kong is like this: the Legislative Council of Hong Kong is a sick legislature and the Government is a sick government. Then, can our Judiciary be the gatekeeper? I have doubts about that. Can the present Judiciary act in the same way as it did soon after Hong Kong's reunification? At that time, the Chief Justice Mr Andrew LI stated that if the Central Government had acted unconstitutionally, the Court of Final Appeal could rule on that, and that the Court of Final Appeal should have the right of interpretation. I agree with what he said. If the NPC does not like his interpretation, let the NPC make its own interpretation on the Basic Law! However, it seems that this part has gone now and the question has become outstanding.

In other words, what is the picture that I see? That is a picture of the law enforcement agencies acting without bounds. In the case of confiscating the Goddess of Democracy Statue, we see the arrogance of the law enforcement agencies and their distorted interpretation of the laws. In Chinese terminology, we call this "枉法" distorting the law". First, distort the law, then abuse the power. Can the courts guard the gate? In other words, if someone applies for leave to apply for judicial review or makes a civil claim against the Government

as regards the confiscation of the Goddess of Democracy Statue, can the High Court guard the gate? I have great doubts, especially at this sensitive moment when Mr XI Jinping has already said that separation of powers should be interpreted according to the "notion of co-ordination". Secretary for Justice WONG Yan-lung, who monitors the Judiciary on behalf of the Government and is the chief legal adviser, has said nothing about it or has condoned tacitly. Our judges cannot be criticized without reasons and hence, I am honestly quite worried. I know what I am saying and I do not think it will have any impact on Mr Justice MA for I will likely meet him in future. But I must say this clearly here that I have great reservation about this appointment.

Regarding the question raised by Mr Ronny TONG, there is a fundamental difference. In the United States, the nine Justices of the Supreme Court are vetted by the Senate. If a nomination is not passed, other candidates would be identified. What sort of legislature is this Council? In this Council, half of the Members are not returned by direct elections and its monitoring power is very weak. In other words, the Government has to shoulder its own responsibility for the public's expectation on its accountability, that is, after the careful selection process by the Government, the judges it selected and appointed should have the highest regard of the community.

Just now, Mr Ronny TONG said that the current situation is not like this because the Government has adopted the guiding ideology that the judiciary should co-ordinate with the executive authorities. I do not meant to treat the Government unfairly by saying so, Chief Secretary for Administration Henry TANG. It is because when XI Jinping made his statement, nobody from the Government has responded and Henry TANG just smiled as he is now. Therefore, Mr XI Jinping thought that such practice was feasible, that is, the notion of "One Head, Three Secretaries, Twelve Lives" was feasible. The Chief Executive made no comment, the Chief Secretary for Administration only smiled and Secretary for Justice WONG Yan-lung also smiled. I do not know whether Secretary John TSANG had smiled, or he might also thank Mr XI Jinping for speaking so loudly. I think this worry of mine is fair. Therefore, if we are talking about the candidate himself, what powers do I have to stop Geoffrey MA from being appointed? No one can stand in his way. However, if the system itself does not change, what should be done then?

Secondly, as Dr Margaret NG has said, Mr Geoffrey MA should make a speech. This is a major issue. He should talk about his thinking on Mr XI Jinping's legal viewpoint and Mr RAO Geping's constitutional viewpoint, as well as his views on the following issues: the contributing factors for our high conviction rates and for the low successful rate (from private litigants) of judicial reviews at the High Court; the increasing difficulty to apply for legal aid; the market-like situation at the magistracies where most defendants do not know they can get legal representation by duty lawyers, and even if the defendant is represented by a duty lawyer, the duty lawyer is too busy in doing business to provide good service; and the criticisms made by judges on the language skills and legal knowledge of some lay prosecutors who are high school graduates without formal legal training. Given all these, a Chief Justice should not, as Dr Margaret NG said, just work within his profession and his office, he has to express his opinions about the expectations and worries of the ordinary men and women of our community, just like the expectations and worries of the insignificant me.

Although I cannot stop his appointment today, I hope Mr Geoffrey MA can, if he does have a chance to see what has happened now, illuminate me on his opinions about the above issues and whether some concrete reforms are required. I hope he can also respond to Mr Ronny TONG's question as to whether reforms are needed in respect of the method and system of appointing Chief Justice.

Deputy President, I speak on behalf of myself and the League of Social Democrats.

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

**MR ALBERT HO** (in Cantonese): Deputy President, Ms Emily LAU has elaborated on behalf of the Democratic Party our viewpoints on this motion on appointment.

The Democratic Party supports the appointment of Justice Geoffrey MA as the Chief Justice of the Hong Kong Court of Final Appeal (CFA), and the few serving Justices of Appeal of the Court of Appeal as mentioned in the motion as non-permanent Hong Kong judges to the CFA. I just want to take this

opportunity to say briefly that, during the 13 years of implementing the "one country, two systems" since the reunification, the tension caused by the "two systems" could be felt by us in the local political circle and by many people in the community, in particular the legal profession. We all felt the immense political pressure resulted from exercising the power of interpretation of the Basic Law on several occasions by the Standing Committee of the National People's Congress (NPCSC), and particularly the decision in 1999 was widely considered — I also find it hard to believe the consequence of such a decision, that is, the final judicial decision made by the CFA on the right of abode issue was overturned. As a result, many people, including the international community, questioned if the power of final adjudication vested in the CFA is comprehensive.

In fact, the exercise or a possible exercise of the power of interpretation does pose a serious threat to the integrity of the independent judicial system and the rule of law as a whole. Despite our numerous attempts to request the Hong Kong Government to seek clarification from the Central Government on the possibility of regulating the exercise of NPCSC's power of interpretation by way of authorization or established convention, with a view to providing the procedures necessary for consulting the local judicial or legal profession before a decision to seek interpretation is made, no response has been received so far. In other words, the power of interpretation may be exercised when the legal proceedings are about to initiate, underway or even concluded. In fact, all three scenarios have happened before.

There has been a case of interpreting the remaining term of office of the Chief Executive. I recalled that at that time, before the case concerning the judicial review sought by Mr Albert CHAN amidst the arguments in Hong Kong was heard in court, an interpretation of law was made and the case was soon concluded. The court does not need to adjudicate the case, and the relevant parties do not need to interpret the five steps. Even after an interpretation has been made, there is no way Hong Kong can seek legal interpretation. We opine that the exercise of such power will exert great pressure on our judges and judicial system, not to mention the viewpoints frequently expressed by central officials outside the system, such as the need for tripartite co-operation. There is even a saying that too many judicial review cases would give an impression that judges are ruling Hong Kong. I believe such a remark will upset the legal profession. Fortunately, so far our overall impression is, Hong Kong's judicial

system is relatively independent and intact, while judges are committed to upholding the rule of law.

However, we cannot deny that there are still concerns and anyone who is concerned about the rule of law should be vigilant. Today, I am taking this opportunity to reiterate that Members of this Council who are concerned about judicial or legal issues should at least firmly safeguard one of the most important core values in Hong Kong, namely the rule of law and judicial independence. This is our perseverance.

Actually, not only constitutional issues will lead to interpretation of the Basic Law, the application of the Bill of Rights will also challenge the Central Government's so-called authority or status, and freedom of the people of HKSAR. The national flag case, the first case after the reunification, concerned whether the desecration of the national flag should be criminalized. Should the desecration of the national flag not be regarded as a criminal offence if that was an act to manifest the freedom of expression and was done by peaceful means? As a result, there had been much controversy over the Bill of Rights at that time. As we all know, the case was ruled by the CFA in the end. Much to my disappointment, the CFA reversed the judgment of the Court of Appeal, stating that the desecration of the national or regional flag by peaceful means was still regarded as a criminal offence, and was in line with the Bill of Rights. I was disappointed about this.

Fortunately, certain decisions subsequently made by the CFA have somehow boosted our confidence. For example, some Falun Gong followers who staged a peaceful sit-in demonstration outside the Liaison Office of the Central People's Government in the HKSAR were charged with causing street obstruction, and later, they were charged with assaulting police officers when being removed. After going through prolonged legal proceedings, even to the Court of Appeal and the CFA, the final conclusion was that the group of Falun Gong followers had reasonably exercised their freedom of expression, and the inconveniences sometimes caused should be tolerated in this open society. Hence, their peaceful sit-in demonstration was ruled as an exercise of legal rights, and their relatively not too violent resistance against being removed by the police to deprive them of such legal rights should therefore be protected by law. As a result, they were all acquitted.

I think every single case is important to members of the public and people who are concerned about the rule of law, for each case will shed light on whether our Judiciary is genuinely independent, or whether it has displayed a sense of righteousness and courage. Furthermore, I wish to mention in passing — but this is not in any way related to the CFA — the issuance of an executive order by the Chief Executive to regulate covert surveillance operations had coerced Mr LEUNG Kwok-hung into assuming the role of a barrister, who persistently sought judicial review and finally won the case. The executive order was then declared to have no effect.

The purpose of citing these examples is simply to highlight that politics and law are inevitably inseparable. When politics is viewed from a very narrow angle, it refers to power struggle or the struggle among different parties and affiliations, and certainly, no courts would like to handle such cases. And yet, in our present-day society, political concepts are often manifested in laws, giving rise to conflicts between the freedom of private rights and public rights, and that involves the protection of individual rights and our proposed control and challenges relating to the abuse of public rights. Nowadays, judges often have to deal with such litigations in courts, so they must be dedicated and free from their old mindset. More than a decade or two ago, there were judges who indicated a lack of interest in politics, pointing out that matters relating to the Bill of Rights involve politics, but judges were merely obliged to interpret the law and did not wish to get involved in politics. Nonetheless, this is not the case in modern society, especially after the introduction of the Bill of Rights, which really involves a lot of legal concepts of jurisprudence and rights. With these new developments, the courts, in particular the CFA, has become an extremely important institution, as the protection of individual rights under the rule of law is indeed a holy mission. I am confident and I eagerly hope that the courts will remain dedicated amid growing pressure, not only to protecting the rights enjoyed by all individuals guaranteed by the Bill of Rights and international conventions, but also controlling the abuse of public rights by courageously applying the principles of law. Here, I hope that Justice MA will fulfil his duties faithfully in the days to come, and live up to the expectations of the general public and the legal profession.

Last of all, like many other colleagues, I have to pay tribute to Chief Justice Andrew LI and hope that he will, upon retirement, use his judicial experience and

rich legal knowledge to further promote legal education and get more involved in this regard, with a view to consolidating Hong Kong's culture of the rule of law.

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

**MR PAUL TSE** (in Cantonese): Deputy President, first, I have to make a declaration of interest. I have been the litigant in two and a half proceedings before Mr Andrew LI, the Chief Justice, and I have been the litigant at least once before Justice Geoffrey MA. However, these experiences definitely will not affect nor are related to the content of my following speech.

Just now, I have heard the views or expectations expressed by a number of colleagues on the two Justices, and I would like to add a few points here. First, I will respond to the views expressed by Mr Ronny TONG earlier that he opposed or has reservation about the participation of the Secretary for Justice in the Judicial Officers' Recommendation Commission (JORC). Surely, in certain aspects, the appointment of the Secretary for Justice in the present situation of the HKSAR is of an extremely political nature. But let us look at the JORC again. Members all know very well that apart from the incumbent Chief Justice, the JORC comprises several other specified persons, which include the Secretary for Justice and another seven ex-officio members appointed by the Chief Executive, which include justices, barristers and solicitors. Primarily, as far as I understand, the influence that the Secretary for Justice can exercise is only limited to the single vote he has. Insofar as the current composition of the JORC is concerned, I think in society of Hong Kong today, it is necessary for the Secretary for Justice to express his values in his capacity, and reflect the position of the Government to the public. Therefore, it is necessary that the appointment should have representativeness.

I would like to point out in particular that at present, certain values expressed by the justices or judges of the CFA in trying cases cannot very often be detached from politics, reality or society. In this respect, I agree with Mr Albert HO that judgment can hardly be made in a vacuum state. Why do I say so? Deputy President, the answer is simple. At the level of the CFA, it does

not only make judgments according to the law, but to a certain extent, we can say that it enacts laws. The reason is that for certain cases, there is basically no right or wrong. Take homosexuality as an example. Who is right and who is wrong? In the case of legalization of abortion, who is right and who is wrong? In respect of these values, societies will have their own choices, which may be reflected by voting or through appointments. Different presidents or ruling parties may appoint people holding similar values as theirs, and take the opportunities to reflect their values to the judiciary departments. However, Hong Kong as a region ..... Certainly, at present, Hong Kong has a relationship with the Central Authorities and is related to it under certain circumstances. But apart from this, in most circumstances, the CFA in Hong Kong is the guardian of our social values, which reflects how society should handle certain issues or reflects to society how certain issues should be handled. In this respect, Members should not be so naïve to think that cases are tried by judiciary departments or the CFA in accordance with laws alone. In reality, they reflect their values every time.

Regarding the judgments of the CFA, traditionally, the people of Hong Kong give great respect to the judgments of the court. No matter they win or lose their case, they will say that they respect the judgments of the court. This should be a correct attitude. However, giving respect is one thing, we should not completely give up adopting a critical attitude to examine whether the directions and judgments of the court can reflect the values that the Hong Kong society as a whole should have or reflect our established values. In my view, society as a whole is now monitored by the media, but we very often give the judiciary a way out and we dare not touch this area. This is not necessarily the best option for the development of Hong Kong society as a whole. After judges have made judgments, we will say that we respect these judgments and we dare not touch on this issue. In fact, it is sometimes necessary to examine, reflect or criticize the judgments of the judiciary in an appropriate manner and with justifications.

Deputy President, in passing, I would like to mention one point which I have to get it out of my chest. According to my understanding, and as reflected to me by many veteran predecessors, under the framework of the Basic Law of Hong Kong, for example in Article 82 which is related to the composition of the

CFA, the practice adopted since the establishment of the CFA seems to anticipate or take for granted that a non-local judge and a judge of a common law jurisdiction will be involved in the adjudication of cases. Let me read out Article 82: "The power of final adjudication of the Hong Kong Special Administrative Region shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal." I have to emphasize the phrase "as required". As far as I understand, during the drafting of the Basic Law, the drafters thought that the arrangement would only be made as required. However, I notice that upon the establishment of the SAR, a non-local judge will be involved in every case handled by the CFA. What are the merits and demerits of such an arrangement? Certainly, the merit is that Hong Kong can dovetail with other countries adopting the common law system, particularly in learning from court precedents of certain more advanced countries or countries we considered more aggressive, such as the United Kingdom, and even Australia and New Zealand. But the down side of the arrangement is that these judges have their own social values and background, and their views may reflect their own social values. In this connection, rightly as I said before, when a case comes to the level of the CFA, it does not simply involve the examination of the cases, but the enactment of laws or the formulation of the values of Hong Kong. Regarding this point, I think when the new Chief Justice takes office, he should indeed examine this practice seriously and see if it violates the original intention of the Basic Law. Is this a wrong practice that people have got accustomed to, which indeed differs from the original intention of the Basic Law? People's views may vary, but I consider it necessary to review Article 82.

The second point I consider it necessary to bring up is that ..... If my memory has not failed me, in the earliest period, Magna Carta has already pointed out that in deciding whether a person should be convicted or imprisoned, that person has to be stand trial before his peers who have the same background. I would like to use this to bring out the issue on the jury system. At present, many serious criminal cases are handled in district courts in Hong Kong without a jury. Actually, in a developed society like Hong Kong, if we have to deprive a person of his freedom for seven years, which is a very serious consequence to him, why can we not develop a proper system to introduce juries at district courts? In this connection, we are lagging far behind the United Kingdom, where a jury system has been put in place to handle this type of cases, from trial to conviction. I hope that the judiciary department will promote the

development in this respect when the opportunity arises, particularly when the new official takes office.

Thirdly, to complement what I have said earlier, I would like to bring out the issue on values. All along, the courts tend to be conservative, and they are not quite willing to open to the media and subject to monitoring to a great extent. Surely, in most of the circumstances at present, some procedures are reported and followed up by the media and reporters. The follow-ups or observation on site is a kind of invisible monitoring, which is of great importance. The procedures of the Legislative Council are a case in point, for the public may stay at home leisurely and know what is going on at the Legislative Council. In many countries, the media is allowed to broadcast certain procedures, but Hong Kong is extremely conservative in this respect. I once have a chance to have exchanges with a number of senior justices now in position on the development in this respect, and they seemed to have much reservation about this. I just want to point out one thing, that is, if we wish to see further development in judicial procedures, quality of the administration of justice, and even the recognition of the administration of justice by the public, the above arrangement is a direction worth considering. In respect of certain important cases, the authorities may consider opening the Court in a suitable or gradual manner to the media to make direct broadcast. By doing so, all members of the public will have more opportunities to understand and learn about the judicial procedures. I think this is a direction the authorities may consider.

I would take this opportunity to point out one issue. We often think that judges will adjudicate according to justifications, principles and laws. It is right to think so, but judges are after all humans, and humans will first adjudicate according to their hearts. And when it comes to one's heart, it is a matter related to one's upbringing, values, habits and opinions, and even preferences. So given that judicial officers are human, we cannot say that it is absolutely unnecessary to monitor them or comment on their performances. If we hope that the judiciary system or society as a whole can tally with the prevailing values, and if we wish to have a more desirable and reasonable judiciary system, I think we have to strive for improvement in monitoring and commentary, which include the monitoring by the media and the attitude adopted by the public, as I said earlier. As for judicial judgments, we do not necessarily have to accord respect or consider them absolutely correct, we should give comments in a rational manner via suitable means, so that our judiciary system will improve. I would like to

make a wish here that the new official will bring about improvement in this respect upon his assumption of office.

Like other colleagues, I would like to take this opportunity to wish Mr Justice Andrew LI a happy retirement life. I also hope that Mr Justice Geoffrey, upon assumption of office, will bring progress to the judiciary in Hong Kong, so that the public will be provided with the protection they entitled, the values of society of Hong Kong as a whole will be more properly guarded and that greater progress will be made in the training of all judicial officers as well as in the judicial system. Thank you, Deputy President.

**MS AUDREY EU** (in Cantonese): Deputy President, first of all, I would like to declare that I have known Mr Geoffrey MA for many years. His wife was my classmate when I was studying law at the university. Hence, I am well acquainted with his family.

I do not want to repeat what Dr Margaret NG, Mr Ronny TONG, Ms Emily LAU and Mr Albert HO have said just now. However, Deputy President, I would like to take this opportunity to remind the people of Hong Kong what has happened recently, that is, the incident in relation to the confiscation of the Goddess of Democracy Statue by the Food and Environmental Hygiene Department and the police. Deputy President, why do I mention this incident in particular? Because we have not seen the Secretary for Justice come out and say a word about this. The Bar Association has voiced its views that such an act is against the rule of law.

Deputy President, why do I mention this incident in particular? Because I want to remind the people of Hong Kong that the laws of Hong Kong can become tools of suppression at any time. In this incident, the legislation cited by the authorities for confiscating the Goddess of Democracy Statue was the Places of Public Entertainment Ordinance. The police claimed that the display of the Goddess of Democracy Statue in Times Square has violated the said legislation because the concerned parties had not applied for a licence. Hence, this incident is telling us that while there is the rule of law in Hong Kong, it is invariably upheld not by government officials but practicing barristers as in this case, the

statement made by the Bar Association. And if things should happen, it will be upon the Court to give a fair judgment.

Why do I mention this in particular? Because by coincidence, the court in the Mainland has handed down its judgment on the appeal case of TAN Zuoren today. TAN was detained and subsequently indicted on charges of subversion of state power because of his investigation into the shoddy construction of Sichuan schools and his articles about the June Fourth Incident. His appeal was rejected today and the sentence of five years' imprisonment was upheld. Hence, we should never think that the high degree of freedom or the rule of law we enjoy is a natural or easy thing to come by. In fact, the rule of law must be upheld by our judicial system as well as the people of Hong Kong, and it would of course, include certain legal practitioners.

Hence, Deputy President, I must put in a special word for our new Chief Justice Mr Geoffrey MA today on this issue. I hope he can fearlessly make his judgments in accordance with law and the spirit of justice so as to let the people of Hong Kong see that our rule of law is still intact under the principle of "one country, two systems". No matter how many cases having political implications go to the court, he can still defend the rule of law of Hong Kong. No matter how much rain and wind out there, or how much noise created by those in power, or how much criticism lashed from those with influence, the Hong Kong Judiciary can still stand firm to uphold the rule of law under the leadership of Mr Geoffrey MA, whenever these people try to denounce the separation of powers and our judicial independence. I would also like to thank the outgoing Chief Justice Mr Andrew LI for his continuous efforts to uphold the rule of law and the spirit of "one country, two systems" all these years after Hong Kong's reunification.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, I thank members for their support for the motion, and for views expressed.

The Administration does not agree with the view of some Members that the membership of the Secretary for Justice in the Judicial Officers Recommendation Commission (JORC) would undermine the independence of the JORC. The Secretary for Justice is only one of the nine members of JORC and does not have veto power in JORC. Besides, his politically appointed status does not prevent him from being able to "freely and without fear or favour, affection or ill-will, give his counsel and advice to the Chief Executive in connexion with all such matters as may be referred to the JORC under the JORC Ordinance", in accordance with the oath taken by him on appointment as a member of JORC. Similarly, there is nothing in the political appointment system which would undermine the principle of exercising judicial power independently by the courts of the Hong Kong Special Administrative Region as entrenched in Article 85 of the Basic Law, or the integrity of the judicial appointment process provided for in the Basic Law.

I would also like to point out that as guardian of the public interest in the administration of justice and upholder of the rule of law, and as the principal adviser on legal matters to the Chief Executive, it is appropriate for the Secretary for Justice to be involved, as a member of the JORC, in making recommendation to the Chief Executive on judicial appointments.

Besides, as the head of the Department of Justice, which employs a large number of lawyers and briefs out a great deal of work to the private sector, the Secretary for Justice is in a unique position and has considerable knowledge to contribute to the JORC's deliberations in respect of judicial appointments.

The Administration is of the view that the ex-officio membership of the Secretary for Justice in JORC should continue.

An independent Judiciary has been and will remain a cornerstone of Hong Kong's stability and prosperity. The people of Hong Kong have high expectations of the Judiciary in upholding the rule of law, ensuring the fair and efficient administration of justice and safeguarding the rights and freedoms of the individual. I am confident that Mr Justice MA will discharge his duties as head of the Judiciary with distinction.

I invite members to endorse the appointment.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Second motion.

I now call upon the Chief Secretary for Administration to speak and move his motion.

**PROPOSED RESOLUTION UNDER ARTICLE 73(7) OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND SECTION 7A OF THE HONG KONG COURT OF FINAL APPEAL ORDINANCE**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, I move that this Council endorses the appointment of the Honourable Mr Justice Robert TANG Ching, the Honourable Mr Justice Frank STOCK and

the Honourable Mr Justice Michael John HARTMANN as non-permanent Hong Kong Judges to the Court of Final Appeal (CFA).

The CFA is the final appellate court in Hong Kong, hearing both civil and criminal appeals. It consists of the Chief Justice and the permanent Judges. Non-permanent Judges may be invited to sit. At present, there are 14 non-permanent Judges. Three of them come from Hong Kong and 11 come from other common law jurisdictions.

When hearing and determining appeals, the CFA is constituted by five Judges, which include the Chief Justice, three permanent Judges, and one non-permanent Hong Kong Judge or one Judge from another common law jurisdiction.

As mentioned earlier when I moved the motion on the appointment of the Chief Justice, the Basic Law and the Judicial Officers Recommendation Commission (JORC) Ordinance (Cap. 92) require that Judges of the Courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of the JORC and that the Chief Executive shall obtain the endorsement of the Legislative Council in the appointment of Judges of the CFA.

The JORC has recommended to the Chief Executive the appointment of Mr Justice TANG, Mr Justice STOCK and Mr Justice HARTMANN as non-permanent Hong Kong Judges to the CFA.

The curriculum vitae of the three Judges have been set out in the Administration's paper issued to the Legislative Council on 8 April 2010. Mr Justice TANG has great experience in the civil field and had a very successful civil practice. He was appointed as a Judge of the Court of First Instance of the High Court (CFI Judge) in April 2004, and was appointed as a Justice of Appeal of the Court of Appeal of the High Court and Vice-President of the Court of Appeal in January 2005 and November 2006 respectively.

Mr Justice STOCK was appointed as a CFI Judge and a Justice of Appeal of the Court of Appeal of the High Court in May 1992 and October 2000 respectively. He was appointed as Vice-President of the Court of Appeal in July

2009. Mr Justice STOCK has considerable experience in both criminal and civil cases and has considerable expertise in the growing area of public law.

Mr Justice HARTMANN was appointed as a CFI Judge in March 1998 and was elevated to Justice of Appeal of the Court of Appeal of the High Court in September 2008. Mr Justice HARTMANN has rich experience and expertise in a number of specialized areas of the law, namely family, public and constitutional law.

The three Judges are outstanding lawyers who have considerable experience in handling criminal and civil cases. The Chief Executive is pleased to accept the recommendation of the JORC. Their appointments will increase the number of non-permanent Hong Kong Judges from three to six and will provide the much-needed flexibility in deployment to deal with the caseload of the CFA. Subject to the endorsement of this Council, the Chief Executive will make the appointments.

In accordance with the procedures previously endorsed by the Legislative Council, the Administration informed the House Committee on 8 April 2010 that the Chief Executive had accepted the recommendation of JORC on the appointments. Representatives from the Administration and the Secretary to the JORC attended the meeting of the Subcommittee on Proposed Senior Judicial Appointments set up under the House Committee on 4 May and responded to members' questions. The Subcommittee supported the proposed appointments.

Regarding the concerns of some members over the existing mechanism whereby serving Justices of Appeal of the Court of Appeal of the High Court can be appointed as non-permanent Hong Kong Judges to the CFA, I would like to point out that the existing mechanism is in line with the relevant provisions of the CFA Ordinance (Cap. 484). I understand that the issue will be discussed by the Panel on Administration of Justice and Legal Services later. The Judiciary and the Administration would be pleased to provide relevant information to the Panel to facilitate its discussion.

I invite members to endorse the appointments.

**The Chief Secretary for Administration moved the following motion:**

"RESOLVED that the appointment of —

- (a) the Honourable Mr Justice Robert Tang Ching;
- (b) the Honourable Mr Justice Frank Stock; and
- (c) the Honourable Mr Justice Michael John Hartmann,

as non-permanent Hong Kong judges of the Hong Kong Court of Final Appeal pursuant to section 8 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) be endorsed."

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

**DR MARGARET NG:** Deputy President, the Subcommittee has unanimously supported the endorsement of the appointment of the three judges as non-permanent judges (NPs) of the Court of Final Appeal (CFA). We have no reservations as far as the suitability of the candidates are concerned. They are plainly of high standing and impeccable integrity. However, we are deeply concerned about the policy of appointing serving justices of appeal to double-up as NPs of the CFA.

As stated in greater detail in the Subcommittee's report to the House, the concerns are threefold:

First, such a practice will obfuscate our three-tier judicial process, and undermine the public's confidence that when they appeal to the CFA, their case will be considered objectively and afresh by a higher court than the Court of Appeal (CA).

Historically, the Hong Kong CFA replaces the Judicial Committee of the Privy Council. To achieve this purpose, the CFA must command not only the

highest quality appropriate to a final appellate court. The geographical distance and completely different personnel of the Privy Council cannot readily be reproduced in Hong Kong's physical environment, when the CFA is almost at our doorstep. This makes it all the more important to maintain a separation of the judges who serve on the different levels of the Court.

Secondly, members of the Bar who practise before our criminal courts have long cherished the belief that they can persuade the CFA to take a fresh look at the issue and come to a different view from the High Court, where the judges appear to share a common and intransigent view. These members of the Bar are concerned that this valuable opportunity will be diminished by a policy of CA judges "doubling up" in the CFA.

Thirdly, members of the Bar and the Law Society have expressed doubts as to whether this policy will solve problems of court administration or aggravate them. The administrative problem arises because at present we have few NPIs who reside locally to make up the panel for a hearing before the CFA, and "doubling up" will provide a bigger available pool. However, with doubling up will come greater potential conflict. Not only will the new Chief Justice rescue himself from hearing appeals from the judgments of his wife, Madam Justice YUEN, each of the "doubling up" CA judges will be disqualified from cases they have heard in the Court below. This will add complication and uncertainty, and at the end of the day, the disadvantages may more than cancel out the advantages.

Deputy President, the Subcommittee considered that these are matters of general policy which should be followed up in the Panel on Administration of Justice and Legal Services. We also considered that section 16 of the Hong Kong Court of Final Appeal Ordinance can barely be met with the minimalist establishment of the CFA. At the time when the Ordinance was enacted, the present caseload was not envisaged. The judgments are almost bound to be of great importance to the understanding and development of the law in Hong Kong, and judges should be allowed a proper timeframe to give their judgments. This is perhaps the right time to consider whether more permanent judges should be appointed, for example, to allow two panels to hear appeals at the same time.

Finally, the Ordinance does not provide, as a legal requirement, that a panel should include an overseas NPI. It is merely a practice that an overseas NPI is included. Overseas NPIs have proved to be invaluable in keeping our courts

abreast with new developments in jurisprudence in other common law jurisdictions, and have acted as great catalysts in our own development. Every effort should be made to ensure that this practice will continue. I hope that in the era to begin under the new Chief Justice, prestigious jurists will continue to be appointed to serve our CFA.

The Judicial Officers Recommendation Commission (JORC) is provided by the Basic Law and is part of Hong Kong's constitution. This has wide public support. But the composition of JORC is not uncontroversial; in special, the appropriateness of the membership of the Secretary for Justice has been repeatedly questioned by the Bar and some of the Members of this Council. Not only is he a political appointee. Increasingly, his high political profile is putting the impartiality and non-political nature of JORC in question. This Council's conscientious avoidance of politicizing the process of judicial appointment will be wholly undermined if the Secretary for Justice remains as a member of JORC.

Today is not the occasion to go into these important questions, but a marker must be put down here and now.

With these remarks, I support the motion.

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

**MR RONNY TONG** (in Cantonese): Deputy President, during our deliberation, I have also expressed some views similar to those mentioned by Dr Margaret NG, Chairman of the Subcommittee in her speech. I would like to take this opportunity to explain why we have reservations about this system.

Deputy President, I have to declare my interest before I speak, that is, I know all three Judges well, particularly Mr Justice Robert TANG Ching. We have known each other for years. We were acquaintances soon after I came back from England, and we are good friends.

My speech today is definitely not questioning the qualifications or integrity of the three Judges, but I consider that the system need to be improved, and I also hope the Secretary for Justice will take my views into careful consideration.

Deputy President, generally speaking, I think the selection of some Judges of the Court of Appeal (CA) to become non-permanent Judges of the Court of Final Appeal (CFA) undesirable in principle in three areas. I would not say there are defects, but at least there are rooms for improvement.

First, Deputy President, there are obvious differences insofar as the mindset of CA Judges and that of CFA Judges is concerned. The mindset of CA Judges is to maintain the appropriate enforcement and application of the law; whereas for CFA Judges, when they handle cases, their mindset is to develop the law whenever necessary, required or appropriate, and may even have to formulate some new approaches towards the law. Therefore, their mindsets are completely different. If a Judge, whose daily routine work is to enforce or apply existing law, is suddenly required to take up the duties of a CFA Judge whose duty is to consider expanding the boundary of the law, he may encounter difficulties. Hence, regarding the timely expansion of the boundary of law, they may not be suitable to take up such roles in terms of their preparations and mindset.

The second argument is the question of human nature. Deputy President, the CA is not a big circle, in fact, it is a small circle with only a dozen people or so. We can envisage that their relationship is very close, and they meet every day. I have served as a deputy judge for many times, and I understand that very often, Judges will discuss among themselves the cases being heard by them, or they may engage some counsels or barristers appearing in courts in casual conversation about the cases. Sometimes, Judges may even seek advice from other Judges concerning a particular case or a particular issue. Many of them will have this kind of informal exchanges frequently. For some controversial or sensational cases, it is inevitable that Judges will discuss among themselves. Once they have joined in the discussion, they are disqualified to serve as CFA Judges to hear the related case. Therefore, there are not many chances for non-permanent CA Judges to hear CFA cases.

The third point, Deputy President, is also a question of human nature. If you are in such a small circle every day, and all of a sudden, you are asked to join the CFA tomorrow, and perhaps you have to severely criticize your fellow Judges, it would be rather difficult for many people. They may have to make some accommodations in making judgments. I am not saying that such a

situation will arise among these three Judges, we are just trying to point out the not-so-perfect side of the system.

Deputy President, if we say we have no other alternatives, many people will think that since these are not entirely legal problems, therefore they can be acceptable. But I think these problems can be avoided. The only thing we need is the allocation of more resources to the Judiciary, especially for the purpose of maintaining judicial independence. If we have more resources, we can have sufficient professionals to fill these positions. What we lack now are resources. If the Government attaches great importance to the rule of law, it should allocate sufficient resources to make our judicial system complete and perfect, and problems I have just mentioned can be avoided. For those ordinary people in society who do not know the judicial sector well, they may cast doubts on the independence of the Judiciary because of these problems. This is what we are trying hard to avoid in the course of manifesting the rule of law.

In order to make Hong Kong a better society ruled by law, a major factor is to convince every member of society that we can, undoubtedly, attain judicial independence and impartiality. Only by so doing can the rule of law be upheld and manifested. If these problems can be avoided through the allocation of resources, I think the Government should try its best to put in more resources, so that problems related to human nature and those which are hard to avoid as I have mentioned just now will not occur.

Thank you, Deputy President.

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

**MR PAUL TSE** (in Cantonese): Deputy President, I would also like to make a declaration. I know the three Judges. They tried cases in which I was a party and I also had dealings with them when I handled other cases. I would like to state again that the speech I am going to make has nothing to do with the above background which I have mentioned.

Mr Ronny TONG's earlier speech has proven to a certain extent the point I have made and that is, Judges are human and they have problems related to human nature. I agree completely with Mr Ronny TONG and Dr Margaret NG that Judges of the Court of Appeal should not double up as Judges of the Court of Final Appeal (CFA), because we have reservations on the factor of human nature. Members have heard Mr TONG say that Judges would sometimes have some unofficial exchanges, that they may hear cases with certain considerations in mind or that they may do something to push the boundary of the law farther and so on. Members may therefore have some worries, but I believe this is only a matter of degree and it will never affect the independence and professionalism of the existing judicial system.

I would now make two points to supplement the views I have put forward with respect to the previous resolution and explain why they are so important. First, if the Chief Justice of the CFA has unrestricted powers in deciding the appointment of an overseas Judge to try each case, and he can pick the Judge without subject to any restrictions, the powers conferred to him will be too great. He may, based on his intended direction, choose a particular Judge to hear a case. Let me give an example which is easy to understand but may not be too appropriate. Suppose Martin LEE or some other so-called "red senior counsels" are appointed as non-permanent Judges of the CFA, their inclinations will be known very soon. It is very easy to find out their inclinations towards human rights law or political values, which are of great importance. If a certain overseas Judge will come to Hong Kong to try a case, we can learn from the cases that he had tried and know whether he is aggressive or conservative in certain areas; whether he is arrogant or he will have the final say because the Judges in Hong Kong may be his pupils or his pupils' pupils and so they cannot argue with him, that may have some effects.

So with respect to this, I still hold that I have reservations regarding the suggestion made by Dr Margaret NG earlier that there should be one overseas Judge hearing each case. In my opinion, this should depend on the needs of each case. This is also in line with the original intention of the Basic Law. This arrangement should only be made when there is an actual need. If there is no such need for certain cases, we need not invite an overseas Judge to come to

Hong Kong to hear them. This is not our original intention. This arrangement is not clearly stipulated in law and this is merely an established practice. We should review whether there is such a need to be more in line with the original intention of the Basic Law.

The second point I wish to supplement is that, in view of the large number of cases tried at the CFA, it is now the right time to review the requirement that civil cases involving \$1 million can proceed to the CFA as of right. Considering the current property prices, \$1 million may not be able to buy a big flat, yet the CFA has to spend a lot of time in screening such cases. I think it is time to submit cases which are truly important, involving major legal principles or may push the boundary of law farther, to the CFA. Otherwise, if all appeal cases involving \$1 million are tried at the CFA, the quality of judgment may be compromised due to the lack of sufficient resources. And this may even lead to queries as to whether justice can be done. This is a point I wish to raise.

Apart from points which I have reservations, I support the appointment of the abovementioned three Judges.

Thank you, Deputy President.

**MS AUDREY EU** (in Cantonese): Deputy President, I would also like to state that I have known Robert TANG Kwok-ching, we often call him TANG Kwok-ching instead of TANG Ching, for a long time. We shared a chamber for a long time until he joined the Judiciary. Of course, I also know the two other Judges.

Deputy President, both Margaret NG and Ronny TONG mentioned earlier in their speeches that the three Judges are now Judges to the Court of Appeal but they are appointed as non-permanent Judges to the Court of Final Appeal (CFA). Deputy President, I understand that the existing law permits the Government or the Judiciary to do so, but I think this arrangement is far from satisfactory. This is because justice has to be manifested and seen to be manifested. The public has a certain expectation of the CFA. Cases have to go through a number of

hurdles before they are heard at the CFA. If the public found that the Judges sitting at the CFA happen to be the same Judges in the Court of Appeal, they will be disappointed. The prestige of the CFA will be undermined. So this kind of arrangement is not satisfactory at all.

Therefore, I hope that even if this arrangement is allowed by law, it should only be applied in exceptional cases, such as when manpower is in extreme shortage. One or two cases can be handled this way each year, but not like now, appointing three full-time serving Judges of the Court of Appeal as non-permanent Judges of the CFA at one time. If this kind of practice is normalized as a routine arrangement, I certainly disagree.

Deputy President, Paul TSE has sidetracked from the motion topic when he talked about the \$1 million threshold for appeal cases to be heard at the CFA. As he has raised that point, I would like to respond.

Deputy President, concerning the \$1 million threshold, if the amount involved in a case has reached this threshold, the party concerned can appeal if there are no specific grounds. This \$1 million threshold used to be a very lax requirement. If the money involved in a case or the sum under dispute has reached that amount, the party may have a chance to appeal to the CFA. However, how is this provision interpreted by the CFA during the past few years? Actually, the requirement is getting more and more stringent. In many cases, even if the money under dispute is more than \$1 million, the CFA will not grant a leave for an appeal. My opinion on this issue is different from Paul TSE's. In my opinion, if the party instigating the legal action wants to lodge an appeal with the CFA, which in fact requires a lot of resources, and if the party has sufficient legal justifications, the CFA should handle the application flexibly. Unfortunately, as there are too few Judges in the CFA and there is only one Court, we have the impression that the CFA would tend to be more stringent in enforcing the \$1 million threshold due to constraint in resources. Hence leave is not granted for many appeal cases that should have made their way to the CFA. So Paul TSE and I have different views on this issue.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

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

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, I am grateful to Members for their support of the recommended appointments and their views expressed on the matter.

The Honourable Mr Justice Robert TANG Ching, the Honourable Mr Justice Frank STOCK, the Honourable Mr Justice Michael John HARTMANN are well-experienced in both civil and criminal cases. Their appointment as non-permanent Hong Kong Judges to the Court of Final Appeal will be helpful to the important role played by the Hong Kong Court of Final Appeal in defending the rule of law.

Regarding the concerns of some Members over the existing mechanism whereby serving Justices of Appeal of the Court of Appeal of the High Court can be appointed as non-permanent Hong Kong Judges to the Court of Final Appeal, I understand that the issue will be discussed by the Panel on Administration of Justice and Legal Services later. The Administration and the Judiciary would be pleased to provide the relevant information to the Panel to facilitate its discussion.

Thank you, Deputy President.

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

(Members raised their hands)

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

(No hands raised)

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

**DEPUTY PRESIDENT** (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2010 and the Poisons List (Amendment) (No. 2) Regulation 2010.

I now call upon the Secretary for Food and Health to speak and move his motion.

## **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance (the Ordinance). The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their

presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of two pharmaceutical products, the Pharmacy and Poisons Board (the Board) proposes to add the following two substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (a) Arsenic trioxide when contained in pharmaceutical products; and
- (b) Canakinumab.

Pharmaceutical products containing the above substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these Amendment Regulations take immediate effect upon gazettal on 11 June this year to allow the early control and sale of pharmaceutical products containing these substances.

The two Amendment Regulations are made by the Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side effects of the medicine concerned.

With these remarks, Deputy President, I propose the motion.

**The Secretary for Food and Health moved the following motion:**

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 19 May 2010, be approved —

- (a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2010; and
- (b) the Poisons List (Amendment) (No. 2) Regulation 2010."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

## MEMBERS' MOTIONS

**DEPUTY 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.

**DEPUTY PRESIDENT** (in Cantonese): First motion: Constitutional reform.

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

I now call upon Mr Ronny TONG to speak and move his motion.

## CONSTITUTIONAL REFORM

**MR RONNY TONG** (in Cantonese): Deputy President, from the first day I stood for the election, I consider my ultimate objective as a Member of the Legislative Council is to promote Hong Kong's constitutional development.

(THE PRESIDENT resumed the Chair)

I have gone into politics for six years, which is not a very long period of time, and when compared with other colleagues, I am just a very junior "apprentice". However, after these six years, especially after the checkpoint of the constitutional reform in 2005, I still fail to figure out today why it is so difficult to strive for democracy in Hong Kong. We have not attempted to overthrow a totalitarian military government because we already have the undertakings and protection under the Basic Law. The Basic Law has very explicit provisions. Article 45 of the Basic Law specifies that the ultimate aim

is the selection of the Chief Executive by universal suffrage; and Article 68 also states clearly that the ultimate aim is the election of all the members of the Legislative Council by universal suffrage without any nomination process.

I have also looked up the explanation of the Basic Law given by JI Pengfei at the Seventh National People's Congress. Concerning the relationship between the executive authorities and the legislature, he explicitly stated that the executive authorities and the legislature complemented each other and operated with due checks and balances. To maintain the stability and administrative efficiency of Hong Kong, the Chief Executive should have real power but his power should be subject to restrictions. In other words, although the Chief Executive has all power and authority, his power shall be subject to systemic restrictions, especially the restriction by the Legislative Council, and the most crucial factor is the election of all the members of the Legislative Council by universal suffrage. About the method for the formation of the Legislative Council, as JI Pengfei has said, the ultimate aim is the election of all the members of the Legislative Council by universal suffrage. In this connection, Annex II of the Basic Law contains specific provisions on the method for the formation of the Legislative Council. First, the Legislative Council in the second term shall be composed of Members returned by functional constituencies (FCs), Members returned by the Election Committee, and Members returned by geographical constituencies through direct elections. Within the first 10 years after the establishment of the Hong Kong Special Administrative Region, the number of Members returned by geographical constituencies through direct elections shall gradually increase while the number of Members returned by the Election Committee shall gradually decrease term after term. In the third term, a half of the total number of Members shall be returned by FCs and another half by geographical constituencies through direct elections. Such a provision tallies with the principles of progressive development of the electoral system.

Certainly, there are detailed provisions in the Basic Law about how amendments can be made to the method for the formation of the Legislative Council in these two respects, thereby promoting Hong Kong's democratic development and ultimately achieving the objectives of selecting the Chief Executive and forming the Legislative Council by universal suffrage. That being the case, why have controversies continued to arise?

President, I trust that I represent ordinary Hong Kong people who do not want or believe that the Central Authorities are hostile towards Hong Kong; on the contrary, I believe that an absolute majority of Hong Kong people think that the Central Authorities would like Hong Kong to be successful, and hope that there will not be endless conflicts and controversies over the constitutional system in Hong Kong, which will lead to endless internal discord. Now that it has been undertaken in the Basic Law that this objective must be achieved within 50 years, and achieving this objective is exactly the most crucial solution to end controversies over the constitutional system and internal discord in Hong Kong, why are there so many obstacles whenever universal suffrage and the roadmap are discussed?

President, I have been thinking profoundly of this issue over the past six years but I failed to get an answer. President, perhaps the most important reason is that there is really a lack of mutual trust between the Central Government and Hong Kong people, which has basically created a vicious cycle. I deeply believe that most Hong Kong people love our country and they also hope that the Central Authorities can be trusted. Nevertheless, owing to the differences in political culture and sense of values left over by history, there is no foundation for complete trust of Hong Kong people in the Central Authorities; and there are traces to be found. President, the Central Authorities may think that many political acts are not directed against Hong Kong people; but when these political acts are unacceptable to Hong Kong people and totally contrary to their sense of values or core values, how can they be blamed for having doubts or mistrust of the Central Authorities?

President, I am not just talking about universal suffrage, there are many other issues such as the June 4 Incident, the human rights activists and dissidents, the corruption problem as well as the shoddy construction works. Another issue that disturbed Hong Kong people is the verdict against Mr TAN Zuoren. I believe the Central Authorities approached all these issues from the perspective of a country. However, Hong Kong people can hardly consider the Central Authorities indubitable or have confidence in the Central Authorities. Similarly, the Central Authorities may think that Hong Kong people seem to lack respect of the Central Government or "one country, two systems". Many people in Hong Kong who are described by the media as patriots have said that Hong Kong people do not respect the "one country" in "one country, two systems". President, this is not true at all. Nonetheless, very unfortunately, these conflicts

in terms of thinking, culture and sense of values have caused the vicious cycle to go on and on, and become impossible to break.

President, another conspicuous example is that the Central Authorities expressed views on the definition of universal suffrage for the first time on Monday. President, of course, I also noticed that Deputy Secretary-General QIAO Xiaoyang emphasized in his speech that it was his personal opinion. However, everyone who knows the Mainland system understands that Mr QIAO Xiaoyang may be imprisoned for what he said if his speech is not accepted by the Central leadership. So, in spite of the fact that he emphasized that he was giving his personal opinion, we Hong Kong people would know that he was expressing the views of the Central Authorities. It is quite true that his speech on Monday actually responded to the requests of the democratic camp in Hong Kong to a certain extent, that is, they want the Central Authorities to elaborate on the definition of universal suffrage for the first time. Yet, as I just said, due to the differences between the Central Authorities and Hong Kong in political culture and political values, what he said often fails to allay Hong Kong people's worries; but enhances our doubts as to whether genuine universal suffrage can be achieved.

President, I think the speech delivered by Mr QIAO Xiaoyang marked an important milestone. As I just said, the Central Authorities have incomprehensively remained silent about Hong Kong's constitutional development, and the definition or roadmap of universal suffrage. But, we found in his speech some ideas that made Hong Kong people feel extremely restless. I would like to take this opportunity to discuss these issues. First, when Mr QIAO Xiaoyang touched upon the definition of universal suffrage, he told us that, according to his understanding, the essence of universal suffrage was to guarantee that everyone had the equal right to vote. President, the problem is that he had only mentioned one side of the issue of universal suffrage, and he had not mentioned the other side of the issue that Hong Kong people were more concerned about.

Universal suffrage actually represents two basic rights that supplement and complement each other. These rights have been described in the International Covenant on Human Rights and also in the Basic Law. Article 25 of the Basic Law specifies clearly that all Hong Kong residents shall be equal before the law, and Article 26 specifies that permanent residents of Hong Kong shall have the

right to vote and the right to stand for election. President, the right to stand for election includes the right to make nomination. Some people have played on the word, saying that it has not been specified that the right to stand for election includes the right to make nomination. Nevertheless, the right to make nomination and the right to stand for election are entirely the same rights and concepts. A person who is not nominated is not eligible for election. Therefore, when Mr QIAO Xiaoyang talked about universal suffrage, he only covered one half of the issue and neglected the other half, which made Hong Kong people feel restless. He subsequently elaborated his views on the universal suffrage methods, which revealed other factors that made Hong Kong people feel restless. For instance, he said that the two future universal suffrage methods should realize universality and equality of election, which is certainly a good thing, but he continued to say that we should also take into account compliance with the legal status of the HKSAR. President, I do not quite understand what he meant. Concerning the legal status of the SAR, I only understand that we uphold "one country, two systems", and practice the concept of "Hong Kong people ruling Hong Kong" under the Basic Law. Then, how would this legal framework become an obstacle to universal suffrage? Which parts are worth preserving? President, I do not have any idea.

Under "one country, two systems", we can naturally have universal suffrage, and that has been specified in the Basic Law. Why did he say that we should also take into account compliance with the legal status? He then mentioned accommodation with the executive-led political system of the HKSAR. As I just said, JI Pengfei explained very clearly at the Seventh National People's Congress that though we had an executive-led system to a certain extent, the rights of the Chief Executive were not absolute as they ought to be subject to restrictions. The Chief Executive and the Legislative Council should operate with due checks and balances. Since there should be checks and balances, and the Chief Executive would be selected by universal suffrage, how would the Legislative Council formed by universal suffrage create obstacles for the definition of universal suffrage, or lead to the failure in achieving to the full the generally recognized universal suffrage principle?

The third point he made is about meeting the interests of different sectors of society, which is regarded as a matter of course. President, if he said that the interests of different sectors of society should override the overall interests of Hong Kong, I can hardly agree with him and I do not understand why the

interests of different sectors of society should override the overall interests of Hong Kong under a universal suffrage system. President, this is a very simple issue. Under a universal suffrage system, the overall interests of Hong Kong and the interests of different sectors of society are all looked after by political parties. The problem should not exist under a universal suffrage system or in the wake of the healthy development of political parties.

President, he then talked about facilitating the development of the capitalist economy. This should not create any obstacles because all the successful capitalistic societies that we know are democratic societies. That being the case, why should these additional conditions retained be considered as affecting the definition of universal suffrage, and even affecting whether genuine universal suffrage can be implemented in Hong Kong? Otherwise, why should Mr QIAO Xiaoyang make these remarks?

President, owing to the time constraint, I cannot continue to discuss his remarks. Yet, I think that Mr QIAO Xiaoyang's speech makes a good start for our consideration about Hong Kong's constitutional development or the ultimate universal suffrage models. I hope that this is just the beginning and efforts will continue to be made with a view to eventually reaching a consensus in respect of Hong Kong's democratic development.

**Mr Ronny TONG moved the following motion: (Translation)**

"That, as the SAR Government and the Chief Secretary for Administration have repeatedly stated in public that the existing functional constituency elections do not comply with the principle of 'universality' and 'equality', and as universal suffrage models should comply with this fundamental principle and Hong Kong people also hope that discussions on universal suffrage models can commence as soon as possible, this Council urges the Government to proactively motivate various sectors to engage in extensive and in-depth discussions and studies on the selection of the Chief Executive by universal suffrage upon nomination in accordance with 'democratic procedures' as provided under Article 45 of the Basic Law and on the way to deal with the issue of functional constituencies, so as to forge consensus on universal suffrage models and implement dual universal suffrage as early as possible."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ronny TONG 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 Mr Jeffrey LAM to speak first, to be followed by Mr LEUNG Kwok-hung; but no amendments are to be moved at this stage.

**MR JEFFREY LAM** (in Cantonese): President, I think this motion debate today is moved at the right time because QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress (NPCSC) delivered a speech on the 2012 constitutional reform package this Monday, and some of his remarks precisely tallied with the objectives of my amendment today.

President, Hong Kong people and various political parties are extremely concerned about the implementation of the universal suffrage models for the selection of the Chief Executive and the formation of the Legislative Council, so that the models would comply with the principles of universality and equality. Besides, an important point at issue is about whether the two 2012 electoral method packages would be endorsed. In the speech by Deputy Secretary-General QIAO Xiaoyang on Monday, it was mentioned that the two future universal suffrage methods should be in accordance with the requirements of the Basic Law and based on the actual conditions of Hong Kong, it should realize universality and equality of election, as well as take into account compliance with the legal status of the SAR, accommodation with the executive-led political system of the SAR, meeting the interests of different sectors of society and facilitating the development of the capitalist economy, so as to reach the broadest consensus.

According to him, the method for nominating the Chief Executive to be selected by universal suffrage as specified in Article 45 of the Basic Law was completely different from the current method for selecting the Chief Executive. Hence, thorough consideration should be made in the future in accordance with the Basic Law. The functions of functional constituencies (FCs) should also be

objectively evaluated, so as to arrive at a consensus after rational discussions. The issue on FCs should not create obstacles for the passage of the 2012 package.

In my opinion, the SAR Government is duty-bound to proactively promote thorough discussions by various sectors over the two packages on universal suffrage. But, Honourable colleagues and I as Legislative Council Members, as well as all Hong Kong people are facing an important turning point for the promotion of democratic progress. Different parties, groups and Members should practically vote in support of the passage of the constitutional reform package, making the first step in promoting democratic progress, and laying a foundation for the selection of the Chief Executive by universal suffrage in 2017 and the subsequent formation of the Legislative Council by universal suffrage.

As the old Chinese saying from Chapter 64 of *Laozi* goes, a journey of a thousand miles begins with a first step. The experiences accumulated by our predecessors often bring enlightenment to us in modern times. In order to achieve the ultimate objective of a journey of a thousand miles, we must begin with a first step, and the 2012 package is the first step towards dual universal suffrage. Under the Basic Law and the decision made by the NPCSC in 2007 about the universal suffrage timetable, the 2012 package has already strived for democracy to the greatest extent possible. Therefore, Members of this Council from different parties and groups should dispel prejudices, reduce arguments, and vote together in support of the passage of the package.

On the contrary, if Members of this Council threaten to veto the 2012 constitutional reform package as a bargaining chip to negotiate with the Central Authorities about constitutional development, or as the premise for asking the Government to promote discussions about the universal suffrage models, our constitutional development will certainly make no progress. In that case, the ultimate objective of a journey of a thousand miles will just always remain at the stage of verbal confrontation, which is not the result that the general public would like to see.

After repeated discussions by Legislative Council Members, the 2012 constitutional reform package will be voted upon on 23 June. In selling the package, government officials have repeatedly said that the ultimate universal

suffrage system must comply with the principles of universality and equality; as regards the present FC electoral model, it will not be retained in future.

Secretary WONG Yan-lung said at the constitutional development forum organized by the Constitutional Reform Synergy on 7 May that, "At the present stage, if any attempts are made to further define universality and equality apart from the general principles, they would inevitably delve into the detailed arrangements for universal suffrage. At the present stage, the SAR Government has not been authorized to undertake the relevant work. But, the Government would listen with an open mind to different views and suggestions about the universal suffrage models, and put them on record to be followed up proactively by the Government of the next term."

President, evidently the Government of the present term has not been authorized to deal with issues related to the universal suffrage models. If we take the broad-brush approach or simply ask the Government to sum up the implementation of universal suffrage models as abolishing FCs or other issues at this stage, we will be forcing the Government to do something that it cannot do. As to how the two future electoral models will be implemented, Deputy Secretary-General QIAO Xiaoyang emphasized that universal suffrage meant that voters should enjoy the same right to vote, and universal suffrage should comply with the principles of universality and equality. However, the right to vote should be reasonably restricted by law, and various places in the world adopt different electoral systems in light of their actual situation and background. The mode of implementation should be worked out after in-depth discussions and studies, and the SAR Government should be responsible for promoting discussions.

President, since the introduction of the constitutional reform package, quite a number of people have made unfair criticisms on FCs, and some of their comments are not true. Some comments pinpointed the words and deeds of individual FC Members.

Since the introduction of FC elections in 1984, it has become a unique political system, performing rather crucial functions in the Government's effective governance. FC Members are professionals from different social sectors and levels, and they have been performing their professional functions very well in

the Legislative Council in connection with various aspects of social policies. Flatly negating FCs or neglecting the views of the public who support FCs will make it difficult for various parties to reach a consensus on the constitutional reform.

I would like to cite some numbers to reflect the performance of FC Members among all Honourable Members. Comparing the numbers of motions with no legislative effect moved by Honourable Members in the past five legislative years, FC Members moved more motions related to education than Members returned by geographical constituencies through direct elections. As regards the numbers of motions related to financial and monetary affairs, FC Members moved far more motions than Members returned by geographical constituencies through direct elections (the former moved 43 motions while the latter only moved 28 motions). FC Members are more concerned about issues closely related to our economic competitiveness, business environment, long-term development and planning. As the public are always concerned about economic affairs, FC Members have done their best to show concerns for economic affairs, which respond closely to people's desires and reflect their aspirations.

Another prominent difference is found in motions related to politics. In the past five years, Members returned by geographical constituencies through direct elections moved 36 motions related to politics while FC Members moved 14 such motions. Members from the two groups actually lay special emphasis on different things, which can balance the scope of discussion in this Council and avoid attaching greater importance to business than politics and *vice versa*.

President, I believe Honourable colleagues still recall and people often remind us that, on the racing track leading to universal suffrage, we toppled once at the starting point in 2005. They do not want us to go nowhere again this time. So, if we continue to waste time on political issues, how much time can we afford to waste?

Legislative Council Members speak for the public and reflect their views. Quite a lot of Hong Kong people would like Hong Kong to stride ahead in respect of constitutional development, thus, we should put into effect the public's views on development for the sake of the overall interests of Hong Kong.

As the saying goes, "Unless you pile up little steps, you can never journey a thousand miles; unless you pile up tiny streams, you can never make a river or a sea". We from the Economic Synergy and members of the business sector are willing to make this step in a steadfast manner, and we call upon Legislative Council Members to vote in support of the 2012 constitutional reform package, and set in motion together for the implementation of universal suffrage and Hong Kong's democratic development.

President, I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I trust that you are also very familiar with one of the clauses in the *Quotations from Chairman MAO* published around 30 to 40 years ago. The first clause is: "The force at the core leading our cause forward is the Chinese Communist Party. The theoretical basis guiding our thinking is Marxism-Leninism". I believe you would even know how to sing the songs, but I am not going to sing here lest Honourable colleagues should have goosebumps. However, having heard QIAO Xiaoyang's remarks yesterday, I think the *Quotations from Chairman MAO* should really be slightly revised as "The force at the core leading the autocracy is the Chinese Communist Party. The theoretical basis guiding the autocratic thinking is Patriarchal Fascism".

After QIAO Xiaoyang delivered his speech yesterday, he did not answer reporters' questions; he just read his speech aloud. He can be described as a parent. After Henry TANG gave his remarks in Hong Kong, "grandpa" in Beijing repeated again; Hong Kong reporters asked the "son" questions while "the parent" fled in Beijing. Do not try to chase after him for an interview because people who protected him might give you a punch. What did QIAO Xiaoyang say? I came to realize the literary excellence of the Chinese Communist Party when he said "I understand". Whom did he understand? Did he understand Karl MARX, LENIN or someone else? What did he understand? QIAO Xiaoyang is a dignified imperial official, he is the Deputy Secretary-General of the NPCSC, and he just said "I understand". What did he understand? There was no subject and object. What sort of person is he? What did he understand?

President, have you ever talked to him? Did he understand you? I do not think so. Base on my experience from reading the writings by the Chinese Communist Party, I think he was saying that he understood the remarks made by Prof RAO Geping. What sort of person is this professor? I do not know whether he has any academic achievements, and I have not bought his books; however, he is an outstanding scholar who has become an official and a member of the Basic Law Committee. Many Basic Law Committee members including LIU Naiqiang have expressed their views. The imperial official QIAO Xiaoyang just understood the remarks made by Prof RAO Geping after all. That is my understanding, and I have not heard of other understandings.

To our surprise, a dignified imperial official asked us to read a book when he discussed an issue related to Hong Kong people. Was he involved in publishing Prof RAO Geping's book? President, do you have the book written by Prof RAO Geping? I also want to learn about what is his understanding. Is that what he understood? How well did he understand? That is really terrible. As it turns out, the concepts of universality and equality just include the right to vote; I have never heard of that. There are two sides of a coin, how can he use a coin if it only has one side? A banknote printed on one side in full color cannot be used because it should be printed on both sides in full color. That is so very simple. What about the right to stand for election? The right to stand for election certainly involves the right to make nomination. To our surprise, Prof RAO Geping said that the two issues were not important. Has he violated the definitions of universality and equality?

QIAO Xiaoyang also said that various countries imposed certain restrictions in light of the actual situation. That is certainly the case but these restrictions cannot violate the principles of universality and equality, right? He mentioned nothing about that. Nevertheless, we now know that the principles of universality and equality do not include the right to be elected and the right to stand for election. Another most terrible thing is that QIAO Xiaoyang is just like prefecture chief QIAO (it is inappropriate to call him Master QIAO) in *The Comedy of Mismatches*<sup>(1)</sup>.

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(1) A film produced in the 1960s about prefecture chief QIAO mismatching several pairs of lovers.

What did he say? He said that the existing Election Committee for the selection of Chief Executive and the future nomination committee were two different issues and the two were not comparable. At present, if a candidate gets the nomination of 100 members of the Election Committee, he can stand for election. Mr Alan LEONG also did that before. What will happen in the future? A decision will be democratically made within an extensively representative nomination committee in accordance with the Basic Law. That is actually the reverse; it is right for a democratically selected nomination committee to decide upon the person to be nominated, but he adjusted that — the Communist Party is best at substituting one concept for another.

What was the danger that he referred to? Even if nomination may be made in future, some "democratic" acts may be taken within the committee, that is, the minority may be forced to obey the majority. In other words, some may be forced to leave in the guise of democracy; the Communist Party is an expert in this area. It will say that there will just be a little less democracy, then the popular support will drop. We have already been cheated by the Communist Party; a little less democracy will lower the popular support. Although LI Gang is just the lowest ranking officer, he can make a fool of the Alliance for Universal Suffrage and the Democratic Party. QIAO Xiaoyang, an official two ranks higher than LI Gang is respectfully addressed as "Master QIAO". It seems that he is about the same age as me, so should I be addressed as Master? Buddy, who would you say he is? He is so slavish that he is just like prefecture chief QIAO in *The Comedy of Mismatches* who messed things up.

I have also heard some people say that we keep adding prerequisites and they wondered how universal suffrage can be implemented. Who added those prerequisites? QIAO Xiaoyang added a few, including the one on our legal status. What he meant was that the SAR Government should not say anything, let the Central Authorities do the talking. The SAR cannot hold a referendum and it cannot do this and that. That is the so-called legal status. They said that the interests of different sectors of society should be taken care of; that is an obsolete concept and some people have given it a term as balanced participation. This concept is not mentioned in the Basic Law, President, you know this very well.

Furthermore, it is said that the development of the capitalist economy should be facilitated. Are you making a fool of us? Does the Communist Party that established socialism understand capitalism? Certainly not. The four basic principles mentioned by the Communist do not include capitalism. Hence, it is just boasting, just like Mr Jeffrey LAM who said, "I know capitalism best". In other words, those from functional constituencies should explain whether the future universal suffrage models tally with the development of their concept of the so-called capitalism, especially the development of Hong Kong-style capitalism; in particular, the development of capitalism that has doubled the number of poor people in 13 years. According to them, if the number of poor people is not doubled 13 years later, it will not tally with the development of Hong Kong-style capitalism 13 years ago which helped them make huge and inexhaustible profits. Can you guarantee that the number of poor people will be doubled 13 years later; can you guarantee that I will have more money in my wallet, and that property prices will be exorbitant. They are the ones to give explanations, and they unconvincingly made up all the strange definitions of universal and equal election rights.

Some people said that the system has been established. President, was there an established system before the fall of the Qing dynasty? Was there an established system before the Communist Party overthrew the rule of Kuomintang? Was there an established system before there were elections in Taiwan, before the ruling of the JIANG family, before the Democratic Progressive Party took power from the Kuomintang? Was France ruled by emperors, nobles and clergymen before the French Revolution? Those who told us that the systems before being overthrown were established systems are engaging in empty talks. I must say that all established systems and tyrannies were overthrown for some reasons. Magna Carta was issued in Britain in 1215 without bloodshed, and the French invented the guillotine as an alternative instrument. I will not call upon the public or Members to vote in any manner. I will just call upon people to participate in the government-people debate — it is not Audrey EU's contention — but a government-people debate between Audrey EU and Donald TSANG. Go and support Audrey EU. I also call upon people to besiege the Legislative Council building on 23 June and attend the July 1 march.

I would like to tell Honourable colleagues, it is they who impose prerequisites and arouse controversies over constitutional development. We only have one principle, that is, a universal and fair election, a very simple

principle advocated by the League of Social Democrats. If the package has to be amended, we have said many times that a half of the number of Members should be returned by geographical constituencies through direct elections, and another half to be chosen from the list of names submitted by political parties; that will be an effective method. Now, we should brave winds and waves, and make efforts together to sink the ship that drops anchor.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the constitutional development of Hong Kong has reached the critical moment. Very soon, the Legislative Council is going to vote on the constitutional reform package for 2012. Mr Ronny TONG's motion today is a timely attempt to raise this very important topic, and this will affect how we move towards universal suffrage in the future.

In 2007, we achieved an extremely significant breakthrough in our constitutional development. The third Chief Executive and the third Special Administrative Region (SAR) Government assumed office in July that year, and within the first six months of their tenure, they made various efforts which succeeded in getting the NPCSC's decision on setting a timetable for the introduction of universal suffrage in Hong Kong: universal suffrage may be implemented for the election of the Chief Executive in 2017, and, subsequently, the Legislative Council may also be returned by universal suffrage in 2020. This does not only set a clear direction and timetable for Hong Kong's road to universal suffrage and promotion of democratization but also enables us to bring Hong Kong's democratic development to maturity in a step-by-step manner.

The methods for electing the Chief Executive and the Legislative Council in 2012 proposed by the Government aims to bring Hong Kong to a mid-way stop, so that between 2017 and now, that is, in 2012, the two electoral methods can be further democratized.

Speaking of the method we put forward, I must mention the efforts we made in three areas in the past few years. First, we made many efforts to cause the formulation of a timetable for introducing universal suffrage. Second, we responded continuously to the question asked by pan-democratic Members in 2005, that is, why the District Council (DC) proposal also included appointed DC members apart from elected DC members. For this reason, in the constitutional

reform package for 2012 we have put forward this time around, it is stated very clearly that appointed DC members will have no part to play in the Chief Executive Election and the Legislative Council Election. Third, Members continued to express concern about the retention or otherwise of appointed DC membership. Consequently, in the consultation report put forward to Members on 14 April, the SAR Government made clear its open and positive attitude towards the abolition of appointed DC membership. Following the passage of the constitutional reform package for 2012, we will submit proposals at the level of local legislation for discussions and consideration by the Legislative Council and the general public.

Therefore, at this stage, since the direction is already very clear, we have already done the most we can do within the room for democratization possible under the decision of NPCSC in 2007. According to the decision, geographical constituency seats and functional constituency seats in the 2012 Legislative Council Election should maintain a ratio of 50:50, that is, a ratio of half to half. But since we have put forward a constitutional reform package for 2012, roughly 60% of the 70 seats shall be returned by direct elections in geographical constituencies or by indirect elections.

Therefore, I hope Members, including pan-democratic members, can understand that all possible room for democratization has been utilized. We have already responded to all the aspirations they expressed in 2005, including the formulation of a timetable for introducing universal suffrage, the handling of the DC package and the abolition of appointed DC membership. Therefore, today, pan-democratic Members must ask themselves these questions: first, if our constitution system makes no progress in 2012, will there be any benefit to the implementation of universal suffrage in the future, including the forging of a consensus on implementing universal suffrage for electing the Chief Executive in 2017? The answer is very clear. The path ahead will only be even more difficult to tread.

Second, the engineering of constitutional development in Hong Kong must require an internal consensus and also a consensus between Hong Kong and Beijing. The door to communications between the Central Authorities and the Democratic Party and other pan-democratic organizations has already been opened, and now we are all exploring various channels of communications. In that case, if the constitutional reform package for 2012 is rejected and voted down

again, will there be any benefit to the forging of a consensus and mutual trust between Hong Kong and Beijing? The answer is very clear. There cannot be any benefit at all.

(Mr Ronny TONG rose to his feet)

**MR RONNY TONG** (in Cantonese): President, a point of order.

**PRESIDENT** (in Cantonese): Secretary, please hold on a moment.

**MR RONNY TONG** (in Cantonese): I request this Council to hold discussions on the ultimate universal suffrage models, and I hope that a consensus on implementing universal suffrage can be forged. The motion topic is not about the constitutional reform package for 2012, and it is not meant to give the Secretary an opportunity to canvass support. I believe that he may do so on other occasions. Therefore, his speech should focus on giving his views on my original motion.

**PRESIDENT** (in Cantonese): Secretary, please speak on the topic of the original motion.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, of course I attach very great importance to the original motion, but since one of the amendments .....

(Mr Jeffrey LAM raised his hand)

**PRESIDENT** (in Cantonese): Mr Jeffrey LAM, what is your question?

**MR JEFFREY LAM** (in Cantonese): President, the constitutional reform package for 2012 is mentioned in my amendment, so I do not think that the Secretary has deviated from the motion topic.

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have been speaking with both the original motion and the two amendments in mind. Thank you, President.

Therefore, in regard to the package for 2012, since we have already done our very best to exploit all possible leeway within the framework of the Basic Law and the decision of the NPCSC in 2007, we really hope that Members can understand our position. We hope that we can join hands to work for the passage of the constitutional reform package for 2012, so as to pave the way and lay a solid foundation for the ultimate implementation of universal suffrage.

Mr Ronny TONG mentions his hope that the Government can motivate social discussions on implementing universal suffrage and make efforts to forge consensus. Actually, in his motion, Mr Ronny TONG also admits that views in Hong Kong on implementing universal suffrage are sharply divided. Precisely because of such a sharp division of views, I think that taking a step forward as proposed in the constitutional reform package for 2012 will help us deal with the divergent views in future. Mr LEUNG Kwok-hung's amendment, on the other hand, conflicts with the constitutional framework we are currently handling. The reason is that the decision made by the NPCSC in 2007 also sets down a timetable for implementing universal suffrage: universal suffrage may be implemented to elect the Chief Executive in 2017 and the Legislative Council in 2020. Consequently, to continue to fight for "dual universal suffrage" in 2012 at this very stage is in conflict with the decision of the NPCSC.

Regarding Mr Ronny TONG's great concerns over public consultation and discussions, the SAR Government has in fact been promoting such work since 2005. Before the end of 2005, we set up the Commission on Strategic Development, which then launched discussions on formulating a timetable, roadmap and model for implementing universal suffrage. And, following the

assumption of office of the third SAR Government in 2007, we published the Green Paper on Constitutional Development. On the constitutional reform package for 2012, we also published a consultation document in November last year. Subsequently, we submitted the consultation report to the Legislative Council in April this year. We are only authorized to focus on the constitutional reform package for 2012, but during the whole process, if any political parties and groupings as well as members of the public put forward any suggestions on the ultimate implementation of universal suffrage for electing the Chief Executive and the Legislative Council, we still sought to summarize and collate such suggestions. In this regard, we will definitely honour our undertaking of relaying all such opinions to the fourth SAR Government for handling. Concerning universal suffrage models, it must be pointed out the present foundation is already quite sound, and we can conduct further exploration in the future. As I have mentioned, there have been some new developments over the past few months, and we have managed to establish channels of communications between pan-democrats and the Central Authorities. It has not been easy to bring forth such a situation. We must strive to maintain it, so as to lay a sound foundation for the constitutional development of Hong Kong in the future.

I wish to mention in particular that apart from the meetings between Deputy Director LI Gang and the Democratic Party and other pan-democratic organizations, the remarks of Deputy Secretary-General QIAO Xiaoyang are also very important. First, when the Deputy Secretary-General spoke on the timetable for universal suffrage on 14 April, he specifically stated that the door to universal suffrage was already open, and that simply by following the five-step process, Hong Kong would be able to implement universal suffrage. His message is very clear. And, on 7 June, the Deputy Secretary-General emphasized once again that the core details of universal suffrage was the protection of universal and equal election rights. This is the overriding principle, further explanation and confirmation will be conducive to the ultimate implementation of universal suffrage.

Therefore, President, in brief, at this stage, the various political parties and groupings should be broad-minded enough to seek common grounds and tolerate differences in their handling of the constitutional reform package for 2012. This will only be beneficial to all. So far, according to the opinion polls conducted by different universities and research organizations, some 50% to 60% of the public still hope that the Legislative Council can pass the reform package. They

do not wish to see our constitutional system remains stagnant once again. Therefore, I hope that Members can support Mr Jeffrey LAM's amendment. Thank you, President.

**DR RAYMOND HO** (in Cantonese): President, the Basic Law is a mini constitution for Hong Kong, overriding all local legislation, and any amendments must be made in accordance with its relevant provisions and the decisions of the Standing Committee of the National People's Congress (NPCSC).

Article 45 of the Basic Law provides (and I quote), "The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." (End of quote)

On 26 April 2004, the NPCSC made a decision, stating that the election of the Chief Executive in 2007 shall not be implemented by universal suffrage; the election of all Legislative Council Members in 2008 shall not be implemented by universal suffrage; and that the half-and-half ratio between members returned by functional constituencies (FCs) and members returned by geographical constituencies through direct elections in the Legislative Council shall remain unchanged. Then, on 29 December 2007, the NPCSC made another decision which sets a clear timetable on implementing universal suffrage for the election of the Chief Executive and all Legislative Council Members. That decision provides that in 2017, Hong Kong may elect the Chief Executive by universal suffrage, and it also makes very clear that following the election of the Chief Executive by universal suffrage, all Legislative Council Members may also be returned by universal suffrage. In other words, following the election of the Chief Executive by universal suffrage in 2017, universal suffrage may also be implemented for the election of all Legislative Council Members in 2020.

The NPCSC decision sets down a clear timeframe on the implementation of universal suffrage for the election of the Chief Executive and the Legislative Council. At this moment, we should follow the five-step process on

implementing the relevant decisions. In a word, the five-step process is as follows:

- (a) the Chief Executive to put forward a constitutional reform proposal and compile a report after extensive public consultation;
- (b) the SAR Government to submit the report to the NPCSC for a decision;
- (c) the Legislative Council to pass the reform proposal by a two-thirds majority;
- (d) the Chief Executive to assent to and sign the reform proposal; and
- (e) to submit the relevant bill to the NPCSC for approval or for the record.

Actually, the representativeness of the method for selecting the Chief Executive has been expanded in the light of the actual situation and in accordance with the principle of gradual and orderly progress. To begin with, the first Chief Executive of the Hong Kong Special Administrative Region was selected by a Selection Committee comprising 400 members from different social sectors set up under the Basic Law. Subsequently, the next Chief Executive was returned by an Election Committee comprising 800 members from different social sectors. And, according the method for selecting the Chief Executive in 2012 currently proposed by the SAR Government, the membership of the Election Committee shall be increased from 800 to 1 200. Under the proposal, three-fourths (75 seats) of the 100 new seats in the fourth sector (the political sector) in the Election Committee shall be allocated to elected District Council members. This, together with the existing 42 seats, shall make up a total of 117 seats for District Councils, to be returned through election from among elected District Council members. In regard to the nominating procedure for Chief Executive candidates, the Government proposes to maintain the existing threshold — one-eighth of the total membership of the Election Committee (that is, 150 members). I hold the view that it is better to set the nominating threshold at 200 members. This can enable more persons qualified for running in the Chief

Executive Election to receive nomination, thus providing better conditions for the implementation of universal suffrage for selecting the Chief Executive in 2017.

As for the method for electing the Legislative Council, Article 68 of the Basic Law provides (and I quote), "The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage." (End of quote) I believe Members can still remember that the composition of the first Legislative Council and the second Legislative Council still included Members returned by the Election Committee, taking up 10 and six seats respectively. But starting from the third Legislative Council, elected Members returned by geographical constituencies and members returned by FCs have respectively accounted for half of the total number of seats. When compared with the past arrangements, this is already a step forward. And, during the process of achieving the ultimate aim of electing all Members by universal suffrage, FC Members can play a stabilizing role in the Legislative Council. All the eight functional sectors in FC have adopted the electoral arrangement of "one person, one vote". This is also a form of universal suffrage. In order to further expand the electorate of my constituency, I once put forward a proposal and it was accepted by the Council of the Hong Kong Institution of Engineers. Under this proposal, graduate members and associate members of the Institution would be included as qualified electors. This means that the number of electors could have been increased from some 12 000 to 30 000 or more. Graduate members are holders of recognized degrees who have not yet obtained the necessary professional qualifications. Associate members are mainly holders of associate degrees or technical personnel holding various types of certificates. It was a pity that the proposal eventually came to nothing because the constitutional reform package at that time was negated.

Following the same line of reasoning, the electorate of FCs based on corporate votes can be expanded to increase their representativeness. On the expansion of the electorate base, each FC should make adjustments according to its individual circumstances. Anyway, we must ensure that the composition of the Legislative Council can take account of balanced participation and the interests of various social sectors.

Before the method for forming the Legislative Council in 2012 is finalized, I do not think there should be any expansion or reduction of the existing FCs lest disputes may ensue. As for the five new FC seats, the Government proposes that all these new seats and the existing District Council seat in the Legislative Council should be elected from among elected District Council members. However, appointed District Council members shall not have the rights to stand for election, to make nomination and to vote. This may be unfair to them. I am also worried that after implementing the proposed arrangement, the future agenda of the Legislative Council may have to include many more district issues, which turns the Legislative Council into a local assembly. This may not be very satisfactory.

As for the recent remarks made by NPCSC Deputy Secretary-General Mr QIAO Xiaoyang's on the definition of universal suffrage, they form a very important basis for our present discussions on democratization. I so submit. Thank you, President.

**MISS TANYA CHAN** (in Cantonese): President, the fact that today we still have to discuss the definition of universal suffrage and the models of universal suffrage is honestly a reflection of our retrogression. It has been 20 years since the promulgation of the Basic Law. In a word, both Article 45 and Article 68 are lies. The Central Government has never shown any sincerity and willingness in respect of implementing universal suffrage. But the Government is still so self-complacent, saying that it is sincere in implementing universal suffrage. And, it has even put forward a rotten package which is even worse than a rehash of the previous one. It obviously wants to force the democratic camp to vote against it. If the Government is really sincere in resolving the disputes on constitutional development, then why does it still have the courage to put forward two resolutions on constitutional reform which are exactly the same as those announced on 14 April? President, the Government has been toying not only with democracy but also public opinions.

Universal suffrage denotes universality and equality in terms of the right to vote and to be elected. Hong Kong people have been repeating this principle countless times, and so has the democratic camp. That functional constituencies (FCs) are in contravention of democratic principles is already beyond any doubt.

People with a clear mind should have realized that the Central Authorities have already disclosed what arrangements will be made for FCs. A couple of days ago, QIAO Xiaoyang remarked, "The core details of universal suffrage is to the protection of universal and equal election rights. But he then added, "It is generally understood in the international community that it is permissible to impose reasonable restrictions on electoral rights under the law. Different countries in the world may adopt different electoral systems in the light of the actual situations to give expression to universal and equal electoral rights." In brief, Mr QIAO was saying that functional constituencies (FCs) can continue to exist in the light of the (Hong Kong's) actual situation without violating the principles of universal suffrage, that is, the kind of universal suffrage with Hong Kong characteristics.

All along, the pro-establishment camp has been holding propaganda activities, stating such sophistries as "balanced participation" and "FCs are conducive to social stability", trying to defend the unjust system of FCs. I do not think that it is necessary to hold any further discussions on how absurd the system of FCs is. As I once pointed out, if we are the only one practising a certain election system, then there can only be two possibilities: first, we are walking ahead of the whole world, in the vanguard of human civilization; second, we are extremely backwards, adopting a system that is not practised elsewhere in the whole world. I believe that the latter should be the case with us. In history, only fascist regimes adopted such a system, but the Government and the pro-establishment camp are still delighted in defending this system. Can this be called democracy? Can this be called universal suffrage? If the Central Government is really sincere in implementing genuine universal suffrage, why does it repeatedly suppress the aspirations of Hong Kong people for democracy? Why has Mr QIAO taken so much trouble to defend FCs in such an oblique manner?

A long time ago, I explained Hong Kong's constitutional system to a foreign friend of mine. He was puzzled when I told him about FCs and the election of Chief Executive. He remarked that to him, that system was not only undemocratic, but also served minority groups with vested interests. Put simply, such a system only aimed to protect the power of authoritarians. He asked me why the Central Government not simply appointed all people, without having to put up such a spectacular show. This is really a very sad joke. I have never

been able to answer his question, and after all the stalling tactics by the Central Government, I finally realize that the whole thing is nothing but a trap, a show which aims to give Hong Kong people an illusion that they will have democracy slowly over time, and that the Central Authorities are sincere in implementing democracy. However, while we make it clear that we want to head south, they drag us towards the north. Even after weighing anchor, we will not be able to arrive at the destination of genuine universal suffrage all the same. The Government has been trying to erode Hong Kong people's will power by a stalling tactic, steering the ship heading for genuine universal suffrage into the open sea. Even when the destination is in sight, the ship is still marooned in the sea of bogus universal suffrage with the element of FCs.

The Government likes to make false accusations against others. It will try every means to delay the implementation of universal suffrage, accusing the democratic camp of putting forward a high asking price, or condemning secretly that the demand of the democratic camp is unrealistic. Can I ask the Central Government how high our asking price is? Can I ask it how unrealistic our demand is? Has a promise been made to let Hong Kong people have dual universal suffrage when the Basic Law was promulgated 20 years ago? Originally, Hong Kong people asked for the implementation of universal suffrage in 2007 and 2008. Then, following the interpretation of the Basic Law by the National People's Congress, Hong Kong people made a concession and demanded the introduction of universal suffrage in 2012. But the Central Authorities once again rejected and tried to fool us by saying that universal suffrage "may" be implemented in 2017 and 2020. "May"? Right, one may win the Mark Six Lottery; Chief Secretary for Administration Henry TANG may one day become Chief Executive, and Chief Executive Donald TSANG may step down.

President, it is an iron-clad fact that the Central Government shows no sincerity in resolving the universal suffrage issue. If this is not the case, why has it put forward a package that is even worse than the one rolled out in 2005? In 2005, the SAR Government was still willing to abolish the appointment system of District Council by phases. But in this present package, nothing about this is mentioned. The Chief Executive has even said, "Let us pass the package first and hold further discussions later." What is wrong with him anyway? This is really absurd, isn't it? This present package is wide of the mark. If the Government is sincere in getting the support of Members, why does it not try to

raise the idea of abolishing the appointment system of DC members again? Instead, the Government only puts on a show, rallying support in districts and pretending to communicate with different parties. Obviously, the Government wants to "frame" the democratic camp. It thinks that it can mislead the public into believing that the democratic camp once again refuses to compromise and will repeat what it did in 2005. It thinks that in this way, the responsibility for the non-passage of constitutional reform can be shifted to the democratic camp. In case the constitutional reform package cannot be passed, the blame must not be put on the democratic camp. Rather, the Central Authorities and the SAR Government must be held responsible. When there are no words on the retention or otherwise of FCs, when no clear roadmap is given, the democratic camp sees no reason for "stomaching" this constitutional reform package.

In the 1950s, there was a popular revolutionary song in China entitled "Sailing the Seas Depends on the Helmsman". At that time, it was said that the one who steered the country forward was Chairman MAO Zedong. But, honestly, the Helmsman should be the people. Any real progress in constitutional development must depend on the seven million Hong Kong people, rather than the orders of the Central Government. Where is the ship sailing to? It pretends to be heading for South Africa for the World Cup, yet in fact, it is heading for Somalia. What we want is genuine universal suffrage, but then the whole thing has turned into some kind of bogus universal suffrage with FCs in eternal existence. President, we must not waste any more time to discuss such a nonsensical and rotten package. The SAR Government is requested to amend the package or, better still, withdraw it altogether, so that we can continue to sail the seas under the guidance of the people's wish.

I so submit. Thank you, President.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, over the past two weeks, the chanting of "Act Now" has never ceased. The Administration led by Donald TSANG has been doing its utmost to canvass public support for the present constitutional reform package. I have no objection to the Government's attempts to lobby public support for its constitutional reform package. Likewise, we, pan-democratic camp Members must strive to relay to the Government all the views we have collected after listening to the public.

However, all the accountability officials who visited the local communities did not listen to people's opinions at all. They only wanted to put up some shows and chose to listen to those who agreed with them. They rejected opposition views and simply adhered to their own views.

What is more, the constitutional reform package submitted by the Government to the Legislative Council this Monday is exactly the same as what was announced on 14 April. No changes are made regarding the election methods for both the Chief Executive and the Legislative Council. This is very disappointing. In other words, all the communications and exchanges of views between the pan-democratic camp and the Government so far have been of no avail.

Undeniably, there are divergent views as regards whether the public is in support of the constitutional reform package. Are there more supporters or are there more opponents? I do not intend to argue with the Government over this because it only wants to quote the opinion polls with findings favourable to its cause. As for those opinion polls revealing divergent views, it will simply turn a deaf ear or even challenge the credibility of the surveys. Given such an illogical mentality, I do not think that any debate can possibly come up with any answer.

The present situation can be compared to our shopping experience. The shopkeeper says that he welcomes bargaining. But when we keep on making counter offers and persuading the shopkeeper to lower the price, he insists on selling the commodity at the original price. I cannot help asking what it means by bargaining. It is far better for him to display a "No Bargaining" sign at the very beginning.

Government officials also call upon Members to endorse the present constitutional reform package first and then discuss the retention or otherwise of FCs or the definition of universality and equality at a later time. I really want to know what kind of logic this is. The reason is that the package we are now asked to endorse will increase incessantly the number of FC seats, and for this reason, FCs will be retained forever. I think no one is willing to board a train heading towards an unknown destination.

As the Chairman of the Hong Kong Social Workers' General Union (HKSWGU), I shall vote in strict accordance with the aspiration of the

HKSWGU, that is we will put in our last effort to strive for dual universal suffrage in 2012 and abolishing FCs. To us these are the right course of actions. Naturally, we are prepared to communicate with the Government and seek a consensus amidst differences. But it is very obvious that the package put forward by the Government are entirely different from what we have proposed.

Earlier on, the Chief Executive wrote an article, in which references were made to Netizens' mischievous attempt to change "Act Now" to "All Wrong". He said that, looking back, the pan-democrats' vetoing of the constitutional reform package years back was "all wrong". That act is simply not conducive to solving the problem and creating a suitable atmosphere for everybody to discuss the package calmly. Therefore, on 23rd of this month, I shall vote on the basis as a social worker and on the final decision of the HKSWGU.

President, I so submit.

**MS EMILY LAU** (in Cantonese): President, the democratic camp had in fact forged a consensus with your political party just a few years ago that dual universal suffrage should be implemented in 2007 and 2008. Such consensus had already been reached before the division within the Liberal Party. Originally, we were supposed to implement dual universal suffrage in 2007 and 2008. Why do we still have to discuss about the definition of universal suffrage, as suggested by Mr Ronny TONG, right now in 2010? Do you not think it is really terrible? This explains why Miss Tanya CHAN was so furious just now. She is young and energetic, and has joined this Council for just a few years. However, we have been discussing this subject since 1991. Perhaps, we may have to discuss this subject for another 20 years. President, it really sucks. I do understand Mr Ronny TONG's goodwill. But how come we are still discussing about the definition of universal suffrage? In fact, we are very clear about the definition, only that some people do not agree to it. Mr TONG has proposed that the SAR Government should motivate various sectors to engage in discussions. However, we are simply preaching to deaf ears. How can the SAR Government motivate the public? They just yell at others with amplifiers. If someone becomes deaf as a result, it is really bad. That will really happen. President, I wonder if anyone has ever yelled at you with an amplifier. Is this

what we call motivation? What kind of motivation is it? I think such a practice is really very outrageous.

Regarding QIAO Xiaoyang's remarks, I have never come across such comments from a public official, saying that he would provide us with his personal understanding and points of view on these issues. In your opinion, will Secretary LAM make such comments? Will Donald TSANG make such comments? President, if someone says that he will put forth his personal opinions to me, I will ask him to stop. But if he provides me with the Chinese Government's views, I will listen to him. Otherwise, what is the point of listening to him? However, we still have to listen to his remarks and quote them as if they were from the Bible. Do you not think that it is a tragic to Hong Kong?

Secretary LAM is now drafting a report to the Human Rights Committee of the United Nations, no matter he likes to do so or not. He said, "You need not put forth your arguments. We will not recognize them. We will only recognize the Basic Law." I told him that since he did not recognize such arguments, he had better not go to the United Nations. If he had guts, he could withdraw, yet after making pledges and signed, he said that he would not comply with Article 25(b), but would submit a report of several hundred pages to the United Nations. It is simply a kind of schizophrenia. President, I will by no means act like him.

In my opinion, the principles of universality and equality are very clear. Be it the right to vote, the right to make nomination or the right to stand for election, it should comply with the principle of universality and equality. Therefore, I wonder why QIAO Xiaoyang suddenly said that there were legal restrictions in other places. President, of course, there are also legal restrictions in Hong Kong. For example, those under the age of 18 and those who have been living in Hong Kong for less than seven years are not allowed to vote. President, in some other places, those who are not citizens are not allowed to vote. These are the so-called restrictions. However, it does not mean that if you are not from the banking sector, you are not allowed to vote for a certain candidate; if you are not from the insurance sector, you are not allowed to vote for a certain candidate; if you are not a real estate developer, you are not allowed to vote for a certain candidate; or if you are a real estate developer, you can have

40 votes, for you have so many companies. Are these what we are talking about? Is there really nothing wrong? Therefore, I wonder what desirable outcome Mr Ronny TONG wishes to achieve. However, I think if we go on discussing with him in this way, it may take 30 or 40 years. Anyway, I am sure I will not be here by that time. President, maybe you can live a hundred years, you may still be here. If we still have such discussions by that time, do you not think it really sucks?

Elsie LEUNG also came out yesterday. President, what did she say? She said that functional constituencies could co-exist with universal suffrage. Who is she? She is a member of the Basic Law Committee. It is really terrible for her to make such a comment. Yesterday, Maria TAM took out the Basic Law and read it repeatedly. I think if she was in the Victoria Park, she would definitely be forced away. Worse still, she blamed the SAR Government for only having the Basic Law. How could she view the issue from different angles? Wow, these people are utterly leftist. President, what can we do? We should talk about co-existence now. But the actual situation is, there is no way for the two to co-exist. Can there be any co-existence at all? President, in view of this, no discussion can be made.

As mentioned by LEUNG Kwok-hung, if 50 000 (or even 100 000) signatures can be obtained, they are still nominations made by people and voters. Such restrictions are acceptable. However, the present situation is that if you do not have strong financial back-up or if you do not come from the banking sector, the Mass Transit Railway Corporation or the agricultural and fisheries industries, you will have no right to vote. This is unacceptable. In particular, organizations of some sectors, which were set up automatically upon legislation many years ago, no longer exist. Therefore, if you ask the authorities what these organizations are, they may not have any idea and will not bother at all. They simply adopt a couldn't-care-less attitude and force us to accept such a mess. That is indeed unacceptable?

Moreover, regarding the democratic procedure of the nominating committee, there is in fact some misunderstanding. Originally, we think it is negotiable to vote by "one person, one vote" in future under the current practice. But then we realize that according to his personal opinions, that is not the case. Anyway, I believe Beijing may have different points of view, and so I need not

bother about his personal opinions. However, I do not know the SAR Government's stance at present. It has all along been saying that we should go ahead, follow the steps, so that we can achieve so and so in future. To our surprise, the actual situation is completely different.

President, the Secretary has just mentioned that 60% of the public are in support of this package. But yesterday, I learnt that an opinion poll indicated that only some 40% of the public were in support of it. What does the Secretary mean by securing support from 60% of the public? I think he had better show us that the survey was scientific. President, as far as I know, some public polls even show that 70% of the public are in support of endorsing this package. I do not think so. What they wish is to move forward. President, they simply wish to move forward. Therefore, both the Democratic Party and I do understand that many people are not very patient now, even towards our political party. In particular, they can no longer tolerate the SAR Government or Beijing. LAU Siu-kai has made a good point that we are really being trapped in a state of worries.

The question is, if we have raised something reasonable, the public also consider that we can move a step forward, should Beijing and the SAR Government think about it as well? President, even those royalists should also think about it, for they win every time. The package put forth in 2005 was vetoed by us, right? But they could accept it. Why? It is because they wished to do so. How about this time? Why do they accept it? Once again, it is because they wish to do so, whilst we object to it. Do you think it fair at all?

Therefore, the Secretary keeps on saying that he has a lot of things to do and a position to base him on, for he can secure support from more than 70% of the public. Of course, if we refuse a toast only to drink a forfeit, we will arouse the grievances of those post-50s, post-60s, post-70s and post-80s. I believe by that time, the governance will definitely be subject to severe challenge and he is simply asking for trouble himself.

**DR SAMSON TAM** (in Cantonese): President, a healthy constitutional development is crucial to the future of Hong Kong. I think many people will agree with me. But what is meant by a "healthy development"? I think

different people and political parties may have different points of view and opinions. It is indeed impossible to require all people to share the same view. Therefore, I agree that the Government should motivate the discussions proactively, so as to foster consensus as early as possible.

The Standing Committee of the National People's Congress (NPCSC) had stipulated a clear timetable in 2007. This is in fact a very important milestone, stipulating the timetable for implementing universal suffrage for electing the Chief Executive in 2017 and for forming the Legislative Council in 2020. The timetable has broadly been drawn up. At present, the divergence of views is mainly related to several points, namely the definition of universal suffrage; the role of the Election Committee; the retention or otherwise of functional constituencies (FCs); and the formulation of a transitional package.

First of all, I wish to talk about implementing universal suffrage for electing the Chief Executive. President, we have a tight schedule and do not have much time left now. It is because if we do wish to elect the Chief Executive by "one person, one vote" in 2017, which is the expectation of the majority and that of mine, we only have seven years left. What should we do now? How can we draw up the package concerned? We had better stop procrastinating any further. Even if we can really elect the Chief Executive by "one person, one vote" in 2017, I wonder if the Chief Executive so elected can ultimately be appointed by the Central Authorities under the "one country, two systems". By that time, in case the Central Authorities refuse to appoint him, I am afraid a constitutional crisis may result. My worries are not fictitious. How can we avoid such crisis from emerging? How can we strive for more confidence and room for the people of Hong Kong from the Central Authorities? It is indeed necessary for all political parties and the Government to put in efforts collaboratively.

Another focus of our discussion is whether FCs should be abolished. In the past couple of months, there have all along been criticisms against FCs, belittling FC Members. In fact, this is unfair to FCs as FCs, being formed according to the Basic Law and local laws, absolutely have a legal status and representation. They have all along been playing a transitional role. In case conflicts are aroused with FCs continuously, I cannot see any benefit that can be brought about to our society. As a matter of fact, FCs have played a good role

by bringing different voices in society to this Council, so that we can have various views. At present, some people are worried that should FCs be abolished in future or should all seats be returned by direct elections, some views in society may not be reflected in this Council. Despite the proposal of abolishing FCs, some people suggest that we should not replace them completely with district-based seats returned through direct elections. We should rather make reference to the practice adopted in Japan, under which half of the seats are allocated to political parties or major constituencies, so as to ensure a more balanced composition of Members to be returned by elections in future. As for the proposal of retaining FSs, we should also take many factors relating to equality into account. Some people suggest that Hong Kong should make reference to the "bicameral system" adopted in the United Kingdom and make amendments accordingly, so that FCs can be retained. However, this proposal will cause substantial changes to the Legislative Council. Anyway, in case we fail to come up with a package which is acceptable to all, resulting that no progress can be made in each Legislative Council election in future, I think this is absolutely not what the public wish to see.

President, let us view this issue from the perspective of the Central Authorities. As stated in the documents, Mr QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress, had stated clearly as early as in 2004 that before political parties had become mature, it was not advisable to abolish FCs hastily. As we can see, mature political parties are very important to the constitutional reform in Hong Kong. In case universal suffrage is implemented hastily when political parties are still immature, irrational and lack of representation, I do wonder if the Central Authorities will be even more worried. We should view the issue from this perspective.

In view of this, how can political parties become mature, so that the constitutional system in Hong Kong can keep on moving forward? As we can see, many countries with democratic elections in Europe and the United States have political parties formed across strata, so as to attract participation of people from different strata. President, when will we have such political parties in Hong Kong? At present, have the Government or political parties provided more room to reinforce political parties in Hong Kong, so that they can become more mature in future? In fact, the Government is duty-bound to do so. And

apart from the Government, I consider that political parities should also bear the responsibility of fostering the new generation. Let me put forth some recommendations here. Will political parties consider allowing more young people to participate in politics, such as restricting their representatives to serve only two terms in the Legislative Council? That is to say, they should replace their representatives every eight years. Such a recommendation should be adopted by political parties, so that their representatives cannot occupy the seats for too long and more young people can join this Council. Such practice can certainly attract more young peoples to join political parties, who can participate in politics through the Legislative Council in future.

President, I wish to reiterate a point here. I hope and believe that it is necessary for the Government to take the initiative to put in more efforts and listen to more public opinions proactively, so that the constitutional reform and its policies can move forward ultimately.

President, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): President, "Weigh anchor, weigh anchor, weigh anchor", this is what the captain of the Titanic said. As we all know, after he had said so, the Titanic sank. "Sinking, sinking and sinking", this is the situation we are now facing. At present, the question is not whether our vessel should "weigh anchor", but where should it head towards, otherwise it will sink. I think the biggest question is that the Government has always "fooled" us, and the entire constitutional package for 2012 will not lead Hong Kong towards genuine universal suffrage.

President, QIAO Xiaoyang's recent remarks make us even more worried. What is the commitment for implementing universal suffrage in Hong Kong all about? We have strived for democratic elections for so many years, thinking that the international standard being adopted all over the world should be applicable in Hong Kong. However, QIAO Xiaoyang's remarks really make us very worried. He has raised two points. President, today, I will try to make cross-reference between the article released by the Communist Party on 2 February 1944 and the remarks made by QIAO Xiaoyang on 8 June 2010 in his speech.

I will read out QIAO Xiaoyang's remarks first, followed by the article released by the Communist Party of China in 1944. They match perfectly with each other and even their writing styles are quite similar. However, as my Putonghua is not very good, I do not wish to expose my inadequacy, so I will not read it out in Putonghua.

President, as stated in QIAO Xiaoyang's remarks, "The Basic Law has not provided any definition on universal suffrage. According to my understanding, the core detail of 'universal suffrage' is the protection of equal election rights. From a historical perspective, the concept of 'universal suffrage' stresses that inequality of election rights because of difference in property, sex and race should not be allowed. Therefore, generally speaking, 'universal suffrage' refers to universality and equality of election rights".

How about the argument in 1944? "Can election rights be exercised completely, fully and effectively? Is there any unreasonable restriction and exploitation on the right to stand for election? There is an inseparable relationship between the two. Broadly speaking, election rights should include the right to stand for election. In exercising the right to vote, there should be a target for being voted. By the same token, if there is the right to vote, there should also be the right to stand for election. If the right to stand for election is being restricted, the exercise of the right to vote will also be restricted ..... Therefore, under a genuine system of universal suffrage, there should be 'universality' and 'equality' for both the right to vote and the right to stand for election. Not only should people have equal right to vote, they should also have equal right to stand for election, irrespective of their property, status, power, educational background and knowledge. The only standard is whether one can represent peoples' views and interests, as well as whether one can secure people's support". Therefore, we are all very clear that in 1944, the right to stand for election had already been stated. However, QIAO Xiaoyang is now still talking about universality and equality of election rights.

QIAO Xiaoyang has added one more point, "However, according to the general understanding in the international arena, it is allowed in laws to impose reasonable restrictions on election rights. Various countries can, based on their actual situation, adopt different election systems to achieve universality and equality of election rights. This is the reality in the international arena

nowadays". How about the argument in 1944? "Of course, in the past and even nowadays, the election system of some democratic countries is not a system of universal suffrage, but a system of restricted elections. However, since the First World War, it has been the global trend ....." How pathetic! It is stated that since the First World War, "..... it has been the global trend. Obviously, no one can block the road to the system of universal suffrage. In particular, in our Nation, Dr SUN Yat-sen had advocated the system of universal suffrage long time ago. Theoretically, all people should have equal election rights. There should be no doubt at all." It is already stated that movement towards a comprehensive system of universal suffrage has started after the First World War.

Next, QIAO Xiaoyang has mentioned another issue, "functional constituencies have existed since electoral system was introduced into Hong Kong, and objective assessment should be made". That is to say, he refuses to comment on whether functional constituencies (FCs) should be abolished or not. What about the argument in 1944? "Every one should only have one single election right. No one should be allowed to obtain more than one election rights because of advantages in respect of sex, race, religion, property, educational background, social status and even living conditions. This is the spirit of 'abolishing the election for bourgeoisie with property as a standard' advocated by Dr SUN Yat-sen ....." Wow! It is exactly the case of FCs, which is "the election for bourgeoisie with property as a standard". At present, FCs in Hong Kong are elected by "one dollar, one vote". That is to say, if you have \$1 billion, you will have 1 billion votes. "..... to 'implement' the 'system of universal suffrage' with 'universality' and 'equality'". As mentioned by Dr SUN Yat-sen, "the election for bourgeoisie with property as a standard" should be abolished.

In view of this, why are we still arguing in this Chamber whether FCs should be abolished? Elise LEUNG even said that there was no conflict between FCs and universal suffrage. That is to say, even if universal suffrage is to be implemented in 2020, FCs will still exist. It is a known fact to us. Is there any room for discussion at all? They have distorted the meaning of universal suffrage to such an extent that FCs can be retained. What is the point of argument?

Mr Jeffery LAM has mentioned in his speech just now that this Council adopts the practice of "favouring politics and neglecting the commercial sector". That is to say, those Members returned by direct elections should debate on politics, whilst those returned by FCs should debate on economic subjects. The reason why we have to debate on politics is because of the existence of FCs to which they belong. If FCs are to be abolished, we can save a lot of efforts.

Moreover, another fatal misunderstanding is that people tend to think that businessmen and those in the commercial sector know much about economics. This is in fact wrong. Those engaging in the commercial sector only know how to safeguard the interests of their businesses and of their sector. This explains why Mr CHAN Kin-por has tried his best to object the establishment of a central compensation fund, for he has to safeguard the interests of the insurance sector. However, I will not blame him as he is the representative of the insurance sector. Abraham SHEK objects the enactment of legislation to regulate the pre-sale of uncompleted flats. He is the only one who objects to it, for he is representing both the real estate sector and his electors (*The buzzer sounded*) ..... David LI should of course object to investigating into the Lehman incident, for he is the representative of the banking industry .....

**PRESIDENT** (in Cantonese): Mr LEE, your speaking time is up.

**MR LEE CHEUK-YAN** (in Cantonese): ..... they do have no knowledge of economics .....

**PRESIDENT** (in Cantonese): Mr LEE, your speaking time is up.

**MR LEE CHEUK-YAN** (in Cantonese): ..... they are only concerned about their own interests. Thank you, President.

**MR ALAN LEONG** (in Cantonese): President, Article 26 of the Basic Law stipulates that permanent residents of the Hong Kong Special Administrative

Region shall have the right to vote and the right to stand for election. Apart from this, the International Covenant on Civil and Political Rights (the ICCPR) has also provided a clear definition on such political right of election. As stipulated in Article 25(b) of the ICCPR, "To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors".

President, the Chief Secretary for Administration has stated earlier on that the existing functional constituencies (FCs) in the Legislative Council do not comply with the principles of universality and equality. However, in clarifying the definition of universal suffrage, Mr QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress (NPCSC), said that, "Universal suffrage refers to universality and equality of the right to vote", without making any clarification regarding the right to stand for election. Deputy Secretary-General QIAO even pointed out that not only should the two future universal suffrage methods realize universality and equality of election, but should also take into account compliance with the legal status of the HKSAR, accommodation with the executive-led political system of the HKSAR and meeting the interests of different sectors of society. Not only do such remarks fail to allay the public's worries about the definition of universal suffrage, but also make Hong Kong people even more worried if the Central Government has an attempt to include additional conditions for the implementation of universal suffrage, so as to distort its definition and create a "Beijing-style universal suffrage", so as to retain FCs forever.

President, in fact, the general public is the most eligible people in society to make an objective judgment on FCs. After reunification for 10 odd years, Hone Kong people have deeply experienced the harms brought about by the undemocratic constitutional system. Moreover, we have clearly witnessed that the existence of FCs has turned the Legislative Council into a place for different sectors to compete for benefits. As a result, forward-looking and balanced planning of social policies have not been made for the well-being of all people in Hong Kong.

From experiences gained over the past years, FCs and their associated groups with vested interests have established a governance partnership with the Government in exchange of substantial benefits. On the contrary, the public

have to bear the evil consequence of maladministration. When the Government tries to rectify its maladministration, FCs have very often become an obstacle. This is best manifested on issues relating to people's livelihood, such as legislation on minimum wages and regulation against the selling tactics of uncompleted first-hand residential properties. In order to safeguard the interests of the commercial sector, FCs tend to hinder the legislative procedure and neglect the importance of public interest.

Both the timetable and roadmap for universal suffrage are major aspirations of the people of Hong Kong, which are indispensable. The Civic Party considers that the Government should commence discussions on how to deal with the issue of FCs in society expeditiously. It should confirm that legally speaking, any forms of FCs are not in compliance with the definition of universal suffrage. Our society can thus have a clear starting point when discussing the election models to be adopted after FCs are abolished.

The Civic Party opines that at this final stage before voting on the constitutional reform, the Chief Executive should exercise his greatest capacity, breadth of mind and tolerance to draw those minorities with vested interests over, and urge them to forge consensus with those majorities who are being unfairly treated. As such, he will not fall short of the public's expectation. Regrettably, the Chief Executive is still wallowing in self-complacency in his "Act now" campaign. He has even stated in public that those objecting to the constitutional reform are minorities. He simply wishes to shift the responsibility to the Civic Party in case the constitutional reform package is vetoed. The Chief Executive's words and deeds show that he prefers engaging in tricky manipulation of power than working pragmatically. He insists on his own way and regards those holding opposite views as enemies. He has taken the lead to divide society, stirring up greater oppositions and conflicts. Indeed, he has failed to "get the job done", and we are very disappointed.

President, in case a captain weighs anchor without knowing the direction and destination, he should be fired as it is utterly irresponsible for him to ignore the safety of passengers. Putting forth a "rehash" of the 2005 package, the SAR Government is already "all wrong". Therefore, it is rational and reasonable for the Legislative Council to exercise its power to veto it.

The Civic Party hopes that Hong Kong can implement genuine universal suffrage ultimately. That is to say, the right to vote, the right to stand for election and the right to make domination should all comply with the principles of universality and equality. Undeniably, politics is an art of making compromises. But such compromises should be made on the basis of certain principles and values; otherwise we will go astray in the process easily. On the road to strive for democratic elections, the Civic Party will never become dejected. We will keep on making efforts and seeking room for compromise, so that Hong Kong can have a higher degree of fairness and justice.

The Civic Party warns that the SAR Government should not try to get away by shifting the responsibility of obstructing the constitutional development to the pan-democratic camp. Before weighing anchor, Hong Kong people request to know whether we are going to South Africa to watch World Cup matches or facing the risk of being hijacked in Somalia. We request Beijing to undertake that we should have the right to elect the Chief Executive and all Members of the Legislative Council. It is the most humble request, being both rational and reasonable. If such a request cannot be met, the Chief Executive will be cast aside by people who are in support of democracy and the SAR Government will even become a lame-duck administration that is not respected by the public.

President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, "The fascists are the biggest liars of all. One should note that the fascists are good at deceiving people not only with hollow talks but also with substitutes! There are also new clothes in fascist countries, but their new clothes are made of sawdust and bark — they are substitutes! There are also parliaments and public opinions in fascist countries, but under fascist rule and domination, their parliaments and public opinions are — substitutes! Naturally, what the people of China want in their fight for democracy is genuine democracy rather than a substitute. Although one-party dictatorship is cleverly disguised as a substitute for democracy, it falls way too short of the people's wish. The people of China are watching with their eyes wide open: Do not deceive us with a substitute for democracy!"

This is a quotation from an article published in 1945 on *Xin Hua Daily*, a Chinese Communist Party newspaper published in Chongqing. This book, entitled *The Herald of History* (《歷史的先聲》), recorded the solemn pledge made half a century ago by the Chinese Communist Party to the people that there shall be democracy in China. The then Chinese Communist Party requested the Kuomintang, which practised one-party dictatorship, to end one-party dictatorship, return political power to the people and implement universal suffrage. Now that 65 years have passed, we are putting forth the same demand here, shouting ourselves hoarse. Members, the Communist Party member who wrote this article back then probably could have never imagined that the Chinese Communist Party today would fall low to become a fascist, which he described as "the biggest lair of all". Secretary Stephen LAM is only the biggest lair of all, a lackey of the lackey. This is the sorrow of Hong Kong people and the sorrow of the Hong Kong Special Administrative Region (SAR). HAN Han, a young and vocal writer in the Mainland, once wrote an article with the following line, (*in Putonghua*) "I hope the Chinese Communist Party will honour the words it said when courting a lady back then." In Cantonese, it means he hopes the Chinese Communist Party will honour the words it said when "picking up a girl" back then. These are words for "picking up a girl": to end one-party dictatorship, return political power to the people and implement universal suffrage. Now that it has got what it wanted, it has left the girl behind. To put it vulgarly, when its desires are fulfilled, it ditched the girl. "One country, two systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong" are packs of lies.

Regarding this constitutional reform package, the position of the League of Social Democrats (the League) is not ambiguous at all, and Secretary Stephen LAM has never naively imagined that the League would support it. We strongly oppose this constitutional reform package. Right from the very first minute, this constitutional reform exercise has been a scam of blackmail. The Chief Executive will still be returned by a small-circle election, over half of the seats in the Legislative Council will still be taken by agents of plutocrats and people with vested interests, 20% of the District Council seats will still be appointed. Together with an executive-led system and the powers of the legislature being subject to various limitations, democratization in the territory will retrogress. Yet, he shamelessly said without blushing that democracy would be rolling forward. Members, this is manipulation without any sense of shame. Here, let me tell you how the Central Government and the SAR Government retrogressed

in the democratization of the territory over a period of time in the past, thereby rendering the moving forward of democracy impossible.

First, the interpretation of the Basic Law turned out to be an amendment of the Basic Law, which was a blatant breach of the constitution. The Basic Law is the fundamental law to actualize "one country, two systems" and "a high degree of autonomy". Annexes 1 and 2 to the Basic Law stipulate the methods for selecting the Chief Executive of the Hong Kong SAR and for forming the Legislative Council after 2007. According to the requirements under Annexes 1 and 2, there are three steps to follow. First, a bill shall be introduced by the Government, then the bill has to be endorsed by a two-thirds majority of all the Members of the Legislative Council, and then consent shall be given by the Chief Executive and the bill shall be reported to the National People's Congress Standing Committee (NPCSC) for approval or for the record. Now, there are five steps to follow. First, the Government shall report to the NPCSC the need for a constitutional reform, and after approval is given by the NPCSC, it shall draft a constitutional reform proposal, then the proposal shall require the endorsement by a two-thirds majority of all the Members of the Legislative Council and then consent shall be given by the Chief Executive. Members, this is the so-called the rolling forward of democracy. May I ask the Government whether it would mean a challenge to the NPCSC's highest authority if the Legislative Council votes down this constitutional reform package on 23 June? This Council's voting down of this so-called constitutional reform package approved by the NPCSC may represent a challenge to the NPCSC's authority, and you should apply for a judicial review.

Second, nominations will be screened and universal suffrage is a sham. Due to time constraints, Members may refer to my speaking note on the Internet for details.

Third, to increase the number of functional constituency seats is a distortion of public opinions.

Fourth, the Beijing authorities have given instruction to interfere with the autonomy of Hong Kong. Let me briefly elaborate on this. The most blatant interference in the constitutional development of Hong Kong is definitely the NPCSC decision. When the NPCSC decision was made on 29 December 2007,

Hong Kong people's hope for dual universal suffrage in 2012 was totally shattered, but we still insist on fighting for it.

Members, under such a gloomy political atmosphere, what Hong Kong people can do is to pull off the mask of the so-called rational communication and reveal the spitefulness of the authoritarian.

There was a famous saying by Pastor Martin Luther KING 47 years ago, which may, in the present political context, be rendered as "This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of [universal suffrage]." Democracy is something to be fought for by the people, and 23 June 2010 is the date when the people may display their power again. We call on the people of Hong Kong to gather outside the Legislative Council Building on 23 June to tell the Government loud and clear that we do not want this poor package. We would also like to tell the Chinese Communist Party clearly: Do not deceive us with a substitute for democracy. Thank you, President.

**DR MARGARET NG** (in Cantonese): President, I have not thought about the point concerning a big liar, but the Government keeps saying that as we have discussed the issue for such a long time, we must achieve some kind of result. Instead of just sitting and doing nothing, we should sign and support this package first. As there are democratic elements in this proposal, there are certain merits, like the addition of 10 seats. Even if we are dissatisfied with the package, there is still plenty of room for negotiation. This reminds me of the recent cases in which many yoga centres closed down after persuading customers to sign up for life membership. The customers were unable to turn back to get their money back. Another example is cases in which some salesmen stopped people in the street and persuaded them to sign contracts for certain telephone, telecommunication or Internet services, saying that they could cancel the contracts afterwards if they were dissatisfied with the services. Some people signed the contracts because they considered it embarrassing not to do so after the salesmen had spent such a long time on them, but they only found out later that it was very difficult to cancel the contracts. After they have got involved, they could not turn back anymore. Therefore, the more the Government persuades us to sign and show our goodwill, saying that it does not matter even if we do not know the situation in the future as we can maintain communication, the more I

am reminded of these contracts. I think the Consumer Council is right in that we should not indeed sign such contracts haphazardly.

President, Mr Ronny TONG proposed to discuss the definition of universal suffrage today. I would propose to give the Government an opportunity to give a clear explanation. If the definition of universal suffrage indeed includes the abolition of functional constituencies (FCs), even though the mid-way package, that is, the 2012 package, is not perfect, we will know what the goal is and be able to exercise tolerance and engage in negotiation. Regrettably, the Government is unwilling to do so.

I think there is no need to beat about the bush in the discussion today. There is actually only one issue with the definition of universal suffrage, and that is whether retaining FCs is in line with the definition of universal suffrage you have in mind. Why is this question so important? If the definition of universal suffrage you have in mind includes the retention of FCs, then you certainly have a timetable, as Mr LEE Cheuk-yan said just now, but your so-called timetable for universal suffrage would have nothing to do with universal suffrage. Therefore, we need to know the stance of the Central Authorities. I think QIAO Xiaoyang has actually made it very clear, and together with the footnote provided by Elsie LEUNG, we know the timetable is meaningless because it is not a timetable for universal suffrage, and nobody knows what kind of a timetable it is.

President, we do not need to see this issue as very mysterious or complicated. It is just very simple. It is evident to all that the system of FCs is unfair. I would like to reiterate my question: why do some people have the privilege to run in FC elections while others do not? Why do some people have the right to vote in these elections while others do not? This is one aspect of unfairness.

The second aspect is unfairness in proportion. Why would 3.3 million voters only be allowed to elect half the total numbers of Members while 220 000 voters would be allowed to elect the remaining half? Besides, Members elected by a smaller number of voters can vote down motions moved by Members elected by a larger number of voters. Among the 30 FC seats, with the exception of the FC to which Mr CHEUNG Man-kwong belongs, which has a few tens of thousands of members, if 15 seats vote against a certain motion moved by a Member of this Council, the motion will be negated. According to the

calculation of academics, the number of voters in the smallest FCs is less than 10 000. That is to say, the Members returned by less than 10 000 voters may vote down a motion moved by a Member representing 3.3 million voters. Is this not blatant unfairness?

Apparently, when the system is unfair, the policies will also be unfair, and there will be no way to rectify the unfairness in society. President, when we visited local communities this time, we did not launch any "Act Now" campaign, we just handed out pamphlets and called on members of the public to vote in the referendum to get rid of FCs. In our visit to local communities, we did not organize large crowds to prove the strength of our support, and neither were there any policemen to clear the traffic for us. In some cases, members of the public talked to us in vulgar and colloquial language, but instead of arguing with them through a loud-speaker, we only listened to them patiently. However, every time we visited local communities, we found that even members of the general public understand that no matter what the definition of universal suffrage is, this unfair system must be abolished.

President, recently I have been most disappointed by the Secretary for Justice. As a legal official, he should defend the law and the rule of law. However, he has made some very disappointing remarks in the "Act Now" campaign. *The Hong Kong Economic Journal* reported him commenting that it was not objective enough to criticize FC elections as small-circle elections. President, why is it not objective enough to say that FCs are unfair? He said historical factors have to be taken into consideration, and as the voting right is still under development, FC elections are yet to meet the relevant standard. However, after the enactment of the Legislative Council Ordinance in 1998, no development has been pursued so far. Why did he not pursue any development? If he thinks such a comment is not objective, I would like to know what basis he has for saying so. Both the Law Society of Hong Kong and the Bar Association of Hong Kong have pointed out, with legal backing, that this practice does not comply with the Basic Law. If he thinks the two associations are wrong, he has to point out their mistakes instead of criticizing them as not objective and scientific. Why would a Secretary for Justice plainly deceive us as if we were children and make such kind of remark? Therefore, President, I think this discussion and this "Act Now" campaign have already brought about very bad consequences.

I hope Members will see the true nature of FCs and seek to abolish them with determination. Thank you.

**MR RONNY TONG** (in Cantonese): Dr Margaret NG's remark just now has actually shown that she has mistaken the main objective of my speech, and Ms Emily LAU has also misunderstood me. I have never said there is a need to examine or discuss the definition of universal suffrage. Quite the contrary, my main point is the definition of universal suffrage has already been laid down very clearly in the Basic Law.

President, I moved this motion debate today in the hope that Members will discuss the model rather than the definition of universal suffrage. I hope Honourable colleagues will not take my remark wrong.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, barring any unforeseen circumstances, on 23 June, that is, two weeks from now, the Government will move two resolutions in this Council on the electoral methods for selecting the Chief Executive and for forming the Legislative Council in 2012. That would be the final moment for discussing this constitutional reform package, and the debate today can be said to be a warm-up exercise.

Actually, the constitutional reform of Hong Kong has been discussed countless times in this Council. We already know each other's views and positions very well, and what should be said have all been said numerous times. In fact, it has all along been my position to support implementing universal suffrage in 2012. What is more, I also hope dual universal suffrage can be implemented as soon as possible. If we look at the Basic Law, Members would find that Hong Kong people have already been granted the political right of "one person, one vote" in compliance with the principles of universality and equality in 2007 or 2008, or insofar as such rights are concerned, even before the reunification. I remember, and I believe some Honourable colleagues present also do, that I moved a resolution in this Council in 2001 to amend the Basic Law to change the electoral method for selecting the Chief Executive so that the Chief Executive would be returned by universal suffrage. Unfortunately, the resolution was unable to obtain the endorsement of a two-thirds majority of all

the Members of this Council, as required under Article 159 of the Basic Law. It was a pity indeed.

Actually, I think selecting the Chief Executive and forming the Legislative Council through a democratic, fair and just process on the basis of "one person, one vote" is undoubtedly a right that every member of Hong Kong is entitled to. It has almost been 13 years after the reunification, yet the people of Hong Kong are still unable to hold elections in compliance with the principles of universality and equality to date. More deplorably, some people even query what universal suffrage is and question the definition of universal suffrage, which has made the issue very obscure.

The day before yesterday, QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress (NPCSC), attempted to provide his own interpretation of the definition of universal suffrage. However, it can be said that his interpretation has not only made universal suffrage more difficult to understand but also caused a further loss of confidence among Hong Kong people and aggravated our concern as to whether there will really be genuine universal suffrage. Why do I say so?

First of all, President, I think regarding the nomination procedure for selecting the Chief Executive by universal suffrage, the greatest concern of Hong Kong people is that even if universal suffrage is implemented for selecting the Chief Executive in future, there will only be bogus universal suffrage without real competition. This is our greatest concern. This time, QIAO Xiaoyang pointed out for the first time in his interpretation of the definition of universal suffrage that he thinks the reference to "nomination by a ..... nominating committee in accordance with democratic procedures" in Article 45 of the Basic Law and the existing practice of nominating the candidates for Chief Executive by the Election Committee with 100 members are two separate issues. Why are they two separate issues? This has aroused among us a great deal of concern that the nominating committee in future may screen out candidates with mechanisms such as "preliminary elections", "qualifying elections" or "screening" and finally allow members of the general public to vote for the candidates on the basis of "one person, one vote". The election may probably be conducted under a situation in which there will be no choice to choose from. How can we call this genuine universal suffrage? In the end, members of the general public will have no real choice at all.

Second, regarding the forming of the Legislative Council by universal suffrage, I certainly also agree that this is the first time an official of the Central Authorities said universal suffrage must comply with the principles of universality and equality, and only when this principle is complied with can international human rights principles be met. Unfortunately, however, given that QIAO Xiaoyang talked about the principles of universality and equality on the one hand and kept qualifying it with the various so-called "special circumstances of Hong Kong" on the other, the definition of universality and equality has become obscure and unclear. Together with the so-called "imposing reasonable limitations on the right to universal suffrage in the light of the actual situation", how can he tell us that there will be genuine universal suffrage? How can he say he will return to us a democratic right? Under these circumstances, even if there is a chance of implementing universal suffrage for the forming of the Legislative Council in 2020, will there be full universal suffrage in which members of the public can elect Members on the basis of "one person, one vote"? This is a cause of great concern.

What has caused further loss of confidence is that QIAO Xiaoyang has appended a remark, which has made it impossible for me to believe that Hong Kong can achieve universal suffrage under the present circumstances. What did he say? He said functional constituencies (FCs) have existed since electoral system was introduced to Hong Kong. Following this logic — President, you should understand very well — on analysis following this logic, one would know that the situation will remain the same forever and there will always be FCs. In that case, under what circumstances will FCs cease to exist? Following this line of logic, can we kick out FCs? This is out of the question because he said FCs have existed all along. What does it mean by "having existed all along"? It means there will be no end to them, that is, FCs will exist forever and ever, and there will not be any democratic elections. Under such circumstances, how would we have confidence? How could we accept the present package of proposals? If we support this package, we would only be dragged into a trap. Therefore, we cannot support the motion today.

The definition of universal suffrage provided by QIAO Xiaoyang has almost told us that universal suffrage in the future will only be "bogus universal suffrage" and "birdcage universal suffrage" instead of "genuine universal suffrage" that has been pursued by us all along. This is absolutely unacceptable to us. Although it seems that QIAO Xiaoyang has left some room in his remark

for changing his view by stressing, for example, that this interpretation of universal suffrage is only his personal opinion, further discussion is required to reach the ultimate definition of universal suffrage, and it is inappropriate to draw any conclusion at present, his interpretation has definitely caused a loss of confidence among us.

President, in the absence of genuine universal suffrage, I would like to state my position clearly here again that I will, without regret, not change my views and position for whatever reasons. I will definitely oppose this constitutional reform package.

**MS CYD HO** (in Cantonese): Last Sunday, senior government officials visited local communities again to conduct publicity activities. Instead of explaining the package of proposals to the public, they only chanted slogans with loudspeakers in their hands, as if they were singing folk songs with the public. The next day, the press interviewed many members of the public about their views. Among the respondents, a Secondary Four student said many people had been telling lies recently — this is a truthful comment made by a 15-year-old youngster after watching the news and these activities.

In normal times at meetings of this Council, we very much hope to respect government officials. However, I absolutely agree to this youngster's observation, and I really think those senior government officials are telling lies and deceiving the people of Hong Kong. What are their lies? Although the democratization process is obviously impeded, and the authorities should obviously have conducted consultations and discussions and gauged public views after 1997 to examine what kind of constitutional system should be devised to achieve elections in compliance with the principles of universality and equality, such efforts have not been made even when Donald TSANG took up the office of the third-term Chief Executive. However, this package of retrogressive proposals was proposed within a very short time, and the responsibility of causing democracy to come to a standstill has been shifted onto the pro-democracy camp. Now, not only is the constitutional reform package unable to bring any progress in democracy, but the relevant exposition is also retrogressive. We are indeed back to square one in that even the definition of an election in compliance with the principles of universality and equality requires considerable squabbling and

further clarification. Therefore, this 15-year-old Secondary Four student can see it clearly that many people are telling lies.

This package of proposals is certainly not democratic, and the nomination procedure for the Chief Executive is worse than the existing one. In this regard, I have told the Secretary at a meeting of the Subcommittee under the relevant Panel that obtaining 40% of votes in an election is already a landslide victory, but in order to be nominated by members of the nominating committee who are returned through direct elections, a candidate has to secure almost 99.9% of public support. According to the new proposal, a candidate has to be nominated jointly by 150 members of the committee, but only 151 members in the nominating committee are returned through direct elections, including representatives of members of the District Councils who are returned by election from among themselves or by indirect elections. How ridiculous it is to require a candidate to obtain the joint nomination of 150 members out of these 151 members!

Regarding functional constituencies (FCs), many FC members recently said that we are trying to demonize them. I would like to revisit some voting results of the Ordinance on compulsory land sale. All the 12 amendments moved by Members returned through direct elections were negated under the system of separate voting dominated by FCs, and the amendment moved by Mrs Regina IP, who is a former senior government official, was also negated. Therefore, one should not say that we are trying to demonize FCs. In the face of various interests, representatives of the business sector and consortia have actually revealed their true self.

I would also like to ask a question: when residents have to face problems such the demolition, redevelopment and forced relocation by the Urban Renewal Authority, whom will they turn to for help? When the policemen are there to take possession of their flats and the bailiff is about to carry them out of their residence, will the residents seek help from Members returned by FCs or Members returned through direct elections? The answer is crystal clear. If FC Members really want to promote democracy, they may well support Mr LEUNG Kwok-hung's amendment because his amendment has neither breached the Basic Law nor contravened the fundamental spirit of the decision made by the National People's Congress Standing Committee (NPCSC) in 2007. However, the answer

is again very clear. Instead of promoting democracy, those Members would only conform to the wishes of the Beijing Authorities.

As Ms Emily LAU said just now, the Liberal Party and the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) had once put fighting for dual universal suffrage in 2007 and 2008 as part of their political platform. What about now? Obviously, they are waiting for the acquiescence of the Beijing Authorities. Instead of promoting democracy, they will wait and accept whatever the Beijing Authorities is willing to give. Even though this is a retrogressive package, they will, together with the Government, impose it on the people of Hong Kong. Therefore, despite the many variations, the key to democratization process still lies in the willingness of the Beijing Authorities to make concessions and relax its control and, most importantly, withdraw the 2007 NPCSC decision. No matter what the voting results of the constitutional reform package for 2012 will be, in order to enable democratization process, FCs have to be abolished, the ratio of 1:1 between Members returned by FCs and Members returned through direct elections asserted in the 2007 NPCSC decision has to go, and separate voting has to be abolished. Therefore, would the Central Government please stop telling us how sincere and compromising it is. It can show its greatest sincerity by withdrawing the 2007 NPCSC decision expeditiously.

Besides, President, I have to reprimand the Government for not attending to its proper duties. The duty of the Government is not to antagonize its people but to unite them. However, the Government is now taking those who agree with it as its people and acting on behalf of them; but for those who oppose it, it would yell at them through a loudspeaker. Are we adopting the saying of the Communist Party in the past — only those who obey the Government are its people, and those who do not are rioters? As Dr LAW Wing-sang, a socio-cultural scholar from the Lingnan University, said, this practice is only a step away from a fascist government.

This Government has to remind itself that its responsibility is to be accountable to Hong Kong people instead of contesting with us from the pro-democracy camp. It has made a mistake. Those who really wish to engage in contests should resign from their office and run in direct elections instead of using their power and authority to manipulate public opinions and obtain public

support. More outrageously, they even exclude and marginalize ordinary members of the public who oppose the Government's package of proposals.

Therefore, President, I will certainly support Mr LEUNG Kwok-hung's amendment, and I also hope Mr Ronny TONG's motion will receive Members' support. My greatest hope is to amend it by including in it the year of 2012 (*The buzzer sounded*) ..... I find it very difficult to accept a proposal without a definite year.

**MR PAUL CHAN** (in Cantonese): President, the Government has given notice to this Council on Monday that the resolutions concerning the "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012" (the constitutional reform package) will be put to vote on 23 June. That day, I wrote to members of the accounting sector and some other friends not from the sector to share with them my views on the constitutional reform package. I was just as worried then as I am now.

President, as we are now debating on Mr Jeffrey LAM's amendment, I would like to take this opportunity to share with Members some content of this letter. Due to time constraints, I can only highlight the key points.

President, under the Basic Law, if there is a need to amend the methods for selecting the Chief Executive and for forming the Legislative Council, the endorsement of a two-thirds majority of all the Members of the Legislative Council is required. Besides, the Standing Committee of the National People's Congress (NPCSC) has made a decision at the end of December 2007 to constitutionally limit the room for changes in the constitutional development of Hong Kong in 2012, and one of the requirements is that if the number of seats of the Legislative Council is to be increased, the half-and-half ratio between Members returned by functional constituencies (FCs) and Members returned by geographical constituencies (GCs) through direct elections shall remain unchanged.

The constitutional reform package proposes that the number of seats of the Legislative Council will be increased from 60 to 70, and all the five new FC seats will be allocated to the District Council FC. To my understanding, these seats will be returned through election from among DC members under the

proportional representation system. It can be argued that this proposal, though not ideal, is the lesser evil and is more desirable than allocating the additional seats to any traditional FCs. Actually, many people would consider it arbitrary to regard DCs as a FC because DC members are returned by geographical constituencies through indirect elections. DCs are regarded as a FC to comply with the NPCSC decision, that is, if additional seats are to be created, the ratio between GC seats and FC seats shall remain unchanged. This is actually an expedient measure, with certainly good intentions behind.

President, the election of traditional FCs does not comply with the principles of universality and equality. With a historical background to their existence, traditional FCs have made contribution to Hong Kong and that is a transitional arrangement. I think in implementing full universal suffrage, FCs should be abolished in one go if the development of political parties have become more mature, in that it can attract talents from different sectors and give regard to different interests in society in their deliberation in this Council. I understand that the sector I represent, just like Members of this Council, have divergent views on the retention and abolition of FCs. However, President, I think we should not let the present controversy from impeding the rolling forward of the constitutional system.

Like Honourable Members, I also hope very much that the discussion between the pan-democracy camp and the Central Government will achieve breakthroughs, so that the development of the constitutional system of Hong Kong will receive extensive support. However, if these efforts turned out to be unsuccessful, what should we do with the present package? President, I think although the present package is not satisfactory, it is indeed a step forward in enhancing the democratic elements and the representativeness of Members of the Legislative Council.

Second, accepting this package will bring no loss to Hong Kong people, and neither is any down-side risks involved.

Third, I am a bit perplexed by our debate on the abolition of FCs. If the 2005 package had been endorsed, the ratio of traditional FC seats to GC seats would have reduced from 50% to 43%, and if we had taken a further step forward, the ratio of traditional FC seats to GC seats would have reduced to some 30%. At that time, I believe it would be much easier to obtain the endorsement

of a two-thirds majority of all Honourable colleagues of this Council to abolish traditional FCs. President, who would benefit most if we refuse to allow the constitutional development to take a step forward? Would they be those who are regarded as enjoying political privileges?

Fourth, President, with the availability of the timetable for universal suffrage, one would naturally hope to see that there are milestones in between, which is a very reasonable expectation. However, as Mr Ronny TONG said just now, there is serious distrust and suspicion between Hong Kong and the Mainland. In reality, it is impractical to make all the milestones clear before endorsing the constitutional reform package. President, I hope Honourable colleagues will give consideration to taking a step forward and putting in some time in return for trust and the wisdom of resolving problems. I remember during the Sino-British negotiations before the reunification of Hong Kong, many Hong Kong people were very worried, no wonder many people decided to migrate to other countries. Although their concerns were sensible, it was proved after the reunification that there were far less causes for concern than they had imagined, and many people have returned to Hong Kong. On the other hand, looking back at Mr DENG Xiaoping's decision that Hong Kong would remain unchanged for 50 years, there was the wisdom of allowing time for exploring ways to solve problems. In many cases, disputes may not be resolved hastily and instantly.

Fifth, President, insofar as democratic elements are concerned, the constitutional reform package is not lacking in advancement, just that the advancement is insufficient to address the demands of various parties. I hope that in considering whether or not to support the constitutional reform package, Members will take into account whether the direction of this package is right, whether accepting this package will cause any loss to Hong Kong people, and what consequences will arise if the package is not endorsed.

"Politics is an art of the possible". Amid the many restraints, the constitutional development of Hong Kong is seeking the possible and the feasible. Our ultimate goal is to win this battle of demanding full universal suffrage, but we do not need to insist on gaining full victory in each and every combat. We should not impede the endorsement of a package of proposals which will improve the existing situation just because the best package is not available.

President, constitutional development is a controversial issue involving political judgment. *(The buzzer sounded)* ..... I only adopt a practical perspective .....

**PRESIDENT** (in Cantonese): Mr CHAN, your speaking time is up.

**MR PAUL CHAN** (in Cantonese): ..... and frankly share with Members my personal views. Thank you, President.

**DR LEUNG KA-LAU** (in Cantonese): Just now, I was busy printing labels and letters in my office, so as to send some 13 000 letters to fellow members of my sector tomorrow. By "one person, one vote", they can instruct me what to do and I will vote according to their wishes.

Next, I wish to talk about my observations but I may have some misconceptions. If I say anything wrong, I ask Members to correct me.

First, I wish to talk about the roadmap. Earlier on, a group in my sector, the Hong Kong Medical Association, carried out a consultation exercise and 78% of doctors agreed that there should be a roadmap. In fact, this is a very simple matter and let me use performing a surgery as an analogy. If a patient has a tumor and has to be operated on, the patient will ask me what the objective of the surgery is. The objective is to remove the tumor, so there must be an objective. But when the patient asks me, "Doctor, can you guarantee that the tumor can definitely be removed?", I would say, "How can I guarantee? How do I know if, during the operation, I found the tumor connecting to some other thing? It is also possible that a haemorrhage may occur.". Therefore, I think it is acceptable for the Government to say that it has not been authorized to deal with constitutional reform after 2012, but the Government should let everyone see a goal, so that we will know whether this interim proposal is heading towards the goal. However, is it really necessary to reach that goal? Indeed, the Government has not been authorized to do so. It is really difficult to say and we do not know what the subsequent schedule is. Therefore, a reasonable approach

is to set a goal for 2020 or 2017, then we can deal with the present proposal for 2012.

However, separately, I do not know who the chief engineer behind the scene is. He may be a person of great wisdom, is it true that he does not have any views on 2020? I do not think so because all Honourable colleagues with children know that parents will surely make plans for the education of their children, for example, which primary school, secondary school and even university they will go to. Given that constitutional reform is such an important matter, how possibly can he have no views about 2020 or 2017? He surely has some views, only that he has not told us about them. I do not know what goals he has for 2020 and I can only try to deduce the situation in 2020 according to the information now available. Concerning the information now available, the Government has said that the existing functional constituencies (FCs) do not conform to the principles of universality and equality. This is point number one.

My second observation is that the 2012 package has not proposed any measures to improve the existing FCs. This is point number two. The third point is that the Government has not promised to ultimately abolish the FCs. The fourth point is that according to Article 68 of the Basic Law, the ultimate aim is the election of all the Members of the Legislative Council by universal suffrage. As regards point number five, it is about the District Council (DC) proposal.

I have been listening to Members' speeches and one point occurred to me. In fact, universal suffrage cannot be equated with direct election. If the DC proposal is in line with the principle of all people having the equal right to vote and to be elected, and it is also in line with the principles of universality and equality, where does the trick lie? When the elections for DC members were held one year ago, we do not know how these DC members will vote in the coming Legislative Council election. Therefore, my conclusion is that the chief engineer behind the scene may have the idea of having all 30 or 35 FC seats returned by DC members from among themselves. If this is the case, it will tally with all my observations made previously. This is not my view but my observations.

I thought that my observations were clever but my assistant told me that someone had already pointed this out. Half a year ago, Dr Joseph LIAN Yi-zheng had written six articles for the *Hong Kong Economic Journal*, voicing such views. He said that the person behind the scenes could not possibly have no idea and the idea might be to have all FC seats returned by DC members from among themselves in 2020. In this way, our demands relating to universal suffrage would be met.

We must not forget that the President of the United States is also returned by universal suffrage but through indirect elections. Moreover, under the system of indirect elections, candidates must vote according to the wishes of the voters. This relates to the question of the merits and demerits of the system of indirect elections. I also learn from Dr LIAN's article that in our country, the NPC deputies below the county level are returned by direct elections but the NPC deputies at the provincial and national levels are returned by the NPC deputies at the next lower level. Therefore, to some extent, the NPC also complies with the principles of universality and equality.

Having voiced my views, I wish to talk to Honourable colleagues of the pan-democratic camp the issues relating to FC. I agree that FCs are unfair, be it under the "one person, one vote" or "one person, two votes" arrangement. Moreover, the weight of the vote is also different, but the greatest problem may relate to the electorate base — I do not mean such a situation is fair but the problem may relate to the electoral base. I believe that if the electoral base can be expanded to, say, 80 000 or 90 000 people, as in the education FC, then the problem can be alleviated. I hope that Members can consider, in campaigning for universal suffrage, is it a correct direction to demand solely for universal suffrage and the abolition of FCs.

Second, I also wish to talk to Honourable colleagues about the issue of FCs. They often say that FCs deserve to be retained but in fact, people think that the FC to which they belong should be retained. I have some 10 000 voters and my FC deserves to be retained. However, if we support this proposal before us, does that mean we support the possible replacement of all FCs by DCs in 2020 and the ultimate abolition of their FC? Honourable colleagues, even if the proposal for 2012 cannot be passed, the expansion of the electoral base does not

require the amendment of the Basic Law. We can deal with this issue at our own pace in the future.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, now that we have come to 2010, and we are still squabbling interminably in this Chamber in Hong Kong about the issues of so-called constitutional reform, universal suffrage, the procedures and the timetable. This is a disgrace to Hong Kong people and also a disgrace to the legislature.

The universal value of democracy is already part and parcel of the daily life of advanced societies throughout the world, but to Hong Kong people, even now, it still appears that this is a distant and unattainable dream and aspiration. This definitely is beyond the anticipation of the Hong Kong public, including the pro-democracy camp, when the Sino-British Joint Declaration was signed and the Basic Law was being discussed at that time. 13 years after the reunification, we are still embroiled in these problems.

When I see the so-called "Act Now" campaign launched by the Government, which is in fact "All Wrong", it seems to me that the campaign is a replica of the Great Leap Forward or the Cultural Revolution. At present, under the baton of the Communist Party, senior officials in Hong Kong are constantly lying, distorting the truth and bragging. The Act Now campaign is similar to the steel refining work during the Great Leap Forward, the aim of which is to surpass the West. Basically, the rehash package is absolutely and purely a retrogressive proposal but senior officials are so shameless as to say that this represents a kind of progress. Judging from the nomination procedure of candidates running in the Chief Executive election and the increase in the number of functional constituencies (FCs), as well as the apparent perpetual existence of FCs, this constitutional proposal taking over a decade to formulate is definitely and utterly a very retrogressive proposal.

Please do not insult the intelligence of Hong Kong people anymore. Do not think that this lie, when told a hundred times or tens of thousands of times,

would become the truth. To continue to tell such lies will only testify to the shamelessness and incompetence of senior officials. For this reason, if this group of eunuchs, castrati, lackeys, bouncers of the communist party and the running dogs of consortia are asked to promote and sell this proposal, this is to further insult the intelligence of Hong Kong people and to insult the position of Hong Kong people in aspiring for democracy.

Therefore, I call on Hong Kong people not to let these lackeys insult them anymore and not to be further dubbed by these lackeys. Hong Kong people have to stand up for themselves and we can no longer rely on these lackeys, still less can we rely on the running dogs and bouncers of consortia to make concessions on democracy in Hong Kong. It will be absurd to ask FC Members, in particular, FC Members in the loyalist camp to willingly give up the elections of FCs and make concessions, because they are the parties with vested interests, and under the system of vested interests, all these people are making a fortune. Some FC Members are practically the minions working for consortia, which give these people a few crumbs of their vested interests, for which these people are wagging like dogs.

Due to the exploitation and bullying by consortia, Hong Kong people are now having a very miserable time. Recently, the rental of a Chinese herbal shop which has been in business for almost a decade in a shopping centre in Tin Shui Wai under the management of the Link REIT, was increased by 100%, from the present \$60,000 per month to \$120,000 per month. Such is the adverse consequence of the favouritism shown by the Government to consortia. For this reason, if the public do not step forward bravely and resort to radical means to fight for democracy, the development of democracy in Hong Kong will never be within sight and the system will still be controlled by lackeys.

Therefore, President, I think the Hong Kong public must come out to take part in the debate on 17 June, they cannot just watch television like bystanders. On 23 June, all of us must besiege the Legislative Council, so closely that not a drop of water could trickle through, in order to show the power of the people. Senior Government official often say that Hong Kong people do not want to see groups like the Red Shirts in Thailand, and that Hong Kong people do not want to see the tactics of struggle practiced in Taiwan. I have to tell the Hong Kong

public, this is a revolt against bureaucratic oppression. Senior officials are paid \$3 million to \$4 million a year and upon retirement, they become the lackeys of consortia to bully the Hong Kong public. If the people of Hong Kong continue to put up with this quietly and continue to endure in silence for another 20 years, Hong Kong people will continue to be the slaves of consortia. For this reason, we cannot continue to tolerate Hong Kong people being humiliated, exploited and oppressed. At present, thousands of elderly people are waiting for homes for the elderly but they cannot get a place before they die. Each year, thousands of people also committed suicide due to the overwhelming pressure of living.

However, what about our senior officials? Just look at the mentality and attitude revealed by the publicity for constitutional reform. To them, constitutional reform is like making new clothes and dancing. That is the way of life of the high ranking government officials. When senior officials and rich ladies get together, they talk about new clothes and dancing, and when they go home, they talk about new clothes and dancing with their husbands. This is the way of thinking of the upper class in society and this is fully revealed by the promotional tactics as well as the mentality and ideology behind the publicity for constitutional reform. If the Hong Kong Government and public are governed by a group of lackeys who only care about new clothes and dancing, the Hong Kong public can never see the light of the day. For this reason, if we want to topple anything, we have to topple the system of governance by lackeys and the people cannot continue to be exploited.

Let us look at the four bankruptcies exposed by the constitutional reform: the bankruptcy of the integrity of accountability officials; the bankruptcy of the entire Accountability System for Principal Officials; the bankruptcy of the promise of "a high degree of autonomy"; and worse still, the bankruptcy of the Basic Law and the principles of "one country, two systems". At present, what is left is a high degree of command, a high degree of control and a high degree of totalitarian rule by the communist party. In view of this, Hong Kong people can no longer rely on the Central Authorities to give them alms out of pity, they must stand up for themselves and besiege the Legislative Council on 23 June.

**DR PRISCILLA LEUNG** (in Cantonese): President, the most valuable thing in communication is sincerity and the two sides involved must have mutual trust

before anything can be achieved. If inflexible lines are set by both sides before negotiation and communication and if there is no room for manoeuvre and lack of mutual trust, the communication will only become empty talks and it will be difficult to achieve any consensus.

According to my experience, in these circumstances, the negotiation will eventually and certainly fail and nothing whatsoever can be achieved. For this reason, I hope very much to discuss with Members how a consensus can be forged. I believe that in order to attain the goal of dual universal suffrage in Hong Kong, society must have the spirit of seeking common grounds and respecting differences. This phrase has been cited many times but putting it into practice is actually very difficult.

I support the original purpose of senior government officials in visiting local communities but I always have reservation about this approach and its effectiveness. The situation that I am most worried about has turned into reality. The visits to local communities have ended in heckling and all parties could not hear the different voices. In the end, the public also found this a great nuisance. In fact, I am very worried that if the present political situation in Hong Kong continues to develop like this, in the end, it will evolve into such a state of affairs. In that event, it would be even more difficult to express different opinions and it would be all the more difficult to reach a consensus. Therefore, if we want to have rational discussions and negotiations yielding real results, I hope very much that all parties can build a positive, rational and interactive platform. While we can have bottom lines prior to negotiations and discussions, we should also leave some room for manoeuvre, so that a consensus may be forged after listening to different views.

Concerning issues relating to functional constituencies (FCs), the moderate democrats have put forward a proposal in which candidates for the six District Council FC seats are firstly nominated by DC members and then elected by all members of the Hong Kong public through "one person, one vote". Although Mr QIAO Xiao-yang made it clear in his comments that it was not possible to implement this proposal akin to "one person, one vote" in 2012, I think the proposal merits serious consideration.

In September 2006, some academics and I submitted a number of proposals to the Commission on Strategic Development on several occasions. One of our proposals was related to a trilogy for constitutional reform, with the inclusion of a timetable and a road map. At that time, I proposed that the electoral base for FCs be first expanded in 2012, preferably to about one million people. In the second step, "one person, two votes" will be implemented, so that voters who are originally not entitled to vote in FCs can choose to vote for a certain FC. After the successful implementation of the second step, the third step is to require all candidates of FCs to stand for elections by universal suffrage. I also believe — or rather, we, because I did not propose this all by myself — that by that time, the full reformation and opening up of FCs will enable the attainment of the goal of direct election, aspired by us all. If a FC candidate has to meet the requirements for FC election and has to stand for election by universal suffrage, it will be much more difficult than running in other geographical constituencies through direct election. I believe that by then, every one will find the abolition of FCs more readily acceptable.

Of course, I think that the proposal of perfecting FCs put forward by me is better and clearer, however, at that time, two mainstream proposals did emerge, and the other was the current District Council (DC) proposal put forward by the Government. As far as I know, this proposal was put forward by academics befriending the pan-democratic camp and after much efforts, the Central Authorities was convinced that this proposal could be accepted as a preferable interim proposal.

Although our proposal was not accepted, I am still willing to take this step at this time. I have considered seriously if the 2012 package should be passed in its present form. In fact, I have studied carefully the proposal of "one person, two votes" put forward by the moderate democrats and found that, when compared with the second step proposed by me, it will actually take us to the same goal, albeit via a different route. Under the two proposals, everyone will have two votes, only that the moderate democrats propose that all such votes will go to the District Council FC, whereas I propose that all existing traditional FCs will open up. The major differences lie in the timing and approach. On timing, it is true that at that time, I proposed that we should reach the stage of "one person, two votes" in 2016. However, if we can secure a broader consensus

concerning these two proposals at that time, the differences nowadays may be narrowed.

I believe that we have to seek a consensus now and I know that a lot of people are probably disappointed because it seems the present proposal put forward by the Government has made no concessions or changes. However, I think that at present, there is still room for us to lobby for a more desirable direction and a roadmap for dual universal suffrage in 2016, 2017 and 2020. We really must not give up.

For this reason, I hope that no matter this proposal is passed or not, the Government should build a practical platform where Members of the pan-democratic camp and the pro-establishment camp can discuss their different ideas and differences at close range. This is just like the drafting of the Basic Law back then. The differences we were facing were even greater, involving the huge differences in interests on the part of China and the United Kingdom, as well as the great differences among various trades and industries, but eventually, all parties managed to forge a major consensus in the Basic Law Consultative Committee, even though some differences still remained. I believe that if the Government can build this platform, various segments, political parties and groupings, the business sector, the pro-democracy camp and even the referendum faction in Hong Kong should all join in the discussion. I hope that this will work. If the "one person, two votes" arrangement can work, there is the likelihood that we can find a way to universal suffrage. I also hope that the democracy for which all of us are campaigning is really appealing enough and all of us can respect each other and respect different views, so that people having different views (*The buzzer sounded*) ..... will all believe that the democracy we are all lobbying for .....

**PRESIDENT** (in Cantonese): Dr LEUNG, your speaking time is up.

**DR PRISCILLA LEUNG** (in Cantonese): ..... is something desirable. Here .....

**PRESIDENT** (in Cantonese): Dr LEUNG, your speaking time is up.

**DR PRISCILLA LEUNG** (in Cantonese): President, I so submit.

**MS MIRIAM LAU** (in Cantonese): President, all along, the Liberal Party also hopes that constitutional development in Hong Kong can move forward steadily, so as to attain the ultimate goal of electing the Chief Executive and the Legislative Council by universal suffrage, as stipulated by the Basic Law, as soon as possible. In the countdown to voting on the constitutional reform package for 2012 by the Legislative Council (although there are two more weeks to go, the time is already near), I believe that the great majority of members of the public, just like the Liberal Party, hope that the constitutional reform package can be passed and do not wish to see a repeat of the situation in 2005, thus making us back to square one again.

On 2 December 2009, Mr Alan LEONG moved the motion "Roadmap for universal suffrage" which, instead of focusing on the electoral arrangements for 2012, insisted that the arrangements for 2017 and 2020 be discussed first. This time, judging solely from the words and wording of the motion moved by Mr Ronny TONG, who is a member of the Alliance for Universal Suffrage (the Alliance), this motion is indeed more reasonable and pragmatic than that proposed by Mr Alan LEONG. On the face of it, there is no any major problem with the wording of this motion. However, Mr Ronny TONG is very clever. The words of his motion are very reasonable and pragmatic but having listened to his speech just now, we can by no means subscribe to the contents and viewpoints of his speech. Coming back to the wording of this motion, its contents are in fact very simple and reasonable. It mainly requests that "extensive and in-depth discussions and studies" be carried out on such unresolved electoral issues as "the selection of the Chief Executive by universal suffrage upon nomination in accordance with 'democratic procedures' as provided under Article 45 of the Basic Law and on the way to deal with the issue of functional constituencies" and there is certainly no problem in this regard.

Concerning these two issues, that is, the "democratic procedures" and the way to deal with the issue of functional constituencies (FCs), the Mr QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National

People's Congress, has already given a response in his comments on Monday, stressing to this effect, "The design of the democratic procedures for nomination has to be studied in depth according to the provisions of the Basic Law". As regards the arrangements for electing the Legislative Council by universal suffrage, including the functional constituencies, he said to this effect, "It is entirely possible to reach a consensus through rational discussions". The most important thing is that they "should not become the obstacles for passing the constitutional proposal for 2012". Therefore, the Liberal Party believes that after the passage of the constitutional reform proposal for 2012, there will naturally and certainly be "extensive and in-depth discussions and studies" on these issues.

Mr Ronny TONG, being a Member of the Alliance, is willing to put down his burden and take part in the efforts on breaking the ice between the middle elements of the pan-democratic camp and the representatives of the Central Authorities, and trying to create a win-win situation through dialogue. The Liberal Party considers his act commendable.

However, having come to the present stage, we are very concerned that the pan-democratic camp, including Mr Ronny TONG, would consider that the reply of the Central Authorities not to their liking, and thus intends to stick to their own views and vows to negative the constitutional reform proposal in a bundled manner. Should the final outcome be really like this, we are sure that the public at large will be disappointed and this will also make constitutional development in Hong Kong get nowhere, thus making it even more difficult to move towards the ultimate goal of universal suffrage.

Yesterday, the One Country Two Systems Research Institute published its latest public opinion survey. It shows that 53.6% of the Hong Kong people interviewed accept, on the whole, the constitutional proposal put forward by the SAR Government. This is double the rate of those against it. Setting aside the survey conducted by the One Country Two Systems Research Institute, let us look at the survey conducted by the Public Opinion Programme of the University of Hong Kong. The public opinion survey conducted by the University of Hong Kong on 24 May shows that among the 1 013 people interviewed, most of them, that is, 46%, believe that Legislative Council Members should pass the constitutional reform proposal, which is 9% higher than the proportion of those who believe that it should be negated, which stands at 37%. It can thus be seen that there are still many members of the public who believe that we should

pass the proposal. If Members who oppose the constitutional proposal really respect public opinion, they should be amenable to public opinion and have the overall situation as their foremost consideration, so as to enable the constitution to move forward.

Just now, when Ms Emily LAU spoke, she said, "Of course, you will support this constitutional proposal because it is to your liking". This is wrong. The constitutional proposal put forward by the Government on this occasion is not perfect and it cannot please all parties. In fact, the Liberal Party has also expressed disappointment with the failure of the proposal to make improvements to the elections of functional constituencies by enhancing their democratic element. However, the proposal, by adding five directly-elected geographical constituency seats and five indirectly-elected seats to be returned by directly-elected District Council members, no matter how one describes it, will surely enhance the democratic element in the elections of the Legislative Council. Even though the opponents are dissatisfied because of the slow pace, at any rate, the present constitutional reform proposal represents an improvement over marching at the same spot. More importantly, after going through this door in 2012, all of us can stride towards the further democratization of the Legislative Council in 2016 and the election of the Chief Executive by universal suffrage in 2017.

Therefore, the Liberal Party agrees with the amendment proposed by Mr Jeffrey LAM, who calls on "the Legislative Council to support the passage of the 2012 constitutional reform proposals, so as to pave the way for implementing universal suffrage for the Chief Executive in 2017 and subsequently for the Legislative Council".

However, talking about a worse-case scenario, should constitutional development run aground again, the Liberal Party believes that since the wording and words of the original motion (but not what Mr Ronny TONG said in his speech) have made reference to the issues and matters requiring discussion, we should continue to discuss and study them in depth, so that people holding different views can have more time to forge a consensus through rational communication and Hong Kong can attain the goal of dual universal suffrage at an early date.

President, I so submit.

**MR CHAN KIN-POR** (in Cantonese): President, Mr QIAO Xiaoyang, Deputy Secretary-General of the Standing Committee of the National People's Congress, met the mass media in Beijing to give his responses concerning constitutional reform, pointing out that functional constituencies (FCs) have existed since electoral system was introduced to Hong Kong, so it was necessary to evaluate them objectively.

I agree very much with this comment made by Deputy Secretary-General Mr QIAO because I notice that in the past, in the controversies relating to constitutional reform, many commentaries in society failed to give FCs an objective evaluation, instead, they blamed most of the social contradictions on FCs. I believe that there is a lot of misunderstanding in society and the value and contribution of FCs have even been underestimated. I think it is necessary to explain to the public because at present, the public can only hear radical slogans which are not the whole truth.

When discussing constitutional development, we should not be detached from reality. The reality in Hong Kong is that its economic development has entered a mature stage and its competitiveness cannot be further enhanced. Externally, Hong Kong is facing competition from such cities as Singapore, Shanghai and Beijing. Internally, on the one hand, a large number of clerical and low-skilled jobs are being lost; on the other, the population policy of Hong Kong and other causes are giving rise to a large number of people who can only work in low-skilled jobs. With supply outstripping demand, the income of low-income people are getting ever lower, hence, the wealth gap is widened. If these problems cannot be solved in a timely way, Hong Kong's development will be seriously affected. In fact, all these problems can be attributed to stagnant economic development but some people have gone so far as to attribute them to political issues, thus targeting at FCs directly.

In fact, I believe that the great majority of people do not oppose democratization but it certainly is not true that simply abolishing the FCs can solve all the problems facing Hong Kong, as some people made it out to be. We can see that in recent years, many countries practising universal suffrage have been beset by economic and political problems and their heads of state have been replaced frequently, or a series of people's movements have taken place. However, the economies of these countries still show no sign of recovery and

their people are still suffering. The unemployment rates in the United States and in European countries are all close to 10%. This is simply inconceivable to Hong Kong people. For this reason, I hope that people advocating the abolition of FCs can be more fair-minded and they have to explain to the public clearly that actually, abolishing FCs cannot solve Hong Kong's problems.

Quite the contrary, abolishing FCs at this stage will have tremendous adverse effects on Hong Kong. The political environment has limited the horizon of some directly-elected Members and most of them lack experience in handling economic affairs, still less do they have any hands-on experience in operating businesses or managing large-scale corporations, and they do not always have an in-depth understanding of the Hong Kong economy. Compared with political parties overseas, individual political parties involved in direct elections in Hong Kong lack robust economic research capability, so they are practically incapable of providing authoritative analyses on the economic policy to directly-elected Members.

Therefore, if FCs are abolished too quickly, a large group of Members well-versed in economic and professional matters will be excluded from the legislature, thus effectively making the Legislative Council lose a great deal of valuable experience in professional and financial matters. In that event, it will be even more difficult to cope with economic difficulties. At present, in the Legislative Council, there is quite a lot of work related to professional and financial matters and FC Members all take part in them very actively, so their contribution is very material.

In fact, like directly-elected Members, most FC Members in the legislature work very hard and are very concerned about social issues and issues relating to public living. At the same time, they also bring the voices of their sectors into the legislature, just as directly-elected Members bring the social issues they encounter in handling district affairs into the legislature. If individual FC Member only considers the interests of his sector but disregard public interests, other FC Members will not lend their support to these Members at all.

Mr LEE Cheuk-yan pointed out just now that I had voted against the establishment of a central employee compensation fund to replace insurance schemes operating on a commercial basis. In fact, he did not listen carefully to

what I said, so I will not blame him. At the relevant meeting, I stated clearly the reasons for raising opposition and cited a lot of figures and many overseas examples to illustrate that the establishment of a central employee compensation fund to replace insurance schemes operating on a commercial basis would only give rise to more problems than benefits. For this reason, I could not support it and this absolutely has nothing to do with the fact that I am a representative of the insurance FC.

In fact, the great majority of FC Members aspire to serving society and many of them are willing to give up well-paid jobs and their precious time for family gathering in order to make contribution to the legislature with their abilities. For this reason, the professionals in the business and professional sectors, in joining the Legislative Council through FCs, are doing so at quite a high cost or price.

In addition, some people criticize the elections of FCs as small-circle elections. Judging from the numbers, the voters in FCs are indeed fewer than those in direct elections. However, we must not forget that the voters of FCs all shoulder tremendous sectorial responsibilities. Take the insurance sector as an example, although its registered voters consists only of some 100 insurance companies, these 100 or so insurance companies generated some \$188 billion of insurance premium in 2008, accounting for 11.3% of the GDP. Therefore, I believe that the insurance sector is entitled to have a representative in the Legislative Council. Nevertheless, I still agree that the existing electoral method is not satisfactory and there is a need to enlarge the number of voters, so as to conform to the principle of equality and universality. I hope the Government will consider this matter actively.

President, I so submit.

**MR CHIM PUI-CHUNG** (in Cantonese): President, constitutional reform is a very practical issue. Some members of the public will find it odd, how come we have not noticed this problem over a period of more than 150 years when Hong Kong was under the British colonial rule? Were we unaware of it? Why were there so many views and aspirations over the past 13 years since the reunification

of Hong Kong? Although these are the views of some people, they are facts which cannot be overlooked. In this regard, both the Central and SAR Governments should be responsible, why? Because they have not told all the people of Hong Kong clearly that Hong Kong is not independent, and it is just one of China's special administrative regions. Any political developments must follow the model endorsed by China or the Chinese Government.

Undeniably, there are some high-spirited Members who think that Hong Kong has already become independent, and yet it has failed to pursue universal suffrage. President, such a mentality is definitely not wrong. However, Hong Kong is not independent. So, what do people harbouring such views intend to do under the constraints imposed by the Chinese Government? The SAR Government has absolutely failed to fulfil its due responsibility by reminding members of the public and the relevant persons whether such a stark reactionary appeal complies with the Basic Law. Therefore, the public should think clearly about this issue.

I have actually expressed my opinions on the constitutional reform, and I also approve of the efforts made by some colleagues from the pan-democratic camp. I call the five newly added District Council seats the "new functional constituency (FC)", whereas the original 30 FC seats shall remain unchanged. The SAR Government shall be responsible to define the composition of the electors of this new FC. I have once requested the Chief Executive to go to Beijing to report my proposal to the relevant authorities and consult the authorities if my proposal will violate the Basic Law. If not, the electoral affairs shall be dealt with by Hong Kong internally. I attempt to divide the five seats into one for the Hong Kong island, two for Kowloon, and two for the New Territories, so that all eligible electors throughout the territory will be eligible for voting, except for those who are already eligible to vote in FCs, electors will be entitled to register, thereby ..... although it cannot be considered as universal suffrage, we can still treat it as such — if a proposal can break the deadlock facing Hong Kong, why should it not be implemented? While ordinances are dead, people are alive and flexible. For the benefit of Hong Kong and the country, every idea must be given due consideration. Hence, President, the door is not necessarily closed completely. The outcome will be known in two weeks.

In order to implement universal suffrage, to put it bluntly, who is the one to ask for favour? If the Central Authorities wish to have the package passed, you have to work out the solutions; if the Central Authorities do not want it pass, you have to tally with the interest of the nation. We must understand that national interest is more important than the interest of any regions, even the interest of such a unique place as Hong Kong. The public should also understand that it is best for Hong Kong to pursue economic development vigorously. Of course, we cannot give up any political power and interest while vigorously pursuing economic development. However, the fact before us is that the proceeds of Macao from betting duty is \$41 billion in the first quarter of the year, and \$1.7 billion in May alone. If we take the monthly proceeds of \$1.7 billion on average, Macao will have more than \$200 billion in betting proceeds per annum. Should the Macao Government levy a duty of 38.5% on this sum, its income will exceed \$70 billion. I can tell you all, Hong Kong will definitely be marginalized should we continue to argue. Should that be the case, I will encourage everyone to find out ways to apply for migration to Macao because, according to my prediction, Macao will have the highest per capita income in the world in five years' time. I am one who talk about things that have not yet happened. Should Hong Kong insist on arguing over constitutional reform, we will have to pave way for our own economic prospect.

President, antagonist behaviour is absolutely not beneficial to Hong Kong. In particular, it is very dangerous to encourage young people to go their own way just to achieve their own goals.

President, I am of the opinion that there is a need for the SAR and Central Governments to explicitly tell Hong Kong people, especially those involving in politics, that FCs will not be abolished in the foreseeable future. Insofar as this matter is concerned, there is no need to be polite. Just say it out, because this is a political matter and of political necessity. It has nothing to do with the existing FC Members in this Council, as it is a constitutional issue. I am convinced that, should the SAR and Central Governments intend to abolish FCs, FC Members will not cling to their positions. They have two choices and they have to face them with courage: either stand for universal suffrage elections or leave their posts. I firmly believe that the majority of FC Members will not care about their own interests. Therefore, the SAR and Central Governments are obligated to tell Hong Kong people clearly what Hong Kong's political future will

be, so as to stop people from arguing. If you approve to act this way, there are different options to choose from. You may approve, revolutionize, migrate to other places, or even force everyone to discuss and complement their efforts, with a view to achieving a better future through elections.

President, I so submit.

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

**MRS SOPHIE LEUNG** (in Cantonese): President, I have listened very attentively to the speeches delivered by colleagues today. In summary, it appears to me that there are three directions: First, some Members are upset because the Central or SAR Government has made no concessions in proposing this constitutional reform package, and so they will not give their support. Concerning this point, I think these Members may have to make their own consideration. Second, are we heading the right direction? The Government has appealed to us to pass this constitutional reform package, but is the vessel heading in the right direction? Later, I will give my comment on this. Third, I find it very impressive that many colleagues have raised this question: What is the aspiration of Hong Kong in the area of constitutional reform? I have great admiration for this, and I think that we should all share the same aspiration. I would also like to share with Members this aspiration, not just today but all the time. I also have this aspiration.

Regarding the 2012 constitutional reform package under discussion today, some colleagues questioned earlier if our direction is right. A number of colleagues have also described the package as "bad". Let us not talk about whether or not it is "bad". Some Members have said that whether we are moving forward or backward, it is just half a step or a quarter of a step at the most. Should Members agree that we will make half a step, whether forward or backward, why do we not first take half a step forward, so that we can move to another level for a look. We have extensive discussions in 2005 and we are now on the same spot, the more we look, the more changeable it becomes. If we do not take a step forward and remain on the same spot, the scenarios will just be the same. Such being the case, why do we not take half a step forward? No matter it is right or wrong, let us take this half a step.

This is how I think, it seems that we are now entering a natural limestone cave — just now, some colleagues described us standing still — we have no idea which is right way out. Some people suggest taking this route, while others make another suggestion. This is what Members had suggested. So, why do we not choose to take one way to see it can lead us to see more light as we move forward. If we take the wrong way, we can retreat two steps backward. Time is running out. I hope Members can look at this matter from this perspective.

I remember after the constitutional reform package was vetoed in 2005, more than 700 members of the British Parliament visited Hong Kong and I was honoured to meet with them. Mr Ronny TONG was also present at that time. The visitors kept asking us why we refused to accept the 2005 package first. Even though many pan-democratic Members expressed their views separately, they could still not answer the question why the package was not accepted. This is why I think that we should take one step forward first.

Another point I would like to raise is that society is now watching us to see if we have a compromising culture. If we, 60 Members, cannot even compromise on taking this half a step, be it good or bad, how can we tell others that we can compromise when it comes to abolishing the FCs or making major decisions in the future? It is essential to get the votes of two-thirds of Members for passing the package. What else can we do should we fail to take this small step as a compromise? How can we tell society and members of the public that we can get things done? Hence, no wonder — President, it is a great pity that your vote has to be taken into account as well — the reputation of the Legislative Council as a whole is sinking. Since it is just half a step, let us move forward.

President, there is one more point I wish to raise. I am actually very happy to see that the Alliance for Universal Suffrage have clearly tread their way forward and I also have great expectations of it. In my opinion, they have already achieved a significant breakthrough. They should continue to build this bridge for communication step by step. I hope that they can become the biggest political party and represent the electors behind me. That way, I will be able to accomplish my mission. I really have great expectations of them. Why is this not feasible? It is definitely feasible.

President, there is one more point about the Democratic Party. After the Alliance for Universal Suffrage has taken this path, the largest party to lead the way will definitely be the Democratic Party. The Democratic Party has been in existence in Hong Kong for 20 or 30 years, or even longer. They have gained a lot of support. However, I think that they are now at a crossroads. Why do they not take the broad road before them? I very much hope that they can take this road and, through this constitutional reform package, take this step and then further discuss how the next step should be taken. We all have aspirations, only that our aspirations might be slightly different. However, no one can object to the road to universal suffrage. We should spend the remaining time to continue our discussions. However, we must, first of all, show our sincerity by saying that we all share this view. Let us pass this constitutional reform package before continuing with our discussions on how our aspirations can be achieved!

President, there is one more point I would like to raise, when we are talking about our aspirations, the seven million people in Hong Kong do have their aspirations, that is, they all hope that we can lead them one step forward. It does not matter whether the step is to the left or to the right, and whether it is right or wrong, they just do not want to stand still. We should not let them remain on the same spot, where their visions are restricted. We really need to take one step forward and have a wider vision; members of the public also need a new starting point to see what will probably happen. Will the five new seats and the existing District Council FC seat returned through election among DC members be able to give full play to their functions? Will it be better or worse? Even if it turns out to be worse, we also have to know.

We have to take this step. We should not feel impeded because of personal preference, dislike or refusal of other people to make concessions. Members of the public deserve such a space so that they can see for themselves. I hope Members can look in this direction. I really hope the Democratic Party can step back and look farther. Actually, members from the opposition camp can also look from this perspective. Thank you, President.

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

**MR ALBERT HO** (in Cantonese): President, Mr Ronny TONG said just now that the motion debate today hopes to focus on the design of the political system rather than definitions. However, I do not fully understand what he meant. How can principles be established without clearly stating the definitions of some of the expressions in key constitutional documents? How will design be possible if principles cannot be formulated? What criteria can we use to judge whether the relevant design meet the minimum legal requirements? These are precisely the most important issues. Hence, I am very sorry that it is impossible not to go back to the most fundamental point.

We cannot do anything at all if there is no consensus on even the basic definitions and principles. However, definitions naturally link with formulation of words and languages. But, today, words and languages appear to be no longer meaningful, because many household and common-sense characters and expressions have become very strange to us. They may even entail many new interpretations, so that people in power can freely distort them or add their subjective meaning to them. President, can exchanges and discussions continue? Very often, it is indeed a waste of time if there is no common language, view and value. We have frequently been questioned whether our communication has any specific meaning. President, I really have to answer these questions. I have worked so hard to facilitate communication in the hope that both parties can maintain dialogue and achieve consensus, only to find out later that some concepts believed to be understood are not really understood.

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

The remarks made by me just now were fully manifested by Mr QIAO Xiaoyang when he further interpreted the definition of universal suffrage. His formulation of the definition of universal suffrage has not only failed to dispel misgivings, he has, on the contrary, raised even more doubts. The so-called universal suffrage referred to by him — although universal suffrage has been further elevated to equality this time, the doubts raised by him are not merely confined to his failure to make it clear that universal suffrage applies to the right to stand for elections and the right to nominate in addition to the right to vote. What is more, many conditions can be attached when this expression is to be applied in future.

This reminds me of a line from a renowned philosopher, Ludwig WITTGENSTEIN, "Don't ask what it is meant, but how it is used." I think that this line fully illustrates his wisdom. Words are meaningless; it mainly depends on how they are used. Furthermore, many conditions will be attached when words are used, with "executive-led" and "capitalist development" being the most prominent. Because of so many conditions, no wonder Mr CHAN Kin-por asked us to examine the amount of assets owned by the companies represented by his functional constituency (FC). This is what capitalist development means. Mr CHAN has indeed fully demonstrated this mentality. Although we can all shout out loudly that men are equal. But, in the end, when everyone is equal, as described by George Orwell in *Animal Farm*, some people are more equal than others. This explains why in the FCs represented by such Members as Mr CHAN Kin-por and Dr David LI, some Members who are rich, influential or in possession of huge assets, as well as businessmen, groups and billionaires who are capable of promoting economic development are more equal.

Under such circumstances, how can our misgivings be allayed? It is even more pointless to discuss democratic procedures, so to speak, for they are completely new and are totally irrelevant to the nomination procedures we have repeatedly gone through before. Even the Secretary has got this wrong. Last time, Secretary Stephen LAM told me that hundreds of people would be added. However, this is no longer the case, because there is already a timetable for universal suffrage — this is what you said — therefore, the initial proposal of including 400 more people has been abandoned. The design of the Election Committee might need to be re-considered. Even the Secretary thought that he could refer to the previous practice, or at least this was what he thought. However, this is no longer the case. Furthermore, it is totally irrelevant. How can our misgivings be allayed? How can we believe that the so-called democratic procedures to be implemented in the future have no screening and advance selection and that people with different political views will not be excluded? Actually, Deputy President, these issues, such as the timetable, are just fine rhetoric, as we cannot even sort out the definitions. What is the point of talking about the timetable?

Earlier in the meeting, some colleagues mentioned that communication was very hard to come by, and that vetoing the constitutional reform proposals in this debate will not help mutual trust. Mrs Sophie LEUNG expressed her hope that we could compromise. I appreciate her efforts and good intention. But why

should we, the weaker party, surrender everything in order to compromise? Have we not made a lot of compromises? We have stopped talking about 2012. Instead, we have been discussing in accordance with the framework imposed by the National People's Congress in the hope that, given the present situation of 50% to 50%, the right to vote for the new FC can be broadened to the maximum degree. However, it is found that we do not need to even think about this. How can the Central Authorities succeed in making us surrender everything when even the slightest concession and advance are not allowed?

Deputy President, today, I can only lament and call for the Government to open its eyes to look clearly that the public opinion has already reached the boiling point. We have already strived to adopt the rational and moderate approach commended by you. However, we find that it appears to be ineffective. Does the Government wish to see us, people who are rational and moderate, to give way to those who are more radical, or even (*The buzzer sounded*) ..... people who would use various kinds of force to resolve problems?

**DEPUTY PRESIDENT** (in Cantonese): Speaking time is up.

**MR IP KWOK-HIM** (in Cantonese): Deputy President, given that the SAR Government has put forward revised proposals for the two electoral methods for 2012, Hong Kong's constitutional development has actually reached a critical moment. Both the SAR Government and the mainstream public opinion in the community hope for the passage of the constitutional reform proposals for 2012, to enable Hong Kong's democratic political system to move forward. It is also the hope of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) that pan-democratic Members can pay heed to the views of the public and change their original plans by supporting the passage of the 2012 constitutional reform proposals, with a view to taking forward the political system so as to create conditions for the implementation of dual universal suffrage.

The Central Government has demonstrated a high degree of sincerity in taking forward constitutional development in Hong Kong. Mr LI Gang, Deputy Director of the Liaison Office of the Central People's Government in Hong Kong SAR, has met with political groups numerous times to frankly discuss the issue of constitutional development and listen to diverse views. Recently, during the

discussions on constitutional reform proposals, pan-democratic Members raised a number of questions about the future implementation of universal suffrage, including whether the future implementation of universal suffrage complies with the principles of universality and equality, the level of the threshold for nominating candidates for the Chief Executive election when universal suffrage is implemented in the future, the electoral method for functional constituencies (FCs), and so on.

On 7 June, Deputy Secretary-General QIAO Xiaoyang stated in public that the core details of universal suffrage is the protection of equal election right for everyone. Historically, the emphasis of the concept of universal suffrage is that differences in assets, especially racial differences, should not result in unequal right to vote. Hence, the universal suffrage mentioned in the Basic Law should refer to universal and equal suffrage. The universal suffrage mentioned by the Central Authorities is no different from the universal suffrage generally understood by the international community. It is also consistent with the universal suffrage understood by the people in Hong Kong.

It should be noted that, according to the understanding of pan-democratic Members, universal suffrage should be interpreted to mean that the right to nominate, in addition to the right to stand for election and the right to vote, should meet the principles of universality and equality. Article 45 of the Basic Law, which was endorsed on 4 April 1990 — which is also frequently quoted by Mr TONG — has actually provided that "the Chief Executive ..... the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." In fact, this provision has made it clear that the Chief Executive shall be selected by universal suffrage upon nomination. Hence, the democratic procedures for the right to nominate definitely mean differently from the procedures for implementing universal suffrage for the right to vote. In fact, if we look around various countries around the world, we will find that they have their own requirements in terms of the right to nominate.

Deputy Secretary-General QIAO Xiaoyang has also pointed out clearly in his remarks that through rational discussions, consensus can still be achieved on such issues as the design of the "democratic procedures" for nomination in selecting the Chief Executive by universal suffrage and how the FCs can be dealt with during the selection of the Legislative Council by universal suffrage. In

other words, the Central Authorities will keep the door open for continuous discussions. Therefore, Mr TONG should put his mind at ease. The passage of the 2012 constitutional reform proposals will not impede on-going discussions on these two issues. Of course, discussions held on these issues cannot deviate from the requirements of the Basic Law. They should be conducted in a rational manner, with a view to taking forward democratic constitutional development in a pragmatic manner. These two issues, on which a consensus has yet been reached and further exploration is required, should not be treated as a hurdle to the passage of the 2012 constitutional reform proposals.

Some Members, including Mr CHEUNG Man-kwong from the Democratic Party, have proposed that the threshold for nomination when the Chief Executive is elected by universal suffrage in the future should not be higher than the existing standard. In fact, Deputy Secretary-General QIAO Xiaoyang has already responded to this. In accordance with the requirements of the Basic Law, candidates for the Chief Executive election shall be nominated by the Chief Executive Nominating Committee in accordance with democratic procedures when the Chief Executive is selected by universal suffrage. This is completely different from the existing nomination method whereby candidates for the Chief Executive election are nominated jointly by 100 members of the Chief Executive Nominating Committee. In fact, no analogy whatsoever should be drawn between the two. Obviously, this issue should similarly not become a hurdle to the passage of the 2012 constitutional reform proposals.

The DAB considers that the call for open dialogue with the Central Authorities has been a long-time political aspiration of pan-democratic parties, including the Democratic Party, and Members for rational discussions on constitutional development. Now, the Chief Executive have already opened the door to communication and taken the first step to directly listen to the views and various aspirations expressed by pan-democratic Members while seriously making clear responses to the major aspirations and questions raised by pan-democratic parties and Members of this Council. Although the relevant responses might still not be able to completely resolve existing doubts or queries, extensive and in-depth discussions can continue to be conducted for unresolved queries following the passage of the 2012 constitutional reform proposals. Pan-democratic Members should not close the door to communication. What is more, they should not become the stumbling block to democratization of the political system.

As the saying goes, "I sit and watch the clouds rise when I walk and reach the place where the water ends". Should we fail to see consensus while focusing on differences and neglecting the proactive functions of the constitutional reform proposals in promoting democratization of the political system, thereby continuing to denying the proposals, then the democratic system in Hong Kong can only move towards "the place where the water ends" and can hardly make any progress. If we can broaden our minds in seeking common grounds by passing the constitutional reform proposals for 2012 first to enable our constitutional system to take one step forward towards democratization, then the constitutional development in Hong Kong can definitely "sit and watch the clouds rise".

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 Ronny TONG, you may now speak on the two amendments. You may speak for up to five minutes.

**MR RONNY TONG** (in Cantonese): Deputy President, I note that it is indicated that there is zero minute and zero second left for me to speak. I hope that the Deputy President can allow me to express my thanks to the 25 Members who have spoken on this motion. More importantly, I have heard several pro-establishment Members agree that it is necessary to abolish functional constituencies (FCs). I think this is a good beginning of our efforts to forge a consensus.

Deputy President, regarding Mr Jeffrey LAM's amendment, as mentioned in my speech just now, the announcement of Deputy Secretary-General QIAO Xiaoyang is very important, for he talked about the definition of universal suffrage. Several Members who spoke just now seemed to have misunderstood the intended message of my speech. I mean to say that it is not necessary to dwell on the definition of universal suffrage because it is already set out clearly in

the Basic Law. However, it is a pity that as far as the definition of universal suffrage is concerned, the remarks of Deputy Secretary-General QIAO Xiaoyang have actually added some worrying uncertainties.

Deputy President, anyway, Deputy Secretary-General QIAO Xiaoyang's remarks can still be regarded as a starting point of forging a consensus. However, I note on the other hand that his remarks did not touch upon several other significant issues. These issues of course include when the system of separate voting will be abolished and how the issue of making nominations under "democratic procedures" will be handled, so as to allay Hong Kong people's anxieties and assure them that nominations under "democratic procedures" will not be used as an excuse for screening.

Deputy President, precisely because of these issues, when we consider the constitutional reform package for 2012, we must also request that the package should at least provide in principle some directional guidance and progress in regard to these issues before any consensus is forged. This explains precisely why we are so strongly opposed to the constitutional reform package for 2012.

Another reason I want to make clear is about the political realities. Deputy President, Hong Kong people, including pan-democratic Members, are all powerless. The most we can do is just to fight for some little progress in universal suffrage once every four years. I am of the view that this demand is very sensible and reasonable. I do not want to use the word "humble" because I think we all have our dignity. However, we have an opportunity to use our vetoing power to fight for some little progress only once every four years. Deputy President, anyone who asks us to support a constitutional package that is not capable of any concessions is in effect requesting us to forgo the only political power in our hands. This is totally unacceptable.

Therefore, I can only say with immense regret that unless some concrete directional adjustments are made to the constitutional reform package, any Members who express support for the package will be voluntarily giving up our fundamental political power in the fight for democracy. And, the position of any such Members will run counter to the aspiration and expectation of Hong Kong people.

Deputy President, very unfortunately, we cannot agree to Mr Jeffrey LAM's amendment. I do not think that we can accept his amendment.

Deputy President, speaking of Mr LEUNG Kwok-hung's amendment, I must say that I myself must accept one political reality. I am not asking Mr LEUNG Kwok-hung to follow suit. But I think I must accept the political reality that it is impossible to implement dual universal suffrage in 2012. However, this does not mean that I oppose the advocacy or hold a different viewpoint. Regarding Mr LEUNG Kwok-hung's amendment, I can aver that I agree to each and every word used in it. The only difference in position between him and me is that as a lawyer, I must agree to or accept the decision of the Standing Committee of the National People's Congress.

I once hoped that dual universal suffrage could be implemented in 2007 and 2008, but the political reality is that it is impossible to implement dual universal suffrage in 2012. I hope that there can be an opportunity to change this political reality. All this aside, I can say that I totally and entirely agree to each and every concept mentioned in Mr LEUNG Kwok-hung's amendment.

Deputy President, the above is my response to the two amendments. Thank you, Deputy President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, there are indeed many Members — some 20 in all — who have given their valuable advice on constitutional reform issues on behalf of their political parties, groups and they themselves.

With respect to the original motion moved by Mr Ronny TONG and his comments, I would like to respond in a few aspects. First, he talked about the issue of the executive-led principle. Regarding the principle of executive-led, in The Second Report of the Constitutional Development Task Force and The Third Report of the Constitutional Development Task Force issued in 2004, we have mentioned that various provisions in the Basic Law show that the Government is taking the initiative. Deputy President, Bills, motions and financial budgets are all proposed by the Administration and they are put into effect after passage by the Legislative Council. After the implementation of universal suffrage, that is,

when the Chief Executive is to be selected by universal suffrage and the Legislative Council is to be formed by universal suffrage, the principle of mutual complement as well as checks and balances will still apply.

Although Mr Ronny TONG considered the comments made by the Deputy Secretary-General QIAO Xiao-yang still insufficient, at least, he said that it was a good start. This is a common point we have. I understand very well that Mr Ronny TONG has reservations for the 2012 constitutional reform proposals, but the fact is, we have done the best we could and these proposals are the best that could ever be made within the possible scope. If Members support these constitutional reform proposals, favourable conditions can be created, conducive to the implementation of universal suffrage in future.

Mr Jeffrey LAM said in his amendment that Hong Kong should not place too much emphasis on the economy, nor on politics. This is a sensible point to make. Despite different political affiliation, background or political position, all Members hope to make improvements in areas of social, economic and livelihood.

Mr LEUNG Kwok-hung proposed in his amendment that any person who was nominated by 50 000 electors could stand for the election of the Chief Executive by universal suffrage. I am afraid this does not comply with the requirements laid down in the Basic Law. We have to set up a nominating committee, and in accordance with the Standing Committee of the National People's Congress' "Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage (the NPCSC decision), the nominating committee may be formed by making reference to the Election Committee.

Miss Tanya CHAN made a detailed analysis of the principles of universality and equality mentioned in the statement made by the Deputy Secretary-General, Mr QIAO. Actually, the most important point is, as mentioned by Mr QIAO, the core details of universal suffrage is the protection of equal election right for everyone. This is a general principle and I am sure this would be of great help to the implementation of universal suffrage in Hong Kong

in accordance with the Basic Law and under the principles of universality and equality.

On the principles of universality and equality, the scope of the principles and standards regarding the right to vote is very broad indeed. Different countries and places may adopt different systems, but we can see and observe that both Hong Kong and many places overseas have laid down various reasonable restrictions in accordance with the law. For example, according to the Basic Law, a candidate for the Chief Executive of Hong Kong should at least be 40 years of age and have resided in Hong Kong for 20 years. Another example is that the election law in Hong Kong provides that a person can only become a voter when he is 18 years old. All these are reasonable restrictions laid down in accordance with the law.

Miss Tanya CHAN also asked if the pan-democratic camp has made increasing demands at different times and years. I do have such an impression and have made such observations. This is because in 2005 before votes were cast on the constitutional reform proposals for 2007 and 2008, a few points were raised by Members. First, there was no timetable for universal suffrage. Second, the proposal regarding the District Councils allowed appointed District Council members to vote. Third, we had not stated whether the proportional representation system would be used in returning the six seats in the Legislative Council by election from among District Council members. Although we have now responded to all these points, Members are making more and greater demands. Deputy President, Mr CHEUNG Kwok-che said that the approach of "no bargaining" should not be adopted in negotiations. Actually, when discussing these issues with the pan-democrats, I do not have the impression of "no bargaining", instead some members keep raising their demands.

Mr LEE Cheuk-yan mentioned FC seats. He simplified the situation, as if people or corporations with more assets could take part in the Legislative Council FC election. This is not the reality. In the Council, there are members representing trade unions and the grassroots. There are also Members like Mr CHEUNG Kwok-che and Mr CHEUNG Man-kwong who represent the social welfare constituency and the education constituency respectively and they are not from the business sector. Besides, we have proposed to increase the District Councils FC seats from one seat to six seats so that more representatives are

returned to the Legislative Council among District Councils members who are elected from some three million registered voters. This will serve to increase the representativeness of different social strata in the Council.

Mr Alan LEONG mentioned the International Covenant on Civil and Political Rights. In this regard, I would like to point out that the position in international law is actually clear enough. In 1976, when the British Government applied the International Covenant to Hong Kong, some saving clauses were also laid down, such as sub-paragraph (b) of Article 25 was not applicable to Hong Kong. In 1997, the Ministry of Foreign Affairs of China delivered a note to the Secretary General of the United Nations on behalf of the Central Government, stating that these saving clauses shall continue to apply. Hence the fact that universal suffrage can be implemented in Hong Kong is rooted in the Basic Law and pursuant to the Basic Law. During the period from 2005 to 2007, from the discussions made in the Commission on Strategic Development to the publication of the Green Paper on Constitutional Development, the SAR Government has made it clear that it will strive to achieve universal suffrage in Hong Kong in accordance with the Basic Law and the principles of universality and equality.

Ms Emily LAU, I am glad to see that you have just returned to the Chamber. Just now, you mentioned that you have been voicing the views of the public and handling the work of a Legislative Council Member since 1991, and you were worried that after being a Member for 20 years, you were not sure whether universal suffrage would be implemented after another 20 years. I can assure you that this will not be the case. This is because seven years from now, we can select the Chief Executive by universal suffrage and 10 years from now, we can form the Legislative Council by universal suffrage. I am sure many Honourable colleagues would like to be Members of the Legislative Council for 20 more years like what you have said. By passing the 2012 constitutional reform proposals, more people from the younger generation, that is, those from the second and third tiers of your party and other parties, can be elected as Legislative Council Member.

(THE PRESIDENT resumed the Chair)

Mr WONG Yuk-man said that Beijing was interfering with the high degree of autonomy in Hong Kong. But the fact is that according to Article 62 of the Constitution of the People's Republic of China, the establishment of the special administrative regions and the system to be initiated there shall be under the purview of the National People's Congress (NPC) and to be decided by the NPC in accordance with the Constitution. So any changes to the constitutional system of Hong Kong shall be made in accordance with the Basic Law, and according to the last step of the five steps, any changes shall be reported to the NPCSC for approval or for the record.

Dr Samson TAM mentioned that he hoped the political parties in Hong Kong could be more mature. This is also the hope of the SAR Government, and we have adopted measures in many aspects. First, we set up a subsidy scheme of 10 dollars per vote a few years ago to encourage independent candidates with or without political affiliation to stand for elections. The amount is now raised to 11 dollars per vote. Second, we have increased the number of directly-elected seats in the District Councils at various stages. With respect to Dr Samson TAM's proposal to encourage greater political participation by parties, we have proposed to increase 10 new seats in the Legislative Council, to be filled by members returned by geographical constituencies through direct elections or through returned by District Councils FC through indirect elections. This proposal allows more people with or without political affiliations to join the Legislative Council, which is conducive to the development of political parties in Hong Kong.

Dr Raymond HO said that although he had reservations for the District Councils proposal for 2012, he rendered his support so that the constitutional development of Hong Kong can roll forward. Dr Priscilla LEUNG took a similar stand. I am grateful to them as they put community considerations before their own and are concerned about the way forward of constitutional development in Hong Kong.

Dr Margaret NG talked about the future nominating committee and democratic procedures. I have all along explained to Members that if a consensus is reached among Members for the nominating committee in 2012, such as comprising 1 200 members from four major sectors, then we can act according to the NPCSC decision in 2007 to form the nominating committee by making reference to the Election Committee. I would also like to respond to the

comments made by Mr Albert HO. I have all along been saying that the formulation of the democratic procedures for nomination is a key issue to be handled during the period from 2012 to 2017. This is clear enough. This position is very clear ever since the making of the NPCSC decision in 2007.

Mr Albert CHAN thought that universal suffrage in Hong Kong is beyond any prospects of fulfillment. This is not true. According to the timetable for universal suffrage, universal suffrage, irrespective of that for selecting the Chief Executive or forming the Legislative Council, can be achieved in seven to 10 years.

Mr CHEUNG Kwok-che encouraged us to listen directly to views of the public when we visit the local communities and promote our Act Now campaign. It is through this campaign that we can hear what the public wants to say and come into direct contact with the people. At various stages of promoting the constitutional reform proposals, we have also attended meetings of District Councils and organized public forums to gather public opinion.

In the speech made by Mr LEUNG Yiu-chung, it is apparent that he did not agree to the retention of FCs. My reply to him is straightforward. Since we can reduce the proportion of traditional FCs by as much as 40% in the 2012 constitutional reform proposals, how come this is not regarded as an improvement? When Members in the Legislative Council who are to be returned by geographical constituency through direct elections and indirect elections will be increased by close to 60%, how come that it is not an advancement?

Mr Paul CHAN said that the progress made in the 2012 constitutional reform proposals might not be enough, but he was soliciting the views of his constituency. I appreciate what Mr CHAN is doing. We are not striving for immediate results and we should not let ourselves get stuck by the issue of how the 70 seats in the Legislative Council as stated in the 2012 constitutional reform proposals are to be returned, such as whether the six seats or how many seats are to be returned by "one person, two votes". Since the 2012 constitutional reform proposals have new elements of democracy, we should pass the proposals first. This will create favourable conditions so that we can deal with the issue of greater democratization in the Legislative Council in 2012 and thereafter.

Dr LEUNG Ka-lau said that if the District Council proposal was adopted to return six Members to the Legislative Council, it was likely that this would comply with the principles of universality and equality. I would just want to respond to Dr LEUNG by saying a few words. If the proposals are passed by Members, we have to legislate before the District Council elections in November 2011. By then, some three million registered voters will know clearly that District Council members whom they elect have to elect from among themselves Members of the Legislative Council.

Ms Miriam LAU made a detailed analysis of the present political situation and the constitutional reform proposals that we have put forward. I agree very much with what Ms LAU has said that after the passage of the constitutional reform proposals in 2012, the pan-democratic groups and other parties can have greater room to fight for proposals they think worth supporting, including the method for selecting the Chief Executive by universal suffrage in 2017, the proposals for further democratization of the Legislative Council in 2016, as well as the proposals on the forming of the Legislative Council by universal suffrage in 2020. All these possibilities are right there.

So when some Members think that if we pass the constitutional reform proposals, it would be like asking Members to buy the yoga class packages. This analogy is not correct. If I remember correctly, this idea is brought up by Dr Margaret NG. It is because after the passage of the constitutional reform proposals this time, when the Fourth-term SAR Government submits a proposal on the method of selecting the Chief Executive by universal suffrage before the year 2017, Members will still have to vote to decide whether or not to support the proposal. Therefore, giving support to the 2012 constitutional reform proposals does not automatically imply supporting the proposals in 2017 and 2020, as if riding on a through train. Hence, this is totally different from buying yoga class packages.

Dr Priscilla LEUNG asked Members to move half a step forward and approved the communication between the Democratic Party and the Central Government. With respect to this, I think we should all join hands to strive for the passage of the constitutional reform proposals.

Mr Albert HO asked in his conclusion whether the wordings used by Mr QIAO the Deputy Secretary General in his statement was still meaningful. I would say that it is definitely meaningful. The provisions of the Basic Law are requirements at a constitutional level and the NPCSC decision made in 2007 is a decision on the constitutional level. The views expressed by Mr QIAO definitely carry much weight. But I would like to respond to Mr HO in this way: the aim of communication and building a platform is for the forging of mutual trust. Of course, a complete mutual trust cannot be forged with just one contact or speaking on two occasions. However, Members should never query the credibility and accuracy of the comments made by representatives of the Central Authorities. Members have queried on countless occasions during the past some 20 years. In the 1980s, Members queried whether the "one country, two systems" stipulated in the Joint Declaration could ever put into practice; whether there could still be the rule of law after 1997 and whether Hong Kong would still be a free society, and so on. It has proven today that they were over worried at that time.

So with respect to today's issue on constitutional reform, I agree very much with what Mr CHIM Pui-chung likes to say so often that we should have the courage to face it. We should understand, the Central Government is genuinely and firmly committed to practising "one country, two systems" in Hong Kong, including the long-term policy goal of moving towards universal suffrage. If procrastination is desired, why was a timetable for universal suffrage drawn up in 2007? If the Central Government does not want to forge consensus in Hong Kong, why are statements made on more than one occasion? All these are done in the hope that we can approach the issue first from a macro level, then move on to a finer and micro level, forging common grounds in Hong Kong. Such common grounds are instrumental to the progress of democracy in Hong Kong.

President, I would like to thank Members for putting forward their views in a most sincere and frank manner. My colleagues in the Government and I myself urge Members not to lock up the door in the two weeks to come and we can explore on the possibilities of not forestalling the progress of the constitutional system in 2012 and how a step forward can be made to pave the way for more favourable conditions to realize the selection of the Chief Executive

by universal suffrage in 2017 and forming the Legislative Council by universal suffrage in 2020.

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Mr Jeffrey LAM to move his amendment.

**MR JEFFREY LAM** (in Cantonese): President, I move that Mr Ronny TONG's motion be amended.

**Mr Jeffrey LAM moved the following amendment: (Translation)**

"To delete ", as the SAR" after "That" and substitute with "the HKSAR"; to delete ", " after "as soon as possible" and substitute with ";"; to add "the various political parties and Members of the Legislative Council to support the passage of the 2012 constitutional reform proposals, so as to pave the way for implementing universal suffrage for the Chief Executive in 2017 and subsequently for the Legislative Council; on this basis, this Council proposes that" after "this Council urges" and to delete "to" after "the Government"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Jeffrey LAM to Mr Ronny TONG' motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

Mr Paul TSE abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, 22 were in favour of the amendment, four against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 10 were in favour of the amendment and 19 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, you may move your amendment.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I move that Mr Ronny TONG's motion be amended.

**Mr LEUNG Kwok-hung moved the following amendment: (Translation)**

"To add "that" after "this Council urges"; and to delete "to proactively motivate various sectors to engage in extensive and in-depth discussions

and studies on the selection of the Chief Executive by universal suffrage upon nomination in accordance with 'democratic procedures' as provided under Article 45 of the Basic Law and on the way to deal with the issue of functional constituencies, so as to forge consensus on universal suffrage models and implement dual universal suffrage as early as possible" immediately before the full stop and substitute with "must, in respect of the electoral system for the Chief Executive, abolish the existing Election Committee system, so that any eligible person who is nominated (with signatures) by a certain number of registered electors (for example, 50 000) can stand for the election of the Chief Executive on a one-person-one-vote basis, so as to comply with the principle of all persons having the right to elect and to be elected by universal and equal suffrage; in respect of the electoral system for the Legislative Council, ensure that seats must be returned by universal suffrage while the existing functional constituencies must be abolished and dual universal suffrage be implemented in 2012".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEUNG Kwok-hung to Mr Ronny TONG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 27 were present, four were in favour of the amendment and 23 against it; while among the Members returned by geographical constituencies through direct elections, 30 were present, 19 were in favour of the amendment and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): As Mr Ronny TONG, the mover of the motion, has used up his speaking time, I now put the question to you and that is: That the motion moved by Mr Ronny TONG be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Ronny TONG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por and Mr CHEUNG Kwok-che voted for the motion.

Dr Philip WONG and Mr Abraham SHEK voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, seven were in favour of the motion, two against it and 17 abstained; while among the Members returned by geographical constituencies through direct elections, 30 were present, 20 were in favour of the motion and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second Motion: Hong Kong's Co-operation with ASEAN region.

Members who intend to speak on the motion will please press the "request to speak" button.

I now call upon Mr Andrew LEUNG to speak and move his motion.

## **HONG KONG'S CO-OPERATION WITH ASEAN REGION**

**MR ANDREW LEUNG** (in Cantonese): President, I move that the motion as set out on the Agenda be passed.

Ever since the middle of the last century, developing regional economies has become a global trend. The most obvious is the setting up of the European Union and the North American Free Trade Agreement (NAFTA), which have become the largest trading zones. With the emergence of the Asian economy in this century, we cannot just focus on individual countries. Even for a large economy like China, it cannot develop on its own and it must take the approach of a regional economy. At the beginning of this year, China has taken a step forward in this direction and it has formed a free trade area with the ASEAN. The first phase of this trade area includes China and the six founding members of the ASEAN, that is, Indonesia, Malaysia, Singapore, Thailand, the Philippines and Brunei Darussalam. Other member countries of the ASEAN will join in 2015.

President, the China-ASEAN Free Trade Area (CAFTA) covers a population of about 1.9 billion and it is the largest free trade area in the world.

In 2008, the total GDP of China and the 10 countries of the ASEAN have reached US\$6,000 billion and it is about one ninth of the total GDP of the world. Trade in the region totals US\$4,500 billion and it is about 14% of the world total. In terms of GDP and trade volume, the newly established free trade area is the largest in the developing areas. It is also the third largest economy in the world after North America and the European Union, and will further promote the economic growth in Asia.

President, as early as five years ago, China and the ASEAN have already implemented the Agreement on Trade in Goods. Under the Agreement, customs duties for 7 000 kinds of commodities are reduced, most of which are later exempted with the establishment of the free trade area this year. The zero tariff policy serves to make import and export enterprises more aggressive and this has brought about substantial growth in imports and exports this year.

In the case of trade between Nanning of Guangxi and the ASEAN, a record-high volume was recorded during the first four months of this year. The border trade of import and export trade in small volume was US\$1.11 billion and it is 48.5% more than the same period in 2008, surpassing the volume before the financial tsunami. The International Monetary Fund estimates that the economic growth of the ASEAN may reach 5.5% this year and that is a big increase from 1.3% of last year. The economic powers of this region can thus be seen.

Hong Kong has all along relied on the markets of the advanced countries in the West. But with the decline of the economy in Europe and the United States, in order to maintain our economic prosperity, Hong Kong Government must put in great efforts to promote economic co-operation with the ASEAN, so as to diversify our economy and develop the emerging markets. In this way, we can avoid the traditional economic pattern of over-reliance on the Western markets.

President, many people think that when channels in trade between China and the ASEAN are completely open, Hong Kong would lose its function as a bridge. Actually, ever since 2005, with the gradual elimination of trade barriers between China and the ASEAN, Hong Kong's trade with ASEAN countries has always been on the rise. Last year, trade between Hong Kong and the ASEAN totaled US\$65 billion, surpassing the trade volume between Hong Kong and the NAFTA and is second only to the trade volume with Mainland China and the

European Union. This shows that Hong Kong enjoys an edge in the region on account of its matching software.

Today, with "one country, two systems" as the basis, we can benefit from the expanding economic sphere and influence of our country in the region. The principle of "two systems" gives us the convenience to be an independent third party, allowing us to meet the needs of the developing professional services in the region.

The establishment of ASEAN+1 and "one country, two systems" provide a strong foundation for the long-term economic development of Hong Kong. As Hong Kong is situated in the zone between the Mainland and the ASEAN, and couple with the fact that we have sound commercial networks and transport infrastructure, Hong Kong enjoys great geographical advantage. On the one hand, Hong Kong provides a springboard to help Chinese enterprises venture into the ASEAN quickly for more business opportunities; and on the other hand, Hong Kong serves as a platform to provide professional services to the ASEAN enterprises to facilitate their entry into the Mainland market and tap on the vast market.

At a macro level, our positioning lies in developing professional services in the regional economy. If Hong Kong is to develop a sustainable mode of economic development, it must keep abreast of the times. It is well within Hong Kong's long-term interest to promote high-end knowledge-based economy in the region to meet the needs of the ASEAN and the Mainland in modernizing their management and systems.

The Economic Synergy has been maintaining a close dialogue with the trades and undertaking studies in this respect. Mr Jeffrey LAM will speak on financial matters, especially in Renminbi (RMB) off-shore business as well as the strategic position of RMB in the ASEAN. I will talk briefly on industries with potentials for development in the ASEAN, especially the professional services.

President, with the continual growth in the Asian economy and the rise in income levels of the people, there is a gradual increase in the demand for asset management and insurance products. Against this background of a huge

demand in the ASEAN and the availability of talents in the financial markets as well as a good legal system, Hong Kong should make use of this opportunity to consolidate its position as an international financial and insurance centre.

Hong Kong has one of the largest stock markets in the world. We should focus our attention on developing the financial industry and study the possibility of multi-currency settlement in securities transactions, such as settle in US dollar, Euro and RMB. This can attract more capital formation activities by the ASEAN and Mainland enterprises in Hong Kong and hence further develop our stock market platform. This move can also provide a financial platform for these enterprises to venture into the Asian market. The healthy development of various types of insurance products and their mobility must be backed up by a well-developed reinsurance market. During the last decade, the reinsurance industry on the Mainland has begun to develop, but it is still unable to meet the needs in the market. Hong Kong has expertise in insurance and reinsurance and it can play the part of a third party between the ASEAN and China. We can expand our professional services to the free trade area and build ourselves into a centre of insurance and reinsurance in Asia to serve the vast ASEAN market.

President, the establishment of the ASEAN+1 which is a free trade area with a population close to 1.9 billion implies busier economic and trade activities between Hong Kong and its surrounding areas. Hence there will be greater demand for arbitration for resolving economic and trade disputes. Economic and trade arbitration is a service industry characterized by sophisticated knowledge and high return. Hong Kong is best suited in the region to becoming the economic and trade arbitration centre in Asia on account of its availability of related talents and the rule of law. The Hong Kong International Arbitration Centre can provide professional arbitrators with expertise in various professional backgrounds. With this good foundation, we can build Hong Kong into a regional arbitration centre to serve the commercial needs of the ASEAN and China. Apart from world-class professional service industries which can lay a good foundation for the long-term economic development of Hong Kong, we also have post secondary education that ranks the finest in Asia. According to the Times Higher Education-QS World University Rankings, three universities from Hong Kong are placed among the top 50 in the world.

President, in terms of tuition fees and cost of living, it is more affordable to pursue post secondary education in Hong Kong than in Europe and the United States. Apart from that, people in South East Asia find Hong Kong attractive owing to geographical and cultural proximity. In the Faculty of Dentistry at the University of Hong Kong, for example, about one quarter of the undergraduates and graduate students are from overseas. At present, there are more than 75 million middle class people in the ASEAN with an income of US\$10,000, certainly they will have higher demand for the education of their children. Moreover, there are at least 20 million people in the ASEAN with Chinese descent and they have great demand for a world-class bilingual education in English and Chinese, they are willing to invest in the education of their children. The Hong Kong Government should therefore encourage more students from the ASEAN to come to study in Hong Kong by devising more policies to match with the needs of various kinds of courses offered here.

As a matter of fact, with the increasingly high standard of living in the region, there is greater demand for high-end consumer goods such as wines. There are great potentials for development in the wholesaling of wine in Hong Kong. Our zero wine duty policy will also help Hong Kong develop into a wine trade centre in the region.

President, with these new hopes in the economy, we should never overlook our traditional advantages. First, the manufacturing industries in Hong Kong are set to benefit from the zero tariff policy of the free trade area. This is because many small- and medium-sized enterprises (SMEs) in Hong Kong have set their production lines in these ASEAN countries. Besides, these countries are also vast potential markets for exports. As Hong Kong is a shopping and gourmet paradise, our tourism industry is well-known throughout the world. Now with the increasingly trade and commercial activities between Hong Kong and our surrounding places, the Trade Development Council and the Tourism Board must put in more efforts to attract more people from the region to come here for business and spending, hence spurring the growth of high-end retail and tourism industries.

The Government should make preparations for matching facilities and manpower training, and it should also take the initiative to strengthen ties with the ASEAN region. It should assist Hong Kong businessmen who are doing business there as well as those SMEs which plan to start a business there.

From the perspective of developing a macro regional economy, the Government should arrange more senior officials at the rank of Directors of Bureaux to lead groups formed by SMEs to visit the ASEAN, hence activating high-level co-operation. They may also promote the Hong Kong brand, enhance information exchange and develop trade and commercial links with the ASEAN in full swing. Such high-level exchanges can also help enterprises in the ASEAN countries come to Hong Kong. This will achieve a win-win situation in the region and we can collaborate with them to build the Asian century.

President, if Hong Kong is to keep its advantages and develop a sustainable economy, the key is to look to our neighbours instead of our distant friends. The ASEAN is the user of our service industries and our important economic partner. I hope the Government can respond actively to this motion and I am also eager to hear from Honourable colleagues their views on how Hong Kong can develop economic co-operation with the ASEAN region.

President, I so submit.

**Mr Andrew LEUNG moved the following motion: (Translation)**

"That, after the financial tsunami, the focus of global development is shifting from Europe and the United States to Asia, and the economies of the East Asian region are also gradually moving towards integration; Hong Kong is geographically positioned in the core zone between Mainland China and ASEAN, and with the formal launch of the China-ASEAN Free Trade Area ('CAFTA'), economic and trade activities in CAFTA will be increasing, which will lead to continuous growth in the demand for capital, logistics and professional services in CAFTA in the future; in this connection, this Council urges the Government to vigorously promote economic and trade collaboration between Hong Kong and ASEAN, so as to capitalize on Hong Kong's advantage in connecting the Mainland, in particular the Pearl River Delta, with ASEAN region."

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I am very grateful to Mr Andrew LEUNG for proposing this motion today on "Hong Kong's co-operation with ASEAN region". The Government has all along been striving to promote trade relations between Hong Kong and various countries in the world as well as its neighbouring regions. After experiencing the unprecedented financial turmoil last year, when we re-examine recoveries made in various places and the economic growth momentum and prospects, we find that Asian Pacific and the East Asian region have already become the focus for exploration of business opportunities. Co-operation with the ASEAN has therefore become even more important.

Hong Kong has been maintaining close economic and trade liaison and co-operation with various ASEAN members. In 2009, with a total trade volume reaching HK\$509.3 billion, the ASEAN has become Hong Kong's third largest trading partner, after the Mainland and the European Union (EU). During the period between 2004 and 2008, bilateral trade between Hong Kong and the ASEAN saw an average annual growth rate of 11.4%. Although bilateral trade between Hong Kong and the ASEAN saw a 12% fall in 2009, it rose again in the first quarter of 2010, with total trade volume reaching HK\$144.9 billion, which was a significant increase of 39.6% from the same period last year. During the same period, bilateral trade volume between Hong Kong and the entire Asian region rose 36.7% from last year. Meanwhile, bilateral trade volume between Hong Kong and the United States and the EU rose by 11.3% and 8.6% respectively from last year. It is clear that during the recovery of global economy, the drive comes mainly from Asia and the ASEAN, as the European and United States markets have yet to be fully recovered. Hence, the trading partnership between Hong Kong and the ASEAN has become even more important.

This motion debates helps the public understand the content and development direction of collaboration between Hong Kong and the ASEAN region. It also provides an opportunity for us to explore in this Council ways to enhance and capitalize on Hong Kong's advantages, with a view to striving for a larger share of interest for Hong Kong's economic development and the public at large.

I hope to listen to the valuable views expressed by Honourable Members and will give a summing up when I speak later. Thank you, President.

**MR RONNY TONG** (in Cantonese): President, according to my understanding, in mid 2005, the SAR Government started studying the issue on the economic corridor-ASEAN-Guangxi-Hong Kong via the Central Policy Unit. Recently, the Chinese Government signed the framework agreement on comprehensive economic co-operation with 10 Southeast Asian countries. In the economic context, this surely is a very good development, and there are sufficient economic figures highlighting the need to enter into such an alliance. In 2008 alone, the trade volume reached \$1.9 billion, of which around 15.5% of the trade volume is from re-export via Hong Kong.

President, as an international financial centre with strategic position, well-developed transport network, comprehensive and professional support, independent legal system, as well as being the springboard entering the Mainland, Hong Kong has all along been acting as a very important intermediary between the Mainland and the ASEAN. Surely, Hong Kong can gain profits in the process. The Government has taken proactive actions to act as the bridge for trading, hoping to assist enterprises in the Pan Pearl River Delta (PRD) region to explore business opportunities in the ASEAN, thereby enhancing the important status of Hong Kong. At the same time, by assisting ASEAN enterprises to invest in the Pan PRD region, Hong Kong will also be benefitted from its strategic position in future.

President, if we completely adhere to the ideology of market economy and free economy, the exploration of labour force through local investments will surely facilitate the development of the economy of China, and this will in turn benefit Hong Kong, and provide important business opportunities for our business sector or investors. However, this is not necessarily the law of economy. In the area to be developed, there are still many people living in poverty. Indeed, the world has started to query the market effects of the so-called integration and doubt whether advocating globalization can promote the interests of various countries. Moreover, the excessive uneven distribution of wealth will only cause the future redevelopment or opening up of the world to go to extremes.

President, there is a common saying, "after getting rich, one should be righteous." Though the economic development in Hong Kong aims at getting more profits and bringing more business opportunities to Hong Kong,

development in Hong Kong should not be too rapid. It is lamentable that tragedies such as those that happened in companies like Foxconn should occur. In the course of economic development, if people from well-off places go to poor places to exploit the resources or labour force there so as to reap profit, this is against the ethical standard of people in general.

President, Joseph STIGLITZ, a world famous academic in economics and a Nobel laureate, has been in office in the United States during the term of two different Presidents, and he is now the chief economist of President Barack Obama. He has written a book titled *Making Globalization Work*. The book is about issues related to global economic integration, but the various insightful concepts mentioned are applicable to all economic co-operation regions or certain alliances of economic co-operation. In the book *Making Globalization Work*, he expresses the views that if economic development is promoted by developing multinational economy or by means of forming alliances, the focus should not be placed solely on economic benefits, aspects such as economy, society, politics and culture should be considered as a whole. Actually, his points of views differ enormously from the economic trickling down effect advocated by economic academics in the past. He considers that in the course of promoting economic development, political procedures and economic systems should be developed at the same pace, and the interests of the majority should not be scarified at the expense of the interest of a small group of people.

President, when this book was published a number of years ago, this economic theory was an extremely advanced notion. In the preface of the book, he writes, "Open, democratic processes can circumscribe the power of special interest groups. We can bring ethics back into business. Corporate governance can recognize the rights not only of shareholders but of others who are touched by the actions of the corporations."

President, in places of the ASEAN, Hong Kong is relatively advanced on the fronts of culture, rule of law, education and the service sector, and in particular corporate governance. In the course of promoting economic development, we should make use of this comprehensive economic co-operation framework to influence the development in education, laws, rule or law and corporate governance of the region at the same time. I hope that the Government and the business sector will not only be concerned about economic

interests when they consider the business opportunities for economic development. They should also give due regard to certain new economic theories put forth by Mr Joseph STIGLITZ, taking into account the overall development instead of the mere concern of making money. Thank you, President.

**MR CHAN KAM-LAM** (in Cantonese): President, the co-operation between China and the ASEAN has a long history, from the signing of the China-ASEAN Free Trade Agreement, to the Framework Agreement on Comprehensive Economic Co-operation, and the Agreement on Trade in Goods, Agreement on Trade in Services and the Investment Agreement. The co-operation between China and the ASEAN has grown increasingly closer and the scope of co-operation has become more extensive. Hong Kong is located in a core position between China and the ASEAN, and is also a major economic entity in the region. The co-operation between China and the ASEAN has not only provided greater room for development, but has also brought new opportunities to Hong Kong in maintaining its stability and developing its position as the financial centre in Asia.

Over a long period, the economic growth of the Southeast Asian region is derived on a US-dollar-based financial system, for the region lacks an independent monetary system, and this puts it in a passive position, particularly in times of financial crises. In the Asian financial crisis in 1997 to 1998, the financial market in Asia had suffered a heavy blow resulted from panic-driven capital outflows. Countries in Asia then understood that they could not rely completely on the European and American markets, but should reinforce the mutual co-operation within the Asian region in terms of investment and financial and monetary policies, so as to enhance their right to speak in the international financial community and to maintain the stability of the monetary system of the region. Hence, financial co-operation constitutes a significant part in the co-operation of the "ASEAN+China, Japan and Korea", that is, the ASEAN+3.

The Chiang Mai Initiative Multilateralisation Agreement is a breakthrough achieved in stabilizing the Asian financial market. The Agreement will provide short-term balance-of-payments support to regional economies facing liquidity shortages through a network of bilateral swap arrangements among members of

the Agreement, which will strengthen the ability of the region in avoiding financial risks and rising to challenges. Hong Kong, being one of the 14 members of the Agreement, will surely benefit from the Agreement.

Another major point advocated by the ASEAN+3 is the development of the bond market in Asia. On the one hand, this will be conducive to the expansion of direct financing channels. On the other hand, the problem of concentration of risk resulted from banks serving as an indirect financing channel will be alleviated. We can see that the development of the local bond market will open new channels for investment for reserve assets in the region. Today, regarding the development of the bond market in Asia, many economies in Asia have attained substantive progress, particularly after the crisis in the European bond market, the Asian bond market has become even more popular.

Moreover, the Asian bond market has provided a new platform for the internationalization of Renminbi (RMB). In 2005, China allowed international development agencies to issue RMB bonds, that is the Panda Bond, within China. In 2009, the first batch of RMB bonds was issued offshore, which was also the first time RMB bonds were issued in Hong Kong. This arrangement has promoted the circulation of RMB in countries and places in the peripheral area, enhancing the international position of RMB, which is an important step in achieving internationalization of RMB. At the same time, this is conducive to the development of RMB bond market in Hong Kong, facilitating Hong Kong to develop into an offshore RMB centre.

Hong Kong, London and New York are listed as the three major financial centres in the world. The capital market in Hong Kong is one of the most open markets in the world. Basically, there is no restriction on foreign or offshore investment, deployment of capital flow, nationality or equity of enterprises. Besides, the regulatory regime of the financial market in Hong Kong is well recognized by international investors. Hence, Hong Kong has all along been an effective financing venue for international enterprises. Hong Kong possesses the conditions to attract enterprises of the ASEAN and the Mainland to carry out financing via the stock market or financial institutions to absorb international capital, developing into a regional financing centre.

As the national power of China grows stronger, China needs greater participation in Asia, as well as in the financial and economic order in the global

arena. Hong Kong, with its experience in international trade, particularly in the financial field, may offer good recommendations to the State in respect of regional co-operation at the regional level, and propose at global level influential rules on regional economy and finance. Subsequently, the right to speak and economic position of the region as a whole in the international community will be enhanced.

President, these are the opportunities offered to Hong Kong. To capitalize on these opportunities, other than the endeavour made by the business sector, the Hong Kong Government too should make vigorous effort in promotion. Hong Kong has not signed any free trade agreement with ASEAN countries, and due to its status as a special administrative region, it is excluded from the free trade agreement signed between China and the ASEAN. In the course of co-operation with the ASEAN, Hong Kong is in a relatively passive position. The Hong Kong Government should act proactively to negotiate with ASEAN countries and the Central Government. Hong Kong should participate in the co-operation with the ASEAN region through various channels, trying to identify its positioning in regional co-operation, to bring its strengths into full play and to consolidate and further develop its status as the Asian financial centre.

With these remarks, President, I support the motion.

**DR LAM TAI-FAI** (in Cantonese): President, after the financial tsunami, the focus of global economy has shifted from the west to the east, and Asia has become the main engine for global economic growth. I believe the development of China has attracted the most attention. As the China-ASEAN Free Trade Area (CAFTA) has come into operation for some time, China, as well as the Asian region, will develop at a very high speed.

The CAFTA has the largest population in the world, with a population of 1.9 billion and a GDP of US\$6,000 billion, which is the third largest in the world. It is reported that since the full operation of the CAFTA in January this year, the trade volume of the two sides has shown substantial growth in only a few months' time. Take Dongguan City as an example. Between January and April, the total volume of bilateral trade with the ASEAN reached US\$3 billion, an increase of 58.3%. Exports to the ASEAN accounted for US\$800 million, an increase of

73.3% in comparison with the same period last year, while the imports from the ASEAN amounted to US\$2.2 billion, representing an increase of 53.4%.

As the trade volume between China and the ASEAN grows, I think Hong Kong, located between the two places, will benefit from the growth on the one hand and face challenges on the other. First, the CAFTA will definitely have the effect of bringing in trade and promoting economic activities. Actually, with the gradual reduction in tariff, the total trade of the two places has increased drastically. The amount increases substantially from US\$78 billion in 2003 to over US\$230 billion in 2008, almost a two fold increase, with an average annual growth of 24.2%.

According to the estimate of the President of the Chinese Manufacturers' Association of Hong Kong, David WONG, the total trade of the two places will very likely be doubled in 2015, reaching US\$500 billion. The Secretary should know that President David WONG hold a doctor's degree in economics from the University of Chicago. He is an economic expert and his analysis is worthy of reference to the Secretary.

Hong Kong is an international finance centre, commercial centre and shipping centre in the East Asia region. Its development in various areas such as financial services, profession services, port facilities and logistic services, and so on, has reached a fully mature state. If economic activities in the region increase, it will naturally generate more businesses for Hong Kong and benefit Hong Kong. Moreover, more foreign investment will be attracted to Hong Kong to carry out financing and transshipment in Hong Kong, and even set up their regional headquarters here. These will bring more business opportunities to Hong Kong.

Most of the manufacturing industries in Hong Kong have moved northward to the Mainland, but some have moved to the 10 countries of the ASEAN, hence, Hong Kong-invested enterprises will also benefit from the zero tariff concession applied to the CAFTA. However, if we are complacent over the opportunities of enjoying these concessions, without a sense of crisis in times of peace, we will expose ourselves to danger; for the CAFTA will also expose Hong Kong to many challenges.

In respect of the economic activities between China and the ASEAN, Hong Kong has all along been playing an intermediary role. In 2008, the total trade in

this respect exceeded HK\$1,800 billion, of which re-exports from Hong Kong accounted for nearly 14.5%. In the long term, more enterprises of the two places may conduct export and import trade direct, and they no longer need to rely on Hong Kong as the intermediary or the transshipment port. As the development of many Mainland ports gradually matures, and that China is making vigorous efforts to build the transport network connecting the central and western part of China with various ASEAN countries, I believe Hong Kong's status as the intermediary will soon be lowered, and the transshipment trade in Hong Kong may suffer a severe blow.

Moreover, Singapore, being one of the members of the ASEAN+10, has a close relationship with other members. Since the economic condition of Singapore is comparable to that of Hong Kong, it will very likely take over Hong Kong and become the bridgehead for the ASEAN enterprises to enter the Mainland market. Hong Kong's status as an intermediary will be further undermined.

President, the Free Trade Agreement signed between China and the ASEAN has actually been implemented in phases since several years ago. However, the SAR Government has seldom mentioned this. It has to the very best said that the authorities will "explore new development opportunities" and pay attention to the influence on Hong Kong. Over the years, this issue has seldom been mentioned in the policy addresses or the budgets. I would say that not a word has been said about this. Does the Government not understand the opportunities and challenges involved? Or, it indeed knows that the intermediary status of Hong Kong will be seriously undermined and do not want to raise the issue?

Regional co-operation is the prevailing trend in global economy. The Government should be on the alert of this trend. It should take pre-emptive measures to minimize the impact the trend may bring to Hong Kong and seize the new opportunities for development. In recent years, bilateral and multilateral co-operation projects are increasing gradually in Asia. The number of free trade agreements signed within the region has increased from three in 2000 to 58 in 2009. As for Singapore, it has signed 13 bilateral free trade agreements since 2001. On the contrary, Hong Kong only signed the CEPA with the Mainland in 2003, and it has not been keen on co-operating with the East Asia region. In the long run, I think this will affect the development potential of Hong Kong.

The economy of the European and American market is not fairing well at present, and we all know that. But the market of China and the ASEAN, which has a population of 1.9 billion, provides enormous business opportunities, which will be a new direction for the economic development of Hong Kong and a new way out for small and medium enterprises. Nonetheless, the authorities of Hong Kong only appoint the Hong Kong Economic and Trade Office in Singapore to facilitate the economic relationship between Hong Kong and the ASEAN+10. I think this is inadequate.

As President David WONG said earlier, the Government should take its work to a higher level and negotiate with the ASEAN. It should participate in regional co-operation in the two areas which Hong Kong has a competitive edge, that is service trading and investment agreements. At the present stage, I propose that the Government may strive for the recognition of the certificate of origin — re-export of Hong Kong by the Mainland and the ASEAN, so that re-export goods of Hong Kong will be regarded as direct exports and enjoy the same tariff concessions. At the same time, the Government should vigorously promote to the ASEAN the RMB clearing and settlement services and financing services provided in Hong Kong.

President, the pre-requisite requirements for enterprises to explore a market are to carry out upgrade and restructure, as well as to enhance their competitiveness and productivity. But the problem is that the Government has all along failed to make adequate effort in this respect, and it may be criticized for dragging its feet. Members all know that, and I have mentioned this a number of times, if Hong Kong-invested enterprises shift from contract processing to import processing to upgrade and restructure, the Government will invoke section 39E of the Inland Revenue Ordinance to deny them of the depreciation allowance for all production plants and machinery used in the Mainland. As a result, Hong Kong-invested enterprises dare not upgrade or restructure their business, nor do they dare to make significant investment in plant and machinery on the Mainland to enhance their productivity and to do more business. Hence, though it is obvious that there are enormous business opportunities in the internal market of the Mainland and that of the ASEAN, these enterprises will hesitate to take their business further and no progress has been made. I thus hope that the Government will amend the taxation laws as soon as possible to support

enterprises to undergo upgrading and restructuring, so that we can capitalize on these opportunities to do more business.

President, I so submit.

**MR JEFFREY LAM** (in Cantonese): President, two weeks ago, I moved the motion on "Proactively implementing the Framework Agreement on Hong Kong/Guangdong Co-operation", initiating extensive discussion on the development between Hong Kong and Guangdong Province and its positioning. Today, the motion proposed by Mr Andrew LEUNG brings the co-operation of Hong Kong with neighbouring areas to the new level of the ASEAN. These two motions fully reflect that Members of the industrial and commercial sector are very concerned about the direction and strategies adopted by Hong Kong to further expand its room for economic development. They hope that more investment will be attracted and more employment opportunities will be created, thus promoting the progress of society.

In January this year, the China -ASEAN Free Trade Area (CAFTA) was set up officially, creating the largest free trade area in the world in terms of population. Many people may be unfamiliar with the CAFTA, some may even think: does it imply that we have to go there to be "pioneers"? Actually, the ASEAN as a whole accounted for 10% of the total trade of Hong Kong last year, just second to the trade volume between Hong Kong and the European Union. Hence, there is much room for mutual benefits in furthering the co-operation with the ASEAN.

I remember it is mentioned in the Framework Agreement on Hong Kong/Guangdong Co-operation that Hong Kong's position as an international finance centre should be enhanced, and that a finance co-operation region with Hong Kong taking the lead with its financial systems should be established. So, in furthering the co-operation between the Mainland and ASEAN region, Hong Kong must foster its strategic position as the international finance centre in Asia.

President, after the financial tsunami, the Chinese Government began to strengthen the swap mechanism between Renminbi (RMB) and other currencies to reduce its reliance on US dollars. It has also examined ways to avoid using

single reserve currency to reduce the influence on the economy, and one of the feasible options worthy of consideration is to develop RMB into an international reserve currency.

Last year, the People's Bank of China announced the cross-border RMB trade settlement pilot scheme, stating that cross-border trade, including imports and exports, between pilot areas on the Mainland and specified overseas areas may be settled by RMB. According to the arrangement concerned, Shanghai, Guangzhou, Shenzhen, Dongguan and Zhuhai are approved pilot areas on the Mainland, and Hong Kong, Macao and ASEAN countries are specified overseas areas. In other words, the ASEAN is the first overseas economy being specified as a pilot point using RMB for trade settlement, and it is very likely that RMB will first become one of the reserves for international trade in the ASEAN.

To Hong Kong, the pilot scheme has greatly facilitated the trade activities among the Mainland, Hong Kong and the ASEAN member countries. To the banks in Hong Kong, the scheme has expanded the customer base for RMB services. It means that the scheme may enhance the diversification and liquidity of RMB assets, which will be conducive to the consolidation of the RMB clearing platform in Hong Kong and the development of Hong Kong into the RMB clearing centre in the region. More importantly, under the relevant cross-border call loan arrangement, the flow of RMB capital between the Mainland and Hong Kong will be more flexible, which provides a more favourable condition for Hong Kong to act as a RMB offshore centre and bond market. Hong Kong will thus become the best site for promoting the internationalization of RMB.

Hence, with its experience in being an international finance centre, I think Hong Kong should step up its participation in the regional co-operation of the ASEAN in the finance field. It should carry out more promotion and publicity activities, and establish better liaison to attract the ASEAN enterprises to come to Hong Kong for capital formation. Moreover, it should support the finance reform in the region, for this will enhance Hong Kong's role as an international finance centre.

In respect of trading, though Hong Kong is not a member of the CAFTA, Hong Kong manufacturers who have set up their plants on the Mainland may still benefit from the zero-tariff concession. Many Hong Kong merchants engaging

in export processing trade on the Mainland are exempt from import tariff for the raw materials and parts and components used for product manufacturing.

Mainland China and the ASEAN are respectively the largest and the third largest trading partners of Hong Kong. After the tariff reduction measures of the CAFTA has come into effect, the growth in trade between the Mainland and the ASEAN is expected to be brought about mainly by direct trade, which implies that the re-export trade conducted via Hong Kong in the past will reduce. However, as the saying goes, "every crisis is an opportunity". Of the six major industries that Hong Kong is determined to develop, close co-operation ties with the ASEAN have been established in many of these industries.

Take the testing and certification services industry as an example. The Hong Kong Accreditation Services and 18 accreditation organizations in the region are members of an international agreement on mutual recognition. The Supplementary Agreement VII to CEPA signed at the end of last month has brought new business opportunities to the testing industry in Hong Kong. At present, products manufactured in Hong Kong and imported by the Mainland for internal sale, which means the 23 types of products covered by the China Compulsory Certification scheme, can be tested by accredited testing organizations in Hong Kong under the Supplementary Agreement VII to CEPA and do not need to be tested again on the Mainland. I hope that the governments of the two places will announce the first batch of pilot products as soon as possible, so as to open, for the testing industry, the door to the Mainland and an easy access to the ASEAN.

With these remarks, President, I support the motion of Mr Andrew LEUNG.

**MS EMILY LAU** (in Cantonese): President, Mr Andrew LEUNG urges the authorities to vigorously promote the development of economic and trade ties between Hong Kong and the ASEAN. President, if the SAR Government is to help the business sector of Hong Kong look for business opportunities, I will definitely raise no objection. But we have all noted that several ASEAN countries are in fact greatly challenged in respect of human rights and freedom. We have just discussed the appointment system of the Chief Justice of the Court

of Final Appeal, and it has been mentioned that Hong Kong people enjoy certain political freedom. In the democratic movement, we are allies internationally.

President, last month I went to Burma — one of the ASEAN members. I visited Yangon and met with opposition leaders. Of course, I could not see Ms AUNG SAN Suu Kyi. President, in fact, there are different reports in the media, some claim that it is uncertain whether the National League for Democracy of Burma supports or objects the sanctions, some urge people not to travel to the country nor do business with the Burmese Government. These reports have different points to make, but President, to my understanding, they have high hopes on the Chinese Government not to sell so much ammunition to the military regime. President, you also know that the National League for Democracy of Burma won the general election in 1990, but it ended up with 20 years imprisonment of Ms AUNG SAN Suu Kyi. During these 20 years, she is either under house arrest or imprisoned for most of the time.

President, we have business dealings with many places. I do not agree to cut all ties with Burma, but in the course of doing business, should we also make some efforts in advocating human rights? We all care about human rights, and we talk about the need to communicate with the Central Government. So, can the military regime of Burma also communicate with the opposition camp of AUNG SAN Suu Kyi? President, politics and economics are inseparable and they are the two sides of a coin. We are fighting vigorously for democracy, freedom, human rights and the rule of law in Hong Kong, but unlike the pro-democracy camp in Burma, we have never been imprisoned for 20 years, possibly even less than 20 days. However, it is not known when we will be imprisoned. President, we very much hope that our businessmen can do business there. Perhaps, our Government can help bring this message to Burma as it is a closed society. Therefore, today I have to speak on behalf of those who have been imprisoned for some 10 or even 20 years, they fight for democracy and freedom, and love peace very much. They also want to develop a relationship with Hong Kong in all aspects.

Recently, someone from Burma who is in exile has come to Hong Kong to meet with many people. I particularly hope that the Central Government can understand that these democrats are under strong oppression in Burma, and they should be allowed to rally support from the international community. Therefore, President, while I support the authorities' effort in promoting the development of

trade and finance, I also hope the Secretary would understand that the core values of Hong Kong are sought after by many people in the world. I hope the Secretary can offer help so that those who have been oppressed for years can breathe the air of freedom one day. I so submit.

**DR RAYMOND HO** (in Cantonese): President, the China-ASEAN Free Trade Area (CAFTA) is the world's third largest free trade zone, just after the European Union and the North America Free Trade Agreement region. Following the establishment of the CAFTA, the ASEAN has overtaken Japan to become China's third largest bilateral trading partner. Analyses have pointed out that in January this year, the value of exports from ASEAN member countries to China totalled US\$10.93 billion, representing a growth of 1.2 times; whereas the value of exports from China to ASEAN countries totalled US\$10.55 billion, which still represents an increase of over 50%. With such significant results achieved just in the first month after the launch of the agreement, we can see that the economic and trade potentials of ASEAN countries absolutely must not be neglected.

Recently, with the signing of the CAFTA, Guangxi and Vietnam have become the focuses of development in the CAFTA. Geographically, Guangxi is the only province in China which is linked to Vietnam by sea and land transport, acting as a bridge between China and ASEAN countries in trade and economic spheres. Compared with such eastern coastal cities as Shanghai and Guangzhou, the inland area in western China will involve higher logistics costs and so, it can hardly compete with the more mature economies. Taking advantage of their inherent geographical factors, Guangxi and Yunnan have set up a free trade area with neighbouring ASEAN countries. Coupled with the rich natural resources and the Mainland's future development of an Express Rail Link connecting ASEAN countries which will speed up the mobility of people and goods, valuable opportunities for development will be brought along to this area.

Over the past three years, I have been very actively assisting professionals to understand the development and potentials of the ASEAN by arranging the engineering sector to visit Nanning in Guangxi and also Vietnam. The objective is to set up channels for communication with engineers in these two places and conduct academic exchanges in various aspects with their professional bodies. Meanwhile, these visits also aim to make preparations for the launch of the

CAFTA and look into ways to create more opportunities for co-operation between professionals of both places. Hong Kong has organized a large-scale seminar where representatives from ASEAN countries were invited to discuss the economic prospects and future development potentials of the ASEAN, as well as the role that Hong Kong can play in this respect.

Vietnam has continuously carried out reforms and the opening up policy over the past two decades. Its economic policies have been gradually modernized by modeling on the more advanced economies nearby (such as the four little dragons in Asia). Although a growth as high as 26.29% was registered in Vietnam's GDP in 2008, the deputation noticed during the visit that the existing hardware support in Vietnam may not be adequate to cope with economic and trade activities which will increase rapidly in future. To strengthen the ties between China and the ASEAN, it should be noted that large-scale infrastructure projects will be Vietnam's objective of investment in the next decade. Projects such as those relating to the development of highly efficient power grids and mass transit systems, large-scale urban planning and development, sea and land transport and ports, and telecommunications facilities all require a substantial supply of professionals and investors before closer ties can be forged between the two countries and with other ASEAN countries.

In order to provide support to the launch of the CAFTA, the demand for services relating to major infrastructure and relevant professional engineering works will naturally surge in Vietnam in future. The Government should give more encouragement to local professionals in providing professional services to neighbouring places that are developing rapidly, so as to help these places develop sound support facilities and hence enable them to be technically aligned with the neighbouring places. This will not only be conducive to the future development of the CAFTA, but will also provide greater room for the development of professionals in Hong Kong, so that they will no longer be confined to the local market. We must do this before there can be prospects for long-term development.

As mentioned in the motion, the focus of global development is shifting from Europe and the United States to Asia, and the economies in the ASEAN region are also gradually moving towards integration. As the development in the Mainland and that of the 10-nation ASEAN bloc are becoming mature, the competitive edges of Hong Kong have obviously been sapped. A fortnight ago

this Council debated a motion on the Framework Agreement on Hong Kong/Guangdong Co-operation, and colleagues and officials have all recognized the directions in which Hong Kong should develop in future. This motion today enables us to look farther ahead, as Hong Kong does not only need to integrate with the economies in the Pearl River Delta or the Pan-Pearl River Delta region, but will also need to develop good economic and trade relationships with the 10 ASEAN countries. In this connection, I hope the Government will forge closer co-operation with the Mainland as well as the governments of the ASEAN countries, and organize more exchange activities to step up the promotion of various services in Hong Kong, including professional services, thereby facilitating the development of new markets in the CAFTA by local professionals. Meanwhile, arrangement can be made for professionals in those places to receive training in Hong Kong, in order to upgrade the competitiveness of both sides, and this is also a good way for the parties concerned to complement each other's strengths.

President, I so submit and I support the motion. Thank you.

**MS MIRIAM LAU** (in Cantonese): President, in January this year, the China-ASEAN Free Trade Area (CAFTA) was launched, creating the world's largest free trade area in terms of population or the world's third largest free trade area in terms of the consolidated gross domestic product (GDP) of the region. Following the implementation of zero tariff for the trading of as many as 7 000 products among six ASEAN countries (namely, Indonesia, Malaysia, Singapore, the Philippines, Thailand and Brunei Darussalam), the inclusion of the other four countries of Cambodia, Laos, Myanmar and Vietnam is also scheduled in 2015. With a scale involving a GDP of US\$6,000 billion and a population of 1.9 billion, the prospects of development in this free trade area have aroused much attention.

Although the CAFTA can increase the total trade volume among member countries, which can indirectly promote the overall business and investment activities in the region, from which Hong Kong can also benefit, we cannot be blindly optimistic about it. It is because when the agreement is further promoted, Hong Kong businessmen may gradually export more of their goods directly from the Mainland to ASEAN countries, in order to benefit from the zero tariff arrangement, and this would result in the further hollowing out of industries in Hong Kong. For this reason, it is imperative for Hong Kong to play more

actively the role as a hub between China and the ASEAN and perform more important functions, in order to prevent the economic development of Hong Kong from being constrained or marginalized.

Take business and trade support services as an example. As the CAFTA has promoted trade between China and the ASEAN region, the demand for professional business and trade support services in such areas as accounting, law and arbitration will naturally increase. Given our professional edges in these areas, there will be ample room for the development of Hong Kong. We must, therefore, strive to step up publicity for the local producer and professional services through the Government's economic and trade organizations in ASEAN countries, such as the Singapore Economic and Trade Office and the Trade Development Council, and assist these organizations in liaising and negotiating with enterprises in ASEAN countries.

Furthermore, under the origin rule, a product with no less than 40% of its value originating from China or the ASEAN can be considered a product with a place of origin in the CAFTA and can hence enjoy zero tariff. This policy will provide great opportunities for development of value-adding service industries such as the packaging and design industries. Therefore, it is worthwhile for the Government to actively strive to enable the local service industries to further benefit from the free trade agreement, so that Hong Kong can play a more important role as a regional hub.

Besides, since China and the ASEAN reduced their tariffs for each other in 2005, the volume of trade between them has increased considerably. The signing of currency swap agreements between China and some ASEAN countries, such as Malaysia and Indonesia, some time ago has greatly increased the use of Renminbi (RMB) in Southeast Asian region. So, the use of RMB is also expected to increase substantially in the CAFTA in future. Given that it has become a national policy to speed up the internationalization of RMB, and as Hong Kong has long set the objective of developing into a mature offshore centre for RMB, this is precisely a prime opportunity for Hong Kong to develop as an offshore RMB centre. We must seize this opportunity properly.

Yet, in order to fully capitalize on the CAFTA to the benefit of Hong Kong, the Government should, in respect of both software and hardware, improve or streamline the formalities in many areas. As I have repeatedly pointed out

before, with regard to cargo arriving in Hong Kong, even though it arrives in Hong Kong only in transit and will then be directly exported overseas, customs declaration is currently required both on the arrival of the cargo as well as its departure, which is a waste of time and effort. In this connection, the Government should simplify these cumbersome formalities by allowing goods in transit to make customs declaration just once, in order to avoid repetition. The Government should also do its utmost to assist the logistics industry to develop in a high value-adding direction by, for instance, promoting e-logistics to enhance the efficiency and accuracy in the handling of cargo. Alternatively, the Government can provide value-adding services for combining goods or in other respects, thereby upgrading the overall competitiveness of the local logistics industry. If Hong Kong is unable to secure a leading position in this area, we would easily lose the market, and this would cause irrevocable losses.

Besides, I also hope that the Hong Kong Export Credit Insurance Corporation can conduct a detailed assessment on the political and economic risks in the ASEAN region in the light of the latest developments and moderately increase the export credit ratings of these countries, so that the insurance premium can be reduced to the benefit of more exporters.

On taxation front, the Government should expeditiously work with the ASEAN countries, such as Malaysia and the Philippines, in taking forward arrangements for avoidance of double taxation to facilitate business and investment activities in the region. In the meantime, the Government should study the establishment of more Economic and Trade Offices and liaison units in more ASEAN countries, while enhancing their functions with the objective of strengthening bilateral and multilateral activities with countries in the ASEAN region. Moreover, as Hong Kong has all along given less weight to the relationship and dealings with ASEAN countries, apart from the need to foster economic and trade exchanges by the Government, co-operation should also be strengthened in various social and cultural aspects at a community level, in order to promote the relationship between the two sides on all fronts

President, under the globalization of the world economy, the pace of economic development has become faster and faster in the international community. Any slight inattention may cause an opportunity to slip by and we would hence be overtaken by our competitors. So, I hope that in the community, there can be less arguments and internal conflicts but more positive

communication and co-operation. Only in this way can we seize the opportunity to enable the economy of Hong Kong to achieve more robust development.

Thank you, President.

**MR WONG TING-KWONG** (in Cantonese): President, the China-ASEAN Free Trade Area (CAFTA) was officially launched on 1 January 2010. To Hong Kong, the establishment of the CAFTA can be considered a crisis but there can also be opportunities. The point is whether or not Hong Kong can earnestly take actions to fully give play to its advantages and utilize the opportunities, so as to turn the crisis into opportunities.

Given that the regional co-operation under the ASEAN belongs to the type at the sovereign level, Hong Kong, being an independent tariff territory, is therefore excluded from the agreement. The launch of the CAFTA is set to bring some challenges to Hong Kong. For instance, the implementation of zero tariff by the Mainland and the ASEAN will definitely have a negative impact on Hong Kong's re-export and logistics industry. Although Hong Kong may still benefit from the regional trade and hence register quite significant growths, the role played by Hong Kong as an entreport is set to be gradually undermined as the transport network connecting the ASEAN region and the Mainland becomes better and better. If Hong Kong wants to maintain its role as an intermediary for commerce and trade in the region, continuous restructuring in the areas of commerce and trade will be necessary. Apart from developing offshore trade, we must also provide more value-adding services, such as those in respect of supply chain management, agency, and design

In fact, the establishment of the CAFTA has brought a rare opportunity to Hong Kong. The relocation of many factories in the local manufacturing sector will directly benefit Hong Kong businessmen in the Mainland. Since the outbreak of the financial tsunami in 2008, orders from Europe and the United States have dropped drastically. The new orders from the huge ASEAN markets will make up for this gap. Meanwhile, the CAFTA adopts the less stringent culminated origin rule, which means that a product with a CAFTA content amounting to no less than 40% of the product's value can be exported to a market in the region at preferential tariff rates. This will enable Hong Kong

businessmen in the Mainland to improve and consolidate their resource deployment in the CAFTA and hence upgrade their competitiveness.

The establishment of the CAFTA will accelerate the development of regional trade and investment, and this will certainly lead to an increase in the demand for services in respect of financing, law, accounting, exhibition, consultancy and certification. Hong Kong has talents with international vision and networks, a sound legal system and regulatory regimes, and also free capital flow and convertibility. With these advantages, the services provided by Hong Kong in these areas are of advanced international standards. Hong Kong should seize this opportunity to vigorously promote the development of the relevant services.

With closer economic and trade relationships in the region, it is believed that the economic strengths of the ASEAN region will increase gradually and the focus of the global economy will also shift from Europe and the United States to Asia. Hong Kong should capitalize on its advantages in the service and financial services industries and reposition itself in the region, making contributions to upgrading the international status of the East Asian region, while enhancing Hong Kong's status as a major hub in the region. Only in this way can we secure a position in the region and achieve sustainable development for Hong Kong.

At present, co-operation in the CAFTA has remained to be focusing on tariffs. I think this may not have too great an impact on Hong Kong in the short term. But in the long run, especially when regional co-operation will touch on the sphere of service, the negative effects would be seen more clearly. In order not to be marginalized, apart from the efforts from the business sector, the Hong Kong Government should adopt a more positive attitude and take part in the ASEAN regional co-operation in various ways.

Hong Kong can step up efforts to discuss and negotiate with individual ASEAN countries or cities, in order to actively enter into bilateral trade or service agreements with them. In fact, with regard to Singapore, which also adopts the policy of a free port similar to that in Hong Kong, 13 bilateral free trade agreements have been signed since 2001. Hong Kong can make reference to the practices adopted by Singapore in that the free trade agreements can cover a

wider scope of areas, so as to make up for the limitations of the liberalization measures.

Apart from this, President, the Government can also seek the support of the Central Authorities for our participation in some functional co-operation mechanisms as a member of the Chinese delegation or as an observer, so that we can strengthen our interaction and liaison with countries in the region. The Government can also actively strive for recognition of Hong Kong's "Certificate of Origin — Re-export", so that goods re-exported through Hong Kong can be considered as "direct shipment" and can hence enjoy the relevant preferential tariff rates. This will ease the impact of the CAFTA's trade provisions on the re-export trade in Hong Kong.

The Hong Kong Government can also study and explore the proposals made by experts of forging closer co-operation with the Governments of Guangxi Province and Yunnan Province and considering the setting up of a "Hong Kong Zone" in Beibu Gulf of Guangxi. Special policies can be implemented there to bring in capital and management systems from Hong Kong, thus enabling us to take part in the development of a coastal industry corridor stretching from Hong Kong to Singapore, thereby securing a leading position in development.

President, the CAFTA has already been launched. It symbolizes a new milestone in regional co-operation in Asia. Whether Hong Kong can board this express train of development and further take forward the development of Hong Kong will hinge on the concerted efforts of the industries and the SAR Government.

President, I so submit. The Democratic Alliance for the Betterment and Progress of Hong Kong supports Mr Andrew LEUNG's motion.

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

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I very much thank Members for their valuable input on Mr Andrew LEUNG's motion.

The Association of South East Asian Nations (ASEAN) is the third largest trading partner of Hong Kong. We have all along been committed to developing and strengthening our economic and trade ties with our trading partners in Asia (including the ASEAN). Following the formal establishment of the China-ASEAN Free Trade Area (CAFTA) this year, and as many Members have said earlier, people will naturally think of Hong Kong's position in the region, as well as whether Hong Kong's economic and trade development will be affected. Although the CAFTA has been launched since July 2005, the value of goods from the Mainland and the ASEAN re-exported through Hong Kong has consistently increased. From 2006 to 2008, the year-on-year increases were 12.1%, 14.1% and 8% respectively. In 2009, the value of goods from the Mainland and the ASEAN re-exported through Hong Kong stood at HK\$235.4 billion, accounting for 9.8% of Hong Kong's total re-export trade, and despite a year-on-year decrease of 10.1%, it was comparable with the 11.8% decrease in Hong Kong's total re-export trade for the corresponding period, which was mainly affected by worldwide economic recession. In the first quarter of 2010, the value of the relevant re-export goods reached HK\$64.8 billion, accounting for 10.4% of Hong Kong's total re-export trade in the same period and representing an increase of 36.2% over the corresponding period last year. These preliminary statistics have shown that Hong Kong's economic and trade development has not been adversely affected by the establishment of a free trade area between Mainland China and the ASEAN.

We believe the establishment of the CAFTA will expand the platform for regional co-operation, stimulate the overall regional economic activities and strengthen multilateral economic relationships in the region. Hong Kong can also have new development opportunities against the backdrop of increased overall trade and a more efficient allocation of resources in the region. Hong Kong is an international financial, business and trade centre, as well as a major regional hub port. Over the past three decades, Hong Kong and the Mainland, especially the Pearl River Delta (PRD) region, have built up a strong foundation for economic co-operation. Recently, co-operation between Hong Kong and the PRD and Guangdong Province has been elevated to a new level.

The Outline of the Plan for the Reform and Development of the Pearl River Delta (the Outline) promulgated in early 2009 has, for the first time, elevated the development of the PRD to a national strategic level. The Framework Agreement on Hong Kong/Guangdong Co-operation was signed between the Government of the Hong Kong Special Administrative Region (SAR) and Guangdong Province in early April, with the objective of translating the Outline's macro policies into concrete measures conducive to the development of both places. While there are differences between the PRD and Hong Kong in respect of resource advantages, industrial structure, and so on, we firmly believe the two places can achieve development in a co-ordinated manner and combine their advantages. Capitalizing on these advantages, we can further promote co-operation and exchanges in the region as a whole. In addition to the strategic advantage of Hong Kong's geographical position, we have a large pool of professional talents, a business-friendly environment, a low tax regime, free flow of information, a clean government, and a sound and independent judicial system. All these have been attracting enterprises from around the world and in the region to set up headquarters or regional offices in Hong Kong for trade purposes. We have provided effective and professional services for companies engaging in regional trade, while meeting their needs for financing, port and aviation, as well as logistics services. The more robust the overall business and trade activities in the region are, the more helpful it is to upgrade Hong Kong's international status and promote the development of various service industries.

The Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) is also conducive to promoting economic and trade co-operation among Hong Kong, the Mainland and the ASEAN. Particularly in respect of the service industries, the liberalization arrangements and the measures implemented on an early and pilot basis in Guangdong Province under the CEPA have covered a greater number of trades and industries and provided more opportunities for co-operation than the free trade agreement signed between the Mainland and the ASEAN. By setting up companies in the Mainland under the CEPA, service providers in Hong Kong can benefit from the increasing economic activities between the Mainland and the ASEAN, while the ASEAN enterprises can also set up companies in Hong Kong and enter into the Mainland market by leveraging on the CEPA platform. Besides, through the facilitation measures under CEPA, Mainland enterprises can make investment in Hong Kong and engage in various areas of business, including regional economic activities.

The SAR Government has proactively made contacts with ASEAN member countries and also strengthened liaison and co-operation with them. The Singapore Economic and Trade Office (Singapore ETO) set up by the Hong Kong Government as early as 1995 is exclusively responsible for promoting the economic and trade relationship between Hong Kong and ASEAN member countries. The Singapore ETO conducts frequent duty visits to ASEAN member countries, updating their governments and business sectors on the latest economic situation in Hong Kong, including the latest measures on market liberalization under the CEPA, with a view to promoting regional co-operation in trade and investment.

The SAR Government has all along taken a positive attitude towards holding negotiations with individual ASEAN trading partners with the purpose of entering into agreements which are favourable to Hong Kong's freight and service industries. On 1 December 2009, we signed a joint declaration with Malaysia on enhancing economic co-operation, under which both sides agreed to facilitate and promote bilateral economic co-operation. This has also laid a foundation for Hong Kong to explore and negotiate with Malaysia the signing of a bilateral free trade agreement. In respect of financial services, a memorandum of understanding and a declaration were signed by the Hong Kong Monetary Authority and the Securities and Futures Commission of Hong Kong with their respective Malaysian counterparts in September and November 2009, with a view to fostering co-operation in respect of Islamic financial services. A memorandum of understanding has also been signed between Hong Kong and Vietnam on co-operation in respect of trade promotion and regulation of securities.

The SAR Government has, since 2005, signed agreements on the across-the-board avoidance of double taxation with four ASEAN member countries respectively, namely, Thailand, Vietnam, Brunei Darussalam and Indonesia, and negotiation with Malaysia is currently underway. We will continue to look into the possibilities of signing bilateral agreements with various trading partners to promote mutually-beneficial development.

Meanwhile, Hong Kong has all along participated in the Asia-Pacific Economic Co-operation (APEC) under the name of "Hong Kong, China" as an independent member. We have been very actively and positively taking part in the promotion of economic and trade co-operation in the Asia-Pacific region,

making an effort to achieve the objective of free trade and investment in the region. Last weekend, I attended the Meeting of APEC Ministers Responsible for Trade held in Sapporo, Japan. The APEC encompasses huge market potentials and APEC members can, through further economic integration, take forward economic growth in the region. These economic activities will bring more opportunities to Hong Kong. The APEC has also provided an excellent platform for Hong Kong and other APEC members to exchange views and experiences on regional economic and trade issues in various aspects, as well as how concerted efforts can be made to deal with the global economic crisis and restore economic growth, thereby forging a consensus in the region.

As the world economy has become increasingly globalized and regionalized, regional co-operation and trade are of paramount importance. The SAR Government will continue to watch closely and study the impact of regional economic development and co-operation on Hong Kong, while strengthening liaison and co-operation with ASEAN member countries. The SAR Government and ASEAN member countries will arrange for frequent mutual visits by officials of the two sides to enhance mutual understanding and foster co-operation. The Singapore ETO will, from time to time, conduct visits to ASEAN member countries and meet with the relevant officials and the business sectors, and also organize activities to strengthen liaison and co-operation.

Dr LAM Tai-fai has taken all the trouble to raise repeatedly the issue of the tax system relating to import processing. In fact, the Financial Services and the Treasury Bureau has been discussing this issue in detail with the Legislative Council, especially the Panel on Financial Affairs. The Financial Services and the Treasury Bureau considers that the relaxation of the relevant restriction under the Inland Revenue Ordinance will affect the completeness of the anti-avoidance provisions, and there would also be practical difficulties in implementation. In response to the trade's request, the Financial Services and the Treasury Bureau has invited the Joint Liaison Committee on Taxation (JLCT) to further look into the issue. It is hoped that members of the JLCT can, based on their knowledge of the tax system and provisions in Hong Kong, as well as their professional background, consider from a technical perspective whether there is any practical and feasible proposal that can address the concerns of the trade and Members. After the JLCT has put forward its views, the Government will take its views into careful consideration.

President, Hong Kong is a free and externally-oriented economy. It is, therefore, very important to actively strengthen our co-operation with trading partners, promote trade and economic activities, and strive for local freight and service providers the most favourable conditions for their development. The valuable views and proposals put forward by Members earlier on have very good reference value for our work in promoting Hong Kong's economic and trade co-operation with the region. The SAR Government will certainly do its utmost and further step up efforts in this area.

With these remarks, I support Mr Andrew LEUNG's motion. Thank you, President.

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG, you may now reply and you have three minutes 19 seconds.

**MR ANDREW LEUNG** (in Cantonese): President, the motion proposed by me today is actually very important to the economic development of Hong Kong. I have to thank the eight Members who have spoken, and I wish to take this opportunity to arouse more discussion on this issue in society, because many people are not concerned about our neighbours, but the development of our neighbours can actually benefit us a lot.

As the Secretary has said, after the financial tsunami, the focus of global development has shifted from Europe and the United States to Asia. In the latter half of 2009, the European economies were full of uncertainties. Greece, Hungary and the "PIIGS" have to tighten their fiscal measures due to an enormous budgetary deficit, thus slowing down their economic recovery. The deleveraging in traditional markets in Europe and the United States has also been a drag on growth. However, Asia has managed to achieve recovery first, and as we are close to the ASEAN, the economic outlook of Hong Kong is quite optimistic. Of course, the Secretary has also said earlier that importance would be attached to our relationship with the ASEAN and that efforts would be made to forge bilateral co-operation.

A number of Members have pointed out that professional services should be the focus of the positioning of Hong Kong in the regional economy. Hong Kong has a sound legal system and a clean society, serving as an important

example for the nearby developing places. Instead of focusing on traditional import and export business, we can, with international experiences and sound management and the economic system in top ranking positions, provide services to meet the demands of other ASEAN countries in their development and in the modernization of their systems.

A number of Members, particularly Mrs Miriam LAU, have mentioned that the logistics industry in Hong Kong is a key industry for development. I also agree with Dr Raymond HO and Mr WONG Ting-kwong that as Guangxi has resources and geographical advantages, the economies in the Guangxi and Yunnan regions will be spurred. The Central Government has also capitalized on Nanning's geographical proximity to the ASEAN countries to develop in Nanning "three bases, three centres" for the ASEAN region. We hope that the Government will draw up relevant measures for resources to be redeployed to setting up an Economic and Trade Office (ETO) in Guangxi. In fact, it is also necessary for Hong Kong to set up ETOs in the ASEAN region. Given the magnitude of the ASEAN system, future prospects are optimistic. We have to put them on a par with ETOs in the European Union and North America. I hope the Government will seek the support of the Central Authorities for providing more favourable conditions for us to develop bilateral relationship with the ASEAN and leverage on the economic and trade agreement signed between the ASEAN and China to vigorously take forward economic development.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Andrew LEUNG 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 respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 23 June 2010.

*Adjourned accordingly at eleven minutes to Nine o'clock.*

**Appendix 1****REQUEST FOR POST-MEETING AMENDMENT**

**The Secretary for Labour and Welfare requested the following post-meeting amendments**

**Line 5, sixth paragraph, page 23 of the Confirmed version**

To amend "..... and a list has been submitted to the subcommittee, ....." as "..... and a list has been submitted to the Joint Alliance for Subvented Institution ....." (Translation)

(Please refer to line 7-8, fourth paragraph, page 9312 of this Translated version)

**Last line, first paragraph, page 25 of the Confirmed version**

To amend "..... instead of the lengthy 40 months." as "..... instead of the lengthy 32 months." (Translation)

(Please refer to second last line, third paragraph, page 9314 of this Translated version)



## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Transport and Housing to Mr TAM Yiu-chung's supplementary question to Question 6**

As regards the number of incidents involving platform gaps in the MTR system, at present, the total annual patronage of the MTR network stands at 1.4 billion. The number of incidents in each of the past three years involving platform gaps in the MTR system (including the pre-merger East Rail Line, West Rail Line and Light Rail) are as follow:

<i>Year</i>	<i>Total number of incidents</i>
2007	199
2008	204
2009	195