

# **OFFICIAL RECORD OF PROCEEDINGS**

**Wednesday, 21 October 2009**

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

## **MEMBERS PRESENT:**

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

**MEMBER ABSENT:**

THE HONOURABLE LEUNG KWOK-HUNG

**PUBLIC OFFICERS ATTENDING:**

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

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

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

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

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

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

THE HONOURABLE EVA CHENG, 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>
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Import and Export (Electronic Cargo Information) Regulation .....	188/2009
Dutiable Commodities Ordinance (Amendment of Schedules 1A and 1B) Notice 2009 .....	189/2009
Import and Export Ordinance (Amendment of Schedules 2 and 3) Notice 2009 .....	190/2009
Reserved Commodities Ordinance (Amendment of Schedules 1 and 2) Notice 2009 .....	191/2009

Other Papers

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|--------|---|---|
| No. 7  | — | Hong Kong Deposit Protection Board Annual Report 2008-2009  |
| No. 8  | — | Occupational Safety and Health Council Annual Report 2008/2009  |
| No. 9  | — | Protection of Wages on Insolvency Fund Board Annual Report 2008-09  |
| No. 10 | — | Audited Financial Statements and Auditors' Report for the Fish Marketing Organization<br>(for the year ended 31 March 2009)                           |
| No. 11 | — | Audited Financial Statements and Auditors' Report for the Vegetable Marketing Organization<br>(for the year ended 31 March 2009)                      |
| No. 12 | — | Marine Fish Scholarship Fund Trustee's Report and Audited Financial Statements and Auditors' Report on the Fund<br>(for the year ended 31 March 2009) |

- No. 13 — Agricultural Products Scholarship Fund Trustee's Report and Audited Financial Statements and Auditors' Report on the Fund  
(for the year ended 31 March 2009)
- No. 14 — The Land Registry Trading Fund Hong Kong 2008-09 Annual Report
- No. 15 — Consumer Council Annual Report 2008-09
- No. 16 — Environment and Conservation Fund Trustee Report 2008-2009
- No. 17 — Companies Registry Trading Fund 2008-09 Annual Report
- No. 18 — West Kowloon Cultural District Authority 08/09 Annual Report
- No. 19 — The Government Minute in response to the Reports No. 51A and 52 of the Public Accounts Committee dated May and July 2009

Report of the Bills Committee on Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009

## ADDRESSES

**PRESIDENT** (in Cantonese): Address. The Chief Secretary for Administration will address the Council on the "Government Minute in response to the Reports No. 51A and 52 of the Public Accounts Committee dated May and July 2009".

**The Government Minute in response to the Reports No. 51A and 52 of the Public Accounts Committee dated May and July 2009**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, laid on the table today is the Government Minute responding to the Reports No. 51A and 52 of the Public Accounts Committee (PAC).

When presenting the Reports No. 51A and 52 respectively on 20 May and 8 July, the Chairman of the PAC set out the comments made by the PAC on the four chapters from the Director of Audit's Reports, namely, emergency ambulance service (EAS), the Equal Opportunities Commission (EOC), the Hong Kong Arts Development Council (HKADC) and the Quality Education Fund (QEF). The Government is grateful for the time and efforts devoted by the PAC to the scrutiny of the items concerned. Details of the Government's response to the conclusions and recommendations made in the Reports are set out in the Government Minute that has been tabled. Today, I would like to highlight the key measures taken by the Government in the relevant areas.

Regarding EAS, the Government is committed to providing effective, reliable and efficient EAS for persons in need. We welcome and accept all the recommendations made by the PAC. Moreover, we have duly followed up and implemented the relevant measures.

We have reviewed the performance of the EAS and introduced a number of measures to improve the ambulance response time performance. To ensure that the performance target is achieved in all Divisions, the Fire Services Department (FSD) has redeployed its resources, increased front-line manpower and arranged new ambulance shifts at locations with the greatest demand. In particular, the number of deployment points in the New Territories Region has been increased to enhance the coverage of ambulance service and improve the response time performance in the New Territories Region.

To enhance the EAS in the long run, we have proposed the Medical Priority Dispatch System. According to the proposal, the FSD will categorize calls for EAS in accordance with the degree of urgency and prioritize the deployment of ambulances, such that a quicker delivery of service can be made available to persons in the greatest need. We are conducting a public consultation exercise to collect the views advanced by various parties on the proposal.

We agree with the PAC that there is a need to make efforts to improve the reliability of ambulance service. To this end, the FSD and the Electrical and Mechanical Services Department have taken a series of measures, including increasing the frequency of preventive maintenance, advancing the replacement of vulnerable parts of ambulances in the entire fleet, establishing a monitoring mechanism to tackle premature mechanical failure, extending the service hours of workshops and setting up quick repair workshops at strategic locations.

The Administration is in the course of replacing 196 ambulances and the new ambulances are expected to start delivering service before the end of next year. After the new ambulances have started providing service, the average age of the ambulance fleet will be lowered to less than two years. Furthermore, we will streamline the procedures for procuring new ambulances and delivering new ambulances to Hong Kong. We are also working out a mechanism for the timely replacement of ambulances in an orderly manner in the future.

We agree with the PAC that there is a need for the FSD to enhance its internal information and resource management. The Efficiency Unit (EU) will assist the FSD in making improvements in this respect. In addition, the FSD has strengthened the collection of information on the maintenance and deployment of ambulances while exploring the feasibility of establishing an information system for the purpose of providing a more timely and detailed record of the breakdown and maintenance of individual ambulances.

The FSD will continue to step up its public education and publicity programmes to encourage the proper use of the EAS by members of the public. The FSD will also continue to collaborate with various organizations, including the Hospital Authority, the Auxiliary Medical Service and the Hong Kong St. John Ambulance, to enhance public awareness towards the proper use of ambulance service.

The EOC plays an important role in promoting and enforcing the anti-discrimination laws in Hong Kong. The Government and the EOC accept all the recommendations made by the PAC and are committed to improving the administration and corporate governance of the EOC. The EOC Board has set up a working group to review the relevant procedures and implement measures to follow up the recommendations made by the PAC.

The Government has reviewed the separation of the posts of Chairperson and Chief Executive Officer of the EOC. The Panel on Constitutional Affairs of the Legislative Council and the EOC have been consulted and their views have been taken into account. We consider that retaining the full-time post of Chairperson, divesting part of the Chairperson's functions and setting up a new post of Chief Operations Officer (COO) is the best option. The COO will oversee the administrative and operational matters of the EOC, with a view to strengthening its governance.

The EOC has adopted measures to improve the attendance rates of its members at Board and Committee meetings and decided to publicize the attendance records of its Board and Committee meetings in its annual reports starting from the year 2009-2010.

Regarding the life insurance coverage for the Chairperson, the Audit Commission recommended the EOC to seek explicit approval from the Government. The PAC also requested the EOC and the Government to promptly make a decision on how to settle the matter. Currently, the Chairperson is included in the group life insurance scheme for the EOC staff. The EOC Board has taken into account the fact that a number of statutory bodies and organizations in the private sector also provide life insurance coverage for senior staff members and hence recommended that retrospective approval be granted for the provision of such benefit to the incumbent and former Chairpersons. We decided to accept the recommendation and have reminded the EOC to ensure that such an administrative oversight should not recur in the future.

The EOC agrees with the PAC's view that it should comply with the "moderate and conservative" principle in the use of public funds and adopt this principle in implementing various improvement measures. For example, the EOC guidelines on duty visits have been revised to prescribe the ceilings of expenses incurred by the Chairperson and members of the EOC Board on hotel accommodation, hospitality and meals. Having made reference to the practices of government departments, the EOC has tightened up its internal guidelines relating to the procurement and management of stores and disposal of surplus assets to ensure the prudent use of public money.

To enable the public to better measure the performance of the EOC, the Government has worked with the EOC to set new performance targets and indicators, including the percentage of complaints settled through conciliation, the average time taken to reach a conciliation and the percentage of participants satisfied with the EOC's training service and community programmes. The new targets and indicators will be included in the Controlling Officer's Report for the next year.

The EOC is making preparations for engaging an independent auditor to ensure that the recommendations made by the PAC are implemented and regularized as part of the governance and administrative arrangements of the

EOC. We will continue to work with the EOC to strengthen its corporate governance.

The HKADC plays an important role in the planning, promotion and support of arts development in Hong Kong. We noted the concern of the PAC over the role and functions of the HKADC in the development project of the West Kowloon Cultural District (WKCD). Arts and cultural policy covers a wide range of areas. The Home Affairs Bureau will continue to act as a co-ordinator to ensure that the HKADC and other stakeholders of the arts and culture sector can promote at different levels the overall development of arts and culture in Hong Kong and the WKCD project.

We also noted the PAC's concern over the governance of the HKADC. In making preparations for the 2010 nomination exercise relating to the HKADC, the Home Affairs Bureau will take into account the recommendations made by the PAC to lengthen the period for the registration of members of the nominating bodies, step up voter registration efforts and widen publicity channels to enhance the arts and culture community's understanding of, and participation in, the nomination process.

The HKADC is planning to set up an audit and compliance committee in mid-2010 to oversee and strengthen its internal governance and monitoring work. To improve the attendance rates of the members of the HKADC at Council and Committee meetings, the HKADC has drawn its members' attention to their attendance rates and the importance of their participation in those meetings. The HKADC will strengthen the understanding of its members, especially new members, about corporate governance principles through seminars and orientations.

Regarding the administration of grants and proactive projects, the HKADC has taken measures to improve the procedures for the appointment of examiners and assessment of projects. The HKADC will step up the assessment of examiners' performance and tighten up the monitoring procedures to ensure that the work involving application adjudications and project assessments can be completed on schedule. Furthermore, the HKADC has strengthened the monitoring of examiners' declaration of interest. If examiners fail to comply with the appointment requirements, including submitting or updating declarations of interests on a regular basis, the HKADC will withdraw the appointments.

Since its establishment in 1998, the QEF has funded many outstanding projects and made significant contributions to consistently improving the quality of education in Hong Kong. The Government and the QEF accepted and have promptly followed up all the recommendations made by the PAC on the governance and project management of the QEF.

The QEF agrees with the PAC that the effectiveness of projects in achieving their objectives should be the main factor for consideration. The QEF has implemented and planned a number of improvement measures, so as to further improve the assessment and monitoring mechanism.

Having considered the need to make prudent use of public money and avoid unnecessary workload borne by applicants, the QEF has decided to appropriately raise the funding ceilings of applications relating to projects of a small-and-medium scale, thus extending the simplified application procedures to more projects. Furthermore, the QEF has streamlined the reporting procedures in respect of small-scale projects with low risk. Submission of progress reports by the relevant grantees has been relaxed from once every six months to once every 12 months.

As regards the governance and strategic management of the QEF, the Committees and Subcommittees under the QEF have adopted a two-tier reporting system, in order to enhance the operational transparency of its Committees and Subcommittees and handle potential conflicts of interest.

The main purpose of commercializing deliverables of projects funded by the QEF is to ensure a wider dissemination of project deliverables and enable schools to use the deliverables of projects funded by the QEF at reasonable and affordable charges, such that more people can benefit. Since the introduction of the strategy of commercialization, the QEF has priced deliverables having regard to the affordability of prospective clients and the "break-even" principle. In response to the PAC's recommendations, the QEF has asked applicants to include in their proposals a mechanism for promoting their project deliverables and requested grantees to adopt the "break-even" principle in determining prices and include the relevant information in the agreement signed between the QEF and the grantees.

The Government appreciates the value-for-money audits conducted by the Audit Commission on subvented organizations and the PAC's recommendations on areas for improvement in the systems, processes and practices of corporate

governance in these subvented organizations. The public have high expectations of subvented organizations not only in the standards of the services delivered by such organizations, but also in their management and proper use of public money. To this end, we have promulgated guidelines, signed memoranda of administrative arrangements and assisted them in experience-sharing. The EU is now working jointly with the relevant Policy Bureaux to develop the Practical Guide to Corporate Governance for Subvented Organizations (the Practical Guide), which aims to consolidate the standing requirements for corporate governance and illustrate the best practices to which subvented organizations can make reference. Our target is to promulgate the Practical Guide by the end of this financial year.

Finally, I would like to thank the PAC again for its constructive comments and recommendations. These comments and recommendations are useful in ensuring value for money in the delivery of public services by the Government and the relevant public organizations. The Government is pleased to accept the PAC's views and as always, stands ready to respond promptly to the PAC. Thank you.

## ORAL ANSWERS TO QUESTIONS

**PRESIDENT** (in Cantonese): Questions. The first question.

### Provision of Columbarium Niches

1. **MR RONNY TONG** (in Cantonese): *President, with an ageing population in Hong Kong, there is an increasing demand for columbarium facilities. It has been reported that at present, about 40 000 people died in Hong Kong each year, and 90% of the dead bodies are cremated. According to the information provided by the Administration to this Council in 2007, there was a shortfall in the supply of public columbarium niches, and the Government could only provide 57 000 additional niches in the next decade. As the supply is far from adequate to meet the demand, members of the public have turned to private columbarium facilities. It has also been reported that numerous problems have arisen because of the lack of regulation of private columbarium facilities by the Government. In this connection, will the Government inform this Council:*

- (a) *how the Government assesses the demand and supply situation of columbarium niches in the next decade, including the estimated number of deaths, the number of new niches the Government can provide and the number of new niches which can be provided in the private sector; what plans the Government has in place to address the shortfall of columbarium niches;*
- (b) *of the permitted sites for the construction of private columbarium facilities under the current planning standards and land leases; what criteria are adopted by the Government for vetting and approving planning applications for the construction of columbarium facilities, and what restrictions are imposed on the construction of such facilities; and*
- (c) *whether the Government will consider formulating comprehensive policies and amending the law to comprehensively regulate the site allocation, construction, planning, management and charges, and so on, of columbarium facilities, so as to enable the construction of such facilities at appropriate locations and, at the same time, safeguard the interests of consumers?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Administration has all along been paying close attention to the usage and demand of public columbarium facilities and will continue to actively identify suitable locations for the development of these facilities in different areas in Hong Kong. However, whenever the Administration conducts local consultation on proposals to develop columbaria, the local communities and District Councils concerned always raise objection. Over the past few years, a number of columbarium projects involving over 240 000 niches have been shelved as a result. Given the resistance of the local communities, the development of public columbaria has often become an uphill task for the Administration. Our reply to the three parts of the question is as follows:

- (a) Based on past data, the annual total numbers of deaths and cremations in the next 10 years (that is, from 2010 to 2019) are estimated to be about 47 700 and 43 900 respectively.

The Administration has put up for allotment a total of 21 875 public columbarium niches in Kwai Chung and Diamond Hill this year. These niches can accommodate 47 082 urns. In July 2009, funding approval was obtained from the Finance Committee of the Legislative Council for the construction of a new public columbarium within the Wo Hop Shek Cemetery. The project will provide some 41 000 new columbarium niches, which can accommodate about 82 000 urns, for use in 2012. In addition, each year some 100 used public columbarium niches are offered for allotment to applicants on the waiting list.

Apart from public niches, a total of some 39 000 niches are currently provided by the non-governmental Board of Management of the Chinese Permanent Cemeteries, and cemeteries managed by Catholic, Protestant, Buddhist and other religious bodies. In addition, 21 000 newly-built niches will be provided in the coming two years. Niches are also provided in premises managed by private entities, the statistics of which are not maintained by the Administration.

We will try to increase the number of niches in newly-built columbaria through flexible design. We will also make active efforts to improve their outlook and layout to ease the concerns and anxiety of the residents. We will advise and encourage the public to make better use of the existing niches, which, depending on their types, can accommodate two to four urns for holding the ashes of deceased persons with kinship.

Moreover, since 2007, the Administration has been actively promoting alternative ways of disposal of cremains, such as scattering cremains in Gardens of Remembrance or in designated Hong Kong waters. The number of such applications has risen markedly in the past two years. The number of applications for scattering cremains of the deceased in designated local waters increased from 160 in 2007 to 243 in 2008, whereas that for scattering cremains in Gardens of Remembrance has more than doubled from 175 in 2007 to 383 in 2008. We will step up the efforts to promote such alternative ways of disposal of cremains and

improve the complementary measures. This will call for changes in our social customs.

- (b) As advised by the Development Bureau, under the existing Town Planning Ordinance (TPO), same as other development purposes, any columbarium development must conform with the land use zoning specified in the statutory outline zoning plan (OZP) for the site concerned. According to the Notes of OZPs, if a site is zoned for "Other Specified Uses" annotated "Cemetery" or "Crematorium, Columbarium, Funeral Services Centre and Open Space", "columbarium" use is usually permitted as of right and planning permission from the Town Planning Board (TPB) is not required. On some OZPs, "columbarium" is included as a Column 2 use under the Notes for "Government, Institution or Community" and/or "Green Belt" zones. If these sites are to be developed for "columbarium" use, planning permission must be applied for from the TPB. For development of "columbarium" facilities on sites other than those covered above, an application to rezone the site must be submitted to the TPB.

In processing the planning applications for development of columbarium facilities, the TPB will normally take into account all relevant planning considerations, including land use compatibility, traffic and environmental impacts, as well as views from relevant government departments and public comments on the application. Depending on the circumstances of each case, the TPB can also impose certain planning conditions relating to the traffic arrangement or landscaping when granting the planning permission.

As for land leases mentioned in the question, compliance with the requirements under land lease is also needed for development and operation of private columbarium facilities. The requirements vary, depending on the condition of individual leases, and cannot be generalized. If an application is received from an owner for modification of lease conditions for the provision of columbarium facilities, the District Lands Office concerned will circulate the application and the information submitted with the development proposal to all relevant Policy Bureaux and government departments for advice. If an application for the proposed provision of

columbarium facilities conforms with the land use zoning or has obtained planning permission and is considered feasible by the relevant government departments, the District Lands Office concerned will include the appropriate requirements and conditions in the draft document for lease modification, taking into account the views of the Policy Bureaux and departments. Subject to the restrictions of individual land lease, the owner/applicant is also required to pay land premium where the lease modification confers an increase in land value.

- (c) The storage of human ashes which were cremated at high temperature does not give rise to any public health and environmental hygiene concerns. Therefore, solely from the perspectives of public health and environmental hygiene, there is no need to regulate private columbaria. That said, private columbaria may involve planning and land management issues. For these cases, the government departments concerned will continue to handle matters in accordance with legislation and administrative measures under their purview. The Administration is closely monitoring the development of the matter and will, taking into account the overall demand for columbaria from the community, formulate appropriate measures with a view to satisfying public needs. As a matter of fact, I have earlier convened an inter-departmental meeting to co-ordinate the work of various departments in studying the issues involved. We will report to the relevant panel of the Legislative Council upon completion of the study.

**MR RONNY TONG** (in Cantonese): *Figures submitted by the Government show that 439 000 cases of cremation will be processed in the next 10 years, which highlights the shortfall in the supply of columbaria or niches to meet the demand, resulting not only in a price surge, but also in prompting the adoption of unreasonable and malpractices by many a good business operator towards users. May I ask the Government whether it agrees that currently there is a need for a substantial increase in public columbaria? If yes, how would the authorities implement the relevant initiative in the next 10 years?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I have pointed out in the main reply, the most important point is the identification of new sites. Though the identification of new sites is not easy, we would continue to communicate actively with the local communities to strive as much as possible for a greater supply of this type of sites which we consider appropriate. At the same time, we would examine whether there are other measures to address the problem, especially measures that could reduce the demand. We also understand that, traditionally, we all hope that the ashes of our ancestors could be stored permanently in one place; however, there are also some more open views that the wish for ancestors to rest in peace could also be realized alternatively by scattering cremains in Gardens of Remembrance or into the ocean. Demands of the public in this regard would be increasing, so we would work on various fronts at the same time.

As Honourable Members may have also heard, apart from looking for suitable sites in the suburbs or the New Territories, we would also examine whether there are other alternatives to deal with the cremains. We have considered the views of Members or the local communities, that is, whether the existing industrial buildings or other locations could be used for the construction of niches with acceptable or more aesthetic designs. In this connection, we hope to try our best to arrive at different solutions.

I agree that this is a very serious problem which could not be resolved overnight; however, the Government would actively seek different solutions to the problem. Meanwhile, I also hope that Honourable Members and members of the public could put forward more views on the issue, for it is an issue to be faced by all families alike and all of us in the future; and it is not a simple issue.

**MR RONNY TONG** (in Cantonese): *The reply of the Secretary acknowledges that .....*

**PRESIDENT** (in Cantonese): Mr Ronny TONG, you could only point out which part of your supplementary question the Secretary has not answered; we could not open any debate here.

**MR RONNY TONG** (in Cantonese): *President, he has not answered how the relevant initiative would be implemented. I do not understand why the Secretary considered that to be difficult.*

**PRESIDENT** (in Cantonese): Let me see if the Secretary has anything to add.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, let me state it more clearly. The Government has appointed me to take charge of the co-ordination work, and we have held a meeting with the relevant departments. However, some time is needed at various levels to resolve the issue. Therefore, as I have pointed out in the last paragraph of my main reply, upon completion of the study, a submission would be made to the Legislative Council for further scrutiny.

**PRESIDENT** (in Cantonese): We have spent more than 13 minutes on this question. As there are still 11 Members waiting to ask questions, will Members and Secretaries please be as concise as possible in asking questions and giving replies respectively. Moreover, I have to remind Members that only one supplementary question could be raised each time.

**MR WONG KWOK-HING** (in Cantonese): *President, in his main reply just now, the Secretary pointed out that the promotion of disposing cremains at sea or in Gardens of Remembrance is a project of customs engineering, and that the Government would step up the promotional efforts. Since it is a project, may I ask the Secretary how it would be implemented? For example, would the Secretary take the lead by pledging that when you went to God's embrace, you would adopt this method of disposal? I would respond to the call of the SAR Government and hereby announce that in future when I went to meet Marx, my cremains would be scattered into the ocean. Same as the signature campaign launched currently by the Government to promote organ donation, government officials and Members of this Council may also take the lead in promoting this practice, such that the people of Hong Kong would believe that the Government is*

*indeed carrying out a customs engineering project. Therefore, may I ask the Secretary how he would step up the promotional efforts? Will the Government set an example by taking the lead? I will respond if that is the case.*

**PRESIDENT** (in Cantonese): Are you sure that the one you would see would be Marx? Secretary. *(Laughter)*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Marx was buried inside a cemetery in London. *(Laughter)* Certainly, I should refrain by all means from expressing my personal view. However, I could assert that I have expressed to my family members my wish of being cremated and not making use of any government resources in handling my cremains.

**MR WONG KWOK-HING** (in Cantonese): *President, I would like to ask a follow-up question.*

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing, no follow-up questions are allowed.

**DR PRISCILLA LEUNG** (in Cantonese): *I am raising the following supplementary question specifically on behalf of residents in Kowloon Tong and Hunghom. I am delighted to note that the attitude adopted by the Secretary this year is different from that of last year. He has taken the initiative to take care of the issue of the "spreading" of niches. Now, both the grass-roots or high-quality residential areas are plagued by the problem of humans living with the spirits; there is indeed no separation between the dwelling places for the living in this world and those for the spirits in the other world. Recently, the Secretary has raised the proposal of converting industrial buildings into columbaria, which many residents consider to be non-feasible. And the latter have instead made the counterproposal of setting up Ginza-style niches in the vacant warehouses nearby for proper storage of the ashes of their ancestors in a bid to curb the problem from spreading unchecked. Furthermore, could the Government, as in*

*the arrangements for handling tutorial centres, impose additional regulation lest hundred of niches could also be placed within residential flats as a large-scale operation?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in deliberating how to address the issue, we would think out of the box, that is, we would consider the issue not just with the conventional mindset. We would be making reference to the means adopted by other countries, places or peoples in handling the problem. Hence, we hold that the view put forth by the Honourable Member just now is worth considering. At the same time, we could not underestimate the problem, for people in Hong Kong all along do not welcome these facilities and trades in the vicinity of their homes. Are there any other more creative ideas in dealing with the issue for the benefit of the people nearby, or for them to obtain any concessions? All these merit our consideration. While we do not have a determined policy now, as I said earlier, we would deal with the matter with inter-departmental efforts and make a submission in due course to the Legislative Council for Members' deliberation.

**MR FREDERICK FUNG** (in Cantonese): *President, the Secretary once offered his views on this issue during a radio programme. He said that residents in Hunghom might have accepted the trade, hence it would be easier for them to accept an increase in the number of funeral service shops. In fact, the Government has not conducted any consultation all along on the setting up of the related trade. It was only in September 2007 that the Food and Environmental Hygiene Department started to consult the public on each application for the setting up of funeral service shops, and each time it was opposed by the Hunghom residents. This precisely contradicts what the Secretary has in mind. The Secretary also suggested on the radio that consideration had been given to the conversion of two buildings at China Travel Hip Kee Godown Hong Kong Ltd. for the storage of cremains — just now he also implied this — but we think that those two buildings could serve as a screen to block the view of the funeral home to the kaifongs nearby. May I ask the Secretary whether he had certain views in mind when he raised such a proposal, and what the relevant timetable and roadmap is like? Has he considered that the proposal would not be welcomed by the residents in Hunghom?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as regards dealing with these issues, we do not have any established position at the present stage. As I said just now, now we have to adopt a more open attitude to consider what kind of space and resources are available in society for us to deal with the issue.

**MR CHEUNG HOK-MING** (in Cantonese): *President, in his reply, the Secretary clearly pointed out that many grey areas exist in law concerning the supply and demand of niches, making it possible for a good many people to operate the service. Take the recent land use issue in Ma Shi Chau (which is in itself a piece of agricultural land) as an example. I have also received complaints about such services often coming into existence on the rooftops of urban buildings or even in village houses due to allowances in the land leases or Fire Services Ordinance. However, at present, the Government appears to be helpless in face of the said situation. On this basis, may I ask both Secretaries what in fact could be done by the Government?*

**PRESIDENT** (in Cantonese): Which Secretary is going to reply? Secretary for Development, please.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, it is not a case of the Government being helpless; but only that it could only work in accordance with the parameters in law. Currently, as there is no registration and licensing system of an independent and specific nature regarding these columbaria, we can only work in the three aspects of planning, land leases and buildings. On the planning front, if the place in question is not subject to the Town Planning Ordinance, that is, new towns and urban areas in general, the planning provisions of the Ordinance could not be enforced. As for land leases, if they fall within certain "unrestricted land leases", that would, as Mr CHEUNG said, fall into many grey areas, with each case calling for legal interpretation of whether it could be dealt with through enforcement of the land lease. As regards buildings, any illegal building works would be in violation of the Buildings Ordinance, whereby enforcement could be effected. As in the case of Ma Shi

Chau, we are working at it in terms of the land lease, pointing out that the land is agricultural land and that no buildings, that is, structures should be erected. We are now enforcing the law from this aspect.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes on this question. Though there are still a number of Honourable Members who are concerned about this issue, I could only allow one more supplementary question from Members.

**MR FRED LI** (in Cantonese): *President, looking at the figures provided by the Secretary, I found that the number of cremations should reach 439 000 in the next 10 years, which would be the average figure; and the niches provided by the Government, religious bodies and the Chinese Permanent Cemeteries would amount to a total of about 140 000 to 150 000, rendering a shortfall of 300 000 niches. In the beginning, the Government indicated that more than 240 000 niches were involved in the development projects shelved. May I ask the Secretary to make an undertaking that these 200 000 to 300 000 niches would be provided in the next 10 years? What pledge can the Government make?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, at this stage, I can only undertake that we will do our best to actively identify suitable sites. However, here I would like to call upon Members, especially Members from the districts, to render us as much assistance as possible so that we can establish columbaria in certain planned sites. In fact, some places have long since been planned for this purpose, but due to opposition from the local community, we could not proceed with the implementation. Apart from that, we have been considering extending the existing cemeteries or columbaria and I hope that more support could be rendered by the local community. The grounds for their opposition are nothing more than the fear of increase in passenger flow and the consequential problems in traffic flow during the Ching Ming and Chung Yeung Festivals. But these problems would only be transient and they should not constitute any great nuisances. Therefore, I hope to get the support of the Legislative Council as a whole, which could in turn affect the decision of the District Councils and the local community, such that the relevant policy can be implemented.

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

### **Measures to Improve Regulation of Financial Institutions and Financial Products**

2. **MR FREDERICK FUNG** (in Cantonese): *President, it has been more than a year since the outbreak of the financial tsunami and the European and American economies have earlier introduced a number of financial reform proposals, including reform of regulatory framework, as well as regulation of derivative financial products and remuneration of senior staff of financial institutions, to prevent recurrence of financial crises, and some of the proposals have even been implemented already. Regarding the situation in Hong Kong, apart from minor changes introduced by the authorities to the approaches and procedures for selling financial products, and the recent consultation paper issued by the Securities and Futures Commission (SFC) on proposals to enhance regulation of the sale of financial products, the authorities have not yet come up with any concrete direction and proposal for reform in areas such as the overall financial system and establishment of a mechanism empowered to protect investors, and so on. In this connection, will the Government inform this Council:*

- (a) *regarding the reform of the overall financial regulatory framework, whether any proposal (for example, establishment of a unified regulator or the adoption of the "Twin Peaks" model of regulation and appointment of an independent financial ombudsman, or consideration of amending the existing regime only) is being studied by the authorities; if so, of the specific scope and contents of the proposals and consultation schedule therefor; if not, the reasons for that;*
- (b) *given that one of the causes of the financial tsunami was that senior staff of European and American financial institutions, in seeking high return and robust business growth, had created a large number of complicated and high risk derivative products, resulting in incessant expansion and transmission of risks, and the G20 Summit earlier held in the United States has therefore reached an agreement to regulate the remuneration schemes of senior staff of financial institutions, how the authorities will implement this agreement in*

*Hong Kong, including whether they will effect regulation by way of legislation and require financial institutions to set up comprehensive risk management systems; if they will, of the specific measures; if not, the reasons for that; and*

- (c) *whether the authorities will consider establishing a central clearing and trading platform for off-market derivative financial products, so as to strengthen the regulation and enhance the transparency of such products; if they will not, of the reasons for that?*

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

- (a) Our financial system has emerged from this global financial crisis without any systemic problems. As the Chief Executive has mentioned in the 2009-2010 policy address, we will, with the experience gained, seek to further achieve the two main objectives of investor protection and financial security when formulating policies on financial regulation.

The collapse of Lehman Brothers triggered the Minibond incident. After receiving the review reports from the SFC and the Hong Kong Monetary Authority (HKMA) on 31 December 2008, the Administration has formulated an Action Plan in consultation with the regulators for taking forward in phases the various recommendations put forth in their reports. Some of these measures have been implemented. Since 25 September this year, the SFC has also been consulting the public on a series of proposals designed to enhance the existing regulatory regime for the sale of investment products to the public. The Financial Services and the Treasury Bureau also plans to consult the public on the proposals to establish an Investor Education Council and a financial dispute resolution scheme by the end of the year.

We aim to strengthen investor protection in every aspect by proposing a series of improvement measures catering for the various stages of making an investment decision. This ranges from investor education, authorization of investment products, disclosure

requirements, sales practices, conduct of intermediaries to financial disputes resolution.

We recognize that our financial regulatory regime should move forward in tandem with market development. Yet, the regulatory regimes in different places vary, and there is no particular structure or model which is universally applicable. Any reforms to our regulatory regime must suit the unique background and market needs of Hong Kong, and be carried out prudently having regard to all relevant factors. In this connection, we will pay due regard to the views of the markets and various sectors of the community, including the Legislative Council. We will also take account of other factors like the global financial developments.

- (b) The Financial Stability Board (FSB) issued in April this year the Principles for Sound Compensation Practices (the Principles). As a member of the FSB, Hong Kong is working to implement the Principles. In this regard, the HKMA has prepared a draft "Guideline on a Sound Remuneration System" (the Guideline) based on the Principles. The objective of the Guideline is to ensure that authorized institutions (AIs) have in place remuneration systems that are consistent with and conducive to effective risk management. The draft Guideline was endorsed by the Banking Advisory Committee and the Deposit-taking Companies Advisory Committee in early September.

To strengthen adherence to the Principles, the FSB issued a set of Implementation Standards (the Standards) in late September, providing specific guidance on compensation governance, structure and disclosure. The HKMA is in the process of incorporating the Standards into the draft Guideline, which will be issued for industry consultation by end October. The HKMA plans to issue the final Guideline by end 2009. AIs are expected to take prompt action to follow the Guideline and to achieve full compliance within 2010.

As the formulation and implementation of international standards on remuneration practices within banks are still evolving, it is impossible and inappropriate for us to attempt to regulate the remuneration system of the banking sector through legislation at this point. While the Guideline issued by the HKMA does not have the

force of law, failure to adhere to the standards set out in it may call into question whether an AI continues to satisfy the minimum criteria for authorization in the Banking Ordinance. In addition, according to the supervisory review process of the existing capital framework, the HKMA will, in determining the minimum capital adequacy ratio of a locally incorporated AI, take into account the AI's compliance with the Guideline.

- (c) Trade in over-the-counter (OTC) derivatives is generally transacted through direct negotiations between the buying and selling parties without going through an exchange. Many of these derivatives are tailor-made to suit the practical needs of individual customers, such as the instruments used in oil hedging by airlines. It is therefore difficult to establish a central clearing for such non-standardized OTC derivatives.

Since the outbreak of the current global financial crisis, many countries and financial regulators worldwide have put forth proposals on enhancing the transparency of the markets of OTC derivatives. They include requiring the clearance of some of those OTC derivatives that are suitable and can be standardized to take place on specified central clearing platforms in order to reduce counterparty credit risk and enhance transparency. We support this development.

Hong Kong's financial regulators (such as the HKMA and SFC) have been actively involved in the international dialogue and also closely monitoring the latest development. The Financial Services and the Treasury Bureau will work with the HKMA and SFC to study the feasibility of introducing central clearing to some standardized OTC derivatives, taking into account the latest international development and consensus, as well as local market conditions.

Separately, the Hong Kong Exchanges and Clearing Limited (HKEx) announced in September this year that it is planning to introduce flexible index options in early 2010. This will help attract some of the index options contracts that are currently traded in OTC markets to shift the trades and clearance to the platform of the HKEx. Flexible index options are a kind of OTC derivatives whose terms can be standardized. They are Hang Seng Index and H-shares

options contracts which allow market participants to request customized strike prices and expiry months, provided that the contracts are bought and sold through the block trade facility. The HKEx believes that the introduction of flexible index options will give OTC market players an attractive alternative with lower counterparty risk, and help enhance market transparency by bringing such OTC trades under its block trading facility.

**MR FREDERICK FUNG** (in Cantonese): *President, my supplementary question is about part (b) of the main reply. As we all know, since the outbreak of the financial tsunami, the United States has employed numerous means, which include political and legal means, to curb the remuneration of senior staff of financial institutions — for their remuneration is linked to their performance — the better the performance, the higher the pay. However, we are now only issuing a "Guideline", which will not be launched until 2010, and it has even to be handed to the banks for studies. This would be tantamount to enabling the cats to set down some means for restricting them to take fish; do you think that is possible? If not, should the Government convert the Guideline into rules or legislation?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, in fact, the regulatory authorities in Hong Kong have been acting in accordance with international standards. The outbreak of the financial tsunami has indeed prompted international reflection on the issue, with certain guidelines on the remuneration of the banking industry being set down. We agree to the measure and currently, as regards the Guideline, I believe that apart from the Principles, as I said just now, certain details have been suggested. We would, in the light of the international requirements, impose similar standards on our banks. I believe the said practice — as I have explained earlier — currently, as far as the regulation of banks is concerned, would have significant effect in the issuance of such Guidelines, for banks have to meet these requirements before they can meet the compliance standards. I believe the Guideline has taken into account whether certain problems in relation to a vicious cycle have arisen out of the remuneration and profit issues raised by Mr FUNG just now. We will monitor the situation and issue guidelines to our financial institutions on this aspect.

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

**MR FREDERICK FUNG** (in Cantonese): *My supplementary question is about whether consideration would be given to converting the Guidelines into rules or legislations, because there would not be any case of cats not taking fish.*

**PRESIDENT** (in Cantonese): I believe the Secretary has answered it. Secretary, do you have anything to add?

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

**DR RAYMOND HO** (in Cantonese): *Part (a) of Mr Frederick FUNG's question asked the Administration whether it had studied some of the more significant proposals, such as setting up a unified regulator or adopting a dual-institution model of regulation, as well as appointing an independent financial ombudsman. The Secretary said that there had been no systemic problem in our local financial system. May I ask the Secretary how such a situation was set out, that is, where the line drawn was in forming the view that no systemic problem exists now, and whether any difference exists when it is compared to the definition overseas?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): In fact, as regards overseas ..... there are two major directions regarding the numerous recent guidelines on regulation of the financial market; one is about systemic problems, which refers to the stability of the financial markets — in general, that refers to the collapse of banks and financial institutions — which is the paramount concern. Moreover, in regulating financial institutions, the regulatory authorities also have to consider whether there are factors in the market that prompt financial institutions to engage in certain speculation activities, whereby increasing their own risks which would in turn lead to the collapse of the entire market. In this connection, the current international consensus is on stepping up regulation of stability as well. Therefore, the systematic problem referred to in my main reply means that since

there has not been any problem of banks or financial institutions collapsing in Hong Kong, so there is no systemic problem.

Further, in the global review of the regulatory regime, it has certainly been observed that the market is flooded with investment products, hence, it is necessary to enhance protection for investors. In this regard, there was certainly the Minibond incident in Hong Kong, and in the context of part (b) of the question, a series of measures has also been adopted to enhance protection for investors.

**MR CHAN KAM-LAM** (in Cantonese): *President, in his main reply, the Secretary has stated very clearly that our regulatory system would be established in the light of the conditions and market factors of various places. Since Hong Kong is a financial centre, there will be very close co-operation with the Pearl River Delta and the regulatory bodies of the Mainland in the future, may I ask whether, in conducting consultations, the SFC and other departments will hold discussions with them, so that our future regulatory regime will become closer to the regulatory system existing in the Mainland, for integrated market development could be beneficial to the development of Hong Kong?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I would like to thank the Member for the supplementary question. When we consider the issue of regulation, the first and foremost consideration *per se* is the positioning and characteristics of our market, including the positions of financial institutions and investor characteristics. In the course of market development, we will also consider what kind of variables would be involved when we integrate with other markets. However, the spirit of regulation *per se* is, for one thing, to meet the international requirements on regulation; and, for the other, to match our own market conditions. As for co-operation or integration with financial regulators in the Mainland, in fact, there are regular work meetings. Seeking common discussion topics and reaching consensus on regulation are conducive to market development; however, as regards the orientation of market development, our orientation is still regulation of our market.

**MRS REGINA IP** (in Cantonese): *President, just now, the Secretary has stated that the objective of the Principles issued by the FSB in April this year is to*

*ensure that effective risk management could be thoroughly attained and promoted in the remuneration systems of AIs. Will the Principles apply to official agencies such as the HKMA, Mortgage Corporation, and so on, to ensure that their remunerations are linked to their risk management performance, as well as to ensure that these institutions will not compete with the private sector in a bid to expand their own profits?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, this Guideline is targeted at financial institutions which need the Guideline for reasons that are extremely clear, that is, in the past few years when the market was booming, risk problems emerged in these companies due to excessive speculations and excessive risks. Hence, the focus of the Guideline is to pinpoint specifically at the risk management of individual financial institutions.

Does the principle underlying this type of Guideline apply to regulatory authorities? I believe that could be left to the decision of the governing committees of the regulatory authorities.

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

**MRS REGINA IP** (in Cantonese): *I mentioned not just regulatory authorities; the Hong Kong Mortgage Corporation is not a regulatory body, but an institution that operates like a private mortgage company.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, the remuneration standard which I mentioned just now pinpoints mainly financial institutions because risk management has to be effective lest that systemic problems would arise out of their lending activities. As to the question of whether these Guidelines would be applicable to certain non-financial ..... that is, institutions that are outside the scope of commercial banks or investment banks, I believe that has to be left to the consideration of their governing committees.

**MR JAMES TO** (in Cantonese): *President, why do people in other places (especially the United States) feel so frustrated about it? That is due to the remuneration problem referred to in part (b) of the main question. As the government and the central bank have injected substantial funds into the banks, and have even purchased large quantity of their shares, they have become the major shareholders of those banks, which was why their business performance was that good — all these go along with the benefit of an objective macro-environment which, very often, is attained with the use of public money. Under this circumstance, if they get so much money just because their remuneration is linked to their performance, those local people would feel greatly frustrated.*

*President, I have this question. Though the situation in Hong Kong may not necessarily be exactly the same as that faced by them, the public are also concerned about the issue. May I ask the Government whether certain assessments have currently been carried out to analyse the structure of the said remuneration and the salaries actually obtained; and whether, on the whole, that would be regarded as reasonable, unreasonable, or extremely unreasonable in the context of the huge scope and framework of the Government? Have these assessments been conducted so as to decide on the step to be taken next or legislation to be enacted?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, insofar as this issue is concerned, I hold that ..... certainly, I hold that a more detailed analysis could be conducted by the HKMA; but if we look at it generally, as I said just now, what people all over the world or in the United States and Britain dislike most is that many investment banks, for example, have their bonus linked to the profits they make from "short-term speculations". When these institutions make a profit this year, their top executives will be getting bonuses in substantial amounts; and next year, when they lose, they do not have to return the bonus. This happens often. With regard to this situation, how would Hong Kong compare with countries overseas? In fact, I believe the situation in Hong Kong is vastly different from theirs, for the mode of operation or business of our market is different from theirs; hence, in the current financial crisis, it could also be seen that our banks fare better than them in both business performance and risk management.

However, this is not to say that we should not be making reference to this in setting up a long-term salary standard, for the financial tsunami has made us reflect on our need for a good salary standard so that a longer-term perspective on

risk management could be adopted by the banks. Therefore, though problems have not emerged in Hong Kong, this international standard should still be introduced into Hong Kong. As an international financial centre, we should remain vigilant in times of peace. However, if my personal view on the comparison of Hong Kong with markets overseas is sought, I believe there is a great difference between the two.

**PRESIDENT** (in Cantonese): We have spent more than 21 minutes on this question. Third question.

### **Replacement of Old Commercial Diesel Vehicles**

3. **MS MIRIAM LAU** (in Cantonese): *President, since April 2007, the Government has launched a grant scheme costing about \$3.2 billion to encourage owners of pre-Euro and Euro I diesel commercial vehicles to replace their old vehicles with Euro IV vehicles, which are more environment-friendly. The scheme will expire by the end of March next year. In this connection, will the Government inform this Council:*

- (a) *of the number and percentage of diesel commercial vehicles which have been replaced under such scheme so far, as well as the total amount of grants involved;*
- (b) *whether it has studied the causes for the consistently low number of applications under the grant scheme; apart from the technical problems with Euro IV vehicles as reflected by the trade, whether there are other causes; how the Government will solve these problems so as to assist the trade in making applications before the expiry of the grant scheme as far as possible; and*
- (c) *whether it will consider the following measures, which include extending the deadline for applications of the grant scheme and raising the amount of grant, providing other support, relaxing the requirements of the grant scheme to cover younger vehicles, as well as converting the remaining funds after the expiry of the grant scheme to interest-free or low-interest loans to continue to assist the trade in replacing their vehicles with more environment-friendly ones, so as to maximize the effectiveness of the grant scheme?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I wish to thank Ms LAU for raising this question.

- (a) Since the launch of the incentive scheme for encouraging the replacement of Pre-Euro and Euro I diesel commercial vehicles by Euro IV vehicles (the Scheme) on 1 April 2007, the Government has approved 12 590 applications for grant (involving 8 697 pre-Euro and 3 893 Euro I diesel commercial vehicles) as at end September this year. These represent about 21% of vehicles eligible for the grant on the launch of the Scheme, involving a sum of approximately \$542 million.
- (b) The Government earnestly hopes that owners of vehicles, including Pre-Euro and Euro I diesel commercial vehicles, will make the best use of the Scheme to replace their vehicles and improve the roadside air quality the earliest. Participation in the Scheme, however, is voluntary. Whether vehicle owners will use the grant to replace their old diesel commercial vehicles depends on various factors, including their financial status and outlook on business prospects. We hope these owners will make use of the Scheme to replace their vehicles with Euro IV ones before it expires (that is, by 31 March next year) so that the roadside air quality will improve as early as possible. Although our proposal to increase the licence fees of aged commercial vehicles was not supported by Members of the Legislative Council last year, we will continue to explore different options to expedite the retirement of these vehicles.

As for the technical problems with Euro IV vehicles mentioned by Ms Miriam LAU, we understand that the trade's major concerns are the substantial seepage of diesel into lubricating oil and the frequent regeneration of the diesel particulate filters (DPFs) on manual mode in some Euro IV diesel light buses or small buses. In this regard, we know that the light buses in question involve two vehicle manufacturers. When the above problems were brought to the notice of the Environmental Protection Department (EPD) in April 2008, it immediately followed up the issue with relevant transport organizations and local sales agents of the vehicles. The relevant manufacturers have also sent their engineers to Hong Kong to understand the problems encountered by the trade and make

improvements. One of the manufacturers, the one taking up a larger market share, has improved the engine control units (ECUs) in its light buses. According to its agent, no further complaint has been received from the trade so far. The newly ordered light buses are also supplied with the abovementioned ECUs. We will maintain regular and close contact with the trade to find out other possible improvements. Another manufacturer, that is, the one taking up a smaller market share, retrofitted in early April this year three light buses with new ECUs to minimize the seepage of diesel into lubricating oil and the frequent regeneration of the DPFs on manual mode due to the trapped particulates, which I mentioned just now. The EPD will continue to keep close contact with vehicle agents and the relevant organizations to monitor the actual performance of retrofitted light buses and take follow-up actions as required. Should the modified ECUs be proved to be effective, vehicle manufacturers will install the ECUs in other in-use light buses.

- (c) As for the proposal to extend the deadline for applications under the Scheme, when the Scheme expires in end March 2010, the Government will have given owners of pre-Euro and Euro I diesel commercial vehicles three years to participate in the Scheme. As you may know, the Scheme involving pre-Euro vehicles has been extended for half a year. We consider that owners have been given sufficient time to decide if they will join the Scheme. As such, we do not intend to extend the deadline for the Scheme. As stated just now, apart from the current incentive scheme, we need to explore different options to expedite the retirement of old diesel commercial vehicles.

Since the launch of the Scheme, 12 600 owners of aged diesel commercial vehicles have participated in the Scheme to replace their vehicles. Currently, the grant level ranges from 12% to 18% of the new vehicle taxable values. I believe the amount of grant is appropriate. If the remainder of the funds is converted into interest-free and low-interest loans after the expiry of the Scheme as suggested, we consider that the loans could be less attractive than the current direct grants. In fact, the transport trade can, through the Small and Medium Enterprises Loan Guarantee Scheme and the

Special Loan Guarantee Scheme, obtain loans from the participating lending institutions for the procurement of different business equipment, including commercial vehicles. We are therefore of the view that there is no need to set up another loan scheme.

In addition, we have set out a host of proposals in the consultation document of the Air Quality Objectives Review, such as the early retirement of aged or highly polluting vehicles, which include Euro II diesel commercial vehicles. We will take into account the views collected during the public consultation in deciding how to take forward the relevant proposed improvement measures.

**MS MIRIAM LAU** (in Cantonese): *President, in part (c) of his main reply, the Secretary mentioned that as vehicle owners have already been given a period as long as 36 months to participate in the relevant incentive scheme to replace their vehicles with Euro IV vehicles, the Government does not intend to extend the deadline for the Scheme. However, the Secretary also pointed out clearly in part (b) of the main reply that as a matter of fact, there are substantial technical problems with Euro IV vehicles, including problems with the engines and particulates, which have caused serious problems in some commercial vehicles, especially those used for providing services to the public and carrying passengers, thereby giving rise to frequent "breakdowns". He has admitted the existence of these problems in part (b).*

*Over the past couple of years or so, members of the trade have remained concerned about these problems and have been unable to come up with any solution, which has made them unwilling to take up the grants for replacing their vehicles. These problems have remained unresolved until recently when some clues of how they can be solved have emerged. However, whether they can really be solved is still an unknown. Besides, there are also other problems with Euro IV vehicles. For example, their parts have a higher rate of deterioration, they consume more fuel and a higher maintenance cost is incurred. Under such circumstances, should the Secretary not reasonably enhance the Scheme and appropriately extend its deadline to restore the trade's confidence in Euro IV vehicles as well as raising the amount of grants to make up for the maintenance cost in order to improve the Scheme and enhance its appeal?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, regarding the problems mentioned by Ms Miriam LAU concerning the use of Euro IV diesel commercial vehicles, in particular, public light buses, I have already given a detailed account of them in part (b) of the main reply. I have also explained in previous meetings of the relevant committee that as the operation of these new vehicles is different from that of Euro III vehicles or preceding ones, these new vehicles indeed had a problem when they were initially introduced. In the light of the two problems with these vehicles, we have adopted a series of measures, including introducing technical modifications through the manufactures, and the major supplier has already retrofitted its vehicles with new ECUs. This is the progress we have seen since April.

However, if we look at the overall big picture, insofar as the replacement of diesel light buses is concerned, 35% of pre-Euro vehicles and 12% of Euro I vehicles have been replaced. Generally speaking, this is actually not lagging behind the overall situation at present. Besides, many people have mentioned enhancing the Scheme and providing various additional incentives. These will of course make everybody happy, but we should also note that the entire Scheme lasts for 36 months. Besides, as the technical modifications have already brought about improvement over more than six months in the past, should we not further encourage vehicle owners to waste no time and make the best use of the remaining five months to replace their vehicles as soon as possible before the expiry of the Scheme?

**MR LAU KONG-WAH** (in Cantonese): *President, much as we hope the Scheme can encourage more owners to replace their vehicles, 80% of the vehicle owners have not done so to date. The Scheme was introduced in April 2007, and problems were already noticed in April 2008, but improvements were not identified until April 2009, and the Scheme will expire in April next year. So I think it is most reasonable for vehicle owners to adopt a wait-and-see attitude at present. However, it does not seem very reasonable for the Secretary to maintain the decision and push them to make a decision within the next five months. Therefore, I personally think the Secretary may consider adopting an encouraging approach in this issue. Given that problems have actually emerged and the concerns of owners of old vehicles are justified, can the deadline of the Scheme be appropriately extended so that more vehicle owners can replace their vehicles?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, regarding the technical problems, we have already given a clear account of the current arrangements. The authorities and the trade have been working together to improve the situation, and real improvements have been seen. Of course, for vehicle owners, they will naturally be concerned when problems occur in their new vehicles which have just been put into service. However, as the situation has been improved and the supplier has undertaken to replace the relevant ECUs free of charge and take care of the maintenance, we also hope the trade will waste no time in this respect. Considering the Scheme as a whole, it has been introduced for more than two years and cannot be extended indefinitely. After all, this Scheme is beneficial to the business operation of vehicle owners and roadside air quality. Therefore, I wish to make use of this opportunity to call on members of the trade to waste no time and replace some relatively aged vehicles as soon as possible if they are satisfied with the improvement currently.

**MR LAU KONG-WAH** (in Cantonese): *The Secretary has not answered my supplementary question: Is he willing to reconsider ..... as he agrees that it is reasonable, will he reconsider extending the validity period of the relevant incentive?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I do not intend to do so for the time being.

**MR PAUL TSE** (in Cantonese): *President, the Secretary stressed time and again just now that we had to look at the big picture, but what exactly is the big picture? Concerning the technical problems, Ms Miriam LAU has already mentioned them just now, and so has the Secretary. But the bigger picture is the once-in-a-century financial tsunami. Regarding this economic factor, although the Secretary has mentioned that vehicle owners who plan to apply for this grant should also consider their own financial status and outlook on business prospects, has he taken into account that over an extended period of the Scheme, the economy was under the impact of the financial tsunami which had dealt a severe blow to various industries and trades, especially the trade operating tourist and passenger coaches? It is indeed impossible for the trade to plan for vehicle replacement when business is slack. Under such a circumstance and when a better alternative scheme is not available, only one fifth of eligible vehicle*

*owners have made their applications, and the money involved only accounted for about one sixth of the provision. Actually, if the premise and big picture of this policy is to encourage vehicle owners to replace their vehicles with more environmentally-friendly ones in order to promote environmental protection, why does the Secretary not exercise his discretion to extend the Scheme before a better scheme is available, in order to give more private vehicle owners and owners of tourist and passenger vehicles a breathing spell and a longer time, instead of just a short period of three months, to consider whether or not it is the right time to replace their vehicles with environmentally-friendly ones? As we all understand, the longer the time, the more likely it is for vehicle owners to replace their vehicles with environmentally-friendly ones. Theoretically, the longer the time, the greater the number of people will be to apply and benefit from the Scheme. I hope the Secretary will extend the Scheme, having regard to the big picture and the economic conditions.*

**PRESIDENT** (in Cantonese): The question raised is still on extending the Scheme. Secretary, do you have anything new to add?

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I would like to thank Mr TSE for the question. Actually, compared with the average rate of 21%, the participation rate of the tourist coach trade in the Scheme is higher. Insofar as these coaches are concerned, 30% to 50% of them have been replaced, which reflects that the trade considers vehicle replacement helpful not only to air quality but also to their business operation. We also appreciate that different trades may face different financial problems in different periods of time. However, extending the Scheme indefinitely will make early improvement of roadside air quality impossible. Therefore, with regard to environmental policies, we have an objective to accomplish.

Besides, we can also examine the current grants provided in Hong Kong with reference to similar schemes implemented in other places. The grants provided in Hong Kong amount to 12% to 18% of the new vehicle taxable values, while the amount of this type of grants provided in other places, such as some European places, may be lower. To my knowledge, the grants provided by the Netherlands are more favourable, standing at about €4,000. Therefore, we have to look at the actual situation. If we allow the Scheme to drag on for too long, people may adopt a wait-and-see attitude. When there is any uncertainty or

when it is thought that the Scheme would be extended, people will continue to wait. As we can see, over the past 36 months, some people only began to make their applications just before the expiry of the deadline set in the original timetable. I do not wish to give a wrong message by doing so, which may deter people who have originally planned to replace their vehicles. I hope Members will understand this.

**MR KAM NAI-WAI** (in Cantonese): *President, actually, the figures provided by the Government just now have made it clear that the authorities' Scheme ..... I do not know whether the Secretary would consider this Scheme a failure. Very often, environmental protection policies may be well-intentioned, just as the scheme involving compact fluorescent lamps he introduced out of good intention, but their implementation may lead to a total mess. Similarly, a provision of \$3.2 billion was approved by this Council, but only some \$500 million has been used to date. When asked by many Honourable colleagues whether the Scheme would be extended just now, the Secretary replied in the negative.*

*I noted that in part (c) of the main reply, the Secretary mentioned that apart from the current Scheme, the Government will continue to consider various other options. May I ask the Secretary what "other options" are being considered? Will these options include supportive measures for the trade we have all along been discussing, such as the measure of "buying out" the vehicles of some owners without requiring them to replace their vehicles in times of an economic downturn mentioned just now? Or will the Secretary's plan include providing a financial assistance scheme for owners of franchised buses emitting black smoke, which we have been discussing all along, to enable the best use of the provision of over \$3 billion approved by this Council to enforce and implement the policy properly?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I would like to thank Mr KAM Nai-wai for his view. This Scheme was indeed extended for one year last year, and discussion was held 18 months after its implementation. Various suggestions were made by different members of the community, and of course, there was the request for providing additional incentives, which was bound to be welcomed. On the other hand, however, a question was also raised on whether we should model on the practice adopted by cities in other countries by raising the licence fees for worn-out and old vehicles

to achieve deterrent effect. Besides, there was also the question of whether or not a more stringent emission test should be adopted for old vehicles to push vehicle owners to consider replacing their vehicles. We have also considered some approaches to help the trade. For example, when problems arise, as mentioned by Ms Miriam LAU just now, we will provide as much assistance as possible and solve the problems at root. All of these are options we may consider.

However, I understand that when some options are proposed, members of different trades may have different opinions, but insofar as this Scheme is concerned, as I said just now, is the duration of three years adequate? Is the current amount of grants, 12% to 18%, generous enough? Regarding the economic conditions, the financial tsunami was raging at that time, but as the economy is picking up now, should vehicle owners consider their future business operation? I think this host of issues must be considered.

Besides, regarding air quality, of course, the other issues raised by Mr KAM have actually been discussed in the past. We will consider them in the same context after the expiry of the consultation period.

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

### **Proposed Cooling-off Period for Sales of Investment Products**

4. **MR JEFFREY LAM** (in Cantonese): *President, the Securities and Futures Commission (SFC) recently issued the Consultation Paper on Proposals to Enhance Protection for the Investing Public to put forward a series of improvement proposals to address the various problems with the regulation of investment products and selling practices, as exposed by the Lehman Brothers Minibonds incident, including the introduction of a cooling-off period to allow an investor to cancel the order or exit the investment within a specified period after he has placed an order or acquired an investment product. In this connection, will the Government inform this Council whether:*

- (a) *it has studied who should bear the price difference of the investment product during the cooling-off period when the investor ultimately decides to cancel the order, and if the difference is to be borne*

*entirely by the issuer or its agents (including banks), whether it will cause any damage to the operation of the relevant industries;*

- (b) the authorities can implement the aforesaid proposals in the form of temporary contract, which allows the price of a product to be determined only after the investor has confirmed the transaction upon the expiry of the cooling-off period; and*
- (c) the authorities have studied the feasibility of introducing cooling-off periods for different investment products; in respect of products whose prices can be highly volatile within a short period, whether the setting up of cooling-off periods will give speculators the opportunity to disrupt the smooth operation of the financial market?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, in its "Consultation Paper on Proposals to Enhance Protection for the Investing Public" released on 25 September 2009, the SFC has put forward a number of proposals to enhance the regulation of intermediaries selling investment products to the public. We understand that before formulating these proposals, the SFC has looked into the regulatory regimes in a number of overseas jurisdictions, including how a "cooling-off period" is implemented, and informally consulted the local industry.

"Cooling-off period" is one of the proposals in the SFC's consultation paper. The consultation is underway. With regard to the specific questions raised by Mr Jeffrey LAM, at this stage we are only in a position to give a general reply having taken into account the SFC's views.

- (a) The SFC is consulting the public on the circumstances under which a "cooling-off period" should be introduced, and on specific ways of implementation by financial institution. This relates to the question on who should bear the price difference of an investment product during the "cooling-off period" when the investor ultimately decides to cancel the order. We encourage the industry and the public to actively respond to the proposals in the SFC's consultation paper. It has been mentioned in the consultation paper that where a "cooling-off period" applies overseas, investors can generally obtain the full refund of the principal less certain reasonable administration costs and market value adjustments. The SFC considers that this

arrangement will help prevent investors from changing their mind lightly.

- (b) The SFC's consultation paper has not touched on the proposal of introducing a "cooling-off period" in the form of a temporary contract, but it has discussed the feasibility of introducing such a period during which the execution of the trade is suspended. We believe that the SFC will thoroughly analyse views collected when considering the feasibility of a temporary contract. I encourage the industry to give comments to the SFC during the consultation period.
- (c) As to whether the setting up of a "cooling-off period" will encourage speculation for products the prices of which can be highly volatile within a short period, the SFC has pointed out in its consultation paper that in order to discourage speculation, the refund payable in respect of the product upon investors' exercise of the rights during the "cooling-off period" would need to be capped at the total principal amount invested.

We hope that both market participants and the public will actively make their views known to the SFC during the consultation period. We believe that the SFC will thoroughly consider all views collected before deciding on whether to introduce a "cooling-off period" or how to finalize the implementation details.

**MR JEFFREY LAM** (in Cantonese): *President, the Secretary has not answered my question at all. I wonder if this is because the SFC did not tell him anything or no matter what he asked, the SFC invariably would not give him any answer. The Secretary did not give us any answer on such questions as who should bear the price difference and whether or not speculators will be given opportunities. The Secretary only replied that the consultation was underway and that it was necessary to listen to more views from the industry. However, in fact, I have noticed that often, including this occasion, the SFC does not make initial enquiries with the industry including banks and some financial institutions to see if these proposals would have an impact on the industry before rashly putting forward proposals that would affect the operation of the industry. It is only when these proposals cause reactions in the market or in the industry that the SFC will revise its proposals. This approach will easily cause panic.*

*May I ask the Secretary if the SFC is only capable of floating proposals that it considers feasible without thoroughly understanding beforehand the practicability of such proposals and the adverse effects that they may cause?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): I believe Mr LAM has gained some understanding of the cooling-off period relating to the sales arrangements because in fact, the SFC has also put forward many proposals on this subject in its consultation paper and analysed in detail the pros and cons of a cooling-off period. Many of the questions raised by him just now are also mentioned in the consultation paper, namely, whether or not more cost will be incurred, whether or not the cost of this measure is acceptable and how much the increase in the cost borne by investors will be if a cooling-off period is introduced. The consultation paper raised many questions in this regard. Of course, before the SFC put forward these proposals, it had indeed taken into account the fact that similar arrangements are in place overseas now and that in some places, consultations have been carried out on this matter.

In view of this, I consider it reasonable to carry out a consultation on this issue during the present period. I believe that having gone through the financial tsunami and the minibonds incident, the public should be in a position to take part in the discussion on this issue. The industry is concerned about the proposals made in the consultation paper because they may create difficulties in the operation of the industry. This I understand. I believe the industry will express their views to the SFC actively and the public can also voice their views on this matter, talking about whether or not they think this proposal is suitable to the development of the market in Hong Kong. At present, we are open about this matter and will discuss the protection for financial investors with an open mind.

However, as the consultation paper points out, a cooling-off period would not come without a cost to investors. The SFC has stated from the outset that there will be costs. It is not the case that all products are suitable for the introduction of a cooling-off period. Cooling-off periods may not be compatible with the nature of some products. The consultation paper also mentions in what situations can the introduction of a cooling-off period be considered. It also talks about the length of the cooling-off period. In terms of cost, the length of a cooling-off period certainly makes a lot of difference.

At present, I am more inclined to the view that the consultation paper has raised many issues and the practices of overseas markets have certainly been considered in respect of some of them. The industry has also been consulted. It has a lot of time to convey to the SFC its views on this issue. I will also be pleased to reflect Mr LAM's opinion and ideas to the SFC.

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

**MR JEFFREY LAM** (in Cantonese): *President, just now, I asked the Secretary whether or not the industry had in advance been ..... that is, whether he had considered the actual circumstances and feasibility but he did not reply as to whether or not the industry had been consulted for an understanding of the situation.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I believe that before the SFC introduces a proposal, it will surely consider various factors. Since the relevant factors are very complicated, the SFC hopes to listen to the views of the market, so it has to carry out a formal consultation.

**MR ANDREW LEUNG** (in Cantonese): *President, I certainly welcome this proposal made by the SFC, which has the major objective of enhancing protection for investors. However, in Hong Kong, which is one of the global financial centres, the products sold through banks account for only a small proportion. In fact, not only can one buy stocks in the market, the speculative element and risks that warrants entail are even greater and individuals can simply buy them in the market on their own without the need for any intermediary to give explanations to them for an hour or half an hour. In addition, most of our capital is in the hands of the insurance industry which has invested in many products. Together with our MPF, an enormous sum of money is at stake. Concerning the package of proposals put forward by the SFC, apart from the products sold through banks, may I ask whether the Bureau will also include the products in the securities market or other products in the insurance market in the scope of its consideration?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, the supplementary question raised by Mr Andrew LEUNG is not easy to answer because if we think in this way, our discussion will probably go on without end, nor will one know where to begin.

First, I think the consultation paper says that the consultation is related to the investment products that are within the regulatory ambit of the SFC and marketed by intermediaries. The consultation targets the problems regarded by the market as the most significant ones and of course, they include the problems exposed by the Lehman Brothers Minibonds incident. I consider this appropriate. As regards the other products on which the Honourable Member has raised queries, how should we deal with them? I believe that insofar as the regulatory policy is concerned, the principle adopted for all financial products should be the same, that is, the underlying principle for various kinds of financial products should be the same.

However, since the characteristics of various financial products are different, the regulation of their sale is also different. For example, as Members all know, the regulation of some listed stocks or warrants is different from that of some long-term and non-listed structural products. For this reason, our approach is to adopt a consistent regulatory principle to prevent the exploitation of loopholes and target individual products in regulation. For this reason, I believe the issues raised in this consultation paper are appropriate.

**MRS SOPHIE LEUNG** (in Cantonese): *President, attaining our present status of a financial centre was no easy task. I believe the SFC probably understands this, too. The supplementary question raised by Mr Jeffrey LAM just now was precisely intended to ask whether or not raising some matters or subjects in consultation papers and carrying out consultations on them are regarded as the first step? If the SFC wants to carry out consultation, particularly in view of the fact that there are now many investment products of this kind in the banking sector, should a soft consultation not actually be conducted prior to publishing a consultation paper, so as to gain a better understanding of the views expressed by various parties on this important subject of what serious impact a cooling-off period would cause?*

*I believe that in this area, if an investor can receive only a refund of his principal less certain reasonable administration costs and market value*

*adjustments, the amount of money involved is only very small. However, if the amount of money involved is great, perhaps the investor concerned only needs to take one step, hedging the funds at another level, and he will reap a lot of benefit. Of course, I do not have a very good idea of such matters and it may be necessary to consult Mr CHIM Pui-chung on how much money can be made in this way. However, I believe that if there are such activities, market players will be well aware of them. I am worried that any action taken by the SFC will affect our financial market. In view of this, in the future, will it consider carrying out soft consultations more often, so as to sound some directions out before carrying out hard consultations?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I thank the Member for her question. In fact, you and I share the same concern. My concern is whether we have done anything excessive when the market is developing and whether we have neglected the development of the market in our consideration. I fully appreciate Members' views. I hope that when conducting a review of our regulatory regime, we will not make it impossible for our financial market to develop. This is something we all agree.

Concerning the consultation method adopted by the SFC and the consultation paper on this occasion, the SFC has conducted soft consultations beforehand, that is, it has discussed with the banking sector beforehand. However, of course, they do not accept all the ideas and perhaps they also consider it necessary to carry out a public consultation to present all the issues for discussion. We consider this consultation appropriate because similar consultations have also been carried out in other places. All of us can raise issues for discussion, the public can contribute their opinions, Members can contribute their opinions and the industry can also reflect their problems. Certainly, we hope to ultimately strike a reasonable balance between market development and protection of investors.

**PRESIDENT** (in Cantonese): Mr Albert HO.

(Mrs Sophie LEUNG raised her hand)

**MRS SOPHIE LEUNG** (in Cantonese): *President, I wish to make some clarification.*

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

**MRS SOPHIE LEUNG** (in Cantonese): *President, I wish to make some clarification.*

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG, you can only point out the part of your supplementary question that has not been answered by the Secretary.

**MRS SOPHIE LEUNG** (in Cantonese): *President, the Secretary said in his reply that soft consultations had been carried out on everything, but as far as I am aware, this is not the case. However, I will let the Secretary ascertain this himself.*

**MR ALBERT HO** (in Cantonese): *In the past, be it the Policy Bureaux of the Government or regulatory bodies, after legislation or measures relating to the protection of consumers or investors were proposed, often, even during the consultation period, be it soft or hard consultation, the strong resistance of the industries concerned would be encountered. Of course, the industries concerned may have considerations about their business interest or other areas but often, the pressure so exerted will make the regulators or the Policy Bureaux advocating the policy to back down due to the pressure encountered. This makes many consumer protection laws in Hong Kong lag behind other jurisdictions with standards on a par with Hong Kong. In view of this, I am concerned about whether public interest will become secondary to sectoral interest due to such pressurization? This is my concern.*

*The Secretary certainly knows the background of this consultation exercise. There is a lot of information in the consultation paper. May I ask him if he can*

*explain to the public whether, in proposing this system or measure of a so-called cooling-off period, reference has been made to the situation in some advanced financial centres or regions? Can he cite some examples of adopted approaches similar to the cooling-off period? Are the outcomes in these cases highly negative, thus affecting the operation of these financial centres?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I believe the best occasion for giving an explanation on the underlying beliefs of the SFC and the analyses and studies conducted by it is a meeting of the Panel on Financial Affairs when the SFC can give a detailed explanation on the consultation paper. This is the most appropriate course of action.

Of course, the consultation paper mentions that similar cooling-off periods are also in place in some overseas countries. However, I wish to say here that from the consultation paper, it can be seen that there is not just one type of cooling-off periods but a number of models. Are all products suitable for the introduction of a cooling-off period? The answer is probably in the negative. For this reason, I agree that this issue is controversial, but I think a controversy is not necessarily bad. Members can have discussions on this matter.

On this matter, I believe that if we raise this subject for public discussion, in the long run, this will probably be conducive to the development of our financial market and the enhancement of protection for investors.

**MR ALBERT HO** (in Cantonese): *President, the supplementary question raised by me just now seeks to ask the Secretary to cite some examples to let us know in which regions measures similar to a cooling-off period have been adopted.*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, there are several examples. Cooling-off periods can be found in the United Kingdom, Australia and Singapore and the consultation on a cooling-off period was also carried out in Canada. However, I wish to say that the cooling-off periods adopted by various places are different and the products in

question are also different. The lengths of these cooling-off periods are also different, so there is no universal approach. Precisely for this reason, the SFC wants to raise this matter for discussion. I believe it is worthwhile for us to discuss this matter.

**MR PAUL CHAN** (in Cantonese): *President, I only wish to ask the Secretary a very simple and short question. What is the view of the Government on the coverage of the cooling-off period? Will it be applicable only to investors who are natural persons? Or will the cooling-off period also be applicable to individual investors or small and medium enterprises that have bought these investment products in the name of companies?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I think that if we ask such a question, it means that we want to listen to the views of the industry. This issue is also raised in the consultation paper. How should this arrangement actually be applied? Should all people be included? Should some people be excluded? For example, should the cooling-off period cover people who have bought such products before? The consultation paper has mentioned all these issues. Therefore, I think that the most appropriate course of action is to let the industry discuss them.

**MR PAUL CHAN** (in Cantonese): *What is the view of the Government on whether the cooling-off period should cover private individuals or companies?*

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

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

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

**Autonomy of Professionals in Provision of Professional Services**

5. **MR ALBERT CHAN** (in Cantonese): *President, it has been reported that the views expressed by the Secretary for Home Affairs, during his conversation with senior officials of the Hong Kong Young Women's Christian Association (YWCA) in early 2009, were alleged to have exerted pressure on the YWCA, causing the YWCA to transfer its social workers in Tai O out of the area. As a result, one of the social workers concerned resigned and became jobless. Members of the public are gravely concerned about this incident and worried that the Government is interfering with the operation of the professional sectors through politics. In this connection, will the Government inform this Council:*

- (a) *regarding the statement the Government made, without conducting any independent investigation, that the Secretary had not politically interfered in the social work profession, whether the Government has harboured anyone and shielded his fault, and whether it will consider afresh the conduct of an independent investigation; if there is such a situation and an investigation will be conducted, of the details; if not, the reasons for that;*
- (b) *given that it has been reported that the Secretary, without conducting any investigation, had commented and expressed opinion on the acts of the social workers concerned and their impact on the community, whether the Government has assessed if there has been any misconduct on the part of the Secretary; if the assessment outcome is in the affirmative, whether it will require the Secretary to take the blame and resign as well as provide compensation to the victims; and*
- (c) *how the Government rectifies and improves similar political behaviour of senior government officials, as well as how it ensures that such officials, especially Secretaries of Departments and Directors of Bureaux, will not interfere with the work of the professional sectors through politics?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): *President, at the Legislative Council case conference held on 18 September, the Secretary for Home Affairs gave a clear account to Members on the circumstances of his*

meeting with the persons-in-charge of the YWCA in January this year. He explained that the meeting was proposed by the YWCA in order to introduce its development plan. During the exchange with the YWCA, the Secretary for Home Affairs never expressed any opinion or comment regarding the work or performance of individual social workers. He only expressed the wish that the YWCA and the Tai O Rural Committee could work together to promote the well-being of Tai O residents and a harmonious community. This is consistent with the effort by the Home Affairs Bureau to foster a harmonious society and does not involve any political interference or misconduct. Without any convincing evidence, the SAR Government considers that there is no need to carry out any independent investigation.

As always, the SAR Government supports the work of professionals in serving the community in accordance with their professional skills and conduct. Taking the social worker sector as an example, our social workers have done a marvellous job in serving the public, co-ordinating and solving conflicts, and promoting harmony in the community. The Government will continue to work with them to serve the public.

**MR ALBERT CHAN** (in Cantonese): *President, the reply given by the Secretary has fully revealed his attitude of hiding the facts, distorting the truth and calling a stag a horse. Such an act is just similar to raping a young girl with violence but denying it afterwards, saying that it is only a compliment of her beauty.*

*President, the whole picture of the incident is that when meeting with the senior officials of the YWCA, the Secretary advised that a complaint had been received from the Rural Committee, alleging that the performance of the staff concerned had undermined the harmony in the community. He, being the Secretary, disclosed the content of a complaint to the top management of an organization and expressed his wish — hoping that harmony could be achieved. In fact, such an attitude is already an expression of his stance. The Secretary for Home Affairs, who made such comment without conducting any investigation, has in fact directly interfered with the administration of the organization. Therefore, if the Chief Secretary for Administration said that the Secretary had neither made any interference nor expressed any opinion, he has totally distorted the facts, called a stag a horse and hidden the truth. Can the Chief Secretary for*

*Administration make a clarification in respect of the facts I have just mentioned, telling us why Secretary TSANG Tak-sing had made such a statement when commenting on the YWCA? Is his action appropriate? Is there any dereliction of duty on the part of the Secretary in making such a statement without conducting any investigation to see if the staff has undermined the harmony? If the Chief Secretary for Administration continues to hide the facts and distort the truth, is there any dereliction of duty on his part as well?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the Home Affairs Bureau is tasked to promote harmony in the community. The complaint letter had revealed that there were some arguments between the Tai O Office of the YWCA and the Rural Committee. It is indeed rational and reasonable for the Secretary to raise the issue of harmony in the community of Tai O with the YWCA to express his concern about this incident. The Secretary only hoped that the YWCA could work jointly with the Rural Committee to make contribution to the community of Tai O.

**MR ALBERT CHAN** (in Cantonese): *The Chief Secretary for Administration has not answered my supplementary question. Secretary TSANG Tak-sing, upon receipt of a complaint letter from the Rural Committee which alleged that someone had undermined the harmony, disclosed its content to the YWCA without conducting any investigation, but being the Secretary for Home Affairs, should he give his entire trust to the allegation upon receipt of the complaint and put forth his views to the senior officials of the YWCA without conducting any independent investigation? The Chief Secretary has not given any reply at all. There is also dereliction of duty on his part.*

**PRESIDENT** (in Cantonese): Mr Albert CHAN, I think the Chief Secretary for Administration has already answered your supplementary question. Let me see if he has anything to add.

(The Chief Secretary for Administration shook his head to indicate that he had nothing to add)

**MS EMILY LAU** (in Cantonese): *President, Secretary TSANG Yok-sing .....*

(Members sitting next to her reminded her that it should be "Secretary TSANG Tak-sing")

**MS EMILY LAU** (in Cantonese): *Excuse me, President. I have mixed up you and your brother. (Laughter) Perhaps you also want to become a Secretary.*

**PRESIDENT** (in Cantonese): Ms Emily LAU, please do not make any conjecture about the intentions of the President.

**MS EMILY LAU** (in Cantonese): *You may probably want to become the Chief Executive. Excuse me, President.*

*Because of a remark made by Secretary TSANG Tak-sing at a meeting of the YWCA in January, two social workers have lost their jobs. I think it is out of many people's expectation. I also wonder if someone wants to see such a situation. I hope the Administration can understand that this incident is very shocking to society. How come a social worker has to be punished hastily just because of a remark made by the Secretary? President, the Chief Secretary for Administration pointed out in his reply that the Home Affairs Bureau was tasked to foster a harmonious society. I believe it should not be done by this Bureau alone. What the Administration has to do is to promote harmony. In this regard, the Beijing Government always mentions it, too. He also advised that the Administration had to co-ordinate and solve various conflicts in society. I would like the Chief Secretary for Administration to tell us, as many organizations, engaging in creativity industries, social welfare and education, receive subsidies from the Government, if harmony is used as a "big signboard" to cut subsidies and dismiss employees whenever someone has undermined it, this will become a big issue. Can the Chief Secretary for Administration give us a clear account on how harmony is promoted and social conflicts are handled properly, so that no one will become a "scapegoat" as a result?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the Home Affairs Bureau under the SAR Government has all along been tasked to

foster mutual tolerance among different strata and work jointly with them to serve the community. The Secretary for Home Affairs has performed this duty on various occasions. Regarding the YWCA incident this time, I stress once again that the Secretary met with the YWCA on that day upon its invitation. They also planned to give the Secretary a detailed briefing on the work of the YWCA, which did not involve any exertion of pressure by the Secretary on them at all. As the Secretary had read that letter — a copy of which had been sent to him — he noticed that there were some arguments between the Tai O Rural Committee and the Tai O Office of the YWCA. He had made a remark to people of the YWCA, hoping that both sides could work together, enhance communication and foster a harmonious society. However, it does not constitute any exertion of pressure on them.

**MS EMILY LAU** (in Cantonese): *President, he has not answered my supplementary question. He has only given a reply to the previous one .....*

**PRESIDENT** (in Cantonese): Ms Emily LAU, which part of your supplementary question has not been answered by the Chief Secretary for Administration?

**MS EMILY LAU** (in Cantonese): *My supplementary question is: On one hand, he said that we should foster social harmony, but there are many conflicts in society. If the Administration interferes every so often, we may think that it is exerting pressure: stating clearly that no troubles be stirred up nor opinions expressed, lest the troublemakers will be dismissed or punished. How can the Chief Secretary for Administration prevent these things from happening? Some people have taken one's remark as a token of authority to dismiss their staff. Does the Chief Secretary for Administration understand this? The Government always stresses harmony, advocating that we should have harmony in universities, creative industries, films and every aspect. As such, all people in Hong Kong have to shut up, right?*

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

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I think the Secretary, being an accountability official, is duty-bound to reflect any conflicts or different opinions expressed in the community. He noted the incident this time because a photocopy had been sent to him. He thus knew that there were some arguments. The Secretary is duty-bound to encourage various parties, groups, strata and organizations in the community to enhance communication and foster a harmonious society, hoping that all of us can make a step forward and exercise more tolerance. I think there is nothing wrong in what he has done.

**MR WONG SING-CHI** (in Cantonese): *Today, after listening to what the Chief Secretary for Administration has said, I find that it seems to be different from the version given by Secretary TSANG Tak-sing. I remember at the case conference, Secretary TSANG Tak-sing said that he had made just a causal remark at that time, saying that Tai O was not so harmonious. But today, the Chief Secretary for Administration said that Secretary TSANG Tak-sing's remark had some guiding effect, which is indeed very serious. Secretary TSANG said that it was just a causal remark, but the Chief Secretary for Administration said that it was not, and pointed out that it was the Secretary's wish that the YWCA and the Tai O Rural Committee could work together to promote the well-being of Tai O and foster a harmonious community. I remember Secretary TSANG Tak-sing mentioned at the briefing on the policy address that he would ensure not only harmony but also social justice. However, at that moment, he only talked about harmony without giving any regard to social justice. And he had even made a remark with some guiding effect to exert pressure on the YWCA. Does the Chief Secretary for Administration consider that there is something wrong here? Obviously, in this incident, he did not give us a clear account at the outset. When giving an explanation now, he said that the remark had certain guiding effect. This will affect the social work profession, imposing many restrictions on them in the course of upholding justice and protecting the interests of residents. I hope the Chief Secretary for Administration can give a response, stating if there is really such a situation.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, in my main reply, I said that the Secretary had never expressed any opinion or

comment regarding the work or performance of individual social workers. He only expressed the wish that the YWCA and the Rural Committee could work together to promote the well-being of Tai O residents and foster a harmonious community. I cannot see that such a situation has any guiding effect or has exerted any pressure on them.

**MR LEE CHEUK-YAN** (in Cantonese): *I wonder if the Chief Secretary for Administration knows that the social worker concerned had received a warning and was posted away from Tai O because of the statement made by Secretary TSANG Tak-sing. He has now become jobless. The Chief Secretary for Administration just mentioned that no pressure had ever been exerted. I wonder if he knows that the YWCA had convened a Board meeting at once and recorded in its minutes that Secretary TSANG Tak-sing had raised an issue regarding the community in Tai O. It then made a prompt decision to issue a warning immediately and post someone away. It so happened that this occurred one week after that remark had been made. Perhaps the Chief Secretary for Administration does not know this as he has not conducted any investigation at all. And so, neither did he know that because of Secretary TSANG Tak-sing's remark, they had to convene a Board meeting at once to handle this matter. Therefore, the Chief Secretary for Administration's remark just now, that he did not find any pressure being exerted simply shows his partiality in handling the whole matter.*

*On the other hand, I very much hope that the Chief Secretary for Administration can investigate into this incident, as he has mentioned just now that the Government is duty-bound to co-ordinate conflicts. However, Secretary TSANG Tak-sing is not co-ordinating conflicts now. He made a remark only. I think if he is determined to handle the incident properly, he should persuade people from both sides to have conciliation, listen to the opinions expressed by each side and then conduct an investigation. It will be regarded as a fair practice only if he can listen to both sides. However, Secretary TSANG Tak-sing put forth his view without listening to both sides, and expressed his opinion suddenly without learning about the causes .....*

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

**MR LEE CHEUK-YAN** (in Cantonese): *I now ask the Chief Secretary for Administration: Will he look into this matter to see why Secretary TSANG Tak-sing, without conducting any investigation or conciliation, made such a remark for no reason, causing the social worker to become jobless? Will he conduct any investigation?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the Secretary mentioned the complaint letter from the Tai O Rural Committee to the YWCA, with a view to conveying the message of fostering harmony in the community. The Secretary has, time and again, clarified openly that he absolutely has no intention, and it is impossible for him, to interfere with the internal staff deployment of the YWCA. After the occurrence of this incident, I have also learnt about the whole picture and consider there is no evidence to show that he has exerted any pressure on the YWCA in this incident.

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

**MR LEE CHEUK-YAN** (in Cantonese): *He has not answered why the Secretary made such a remark for no reason. The Chief Secretary for Administration said that he understood the whole picture of the incident. However, can the Secretary make a causal remark once something comes to his mind? Why?*

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, what you have mentioned just now is not this supplementary question. Rather, you asked whether the Secretary would conduct any investigation. I think the Chief Secretary for Administration has given a reply already.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, at the case conference, Secretary TSANG Tak-sing told us that upon receipt of similar complaint letters, he would mostly refer them to his colleagues for handling. However, I wonder why he had read this letter at that time; why it so happened that he had to attend a meeting of the YWCA after reading it; and why he had mentioned its content suddenly at the meeting.*

*President, in view of such procedure, it has in fact shown that this incident is unusual, and the remark made by the Secretary to the YWCA carried ulterior motives. Otherwise, why this incident was not handled according to the normal procedure? Meanwhile, if the Secretary really wanted to promote harmony in the community, why did he only talk with the YWCA about the message of harmony, rather than requesting his colleagues to seek solutions with the Tai O Rural Committee and the YWCA together or make efforts to foster harmony in the community expeditiously after the incident? If there were no ulterior motives, why could the problem not — as mentioned by the Chief Secretary for Administration — be handled according to the brief of the Secretary?*

*I wonder if the incident has reflected two questions. Chief Secretary for Administration, please answer these. First, is there any dereliction of duty on the part of the Secretary in fostering harmony as he has not done his job properly and just promoted it without achieving any results? Second, is his practice based on ulterior motives unbecoming to a Secretary? Should he make any adjustment?*

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, the supplementary question you have just raised seeks comments from the Chief Secretary for Administration, regarding this incident, on the Secretary's practice, including the two viewpoints you have mentioned in the last part. Chief Secretary for Administration, please.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I think the Secretary, in performing his duties as the Secretary for Home Affairs, should foster communication and co-operation among different strata and foster harmony in the community. I have to reiterate that in attending the briefing held by the YWCA at that time, the Secretary had advised after the meeting (that is, after the YWCA had finished its businesses) that he had received this complaint and hoped that they could have better communication. I do not consider this was an exertion of pressure. I think the Secretary was just performing his duties.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the part that the Chief Secretary for Administration has not answered is: As pointed out by the Secretary, under general circumstances, complaint letters would be referred to his colleagues .....*

**PRESIDENT** (in Cantonese): Please state precisely the part which has not been answered, so that the Chief Secretary for Administration can give a reply.

**MR LEUNG YIU-CHUNG** (in Cantonese): *I know. As the Secretary did not do so this time, I said that such practice had ulterior motives. Otherwise, there was no reason for him to refuse to follow the normal procedure and make such a remark to the YWCA. Therefore .....*

**PRESIDENT** (in Cantonese): Are you asking whether the Chief Secretary for Administration agrees that such practice has ulterior motives, are you not?

**MR LEUNG YIU-CHUNG** (in Cantonese): *If yes, the question that follows is: Will he conduct an investigation and should he reproach the Secretary for his dereliction of duty?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, there is an established mechanism for public officers to handle such issues. Very often, we will receive some complaints, opinions or comments. We have an established mechanism to handle them. Moreover, I believe this letter is not the only letter received by the Secretary for Home Affairs. I consider his practice appropriate.

**MR WONG KWOK-KIN** (in Cantonese): *President, according to my understanding, there is nothing wrong with fostering harmony in the community, nor does it conflict with upholding social justice. On this premise, I notice that the Secretary for Home Affairs, TSANG Tak-sing, had made an explanation in respect of this incident, saying that he had not exerted any pressure. The YWCA also came forth to say that no pressure had ever been exerted on them. As there*

*is no concrete evidence to support the allegation, I agree that there is no need for the Government to waste public money to set up an investigation committee to look into this incident. Rather, may I ask, from this incident, how the Government assesses whether a community is harmonious or not? What are the government policies to foster harmony in the community?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the SAR Government will foster a harmonious society through many different channels. We have the Home Affairs Bureau, district service offices under the Home Affairs Department as well as many other channels which can enhance communication and collaboration with different strata in the community simultaneously, so as to serve society, members of the public and organizations.

**PRESIDENT** (in Cantonese): Five Members are still waiting for their turns. However, as we have spent more than 21 minutes on this question, there is no alternative other than Members following it up on other occasions. Last oral question.

### **Assistance Provided to Hong Kong Businessmen Engaged in Business on the Mainland**

6. **MR ANDREW LEUNG** (in Cantonese): *Regarding the assistance provided to Hong Kong businessmen engaged in business on the Mainland, will the Government inform this Council:*

- (a) *whether it has collected statistics on the number of cases of Hong Kong businessmen on the Mainland seeking assistance from the offices of the Hong Kong Special Administrative Region on the Mainland, the Financial Services and the Treasury Bureau and the Commerce and Economic Development Bureau in the past three years; if it has, of a breakdown of such cases by the issues (including the "avoidance of double taxation") involved;*
- (b) *what support services were given by the Government to the Hong Kong businessmen on the Mainland in the cases in part (a) which involved "Arrangement for the Avoidance of Double Taxation"; and*

- (c) *given that, in accordance with a document entitled "Letter related to investigating the charging of Enterprises Income Tax on the provision of service by foreign institutions to domestic enterprises through deployment of the former's personnel" issued by the State Administration of Taxation on 2 July this year, a foreign enterprise, in deploying non-Mainland residents, including Hong Kong permanent residents, to the Mainland to provide service or take up management positions in its Mainland subsidiaries, may be regarded as a "permanent establishment" and will thus be subject to Business Tax and Enterprises Income Tax, whether the Government has come across relevant cases of Hong Kong businessmen seeking assistance or making enquiries, and taken the initiative to understand from the Mainland authorities the contents of the document and details of enforcement, as well as assessed the impact of the relevant arrangement on Hong Kong enterprises?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, in 2007, 2008 and the first nine months of 2009, the Financial Services and the Treasury Bureau did not receive any case of Hong Kong businessmen on the Mainland seeking assistance. During the same period, the Economic and Trade Offices of the Hong Kong Special Administrative Region in the Mainland and the Commerce and Economic Development Bureau received a total of 907 cases of Hong Kong citizens/businessmen requesting assistance. None of the cases was related to avoidance of double taxation. Statistics with a breakdown by the nature of the cases are set out below:

	2007	2008	2009 (January to September)
Commercial disputes	51	25	29
Complaints related to Mainland real estate	66	41	34
Complaints against administrative, law enforcement, judicial agencies and institutions directly under the State Council in the Mainland	154	147	145
Others	113	78	24
Total	384	291	232

We are aware that the State Administration of Taxation issued the said document in July this year. The Administration has so far not received any case of Hong Kong businessmen seeking assistance or making enquiries in relation to the document. The Hong Kong Economic and Trade Office in Guangdong has written to the Guangdong Provincial Office of the State Administration of Taxation to better understand the latest position of the relevant policy.

According to the arrangement for avoidance of double taxation between the Mainland and Hong Kong, a Hong Kong enterprise may be regarded as having a "permanent establishment" if it has a fixed place of business in the Mainland, or deploys its employees to the Mainland to provide service or take up management positions in its Mainland subsidiaries for longer than 183 days in any 12 months on a consecutive or accumulative basis. If Hong Kong businessmen consider that the Mainland tax authorities have not handled their cases in accordance with our arrangement for avoidance of double taxation with the Mainland, they may lodge their cases with the Inland Revenue Department (IRD).

**MR ANDREW LEUNG** (in Cantonese): *Just yesterday, the Executive Council endorsed the construction of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL). The completion of the XRL will greatly reduce the travelling distance between Hong Kong and China, especially Guangzhou. And, Hong Kong is already promoting a "one-hour quality living circle". Regarding the 183 days mentioned by the Secretary in the third paragraph of his main reply, will the Government consider the possibility of approaching the Guangdong Provincial Government and the Central Government, requesting them to phase in the lengthening of the period from 183 days to 270 days on an early and pilot basis under the Outline of the Plan for the Reform and Development of the Pearl River Delta (PRD)? The reason is that a round trip between Hong Kong and Guangdong will take only two hours, and, it is even possible to spend the weekend in Guangdong. Therefore, to the SAR, the 183-day period may make the movements of people between Hong Kong and the Pearl River Delta extremely frequent and busy. May I ask the Secretary whether he will consider requesting the Central Government to lengthen the period to 270 days on Hong Kong's behalf?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, we naturally hope that through the integration of Hong

Kong and the PRD, the various infrastructure projects and other arrangements, Hong Kong people can work and live in the "one-hour quality living circle". This is the policy of the Government, and the Government wishes to facilitate the realization of this goal.

Regarding the taxation issue mentioned by the Honourable Member, especially his question on whether the Mainland can introduce a more lenient measure for Hong Kong people in relation to the avoidance of double taxation, I wish to explain that under the current arrangement for the avoidance of double taxation between the two places, the limit of stay is 183 days. In other words, if a period of stay is longer than this in any 12 months on a consecutive or accumulative basis, income tax is payable to the other side. This is actually a long-established international practice. Therefore, there are no sufficient justifications for us to negotiate with the Mainland on any departure from this practice. I am only explaining the international practice and technical arrangements relating to taxation.

**MR JEFFREY LAM** (in Cantonese): *President, the Secretary has mentioned our long-established taxation arrangements. But I think that given the increasing trade ties between us and our country, some sort of adjustments or review should be required. In the third paragraph of his main reply, the Secretary mentions the document issued by the State Administration of Taxation. Apart from manufacturing enterprises operating on the Mainland, will the relevant policy also affect those Hong Kong organizations providing professional services there? In other words, besides manufacturing enterprises, will the policy also affect professional services organizations?*

**PRESIDENT** (in Cantonese): Which Secretary will answer this supplementary question?

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I wish to explain that as far as my understanding goes — I must of course stress that this is after all a document issued by the State Administration of Taxation — the policy actually aims to tackle the following

problem: a small number of non-Mainland organizations which have been providing managerial and technical services on the Mainland have not reported the related income. As a result, the Mainland authorities now require local taxation agencies to launch a special investigation before 31 August 2009. The targets of investigation are mainly manufacturing and services industries. And, vehicle manufacturing enterprises will even be investigated one by one. This is the rationale behind the whole policy.

However, as our IRD understands it, the document is not about any new regulations. It only requires local taxation agencies to properly implement the existing regulations, so as to protect the State's tax revenue from enterprises. But as I mentioned clearly in the main reply, if any Hong Kong enterprises or individuals think that there are any ambiguities in the existing arrangement for the avoidance of double taxation, or if they want us to follow up the matter, the IRD is always prepared to take the required actions.

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

**MR JEFFREY LAM** (in Cantonese): *President, the Secretary has mentioned the services industry only. But my question is about whether professional services will also be affected. Are professional services treated as part of the services industry? If not, can he make a clarification?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I am no expert in Mainland taxation arrangements, and I cannot make any clarification. But if necessary, we can make use of various channels to help Hong Kong businessmen understand the taxation arrangements on the Mainland. If there are questions about the arrangement for the avoidance of double taxation, there are also channels of seeking understanding and taking follow-up actions.

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

**WRITTEN ANSWERS TO QUESTIONS****Amendments of Speed Limits and Change of Relevant Road Signs**

7. **MR WONG KWOK-HING** (in Chinese): *President, recently, it has been reported that after changing the speed limits of certain roads/road sections by notice published in the Gazette, the Transport Department (TD) did not update the relevant speed limit traffic signs at the same time. Due to difficulties in enforcement, the police have indicated that prosecution actions against speeding on the roads/road sections concerned would be suspended. In this connection, will the Government inform this Council:*

- (a) *of the number of times in the past three years of the TD failing to update the traffic signs concerned at the same time the speed limits were changed upon publication of a notice in the Gazette; the names of the roads/road sections concerned and the reasons for not updating the traffic signs at the same time;*
- (b) *whether it has looked into the difficulties posed by the above inconsistencies in speed limits to prosecution actions by the police against speeding; of the respective numbers of cases involving inconsistencies in speed limits in the past three years in which the police continued or suspended their enforcement actions, together with a breakdown of the duration of suspension of enforcement actions in respect of each road/road section concerned; and whether the police have reflected to the TD the difficulties they encounter in carrying out enforcement actions on such roads/road sections; if so, of the response; if not, the reasons for that; and*
- (c) *what measures the TD will implement to tackle the above problem, as well as when such measures will be implemented?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, under section 40 of the Road Traffic Ordinance (Cap. 374), the maximum speed at which a vehicle may be driven on any road shall be 50 km/h. The Commissioner for Transport (the Commissioner) may by notice in the Gazette vary the speed limit for any road, and when doing so, the Commissioner shall also cause traffic signs to be so erected, replaced, removed or altered as to ensure that adequate guidance is given to motorists as to the speed limit to be currently

observed on that road. In other words, if no speed limit traffic signs are found for a road, the applicable speed limit for it is 50 km/h. Otherwise, traffic signs showing the applicable speed limits would be displayed to guide motorists.

Variation of speed limits has all along been synchronized with the display of speed limit traffic signs. Whenever the Commissioner decides to vary the speed limit of a road (or a section of it), the TD will request the Highways Department (HyD) to erect the new signs; the signs will be temporarily covered up after their erections. The TD will decide on an effective date for imposing the new speed limit, arrange issue of the Gazette notice, and inform police. The TD will liaise with the HyD to uncover the new signs on the same date that the new speed limit shall come into effect as stated in the Gazette notice. Therefore, the speed limits shown on the traffic signs as seen by motorists are consistent with the speed limits published in the Gazette notices. Based on a Gazette notice published in 1984, some recent media reports suggested that the speed limits as shown on traffic signs at some road sections were different from the speed limits as specified in the 1984 Gazette notice. In fact, the speed limits for the concerned road sections have been varied by subsequent Gazette notices according to the provisions stipulated under section 40 of the Road Traffic Ordinance (Cap. 374) and are consistent with the on-site traffic signs. Motorists should always observe the speed limits as shown on traffic signs.

The response to each of the three parts of the question is as follows:

- (a) Between 2006 and 2008, the TD has published 244 Gazette notices to vary speed limits of about 400 road sections all over Hong Kong. About three quarters of these Gazette notices were concerned with temporary arrangements. As stated above, variation of speed limits for all roads is synchronized with display of updated traffic signs.
- (b) The police implement enforcement actions against speeding offences based on the speed limits as specified in the latest Gazette notices. Variation of speed limits is synchronized with replacement of speed limit traffic signs. Hence, the speed limits as specified in the Gazette notices and the speed limits as shown on the corresponding traffic signs are consistent.

The police are implementing enforcement action to effectively deter and tackle traffic violations to ensure road safety. In relation to an individual case, the police needed to seek clarification on certain

legal issues. In the interest of the public, the police had suspended speeding prosecutions on certain road sections during that period, but at the same time carried out additional patrols and snap checks in order to ensure that road safety was not compromised. The police have resumed prosecution actions on all road sections.

- (c) Variation of speed limits is synchronized with display of updated speed limit traffic signs, there is no discrepancy between them. The relevant government departments review the mechanism from time to time and implement improvement measures when necessary.

### Measures to Reduce Electricity Consumption

8. **MR CHAN HAK-KAN** (in Chinese): *President, according to the figures released by the Census and Statistics Department, electricity consumption in Hong Kong, after deducting the amount of electricity exported to the Mainland, rose from about 130 675 terajoules in 2000 to 147 345 terajoules in 2008, representing an increase of about 13%. In this connection, will the Government inform this Council:*

- (a) *whether it has studied the reasons for the continuous increase in electricity consumption in Hong Kong over the past few years;*
- (b) *of the projected electricity consumption in Hong Kong in the next five years, and the basis for the projection;*
- (c) *of the specific measures to be implemented to encourage domestic households and commercial establishments respectively to reduce electricity consumption; and*
- (d) *given that some political parties and environmental organizations have suggested the introduction of a "carbon bonus point" scheme whereby the amount of electricity saved will be converted to bonus points which can be used to exchange for government cash rebate or settle government fees, whether the authorities have studied such a scheme; whether they have discussed with the two power companies the feasibility of the scheme; if so, of the details; if not, the reasons for that?*

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

- (a) The trend of total electricity consumption is affected by a wide range of factors. The population of Hong Kong had increased from 6.71 million to almost 7 million and the number of local households had increased from 2.04 million to 2.28 million from 2000 to 2008. The accumulated growth in real Gross Domestic Product (GDP) amounts to 43% which reflected the increase in economic activities. All these factors have an impact on the electricity consumption.
- (b) Growth of total electricity consumption in Hong Kong has been around 1.5% per annum on average in the past five years. Taking into account major socio-economic factors such as the projected growth in real GDP, the overall population and the number of local households, it is expected that total electricity consumption will broadly maintain its trend growth in the coming five years. The actual consumption level will also hinge on many other factors such as changes in climatic conditions, impact of energy efficiency measures promoted by the Government, further shift in electricity consumption behaviour and patterns amidst the growing awareness of environmental concerns, and so on.
- (c) The Government has been taking forward a series of initiatives to promote energy efficiency and conservation, including:
  - (i) to introduce a bill for the mandatory implementation of the Building Energy Codes to the Legislative Council in 2009, which regulates both commercial and residential buildings;
  - (ii) to continue the promotion of the building energy efficiency funding schemes under which building owners, including those of commercial and residential buildings, will be subsidized to carry out energy-cum-carbon audits and energy efficiency projects;
  - (iii) to implement the district cooling system at Kai Tak Development to provide energy-efficient air-conditioning services for public and private non-domestic developments (including commercial developments) in the region;

- (iv) to fully implement the first phase of the Mandatory Energy Efficiency Labelling Scheme from 9 November 2009;
  - (v) to introduce the second phase of the Mandatory Energy Efficiency Labelling Scheme through legislative amendments; and
  - (vi) to promote the replacement of incandescent light bulbs by compact fluorescent lamps through various means. Moreover, we plan to consult the public on progressively restricting the sales of incandescent light bulbs.
- (d) The promotion of electricity conservation involves the provision of financial incentives, the establishment of values on conservation and environmental protection, and the setting up of regulation where necessary. The Government has been taking forward a wide range of initiatives for this cause, details of which are set out in part (c) above. On the suggestion of providing incentives for personal activities, as it requires continuous monitoring and verification of personal activities which involves complicated administration and high administration cost, we have no plan at this stage to take the suggestion forward.

### **Collection of Fuel Surcharges and Air Passenger Departure Tax by Travel Agents**

9. **MR PAUL TSE** (in Chinese): *President, at present, travel agents, in selling air tickets, are required to collect fuel surcharges and air passenger departure tax (APDT) on behalf of airlines. However, the airlines do not pay the relevant commission or administrative fee to travel agents. In this connection, will the Government inform this Council whether:*

- (a) *the Civil Aviation Department will, in vetting and approving applications submitted by airlines for adjusting fuel surcharges, require the airlines to bear the expenses incurred by travel agents in collecting fuel surcharges on their behalf when selling air tickets; if it will, when the relevant measure can be implemented; if not, of the justifications for that; and*

- (b) *the Government will directly pay travel agents the expenses incurred in collecting APDT on its behalf, or adopt appropriate measures to make the airlines concerned pay such expenses; if it will, when the measure can be implemented; if not, of the justifications for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the Transport and Housing Bureau, and the Financial Services and the Treasury Bureau have policy responsibilities over aviation fuel surcharges and APDT respectively. Our consolidated reply is as follows:

- (a) Fuel surcharges are a type of aviation tariff which allows airlines to partially recover the increase in operating costs due to fluctuations in aviation fuel prices. As the aeronautical authority in Hong Kong, the Civil Aviation Department considers and approves fuel surcharge applications from the airlines in accordance with bilateral Air Services Agreements. The commercial arrangements on the collection of fuel surcharges and the remuneration involved or the sharing of the relevant costs should be a matter between the airlines and travel agents.
- (b) Under the Air Passenger Departure Tax Ordinance (Cap. 140), the airlines are responsible for collecting APDT from departing passengers on behalf of the Government. At present, the Government pays an administration fee for the airlines to meet the costs of providing the service. As the airlines have direct and full access to departure figures, we consider the existing arrangements appropriate and effective. The Government will not interfere with the commercial arrangements between the airlines and travel agents.

### **Handling of Incidents of Water Mains Bursts**

10. **MR CHEUNG HOK-MING** (in Chinese): *President, regarding the handling of incidents of fresh and salt water mains bursts by the Water Supplies Department (WSD), will the Government inform this Council:*

- (a) *of the total volume in cubic metres of fresh water lost due to water mains bursts in the past three years, the value of fresh water lost as calculated by its unit cost as well as the other related economic losses incurred;*

- (b) *of the number of reports of water mains bursts received by the WSD in each of the past three years and the district distribution of such incidents; and*
- (c) *given that in the incident of underground fresh and salt water mains bursts in Eastern Street of Sai Ying Pun this September, the repair service staff of the WSD took one hour and five minutes to isolate the burst main from water sources upon receipt of report, of the details of the notification mechanism for handling incidents of water mains bursts by the WSD at present, as well as the average time required for the repair service staff to isolate the burst mains from water sources?*

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

- (a) In the past three years, the annual average volume of fresh water lost due to water mains bursts was estimated to be 178 000 cu m. The bursting of water mains was mainly attributable to the ageing of water mains and other external factors. As such, water mains bursts should be regarded as an operational constraint rather than economic loss.
- (b) The breakdown of the number of incidents of water mains bursts by region over the past three years (2006-2007 to 2008-2009) is as follows:

Region	2006-2007			2007-2008			2008-2009		
	Fresh Water	Salt Water	Total	Fresh Water	Salt Water	Total	Fresh Water	Salt Water	Total
Hong Kong and Outlying Islands	167	205	372	224	235	459	136	120	256
Kowloon	235	389	624	263	430	693	244	415	659
New Territories East	268	115	383	278	100	378	177	84	261
New Territories West	144	116	260	155	132	287	98	49	147
Total	814	825	1 639	920	897	1 817	655	668	1 323

- (c) Upon receipt of a report of water mains burst, staff of the Customer Telephone Enquiry Centre of the WSD will immediately input the information into the computer system and notify the regional office concerned. A regional repair team will then depart for the scene to turn off the valve and conduct emergency repair. In the past three years from 2006-2007 to 2008-2009, for the incidents of water mains bursts in the Central and Western District, WSD repair teams from the North Point office managed to turn off the valves and conduct emergency repairs within about 57 minutes on average from receipt of report. However, the actual time they took to turn off the valves in individual cases depended on the location of the site and traffic conditions involved, ranging from the shortest in 10 minutes, to the longest in three hours and 30 minutes. In the incident of the water mains bursts in Eastern Street of Sai Ying Pun this September which occurred at around 8 o'clock in the morning when the traffic was very busy, the repair team took one hour and five minutes to reach the scene and turned off the valves 25 minutes later.

### **Aligning the Fees and Charges for Public Recreational and Sports Facilities**

11. **MRS REGINA IP** (in Chinese): *President, at present, the leisure facilities under the Leisure and Cultural Services Department (LCSD) still adopt the fees and charges set by the two former Municipal Councils. As the two Municipal Councils adopted different pricing policies at that time, there are discrepancies in the fees and charges for certain facilities in the urban areas and the New Territories. Overall speaking, except for the fees and charges for tennis courts, badminton courts, natural turf pitches and swimming pools in the urban areas during peak hours, which are lower than those in the New Territories, the fees and charges for major recreational and sports facilities in the urban areas are generally higher than those for the same types of facilities in the New Territories. In its respective replies to the written questions from Members of this Council on 23 November 2005 and 30 April 2008, the Government indicated that it would examine the feasibility of aligning the fees and charges concerned. In this connection, will the Government inform this Council:*

- (a) *of the progress of the feasibility study on aligning the fees and charges; if the study has been completed, of the results; and whether the fees and charges will be aligned; if so, of the timetable; if not, the reasons for that; and*

- (b) *as the Community Sports Committee of the Sports Commission has recently published the report of the study "Sport for All — Participation Patterns of Hong Kong People in Physical Activities", and one of the measures proposed by the LCSD in response is to encourage members of the public to actively participate in sports and physical activities, whether the Government will adopt the lower amount of the existing fees and charges when setting the aligned fee level, so as to encourage members of the public to participate in sports?*

**SECRETARY FOR HOME AFFAIRS** (in Chinese): President, I would like to respond to both parts of the question jointly, as follows:

The LCSD has set up a working group to study how to align the fees and charges for recreation and sports facilities in the urban areas and the New Territories. Detailed consideration and balancing of relevant factors, including the overall economic situation of Hong Kong, the utilization rates of the recreation and sports facilities, the public's affordability and acceptability, and the Government's subsidy level will be necessary. One of the considerations is how we could make use of the fee policy to encourage public participation in sport and physical activities, as a response to the recommendations made in the report of the study on "Sport for All — Participation Patterns of Hong Kong People in Physical Activities". As the work involved is complicated and as there are nearly 1 000 fee items for recreation and sports facilities to be reviewed, more handling time is needed.

Currently, the LCSD has aligned the concessionary rates for various recreation and sports facilities in the urban areas and the New Territories, including those for the use of public swimming pools, tennis courts, soccer pitches, squash courts, sports centres and holiday villages. Users of or organizations serving sectoral groups, including children, people with disabilities, students, schools and subvented organizations can enjoy the same concessionary rates when using these facilities across the territory. As for the other fee items, the LCSD will proceed as quickly as possible with a view to putting forward practicable recommendations for consultation with the public, although the timetable for implementing the new fees and charges is not available for the time being.

**Control on Vegetables Imported from the Mainland**

12. **MR FRED LI** (in Chinese): *President, according to a paper submitted by the authorities to the Panel on Food Safety and Environmental Hygiene of this Council, vegetables imported into Hong Kong must come from registered farms, and each consignment of vegetables imported from the Mainland must be accompanied with a "certificate of pesticide usage for vegetables supplied to Hong Kong and Macao" and an "inspection card of vegetables supplied to Hong Kong and Macao" issued by the Mainland authorities and be affixed with a label on the packaging (for example, basket or carton), setting out information on the source of the vegetables. In this connection, will the Government inform this Council:*

- (a) *given that the labels of some vegetables imported from the Mainland only set out the registration numbers of the collection and processing plants and do not provide any information on the vegetable farms concerned, how the authorities ensure that these vegetables come from registered farms; and*
- (b) *whether it will discuss with the Mainland authorities ways to plug the above loophole, so as to prevent collection and processing plants from importing vegetables from unregistered farms into Hong Kong?*

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

- (a) Under the current administrative arrangement between the Special Administrative Region (SAR) Government and the Mainland regulatory authorities, all vegetables supplied to Hong Kong must come from registered vegetable farms and collecting and processing establishments. Each consignment must be accompanied with the relevant certification documents to ensure its safety for consumption, and affixed with a label with information on the source of the vegetables on the packaging (for example, basket and carton). Affixing such label is to facilitate source tracing on detection of problem vegetables. The labels are produced by the relevant collecting and processing establishments, and include the name, address and registration number of the establishment, name of the vegetable species, date of production as well as name of the vegetable farm.

The inspection and quarantine authorities in the Mainland will take management and control measures on vegetables supplied to Hong Kong, including management at source in respect of farms and collecting and processing establishments that supply vegetables to Hong Kong. Before export, the content and information of the accompanying documents of every consignment of vegetables have to be checked by the inspection and quarantine authorities. Moreover, all vehicles have to be sealed and checked by the inspection and quarantine authorities before export. The border inspection and quarantine authorities will also conduct random inspection of vegetable vehicles. The authorities will check the seal of every vegetable vehicle, allowing only those with intact seals to enter Hong Kong.

As required by the Mainland regulatory authorities, each collecting and processing establishment must have corresponding registered vegetable farms. Therefore, whether or not the information of the registered vegetable farms is shown on the labels on the packaging of imported vegetables, effective tracing of the registered vegetable farms concerned can be achieved through the information of the collecting and processing establishments shown on the label.

At present, all Mainland fresh vegetables entering Hong Kong via land route must be imported through Man Kam To and subject to random inspection by officers of the Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department at the Man Kam To Food Control Office. CFS officers will check the integrity of the seals of vegetable vehicles, examine the vegetables and verify whether the accompanying documents tally with the consignments, and take vegetable samples for testing of pesticide residue, irrespective of which vegetable farm or collecting and processing establishment the vegetables come from. Should any consignment be found not tallying with its accompanying documents, the consignment concerned will be detained and the Mainland authorities will be notified accordingly to take follow-up actions. From 2007 to August this year, the CFS has taken 33 000 samples for testing of pesticide residues at Man Kam To Control Point, of which 99.9% are satisfactory.

The CFS has always been working closely with the Customs and Excise Department in exchanging intelligence and conducting joint

operations at the Man Kam To Border Control Point to ensure food safety of import vegetables.

- (b) The Government will continue to take measures to ensure food safety of vegetables supplied to Hong Kong, including keeping in close contact and collaboration with the Mainland authorities to exchange intelligence. If it comes to the knowledge of the trade that there is supply of vegetables from unknown sources to Hong Kong, they can report it to the Mainland authorities or to SAR Government for referring to the Mainland authorities. Hong Kong Customs and Excise Department and the CFS will take actions to help fight against these illegal activities.

Furthermore, the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China has recently amended the "Administrative Measures on Inspection, Quarantine and Supervision for Vegetables Supplied to Hong Kong and Macao" (the Measures) to align with the "Law of the People's Republic of China on Food Safety" that has already come into force in the Mainland. The new Measures, taking effect on 1 November 2009, will further strengthen management and control at source in respect of the vegetable farms and processing establishments, improve the source tracing system of vegetables, and increase penalties for illegal conducts. This will enhance public confidence in vegetables imported from the Mainland.

Under the new inspection and quarantine arrangement, the vegetable farms and processing establishments are required to establish and maintain a record system for vegetable production and purchase and inspection of raw materials respectively. The processing establishments are also required to set out the manufacturing information of the product concerned on the packaging label for transport and sale. This arrangement will greatly enhance the traceability of problem food and echoes the requirement for keeping transaction records under the Food Safety Bill which is being prepared in Hong Kong. We plan to submit the Food Safety Bill to the Legislative Council in this legislative year to strengthen food safety control. The Bill will include a mandatory registration system for food importers and distributors, as well as require food traders (including vegetable importers and distributors) to keep food transaction records.

**Integrated Community Mental Health Services**

13. **MR CHEUNG KWOK-CHE** (in Chinese): *President, the Government is consolidating the resources for three types of community mental rehabilitation services, namely Community Mental Health Link, Community Mental Health Care and Community Mental Health Intervention Project, to provide integrated community mental health services, and also set up the first Integrated Community Centre for Mental Wellness (ICCMW) in Hong Kong in Tin Shui Wai in the last financial year. The social welfare sector considers that such one-stop services can provide accessible services to the users and make effective use of resources. It therefore hopes that the Government will consolidate resources in the future to set up ICCMWs in various districts in Hong Kong. In this connection, will the Government inform this Council whether:*

- (a) it has a timetable for setting up ICCMWs in other districts; if so, in which districts and when ICCMWs will be set up; and*
- (b) it will increase the number of health care professionals (for example, psychiatric nurses and occupational therapists) in ICCMWs?*

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

- (a) The Government is mindful of the needs of persons with mental health problems and their family members/carers and proactively seeks to develop different models of community support services to meet their needs. To this end, the Social Welfare Department (SWD) set up the first ICCMW in Tin Shui Wai in March this year to provide one-stop and accessible integrated community mental health support services to discharged mental patients, persons with suspected mental health problems, their families/carers and residents living in the district. As announced by the Chief Executive in his 2009-2010 policy address delivered last Wednesday (14 October 2009), the SWD will, in 2010-2011, extend this district-based and one-stop service model to all 18 districts in the territory by re-engineering the existing community mental health support services and strengthening the manpower of these centres to provide integrated and accessible services to more persons in need.
- (b) After the revamping of services, the SWD will require the non-governmental organization (NGO) operators of these centres to

provide professional nursing care and occupational therapy services. Under the current Lump Sum Grant Subvention System, NGO operators have the flexibility to deploy the allocated provision to provide suitable staffing to meet service needs.

### **Hong Kong Solicitors Indemnity Fund**

14. **MR LEUNG KWOK-HUNG** (in Chinese): *President, under the Solicitors (Professional Indemnity) Rules (Cap. 159, Sub. Leg. M) (the Rules), in respect of negligence claims made by the public against solicitors who have been declared bankrupt, the fund which is owned and managed by the Hong Kong Solicitors Indemnity Fund Limited (indemnity fund) will only provide indemnity for the bankrupt solicitors against loss arising from such claims, and it will not indemnify the claimants directly. Hence, claimants can only make claims against the bankrupt solicitors. In the event that the bankrupt solicitors are not able to pay compensation to the claimants, whether claimants can make claims against the indemnity fund will depend on the applicability of section 2 of the Third Parties (Rights Against Insurers) Ordinance (Cap. 273). However, the court ruled in a case in 1994 that the professional indemnity provided by the indemnity fund was not "contract of insurance" and therefore, the claimant could not cite that Ordinance to seek indemnity from the indemnity fund. In this connection, will the Government inform this Council whether it knows:*

- (a) whether the main purpose of establishing the indemnity fund is to protect public interests; and*
- (b) the role of the indemnity fund in the above cases, and the measures put in place by the Government to safeguard the interests of those claimants?*

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

- (a) Compulsory professional indemnity insurance for solicitors was introduced by the Law Society in 1980. The current Professional Indemnity Scheme (the Scheme) was set up in 1989 under which indemnity was provided by the Solicitors Indemnity Fund. Pursuant to Rules 3(1) of the Rules, the Law Society is authorized to establish and maintain the Fund.

In general terms, the purpose of the Scheme is to provide indemnity against loss arising from claims in respect of the civil liability incurred by a solicitor in connection with his practice.

- (b) The Fund is administered in accordance with the Rules by the Hong Kong Solicitors Indemnity Fund Limited, a company established by the Law Society for this purpose. It is not an insurer in itself.

As far as the Administration is aware, the matters set out in the background of this question are likely to be decided in an ongoing court case to be heard later this month. In the light of the impending court hearing, it is not appropriate for the Administration to comment further.

### **Recycling of Glass Waste**

15. **MR CHAN KIN-POR** (in Chinese): *President, information from the Environmental Protection Department (EPD) indicates that the glass waste discarded of at landfills in Hong Kong exceeded 130 000 tonnes in 2007, and the amount is on the rise. Some environmental groups have pointed out that the authorities do not support the glass container recycling programmes initiated by the community, as they think that recycled glass is of limited use and low value. At present, the recovery rate of glass containers is extremely low. The majority of glass containers discarded by the public had to be disposed of by landfilling, taking up much of the dwindling landfill space. In this connection, will the Government inform this Council whether:*

- (a) the Government has plans to formulate a glass waste recycling policy; if it has not, of the reasons;*
- (b) the Government will consider implementing policies (for example, producer responsibility scheme (PRS) on glass containers) to reduce the use of glass containers;*
- (c) the Government will promote the use of eco-blocks made from glass containers and construction waste in order to increase the recovery of glass containers; and*

- (d) *the authorities have assessed the effectiveness of the glass container recycling programme for the hotel sector, which has been implemented for almost one year; if they have, of the results; and whether they will further promote the programme?*

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

- (a) The Government has been encouraging different sectors to participate in waste separation and recovery in order to reduce waste and to promote resources recovery. In December 2005, the Administration published "A Policy Framework for the Management of Municipal Solid Waste (2005-2014)" (Policy Framework) which sets out the waste management strategy for the next 10 years, encompassing initiatives on waste avoidance and reduction at source, waste recovery and recycling, and bulk reduction of waste. Implementing PRSs through legislative means is one of the initiatives to encourage manufacturers, importers, wholesalers, retailers and consumers to share the eco-responsibility of reducing, recovering and recycling certain products so as to minimize the environmental impact. With the implementation of the Environmental Levy on Plastic Shopping Bags in mid-2009, the Administration is preparing for another PRS focusing on waste electrical and electronic equipment. The scheme is scheduled for public consultation by the end of this year. Following this, the Administration will study the introduction of PRS for other products including beverage containers;
- (b) Apart from implementing and promoting waste reduction, the EPD collaborated with the Hong Kong Hotels Association (HKHA) to launch a voluntary Glass Container Recycling Programme for the Hotel Sector in November last year to promote the recycling of waste glass. Eleven hotels participated in the first year of the programme. The operating costs are shared among the participating hotels while the HKHA undertakes the administrative management and the EPD provides technical support to the programme;
- (c) To develop local recycling outlets for waste glass, the EPD funded a trial by The Hong Kong Polytechnic University to crush waste glass

containers into particles to substitute natural river sand for the production of paving blocks. On this basis, a local paving block manufacturing facility is accepting some of the waste glass generated in Hong Kong for recycling. The products have been used in suitable public works projects under a number of government departments (including the Housing Department, the EPD and the Highways Department), as well as in the works projects by major tertiary education institutes. The relevant Departments will keep in view the performance of these paving blocks. Subject to satisfactory performance, and reasonable supply and price level, the relevant works departments would consider wider use of these paving blocks in other public works projects; and

- (d) In the first six months of the Glass Container Recycling Programme for the Hotel Sector, about 210 tonnes of glass containers were recovered for delivery to a local recycler and were crushed into glass sand for the production of paving blocks. The EPD is liaising with the HKHA and the participating hotels on the programme arrangement for the coming year. We have also invited participation from other hotels. Apart from the hotels that participate in the above programme, some other hotels and large catering service providers have also launched recovery programme on glass containers individually. The EPD will further explore the feasibility to extend the recovery of glass containers to more hotels and other sectors.

### **Taxation in Relation to Leasing Arrangements**

16. **DR LAM TAI-FAI** (in Chinese): *President, the Inland Revenue (Amendment) Ordinance 1986 added section 39E to the Inland Revenue Ordinance (Cap. 112). The provision aims to limit the opportunities for tax deferral or avoidance through sale and leaseback and leveraged leasing arrangements. In making such relevant arrangements, an owner of machinery or plants will be denied initial allowances and annual allowances (depreciation allowances) in respect of the capital expenditure incurred on the provision of such machinery or plants. When the provision was scrutinized and passed by the former Legislative Council in 1986, the Government had stated that the provision was intended to strike down such acts of tax avoidance, and specifically*

*stated that the provision only targeted at the two leasing arrangements of sale and leaseback and leveraged leasing. At the same time, it assured that general leasing transactions and normal commercial transactions would not be affected. Upon passage of the Bill, the Commissioner of Inland Revenue issued the Departmental Interpretation and Practice Notes No. 15, which stated clearly that the Notes only apply to the two leasing arrangements of sale and leaseback and leveraged leasing. In this connection, will the Government inform this Council:*

- (a) given that members of the trade are of the view that the original Notes No. 15 already reflected clearly the legislative intent of section 39E, and no problem has arisen from the enforcement of the relevant legislation, yet the Government amended in January 2006 the Notes relating to the enforcement of the Ordinance, of the reasons for that;*
- (b) given that the Government had assured the former Legislative Council in 1986 that the departmental guidelines issued by the Commissioner of Inland Revenue in respect of section 39E would reflect the literal meaning and the legislative spirit of the legislation, whether the assurance was fulfilled when the Government amended the Notes concerned in 2006; if it was, how the new Notes reflect the legislative spirit of the legislation; if not, of the reasons for that;*
- (c) given that the legislative intent of the above provision is to strike down acts of tax avoidance, and it has been especially stated that the provision only targets at the two leasing arrangements of sale and leaseback and leveraged leasing, why Hong Kong enterprises are denied depreciation allowances, even if they have not committed or intended to commit the above acts of tax avoidance, and have absolutely not involved in the above two leasing arrangements, but have merely made the machinery and plants available for use by factories or their outsourced manufacturers on the Mainland in accordance with general commercial arrangements (for example, import processing arrangement), so as to manufacture commodities for sale by Hong Kong enterprises, and the profits of these Hong Kong enterprises are all subject to taxes in Hong Kong;*
- (d) given that the Government had assured the former Legislative Council in 1986 that general leasing transactions and normal commercial transactions would not be affected by the provision, whether the relevant assurance is still valid today; if so, how it*

*ensures that the assurance is complied with; if not, of the reasons for that;*

- (e) whether it has assessed the actual impact of implementing the new Notes on normal economic activities; if it has, of the details; if not, the reasons for that;*
- (f) whether, in implementing the new Notes, it has taken into consideration the situation of the northern migration of industries and regional economic integration in the Pearl River Delta at present; if it has, of the details; if not, the reasons for that;*
- (g) whether it has taken into consideration that the new Notes have rendered Hong Kong enterprises unable to tie with the Mainland policy of requiring enterprises to upgrade and restructure, and have dealt a severe blow to the productivity and competitiveness of the manufacturing industry; if it has, of the details; if not, the reasons for that; and*
- (h) whether it has plans to review the above Notes and related legislation; if it has, of the details; if not, the reasons for that?*

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

(a) to (e)

Section 39E of the Inland Revenue Ordinance was enacted in 1986 and amended in 1992 to become the current version. The legislation aims at limiting tax avoidance opportunities in various forms of machinery or plant leasing arrangements. As many of such tax avoidance arrangements involve machinery or plant owned by a Hong Kong enterprise being used by an enterprise outside Hong Kong for a long period of time, section 39E stipulates that the Hong Kong enterprise will not be granted depreciation allowances for the relevant machinery or plant under such circumstances.

Section 39E is not intended to have any impact on normal commercial leasing transactions. As we explained to the

Legislative Council when we proposed the amendment to section 39E in 1992, if a Hong Kong enterprise leases its machinery or plant to another enterprise outside Hong Kong through a normal leasing arrangement, although the Hong Kong enterprise will no longer be granted depreciation allowance for the relevant machinery or plant, its rental income derived from outside of Hong Kong will not be subject to Hong Kong tax. Therefore, section 39E should not have impact on such transactions.

The Inland Revenue Department issues and updates departmental interpretation and practice notes from time to time for the implementation of various provisions of the Inland Revenue Ordinance (including section 39E). The notes provide detailed explanations and realistic examples so as to facilitate taxpayers' understanding of and compliance with the relevant provisions. However, the notes have no legal binding force and cannot change the legislative intent of any provision.

(f) to (h)

We have noticed the restructuring of Hong Kong enterprises in the Pearl River Delta in recent years. We understand that under the import processing arrangement they may make their machinery or plant (mainly moulds) available for use by Mainland enterprises free of charge. In such circumstances, they would neither receive any rental income nor enjoy the relevant depreciation allowances because of section 39E.

We appreciate that the industry would like to continue to enjoy the deduction of depreciation allowances in Hong Kong under the abovementioned circumstances. However, we consider that it is a rather complicated matter involving various issues, including whether the machinery or plant used in Mainland China is producing profits chargeable to tax in Hong Kong; whether it is used for the manufacturing of goods sold solely to the Hong Kong enterprise; whether the machinery or plant has been sold; whether depreciation allowances of the same machinery or plant have been claimed by other enterprises, and so on. There are practical difficulties in relaxing the relevant restriction.

**Costs of Work Injuries Imposed on Public Health Care Services**

17. **DR LEUNG KA-LAU** (in Chinese): *President, in reply to the question I raised at the meeting of this Council on 22 April 2009, the Government indicated that the total costs of services provided by the Hospital Authority (HA) for work-related injuries in 2007-2008 were \$216 million, but the opportunity cost for the HA's doctors serving as members of Employees' Compensation Assessment Boards (the Boards) was not shown. In this connection, will the Government inform this Council:*

- (a) *of the opportunity cost for the HA's doctors to serve as members of the above boards in each of the past five years;*
- (b) *whether it has plans to have the above two types of costs of services borne by employees' compensation insurance which employers take out for employees; and*
- (c) *as Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) and Employees' Compensation Ordinance (Cap. 282) stipulate that regarding the medical expenses for employees who are injured in accidents arising out of their employment or suffering from occupational diseases, the ceiling of payments which employers have to make is \$280 per day, and very often this amount is not enough to cover the expenses incurred for treating those employees (for example, the cost of the main medication which is used for treating mesothelioma and has to be paid by the patients themselves is \$10,000 per injection), whether the Government has plans to raise the ceiling so that those employees will turn to private health care institutions for treatment and rehabilitation services, thus alleviating the burden on public health care services?*

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

- (a) The arrangement to assign its doctors to serve as members of the Boards has been in place in public hospitals before the HA was established. The HA has all along followed this arrangement since its establishment. However, as mentioned in our reply on 22 April 2009, the HA does not have the complete statistics on the treatment for work-related injuries, nor the breakdown on the time and service costs involved for its doctors serving as members of the Boards. In

addition, the HA has no mechanism to charge the Labour Department any service fee for assigning its doctors to participate in the work of the Boards.

- (b) At present, the HA provides a series of public health care services for eligible persons, including treatment for work-related injuries, and charges patients the prescribed fee. The services provided by the HA to the eligible persons are heavily subsidized by the Government and therefore the fee charged does not reflect the costs of the service. Under the existing mechanism, the HA has not imposed a specific fee for treatment of work-related injuries and is not empowered to charge any fee from a third party (including any insurance company which provides coverage for payment of patient's medical expenses). We have no plan to change the existing arrangement.
- (c) The maximum amounts of reimbursement for medical expenses provided for employees who have sustained occupational diseases or injuries at work under the Employees' Compensation Ordinance and the Pneumoconiosis and Mesothelioma Compensation Ordinance are set by reference to the fees and charges for public health care services. As a basic principle, the amounts cover the costs for the employees in receiving specialist out-patient service or accident and emergency service and hospitalization at public hospitals or clinics. Under the existing mechanism, the Administration reviews and revises the reimbursable ceilings for medical expenses in accordance with changes in the standard fees and charges of public hospitals and clinics. Employees who have sustained occupational diseases and work injuries are eligible for reimbursement of medical expenses under the ordinances, regardless of whether they receive treatments at medical institutions in the public or private sector.

### **Provision of Audiological Services**

18. **DR JOSEPH LEE** (in Chinese): *President, audiologists specialize in providing examination, treatment and rehabilitation services to patients suffering from hearing impairment or vertigo. However, there is hearsay that some institutions allow other allied health staff or even people who are not medical professionals to provide such services, thus directly affecting the quality of the services. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have issued any guidelines or criteria for determining what services must be provided by audiologists only;*
- (b) *whether the authorities have received any complaint in the past five years about people impersonating audiologists to provide audiological services; if they have, of the details;*
- (c) *whether the authorities have put in place any system to monitor audiological services; if they have, of the details; if not, the reasons for that;*
- (d) *how many audiologists had provided the services concerned in Hong Kong in the past five years; whether the authorities have assessed the manpower supply of audiologists in Hong Kong in the next five years; if they have, of the situation; if not, the reasons for that; and*
- (e) *whether the Government has considered widening the scope of application of elderly health care vouchers to cover audiological services (for example, hearing tests); if it has, of the details and timetable; if not, the reasons for that?*

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

- (a) Currently, the audiologists of the Hospital Authority (HA) and the Department of Health (DH) are mainly responsible for performing audiological assessment for patients; diagnosing the degree and type of impairment; offering professional advice and guidance on the selection of hearing aids and other appropriate remedial and rehabilitative measures; providing appropriate counselling and advice to patients and their family members; and assisting in the development of clinical audiological services to meet the prevailing needs, for example, by introducing new techniques, procedures and equipment. The Sub-committee for Audiology under the HA's Co-ordinating Committee in Otorhinolaryngology is responsible for monitoring the quality of the HA's audiological services, and the DH also carries out internal assessment of the performance of its audiologists on a regular basis. In addition, the DH and the HA also provide audiological assessment services to secondary schools, primary schools and pre-school children. Children diagnosed with continued hearing impairment will be referred to the Education

Bureau for follow-up services. The Education Bureau's audiological services mainly include follow-up audiological assessment, hearing aid prescription and fitting services for hearing-impaired school children, and advisory services for schools and parents. At present, the Government has not issued any guidelines or criteria for determining what services must be provided by audiologists only.

- (b) No complaints have been received by the DH, HA and Education Bureau in the past five years about people impersonating audiologists to provide audiological services.
- (c) At present, 12 types of health care practitioners, namely, medical practitioners, dentists, Chinese medicine practitioners, midwives, nurses, pharmacists, medical laboratory technologists, occupational therapists, optometrists, radiographers, physiotherapists and chiropractors, are required to have their professional qualifications registered under the law before they can practise in Hong Kong. Health care personnel providing audiological services are currently not included in the above list. In considering whether it is necessary to introduce legislation for regulation of a certain profession, the Government will first have regard to the possible risk caused to the general public in the event of any misconduct in that profession including failure to meet the professional standard required. Priority will be given to professions with a larger number of members who mainly work in the private sector as well as health care institutions which have more direct contact with patients. We also plan to review the structure, composition and operation, and so on, of the Supplementary Medical Professions Council (SMPC). By then, we will also consider whether to include more supplementary medical professions under the supervision of the SMPC.
- (d) According to the 2005 Health Manpower Survey, a total of 59 audiologists<sup>(1)</sup> were employed by various institutions<sup>(2)</sup>. As to the

Notes:

<sup>(1)</sup> This figure denotes the number of audiologists (on full-time and part-time employment) as reported by institutions employing these audiologists in their returns as at 31 March 2005. Audiologists refer to people with a master degree in audiology or equivalent qualifications.

<sup>(2)</sup> The 2005 Health Manpower Survey covered 8 526 institutions including the HA.

HA, DH and Education Bureau, they are currently employing 18, five and two audiologists for provision of audiology-related services. Regarding manpower supply, it is expected that there will be eight graduates of Master of Science in Audiology from universities in Hong Kong in the next two years.

- (e) The Elderly Health Care Voucher Pilot Scheme was launched on 1 January 2009 for a period of three years to provide partial subsidy for the elderly to use private primary care services. As this is a pilot scheme, it starts with a smaller scale and audiological services are currently not included. The Government will conduct a comprehensive review upon the completion of the Pilot Scheme.

### **Preservation and Promotion of Cantonese Opera**

19. **MISS TANYA CHAN** (in Chinese): *President, the United Nations Educational, Scientific and Cultural Organization (UNESCO) has inscribed Cantonese opera onto the Representative List of the Intangible Cultural Heritage of Humanity (world intangible cultural heritages), and the Guangdong Provincial Government and the Macao Special Administrative Region Government have put forward different policies on the conservation and preservation of Cantonese opera. Regarding the development and preservation of Cantonese opera in Hong Kong, will the Government inform this Council:*

- (a) *given that UNESCO requires that the governments concerned must put forward specific supporting policies for the conservation and preservation of items designated as world intangible cultural heritages, whether the Hong Kong Special Administrative Region (HKSAR) Government has formulated specific policy proposals and plans for the preservation, conservation and development of Cantonese opera in accordance with such a requirement; if it has, of the details; if not, when the Government will formulate and introduce the relevant measures;*
- (b) *apart from the Yau Ma Tei Xiqu Activity Centre, the Ko Shan Theatre in Hunghom which is being extended, and the Xiqu Centre in the West Kowloon Cultural District, whether the Government has plans to set up a dedicated permanent venue on Hong Kong Island*

*for Cantonese opera performances; if it has, of the details; if not, the reasons for that;*

- (c) given that the relevant authorities on the Mainland have enacted specific legislation on the conservation of local traditional operas, whether the Government will follow the practices of the Mainland to conserve Cantonese opera or other traditional operas; if it will, of the details; if not, the reasons for that;*
- (d) of the details of the latest co-operation programme drawn up by the HKSAR Government, the Guangdong Provincial Government and the Macao Special Administrative Region Government for the conservation and preservation of Cantonese opera;*
- (e) whether the Government has conducted a review of the existing financial sponsorship mechanism for the development of Cantonese opera and increased the amount of such support as needed; if it has, of the details of the review and the outcome; if not, whether the Government will conduct the review shortly; if it will not, of the reasons for that; and*
- (f) whether the Government has specific new plans at present to promote Cantonese opera and provide relevant training in schools to enable more young people to have exposure to and get to know Cantonese opera; if it has, of the details; if not, the reasons for that?*

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

- (a) The Government is dedicated to the preservation, promotion and development of Cantonese opera and has set the following policy objectives to provide continued support to the preservation and development of Cantonese opera:
  - (i) To develop performance venues for Cantonese opera;
  - (ii) To nurture Cantonese opera professionals, preserve the tradition and promote creative works;

- (iii) To promote Cantonese opera education, audience building and community participation;
- (iv) To foster co-operation among Guangdong, Hong Kong and Macao, and promote cultural exchange;
- (v) To preserve the essence of Cantonese opera and showcase treasures of our cultural heritage; and
- (vi) To promote Cantonese opera as a major tourist attraction.

The Home Affairs Bureau set up the Cantonese Opera Advisory Committee (COAC) in May 2004 to advise the Government on policies and issues in relation to the promotion, preservation, study and development of Cantonese opera. While conceiving different projects to meet the specific needs in the development of Cantonese opera, the COAC focuses on the development of performance venues and preservation and promotion of Cantonese opera. To tie in with the work of the COAC, the Home Affairs Bureau established the Cantonese Opera Development Fund (CODF) in November 2005 to raise donations to provide funding support to programmes and activities on the study, promotion and sustainable development of Cantonese opera.

Furthermore, the Leisure and Cultural Services Department (LCSD) established the Programme and Development Committee (PDC) in January 2007. The PDC is supported by six Art Form Panels (AFP), including the Chinese Traditional Performing Arts Panel which covers, *inter alia*, Cantonese opera and other Chinese Xiqu. The PDC and AFPs are tasked to advise the LCSD on the strategies of performing arts programmes (including local, Mainland and overseas) and to formulate structured and sustainable strategies to identify and support the development of budding and small-scale performing arts groups. The LCSD has placed much emphasis on preserving the tradition, promoting creative works and nurturing budding artists in organizing Cantonese opera programmes. It has plans to rearrange and rewrite traditional Paichang plays. In addition to inviting local experienced masters and budding artists to join hands in excerpt performances of Paichang with traditional singing styles, it also considers inviting master artists of ancient Paichang plays from Guangdong to teach in Hong Kong to further

promote Cantonese opera as an art form through performances and exchange platforms.

- (b) In the planning for the provision of performance venues for Cantonese opera serving the Hong Kong community, the Government has to consider from a broad perspective of the overall development needs of Cantonese opera and prudently take into consideration factors such as the availability and rate of utilization of existing facilities as the provision and operation of performance venues involve heavy capital investment and long-term commitment of resources.

At present, various performance venues of the LCSD in Hong Kong are available for hire by Cantonese opera troupes. The Cantonese opera sector has also taken part in the "Venue Partnership Scheme" of the LCSD and enjoys priority in staging performances at two venues of the LCSD (the Sha Tin Town Hall and the Tuen Mun Town Hall). We also keep on improving the priority venue hiring policy for Cantonese opera performances of the LCSD, which includes making the Ko Shan Theatre as the major performance venue for Cantonese opera and reserving time slots for staging performances by local professional troupes at several major venues (including the City Hall, the Hong Kong Cultural Centre, the Kwai Tsing Theatre, the Sha Tin Town Hall and the Tsuen Wan Town Hall). In the coming few years, we will build performance venues of different scales for Cantonese opera at different districts, including the conversion of the Yau Ma Tei Theatre and the Red Brick Building into a Xiqu Activity Centre (with a theatre of about 300 seats), the construction of an Annex Building for the Ko Shan Theatre (with a theatre of about 600 seats) and the construction of a Xiqu Centre in the West Kowloon Cultural District (with two theatres of 1 200 to 1 400 seats and 400 seats respectively). A total of four new performance venues will be available by then.

- (c) As mentioned in part (a), we have formulated a set of concrete and comprehensive policy and measures to preserve, promote and develop Cantonese opera. We will continue to listen to the views of the COAC and the Cantonese opera sector and make reference to the practices of the Mainland and other regions to consider how to provide suitable legal protection.

- (d) The First Greater Pearl River Delta Cultural Cooperation Meeting was held in Hong Kong in November 2002. One of the deliverables of the meeting was that Guangdong, Hong Kong and Macao had agreed to enhance co-operation in respect of Cantonese opera. A working group on the promotion of Cantonese opera among the three places was subsequently set up to take forward different projects. So far the major co-operation projects have included the Cantonese Opera Day, the proposed inscription of Cantonese opera on the Representative List of the Intangible Cultural Heritage of Humanity, the compilation of the Dictionary of Cantonese Opera and the Information Compendium on Cantonese Operatic Antiquities as well as co-operation performances.

Except for the proposed inscription of Cantonese opera on the Representative List of the Intangible Cultural Heritage of Humanity, details of the co-operation programmes are as follows:

(i) *Cantonese Opera Day*

Starting from 2003, the last Sunday of November has been designated by Guangdong, Hong Kong and Macao as Cantonese Opera Day to promote Cantonese opera. At the Tenth Greater Pearl River Delta Cultural Cooperation Meeting in February 2009, Guangdong, Hong Kong and Macao also confirmed to continue to enrich the contents of activities of Cantonese Opera Day and enhance the promotion of Cantonese opera among children and young people in the three places.

(ii) *Cantonese Opera Performance Co-operation Projects*

Guangdong, Hong Kong and Macao will continue to explore performance tours and exchanges. In the 10th Anniversary of Hong Kong's Reunification with China in 2007, famous artists from Guangdong, Hong Kong and Macao staged two co-operation performances in Cantonese opera excerpts entitled "A Showcase of Guangdong, Hong Kong and Macao Cantonese Opera Masters" in Hong Kong. On 30 and 31 October 2009, a group of over 20 famous artists from the three places will stage two performances in the "Cantonese Operatic Songs Gala Concert by Cantonese Opera Masters

from Guangdong, Hong Kong and Macao in Celebration of the 60th Anniversary of the Founding of the People's Republic of China" in the Hong Kong Coliseum.

(iii) *Dictionary of Cantonese Opera and Information Compendium on Cantonese Operatic Antiquities*

In a course of five years and with the direction of the Guangdong authorities, the Dictionary of Cantonese Opera was printed and published in November 2008. A team will be formed by experts from Guangdong, Hong Kong and Macao for further improvements and amendments to the Dictionary. As for the collection and collation work for the Information Compendium on Cantonese Operatic Antiquities, museums in the three places are embarking on electronization of information of their own collections. The ultimate goal is to achieve resources sharing on the Internet.

- (e) The Government has supported the development of Cantonese opera through different forms and channels. These include support by the LCSD to about 500 Cantonese opera and operatic singing performances each year; funding of Cantonese opera performance, education, promotion and other development projects by the CODF and the Hong Kong Arts Development Council (HKADC); and subsidy by the Home Affairs Bureau for Cantonese opera programmes organized by the Hong Kong Academy for Performing Arts (HKAPA). The Government estimates that in 2009-2010, around \$33 million will be deployed for the promotion and development of Cantonese opera.

The CODF has granted about \$20.3 million to support some 260 Cantonese opera projects since its establishment, about \$3 million of which has been granted for the implementation of a three-year grant scheme for the Hong Kong Cantonese Opera Troupe for New Talents. Furthermore, the CODF has supported various Cantonese opera performance projects by budding artists or jointly presented by experienced artists and budding artists, as well as other promotional performance projects, children or youth cultural exchange and arts education programmes, and professional training and community promotional projects. Subsidies are also made available to venue development projects, research and archival projects to provide

comprehensive support for the development of Cantonese opera. In future, the CODF will look for more donations or injections to support the development of local Cantonese opera.

- (f) The LCSD, the CODF and the HKADC organize or subsidize thematic and large-scale arts education, community promotion and audience development projects, such as the Xiqu Education in Schools Scheme, the Community Cultural Ambassador Scheme, the District Cantonese Opera Parade, the School Culture Day Scheme, visits to and performances at secondary and primary schools, the Cantonese Opera Promotion Scheme for Tertiary Institutions, the Guangdong — Hong Kong Youth Cultural Exchange Programme and youth training workshops. Pilot educational research projects are also supported to provide reference cases to schools. An example is the Research Project on Interactive Learning through School Visits by Cantonese Opera Master Artists.

To further promote Cantonese opera in the community, the LCSD joined hands with district organizations for the first time between March and April 2009 in organizing the Appreciate Cantonese Opera at Bamboo Theatre at bamboo theatres in three different districts for the public. The programme, which included Cantonese opera performances for students and interactive learning sessions, attracted more than 8 000 participants. In view of the satisfactory results, the LCSD will continue to organize such programme in future. The Arts Experience Scheme for Senior Secondary Students and the School Arts Animator Scheme launched in the 2009-2010 academic year by the LCSD will provide Cantonese opera programmes and training for students.

Concerning the promotion of and training in Cantonese opera in schools:

- (i) The Music Curriculum Guide (Primary One to Secondary Three) published by the Education Bureau in 2003 has recommended that teachers should develop students' music skills, aesthetics, creativity and imagination, and knowledge of and respect for traditional Chinese culture through the introduction of different types of music including Cantonese opera. In the New Senior Secondary School Curriculum implemented in 2009, Cantonese opera is included in the core

and elective modules of the music curriculum. Students can also study Cantonese opera and Cantonese operatic songs by taking certain elective modules under the Chinese Language and the Chinese Literature curricula. The learning experiences of "Aesthetic Development" under the New Senior Secondary School Curriculum will also help provide senior secondary students with opportunities to get to know and learn Cantonese opera and other Chinese Xiqu.

- (ii) In order to enable teachers to acquire the knowledge and the learning and teaching skills of Cantonese opera, the Education Bureau has kept organizing various workshops and seminars on the learning and teaching of Cantonese opera for primary and secondary teachers as well as producing relevant teaching materials for their reference and use. Since 1999, the Education Bureau and the Hong Kong Schools Music and Speech Association have jointly organized Schools Cantonese Operatic Singing Competitions as well as workshops for teachers. Starting from the 60th Hong Kong Schools Music Festival in 2008, Cantonese Operatic Songs singing has been listed as a regular competition item in the Schools Music Festival each year.
- (iii) In 2007, the CODF subsidized The Hong Kong Institute of Education (HKIED) and four primary and secondary schools to carry out the "Teaching Cantonese Opera in Schools: A Pilot Project". This year, the Quality Education Fund has supported the HKIED to conduct a three-year Partnership Project on Teaching and Learning of Cantonese Opera in Primary and Secondary Schools which is the second phase of the pilot project with a view to enhancing teachers' experience and confidence in teaching Cantonese opera. Moreover, many Cantonese opera troupes have organized training courses in schools to help promote the development of Cantonese opera.
- (iv) In the tertiary education sector, courses on Cantonese opera or Xiqu are offered by the University of Hong Kong, The Chinese University of Hong Kong, the Hong Kong Baptist University, the HKIED and the HKAPA.

### **Further Education Opportunities for Students in Transition to New Senior Secondary Academic Structure**

20. **MR CHEUNG MAN-KWONG** (in Chinese): *President, in the past, those Secondary 5 (S5) graduates who were not allocated Secondary 6 (S6) places had the opportunity of repeating S5, as well as retaking in the following year the Hong Kong Certificate of Education Examination (HKCEE) and applying for S6 places. As the last HKCEE will be held in 2010, candidates with unsatisfactory results may only retake as private candidates the 2011 HKCEE, which will be specially organized for them. In this connection, will the Government inform this Council:*

- (a) of the number of repeaters in HKCEE in each of the past five years and, among them, the number and percentage of those who obtained S6 places;*
- (b) in respect of S5 graduates in the current year who fail to obtain S6 places for the 2010-2011 academic school,*
  - (i) what further education pathways will be available to them, and how these pathways differ from those of the past;*
  - (ii) whether they will have the opportunity of repeating S5 in government and aided secondary schools and taking the 2011 HKCEE as school candidates; if so, of the details; if not, the reasons for their being deprived of this choice and right;*
  - (iii) whether they will have the opportunity of repeating S5 in private day schools or evening schools and taking the 2011 HKCEE as private candidates; if so, of the details; if not, the reasons for that;*
  - (iv) whether they can choose to switch to Secondary 4 under the New Senior Secondary (NSS) Academic Structure; if they can, how the authorities ensure that sufficient places are available in schools to accommodate these students; and*
  - (v) whether they can choose to switch to S5 under the NSS academic structure; if they can, how the authorities ensure*

*that sufficient places are available in schools to accommodate these students and appropriate subjects are offered to them; and*

- (c) *given that S6 places under the current academic structure will no longer be provided in 2011, what further education pathways will be available then to those candidates scoring 14 points or more in HKCEE to facilitate their articulation to local universities; how the authorities assess and appropriately address these candidates' demand for studying in government and aided secondary schools?*

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

- (a) The number (and percentage) of repeaters in HKCEE who obtained S6 places in the past five years is as follows:

<i>Year of HKCEE</i>	<i>Number of day school repeaters*</i>	<i>Number (and percentage) of day school repeaters who obtained aided S6 places<sup>#</sup></i>
2004	7 951	5 049 (63.5%)
2005	6 433	3 667 (57.0%)
2006	5 925	3 666 (61.9%)
2007	4 141	2 558 (61.8%)
2008	5 638	3 413 (60.5%)

Notes:

\* The number reflects the situation in the local public sector and Direct Subsidy Scheme (DSS) schools in mid-September of that school year.

<sup>#</sup> The number reflects the number of students who obtained S6 places in the public sector and DSS schools in that year.

- (b) (i) For those students who fail to obtain S6 places after taking the 2010 HKCEE, they still enjoy the choice of multiple pathways as in the past. Depending on their interests and abilities and subject to the respective entrance requirements, they may consider different education pathways, such as sub-degree programmes (including Pre-Associate Degree, diploma, and so on), vocational education and training courses, Project Yi Jin,

Youth Pre-employment Training Programme, Youth Work Experience and Training Scheme or studying overseas.

- (ii) There will no longer be any S6 admission exercise in 2011. In order to avoid giving false expectations to the students, Education Bureau will not offer any HKCEE S5 repeating classes in government, aided and DSS schools. Students may only take the 2011 HKCEE as private candidates.
- (iii) Subject to the demand of the market, private day schools or evening schools may offer classes to prepare S5 repeaters for retaking the 2011 HKCEE as private candidates.
- (iv) In principle, government, aided, DSS and private secondary schools with S4 vacancies may admit repeaters who wish to switch to study the NSS curriculum in S4. However, students are strongly encouraged to study S5 under the NSS curriculum instead of spending one more year studying S4 because there is sufficient curriculum continuity between the HKCEE and the NSS curriculum. Students should not have much difficulty in picking up the NSS courses.
- (v) In the 2010-2011 school year, government and aided secondary schools may admit students who switch to study in S5 under the NSS academic structure provided that there are vacancies in the S5 classes. We will allow flexibility for the 5% repeater quota requirement so that the school could offer more places to meet the demand of S5 students who wish to switch to the NSS curriculum. Education Bureau has also taken note of the issue of 2010 S5 transfer students. We are now estimating the number of students involved and working closely with schools on possible solutions to assist those students who wish to continue their studies in local schools. As regard the matching of subjects, current S5 students taking HKCEE normally study four to five elective subjects in addition to Chinese, English and Mathematics. If they switch to the NSS curriculum, they are required to choose only two to three elective subjects. They have therefore a great chance of studying the same elective subjects that they took

for the HKCEE. As there is sufficient curriculum continuity between the HKCEE and the NSS curriculum, students should not have much difficulty in adapting to the NSS curriculum.

- (c) Since there would be no S6 places of the existing system from the 2011-2012 school year, repeaters taking 2011 HKCEE may choose to apply for local sub-degree programmes (including Pre-Associate Degree, diploma, and so on) in accordance with their abilities and interests. The relevant course providers will continue to recognize students' results in 2011 HKCEE. Upon completion of the sub-degree programmes, the graduates may apply for admission to top-up degree programmes if they meet the requirements of relevant institutions. Education Bureau will continue to liaise with the organizations that offer sub-degree programmes or vocational education and training programmes to cope with the future demand. If students wish to continue their studies at the secondary level, they may also consider switching to the NSS curriculum at S5 level in the 2010-2011 school year.

## **BILLS**

### **First Reading of Bills**

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

### **TELECOMMUNICATIONS (AMENDMENT) BILL 2009**

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

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

### **Second Reading of Bills**

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

**TELECOMMUNICATIONS (AMENDMENT) BILL 2009**

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I move that the Telecommunications (Amendment) Bill 2009 (the Bill) be read the Second time.

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

Some time ago, the Legislative Council conducted a motion debate, proposing the Government to introduce a legislative amendment on prescribing the licensing criteria for the grant of sound broadcasting licences in the Ordinance, so as to perfect the licensing regime and enhance its transparency. This is precisely the object of the Bill.

The Ordinance provides that the Chief Executive in Council shall be the authority of granting sound broadcasting licences. Under the Ordinance, after considering recommendations made by the BA, the Chief Executive in Council may grant a licence for the maintenance and operation of sound broadcasting services.

On 7 July this year, the Chief Executive in Council promulgated a set of licensing criteria for the grant of sound broadcasting licences. This set of licensing criteria is based on the local experience in considering broadcasting licence applications as well as overseas best practices.

When considering a licence application, the licensing authority shall, as a prerequisite, ascertain whether any suitable frequency spectrum is available. Other factors to be considered include the financial soundness, managerial and technical expertise as well as programming ability of the applicant, and also benefits to the local broadcasting industry, the audience and the community as a whole. The licensing authority shall also consider whether the applicant is a fit and proper person under the Ordinance. Over all the years, we have been

adopting these criteria in considering applications for operating sound broadcasting services. Such criteria are also adopted for the grant of television licences under the Broadcasting Ordinance.

President, the proposed legislative amendments to the Ordinance are in line with public expectations. The licensing criteria prescribed in the legislation are also compatible with the views put forward by Honourable Members during their past discussions in the Legislative Council. I therefore hope that Members can support and pass the Bill.

President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Telecommunications (Amendment) Bill 2009 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

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

**PRESIDENT** (in Cantonese): The next item to be dealt with is the resumption of Second Reading debate on the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009. Since the Secretary in charge of this Bill is not in the Chamber, I will suspend the meeting.

1.15 pm

Meeting suspended.

1.22 pm

Council then resumed.

**VILLAGE REPRESENTATIVE ELECTION LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 2009**

**Resumption of debate on Second Reading which was moved on 27 May 2009**

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

**MR IP KWOK-HIM** (in Cantonese): President, in my capacity as Chairman of the Bills Committee on the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 (the Bills Committee), I now report on the deliberations of the Bills Committee.

The Administration proposed that amendments be made to the Village Representative Election Ordinance (VREO) to include two villages, namely, Lai Pek Shan in Tai Po and Yuen Long Kau Hui in Yuen Long as Existing Villages and Indigenous Villages in both Schedules 1 and 2 to the VREO, so that these two villages can be included in the next village ordinary election in 2011.

Members noted from the Administration that Lai Pek Shan should have been in existence in 1898 and a village representation system should have been established in the village in 1999, that is, it satisfies the two principles for inclusion in the relevant Schedules to the VREO. Members are supportive of the proposed inclusion of Lai Pek Shan in the Schedules to the VREO.

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

As for the proposal on Yuen Long Kau Hui, the Administration explained that since the commencement of the VREO in 2003, residents of Yuen Long Kau Hui had made repeated requests to the Administration to include Yuen Long Kau Hui in the Schedules to the VREO. However, the residents concerned had failed to prove that they had any form of village representation system in 1999. In late 2008, Yuen Long Kau Hui residents raised the request with some Legislative Council Members and the case was discussed at a meeting of the Legislative Council Panel on Home Affairs in January 2009. At the meeting, some

residents of Yuen Long Kau Hui produced fresh evidence to prove that they had a village representative during the Japanese Occupation. Having considered the evidence and the views of the Home Affairs Panel, the Administration formed the view that Yuen Long Kau Hui has a persuasive case unique to its own circumstances and should be included in the Schedules to the VREO. The Administration has further advised that if the Bill is enacted, Yuen Long Kau Hui will be able to elect its village representative as proposed under the Bill. Section 61 under Part 8 of the VREO prescribes that a village representative, as an individual, is automatically a member of the Rural Committee in the area in which the village is situated.

Members in general support the proposed inclusion of Yuen Long Kau Hui in the Schedules to the VREO, but emphasize that the Administration should be consistent in its stance, so that other villages currently not listed in the Schedules but are able to prove in future that they had a village representation system established before 1999 can be eligible for inclusion in the Schedules.

Regarding the Administration's proposal for the extension of time limit for lodging and handling claims, objections and reviews in relation to voter registration, Members note that the proposal would provide a more reasonable timeframe for the parties concerned to deal with those cases, and have no strong views on the proposal. However, Members are concerned about whether or not manpower resources will be strengthened to relieve the heavy workload of the Revising Officers in handling such cases. In response, the Administration has advised that it has consulted the Judiciary before introducing the Bill and will continue to liaise with the Judiciary to ensure that the manpower resources of Revising Officers will be sufficient to cope with the workload arising from the claims, objections and reviews.

As for the Administration's proposal to increase the maximum term of imprisonment penalty from three months to six months for offences concerning order at polling stations and secrecy of votes, Members note that the proposal is made to align with similar provisions for the Legislative Council and District Council elections to achieve a stronger deterrence effect. Members have no strong views on this.

Members have also raised the following points during deliberations:

- (i) In relation to the two principles for the listing of indigenous villages in the Schedules to the VREO, Members in general take the view

that any village which is proven to have existed in 1898 and established a village representation system in or prior to 1999 should be included in the Schedules;

- (ii) Members consider that the existing Schedules to the VREO may not be exhaustive. Therefore, it is suggested that pursuant to the enactment of the Bill, the Administration should continue to communicate with the Heung Yee Kuk and the Rural Committees and review the relevant records, so as to ascertain if any indigenous villages have not been included in the Schedules to the VREO; and
- (iii) Members also urge the Administration to continue to follow up the requests from Cheung Chau, Tsing Yi Hui and Fuk Yuen Wo Liu for inclusion in the Schedules to the VREO in the light of the spirit of the two principles mentioned above.

The Administration reassures Members that it will take an open attitude on the issue, based on the strength and reliability of the evidence provided by the residents concerned, and endeavour to exercise flexibility in amending the Schedules to the VREO to include those indigenous villages which are proven to have existed in 1898 and established a village representation system in 1999 or before on a case-by-case basis.

Moreover, the Administration will also move two Committee stage amendments (CSAs) at the resumption of the Second Reading debate on the Bill. The two CSAs are to (i) amend the commencement date of the Bill to tie in with the legislative timetable for the Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009; and (ii) amend section 2(5) of the Village Representative Election (Registration of Electors) (Appeals) Regulation to spell out the procedures for lodging a notice of claim or notice of objection more clearly to avoid misunderstanding in interpretation. The Bills Committee raised no objection to these amendments.

Therefore, the Bills Committee supports the resumption of the Second Reading debate on the Bill today.

The following is my personal views on the Bill.

Deputy President, next, I will speak on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to present our views on the Bill. The DAB supports the Bill and the amendments proposed by the Government.

The clans in the villages in the New Territories have their unique historical backgrounds and political factors as well as traditional customs and ways of life. Their lawful traditional rights are also protected by Article 40 of the Basic Law. At present, there are about 600 indigenous villages and 100 non-indigenous villages in the New Territories with some 1 400 village representatives in total. Therefore, the election of village representatives for indigenous inhabitants and village residents held every four years is a very important election in Hong Kong.

In fact, I have a long history of involvement with the VREO because in 2002, after the Government had tabled the Village Representative Election Bill before the Legislative Council, it was me who served as Chairman of the relevant Bills Committee. This time, after the Government had proposed the amendments to the Bill, I again became Chairman of the Bills Committee, so I have witnessed the changes and enhancements made to this Ordinance.

In the Amendment Bill, it is proposed that the time limit for lodging and handling claims and lodging appeals to the Revising Officers be extended and the maximum penalty for offences concerning order at polling stations and secrecy of votes be increased. The DAB supports this proposal. As the Government said, the extension of the time limit would provide a more reasonable timeframe for the parties concerned to deal with such cases. As regards the proposal to increase the penalty, the aim is to align it with similar provisions on the Legislative Council and District Council elections for a stronger deterrence effect and to achieve consistency in law. As this proposal can manifest the principle of fairness, the DAB supports it.

Deputy President, since the commencement of the VREO, two elections have been held in 2003 and 2007 respectively. The aim of village representative elections is to elect representatives for the indigenous villagers and non-indigenous villagers of villages in the New Territories through sound statutory regulation, in order to manage rural affairs effectively, improve the rural environment and lobby for the rightful welfare of villagers. The functions of village representatives are arguably no different from those of District Council members and the only difference lies in the areas they serve. In view of this, it

is believed that the inclusion of more villages in the Schedules to the Bill will facilitate the effective management of rural affairs by the Government. The focus of the discussion on the amendments to the present Bill lies precisely in the essence of this Bill, that is, what the principles for the inclusion of villages in the Schedules to the Bill. The two major principles for inclusion in the Schedules are: (1) the relevant villages should have existed prior to 1898 and (2) a village representation system was established in or prior to 1999. The DAB strongly supports them. Of course, we have to ask whether in the vast expanses of the New Territories, there are villages that have not yet been included in the Schedules. In the course of scrutinizing this Bill, my view had to evolve all the time. The villages that have not been included in the Schedules thus far include Cheung Chau, Tsing Yi Hui and Fuk Yuen Wo Liu. They will be given opportunities to produce evidence and the Government has also promised to keep an open mind. The DAB believes that this attitude in dealing with this issue is commendable and should be supported.

Deputy President, with these remarks, on behalf of the DAB, I support the resumption of the Second Reading and Third Reading of the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 and the various amendments proposed by the Government. Thank you, Deputy President.

**MR LAU WONG-FAT** (in Cantonese): Deputy President, all along, the Heung Yee Kuk supports the holding of open and fair elections in the rural areas of the New Territories. This time, the Government proposes to align the penalties for the contravention of the relevant legislation with those for other elections. The Heung Yee Kuk supports this amendment.

However, we must understand that in many villages in the New Territories, people are still living together in clusters of clans and they maintain close ties with each other as members of the same clan and as neighbours. It is also a custom to give each other gifts. For this reason, in times of elections, it is possible to breach the law inadvertently due to a lapse of caution. Therefore, after this piece of amendment legislation is passed, the Government must send officers to villages to step up publicity and education there and explain in detail to villagers behaviour that may constitute a breach of the law. This is an important measure in promoting fair elections.

It is said that obligations and rights should go hand in hand. However, if we have to shoulder certain obligations, we should also be entitled to the corresponding rights. Only in this way can we live up to the principle of fairness and reasonableness. At present, members of representative councils returned by elections at various levels are all entitled to remunerations and allowances, so that these elects can be in a better position to serve the public. However, at present, village representatives, who are also returned by statutory elections, still have to dig into their own pockets to serve their fellow villagers. Although this situation cannot be described as discrimination, it is evident to all that they are not given fair treatment. For this reason, it is necessary for the authorities to find a solution to this unsatisfactory and inappropriate arrangement.

Deputy President, I believe this Bill is worthy of our support. I so submit. Thank you, Deputy President.

**MR CHEUNG HOK-MING** (in Cantonese): Deputy President, in response to the two judgments delivered on two cases by the Court of Final Appeal in 2000, the Administration formulated the Village Representative Election Ordinance (VREO). Although there were still many shortcomings in the Ordinance enacted back then, the villages in the New Territories, in order to realize the spirit of keeping abreast of the times, supported the VREO (Cap. 576) together with the Heung Yee Kuk and Members and it was passed in 2003.

The villagers of the New Territories are indigenous inhabitants with a long history and line of ancestry behind them. Each village has its own unique mores and institutions and this is what is meant by customs vary in different villages. For this reason, it is really difficult to measure the village representative election systems adopted by all villages in the past according to uniform criteria without regard to the history of these villages.

Back then, when the Administration introduced this piece of legislation, it promised that a review would be conducted in due course. So far, in accordance with the provisions of this piece of legislation, two village representative elections have been held smoothly in 2003 and 2007. I believe that this is an appropriate occasion to examine afresh the shortcomings of the VREO and enhance the procedures and arrangements for village representative elections.

Deputy President, I believe that the villages on the List of Established Villages in the New Territories (that is, the established villages in 1898) and villages that have established village representative election systems before 1999 are all qualified for inclusion in the new village representative election system. This was also the good basis on which the Heung Yee Kuk had discussions with the Government before the implementation of the VREO in 2003. In the meetings of the Bills Committee held prior to this meeting, Members discussed the two major principles for reviewing the Schedules to the VREO: First, the village concerned should have been in existence in 1898 and second, a village representation system should have been established in the village in or prior to 1999. If a village can satisfy these two principles, it should be included in the Schedules to the VREO.

I hope that in future, in the course of reviewing the Schedules to the VREO, the Government will adhere to the foregoing principles, so that other villages not yet included in the Schedules can have the right to hold village representative elections in accordance with the VREO so long as they can produce evidence to prove that they have been in existence since 1898 and a system of village representation has been in existence in or prior to 1999.

In addition, the Government proposes to increase the maximum term of imprisonment penalty from three months to six months for offences concerning order at polling stations and secrecy of votes under section 38(4) and section 82(1) of the Procedure Regulation respectively. This proposal is designed to achieve consistency with the similar provisions for the Legislative Council and District Council elections, so as to achieve a stronger deterrence effect. I support this proposal.

Apart from the electoral regulations, in terms of the spirit and actual duties, it can be said that the status of village representative and the responsibilities and obligations assumed by them are no different from those of Legislative Council Members and District Council members. In addition to the affairs in their villages, they are also responsible for community liaison, reflecting views to the authorities and communicating government policies to fellow villagers, so they play the important role of being a link. Their service as village representatives is inspired by a sense of mission and their strong sense of belonging to their villages. They have to devote a great deal of time and effort to handling village affairs. In view of this, I hope the Government can offer allowances to village representatives as soon as possible, so as to express its recognition for village

representatives, who perform their duties and make contribution to rural communities according to their statutory functions.

With these remarks, I support the Bill. 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 Home Affairs to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, first of all, I would like to thank Mr IP Kwok-him, Chairman of the Bills Committee on the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 (the Bill) and members of the Bills Committee for their invaluable views raised during the scrutiny of the Bill. I will move two technical amendments to the Bill at the Committee stage later on.

The Village Representative Election Ordinance (VREO) was enacted in February 2003 to lay the legal basis for village representative elections. Since the commencement of the VREO, two rounds of ordinary elections have been held. From the experience accumulated, we subsequently reviewed the arrangements for the first two rounds of election and introduced the Bill to implement the relevant recommendations.

The Bill proposes several amendments, including the inclusion of Lai Pek Shan in Tai Po and Yuen Long Kau Hui in Yuen Long in the Schedules to the VREO for the purposes of village representative elections. Both Lai Pek Shan and Yuen Long Kau Hui have produced evidence to prove that they have existed since 1898 and established a village system representation system in or prior to 1999. Having considered the views of the Home Affairs Panel and the Bills Committee, we proposed to include the two villages in the Schedules to the VREO to enable them to elect one inhabitant representative and one resident representative respectively by virtue of the VREO.

(THE PRESIDENT resumed the Chair)

Moreover, the Bill proposes to amend section 10 to change the names of the villages that now appear in the Schedules to the VREO. The purpose of this amendment is to highlight the historical background or location of these villages or to adopt names that have been in use in rural communities for some time.

The Bill also proposes appropriate extensions of the time limits for lodging and handling claims, objections and reviews in relation to voter registration, so as to allow adequate time for the Revising Officers to deal with these cases. When implemented, the timeframes concerning the compilation and publication of the provisional register of electors will have to be advanced by about two weeks.

Lastly, the Bill proposes to increase the maximum penalty for offences concerning order at polling stations and secrecy of votes to align with similar provisions for the Legislative Council and District Council elections. A member proposed that the Administration should be more stringent in taking enforcement action against persons providing false information in the voter registration for village representative elections. In this regard, we have already explained to members that pursuant to section 32 of the Electoral Procedure (Village Representative Election) Regulation, a person who "makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular" commits an offence and is liable to a fine at level 2 (that is, HK\$5,000) and to imprisonment for six months. The voter registration forms for village representative election clearly remind applicants of the consequences of providing false or incorrect information.

In addition, in meetings of the Bills Committee, various members were concerned about the cases concerning Cheung Chau, Tsing Yi Hui and Fuk Yuen Wo Liu and they carefully considered the evidence produced by the residents and the responses from the Government.

Since the residents concerned failed to provide cogent evidence to prove that the three places were indigenous villages and had village representation systems in or before 1999, for the time being, we do not intend to include these three places in the Schedules to the VREO. Should the residents be able to

produce stronger evidence in the future, the Administration would give it appropriate consideration. We have already explained to the Bills Committee the stance of the Government.

President, just as I pointed out when moving the Second Reading of the Bill in May this year, the proposed amendments in the Bill marked the fruition of the joint efforts made by the Administration and the Heung Yee Kuk and addressed the views of the Home Affairs Panel. We have already given members of the Bills Committee a detailed explanation on the purposes of the amendments and are grateful to the Bills Committee for its support.

After the passage of the Bill, the Administration will begin to prepare for the updating of voter registers, the drafting of plans on the village boundaries for the election of resident representatives and the identification of suitable polling stations. The Administration will implement the improved arrangements for rural elections in the next round of village ordinary election in 2011.

President, the passage of the Bill can further improve village representative elections. Here, I implore Members to support the Bill and the amendments that I am going to propose at the Committee stage.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009.

Council went into Committee.

### **Committee Stage**

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

### **VILLAGE REPRESENTATIVE ELECTION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009.

**CLERK** (in Cantonese): Clauses 1, 3 to 15 and 17 to 37.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1, 3 to 15 and 17 to 37 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 16.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Chairman, I move the amendments to the clauses read out just now, as printed in the paper circularized to Members. Members of the Bills Committee have given their consent for the Administration to propose an amendment to clause 2 of the Bill to change the commencement date of the Bill from 16 November this year to 9 November. This is meant to tie in with the legislative timetable for another amendment regulation in relation to voting by imprisoned persons. The advancement of the commencement date of the Amended Ordinance will also give the Administration more time to prepare for the next village ordinary election in 2011.

In addition, clause 16 of the Bill proposes to amend section 2(5) of the Village Representative Election (Registration of Electors) (Appeals) Regulations (Cap. 576 sub. Leg. A) to revise the time limit for which a hearing in respect of a claim or an objection must be held. The proposed amendment seeks to make it clear that a notice of claim or a notice of objection mentioned in section 2(5) is a notice lodged under Part 5 of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. Leg. K). That part sets out the procedures for lodging such notices and the clause after amendment can avoid misunderstanding in interpreting section 2(5) of the Appeals Regulation (Cap. 576 sub. Leg. A).

Chairman, both amendments are technical and they have been examined by the Bills Committee, the members of which have raised no objection. I hope Members can support the amendments.

Thank you, Chairman.

*Proposed amendments*

**Clause 2 (see Annex I)**

**Clause 16 (see Annex I)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 2 and 16 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 2 and 16 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

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

Council then resumed.

### **Third Reading of Bills**

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

### **VILLAGE REPRESENTATIVE ELECTION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2009**

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the

Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009

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

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the five items of subsidiary legislation made under the Electoral Affairs Commission Ordinance, which were laid on the table of this Council on 24 June 2009.

I now call upon the Secretary for Constitutional and Mainland Affairs to speak and move his motion.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I move that the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009, the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009, the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009, the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009 and the Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009, as set out on the Agenda, be amended.

The Amendment Regulations were tabled at the Legislative Council on 24 June 2009, and were later scrutinized by the Subcommittee on subsidiary legislation. The Subcommittee has finished the related scrutinizing work. I hereby express my wholehearted gratitude to Mr IP Kwok-him, Chairman of the Subcommittee, and other members for their invaluable opinions in various aspects during the course of the scrutiny.

The Amendment Regulations were made by the Electoral Affairs Commission (EAC), with an aim to stipulate the electoral procedure to facilitate prisoners and persons remanded, detained or arrested who are registered electors (electors in custody) to cast their votes in public elections.

During the section-by-section examination of the Amendment Regulations at the Subcommittee meeting, a member noticed that they were proposed to stipulate that the Chief Electoral Officer (CEO) or the Director of Home Affairs must designate, by notice published in the Gazette, one or more places as a ballot paper sorting station (BPSS) or BPSSs for sorting ballot papers received from dedicated polling stations in a general election or an ordinary election. The member pointed out that a BPSS might also be required in certain scenarios other than a general election or an ordinary election, for example, when by-elections for more than one constituency were held on the same day.

In a general election or an ordinary election, as ballot papers are cast in respect of all the constituencies, it is necessary to set up BPSSs to sort the ballot papers received from the dedicated polling stations before they are transported to the relevant counting stations for counting. As for by-elections, they are normally held in relation to a single constituency and hence there is no need to sort the ballot papers prior to the counting. Section 5 of the Electoral Affairs Commission Ordinance (Cap. 541) (EACO) stipulates that the EAC may do such other incidental act or thing or exercise such powers as it considers necessary or expedient for the performance of its functions under the EACO or any other Ordinance. Therefore, the EAC is empowered to set up BPSSs in case by-elections for more than one constituency are held on the same day. However, to provide a clearer legal basis, we propose to amend the Amendment Regulations to stipulate that the CEO or the Director of Home Affairs must designate, by notice published in the Gazette, one or more places as a BPSS or BPSSs for sorting ballot papers received from dedicated polling stations in a general election or an ordinary election, or where the CEO or the Director of Home Affairs considers appropriate, a by-election.

The motion proposed by the Government also includes some technical amendments.

The proposed amendments I move now are supported by the Subcommittee. I wish to express my gratitude to the Subcommittee once again for its invaluable opinions.

I would like to appeal to Honourable Members to vote in favour of my proposed amendments. Thank you, President.

**The Secretary for Constitutional and Mainland Affairs moved the following motion:**

"RESOLVED that –

- (a) the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 130 of 2009 and laid on the table of the Legislative Council on 24 June 2009, be amended –
  - (i) in section 5(2), in the new section 28(1)(c), by repealing "election." and substituting "election or, where the Chief Electoral Officer considers appropriate, a by-election.";
  - (ii) in section 10(1), in the Chinese text, in the new section 42(8A)(a), by repealing "一個" and substituting "每個";
  - (iii) by repealing section 13 and substituting –

**"13. What constitutes an  
offence at a polling  
station**

- (1) Section 45(6)(h) is amended by repealing "or"
- (2) Section 45(6)(i) is amended by repealing "the polling station." and substituting "a polling station;"
- (3) Section 45(6) is amended by adding –

- "(j) an officer of the Correctional Services Department on duty at a dedicated polling station; or
  - (k) an officer of any law enforcement agency on duty at a dedicated polling station."."
- (iv) in section 18(4), in the new section 63A(4), by repealing everything after "prepared by that" and substituting –
  - "Officer to –
  - (a) the Presiding Officer of the ballot paper sorting station or the main counting station concerned; or
    - (b) the Returning Officer of the counting station,
  - as advised by the Chief Electoral Officer.";
- (v) in section 24, in the Chinese text, in the new section 74AA(h), by repealing "預以" and substituting "予以";
- (vi) in section 25, in the new section 75(4A)(b), by repealing everything after "to the main counting station" and substituting "from one or more ballot paper sorting stations, or one or more dedicated polling stations, as may be appropriate,";
- (b) the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 131 of 2009 and laid on the table of the Legislative Council on 24 June 2009, be amended –

- (i) in section 5(2), in the new section 31(1)(c), by repealing "election." and substituting "election or, where the Chief Electoral Officer considers appropriate, a by-election.";
- (ii) in section 11(1), in the Chinese text, in the new section 45(5A)(a), by repealing "一個" and substituting "每個";
- (iii) by repealing section 14 and substituting –

**"14. What constitutes an  
offence at a polling  
station**

- (1) Section 48(6)(h) is amended by repealing "or"
- (2) Section 48(6)(i) is amended by repealing "the polling station." and substituting "a polling station;"
- (3) Section 48(6) is amended by adding –
  - "(j) an officer of the Correctional Services Department on duty at a dedicated polling station; or
  - (k) an officer of any law enforcement agency on duty at a dedicated polling station.".
- (iv) in section 18(3), in the new section 57(2A), by adding "or, where the Chief Electoral Officer considers appropriate, a by-election," after "ordinary election";
- (v) in section 20(4), in the new section 63A(4), by repealing everything after "prepared by that" and

- substituting "Officer to the Presiding Officer of the ballot paper sorting station or the main counting station concerned, as advised by the Chief Electoral Officer.";
- (vi) in section 25, in the new section 75A, by repealing "In an ordinary election, the" and substituting "The";
  - (vii) in section 26, in the new section 76(2)(b), by repealing everything after "to the main counting station" and substituting "from one or more ballot paper sorting stations, or one or more dedicated polling stations, as may be appropriate,";
- (c) the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 132 of 2009 and laid on the table of the Legislative Council on 24 June 2009, be amended –
- (i) in section 10(1), in the Chinese text, in the new section 42(5A)(a), by repealing "一個" and substituting "每個";
  - (ii) by repealing section 13 and substituting –

**"13. What constitutes  
offence at polling  
station**

- (1) Section 45(6)(h) is amended by repealing "or"
- (2) Section 45(6)(i) is amended by repealing "the polling station." and substituting "a polling station;"
- (3) Section 45(6) is amended by adding –

- "(j) an officer of the Correctional Services Department on duty at a dedicated polling station; or
  - (k) an officer of any law enforcement agency on duty at a dedicated polling station.".
- (d) the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 133 of 2009 and laid on the table of the Legislative Council on 24 June 2009, be amended –
  - (i) in section 3(3), in the English text, in the new section 12(3)(i), by repealing "be" and substituting "being";
  - (ii) in section 7(1), in the Chinese text, in the new section 19(2)(aa)(ii), by repealing the full stop and substituting a semicolon;
- (e) the Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 134 of 2009 and laid on the table of the Legislative Council on 24 June 2009, be amended –
  - (i) in section 2(4), in the Chinese text, by repealing "或 60A(c)" and substituting "60A(c)";
  - (ii) in section 5(2), in the new section 28(1)(c), by adding "in a village ordinary election or, where the Director of Home Affairs considers appropriate, a village by-election" after "Village";
  - (iii) in section 5, by adding –
    - "(3A) Section 28(4) is repealed and the following substituted –

"(4) The Director of Home Affairs shall, in the case of a polling station or a counting station which is not a Government building –

(a) make good any damage caused; and

(b) defray any expenses incurred by any person having control over the structure, place or premises,

due to its having been used as a polling station or a counting station."."

(iv) by repealing section 11(1) and substituting –

"(1) Section 37(1)(j) is amended by repealing "and (8)" and substituting ", (6A), (6B) and (8) and section 22(3)".";

(v) in section 15(2), in the new section 47(1A)(a)(ii), by repealing "or more";

(vi) in section 15(2), in the Chinese text, in the new section 47(1A)(b), by repealing everything after "是提述" and substituting "載於一個或多於一個封套內的一張或多於一張選票(視屬何情況而定)。";

(vii) in section 16(2), in the new section 53(4), by repealing everything after "must be" and substituting "delivered to the Assistant Returning Officer of the ballot paper sorting station or the Returning Officer of the relevant counting station, as advised by the Director of Home Affairs.";

(viii) by repealing section 25 and substituting –

**"25. Section 79A added**

The following is added –

**"79A. Certain visitors of  
electors in custody  
not to canvass for  
votes**

(1) If –

- (a) a person ("visitor") visits in a certain capacity an elector in custody for a business or official purpose; and
- (b) another person who is not acting in that capacity is not allowed to visit the elector for that purpose,

the visitor commits an offence if he, during the visit, canvasses for votes for the purpose of an election.

(2) A person who commits an offence under subsection (1) is liable to a fine at level 2 and to imprisonment for 3 months."."

(ix) by repealing section 28."

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

**MR IP KWOK-HIM** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Subsidiary Legislation Relating to Voting by Imprisoned Persons (the Subcommittee), I would like to report on the deliberations of the Subcommittee.

The Voting by Imprisoned Persons Bill was passed by the Legislative Council on 24 June 2009. The Subcommittee is tasked to study the Voting by Imprisoned Persons Ordinance (Commencement) Notice 2009, the five Amendment Regulations on electoral procedure and the three Amendment Regulations on registration of electors.

The Amendment Regulations on electoral procedure are aimed at facilitating electors in custody in casting their votes in public elections. The Amendment Regulations on registration of electors are aimed at aligning the Regulations concerned with the provisions in the Voting by Imprisoned Persons Ordinance and further providing for the related practical arrangements. Members in general hold that the new arrangements to facilitate the registration of prisoners as electors and the voting by electors in custody should be implemented as soon as possible.

President, in response to members' enquiries about the Amendment Regulations on electoral procedure, the Administration has given a detailed account on the electoral arrangements for prisoner-electors and the electoral arrangements for electors in custody.

After considering the concerns and views of the Subcommittee, the Administration agreed to make amendments to the Amendment Regulations on electoral procedure, and would also make some minor amendments to the related Amendment Regulations. The Subcommittee has no objection to these amendments.

President, the Subcommittee supports the motion moved by the Secretary for Constitutional and Mainland Affairs for the purpose of amending these Regulations. The following are my personal views.

President, in the following, I will speak on behalf of the DAB to express our views on the subsidiary legislation. The DAB supports the subsidiary legislation and amendments proposed by the Government.

With the smooth passage of the Voting by Imprisoned Persons Bill in the last Session of the Legislative Council, the work that follows is of course to make practical arrangements to enable imprisoned persons to fulfil their civic responsibilities and rights, register as voters and cast their votes.

As this is the first time in Hong Kong's election history that imprisoned persons are allowed to vote, many specific arrangements have to be discussed seriously and thoroughly. With regard to the principle of voting, secrecy is certainly of the utmost importance. However, given the unique environment in penal institutions or prisons, I am concerned that prisoner-electors may easily be subject to pressure to vote, which will in turn affect the voting results. Therefore, the Administration should step up its publicity efforts and make it clear to prisoner-electors that there is no difference between the voting arrangements for them and those for other electors, under which they will cast their votes inside a voting compartment in secrecy, and their ballot papers will also be mixed with other ballot papers before counting. As for the time duration for them to vote, in order to tie in with their routine for work and rest stipulated by prisons or penal institutions, the polling hours appointed by the Government, which run from 9 am to 4 pm, will be shorter than normal. In fact, the Administration should make it clear to qualified prisoner-electors that under the existing legislation, the CEO has been given the statutory power to appoint the polling hours, so as to avoid the shortening of polling hours from being subject to any unnecessary legal challenge.

Turning to the arrangement for vote counting, from my experience of participating in the Legislative Council or District Council elections in the past, the time taken to sort and mix the ballot papers is very often longer than that taken to genuinely count the votes. As the ballot papers cast by prisoner-electors are scattered in various prisons or penal institutions all over the territory, it is believed that more time will be taken to gather them together. Although the voting by prisoner-electors will end at 4 pm on that day, the whole process of vote counting and result announcement will be prolonged if the transport is not arranged properly. I hope the Government can pay more attention to this.

In the course of discussion, arrangements for allowing candidates, election agents and polling agents to enter dedicated polling stations (DPSs) in some maximum security prisons and DPSs in prisons, as well as those on visiting

electors in custody in a certain capacity for a business or official purpose, were matters of concern to members scrutinizing the subsidiary legislation. The Administration's readiness to share members' concerns and make amendments accordingly after listening to their views is, in my view, worthy of our praise and support.

With these remarks, President, I support the subsidiary legislation and amendments proposed by the Government.

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

**MS CYD HO** (in Cantonese): President, the Court has handed down a judgment that imprisoned persons have the right to vote, once again showing that an independent Judiciary can effectively protect the basic rights of the people. We should be glad about this. In the coming days, we should put in more efforts to protect the independence of the Judiciary.

I suggested a very minor amendment during the scrutiny of the subsidiary legislation this time for the law stipulates that imprisoned persons can only cast their votes in dedicated polling stations. We understand such a situation as they, after all, are in custody and can only cast their votes in prisons or places where they are being detained. However, as they come from different geographical constituencies (GCs) or even different functional constituencies, coupled with the fact that they are very small in number, if all ballot papers are counted in the polling stations immediately, their voting preference may easily be made known to others. This is not conducive to the principle of voting by secret ballot and will very likely subject these prisoners to unnecessary coercion before casting their votes. Moreover, as they come from different GCs and different functional constituencies, in order to ensure that they vote by secret ballot, it is necessary to deliver these ballot boxes to a ballot paper sorting station (BPSS) and mix their ballot papers with other ballot papers before counting. In this way, their identities can be protected effectively.

This original amendment only requires that the CEO or the Director of Home Affairs must designate, by notice published in the Gazette, one or more

places as a BPSS or BPSSs in a general election or an ordinary election. But by-elections are not mentioned. Of course, under general circumstances, it is very rare to have vacancies in several constituencies at the same time, resulting that by-elections have to be conducted in several constituencies on the same day. But President, very often, politics is out of our expectation. For example, in order to induce a focused discussion on political reform in society, the Democratic Party is actively considering whether one Member from the democratic camp has to resign in each of the five GCs. Why are we doing this? Because we have never imagined that the Chief Executive, after making such a concrete electoral commitment in 2007 to resolve such problems of political reform as a timetable and roadmap within his term, can simply ignore his commitment a couple of years down the line. This is really out of the expectation of people in Hong Kong.

Therefore, President, there really is a possibility that vacancies may arise in more than one constituency and by-elections have to be held on the same day. I thus proposed this minor amendment during the scrutiny. I would like to thank the Administration for accepting this suggestion and making the amendment accordingly. Of course, I also hope that it can show its ready acceptance of proposals on political reform put forth by the public and the democratic camp as well.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I am very much grateful to Mr IP Kwok-him and Ms Cyd HO for taking the opportunity today to recap their invaluable views and those given by members of the Subcommittee.

First of all, I have to tell Mr IP precisely that we are very grateful for their reminder. In holding elections, concrete matching measures, such as transportation arrangements and counting of votes, are very important matters of our concern. Therefore, although we have now stipulated that voting at polling stations in various prisons under the Correctional Services Department should end at 4 pm, we will still ensure an effective implementation of these matching measures as well as smooth counting of votes on that day.

We would also like to thank members for giving their views in the Subcommittee that when the relevant persons have to visit penal institutions for other business or official purposes, we should facilitate them in continuing to conduct such businesses, but at the same time, we should also pre-empt any canvassing activities. The Administration, different political parties and groupings and Honourable Members in this Council have reached a consensus in this regard.

Secondly, I also wish to thank Ms Cyd HO for raising a technical amendment in the Subcommittee, so that proper arrangements can be made for sorting and checking the ballot papers, no matter in general elections, by-elections or under other circumstances. Both the Administration and the Council have attached great importance to the absolute secrecy of voters and their votes. However, what we are discussing today is the voting arrangements for imprisoned persons, not the topic of "resignation *en masse*". I believe that there should be opportunities for us to exchange views on the issue of political reform in future.

President, summing up, since the Court handed down a judgment at the end of last year, government departments, bureaux and the Council have been working very closely over the past half year. At the beginning of this year, we approached the Legislative Council to seek Members' views and a consultation paper was then issued in February. After listening to views given by various parties, we introduced an amendment bill in May. With Members' support, we managed to proceed with the legislation before the summer recess and some of the provisions have already become effective, so as to facilitate the registration of imprisoned persons as voters. Today, if Members support these amendments, the whole piece of legislation can be enacted and implemented. Moreover, we

can also make the entire set of arrangements and put it in place before the lapse of suspension of order by the Court by the end of October.

President, this I have made in response to Members. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): With the commencement of the new Session, Honourable Members have run into full gear. However, it seems that public officers have yet warmed up. As the public officer who is responsible for the next item of business is not in the Chamber, I now declare that the meeting is suspended.

2.13 pm

Meeting suspended.

2.17 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2009 and the Poisons List (Amendment) (No. 3) Regulation 2009.

I now call upon the Secretary for Food and Health to speak and move his motion.

### **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I have to apologize to Honourable Members for I was late just now, causing delay in the moving of this motion and holding up the conduct of this meeting.

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 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 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) Dexketoprofen; its salts; and

- (b) Thiotic acid; its salts; its derivatives, when contained in pharmaceutical products.

Pharmaceutical products and formulations 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.

In addition, the Pharmacy and Poisons Board proposes to relax the control of "orlistat when contained in pharmaceutical products the recommended daily dose of which contains not more than 60 mg of orlistat or its salts to be taken three times a day." Upon detailed research, these pharmaceutical products have been shown to be sufficiently safe and effective for use in the management of weight reduction without doctor's supervision. Therefore, we propose to re-classify "orlistat when contained in pharmaceutical products the recommended daily dose of which contains not more than 60 mg of orlistat or its salts to be taken three times a day" from Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations to Part I of the Poisons List only. Subject to regulation under the relevant provision, these pharmaceutical products must be sold in pharmacies in the presence and under the supervision of registered pharmacists.

In response to the recent emergence of products marketed for weight reduction or for enhancement of sexual function in men which were found on analysis to contain analogues of poisons subject to regulation under the Pharmacy and Poisons Regulations, the Pharmacy and Poisons Board also proposes to amend four existing entries in Part I of the Poisons List and in the First and Third Schedules to the Pharmacy and Poisons Regulations by adding a chemical description after each entry describing the analogues of each poison, such that the analogues are also subject to the controls applicable to the four poisons themselves. The four poisons are "Sibutramine; its salts", "Sildenafil; its salts", "Tadalafil; its salts" and "Vardenafil; its salts."

We propose that these amendment regulations take immediate effect upon gazettal on 23 October 2009 to allow early control of pharmaceutical products containing these substances.

The two Amendment Regulations are made by the Pharmacy and Poisons 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 medicines concerned.

With these remarks, President, I move 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 30 September 2009, be approved –

(a) the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2009; and

(b) the Poisons List (Amendment) (No. 3) Regulation 2009."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Proposed resolution under the Energy Efficiency (Labelling of Products) Ordinance to approve the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2009.

I now call upon the Secretary for the Environment to speak and move his motion.

### **PROPOSED RESOLUTION UNDER THE ENERGY EFFICIENCY (LABELLING OF PRODUCTS) ORDINANCE**

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I move under my name that the resolution contained in the Agenda be passed. The proposed resolution is to approve the enactment of the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2009, which amends Part 1 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (the Ordinance), for introducing the second phase of the Mandatory Energy Efficiency Labelling Scheme (MEELS).

The Ordinance, which was enacted on 9 May 2008, provides a legal basis for implementing the initial phase of the MEELS. The initial phase covers three types of products, namely room air-conditioners, refrigerating appliances and compact fluorescent lamps. These three products together account for about 60% of local electricity consumption in the residential sector. As the grace period for the initial phase of the MEELS will end on the 8th of next month, we are now in the final stage of preparation for the full implementation of the initial phase.

The Administration has pledged in the 2008-2009 policy address that to further promote the use of energy efficient appliances, we would introduce the second phase of the MEELS. To this end, we propose amending the Ordinance to include washing machines and dehumidifiers as prescribed products under the Ordinance. These two products account for about 7% of annual electricity consumption in the residential sector. We estimate that the extension of the MEELS to these two products will bring about an additional annual energy saving

of about 25 Gigawatt hours (GWh), amounting to a saving of about \$25 million in electricity bills every year. Translating it into environmental benefits, this will reduce carbon dioxide emission by 17 500 tonnes per year.

To allow sufficient time for the trade to prepare for the implementation arrangements and following the practice of the initial phase, we propose to provide for a grace period of 18 months for the second phase of the MEELS.

To prepare for the second phase of the MEELS, we have set up a task force with relevant trade associations and the Consumer Council for gauging their views. Key views received have been incorporated in our legislative proposal. We also consulted the Advisory Council on the Environment and the Energy Advisory Committee on 6 July and 8 July this year respectively. Both of them supported the proposal. We also consulted the Legislative Council Panel on Environmental Affairs on 15 July. Members raised no objection to the proposal.

Global warming has emerged as one of the greatest challenges facing mankind in this century. Power generation is the principal source of greenhouse gas emission in Hong Kong. Enhancing energy efficiency is definitely the most effective weapon that Hong Kong can deploy to combat climate change. The second phase of the MEELS will encourage consumers to use energy efficient electrical appliances through providing them with information on the appliances' energy performance.

To introduce the second phase of the MEELS, we need to amend Schedules 1 to 3 of the Ordinance. Amendments to Part 1 of Schedule 1 require positive vetting by this Council. Today's resolution deals with such amendments. After the passing of this resolution, we will submit the remaining amendments to this Council for negative vetting.

President, it is now time we acted to combat climate change. I move that the resolution be passed. Thank you.

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

"RESOLVED that the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2009, made by the Secretary for the Environment on 25 September 2009, be approved."

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

**MR CHAN HAK-KAN** (in Cantonese): President, I speak on behalf of the DAB in support of this resolution proposed by the Environment Bureau.

It has been 14 years since the Government launched the Voluntary Energy Efficiency Labelling Scheme in 1995. The pace has been rather slow as the second phase of the MEELS was not introduced until now; and taking this second phase into account, many high energy consumption electrical appliances, such as the commonly used electric water heaters, clothes dryers and electric rice cookers and even photocopiers, which are commonly used in the office, are not covered by this mandatory scheme. To implement the MEELS in a comprehensive manner, the Government must draw up a clear timetable to demonstrate its determination to carry out this task and enable the relevant trades to make preparations early.

In fact, I personally think members of the public have generally accepted and welcomed this scheme since its introduction because when shopping for an electrical appliance, they simply have to take a look at the label to find out which ones are more energy efficient. In purchasing electrical appliances for personal or family use, prices should not be the only consideration. We should also consider whether they are energy efficient in order to make our share of contribution towards environmental protection. Therefore, members of the public may buy more expensive electrical appliances for the reason that electricity can be saved in the long run.

President, when it comes to ways of energy conservation and emissions reduction, the Environment Bureau has recently proposed a host of measures formulated from a macro perspective. They include banning idling vehicles with running engines, implementing the Building Energy Codes (BECs) and the designation of low emission zones which will be examined soon. For the general public, the simplest thing to do to contribute towards energy conservation and emissions reduction is to start from their homes, for example, by switching off the lights before leaving home, regularly cleaning the air-conditioners and taking showers instead of baths. These seemingly trivial acts are desirable in that they are uncontroversial and easy to accomplish.

Most importantly, these acts of energy conservation at home can help the public reduce electricity consumption, which will in turn reduce their electricity bills. Naturally, Hong Kong people who are smart in budgeting would know what to choose. Just as in the case of the plastic bag levy introduced sometime ago by the Environment Bureau, financial incentives are also provided to encourage members of the public to reduce the use of plastic bags. Both these measures are underlined by the same rationale.

President, if the Environment Bureau intends to further promote energy conservation at home, it has to step up its efforts. Regarding concrete measures, it may make reference to the "carbon bonus points" scheme proposed by the DAB and environmental groups. This is a very simple scheme whereby a member of the public who has purchased an energy efficient electrical appliance or consumed less electricity than in the previous month will get certain "carbon bonus points" that can be used to settle government fees, rates and town gas charges or rentals for recreational facilities of the Leisure and Cultural Services Department. To put it simply, it is like accumulating bonus points when shopping in the supermarket now, the more you save, the more special offers you can enjoy. In this way, greater incentives can be offered to encourage members of the public to reduce electricity consumption as an individual or as a family and contribute towards solving the problem of global warming.

Of course, this is only a preliminary idea and plenty of technical problems have yet to be solved. However, I hope the Environment Bureau will, in addition to examining some macro policies, consider the issue from the perspective of the people's daily life and introduce measures to encourage them to reduce electricity consumption and become a community mindful of energy conservation.

With these remarks, President, I support the resolution.

**MS AUDREY EU** (in Cantonese): President, speaking on behalf of the Civic Party, I welcome and support the Resolution on the Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedule 1) Order 2009.

President, when the Government introduces environmental protection measures or legislation, there are always problems and inadequacies in various

aspects. President, this is the second wave. The first wave actually concerned energy efficiency labels, and the household electrical appliances covered include air-conditioners, compact fluorescent lamps (CFLs) and refrigerators. However, apart from these three types of household electrical appliances and the two types of electrical appliances covered this time around, there are many other household appliances, such as television sets, electric rice cookers and vacuum flasks, to which the requirement of energy efficiency labels does not apply. Therefore, President, the types of appliances covered are indeed inadequate.

Besides, President, the progress has also been slow. Actually, the Voluntary Energy Efficiency Labelling Scheme has been discussed for years, but legislation was not introduced until recently. President, I think besides the inadequacy in coverage and progress, another problem is that the implementation of this measure will cause a big row. President, you may have noticed the reports in the press recently about the issue of CFLs, which are one of the products on which labels are required according to the discussion on energy efficiency labels during the previous phase. The requirement for energy efficiency labels on this product will be implemented next month. However, it was recently proposed in the policy address that \$100 cash coupons be distributed to members of the public for redeeming CFLs. President, the problem is these coupons will be distributed by the power companies instead of the Government, and it has aroused tremendous reverberations in society. In the first place, electricity tariffs will definitely increase. Although members of the public may use the \$100 cash coupons to purchase CFLs, their electricity tariffs will increase by \$24. Besides, members of the public may not necessarily benefit directly because the ones bearing the additional tariffs may be the tenants while the coupons will be distributed to the registered holders of electricity accounts. Therefore, many people find this most unfair because while their electricity tariffs will increase, they will not receive the cash coupons. This gives rise to the second problem. Of course, there is still the third problem, that is, it has aroused lots of political controversies, centring at the Chief Executive's failure to declare his interest concerning his in-law.

President, why did I highlight these problems today? Actually, I wish to make it clear here that the initiative concerning CFLs is not wrong in itself, and it is a good energy conservation measure. The Civic Party absolutely agrees with the implementation of these energy efficiency labels and this energy conservation initiative. Very often, however, it is the Government's approach of

implementation which causes serious problems. Therefore, President, as we are amending the regulation on energy efficiency labels today, I very much hope the Secretary will consider this issue afterwards. As the issue on CFL cash coupons has caused such a big problem, will the Secretary consider the following questions? First, as there are so many energy efficient products in the market, should the authorities confine consumers to using CFLs? When these energy efficiency labels are implemented next month, will members of the public be allowed to use the cash coupons to buy refrigerators or air-conditioners with Grade 1 energy labels? President, if this initiative can be enhanced in this way to give members of the public more choices, the allegation of transfer of benefits will be watered down.

Besides, President, I wish to point out to the Secretary that these initiatives should be implemented by the Government instead of the power companies. I mean, the cash coupons should be distributed to members of the public directly by the Government instead of through the power companies. In this way, an increase in electricity tariffs will be out of the question.

President, I very much hope the Secretary will enhance this initiative and give a response in this regard as soon as possible to pre-empt intense public resentment against energy conservation initiatives because of this row over CFLs.

Thank you, President.

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

(No Member indicated a wish to speak)

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

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, regarding the motion I moved earlier, namely the motion to be put to the vote now, I have already given a clear account of it when I explained the primary legislation just

now. Here I would like to thank Honourable Members for their support. As for other views, I believe they can be addressed in detail in the context of other committees, so I have nothing to add. Thank you.

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of these motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): First motion: Facing up to the transport needs of people with disabilities.

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

I now call upon Mr LEUNG Yiu-chung to speak and move his motion.

## **FACING UP TO THE TRANSPORT NEEDS OF PEOPLE WITH DISABILITIES**

**MR LEUNG YIU-CHUNG** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, we are discussing today the motion on "Facing up to the transport needs of people with disabilities" and I am rather pleased for two reasons. The first reason is that while a lot of Honourable colleagues are waiting for a chance to propose the first motion by drawing lots, my name is luckily the first one drawn. However, that is not what made me most happy. What is the most important thing? I hope that, after our discussions on the first motion and before the commencement of other work of this Council, the Secretary would have more spare time to follow up the motion as soon as possible to facilitate the implementation.

The second reason is that, President, the MTR Corporation Limited (MTRCL) announced in May this year the provision of half-fare concession to people with disabilities, as a result, the motion today is pinpointing the Government to a lesser degree. As we all know the Government is the majority shareholder of the MTRCL; it has made the first step and we found that progress has been made in this connection, thus, we are fairly happy. Nevertheless, is the issue completely resolved? In connection with our meetings with the disabled groups during the summer recess, we had searched the subjects of motions and public officers' replies throughout the years and found that many problems had actually not been solved. For us, the most important principle is that all public transport operators would provide people with disabilities with half-fare concession to facilitate their integration into society. Yet, this major issue has yet to be resolved.

Since this general principle has yet to be realized, we will not only continue to propose a motion debate on this issue this year, we will even do so next year, the year after next and two years after next. As long as everything covered by the motion has not been attained, we will still persistently propose a debate on the issue. Certainly, President, even if you are not afraid of being bored, I will be afraid of being bored. I do not want these discussions to go on all the time. So, I hope this would be our last debate so that people with disabilities do not need to wait indefinitely or always remain confined within four walls at home.

President, why have we insisted on proposing a debate on this issue year after year? The most important objective is to find out through this test if we have a government with conscience and if we have public transport operators with social responsibilities. In my view, if people with disabilities do not even enjoy the basic human right and value to be integrated into society, social justice is not upheld. Hence, we will insist on proposing a debate on this issue and fighting inside and outside this Council for the due interests.

President, for many years, we have kept criticizing the Government for neglecting the interests of people with disabilities, but we can no longer find fault with the Government this year because the MTRCL announced in May the provision of half-fare concession to people with disabilities. I believe that Secretary Matthew CHEUNG and Secretary Eva CHENG must have made an enormous effort to bring about the result; otherwise, we will not see such a result today. Thus, I would like to thank the two Secretaries on behalf of people with disabilities and disabled groups for the efforts they made in the past in bringing about the result.

Although we have achieved the result, I trust the two Secretaries would know what I am about to say, that is, only a small step has been made and we still have a very long way to go. I believe that it is going to be a very difficult and tough road. President, why am I saying this? Because the half-fare concession is only provided by the MTRCL to people with disabilities who are recipients of Comprehensive Social Security Assistance or Disability Assistance aged between 12 and 64 with a 100% disability. Only these people meet the conditions of eligibility for the half-fare concession, which means that other people with disabilities cannot enjoy the concession. We are very disappointed with that, and we also hope that the two Secretaries will continue to work hard and fight for the provision of the concession to other people with disabilities by the MTRCL.

Moreover, we still think that the franchised buses are a hard nut to crack. All operators of franchised buses, be they buses or minibuses, still fail to meet our aspirations, so we are still very disappointed. Of course, the MTRCL has done very well this time. During the summer recess, we and the representatives of the Social Welfare Department (SWD) held several meetings with the MTRCL to consider how the half-fare concession would be implemented in the future. According to the MTRCL, it will provide half-fare concession to people with disabilities in the same way as it has been providing half-fare concession to students. In other words, SWD staff will first verify the identity of eligible

people with disabilities and then write to the people with disabilities concerned. Each of them can collect an Octopus card at a MTR station upon presentation of the letter. They can enjoy the half-fare concession once the cards have been activated. At the same time, the MTRCL has also emphasized that the Octopus cards are not only applicable to MTRCL lines. If other public transport operators are also willing to provide half-fare concessions, the same cards will be universally applicable, and it is going to be very convenient.

In addition, the Octopus cards will also help alleviate the difficulties previously mentioned by other public transport operators in this Chamber. President, do you know why? As other public transport operators constantly reiterated in the past, if half-fare concessions were to be provided, resources would be required for research and development to explore more convenient ways of offering half-fare concessions. They were not prepared to spend the money and had conversely asked the Government to bear the expenses. Certainly, the Government is not prepared to pay and the whole cause has been caught in a stalemate in the last few years. This time, the MTRCL has done very well in introducing that Octopus card. So long as other transport operators are ready to do so, the issue can immediately be resolved. In this connection, I hope the two Secretaries will take the trouble to look up the minutes so that they would understand that several public transport operators had then undertaken in this Chamber that they would be willing to offer half-fare concessions so long as the Government would provide the resources for the development of the Octopus cards.

Now that the MTRCL has already provided the half-fare concession, I wonder what excuses other transport operators have for declining to offer the same. At present, the problem lies in the strength of the two Secretaries. Can they not honour what they have undertaken at our meetings? If that is the case, I think that the Government should consider whether it should make relevant legislation, or else, it will not be able to cause other public transport operators to offer half-fare concessions to people with disabilities. If they fail to honour their undertaking in the future, how can we expect them to have the social conscience or responsibilities to provide concessions? That being the case, if they once again decline offering concessions, I think the Government must make relevant regulatory legislation. When their licences or franchises are due for renewal in the future, the relevant condition must be specified, requiring them to provide concessions before continuing operation. I think this is a must; otherwise, we will not be able to assist people with disabilities in enjoying the concession.

As I have just said, as the MTRCL currently provides the concession to around 110 000 people with disabilities only while there are actually more than 110 000 people with disabilities in the territory — 110 000 people with disabilities merely account for a small part of the total number, in tandem with the development of society and after a certain period of time, I believe the coverage should be extended such that other people with disabilities would also enjoy the concessions, making them feel barrier-free and helping them integrate into society.

President, as far as barrier-free facilities are concerned, I must talk about other means of public transport, including Rehabus. At present, a lot of people need Rehabus services. Though the Government has constantly assisted in the procurement of more new rehabuses, there are still not enough to go round and the shortage is serious. As a result, the reservation process is very complicated and difficult. Sometimes, advance reservations have to be made a lot earlier, or else, the relevant services cannot be booked. For this reason, I hope that the Government will help these groups make improvements and urge them to improve other services as well.

I would like to add that barrier-free access, for example, tactile guide paths have much room for improvement. It has been found that tactile guide paths are not installed in some newly constructed stations. Therefore, I hope that the authorities concerned will fix these small things. Another issue of greater significance is platform screen doors. It can be said that platform screen doors pose the most serious problem which deters people with disabilities from using these stations. We all know that accidents involving people falling onto the tracks frequently happened in the past. Hence, if improvements are not made, the "barrier-free city" principle cannot be realized. I still hope that the Government will work harder in this connection and make greater efforts to enable barrier-free integration by people with disabilities into society.

President, before entering this Chamber today, I was given a present by a disabled group at the entrance of the Legislative Council Building. Why did they give me a present? I was given a medal for I have been fighting for half-fare concessions for them over a long period of time. When I received the medal, I was absolutely delighted for being given the credit. Nonetheless, I also felt very sorry. President, why did I feel sorry? Because we have together fought for their interests for eight to nine years, but we have only made a small step forward so far. Therefore, I really felt both happy and ashamed when I was holding the medal. I think it would be better for them to present the medal to the

two Secretaries so that they would understand that people with disabilities have actually cherished the hope for many years but it has yet to be realized. I hope the two Secretaries will help them as soon as possible.

Another group has given me a very beautiful pot of violets. What is the meaning of this flower? The violet speaks of unswerving determination for the flowers maintain sturdy growth even in a difficult situation. I would also like to convey the message to the two Secretaries, that while many public transport operators have declined time and again the provision of half-fare concessions, I hope they can break through the barriers and help them grow sturdily, as well as formulating policies that will enable people with disabilities to enjoy half-fare concessions early.

I so submit, President.

**Mr LEUNG Yiu-chung moved the following motion: (Translation)**

"That this Council passed motions on a number of occasions over the past few years calling for improvement to transport facilities for people with disabilities and offer of concessionary transport fares to them, but the Administration, some statutory transport corporations and other public transport operators still fail to fully face up to and give effect to the motions; this Council strongly demands the Administration and various public transport operators to immediately and fully respond as well as give effect to the relevant motions previously passed by this Council and the recommendations in the Report of the Council's Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities in the last term, which include that the Government must implement the following measures:

- (a) in order to effectively assist people with disabilities in integrating into society, to adopt legislative, administrative and financial measures to press various major public transport operators to offer concessionary fares to them;
- (b) to put forth, in the near future, specific proposals and a timetable for introducing half-fare concession on public transport for all people with disabilities, so as to help them integrate into society and improve their life;

- (c) to allocate additional resources to comprehensively improve the Rehabus service and, in particular, enhance such service for people with disabilities living in remote areas and new towns; and
- (d) to step up consultation with people with disabilities to fully realize the concept of "Transport for All", and strictly regulate public transport operators in providing barrier-free facilities, so as to enable more people with disabilities to use public transport and integrate into society."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung be passed.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I now call upon Mr WONG Kwok-hing to speak and move his amendment to the motion.

**MR WONG KWOK-HING** (in Cantonese): President, I move that Mr LEUNG Yiu-chung's motion be amended. I will make some minor amendments and additions to Mr LEUNG's original motion with a view to detailing more thoroughly the issues raised in the original motion.

Actually, I wonder why the matter has been dragging on for so long, still not resolved after almost seven to eight years. As stated in my amendment, the crux of the problem is the Government's lack of a specific policy on fare concessions for people with disabilities and determination to make improvements. That is why no changes have been made after so many years of promotion and only slight changes have been made this year. This shows that the Government takes one step at a time and results will be seen only when it responds to crises as if it is "squeezing out toothpaste". Therefore, it is stated in my amendment that the Government must take the lead in formulating a policy on fare concessions on public transport for people with disabilities. The MTR Corporation Limited (MTRCL) with the Government being its majority shareholder announced in May

this year that a fare concession for people with disabilities would be provided. But how would the announced measure be implemented? I hope the Secretary will give a clear account on the matter more explicitly today because members of the relevant subcommittee of the Legislative Council have expressed the view that some aspects of the implementation of the policy may involve the Disability Discrimination Ordinance. I wonder if the Bureau's representative could illustrate and clarify this point in response to Honourable Members' debate today. If possible, will the Government amend the Ordinance? Nevertheless, we have not seen any actions taken by the Government to amend the relevant Ordinance so far. Can the measure be implemented without any amendment to the Ordinance? Are all other transport operators going to offer half-fare concessions just as what the MTRCL has done? Regarding the specific implementation, I really hope the Secretary will give a thorough response today.

Besides, insofar as platform screen doors are concerned, it is also stated in my amendment that the visually impaired are most worried about having accidents of falling onto the rail tracks when they arrive at MTR platforms without screen doors as such incidents happen every now and then. In this regard, according to the MTRCL, the platform screen door installation works at stations without such along all of its rail lines will only be completed in 2012, and the relevant works along the East Rail Line will take even longer. What has the Government done to urge it to complete the works? Would the Government be concerned about the issue and urge the MTRCL to expeditiously install platform screen doors ahead of schedule, and ensure the safe use by people with disabilities during the transitional period before the completion of the installation works? It is proposed in my amendment that the Government should study subsidizing people with disabilities in need to purchase electrical wheelchairs because electrical wheelchairs will make it easier for people with disabilities to integrate into the community. As the two arms and waist muscles of a lot of people with disabilities may not be strong enough or many of them need to use manual wheelchairs for long hours, electrical wheelchairs will be helpful and make it more convenient for them to integrate into the community. But electrical wheelchairs definitely cost much more than manual ones, has the Government considered studying subsidizing people with disabilities in need to purchase electrical wheelchairs?

Lastly, my amendment especially proposes that the Government should take into consideration the Hong Kong Drivers with Disabilities Association's petition a few years ago about the fact that the relevant ordinance should be

amended, and the concessions for drivers with disabilities should be improved and increased. Twenty-seven years ago in 1982 when section 2 of the Road Traffic Ordinance (Cap. 374) was enacted, it was stated that drivers with disabilities using private cars would be eligible for exemption of fuel duty to a limit of 200 litres per month. That was set out 27 years ago. In society nowadays, 200 litres of fuel are simply insufficient for drivers with disabilities who are working and pursuing further education. Hence, they have strongly requested the Government to increase the quota for fuel duty exemption to at least 300 litres so that the measure will be practically useful insofar as their daily life, social life and further education are concerned. This is the first point.

The second point is that they have strongly requested a waiver of private car licence fees. The provision on licence fees on private cars was made 27 years ago and the restriction on private cars with a cylinder capacity of not more than 1 500 c.c. has actually become outdated. Since people with disabilities very often put their wheelchairs at the back of the car and some of them even need to use wheelchair lifts, they need larger vehicles. If there is a restriction on private cars with a cylinder capacity of not more than 1 500 c.c., these people have to pay \$1,865 if they purchase larger vehicles of a higher class, and they have to pay even more for the next higher class vehicles; and the maximum amount payable is \$7,400 for one year. In fact, this restriction is already outdated and a review has never been conducted during these 27 years, why can the Government not consider raising and relaxing the limit? Furthermore, some drivers with disabilities take part in community activities, attend classes or go to work by private car, and they can carry other people with disabilities after these activities. Because of the restriction, they would use smaller vehicles with a cylinder capacity not exceeding 1 500 c.c. but not larger vehicles. For this reason, they earnestly hope that the Government can raise the cylinder capacity limit and give them a full waiver of private car licence fees, thus enabling them to enjoy more room in the community.

The third point is that, under the original ordinance, if they use government tunnels, that is, a total of six tunnels, for example, the Cross-Harbour Tunnel and the Lion Rock Tunnel, they will be provided coupons by the Government for toll payment. But there are currently four private tunnels, for example, the Western Harbour Crossing and the Tai Lam Tunnel. If drivers with disabilities use these tunnels, they cannot use the coupons provided by the Government. In other words, the Government has provided them with coupons for the use of government tunnels but they cannot pay the tolls of private tunnels with these

coupons. That being the case, they petitioned the Government years ago and met with the representatives of the Transport and Housing Bureau and the Labour and Welfare Bureau and made their requests. It has been three years since but it is a great pity that nothing has been done so far.

Therefore, I am amending Mr LEUNG Yiu-chung's original motion today, adding the above contents and wordings for I would really like to call upon the authorities to pay attention to the practical needs of drivers with disabilities. An organization formed by them has conveyed to me that, on the basis of their not so accurate estimates, there are around 1 000 drivers with disabilities currently. I have not tried to verify this figure, but now that we are concerned about people with disabilities and stress the importance of their interests, why have we overlooked them as a caring society? Although they have asked the Government to conduct a review, a review is still absent after 27 years. Why? I earnestly hope that, while my amendment today amends, improves and supplements Mr LEUNG's original motion, the Transport and Housing Bureau and the Labour and Welfare Bureau would address squarely the appeals of drivers with disabilities. I also hope that the authorities would become more caring and respond to their appeals in a positive manner. As long as the Government can come up with comprehensive and complete policies, I believe the fair and reasonable aspirations of people with disabilities would be met. It is not hard to resolve the issue and this will not incur additional government expenditure. I hope my voice can be heard by the Government.

**Mr WONG Kwok-hing moved the following amendment: (Translation)**

"To add ", given that" after "That"; to add ", and the crux of the problem is the Government's lack of a specific policy on fare concessions for people with disabilities and determination to make improvements" after "give effect to the motions"; to delete "and" after "this Council strongly demands the Administration" and substitute with "to take the lead in implementing and pushing"; to delete ", which include that" after "last term" and substitute with "; in addition,"; to delete "measures" after "the Government must implement the following" and substitute with "concrete measures to more comprehensively address the transport needs of people with disabilities so as to enable them to integrate into society"; to add "(a) to take the lead in formulating a policy on fare concessions on public transport for people with disabilities; (b) to take the lead in setting an example and expeditiously implement the fare concession for people with

disabilities as announced earlier by the MTR Corporation Limited;" after ":"; to delete the original "(a)" and substitute with "(c)"; to delete the original "(b)" and substitute with "(d)"; to delete the original "(c)" and substitute with "(e)"; to delete "and" after "new towns;" and substitute with "(f) to request the MTR Corporation Limited to expeditiously install facilities such as platform screen doors and automatic mechanical gap fillers for all its rail lines in order to strengthen platform safety and minimize the danger of blind people falling onto the rail tracks; (g) to study subsidizing people with disabilities in need to purchase electrical wheelchairs so as to facilitate them to use public transport; (h) to request the Transport Department to explore waiving the licence fee for people with disabilities who purchase private cars with a cylinder capacity of over 1 500 c.c. so as to make it convenient for them to carry larger and heavier electrical wheelchair and supporting equipment, provide additional auto-fuel allowances for people with disabilities, subsidize drivers with disabilities for using private tunnels and provide parking spaces for them, so that people with disabilities do not have to pay high transportation fees; and"; and to delete the original "(d)" and substitute with "(i)".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Kwok-hing to Mr LEUNG Yiu-chung's motion, be passed.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, helping people with disabilities integrate into society and meeting their transport needs are an important concern to the Government.

Later on the Secretary for Labour and Welfare will talk about the welfare policies he handles in helping people with disabilities integrate into society, in particular his work in meeting the transport needs of people with disabilities. With respect to transport policies, the Government is committed to putting into practice the concept of barrier-free transport and introduce a barrier-free transport system for all the people of Hong Kong, including people with disabilities.

We are constantly making improvements to our transport facilities in order to meet the needs of all passengers, including people with disabilities. We have

always been encouraging public transport operators to make this their common objective and put in great efforts to improve their transport facilities to facilitate access to transport service by people with disabilities.

We appreciate the concern expressed by Members for the transport needs of people with disabilities. The Secretary for Labour and Welfare and I will make a conclusion in response after listening to views put forward by other Members on the topic.

Thank you, President.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, first of all, I have to thank Mr LEUNG Yiu-chung for proposing a motion on the transport needs of people with disabilities and Mr WONG Kwok-hing for proposing an amendment to the motion. The objective of the Government's rehabilitation policy has all along precisely been the provision of suitable support and necessary facilities to people with disabilities to help them develop their skills so that they can take part in all sorts of activities on an equal opportunity basis, hence fully integrating into society.

The provision of barrier-free transport facilities to people with disabilities is very important to helping people with disabilities integrate into society. As the Secretary for Transport and Housing has just said, the Government has all along been endeavouring to realize the concept of barrier-free transport and for many years, a lot of resources has been injected into making all sorts of improvements to transport and road facilities, promoting a barrier-free transport system and encouraging more public transport operators to improve their transport facilities to address the needs of people with disabilities. In recent years, there has been marked improvement to our transport service networks and facilities.

While promoting a barrier-free transport system, in pursuance of the welfare agenda, we have subsidized non-governmental organizations in the operation of Rehabus for those people with disabilities who have difficulties using normal modes of public transport and provide them with point-to-point transport services. The Rehabus offers Scheduled Route Service to carry people with disabilities to office, school and receive training in occupational rehabilitation. Also, Rehabus also has a dial-a-ride service to facilitate people

with disabilities in attending medical appointments and taking part in other social activities.

I understand very much the ardent needs of people with disabilities for Rehabus service. Therefore, a review of Rehabus service is conducted every year and in the light of the needs identified, we will strive to obtain resources to purchase new vehicles. For the year 2009-2010, we have set aside \$7.7 million to purchase six new vehicles and retrofit four existing ones. The number of vehicles in the Rehabus fleet will then be increased to 115, comparable to that of an existing franchised bus company. Our subsidies for the recurrent expenditure of Rehabus amount to \$37 million, or 80% of the operational expenses of the fleet.

I am very grateful to Members for the concern expressed over the topic of improving the service of Rehabus, including the issue of legislative amendment as raised by Mr WONG Kwok-hing just now. After listening to views of Members on the topic, I will give a comprehensive reply in full later on.

Thank you, President.

**MS LI FUNG-YING** (in Cantonese): President, this Council discusses today the issue of "facing up to the transport needs of people with disabilities", which is already a very familiar topic to Members because Mr LEUNG Yiu-chung has persistently proposed the same issue year after year. Although an Honourable Member has proposed the same issue year after year, it seems that policymaking has been progressing at a snail's pace, which is infuriating.

To face up to the difficulties of people with disabilities in their daily life, merely providing hardware facilities, for example, providing barrier-free access, installing sound emitting devices at traffic light posts and using low-floor buses, is not enough. I do not oppose the provision of these facilities. It appears on the surface that these hardware facilities can reflect the great importance attached by Hong Kong to the interests of people with disabilities, but the reality is often entirely different.

Today, we have mentioned the need to provide transport supplement for people with disabilities. I have recently watched a talk show in which our former colleague, Mr Albert CHENG, chatted with SO Wa-wai, a Hong Kong athlete disabled by cerebral palsy, and his mother Mrs SO. SO Wa-wai has won

competitions for the glory of Hong Kong, seven gold medals so far. However, according to Mrs SO, when she travelled overseas to watch his son's competitions in the past, she had to pay for the travelling expenses herself. The situation has improved in these few years as the Government has subsidized 80% of her travelling expenses. Nevertheless, accompanying his son to take part in competitions still imposes a very heavy burden on her in terms of travelling expenses. She has only watched two large-scale competitions that saw participation by his son so far. Yet, Mrs SO was so kind and honest that she only expressed her hope that more competitions could be held in our neighbouring regions, for example, Guangzhou or other Mainland cities in the future because Mainland cities are not so far away from Hong Kong and the travelling expenses are relatively lower and affordable. In that case, she would be able to watch more competitions participated by her son on behalf of Hong Kong. President, I sighed with emotions after watching this programme. There is this athlete who has won 27 gold medals for Hong Kong but his mother has not been able to watch her son in the competitions due to financial reasons.

Nonetheless, Mrs SO also said in the programme that SO Wa-wai was already luckier than many people with disabilities in Hong Kong. Indeed, SO Wa-wai is relatively luckier. While SO Wa-wai is fighting on many fronts and taking part in competitions abroad on behalf of Hong Kong, many people with disabilities can only stay in their small homes all day given the shortage of support measures in transport. There are more parents of children with disabilities like Mrs SO who silently look after their children without regrets or complaints, but they cannot see the other shore after all. Mr LEUNG Yiu-chung has proposed for many years debates on the issue of "facing up to the transport needs of people with disabilities" and he has actually been making a very humble request. The motion is only requesting the introduction of fare concessions on public transport for people with disabilities and the improvement of Rehabus services.

President, during our debates in the past, I had suggested time and again methods of making the improvements concerned. For instance, the Government could issue cards to people with disabilities which would allow the cardholders to enjoy government services with priority, and it could encourage private sector participation. At present, many public transport operators are not willing to provide fare concessions to people with disabilities, one reason being the difficult definition of people with disabilities. Thus, the issuance of cards to people with disabilities by the Government can solve the problem of defining people with disabilities. In the face of a shortage of Rehabus services, the Government

should provide matching transport assistance to people with disabilities who cannot enjoy these services.

I hope that all parents accompanying disabled athletes who participate in overseas competitions on behalf of Hong Kong would be given full subsidy. I also hope that, no matter how far or near the competition venues are in the future, Mrs SO would be there to witness the moment at which his son wins competitions for the glory of Hong Kong. Yet, compared with other people with disabilities, it may only be a pity though Mrs SO cannot accompany his son to the competitions. If financial support is not given, the sphere of activity of quite a number of people with disabilities will be restricted to their small homes only, which will be most unfortunate. I hope that the Government would not only do some window-dressing work. Instead, I hope it will realistically respond to the request made in the motion proposed by the Honourable Member today, such that "inclusion of people with disabilities" will no longer be a mere slogan.

Thank you, President.

**MR PAUL TSE** (in Cantonese): President, I support Mr LEUNG Yiu-chung's motion and Mr WONG Kwok-hing's amendment, but I would like to add four points based on my observations.

First, I believe there is no need for Honourable colleagues to engage in any argument. People with disabilities are very unfortunate, so the most fundamental point is to let them live in dignity and allow by all means their lives to go on in much the same way as that of ordinary people, which includes the use of means of transport. As people with disabilities are very unfortunate and their disabilities have an influence on their employment opportunities, they tend to be poor and are dealt a double blow. If we want to help any class of people by providing benefits, poor people with disabilities deserve our assistance most.

Second, during our travels, especially when I visited some western countries, I found that two phenomena could reflect the countries' views on the disadvantaged groups or extent of civilization. Firstly, I saw at the airports some women (also men) bringing back to their own countries young children whose skin colours were different from theirs. They adopted some children with disabilities of different skin colours. I was touched by their spirit of sacrifice and greatness and I believe a lot of people who saw them were also very touched. Secondly, when we visited some scenic spots or amusement parks, we noticed

that preferential treatment was given to some wheelchair users but nobody minded about their getting preferential treatment. On the contrary, those who noticed the phenomenon considered the countries as really praiseworthy, respectful and models for learning. This demonstrates precisely that, in such a highly developed and civilized society as Hong Kong, instead of spending a lot of money on establishing the Equal Opportunities Commission or the Office of the Privacy Commissioner for Personal Data — such work definitely needs to be taken forward — money is needed for the operation of these organizations; if we are to determine the priorities, I think that helping people with disabilities is more important and pressing.

Thirdly, I agree very much that the Government has worked hard in respect of barrier-free transportation but it can actually do more, especially in connection with such facilities as the MTR facilities mentioned by Honourable colleagues. If installing in one go platform screen doors and automatic mechanical gap fillers at all platforms are too costly or complicated, can it choose to install these facilities at the front and rear train carriages which are more easily identifiable to enable people with disabilities, so that they can choose to board the train at these carriages and enjoy proper protection?

Let me digress slightly to another topic. I have an idea based on some complaints and news reports about women indecently assaulted on MTR trains. I wonder why we cannot learn from Japan and designate women-only carriages. Certainly, the sexual discrimination issue is involved, but we can also designate men-only carriages while most compartments are for both men and women, and give everyone a choice. This point can be taken into consideration. By the same token, we can designate carriages for people with disabilities only to give them special protection. This method is worth consideration and implementation.

Moreover, I would like to say in passing that I understood or got a better grasp of Rehabus services for the first time during a visit when I was running in the election. I learnt that there was a travel agent for Rehabus services and it had done a great job. I found that their services have met the needs of those concerned to a certain extent but the Government can actually make greater efforts.

About the last point that I am going to add, we have all along been concerned about the transport facilities and protection for people with disabilities in various areas, which constitute a kind of social welfare. Treating people with

disabilities well and providing better transport services are not only welfare measures but also tourism measures to a very large extent. Hong Kong provides the largest number of these facilities in Asia and it is second only to Japan. With more and more wheelchair users in the market, be they the elderly or people with disabilities, the market is large and Hong Kong meets the requirements and has laid a foundation for becoming the largest market for people with rehabilitation needs and people with disabilities in Asia (excluding Japan). In fact, while some of them are poor, some others may be retirees who may have some savings or are receiving government benefits. People in Europe and the United States in particular spend a lot on tours. Thus, if we can make improvements in this aspect, that will present a very big market. We should not think that we take pity on them because they can actually become the clients of our business. Hence, it would be even more worthwhile for us to put more resources into this and do more.

Furthermore, I would like to mention in passing that an annual international conference of people with disabilities is scheduled to be held in Hong Kong next year. Unfortunately, the Government has decided that the Social Welfare Department will support this project or serve as a counterpart organization. Nevertheless, I actually think that the counterpart organization should be the Hong Kong Tourism Board or an official in charge of tourism affairs because the annual conference is related to welfare as well as tourism. I hope the Administration will strongly support this important event as it is not just a very good tourism project that can bring Hong Kong a lot of benefits, it can also highlight Hong Kong as one of the civilized communities in the world. Hong Kong is the first advanced city in Asia that strongly promotes barrier-free tourism or barrier-free transportation.

I express once again my support for the motion and the amendment. Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): President, first of all, I would like to thank Mr LEUNG Yiu-chung for moving this motion again to enable us to participate in the debate. However, I think the Government should be ashamed of itself.

This is already the ninth occasion on which Mr LEUNG Yiu-chung moved this motion, and when it was moved last year, there was the comment that it was the "eight-year war of resistance". With a period of eight years, China could

even win defeat Japan; but for our motion on providing half-fare concession to people with disabilities, this is already the ninth year. It cannot be said that progress is totally lacking — as it can be argued that a one-fourth victory has been won. How is it worked out? At least concession is offered by the MTR Corporation Limited (MTRCL), yet no action has been taken by operators of the three bus services, that is, the Kowloon Motor Bus Company (1933) Limited (KMB), the New World First Bus Services Limited (NWFB) and operators of minibuses. However, among the operators of the three bus services and the MTRCL, which are the four major public transport operators in Hong Kong — I have already excluded the tram operator and the Lantau Bus Company — the MTRCL is the only one providing half-fare concession to people with disabilities, so the one-fourth victory. Mr LEUNG Yiu-chung has been moving motions on this subject over a long period of time, and so I think the Government should be ashamed of itself.

I remember that when this motion was moved a few years ago, Sarah LIAO expressed great support for it and she even said efforts would be made to this end. However, it is Eva CHENG who is in office now, but only the MTRCL has implemented the relevant arrangement to date. Of course, the fact that Secretary Matthew CHEUNG and Secretary Eva CHENG have succeeded in making the MTRCL offer this concession can be regarded as some progress, but we really hope more comprehensive arrangements will be made.

President, our present request is actually very humble. As a matter of fact, half-fare transport concession for people with disabilities is offered all over the world, and in most places, even free transport, instead of only half-fare concession, is provided, and Shenzhen is a case in point. For people with disabilities taking the MTR through train to Shenzhen, half-fare concession is offered for the Hong Kong section while free service is available for the Shenzhen section at present. Therefore, when it comes to fare, people with disabilities cannot "get through" at all. Insofar as civilized societies are concerned, inclusion policies are put in place in some developed places in the hope that society will become barrier-free, which means not only barrier-free access or buses fitted with super low floors but also respect and the absence of barriers in financial terms. The present proposal of half-fare concession can help achieve the absence of financial barriers.

Actually, we are only demanding a half-fare concession, which is not too much of a luxury. I hope the Secretary will tell us later whether she has held any discussion with the two major bus companies, specifically the KMB and the

NWFB, since the MTRCL's announcement of providing half-fare concession. She mentioned encouragement in her speech just now. How did she make such encouragement? Did she make any encouragement after the MTRCL had made the announcement? I really want to listen to an account on the efforts she has made. I am not blaming the Government, and I just hope we can work together. How did she put in her efforts? Is it the case that she has made some efforts but the two bus companies simply remain indifferent? The Welfare Services Panel of this Council may invite representatives of the bus companies to its meetings to find out why the provision of half-fare concession is infeasible.

President, I remember that when a subcommittee of this Council discussed the issue of half-fare concessions, the representative of the KMB implied that it would follow the decision of the majority. Now that the MTRCL has put this into practice, as it will follow the majority ..... the MTRCL will issue cards to qualified persons with disabilities, and actually there are not too many of them, only 100 000 at present, among whom not necessarily everyone will take the bus. This number is merely a drop in the ocean compared to the total number of bus passengers. As this number is so small, why are the bus companies unwilling to take up their corporate social responsibility and take even a small step forward?

I think they will certainly pass the buck to the Government, saying that as this is the Government's welfare policy, it should be implemented by the Government. However, when an enterprise, especially the KMB and the NWFB which claim to have taken up their corporate social responsibilities, passes all the responsibilities to the Government, does it mean enterprises do not have to take any responsibility at all? The number in question now is not big. It is a small number of only 100 000 people, among whom not everyone would take the bus. It only accounts for a very small proportion of the number of passengers every day. Are they unwilling to take even such a small step forward? Therefore, I hope the two bus companies will realize their own responsibilities. I do not wish to hear them pass the buck to the Government, which may in turn resort to the excuse that it would encourage enterprises to take actions. This way, the issue would be delayed year after year, a debate would be held year after year, and discussions would be carried out year after year, but still nothing could be achieved in the end.

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

I very much hope some result can come out of this year, and I hope all bus companies and operators of minibuses will go along with the new development. Now that the MTRCL is going to provide a kind of Octopus card, the barrier has been removed for them. I hope the same card, the design of which is actually very good, can be used by them. Another barrier for the bus companies is their concern that they might not know who should be entitled to this concession, but now the target group has been identified. As a company has already offered this concession, they would have no excuse at all for not implementing this concession. I hope the two bus companies will make a positive response at this stage by opening up their enterprises and taking up their social responsibilities to implement this concession. I also hope the Government, in particular, the Labour and Welfare Bureau, will improve the Rehabus service. In fact, the Rehabus service has a unique significance. Very often, people with disabilities and organizations of people with disabilities have to use the Rehabus service when participating in activities. When their bookings for the Rehabus service are often declined or when arrangements have to be made many days in advance, and when many organizations may compete for this service at the same time, demand for this service is evident. I would also like to listen to the response of the Labour and Welfare Bureau later on to the question of whether or not additional resources will be allocated to provide better Rehabus service. Thank you, Deputy President.

**MR CHAN KIN-POR** (in Cantonese): Deputy President, regarding the question today, discussions were held by this Council on many occasions in the past. However, the fact that a debate on the same question is proposed today reflects that the Government and some public transport operators have still failed to face up to the transport needs of people with disabilities. Nevertheless, this has given Members an opportunity to walk in other's shoes and think about the inconveniences encountered by people with disabilities in their daily life and how we can really help this group of needy people in society.

There are many websites and forums on disabilities on the Internet, and the following was written in a forum: "The Government has been encouraging people with disabilities to venture beyond the walls of their homes to integrate into society and set their eyes on the world in order to become people with disabilities in the body but not in the heart, and people disabled yet useful ..... but for us, people with impairment of the limbs, as most of us are incapacitated and have no

earning power, how can we afford the high travelling expenses? Being trapped at home, our physical and emotional well-being is affected. If half-fare transport concession is provided, at least we will go out more often to ease our psychological stress, and everyone will be happier."

Actually, in its policy on assisting people with disabilities, the Government should have put in place comprehensive and effective measures, such as developing a comprehensive transport network and formulating a comprehensive policy on public transport concession for people with disabilities, in order to help them integrate into society and enable them to enjoy equal opportunities and achieve the objective of fully participating in the community in education, work and cultural and social life as ordinary members of the public do. However, there are still many inadequacies in the Government's effort in this regard.

The motion and the amendment moved by Mr LEUNG Yiu-chung and Mr WONG Kwok-hing respectively have put forward many proposals to make up for these inadequacies. I personally agree very much that the Government should take the lead to formulate, in a comprehensive manner, a policy on public transport concessions for people with disabilities, the chronically ill and the elderly in order to provide them with physical and psychological support in their daily life and during their rehabilitation process and help them reintegrate into society and start a new life.

Actually, insofar as many policies are concerned, the Government always focuses only on some tangible economic benefits, to the neglect of many intangible ones. For example, regarding the half-fare transport concession for people with disabilities, a reduction of only a few dollars per trip will be involved, but the social benefits arising from this amount may well exceed its face value. Indeed, it may enable people with disabilities who are in financial difficulties to enjoy fast and convenient public transport to travel to work and school and participate in social and cultural activities in places of their choice as other people do. For them, the significance cannot be measured in terms of money. For their friends and family members who have been providing continuous care for them, in particular, it may also serve as a great relief and ease their pressure.

The MTRCL has announced its introduction of half-fare concession for people with disabilities in the future, and it is estimated that 110 000 people will

be benefited. However, the several bus companies have not joined this move to provide concession to people with disabilities.

A survey was conducted some time ago by the Hong Kong Joint Council for People with Disabilities and the Hong Kong Council of Social Service on the needs people with disabilities for barrier-free transport. In this survey, questionnaires were distributed to 18 rehabilitation agencies and disability self-help organizations, and 1 200 questionnaires were returned in the end. I would like to highlight the findings that the five means of public transport chosen by most respondents were, in order of preference, buses, MTR, minibuses, trains and taxis. The major reasons for them to use various means of public transport include participating in social activities, shopping, participating in cultural and recreational activities and going to work/school. Buses are the means of transport preferred by the largest number of respondents because, as Members may well understand, they provide a point-to-point service which is more convenient, and it is different from the MTR, which may sometimes require passengers to go up and down different levels.

With the various developments of the railway system and other modes of public transport, there may be changes in the behavioural pattern of people with disabilities in using public transport. Nevertheless, buses undoubtedly remain the most important mode of transport for them. For a socially responsible enterprise with vision, more profound benefits in publicity and education will be reaped by providing transport concessions to needy people than spending a few hundred thousand or even a few million dollars on publicity. Nevertheless, I also appreciate the difficulties faced by bus companies. As small sums will add up to a very large amount over a long period, it is very costly to provide half-fare concession across the board. Besides, as we all know, the bus trade is a relatively difficult business. With the competition posed by the MTR, they face many problems. Despite all these, I believe the bus companies should still examine the issue of increasing the fare concessions for people with disabilities in phases to cope with the needs of society as a whole.

Deputy President, I so submit.

**MR WONG SING-CHI** (in Cantonese): Deputy President, this motion requesting the Government to face up to the transport needs of people with

disabilities has been moved in this Council on eight occasions in a row since 2002. The history is still vivid before my eyes as this was the first motion debate I participated in after my return to this Council. One year has gone swiftly by, but I can see that there are still plenty of tasks which remain to be accomplished by the Secretary, which has made evident the attitude adopted by this Council towards this motion. Over the years, Members have supported the motions moved by Mr LEUNG Yiu-chung. However, it seems the authorities are still unable to fully respond to the transport needs of people with disabilities today. I hope we will have more good news in the year to come and we can really facilitate people with disabilities in going out and participating in activities.

The MTRCL finally announced on 21 May the introduction of half-fare concession for people with disabilities. However, many complementary measures and discussions on its implementation are still required. Of course, we hope the relevant work will be carried out as soon as possible. However, as Mr LEUNG Yiu-chung mentioned, there is now a possibility that concessions for people with disabilities will be provided in the same way as student concessions. We have to consider carefully whether annual application or assessment will be required, as in the case of student concessions; if so, it would pose a problem because people with disabilities are already mobility-handicapped, and it is thus more difficult for them to lodge an application afresh every year. We hope a longer concession period will be provided, and even if a fresh application is required, it should be lodged at most once every three to five years, or application by mail should also be allowed. I hope that, through discussions, assistance will be provided to people with disabilities as much as possible to facilitate them in enjoying these concessions. It is because even if these concessions are introduced, people with disabilities may not find them beneficial if too many obstacles are imposed.

Besides, we also have to discuss whether it is necessary to amend the Disability Discrimination Ordinance. I know the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities (the Subcommittee) has examined various proposals. Although there was the view that the introduction of legislative amendments would not be necessary, the Subcommittee finally agreed to amend Schedule 5 to the Disability Discrimination Ordinance to put it beyond doubt that selective provision of fare concessions to people with disabilities would not constitute a contravention of the Ordinance, in order to improve the relevant scheme. This

kind of work remains to be done. Although the MTRCL has agreed to provide concessions, we still have plenty of work to do. To date, the bus companies have not agreed to provide fare concessions to people with disabilities. In fact, even if the bus companies agree to provide concessions in future, it will still take some time before people with disabilities can actually enjoy them. Therefore, I hope we will keep up with our efforts to fight for the introduction of these concessions as soon as possible.

I know all the three parties, namely, the Disability Alliance on Concessionary Transport Fare, the MTRCL and the Government, expect that the concession will be introduced in December this year. I hope concrete steps will really be taken to implement it at that time. I think this is a good start and it has successfully made a breakthrough, realizing the idea of caring for people with disabilities.

According to the present proposal, the MTRCL will implement the Half Fare Promotion Scheme for recipients of Comprehensive Social Security Assistance aged between 12 and 64 with 100% disability and recipients of Disability Allowance in the same age group, benefiting about 110 000 people. The Democratic Party requests other public transport operators to immediately offer fare concessions without further delay because if decisions are further postponed, more time will be required to arrange for the relevant complementary measures before concessions can actually be provided to people with disabilities. In fact, as many Honourable colleagues mentioned earlier, the bus companies hinted at a meeting of the Subcommittee that if the MTRCL introduced fare concessions, they would follow suit. However, no action has been taken so far. I hope the bus companies will, after listening to our debate today, restore their integrity and keep their word by honouring their undertaking.

As I said just now, the MTRCL's announcement of providing transport fare concession to people with disabilities has only made a breakthrough and we still have to keep up with our efforts in various tasks. The motion today is on facing up to the transport needs of people with disabilities. Besides public transport, I would also like to talk about the issue of Rehabus.

In both 2007 and 2008, Rehabus served over 600 000 passenger trips. However, just in 2008 alone, as many as 10 034 telephone bookings for the Rehabus service were declined. In other words, many people with disabilities

were still unable to use the Rehabus service. At present, the average waiting time for the Scheduled Route Service stands at two months, reflecting a severe shortage of service. Recently, I had a meeting with organizations of people with disabilities to discuss the issue of support services for people with disabilities, but some of them were unable to attend the meeting as their bookings for the Rehabus service were declined, and they were unable to participate in part of the work as a result. I was deeply troubled by this incident, so I hope Secretary Matthew CHEUNG will face up to this problem and introduce concrete measures at the Panel on Welfare Services or through other channels to provide adequate resources to the Rehabus service for use by people with disabilities.

I agree with the idea expressed by Mr WONG Kwok-hing in his amendment, that the Government lacks the determination to make improvements. Throughout all these years, the Government only set out, in a piecemeal manner, the measures it had put in place, failing to take concrete actions to implement the various fundamental suggestions previously made by us. We consider this extremely undesirable.

Finally, I earnestly hope that Mr LEUNG Yiu-chung will not have to move a motion debate on this question again next year and that this will be the last time it is debated.

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

**MR RONNY TONG** (in Cantonese): Deputy President, I have been a Member of this Council for five years and this is the sixth time that I participate in a debate on this issue. Deputy President, as far as I can recall, the motion was passed by this Council on each occasion. However, year after year, we still need to discuss this issue with the Government here and blame it for not doing its job properly.

Deputy President, this case of injustice gives people an impression that the Government is shirking responsibilities and apathetic. Deputy President, the Government will certainly say that progress has been made, for example, people with disabilities were given an additional travelling allowance of \$200 in July last year. How helpful would \$200 be? That was just like a tasteless chicken rib that many people found pitiful to discard. A better deal is the announcement

made by the MTRCL in May this year that 110 000 people with disabilities could enjoy half-fare concession. Nevertheless, the concession is only given to recipients of Comprehensive Social Security Assistance (CSSA) and Disability Allowance (DA) with 100% disability who have registered with the Social Welfare Department. Therefore, the relevant groups hope that the concession can be extended to people with disabilities and their family members who have not applied for CSSA or DA.

Extending the beneficiaries to these two types of people is actually not a quest fuelled by greed, but a very meaningful development in improving the measures for the protection and support of people with disabilities.

Deputy President, put very simply, insofar as people with severe disabilities (such as people with tetraplegia) or handicapped children are concerned, merely giving them half-fare concession is actually not helpful. As much as we would like to help them integrate into society actively, to go out and communicate with other members of the community, they often need to rely on the assistance of their family members when they participate in social functions. Their family members are, more often than not, voluntary carers; if they can also enjoy the half-fare concession, their financial pressure will undoubtedly be relieved in great measure. Concerning other people with disabilities such as children with dyslexia and people who have suffered work-related injuries but not permanent total incapacity, they may be defined as people with disabilities but they may not qualify for DA. Evidently, there is a greater need for them to integrate into society and adapt to life in the community, but owing to their disabilities, impairment and educational attainment, their financial capacity is frequently limited. Hence, transport subsidies would help them and their family members enormously.

Deputy President, I know that three ferry operators have a looser definition of people with disabilities. Provided that people with disabilities are holders of the Registration Card for People with Disabilities, they can enjoy half-fare concession. So, some disabled groups have suggested that the proposal on extending the concession to the abovementioned groups of people is not unprecedented but well-founded.

Deputy President, in the past, the SAR Government respected the operation of public transport operators according to prudent commercial principles, such

that when the transport service providers arranged for staff to clean up homes for the elderly, used vehicles compliant with green specifications and installed additional facilities for passengers with disabilities, or offered free rides to the elderly or people with disabilities twice a year on the rehabilitation days, they were deemed to have fulfilled their responsibilities as social enterprises. In this way, they could decline to have discussions on the provision of half-fare concessions in a most righteous manner.

As a matter of fact, the United Nations had laid down under the Global Compact Initiative in 2000 generally recognized standards of social responsibilities of enterprises. These core social values were internationally recognized. Yet, many people think that that enterprises under the capitalist system keep going after profits and care little about social responsibilities is a conspicuous and basic fact that is understandable.

Deputy President, why do people say so? Because the operators should, by definition, make money and they should be responsible to the shareholders. If they can shoulder social responsibilities and uphold the internationally recognized core social values that I have just mentioned, it will no doubt be desirable. However, if they do not do so or have not done enough, they must have their own justifications. Relatively speaking, can the Government behave like the operators and say that the responsibilities lie with the operators but not the Government? Deputy President, I think this cannot be justified at all.

The responsibilities of the Government are much more important than that of any operator and that is the Government's *raison d'être*. The Government has the capacity and resources to do this. Deputy President, based on a survey conducted by the Legislative Council between September and October 2006 on the transport patronage habits of people with disabilities, offering half-fare concessions to people with disabilities would conversely encourage increased patronage of modes of transport by them, and the operators would not incur losses. And even if they really suffer losses, who should assume responsibilities for the losses? It is certainly desirable for the operators to selflessly fulfil their social responsibilities, but if they are not willing to do so, Deputy President, the responsibilities would evidently rest on the Government's shoulders.

As I have just mentioned, with its capacity, responsibilities and resources, the Government can assure all transport operators that it will assume

responsibilities for their losses — I do not think there will be losses, but, in case losses are incurred in the future, the Government will have the capacity and should bear the responsibilities. Deputy President, I really do not want to discuss this issue that goes round and round for the seventh or eighth time before I leave office. Deputy President, we may not be able to successfully fight for universal suffrage within this term, but we at least hope that we can successfully fight for half-fare concessions for people with disabilities on public transport within this term.

**DR MARGARET NG** (in Cantonese): Deputy President, as a matter of fact, this motion topic requires no lengthy discussions. I am grateful to Mr LEUNG Yiu-chung for persistently proposing this motion and for doing it once again.

Deputy President, I recall back in the last term of this Council, every time when a debate on this motion was held, Dr Fernando CHEUNG would take great pains to follow up. Therefore, before this motion debate was held, I had talked with Dr Fernando CHEUNG, telling him that this motion debate would be held. I asked him what he got to remind me of doing. Dr Fernando CHEUNG said that what he could not possibly forget was during the last term of this Council, the KMB and the NWFB had said that if the MTRCL was willing to launch this scheme, they would be more than happy to follow suit. He told me, "Margaret, although this was not formally recorded in the minutes of meetings we have, they did mention that many times in the Subcommittee and in the Council meetings." He also bade me to ask Mr LEE Cheuk-yan or Mr LEUNG Yiu-chung, adding that they would certainly remember that.

Today we know that not just these two Members recall it, but many Members have mentioned that in their speeches. Deputy President, has it become fashionable these days not to honour one's words? Is it because someone in the Hong Kong SAR has taken the lead to deny what he has said that other people are following suit? When the MTRCL is willing to do that, should our officials not start to follow up? Should they not tell the KMB and NWFB that they have made a pledge and many people have heard it and so they cannot back off and they must do it quickly? In this regard, should the officials not do something to follow up? As the MTR is only one of the modes of transport, many other people have to rely on the buses. So I hope that officials can follow up.

Also, Dr Fernando CHEUNG told me a story. He said that he always raised a problem related to people with disabilities and, that was, many people with disabilities only had a meagre income. Therefore, they would try their best to enhance their abilities in the hope of finding a better job and make more income. Dr Fernando CHEUNG said that these people would enrol in many courses. He told me that those who work in the sheltered workshops only got an allowance of \$20 a day. This is not enough to cover their transport and meal expenses. He has a student who audits his class and he would be absent some of the time. Dr CHEUNG asked why the absence. That student told him that he did not want to be absent from classes, and he treasured the opportunity very much. It was only because he did not have the money to pay for the transport expenses. Why should those people with disabilities who wish to improve their working abilities and qualifications have to be absent from classes because they cannot pay for the transport expenses?

Secretary, do you not think that you got to think about it and do something for them? For the KMB and NWFB which have given us their word, I hope that at least you can bring some good news to us, so that Dr Fernando CHEUNG can think that giving Margaret NG a reminder does serve some purpose.

Thank you, Deputy President.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, this is the eighth year a motion urging the Government to face up to the transport needs of people with disabilities is proposed in the Legislative Council. Although the MTRCL has already agreed to offer half-fare concession, the attitude of the Government has not changed much. The Government still fails to show compassion towards the needs of people with disabilities. It still adheres to its own *modus operandi* and heeds neither the views of the Legislative Council nor the aspiration of civil organizations.

That people with disabilities should be offered assistance, I believe, is a point beyond doubt. But I have to stress once again that the monthly transport allowance of \$200 provided for people with disabilities can in no way be comparable to half-fare transport concessions and be regarded as a substitute.

Actually, many people with disabilities live in remote areas, and more often than not, it will cost them dozens of dollars for a round trip to the urban areas. Let me quote the example of someone living in Tin Shui Wai. If he travels to the urban area by bus, it will cost him \$21.4 for a single trip and more than \$40 for a round trip. The monthly transport allowance of \$200 can pay for less than five trips. In the formulation of such a policy, have government officials ever considered the needs of these people? Only the provision of half-fare transport concessions will facilitate their active integration into society.

In May this year, the MTRCL, under the pressure from various fronts, eventually confirmed the provision of half-fare concession. But regrettably, the concessionary programme failed to encourage other public transport operators to follow suit. On the contrary, the KMB, the Citybus (CTB) and the NWFB indicated that the arrangement had to be considered in detail. I am enraged by those responses and consider this a matter of regret on their part.

Come to think about this. It is no easy task for people with disabilities to leave their homes given their impaired mobility, and many of them can only go out in the company of their family members. I believe even if they are offered half-fare transport concessions, they will not use bus services indiscriminately, which should not be a cause of concern. The provision of half-fare concession to people with disabilities will not lead to an increase of operation cost on the part of bus companies, for these companies will not increase the frequency of bus services to meet their demand. I do not see how the provision of such concession will impose financial pressure on these companies.

Apart from passively hoping that public transport operators will fulfil their social responsibilities, the Government can indeed play a more important role. I hope that the Government will not just copy the responses it gave last year when it responds to the motion this time around. It should not again say that "it will continue to keep in close touch with the public transport operators and strive to reflect public aspirations to them and encourage them to fulfil their corporate social responsibility", for such is total crap.

We should bear in mind that public transport operators, bus companies in particular, are not purely private companies, for their franchises are approved by the Government. As in the case of the China Motor Bus in the past, when it

failed to perform well, it had to hand over its franchise. I think the Government may deal with the problem in a similar manner. It may include additional clauses in the franchise to exert pressure on public transport operators and compel them to fulfil their social responsibility. All the three bus companies are listed companies and they have to be accountable to their shareholders in respect of their performance. But does it mean that they do not have to be accountable to the public?

Perhaps the Government may argue that upon the provision of concessionary fare, bus companies may transfer the cost onto the public by increasing bus fares. However, I think the Government is only using it as an excuse to shirk its responsibility. We may as well look at the case of the two power companies. Back then, the Government requested the two companies to sign the new scheme of control agreement at a reduced rate of return, and they eventually agreed. I do not believe the three existing bus companies will easily give up their franchise for bus services — a piece of "fat meat" bringing lucrative income.

I very much agree with the remarks by Mr LEE Cheuk-yan earlier, that the resources for Rehabus service are seriously inadequate. With regard to the relevant situation, Mr WONG Sing-chi has also provided some figures to Members earlier. Hence, the Secretary should not rely on others again this time around. The Government can always take the initiative to increase resources to subsidize Rehabus services, providing alternate transport assistance to people with disabilities.

I very much agree and support the motion proposed by Mr LEUNG Yiu-chung. I hope that this will be the last time we give support to this motion from Mr LEUNG Yiu-chung.

Deputy President, I so submit.

**MR IP WAI-MING** (in Cantonese): Deputy President, many colleagues said earlier that this question has been discussed for many years. The question has been discussed repeatedly and exhaustively to the extent that — allow me to put it bluntly — our lips have worn out. Actually, I am not surprised that this question has to be exhaustively discussed and that our lips have been worn out by such

discussion. Indeed, after the incident on the definition of poverty, I came to realize that ..... In fact, I hope that Secretary Matthew CHEUNG and Secretary Eva CHENG will respond to this later. Are we talking about the same cup of tea? In other words, whether the transport needs of people with disabilities we are talking about compatible with the Government's understanding of the transport needs of people with disabilities. Are we talking about the same thing? If not ..... Actually, the discussion on this issue has gone on for 10 years, which may still be a subject of discussion when all the 60 Members in this Chamber have retired. And the issue will not have been settled even when the new batch of Members come on stage. Therefore, I support Mr LEUNG Yiu-chung's motion and Mr WONG Kwok-hing's amendment.

(THE PRESIDENT resumed the Chair)

We all know that for people with disabilities to integrate into the community, they should be given the opportunities and ability to participate in society. In respect of supportive measures, we consider that transportation is very important to them. Transport is essential to everyone, but the need of people with disabilities for supportive transport measures is particularly crucial. The point of proposing this motion every year is to remind us to face this problem squarely. Since the Government has already heard so many views, we hope that it will cease paying only lip-service but take practical actions to assist people with disabilities in Hong Kong by addressing their transport needs.

First, in his amendment, Mr WONG Kwok-hing mentioned the platform screen doors. We have discussed the screen doors of the MTR a number of times, but they are still not installed at many stations. In the past two years, there were nearly 30 cases of passengers falling onto rail tracks. In a recent report, we learnt that some visually impaired might have fallen onto rail tracks because they misunderstood the public announcement and thought that a train was arriving. This type of accidents does not only happen to people with disabilities but also to some able-bodied from time to time. We thus demand the Government to install platform screen doors at these stations as soon as possible to prevent the recurrence of similar accidents. However, despite our repeated requests, the Government gave no responses to us but advanced many so-called technical problems to state that the installation was impracticable. We hope that

platform screen doors will be installed as soon as possible at these MTR stations. Moreover, could the study on the automatic mechanical gap fillers used by the East Rail be expedited?

With regard to barrier-free access, many stairlifts for people with disabilities have now been provided by the MTRCL, but it is still inadequate. Besides, the facilities are extremely inconvenient to use, and they have on the contrary become barriers to many people with disabilities. More often than not, Members may read reports about breakdowns in the course of operation and people with disabilities are trapped in the stairlifts. Hence, I hope that the MTRCL will work on the design of these stations to provide facilities more convenient to people with disabilities.

According to certain information, some people with disabilities travelling from Diamond Hill to Shek Kip Mei will have to spend three hours in total. We always say that time means cost. In three hours, we can almost fly from Hong Kong to Beijing.

Second, it is about low-floor buses. We hope that the Government will give bus companies incentives to use low-floor buses for all routes, or introduce certain measures to achieve this purpose, so that more people with disabilities can have access to bus services. Take Route 23 ran by the KMB as an example. Only two out of the five buses plying that route are low-floor buses. Hence, if the Government is sincere in encouraging and enabling more people with disabilities to access transport services, we hope that, other than providing Rehabus service, it will introduce more concessionary measures, encourage buses companies to purchase low-floor buses as replacement and urge them to offer concessionary fares. Actually, many colleagues here have mentioned concessionary fares. In my view, the repetition of such a request here will only mean that the two Directors of Bureau will listen to the request one more time. However, we hope that the Government will really listen to the views of Members on the introduction of some fare concessions or urge bus companies to offer concessionary fares to people with disabilities.

Though Hong Kong is a business society, we do not think that business interest should be overriding, and we should not be money-oriented, otherwise people with disabilities will be denied the opportunity to integrate into society. We always say that Hong Kong is an international city, and I hope that we can

meet the standards of an international city in substance, not only in terms of facilities or outlook, so that people with disabilities can integrate into society fully and without barriers. I think it is necessary for the Government to consider this.

President, I so submit.

**MS CYD HO** (in Cantonese): To work, to take part in activities and to keep in touch with people are the fundamentals of life. When we have work to do, goals to look forward to and friends to keep in contact and care about us every day, we find the motivation in our lives. Otherwise, we would seem like living on an island every day. When one is cut off completely from the outside world, he or she, being a sound and able body, will become more and more depressed. So, people with disabilities will be in a more difficult situation to fight this feeling. This negative feeling is not only harmful to individual mental health, but will spillover and impose a heavy psychological burden on family members taking care of people with disabilities.

Unfortunately, when the Government reviews certain welfare policies, it always focuses solely on the expenses to be incurred, calculating the amount that needs to be spent, but not the benefits brought forth by the policy. Society will actually pay a higher cost because of this mindset. But regrettably, the same attitude is adopted in the provision of special education and half-fare transport concession for people with disabilities.

In the past two years, how far has the negotiation between the Government and transport operators gone? Honestly, we do not see any significant progress, particularly in the negotiation with the two bus companies. President, I made it a point to check the responses made by the Secretary in 2007 and 2008 to compare certain figures. On Rehabus service, in the year 2007, there were 95 rehabuses; in 2008, there were 109 rehabuses, and for this year, the Secretary said earlier that the number of rehabuses has now been increased to 112 — only three more rehabuses are added and that is all. The number of routes only increased from 61 in 2007 to 69 in 2008. How many routes will be added this year? Though this has not been mentioned, Members can imagine that with a mere increase of three rehabuses, not many routes can be introduced. Am I right? With regard to person trips, the number of trips increased from 580 000 in 2007

to 640 000 in 2008. However, no change was made by bus companies, for the number of low-floor buses was 2 700 in 2007, and it remained the same in 2008. As for the situation this year, I have to wait for the remarks to be made by the Secretary later. For buses installed with the next-stop announcement and display system, in 2007, there were 4 300 such buses, and it remained at 4 300 buses in 2008.

Actually, when I compared the responses made by the Secretary in the past two years, I first thought that my colleagues might have given me the wrong information. But when I looked at it in detail, I found that the information was really extracted from the responses made by the Secretary in 2007 and 2008. Alas, not much progress has been made, particularly on the part of bus companies. Certainly, some new measures were introduced last year, say people with disabilities aged between 16 and 65 were granted a monthly allowance of \$200. But as many colleagues pointed out earlier, not many people could benefit from this allowance. The Hong Kong Jockey Club has also introduced a car renting service called the Accessible Hire Car Service, but since the service charge is expensive, recipients of the \$200 allowance can only use such service a few times.

Indeed, among the social responsibilities we should shoulder in respect of people with disabilities, many of them do not involve significant cost. To be specific, as buses run by the two bus companies are seen carrying only eight to 10 passengers during non-peak hours, we may at the very least request the bus companies to offer half-fare concession during non-peak hours. The concession offered does not have to be restricted to people with disabilities, for the elderly should also be offered certain transport concessions during non-peak hours. These measures do not involve the spending of public money, for the Government may simply achieve this target by requiring the service operators to fulfil their social responsibilities during the negotiation on the renewal of franchise with these operators.

At this point, I am indeed trying to narrow the gap, for we are going to discuss the minimum wage issue soon. If people with disabilities can land jobs, they will receive minimum wage by virtue of the relevant legislation. By then, I believe they will be able to afford the transport expenses like others. However, if the legislation on minimum wage requires people with disabilities to receive 50% discounted pay, and if certain people with disabilities cannot get a job

anyway, they will definitely need the transport concessions. For only with such concessions can they attend follow-up medical appointments, receive physiotherapy and take part in activities organized by social service organizations to stay energetic and psychologically healthy.

In the policy address this year, the Chief Executive proposes co-operation between the Government and the business sector. He urges us not to interpret every co-operation between the Government and the business sector as kind of collaboration. Certainly, if the Government and the business sector can co-operate to take care of the need of people with disabilities in transport expenses, I think no one will say that it is collaboration but will definitely give it a round of applause to welcome the arrangement. In this connection, I look forward to the expeditious co-operation between the Government and business organizations, where resources of the Government and society will be utilized to improve the life of people with disabilities.

President, I very much agree with the last item in Mr LEUNG Yiu-chung's motion, which refers to the stepping up of consultation with people with disabilities on the improvement measures of the transport system. To physically-able people with relatively healthy senses, apart from presbyopia caused by old age, certain tasks may seem extremely easy, but to people with disabilities, they may have to make a strenuous effort to do such tasks. Therefore, without support measures tailor-made to their limitations, it may easily give rise to accidents. Let me cite the glass doors of many shopping malls as an example. I think even people wearing spectacles like us may have bumped their heads into such glass doors before, and people with visual impairment are thus more vulnerable to such accidents. The situation can be improved by a simple method. The companies concerned need only post some eye-catching stickers on the glass door to prevent these accidents. However, since we do not have such physical limitations, we are not alert to these dangers. For this reason, I implore the Government to accept Mr LEUNG Yiu-chung's proposal of inviting people suffering from different degrees of disabilities to form an advisory committee on promoting a barrier-free city. In that case, they may present their views on the improvement of transport services, roads and barrier-free access based on their physical and sensory limitations, and remind government officials and public transport organizations of the need to improve stations or other facilities of the road system.

President, I urge the Government to take specific actions as soon as possible to answer the call of the public for provision of subsidies and formulation of measures. Thank you.

**MS MIRIAM LAU** (in Cantonese): President, the problem of inadequate transport support faced by people with disabilities in Hong Kong has all along been a cause of concern. Though the Government has already allocated additional resources to improve the situation, limited progress is made at a snail's pace, failing to meet the needs of people with disabilities. Hence, it is understandable that Mr LEUNG Yiu-chung has to propose this motion on the transport support for people with disabilities today, which is the eighth time such a motion is proposed. The Liberal Party's stand on the issue has always been clear. We support providing suitable transport support to people with disabilities. Besides, we hope that the Government can introduce financial incentives to encourage public transport operators to provide concessionary fares to people with disabilities, so that they can fully integrate into society and meet with the community, where they can bring their potentials into full play and contribute to society.

In May, the MTR Corporation Limited (MTRCL) announced its initiative to provide by the end of this year half-fare concession to passengers who are Disability Allowance (DA) recipients aged between 12 and 64 or Comprehensive Social Security Assistance (CSSA) recipients with 100% disability. The Liberal Party strongly supports this arrangement. For the implementation of the half-fare concession policy of the MTRCL, the Government has to amend the Disability Discrimination Ordinance as a complementary measure. The Liberal Party hopes that the Government will speed up the work concerned and submit the amendment bill to the Legislative Council for scrutiny as soon as possible, so that needy people with disabilities can soon enjoy the concession.

The Government always says that public transport operators run according to the commercial principle of prudence and that the provision of concession is a commercial decision. It uses this as an excuse for shifting all the responsibility of providing concessions to public transport operators. However, for the half-fare concession policy implemented by the MTRCL this time around, the Government will provide a one-off subsidy of \$2 million to the MTRCL to facilitate the implementation and promotion of the new concession initiative.

This is really a breakthrough. It has also set an example for other public transport operators to follow. As far as I know, the three bus companies are now examining the feasibility of offering fare concessions with financial subsidies from the Government.

Apart from requiring public transport operators to provide fare concessions to people with disabilities, the Liberal Party always considers that the Government should deal with the issue of transport expenses of people with disabilities from a welfare perspective, for they are a group in need in actuality, so the Government should provide assistance. Starting from last July, the Government grants a monthly transport allowance of \$200 to certain DA recipients or CSSA recipients with disability. The amount of that allowance was increased by \$10 to \$210 from February this year. The granting of transport allowance is a good measure, and the flat-rate allowance of \$200 is considered barely acceptable to people with disabilities living in the urban area. But to people with disabilities living in remote areas and new towns, the allowance will be of little help. The Government should review how the current transport allowance is determined, assess the effectiveness of the current transport allowance, examine the need to vary the allowance according to the districts of residence of the recipients and identify ways to ensure that people with disabilities will benefit from the transport allowance fairly.

Concerning the Rehabus service, in the year 2008-2009, the Government provided additional resources for the addition of 32 rehabuses, but to date, there are only 109 rehabuses in the territory. According to a report last month, a disabled youth suffering from muscular dystrophy, who had to rely on a respirator to maintain his life and an electronic wheelchair to move around, wished to book the Rehabus service to seek consultation at a hospital for he could not get there by himself, but he had to wait for three months for the service. The acute shortage of Rehabus service has given rise to the problem of "fake" rehabuses, which will pose a threat to the life and safety of people with disabilities. Since 2008, the Hong Kong Jockey Club has allocated \$15 million to sponsor the Accessible Hire Car Service, but since only 20 vehicles are available for service, the demand for the service cannot be met. The Government should act proactively to face the problem of shortage of rehabuses squarely.

To satisfy the enormous demand of people with disabilities for transport services, I once proposed to the Government the introduction of large taxis

accessible by wheelchairs and the implementation of a taxi-subsidy programme for people with disabilities, say by providing taxi vouchers, which would give people with disabilities greater flexibility in choosing transport means. However, no progress has been made so far. To achieve the target of encouraging people with disabilities to participate in society, the Government should allocate additional resources to enhance the Rehabus service. It should at the same time actively examine the provision of diversified transport options and subsidies to people with disabilities. Apart from the proposals I put forth earlier, the Liberal Party also considers it worthwhile for the Government to examine the proposals mentioned in Mr WONG Kwok-hing's amendment to subsize people with disabilities to purchase electrical wheelchairs and provide more concessions to disabled drivers.

The Liberal Party supports the realization of the concept of "Transport for All". During the discussion of the merger of the two railway corporations, the MTRCL paid heed to the request of organizations representing people with disabilities to step up and enhance the facilities of various stations along the rail lines of MTRCL progressively. For instance, additional bi-directional gates and lifts will be installed and tactile guide paths for the blind will be laid. As for bus companies, they are increasing the number of low-floor bus in phases. In the amendment, the installation of platform screen doors and automatic mechanical gap fillers are mentioned, and it is hoped that the MTRCL will expeditiously implement those proposals and install the relevant facilities to ensure the safety of all passengers, including people with disabilities. The Liberal Party fully supports these proposals.

The Liberal Party believes there is still much room for improvement in public transport. It hopes that the Government and the operators concerned will listen more to the aspiration of people with disabilities and enhance facilities helpful to them, so as to improve the barrier-free transport environment in the territory for the benefit of people with disabilities.

President, I so submit.

**MR CHEUNG HOK-MING** (in Cantonese): President, this motion on transport fare concession for people with disabilities has been discussed for nine years unawares. Over the past nine years, the mindset of the Government has changed a little. At first, the Government said that the provision of concession was in

violation of the Disability Discrimination Ordinance and used it as a shield to turn a blind eye and remain indifferent to the needs of people with disabilities. Later, society entered into a heated discussion on the issue and a subcommittee was set up by the House Committee of the Legislative Council. To placate the public outrage, the Chief Executive proposed the provision of a monthly transport allowance of \$200 for people with disabilities in the policy address last year. By May this year, the MTR Corporation Limited (MTRCL) announced the provision of fare concessions to people with disabilities by the end of this year. The Government responded immediately by stating its willingness to amend the Disability Discrimination Ordinance to tie in with the proposal. If everything goes well, the fare concession will be implemented by the end of this year, and there seems to be a glimpse of light for the eight to nine years' fight.

The SAR Government has taken a big step forward by agreeing to amend the Ordinance this time around, but it does not mean that it has accomplished its mission, and quite the contrary, it is only a start. The authorities will have to make extra efforts of follow-up in future. In my view, in future, the SAR Government will at least have to promote work in the following three aspects.

First, it should motivate other transport operators to follow the practice of the MTRCL. I believe Members will agree that buses are the most popular means of transport other than the MTR. One of the characteristics of buses is that it can provide point-to-point service that requires no interchange in the middle of the journey, which is most convenient to people with disabilities. For this reason, the Government should seize this opportunity of the MTRCL launching the concession to motivate bus companies to follow suit by offering half-fare concession, so that half-fare concessions are available among all major modes of transport in the territory.

Second, it is the introduction of diversified modes of transport for people with disabilities. It is true that transport operators have made an effort to improve the facilities for people with disabilities, but the design of the cabin of Rehabuses after all best suits the needs of people with disabilities. Over the years, the Government has indicated every year its intention to purchase new Rehabuses and replace the old ones, but still, there is a shortage of Rehabus service. It is learnt that some 10 000 applications for Rehabus service made by phone booking were turned down in 2008, representing 10% of the number of applicants. With regard to shuttle bus service, since the number of routes provided is after all very limited, it can hardly satisfy the need of people with

disabilities. Hence, it is often reported that people with disabilities encounter problems in booking Rehabus service.

Recently, I learnt from the newspaper that some unauthorized rehabuses claiming to serve people with disabilities are now found in the car parks of many hospitals. In fact, these rehabuses are converted from light goods vehicles by installing a tail lift, which are mainly used to carry people in wheelchairs. Obviously, the facilities of these buses are not up to standard. There are problems with the facilities and safety of these buses, and it is most unlikely that the drivers concerned are health care professionals. These reports are frequently heard.

President, people with disabilities know the risk of taking those unauthorized rehabuses, but they still do so. One can hence imagine the severe shortage of Rehabus service. According to certain people with disabilities using these unauthorized rehabuses, they use these unauthorized rehabuses not only because they can hardly book Rehabus service, but also because of the flexibility offered by these unauthorized rehabuses. For instance, they do not have to book the service one month in advance, and they can sometimes just make a booking the day before. Moreover, the service time and boarding and alighting points offered by these unauthorized rehabuses are highly flexible.

The rise of the unauthorized Rehabus service reflects a supply and demand problem in the market. The Government must face the problem squarely. It should on the one hand combat such illegal activities, and increase resources for Rehabus service on the other, so as to address the demand of people with disabilities for transport services. However, in the long run, the Government should introduce a diversity of modes of transport, such as introducing taxis suitable for rehabilitation purpose. We may follow the practice adopted by London or New South Wales of Australia, so that they can integrate into society.

Third, the Government should encourage transport operators to improve their facilities for people with disabilities. Most transport operators have now provided facilities for people with disabilities, say seating for the wheelchair-bound, next-stop announcement systems and tactile guide paths for the blind. To give the matter its fair deal, much improvement has been made in facilities provided over the past few years. This is obvious to all. However, there is still room for improvement in certain facilities.

When I met with the public or visited them in the districts in the past, I would receive complaints or requests from them. One of the cases was made by people with disabilities. They indicated that they also wished to go out with their friends like us. However, owing to the many restrictions of existing transport facilities, they cannot go out together at the same time. For instance, they complained that the multi-purpose areas now set aside in MTR trains were too small and scattered, and if they went out together, they had to take different trains, which meant longer travelling time. They encounter similar a problem when they take the bus, for only one wheelchair seat is available in a bus. Worse still, the wheelchair seat is placed in a back-to-front position. I have once received complaints from people with disabilities about people who are not used to travelling in a back-to-front position will suffer from dizziness. Therefore, when the authorities motivate transport operators to provide "Transport for All", they should take one more step to encourage transport operators to consult the views of people with disabilities on a regular basis and to cater for their realistic needs, so that they can really integrate into society.

Lastly, I remember that after the Chief Executive had delivered the policy address last week, I heard the views of some listeners expressed in a radio programme, which said that they had encountered difficulties when they took public transport. Hence, I earnestly hope that the concept of "Transport for All" can be realized in Hong Kong and that fare concessions can be offered. I very much hope that the SAR Government, the Chief Executive in particular, will accomplish this mission soon, so that people with disabilities can enjoy the benefits brought by the development of society.

Thank you.

**MR ALAN LEONG** (in Cantonese): President, this question has been discussed repeatedly in this Council, and officials representing the Government have become quite familiar with this subject. Over the years, the Government has taken no action about the issue of "Facing up to the transport needs of people with disabilities", and it has been very slow in response. By May this year, we eventually heard the announcement from the MTR Corporation Limited (MTRCL) on the provision of half-fare concession to people with 100% disability aged between 12 and 64 by the end of this year. It is at least a start.

President, Members have to understand that the transport needs of people with disabilities definitely are simply not confined to the half-fare concession offered by the MTRCL, for supportive measures should be provided in a holistic manner, providing convenient and barrier-free access to people with disabilities. President, what is the definition of "convenient"? The word "convenient" means more than cheap fares. As such, consideration should focus on measures supporting the policy as a whole. For instance, it should include different means of transport, barrier-free access or concessions for accompanying relatives and friends, and so on. The Government should ensure that every person with disabilities with different needs can move around at their will trouble-free. When that is the case, Hong Kong can really be called "barrier-free".

President, there are around 360 000 people with disabilities in Hong Kong, but only 10% to 30% of them can benefit from this concessionary scheme offered by the MTRCL. Why can the majority of people with disabilities not benefit from the scheme?

President, two years ago, the University of Hong Kong published a survey report, indicating that transport fare concessions might attract more people with disabilities to use transport services, meaning that the frequency of people with disabilities using transport services would increase significantly as opposed to the case of no concession and supportive measures were provided. In other words, the provision of fare concessions will generate investment return for the operators and bring positive effects to society, which will in turn promote an inclusive society and enhance the effectiveness significantly.

In fact, many people with disabilities hope that bus companies can also offer fare concessions. According to the survey report published by the University of Hong Kong, which I mentioned earlier, if bus companies offered fare concessions, the number of trips made by people with disabilities would increase by 72%. These figures show that transport fare has a significant bearing on the frequency of going out of people with disabilities. If the opportunities for people with disabilities to participate in social activities, to get employment and receive education, and so on, are undermined because the Government fails to make adequate efforts, the Government is doing a disservice to these people.

President, according to "A Guide to Public Transport for People with Disabilities 2009", 51% of the franchised buses are not provided with wheelchair accessible facilities. People with disabilities seem to face certain barriers in using bus services. I hope the Government can make an extra effort to urge bus companies to install boarding and alighting platforms convenient to people with disabilities, and to convert old buses due for replacement into buses accessible to people with disabilities, providing really barrier-free transport facilities to the community.

President, I think it is definitely necessary for the Government to allocate additional resources to improve the Rehabus service. In 2005, there were about 87 rehabuses, and by now, there are only 109 rehabuses. In other words, only 22 rehabuses have been added over the past four years. The regular routes plied by rehabuses are only available in the morning and a short period in the afternoon from Monday to Saturday. Regular route Rehabus service is unavailable after 7.00 pm. Actually, in a submission submitted by the Equal Opportunities Commission (EOC) in 2007 on Rehabus service, the EOC pointed out that the service timetable lacked flexibility and failed to cater for the needs of society inclined to operate in a 24-hour mode.

We may learn about the actual situation from the figures provided, but apart from this, we may also try to understand the sentiments of people with disabilities. More often than not, people with disabilities have to travel by Rehabus to attend follow-up appointments at hospitals, but many users have to spend a long time to book Rehabus service. Other colleagues have already explained the situation earlier. Many people with disabilities said that they had to make a lot of arrangements and think of different means of transport whenever they have to travel to and from the hospital. It is evident that the Government definitely needs to invest more resources to enhance the supportive Rehabus service to cope with the demand.

President, lastly, I surely hope that after years of fighting, the half-fare concession, though incomprehensive, offered by the MTRCL will give a glimpse of light and be a start. I hope this is the first step to turn Hong Kong into a fairer place where needs of the disadvantaged are better addressed. Once again, I have to emphasize that the transport problems faced by people with disabilities have to

be addressed with supportive arrangements made on various fronts, and the half-fare concession offered by the MTRCL alone is far from adequate.

President, it is not difficult to be a government that really appreciates the plights or needs of the people. It all depends on whether or not the Government is willing to do so. I hope the Government can show its sincerity by redoubling efforts to face up to the transport needs of people with disabilities.

Thank you, President.

**MR PAUL CHAN** (in Cantonese): President, I have to make a declaration of interest first of all. I am an Independent Non-executive Director of The Wharf (Holdings) Limited, and The Wharf (Holdings) Limited holds interests in The Star Ferry and the Hong Kong Tramways.

President, in a number of debates on different motions in the past, I have stressed that the Government should not make excessive intervention in commercial operation. When I consider the original motion of Mr LEUNG Yiu-chung and the amendment of Mr WONG Kwok-hing this time around, I still adhere to this guiding principle.

However, services provided by local public transport operators are closely related to the daily lives of the people, and many public resources, like the development rights of property along the railway lines and operation franchises, are in the hands of these operators. Hence, I think the Government can play some sort of an active role in the determination of public transport fares.

Hong Kong society is progressing continuously and the concept of a barrier-free city is gaining popularity. Nowadays, the needs of people with disabilities will be taken into account in the design of buildings, means of transport and recreational facilities. However, the concept of barrier-free access definitely should not be confined to hardware facilities. A more important consideration is the provision to people with disabilities opportunities of equal participation in their daily lives.

At present, people with disabilities are paying the same transport fares like the public in general. However, when people with disabilities go out, they usually have to be accompanied by family members or friends who take care of them, and they are actually paying double fares, which has increased their burden.

In many advanced countries, people with disabilities may enjoy transport fare concessions. Even in China, a developing country, people with disabilities are offered transport fare concessions. But Hong Kong, which lays claim to being "Asia's world city", is lagging far behind in this respect. A number of colleagues have already pointed out that though several motions on relevant subjects had been passed in the past few years, regrettably, the Government has reacted in an extremely indifferent manner to the relevant requests.

Doubtless, we must address the difficulties faced by people with disabilities squarely. Regarding the question of how their burden in transport fares can be eased, I think the Government and public transport operators can engage in co-operation.

First, the Government should improve the initiative of transport allowance. According to the figures from the Census and Statistics Department in 2008, there were around 360 000 people with various degrees of disability in Hong Kong, and if people with intellectual disability was included, the total number of people with disabilities would exceed 400 000. At present, the transport allowance for people with disabilities offered by the Government only benefits the recipients of Disability Allowance (DA) aged between 12 and 64 and recipients of Comprehensive Social Security Assistance (CSSA) with 100% disability. I think the coverage is far from adequate. The Government should lift the restrictions on transport allowance for people with disabilities so that all of them can benefit.

Second, public transport operators must bear their social responsibility. Many colleagues have already expressed their views on this point. I would like to add one more point, that is, the Shenzhen metro line, with which the people of Hong Kong is familiar, is already providing free rides to people with disabilities. The Shenzhen metro line 4, of which the MTRCL has successfully obtained the franchised operation, will provide the same offer. In other words, the MTRCL is applying two different standards in its fare policy to people with disabilities in Hong Kong and the Mainland. This is a cause of disappointment to the people

of Hong Kong. Yet, the incident demonstrates one point, that is, if the Government insists on adopting a transport policy convenient to people with disabilities, even the MTRCL will have no choice but follow.

Earlier on, the MTRCL announced the introduction of half-fare concession for people with disabilities. This is the first step in the right direction. However, the concession is only available to CSSA recipients with 100% disability and recipients of the DA issued by the Social Welfare Department, benefiting only 110 000 persons with disabilities, which is one third of all persons with disabilities in Hong Kong. I earnestly urge the MTRCL to further relax the restrictions on the fare concession to benefit more people with disabilities and fulfil its social responsibility. I also implore other public transport operators, bus companies in particular, to follow the practice of the MTRCL to offer half-fare concession to people with disabilities.

Third, the Government should allocate resources to support public transport operators in providing fare concessions to people with disabilities. If we check the record, we will find that the Government is the major shareholder of the MTRCL, and the MTRCL pays dividends to the Government every year. In the years 2007 and 2008, the MTRCL paid \$1.8 billion and \$2.1 billion respectively to the Government as dividends. Last year, I suggested that the Government might consider the "dedicated funds for dedicated purpose" approach by dedicating dividends received from the MTRCL to subsidizing the travelling expenses of the socially disadvantaged. This approach will involve no intervention with commercial operation, nor will it affect the profit and investment value of public transport operators. The free business environment in Hong Kong will remain intact while people in need are offered assistance. I consider this an all-win measure.

President, insofar as fare concession is concerned, it is indeed an arrangement for society to subsidize people with disabilities, who have to bear a higher "mobility cost" than the able-bodied, by providing them with transport service at lower fares. With this arrangement, they will not be home-bound, nor will they lose their jobs and even the opportunities to have normal social activities due to their impaired mobility. The provision of transport fare concessions by public transport operators to the elderly and students should not be interpreted simply as some kind of "welfare policy". Indeed, this is a way for society to express our respect to the elderly and care to the students, and this kind intention is manifested as practical support. When we are so willing to provide

all kinds of concessions to the elderly and students, even undergraduates, why do we distinctly overlook the care we should accord to people with disabilities?

The implementation of relevant measures in our daily lives is the key to the successful establishment of a barrier-free city. I implore the Government to drum up the resolve to promote an inclusive society, face up to the needs of people with disabilities and accord them recognition and practical assistance.

President, I so submit.

**PROF PATRICK LAU** (in Cantonese): President, regarding motions on providing transport support for people with disabilities, we, the Legislative Council, show our support each year as both people with disabilities and the able-bodied have transport needs. However, because of the inconvenience in mobility and the inadequacy of support facilities, people with disabilities have to reduce their frequency of going out. This is really most regrettable. As we can see in overseas countries, many people with disabilities being provided with adequate facilities can make use of such equipment as wheelchairs to go out.

As mentioned by many Honourable Members earlier, the MTRCL is now offering half-fare concession to people with disabilities, which can encourage them to go out. However, I rather think that concrete overall planning and building design as well as additional support facilities should be provided, so as to facilitate people with disabilities in using public transport. In this way, a barrier-free community can be fostered.

First of all, I consider that more comprehensive planning should be conducted to enhance connection in the whole city. Apart from paying attention to connection within districts, the Government should step up its efforts to enhance connection between transport networks in Hong Kong, Kowloon and the New Territories as a whole. Public transport operators, such as the MTRCL and bus companies, should provide appropriate routes for connection, so as to give us more convenience in travelling to any district in Hong Kong when we go out. For instance, in order to travel to a certain place, one may need to take MTR first and then take a bus. But very often, the existing arrangements on interchange fail to serve this purpose, as lift facilities are not provided at the exists of each MTR station, which may cause difficulties to people with disabilities to go down

from and up to the ground floor. Therefore, the Government should examine facilities in various districts from a macroscopic perspective, so as to facilitate access by people with disabilities, conduct planning for a barrier-free community and encourage various sectors in society to improve the environment.

Moreover, it is also very important to improve the design of buildings and the community. Regarding improvement of buildings at present, the Government has, in recent years, actively amended a number of ordinances, with a view to improving the guidelines and implementation of the universal design. As for new buildings, the *Universal Accessibility: Best Practices and Guidelines* has been issued by the Architectural Services Department in pursuance of the principle of universal design; in 2007, the Housing Department launched the first public housing estate with extensive application of the universal design; and in 2008, the Buildings Department also amended the *Design Manual: Barrier Free Access 2008*. Such guidelines should be observed whenever a new building plan is submitted by the industry. This point is very important. Therefore, barrier-free facilities such as ramps, handrails and lifts are provided in every new building now for easy access. But problems still exist in old buildings. The Legislative Council Building in which we are now present is one of the examples. When we move to the new Legislative Council Building in future, there should certainly be no such problems. However, the existing Legislative Council Building fails to realize the concept of universal design.

President, I think in conducting urban redevelopment or revitalizing buildings, such work is required. The Administration should conduct comprehensive planning, with provision of barrier-free ancillary facilities as a start, so that this concept can be realized in the whole community. Therefore, I think such work is district-oriented. In the Legislative Council, many Honourable Members are members of the District Councils as well. They can make some efforts in this regard by examining if there is any room for improvement in their respective districts, so as to enable the whole community to form a barrier-free network and radiate this concept to other districts.

President, I agree that the Government should allocate more resources to the relevant aspects, such as enhancing the Rehabus service and providing subsidies for people with disabilities to purchase electrical wheelchairs, so as to facilitate them in going out.

Hong Kong, especially Hong Kong Island, has a mountainous terrain. Many pavements, such as Wellington Street in the old district in Hong Kong, are composed of flights of steps, causing great inconvenience to wheelchair users. Therefore, not every place is accessible by them. In view of this, I think the Government should compile some booklets or maps and provide precise information for wheelchair users, so as to enable them to figure out how accesses are connected to a certain destination, whether it is really accessible and what community facilities are available to them. With such information, they can plan their journey conveniently.

President, regarding the example of the University of Hong Kong (HKU), many Honourable Members have mentioned their studies just now. The HKU is built on slopes, resulting that many places are not barrier-free. We have considered many options of how to make every corner of the campus accessible to people with disabilities. Therefore, I hope, in revitalizing historical buildings, the parties concerned can conduct more researches to improve the situation that historical buildings are handicapped by barriers.

In the long run, we should face up to the transport needs of people with disabilities, so as to build up a truly ideal barrier-free city. It is not enough if we just focus our discussion on the transport needs of people with disabilities. In Japan, barrier-free facilities are provided in many public places, department stores and means of transport, which can facilitate not only access by people with disabilities, but also access by the elderly and pregnant women as well as users of wheelchairs and baby trolleys. Therefore, the scope of barrier-free facilities, which has hitherto targeted the needs of people with disabilities only, should be conceived out of the box, so that we can provide, for all people in need, a community which can truly provide convenience to users and foster Hong Kong into an excellent city without any barriers. I so submit. Thank you, President.

**DR RAYMOND HO** (in Cantonese): President, this Council has had repeated debates on similar motions, hoping that the Government will have a fuller understanding of the various difficulties faced by people with disabilities in integrating into society and face the problem squarely. Though the motions proposed in the past were passed by this Council, regrettably, the Government has to date failed to take active actions and implement effective measures to assist people with disabilities who long for such assistance. Hence, today, this

Council cannot but conduct another round of intense debate on the transport needs of people with disabilities.

I have been a member of the management committee of schools for the disabled under the Hong Kong Red Cross for many years. The committee is responsible for the management of five special schools with boarding service and 11 hospital schools. I have gained valuable experience from these voluntary services, which have enabled me to understand their actual situation direct. I also understand the various needs of people with disabilities in their daily lives and the unreasonable neglect they suffer in society. The greatest difficulty faced by people with disabilities in their daily lives is the inconvenience resulted from their impaired mobility. Though the development of the transport network in Hong Kong is largely satisfactory, there is still great room for improvement in catering for the needs of people with disabilities.

At present, many public transport operators flaunt their facilities or vehicle fleets for having taken care of the needs of and providing convenient service to people with disabilities. However, more often than not, they have only taken care of some of the needs of people with disabilities. For instance, lifts, escalators and stairlifts are provided at MTR stations for people with impaired mobility to travel to and from the road level, the lobby and the platform, but these facilities are only provided at certain entrances but not all. More often than not, when people with impaired mobility try to enter a station through a certain entrance where those facilities are unavailable, they may have to cross the road or go to another entrance where the facilities are provided. This is entirely unacceptable. Moreover, in some of the exits and entrances of MTR stations, escalators are only provided in one direction, and this may easily cause accidents to the elderly and people with physical injuries who are relatively slow in movement when they walk up or down the stairs. The examples I cited violate the spirit and target of "barrier-free access", which the Government has promoted for years. I had asked questions on relevant issues in the past, but regrettably, neither the Government nor the MTR Corporation Limited (MTRCL) had made specific commitment to addressing the inadequacies.

Since people with disabilities in general are earning relatively lower incomes, they can only rely on public transport in their daily activities. At present, oil prices are showing signs of sharp increases, as in the case in 2005 to 2006, which has a direct bearing on the fares charged by public transport. The

expensive transport expenses have undoubtedly imposed a heavy burden on people with disabilities. Invariably, they will avoid going out to reduce their transport expenses. But if they remain home-bound, how can they integrate into society? Regrettably, the Government only grants a monthly transport allowance of \$200 to people with disabilities, which in actuality fails to answer the aspiration of society. The allowance may, in a limited measure, subsidize their needs in other aspects in their lives, but it fails to act as a direct incentive to attract them to go out more often, still less an incentive for them to integrate into society. Hence, if the Government and various major public transport operators can offer transport fare concessions to people with disabilities, it will be enormously helpful to them in their daily lives.

In the policy address this year, the policy on people with disabilities focuses on residential and care services but overlooks their transport needs. Pardon my boldness. Does the Government consider that the addition of six rehabuses, thus bringing the fleet to a total of 115, can fully satisfy the transport needs of the some 200 000 people with disabilities in Hong Kong? Instead of adding a few new rehabuses each year to address the increasing demand of people with disabilities, the Government should respond actively to their aspiration for half-fare concession on public transport, ending the discussion on this subject that has dragged on for eight years in a row.

Last year, nearly every Member speaking on the motion indicated the wish that the subject would never have to be discussed in this Council again. This year, we cannot but tiresomely express our aspiration once again to the Government and major public transport operators. Right before the summer holidays, the MTRCL announced the provision of half-fare concession to certain people with disabilities, which is scheduled for implementation by the end of this year. For people with disabilities who have been striving for this concession for years, it is a consolation prize. Later when the Government submits the legislative proposals to this Council for discussion, I hope the authorities and the MTRCL will seriously consider the aspiration of society and relax the restrictions on the concession, and encourage other organizations to follow suit to provide similar fare concessions, so that more people in need will benefit. Colleagues from the Professional Forum share the same position.

With these remarks, I support the motion. Thank you, President.

**MR ALBERT HO** (in Cantonese): President, first of all, I wish to thank Mr LEUNG Yiu-chung for persistently raising this motion for debate in this Council over the past eight years. In these few years past, many Honourable colleagues used the expressions of "a failure report card" and "marking time" to criticize the Government. And every time when government officials come to this Council, they would invariably give some perfunctory replies as always. I hope that the two Directors of Bureaux sitting here today can give us some encouraging news.

With respect to the transport needs of people with disabilities, despite the numerous discussions held on the subject in this Council, and apart from motion debates held in the Council meetings and a subcommittee being set up exclusively for the subject, as I have just said, the policies which the motion today seeks to materialize have not been given enough attention by the Government and the companies concerned. Last year, the Secretary made this remark in his speech, "In regard to the basic transport needs of people with disabilities, the Government has been offering financial assistance through the Comprehensive Social Security Assistance (CSSA) Scheme and the Disability Allowance (DA)." It can be seen that irrespective of issues like universal retirement protection and transport allowance for people with disabilities, the Government is putting up the CSSA system as a shield to ward off criticisms. It even thinks that the \$200 travel subsidy is a focused initiative that can enable people with disabilities to ride a taxi and that the money can be shared with the carer, and so on, and so forth. However, to date, our demand that public transport operators should offer half-fare concessions to people with disabilities has not yet materialized.

The figures I am going to cite may serve to make the Secretary appreciate better the true needs of people with disabilities. According to findings from the report of a survey on the barrier-free transport needs of people with disabilities done by The Hong Kong Joint Council for People with Disabilities and the Hong Kong Council of Social Service in 2007, 1 200 respondents of various categories of disabilities say that the means of transport they use most often is the bus, followed by the MTR. The factor most affecting their decision to go out is the fares, making 26.9% of all the factors. Another 55% of the respondents say that they have had the experience of going out less because of the fares. Another 69.1% of the respondents think that transport costs are either very expensive or expensive. Just think, if the CSSA payments or the DA are sufficient, I believe the findings will be different. As a matter of fact, the survey does not cover the carers of people with disabilities. These carers take care of people with disabilities on a full-time basis, so they do not have any income. But at the same

time, the carers have to accompany people with disabilities when they wish to go out, hence a heavy financial pressure and burden are placed on the carers.

President, every year the authorities will say that they understand public aspirations for fare concessions, but at the same time they invoke the ground of commercial decisions of the transport operators and say that the operators can only be encouraged to offer concessions to the public. Does the Government play a role no more than that? Is it right for it to do nothing to discharge its duties of co-ordination, taking the lead and promoting the cause? We just cannot expect the Government to take the initiative of enacting laws or adopt other administrative measures to bring the policy into fruition. Despite all these, we will never give up our demand that the Government and the transport companies should bear the social responsibility of offering concessions to people with disabilities. Therefore, we can see that this is the eighth time we debate on a motion like this and we may even have to do it for a ninth and tenth time. But we will never cease giving our support to and fighting for it. I hope that the authorities and the companies can know clearly the responsibilities they should fulfil and they must never pretend that they do not hear the voice of people with disabilities, for humble though it may be, it has certainly gained the support of many people in society.

Apart from fare concessions, the transport needs of people with disabilities also include the provision of barrier-free transport for them. The amendment by Mr WONG Kwok-hing mentions automatic mechanical gap fillers. These fillers may result in a longer time taken by trains at the platform and may cause problems like the reduction of train service, the Democratic Party agrees that it is essential that the risk of people with disabilities falling onto the rail tracks be reduced when they use train service.

We think that the authorities should require the public transport operators to draw up a timetable for making improvements in barrier-free transport, enhance the training of front-line staff in respect of support given to people with disabilities, consult the views of people with disabilities and endeavour to put into force a barrier-free transport policy such as implementing the recommendations made in the report compiled by The Hong Kong Joint Council for People with Disabilities and the Hong Kong Council of Social Service to introduce barrier-free taxis and to install passenger alighting flashlights on minibuses, and so on.

We have been endeavouring to fight for half-fare concessions for people with disabilities and finally a ray of hope has dawned this year. The Democratic Party welcomes this offer of half-fare concessions by the MTRCL, but this is still a long way off from barrier-free transport and so we hope that other public transport operators can roll out similar concessions expeditiously and expand the scope of eligibility for these concessions to the carers of people with disabilities.

We wish to state clearly that, as always, the Democratic Party supports this motion. I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): President, with respect to this motion from Mr LEUNG Yiu-chung, I would like to pay my tribute to him, for this is the eighth time he has proposed a similar motion in this Council.

As a matter of fact, we know that after years of fighting for the cause, the MTRCL has agreed to offer half-fare concession to people with disabilities. However, this is only the first step towards offering transport assistance to people with disabilities. In addition, so far, other transport operators such as the bus companies have not indicated that they will follow suit. Also, there is still a shortage of services and facilities offered to people with disabilities to facilitate their going out, such as the Rehabus and barrier-free facilities. That is why people with disabilities still face a lot of difficulties if they want to go out.

President, we are not people with disabilities, so we may not fully understand their personal feelings in respect of transport. So I would like to cite an article written by Ah Bun entitled in Chinese to this effect: "Barrier-free City" to let the Secretary know the transport needs of people with disabilities and how they look at the issue.

Now I quote: "As there is a severe shortage of Rehabuses and a looking has to be made at least a month in advance, it would be a wild dream if people with disabilities want to go out for outdoor activities were it not for the help given by the non-profit-making organizations to the quadriplegic association. Even if one could save on other expenses and spend a vast sum of money hiring a taxi for the disabled, it would not be possible for him to go anywhere. It is barely possible if the destination is within the urban areas, but it is very inconvenient if the destination is in the New Territories. We do not know if the Government is

being sincere or otherwise when great efforts are put into promoting barrier-free transport and encouraging people with disabilities to go out. But behind the façade of such efforts, the resources put in lag far behind the pledge made". End of quote.

From the description made by Ah Bun, it can be seen that it is still an arduous task for people with disabilities to take part in outdoor activities. They have to make an appointment for a rehabus. But according to some information, the number of cases in which requests for Rehabus service is refused amounted to as many as 10 034 last year, being 9.3% of the total applications. In other words, for every 10 bookings, almost one was refused. It can therefore be seen that service is unable to meet the demands and this hinders people with disabilities from going out.

I would like to mention in passing that there is a kind of transport service which is not usually regarded as that for people with disabilities, which is the non-emergency ambulance service. However, we can still see that many patients, especially people with disabilities, fail to get this kind of non-emergency ambulance service.

Six rehabuses are added to date, but they are like a drop in the ocean. I hope the Secretary will pay attention to this.

President, even if people with disabilities are unable to book a rehabus, they can also use other means of public transport. But the reality is that this would involve the problem of barrier-free facilities in Hong Kong. Many wheelchair users have told me that the amount of time they spend on going out is three or four times more than that of an average person. This is because they have to undergo a lot of time-consuming procedures before they can use public transport service. In the case of buses, as at end 2008, there are still 2 970 buses not fitted with super-low floors and the number is 51% of the total bus fleet in Hong Kong. Those buses not fitted with next stop announcement systems take up 27% of the total. So people with disabilities will have to wait a long time at the bus stop for the right kind of bus with such facilities before they can board it. This Council and many organizations are constantly raising this problem, but there is to date no timetable from the Government and the bus companies for the replacement of buses. I hope that the authorities can follow up this matter.

Apart from buses, barrier-free facilities in the railways are also insufficient. Despite the availability of lifts and stairlifts in MTR stations, lifts in most stations do not reach the street level and each station usually has got only one stairlift. Should there be any problem with any one of these, the station concerned will instantly become a "barrier" station. I hope the MTRCL can improve such facilities for the convenience of people with disabilities.

President, the United Nations Convention on the Rights of Persons with Disabilities requires governments of all places to provide a barrier-free environment in respect of buildings, roads, transport and indoor and outdoor facilities to people with disabilities. Despite our claim as an international city, we are unable to meet the targets in these areas. This is really a disgrace. I therefore hope that the Secretary and the relevant departments can make more efforts in the provision of more suitable transport to people with disabilities so that Hong Kong can truly become a barrier-free city.

With these remarks, I support the original motion and the amendment.

**MR WONG YUK-MAN** (in Cantonese): President, it is a shame for Hong Kong that the Legislative Council has to repeatedly debate a motion on the transport needs of people with disabilities. On the one hand, this highlights the powerlessness and incompetence of this Council, and on the other, the insensitivity of the Hong Kong Government as well as callous conscience of greedy businessmen. It is a disgrace for Hong Kong. But we are still entangled in technical issues. This is basically a matter of principle. There is no place in the whole world like Hong Kong. The per capita income of Hong Kong is US\$30,755 a year and this puts us the 28th in the world. Our foreign exchange reserves amount to US\$218.1 billion and this is the seventh largest in the world. Our economic strength gives us the status as one of the so-called developed areas. But in terms of care for people with disabilities, the elderly and the weak, we are in the ranks of the backward areas and in some cases, we are even worse. All civilized and open societies will encourage people with disabilities to integrate into society. We demand that fare concessions be given to help these people with disabilities overcome barriers in transport so that they can live in dignity. May I ask the two Directors of Bureaux here why a humble demand like this has to be discussed for eight long years? Do you not know that this is a shame? Do you know what shame is?

The Hong Kong Government is most apt at stressing that ours is a free society and the free market is an absolute value to be cherished in a capitalist society. So in order to maintain a free business environment, the Government can only encourage public transport operators to offer concessions to the relevant persons or people with disabilities. As to the question of offering fare concessions, it is something that the Government cannot intervene. Any government that is truly for the people and always puts people in the first place will never do such things, unless you are talking nonsense and you do not believe in what you are talking about. So regarding the policy address this year, our comment is that the bandits are pooled in breaking new ground, but people in poverty are in an abysmal plight. And as always, this kind of governance based on the philosophy of emphasizing business just continues.

More than 2 000 years ago, Confucius said that the old must be able to lead a decent life till the end of their years, the strong must be able to make good use of their strength, and the young must be able to grow up. As for the sentence that comes after that, do the Directors of Bureaux know? It is, the widowers and the widows, the lonely and the disabled must be maintained and cared for. Confucius told you more than 2 000 years ago that the disabled must be well taken care of. Confucius hated to the guts a society where the rich were arrogant and domineering while the poor were flattering and despising those who are poorer than they. Such a society appeared during the Spring and Autumn times and the Warring States period. But such a society did not occupy a vast area. Now in Hong Kong, it features a capitalist free market as its absolute value. This is the result entirely of the Government's making.

Confucius advocated propriety in the rich and not arrogance. Buddies, you do not read the classics and now you are talking about national education and reviving the Chinese culture. You do not even know a simple truth like humanist thinking. You get a grotesquely high pay, but do you know that the people with disabilities are suffering? You just do not feel it. You sit in air-conditioned offices, write your papers and read the data, but you do not realize that a little help to them will salvage some dignity in them and so there will be harmony in this society. The Government just does not bother to think and the answer it gives is the same year after year. And there are the same talks about Rehabuses. Now there are numerous bogus rehabuses and what is the use of adding a dozen or so of these Rehabuses. You are just not pinpointing the question. We are now asking you to force the public transport operators to offer half-fare concessions. Only the MTRCL has agreed. But how about the

Kowloon Motor Bus, New World First Bus, Citybus, and Hong Kong Tramways. None of them have complied.

LEUNG Yiu-chung has raised the issue for eight years. I am sure he will continue to do the same. This is his trademark motion. No one will want to fight with him to raise the motion as the first one to unveil the Legislative Session. But what is the use of this? We all think that the persistence of LEUNG Yiu-chung has led to some result. But only the MTRCL has complied, with the others declining to follow suit. What then is the use of that? The same motion will be debated next year. It seems that this issue is his *raison d'être* in being a Member of this Council.

Directors, this is indeed a shame. A shame on both of you. It is also a shame on your superior. Let me tell you, all the people of Hong Kong share this shame with you. How dare you talk to me about the technicalities? This is a matter of principle. The people with disabilities need help. And help does not mean grace. We are already a developed area, one with a per capita income of US\$30,000. This wealth is created by all the people of Hong Kong, only that you are tasked to distribute it. But look at how it is distributed. You are irresponsible, your conscience is callous to the core and you do not know what shame is. How can you face up to the taxpayers? How can you face up to the old folks who have worked hard all their lives to contribute to society, and similarly people with disabilities? You officials do not have the slightest speck of conscience in you. Technocrats like you have degenerated into cold and bloodless machines and you just care about procedures, formalities and systems. Are you machines? Have you not got feelings and emotions? Have you no heart, humanity and conscience? This issue has been discussed for eight years. Do you think you deserve to be paid hundreds of thousand dollars a month? Please tell me, how can those who make hundreds of thousand dollars a month know about the pain and suffering of those on CSSA? This is the biggest difference between you and us. We support LEUNG Yiu-chung's motion and WONG Kwok-hing's amendment.

**MR FREDERICK FUNG** (in Cantonese): President, first of all, I am very grateful to Mr LEUNG Yiu-chung for once again proposing this motion debate on the transport needs of people with disabilities. Records show that Mr LEUNG Yiu-chung has persisted in raising this motion since 2002. This deserves our respect. However, the sad thing about it is that despite the discussions

conducted on this motion for eight consecutive years and notwithstanding support shown by the Bureau, the Government has never refrained from considering the issue from the commercial perspective and, for this Government which is stubborn and uncaring, nothing has done to move those public utilities which are condoned by the free market, chasing only after profits and do not care about social responsibilities.

President, the stand of the Association for Democracy and People's Livelihood (ADPL) on the transport needs of people with disabilities is clear enough. In order that people with disabilities can integrate fully into society, bringing their abilities into play and enabling them to take part in social activities with fair and equal opportunities, the Government should provide the required hardware, barrier-free facilities and complementary transport facilities, while also giving them direct transport support where appropriate. All public transport organizations must fulfil their corporate social responsibilities and realize the concept of barrier-free transport and offer half-fare concessions to people with disabilities. When necessary, the Government should resort to legislative, administrative and financial means to urge all main public transport organizations to implement these measures.

This motion which has gained the support of this Council and all sectors across the community will certainly add to the pressure exerted on the Government. This is particularly so with the formation of a subcommittee by this Council during the last term to discuss and study in detail the offer of fare concessions to people with disabilities, including such issues as defining what is meant by people with disabilities in order to identify the number of eligible people with disabilities, whether discrimination in another sense would be caused by giving fare concessions to people with disabilities, and whether heavy financial pressure will be exerted on public transport organizations. The conclusion drawn by the subcommittee is that all the above issues can be relieved and solved.

Unfortunately, at that time the Government only gave some half-baked concessions in response and proposed that an additional sum of \$200 would be paid out as a supplement to people aged from 12 to 64 who were CSSA or DA recipients and with 100% disability. Half-fare concession which is the goal the public has been striving for is reduced to a supplement of \$200 which is too little to be of any use. This is disappointing indeed.

However, a ray of hope dawned this May when the MTRCL, which had all along put up the excuse of prudent financial management and that half-fare concession for people with disabilities was a welfare policy of the Government, made a positive response and announced the offer of half-fare concession to recipients of CSSA and DA aged between 12 and 64 and with 100% disability. Due to the need to make hardware changes and undertake other pertinent administrative work, as well as amending the Disability Discrimination Ordinance, the MTRCL reckoned that the concession could be offered by the end of this year. The Government will make a one-off funding of \$2 million for the purpose of implementing the measure and meeting the publicity expenses.

Of course, the ADPL welcomes this move by the MTRCL to offer half-fare concession to people with disabilities after our hard and protracted lobbying efforts. We consider that half-fare concessions can greatly reduce the financial pressure of people with disabilities, encouraging them to go out and take part in activities, hence meeting the important objective of enabling them to integrate into society. Besides, this move by the MTRCL also serves to take the lead and demonstrate to other transport operators that they should also provide half-fare concessions.

Also, the ADPL and I think that while offering the fare concession, the MTRCL must put in resources to install more barrier-free facilities in the stations, including more wide gates to facilitate passage by wheelchair users, setting aside more parking spaces in the train compartments for wheelchairs and laying guiding paths for the blind. Also, the ADPL has always advocated the building of more lifts in the stations connecting the street level and the concourse. It would be most desirable for at least one or two lifts to be installed in each station so that people with disabilities and the elderly can access the MTR more easily.

President, since the MTRCL can take the correct step and offer half-fare concession to people with disabilities, can something more be done *a la* the practice on the Mainland and offer the concession not just to people with disabilities but also their carers? This will enable the carers to enjoy the same concession without having to make any applications and submit any proof. Also the concession to be offered by the MTRCL this time is under the name of a half-fare promotion scheme for people with disabilities. Could this hint that the MTRCL has some other thoughts in that it only regards the concession as a temporary measure that can be terminated at any time and the concession can be removed as well? Also, can the MTRCL be more flexible and enlarge the scope

of people with disabilities to be benefited, just like what the New Ferry is doing by giving concession to all people with disabilities in Hong Kong?

President, the move made by the MTRCL this time has a greater significance in that the corporation is taking the lead and setting an example to induce other public transport companies to offer half-fare concessions. The ADPL hopes that all public transport operators, especially the three bus companies, will stop procrastinating and they should not refuse to give half-fare concessions to people with disabilities on the pretext that such is part of the welfare policy of the Government.

We all know and we will certainly find out when we ride on a bus that regardless of whether the road is two-lane or three-lane, one of the lanes is definitely taken up by buses and these buses are not full. In some cases, the passengers only take up 10% to 30% of the capacity of these buses. Since the number of passengers in the buses is so small, why can concessions not be offered so as to increase the passenger volume while not affecting the income of the bus companies? The provision of half-fare concessions to people with disabilities may actually increase the income of the bus companies instead. Therefore, I hope that this initiative by the MTRCL can be extended to all modes of transport.

With these remarks, I support the motion.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may now speak on Mr WONG Kwok-hing's amendment. You may speak up to five minutes.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, first, I am very grateful to Mr WONG Kwok-hing for making a number of changes to my original motion. For many years in the past, few Honourable colleagues have made amendments in this aspect. About the contents of his amendment, I would say that many colleagues agree to them in principle and I very much agree to them as well.

However, I wish to say that even if we agree to the amendment, the amendment itself shows a fact and that is, many of these changes are fragmented patchwork that cannot fully remove the transport difficulties faced by people with disabilities in their attempt to integrate into society.

Therefore, I think the best solution is for the Government to formulate a transport policy to assist the integration of people with disabilities into society. Only in this way can the problem be solved. Earlier on, Mr WONG Yuk-man said that the Government had been erecting hurdles on the pretext of some technical problems, saying that respect for the so-called free market in a capitalist society allows public transport operators a free hand in respect of measures for people with disabilities. It is unfortunate that the Government has not done anything at all in this respect.

Mr Paul CHAN has just cited an example, saying that the development of the MTRCL has extended into the Mainland where full-fare concessions are offered to people with disabilities, but he questioned why only half-fare concessions should be applied to the people in Hong Kong. The appearance of this policy which lacks co-ordination and justification is mainly because Hong Kong is not like the Mainland where a transport policy is in place and so the transport operators must offer half-fare concessions and they cannot refuse to offer such concessions if they do not feel like it. But most unfortunately, this is exactly what is permitted in Hong Kong.

Therefore, even though Mr WONG Kwok-hing has made many suggestions including subsidizing the purchase of wheelchairs, and so on, if we do not have a holistic policy and if we do not effect comprehensive monitoring, we cannot assist the integration of people with disabilities into society in a manner which is not fragmented. So with respect to the amendment proposed by Mr WONG Kwok-hing, what I find to be most pressing is, as a long-term measure, the formulation of a transport policy which aims at assisting people with disabilities into society. Only this can solve the problem and the piecemeal approach should be discarded. I do not oppose the amendment. I am in favour of it. Therefore, I hope that the Government can listen to the voice of Honourable colleagues in the Council and formulate such a policy as soon as possible to solve the problem.

President, I so submit.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I wish to thank Members for the opinions they have raised in respect of the question. I would now like to make a response with respect to transport policy.

Insofar as the transport policy is concerned, the Government is committed to taking forward the barrier-free transport concept and promoting a barrier-free transport system to make it convenient for all the citizens of Hong Kong, including people with disabilities in travelling to different places in the territory. On the one hand, we improve public transport facilities while on the other, we encourage public transport operators to upgrade their facilities and provide the necessary support so that people with disabilities will find it convenient to use public transport services.

On improvement to public transport facilities, all public transport interchanges designed and built after the adoption of the updated public transport design standards in 2001 must provide facilities for the convenience of people with disabilities. At the same time, the Transport Department constantly makes improvements to the existing interchanges to comply with the new standards. As at June 2009, the Department has improved 73 interchanges and is carrying out improvement works at some 50 other interchanges, including the installation of dropped kerbs and tactile warning strips. We will review the design standards from time to time to keep abreast of the developments in public transport design and meet the needs of the public, including those of people with disabilities.

Besides, we are also committed to bettering road facilities, such as installing electronic pedestrian crossing buzzers, reducing the number of traffic sign posts in some districts in order to minimize the obstruction caused to people with disabilities, adding lifts and ramps at footbridges, and so on. All these facilities are meant for the convenience of people with disabilities. We will install more tactile guide paths to connect hospitals, clinics and community facilities with bus terminals, footbridge systems, bus stops and piers.

Moreover, we have always been encouraging public transport operators to adopt the same approach and take active steps to improve their transport facilities for easy access by people with disabilities.

With respect to franchised buses, a number of large franchised bus companies have pledged that when new buses are to be purchased, they will

choose buses accessible by wheelchairs. As at end August 2009, more than half (that is, 2 900) buses are fitted with ramps and super-low floors for easy access by wheelchair-bound passengers. Compared with last year, the number of this kind of buses has increased by 200.

Besides the procurement of low-floor buses to replace old ones, the franchised bus companies will also choose buses with facilities for the convenient use by people with disabilities, such as models of buses with brightly coloured handrails, next stop announcement systems and electronic information display panels, and so on. As at end August this year, more than 70% or nearly 4 300 franchised buses are fitted with next stop announcement systems for the benefit of those in need.

With respect to the railways, since 1992, the MTRCL has launched a station improvement project under which station facilities installed before 1990 are improved gradually. The project incurs a cost of more than \$600 million. For the convenience of the physically disabled, each station now has at least one barrier-free passage with facilities like stairlifts, lifts, ramps and wheelchair aids for use by people in need while travelling in and out of the station and the platform. In addition, the stations are fitted with wide gates for easy access by wheelchair users without the help of station staff. For the benefit of the visually impaired and people with hearing impairment, all railway stations are installed with tactile guide paths and elevator buzzers. And most of the station entrances, concourses and platforms are fitted with passenger information display systems.

Currently, all the new railway projects have taken into account the needs of people with disabilities at the design stage and efforts are made to ensure the stations and trains are fitted with facilities which enable access to train service by people with disabilities. The MTRCL will continue to input resources to take forward a barrier-free transport system.

As for taxis, the Government has always been in favour of introducing wheelchair accessible taxis. In view of this, the Transport Department has liaised with the taxi trade and vehicle suppliers to help the trade find suitable types of vehicle and also to help the suppliers understand the standards and vetting procedures concerning wheelchair accessible liquefied petroleum gas taxis. We will continue our dialogue with the related groups and take this recommendation forward.

Besides encouraging public transport operators to improve their hardware facilities, the Government also encourages other public transport operators to take into account such factors as the company's operation, market situation, passenger needs, and so on, and consider the provision of various concessionary schemes to the public, including people with disabilities, in order to reduce their expenses on public transport.

Owing to the spirit and institution of freedom in doing business, the offer of fare concessions or otherwise, as well as the details of such concessions, depends on the commercial decisions of individual public transport operators. We understand that when public transport operators are to offer fare concessions, consideration must be given to various factors, including changes in operation costs and income, the financial position of the company, and so on. If the Government is to require public transport operators to offer fare concessions to certain groups of passengers in a specified manner, this will incur financial implications on the operators which will ultimately be reflected in the fares.

We appreciate fully the public aspirations for fare concessions. However, the free business environment which is the foundation of our success is also vital for our future development. And for those citizens in need, they will be taken care of and provided assistance as appropriate from the welfare perspective.

In this May, the MTRCL announced that fare concessions will be offered to CSSA and DA recipients aged 12 to 64 with 100% disability. The MTRCL has all along been receptive of views of all sectors across the community on the provision of fare concessions to people with disabilities and it is aware of the fact that owing to their disability and financial situation, people with disabilities are most in need of encouragement and assistance. Hence fare concessions are offered to them in the hope that they can be encouraged to go out and take part in more activities and come into contact with other social groups, thereby facilitating their integration into society. The scheme is expected to come into force by the end of this year.

The Government will, as always, encourage various public transport operators to offer concessions in the light of their particular operational situation, so as to reduce the public transport expenses of the public.

In this regard, a number of Members have earlier on mentioned platform screen doors. The former MTR Corporation had completed the installation of platform screen doors at 30 underground stations and for the remaining eight

ground-level and elevated stations, the screen door works will commence soon. The MTRCL will complete a tender exercise according to schedule and the initial design for the works is presently being completed. The MTRCL has informed us that the retrofitting works should be able to complete one year ahead of schedule, that is, in 2011.

As for stations of the East Rail, before a study is conducted on the installation of automatic platform screen doors, the MTRCL will test and examine the effect of automatic mechanical gap fillers to ensure the safety of passengers. The MTRCL has installed 98 automatic mechanical gap fillers at all the platforms in Lo Wu station. The test will complete in mid-October. A review of this is scheduled to complete before the end of this year.

In addition, some Members have mentioned the question of increasing the waiver on fuel duty. Information from the Hong Kong Customs show that over the past five years, the monthly gasoline consumption of disabled drivers on average has fallen year on year from 126 litres in 2004 to 113 litres in 2009, which is lower than the 200 litres presently waived. So the figures show that the amount of 200 litres is sufficient in meeting the relevant need.

President, the Transport Department in a bid to meet the needs of people with disabilities in using transport services will in every three or four months call a meeting of the Working Group on Access to Public Transport for Persons with Disabilities. In these meetings, representatives from 18 organizations of people with disabilities will meet with business associations of the public transport trade. Views will be heard and plans will be formulated for their implementation gradually. In recent years, some of the facilities and services introduced by the Government and the public transport operators are the results of the discussions conducted in these meetings. We welcome suggestions from relevant organizations and members of the public. We will listen carefully and examine the viability of such suggestions, then put in resources to take forward the concept of barrier-free transport and help people with disabilities integrate into society.

The Secretary for Labour and Welfare will now make a response in respect of his policy area. Thank you, President.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I wish to thank Members for the many valuable and constructive suggestions they have made on the transport needs of people with disabilities. Now I wish to

make a detailed response in respect of the Rehabus service, the Labour and Welfare Bureau's work to complement the offer of fare concession to people with disabilities as proposed by the MTRCL and subsidizing people with disabilities to purchase electrical wheelchairs.

With changes in the service areas and facilities of bus and railway networks in recent years, it has become more convenient to travel even to places in the New Territories. When people with disabilities wish to go out, they can have more choices of public transport. The Government will put into practice the concept of barrier-free transport in various modes of public transport while at the same time in the welfare area, and in the light of the transport needs of people with disabilities who have difficulties in accessing public transport service, I will continue with my efforts to strive for more resources to purchase new rehabuses and replace old ones in a bid to enhance and improve the Rehabus service.

In fact, over the past three years, the Government has added 17 new vehicles to the Rehabus fleet. In the year 2009-2010, we will allocate funding to purchase six new vehicles. By then the fleet will increase to 115 vehicles. The new rehabuses will be used to enhance dial-a-ride service while four rehabuses will be deployed to run Scheduled Route Service to meet the needs of people with disabilities on the waiting list, including those who live in the new towns and remote areas. The passenger volume of the Rehabus fleet has increased from 590 000 passenger trips in 2006 to 640 000 in 2008. With the expansion of the Rehabus fleet, it is estimated that the passenger volume of Rehabuses will increase to over 660 000 passenger trips in 2009.

Apart from adding new rehabuses and updating the existing ones, through the consolidation of the existing service routes, it is expected that Rehabuses will better meet the needs of users. Now the Rehabus service covers areas in Hong Kong, Kowloon and the New Territories, including Tung Chung, Tuen Mun, Tin Shui Wai, Tseung Kwan O and such like remote areas and new towns, and even the rural areas. Of the existing 69 scheduled routes, 59 serve people with disabilities in the New Territories and new towns including Tin Shui Wai, Ma On Shan, Tseung Kwan O, Tuen Mun and remote areas like Pat Heung, Kwu Tung, Ho Sheung Heung and so on, providing service required by people with disabilities living in these remote areas. The dial-a-ride service of the Rehabus is not restricted to any district and the route can be determined entirely according to the specific needs of individual applicants.

Apart from increasing the number of rehabuses, the Government is also replacing the old single-arm tail-lifts and older rehabuses. This type of buses with single-arm tail-lifts has difficulty in carrying the increasing number of electrical wheelchair users. During the past three years, the Government has replaced 41 rehabuses and also replaced all Rehabuses with old lifts. For the year 2009-2010, we will replace four old rehabuses. By then the average age of Rehabuses will fall from 5.8 years in 2006 to 3.5 years. Hence the service quality of Rehabuses will be further upgraded.

In addition, colleagues in the Transport Department responsible for monitoring the operation of Rehabus service will continue to make use of their expertise and experience and conduct reviews from time to time of the number of vehicles in the Rehabus fleet, service routes and mode of service delivery. They will make recommendations on service improvement in the hope of enhancing the service quality of Rehabus.

Apart from Rehabus, another service funded by the Jockey Club Charitable Trust Fund is the Accessible Hire Car Service which is a barrier-free hire car service. The Service was launched in last October and it provides another option to people with disabilities other than the existing transport services. There are 20 cars for hire under the Accessible Hire Car Service and they provide 24-hour all-weather personalized transport service to wheelchair users, facilitating their contact with family members and the local communities and so helping their integration into society. The number of users registered now exceeds 4 300 and as at this September, the number of passenger trips made is more than 90 000.

Many Members have mentioned that the MTRCL will offer fare concessions before the end of this year to those aged between 12 and 64 with 100% disability who receive CSSA or DA. We welcome this suggestion by the MTRCL. Both my colleagues in the Social Welfare Department and I myself are presently offering our full support in amending the Disability Discrimination Ordinance and verification of applicants upon the request of the MTRCL.

Mr WONG Kwok-hing has earlier expressed his concern about the implementation timetable. Let me explain this in detail. In order to tie in with the timetable of the MTRCL in launching the scheme in end 2009, I submitted an amendment notice and a Legislative Council Brief to the Legislative Council Secretariat last Wednesday, that is, 14 October. We plan to introduce a resolution on the ordinance two weeks from now, that is, at the meeting on

4 November. As I understand it, the House Committee of the Legislative Council will discuss this matter this Friday and, barring the need to set up a subcommittee to deliberate on the matter, the amendment can be expected to pass in the Council meeting on 4 November and to come into force on 6 November with immediate effect. I would like to make use of this opportunity to implore Members to lend their support to this resolution so that it can be passed expeditiously. I hope that there will not be any need to set up a subcommittee. If a subcommittee is to be set up, then I will have no idea as to when the resolution can be passed. So I hope Members can co-operate if they want to see the scheme launched soon.

On subsidizing people with disabilities in need to purchase electrical wheelchairs, under the CSSA Scheme, on recommendation by medical staff, disabled recipients can be given a special grant to purchase electrical wheelchairs to meet their special needs. Furthermore, if people with disabilities can meet the application requirements, they can also apply to various funds. What are such funds? These are, for example, the Yan Chai Tetraplegic Fund, Samaritan Fund, Ho Kam Yung Foundation, Li Po Chun Charitable Trust Fund, Tang Shiu Kin and Ho Tim Charitable Fund, Kwan Fong Charitable Foundation, Brewin Trust Fund, and so on. People with disabilities can make use of these funds to purchase rehabilitation equipment such as electrical wheelchairs.

The Government will continue to implement the objective of the rehabilitation policy and provide the necessary facilities to people with disabilities so that they can take part in all sorts of activities in society with equal opportunities. We will continue with reviews of transport services and related facilities and make improvements so as to provide the necessary support to people with disabilities in their full integration into society.

President, I so submit.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment proposed by Mr WONG Kwok-hing to Mr LEUNG Yiu-chung's motion, 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 the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung, you may now speak in reply. You still have two minutes and 57 seconds. After Mr LEUNG Yiu-chung has made his reply, this debate will come to a close.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, first of all, I would like to thank Honourable colleagues for supporting this motion throughout the years, and I would also like to thank those groups and people concerned about the interests of people with disabilities who have come here from afar to support my motion in spite of the hard efforts required. I am really very much indebted to them.

Actually, in proposing this motion this year, I was very worried because this is already the eighth year and I was afraid that Honourable colleagues might repeat what they had said before, or that not too many of them might be speaking. I did not expect more than 10 Honourable colleagues to express their views. Also, they have made new points rather than rehashing old points. I am sorry that some officials kept repeating the remarks made in the past and I did not even want to go on listening because there was nothing new. In particular, on the issue of half-fare concessions for people with disabilities, the word "encourage" that Mr WONG Yuk-man disliked most was still used. How can the Government encourage the offer of concessions? Now that the Government has already made such encouragement for so many years, should it continue to encourage them? As Mr WONG Yuk-man has said, even if the Government is not ashamed, we are. So, this time ..... as Mrs Regina IP has just said, "all of us would not dwell on the issue again." I really hope that we would not have to discuss this issue again next year.

Nevertheless, this appears to be impossible. I hope Honourable colleagues would be prepared for my proposing a debate on this issue again next year because the Government is still encouraging that. In my opinion, this can neither solve the problem nor help other public transport operators offer concessions.

Furthermore, President, although I have proposed discussing half-fare concessions, I actually hope that not only half-fare concessions would be discussed. I hope that the Government will really listen to our opinions and formulate a comprehensive transport policy that will assist people with disabilities in integrating into society for we will then be able to help them. I think the government policy should be comprehensive and holistic rather than fragmented.

I thank Honourable colleagues once again for their support. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEUNG Yiu-chung, as amended by Mr WONG Kwok-hing, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

**PRESIDENT** (in Cantonese): Second motion: Defending freedom of the press.

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

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

## **DEFENDING FREEDOM OF THE PRESS**

**MS EMILY LAU** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, freedom of the press is a core value in Hong Kong. I believe it is a core value not only in Hong Kong; it is a universal value, too. Even in Mainland China, more and more people are beginning to yearn for freedom of the press, freedom of speech and freedom of expression. These freedoms are all very important. In particular, in places where there is no democracy, we all the more hope that the media can freely cover news on various subjects, particularly the dark sides of society, to help monitoring society.

President, you must also be aware of President HU Jintao's persistent support for monitoring by public opinion. This explains why we were extremely shocked when we saw the situations met by Hong Kong, Mainland and overseas journalists when covering news on the Mainland — President, have you noticed that I used the expression "Mainland", not the country? I am most politically correct. Some journalists sustained serious head injuries when they were assaulted during news coverage. President, what happened to the journalists? You should still remember this.

The first incident took place in Sichuan on 12 August when a Now television (Now TV) reporter intended to cover the trial of a writer, TAN Zuoren, who was charged with inciting subversion of state power after exposing tofu-dreg construction works on the Mainland. The reporter, who went to cover the trial in Sichuan, was detained in her room for several hours and accused of possession of illegal drugs. Then, on 4 September, the situation worsened with some people staging demonstrations and possessions on the streets of Urumqi — such scenes could be seen on television in Hong Kong every day at that time. A Now reporter again, who went to Urumqi to cover news, and a Television Broadcasts

Limited (TVB) reporter were both assaulted and handcuffed. Hong Kong people were extremely shocked on seeing this. President, I have proposed this motion today in the hope that the SAR Government can relay the anger and expectations of Hong Kong people to the Central Government such that those people who had done anything wrong should apologize, and due investigations must be carried out for the sake of doing justice to all the victims.

Several days after the Urumqi incident, the local information office made some nonsensical remarks, claiming that the journalists in question had refused to present their press cards and intended to incite the crowds. At that time, Honourable colleagues in this Council, including the journalists ..... the journalists outside appeared to be very anxious. President, this is because the motion today will discuss not only freedom of the press (this is certainly very important to them), but also their treatment. It is a matter of great importance to them as this Council will discuss whether their remuneration should be adjusted. Just now, some reporters reminded me of some of the comments made by Honourable Members that day. They also reminded me that Mr WONG Kwok-kin, also a Deputy to the National People's Congress (NPC), expressed great anger after learning about the comments made in Xinjiang that day. They also want to know what he will reveal when he delivers his speech later in the Chamber.

Nevertheless, I have also told the reporters that the chances of this motion being carried are actually very slim. Hours ago, I received a phone call from a reporter from the Voice of America expressing his intention of interviewing me — this incident is not only covered in Hong Kong, it has also attracted the attention of the international media. The reporter said that he had just interviewed Mr IP Kwok-him, a member of the DAB, who said that the DAB would not support this motion. I told the reporter that I had not communicated with the DAB about this matter. I think Members, whether they support the motion or not, should do their own explaining. President, it is thus evident that the international media are concerned about how this Council will vote on this motion on the freedom of the press and the treatment received by journalists. After hearing what the reporter said, I had a discussion with other colleagues and found that there was nothing we could discuss as some Members who were originally not free to attend this meeting had hurried back. I wonder if they have received any order. President, they are obliged to come back to ensure that this motion will not be carried. Some Members have made an even more serious remark. They said, "You want me to give up my position as Member of the

Legislative Council!" President, Members should not over-exaggerate the matter, to such an extent that if they chose to support a certain motion that they would not see the sunrise!

In any case, President, I believe the motion is targeted at the SAR Government because it is generally felt that the Government has not made much effort even though reporters were seen locked up in a hotel and assaulted that day. The Government has merely told us that it has related to the Mainland our concern. Many people are gravely concerned because, during the Question and Answer Session held a couple of days ago, the Chief Executive merely said that he had reflected the views to the head of the Public Security Bureau. What are the concerns of the people? They are concerned that the Central Government has not received the message, even though the Central Government ought to know it, as all reporters, even Japanese and German reporters, were not spared there. The authorities concerned must understand that similar incidents should not be allowed to happen again. At the same time, the SAR Government must hold its head high and explain everything clearly to do Hong Kong journalists justice.

As regards the incident in Urumqi, Xinjiang, President, it is everyone's wish that the Central Authorities can carry out investigations and, therefore, I greatly support the amendment proposed by Ms Miriam LAU, also a Deputy to the NPC. She suggested that the incident should be investigated by the Central Government. I agree and hope that the Central Government will investigate the matter. Of course, I also hope the Liberal Party will support my motion.

However, the SAR Government's approach has given people the impression that it is afraid of doing a lot of things, for it dares not say anything about universal suffrage and freedom of the press. I wonder what it dares to talk about. Perhaps it only dares to ask for favours or handouts! This will actually give the Central Authorities a wrong impression, too. President, do you think the wish of the Government will definitely be granted whenever it asks the Central Authorities for handouts? It is all about mutual benefits. Will the Mainland give us anything if it has not received any benefits from Hong Kong? Will it praise Hong Kong for behaving well? However, the Administration has not made itself clear. As a result, the Central Authorities have been given the impression that the situation in Hong Kong is very bad. How can our situation be so bad, given that Hong Kong is the wealthiest of all cities in the entire country? Yet, the Government has often gone there ..... When TUNG Chee-hwa was Chief Executive of Hong Kong, Premier WEN Jiabao once said in

front of a group of reporters, "There he comes again!" Buddy, the expression "comes again" illustrates the extremely miserable condition we were thought to be facing at that time.

We hope the SAR Government can hold up its head and speak up for Hong Kong people because the entire society was greatly shocked, in both August and September, since the occurrence of these incidents. President, I am afraid you still remember that everyone in the DAB, the Liberal Party and the Hong Kong Federation of Trade Unions came forth to express their views, saying that the Government should do something. However, nothing is being done at the moment. Perhaps they think that the matter has already been settled as the National Day is over.

However, that is not the case really. While journalists will continue to cover news on the Mainland, we will continue to be worried. Therefore, if I am asked why I have proposed this motion, I will reply that I hope this Council can send out the message that members of society are gravely concerned about these matters. However, my hope might fall flat, yet the power to do so rests with Honourable Members.

Apart from giving the Government a message, I also hope to give media organizations a message, President. This is because we see that some journalists sent to cover news on the Mainland are probably fresh graduates without much training. Sometimes, they really have no clear knowledge of what is happening. News coverage on the Mainland is getting increasingly sensitive, dangerous and complicated. Are media organizations not obliged to provide these journalists with more training and, as suggested by me, additional insurance coverage, as their work is very dangerous? This can demonstrate the grave concern of media organizations for them. However, some people in the media industry have indicated in some public forums that journalists are merely regarded as tools by many media organizations to achieve their political and economic goals. Therefore, they are actually not very concerned about the safety of the journalists.

Anyway, President, I used to work in the media. I am greatly concerned about journalists not only for their safety. It is precisely because good media are required before we can have quality news coverage and members of the public can exercise their right to know. So, why are the journalists so anxious at the moment? The journalists outside are greatly concerned about whether Honourable Members will cast opposition votes later and what justifications Members will advance to support their opposition. I have once discussed with

some journalists the treatment received by people working in the media. President, I wonder if you know about this. I was told that journalists newly joined the profession were offered only \$7,000 or \$8,000 a month. Some reporters told me that they even earned less than a clerk. Even journalists with good performance and richer experience earned a maximum of \$10,000 or \$10,000-odd a month only. As for those with greater seniority, that is, eight or 10 years of experience, they might earn between \$10,000 and \$20,000 a month.

President, I hope media organizations can treat their employees better. While media organizations should hold high expectations for journalists, the former should also treat the latter well. Only in doing so can media organizations attract new comers and aspirants to join the profession and retain experienced journalists in the profession. Otherwise, we will often see journalists come and go, with some of them quitting their jobs after working for a while when they find that it is not worthwhile for them to stay in the profession. Some journalists felt that the quality of the news covered by them should reflect how they were treated by their bosses. In the aftermath of the Sichuan incident, I have written 19 letters to media organizations and only received one reply so far. President, the reply came from the TVB because one of its journalists had been assaulted. I was told that our detailed proposal would be forwarded to the TVB News & Information Services Division for reference. Actually, I have no idea how far reference will be made of our proposal.

There is some good news today as, according to press reports today, both the *Apple Daily* and *South China Morning Post (SCMP)*, which slashed the salaries of their staff early this year, have announced plans of restoring the original salaries as the worst was thought to be over. I was told by some reporters that during the pay cut effected by the *SCMP*, reporters earning a monthly salary of below \$20,000 were exempted, with those on higher salaries receiving larger pay cuts. Actually, many of the Hong Kong news reporters at that time were spared. President, we were melancholy on learning about the pay cuts anyway.

Lastly, perhaps I must still point out, though the President might have noticed this as well, that the World Media Summit, held in Beijing on 9 October, was attended by the bosses of major media organizations around the world as well as President HU Jintao. President HU assured the media that the lawful rights and interests of their reporters would be safeguarded, and the State would also facilitate media coverage. He also welcomed monitoring by the media. And yet, he added that he urged the media to work together to build a harmonious

world. Such a remark is really ridiculously funny. President, do you know what the work of the media is? They love conflicts. They will cover anyone involved in a fight. How can they be expected to have time to work together to build a harmonious world? I have no idea in what sort of society our national leaders are living. In any case, I hope such protection is provided not only for foreigners. President, Chinese people are also self-respecting people. Our reporters are also self-respecting journalists. I hope all these pledges made by our State will cover all journalists. I also hope all Honourable colleagues will support us in sending this message to the Central Authorities and bosses of media organizations.

With these remarks, I beg to move.

**Ms Emily LAU moved the following motion: (Translation)**

"That some Hong Kong journalists, while covering news in Xinjiang, were assaulted, handcuffed and detained by law enforcement officers, and even accused slanderously by the local information office of inciting disturbance and violating the rules on news coverage; also, some Hong Kong journalists covering news in Sichuan were alleged by law enforcement officers of suspected possession of drugs and prohibited from going out; the above incidents have seriously undermined the freedom of news coverage and the public's right to know as well as damaged the core values of freedom of the press; this Council condemns such acts and urges the Government to adopt the following measures:

- (a) to solemnly reflect to the Mainland authorities that the law enforcement officers on the Mainland be requested to respect civic rights and freedom of the press, refrain from illegally detaining, arresting or assaulting journalists, and request the Mainland authorities to impose severe punishment on the offenders and ensure that similar incidents will not happen again;
- (b) in regard to the unjust investigation of the abovementioned incidents and the slanderous accusation against journalists by the Mainland authorities, to request the Mainland authorities to make clarifications and apologies, conduct a just investigation afresh and release the investigation results to the public; and

- (c) to enquire with media organizations about the problems and difficulties encountered by journalists when covering news on the Mainland, so as to provide as much assistance as possible;

this Council also urges media organizations to adopt the following measures to safeguard the security of journalists when covering news on the Mainland:

- (a) to provide training to journalists to enrich their knowledge about the laws of the Mainland and enhance their abilities to handle unexpected serious incidents;
- (b) to send more experienced journalists to take up news coverage of a more sensitive or dangerous nature; and
- (c) to review the remuneration, insurance coverage and working hours of journalists and safeguard their personal safety, so as to avoid journalists leaving the profession and attract talents to pursue a career in journalism."

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

**PRESIDENT** (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will call upon Dr Philip WONG to speak first, to be followed by Mr CHEUNG Man-kwong, Ms Miriam LAU and Mr Ronny TONG; but no amendments are to be moved at this stage.

**DR PHILIP WONG** (in Cantonese): President, I am grateful that we have this discussion today for it gives me an opportunity to share with Members my views on freedom of the press.

Having lived in Hong Kong for decades, I have witnessed a lot of storms weathered by Hong Kong and the State, including the latest financial tsunami and the Xinjiang incident. Fortunately, we managed to restore order and peace on every occasion and tide over every crisis. In my opinion, apart from our system of the rule of law, free economy, global networks and enterprising spirit, as well as safeguards provided by the Basic Law and national assistance, freedom of the press is also one of the very important elements that make it possible for Hong Kong to become an international financial and information centre.

During an overseas business trip in early September, I learnt from media reports that the complaints lodged by some Hong Kong reporters about being treated rudely by law-enforcement officers when covering news in Xinjiang had given rise to strong dissatisfactions among the profession and members of the public. I instantly felt that this incident must be taken seriously to ensure that a balance could be struck between the right to know, the power of law enforcement, freedom of the press and media responsibility. Later, I learnt that the SAR Government, the Central Government Liaison Office, professional bodies in the news industry and members of the community had expressed grave concern about the incident and promptly urged the relevant authorities to take measures and conduct a fair investigation to assure the legitimate rights and interests of journalists covering news on the Mainland. Now, the incident has come to an end. I would like to raise three points with respect to this matter.

Firstly, freedom of the press is one of the cornerstones of "one country, two systems", which is worthy to be upheld. Under Article 27 of the Basic Law, Hong Kong residents shall have freedom of speech, of the press and of publication. Given the safeguards provided by the Basic Law, freedom of the press has not been reduced since the reunification, and this is greatly affirmed by the international community. People living in Hong Kong can keep their eyes and ears open, access clear, detailed and brilliant reports, and listen to comments from various angles, thus facilitating their independent thinking.

Members of the public do hold some expectations for the media of the new age. The media, as a social instrument, are expected to cover news in a truthful, accurate, objective and comprehensive manner. Not only should they be able to monitor organs of authority, but also assume such responsibilities as promoting economic development, upholding social safety, advocating morality and conscience, leading young people to industry and upward advancement, and

enhancing exchanges and integration between Hong Kong and the Mainland as well as its neighbours. In my opinion, most of the media respect and enjoy their work and take "integrity" and "credibility" seriously. Of course, the media must fulfil their social responsibility by giving accurate and true reports.

I support the proposal raised by some colleagues on defending freedom of the press as a core value. When it comes to core values, I think that the core values of the nation, such as its integrity, territorial integrity and reputation, should also be upheld. In my opinion, all people of Chinese descent, including the people of Hong Kong and journalists, should defend these core values. This can be considered as universally true as well. Even the United States is no exception. Fox News has recently come under fire from the White House, which lashed out at the news station for "pretending to be a regular news station but actually, most of its news is not genuine, and only specific views are expressed", to this effect. The White House added that "the boss of Fox News indeed knows very well how to make money, and many programs are manipulated for profiting purposes". All these warrant our deep thoughts.

I still remember Sir William PURVES, former Chairman of the Hongkong and Shanghai Banking Corporation, once pointed out that if Hong Kong was to attract investments, then more positive media reports would be warranted. Sir PURVES, with his broad global vision, had a thorough understanding of the mutual interests of Hong Kong and the Mainland as well as the challenges confronting the two places. His views are full of wisdom. If the SAR Government and the press can understand and act according to his advice by constantly boosting the confidence of investors and the competitive edge of Hong Kong, not only will Hong Kong maintain its prosperity, it will become even more brilliant.

Secondly, under "one country, two systems", there have been closer exchanges between Hong Kong and the Mainland as well as increasing communication between government organs and the press. As the Hong Kong press provides increasingly in-depth coverage of Mainland cities and villages, there is also extensive coverage by the Mainland press of the situation in Hong Kong. The two different mindsets and systems of journalism, including such views and standards as freedom of the press, truthfulness of news stories, and social responsibility of the press, have to patiently undergo a gearing-in process while adapting gradually to each other.

While Hong Kong journalists have to act according to rules in Hong Kong while covering news here, they should act according to the rules on the Mainland while covering news on the Mainland by abiding by relevant laws, regulations and guidelines. As the saying goes, they should "do as the Romans do when in Rome" and "behave as becoming of guests".

While our journalists must respect and abide by the national laws, we also hope that the relevant departments on the Mainland can enhance dissemination of information, improve the management of press cards and supportive measures, and facilitate foreign media in covering the actual situation on the Mainland, so that people inside and outside the Mainland can have a better understanding of the profound changes China undergoing today.

We all the more call upon the SAR Government to take concrete actions to assist the profession, defend freedom of the press and follow up the various problems encountered by journalists in news coverage. At the same time, it should improve administration and flexibly guide and encourage solidarity among the profession and the general public in jointly promoting economic development and social progress.

Thirdly, I think that, during the occurrence of an incident, all parties concerned, including law-enforcement officers and journalists, must abide by the rules and take complementary steps. After the incident, I hope the relevant departments can carry out thorough investigations, give a clear account to the media, and handle the incident seriously.

Through this incident, I think that it is positive, constructive, helpful, beneficial and worth welcoming and encouraging only if we can engage ourselves in in-depth discussions, summarize experience, give equal attention to freedom of the press and media responsibility, provide further training to law-enforcement officers and journalists, and upgrade their legal knowledge and professional quality, especially their ability in handling unexpected incidents, with a view to preventing the recurrence of similar incidents.

What I said just now are merely my personal views. I hope Members can draw on collective wisdom and give me more advice. In sum, I consider freedom of the press and media responsibility equally important and complementary. Jointly they should constitute the media's principles, morals

and parameters. While defending freedom of the press, we should also emphasize the social responsibility borne by the media. Hong Kong and the Motherland should go through thick and thin together. Now, at this new starting point of history, all developments and progress are very precious. While we should be understanding when things do not turn out exactly as we hope, we must not forget to review, urge, correct and whip ourselves. What is more, we must be vigilant in peacetime and prepare for danger and exert ourselves to make the country prosperous.

President, I so submit.

**MR CHEUNG MAN-KWONG** (in Cantonese): People were shocked and infuriated to note that Hong Kong reporters lawfully covering news in Xinjiang were assaulted, handcuffed and tied with ropes by armed police there. After the incident, the Xinjiang government even accused the Hong Kong media of fabricating news stories and journalists of inciting disturbance and violating the rules on news coverage.

At the beginning, the Hong Kong Deputies to the National People's Congress (NPC) vowed vehemently to sign a joint submission to the Central Authorities conveying their dissatisfaction over the unreasonable slander made by the Xinjiang government. However, they "chickened out" after a closed meeting of NPC Deputies and gave up the idea of making a joint submission, thus failing to live up to the expectations of Hong Kong people. This is extremely regrettable indeed.

Hong Kong people have always treated Deputies to the NPC as a rubber-stamp and mouthpiece for the Central Government and never hold any expectations for them. Frankly speaking, how many people remember the names of the Deputies and approve of their work? This is not Hong Kong people's fault. Instead, it is because the Deputies have never represented the true voices of Hong Kong people in terms of democracy, freedom, the 4 June incident or human rights.

Nominally, the NPC is the highest organ of power of the country. However, a supervision law was not enacted until 2006 for the exercise of supervision at the national and local levels. HU Jintao once hoped that the supervision law could help build up the NPC's authority such that the NPC would

cease acting like a rubber-stamp, punish unruly local governments, and bring long-term stability and security to the nation.

However, the controversy involving news coverage in Xinjiang proves that, even if the supervision law has been enacted, the Hong Kong Deputies to the NPC still act like a bunch of cowards by even withdrawing from signing a joint submission. How can Hong Kong people expect them to be able to monitor the blunders of the Xinjiang government and seek justice for Hong Kong journalists?

Facts speak louder than words. After the incident involving reporters being assaulted in Xinjiang, the Deputies to the NPC have won a brief applause from Hong Kong people through suddenly adopting a high profile in seeking justice.

Rita FAN, a member of the Standing Committee of the NPC (NPCSC), once remarked that the accusations made by the information office in Xinjiang of the Hong Kong media were totally unconvincing. She expressed the hope that objective evidence could be produced to prove whether the journalists involved had done anything wrong.

According to CHENG Yiu-tong, inciting the masses is a very serious accusation and, therefore, concrete evidence must be produced. Otherwise, it will be unfair to the Hong Kong media. In this connection, he requested that the NPCSC intervene in the investigation. If the accusation is found to be unfounded, the Xinjiang authorities should clarify the matter and apologize to Hong Kong journalists.

According to Raymond HO, armed police and public security officers have grossly hindered news coverage, acted in contrary to the expectations of the people and tarnished the national image. He proposed that all Hong Kong Deputies to the NPC should jointly sign a letter to Premier WEN Jiabao requesting him to conduct an in-depth investigation into the incident, in the hope that the Xinjiang authorities could rectify their mistakes, if any.

Raymond HO's proposal of making a joint submission was supported by WONG Kwok-kin, who expressed support for the 36 Hong Kong Deputies to the NPC to express their views, or at least demonstrating their stance, to the NPCSC through making a joint submission, as the Xinjiang government has not yet resolved the incident involving the assault of Hong Kong journalists by armed

police. Should WONG Kwok-kin succeed in doing so, it would be the first time in seven years since he was elected as Deputy to the NPC he manages to gain the support of all the Hong Kong Deputies to the NPC over the same issue.

When WONG Kwok-kin was asked whether it was fitting to make a joint submission before the National Day, he replied that he did not see any serious problem as the joint submission was not meant to oppose or embarrass the State. Instead, he believed the Central Authorities would understand that he simply hoped to bring progress to the nation and upgrade the level of local cadres to the international standard as they simply cannot live up to people's expectations. WONG Kwok-kin also emphasized that it was totally unacceptable for the armed police in Xinjiang to assault journalists and that the subsequent press conference was also unacceptable, and this reflected that the cadres in Xinjiang were very problematic. No wonder the issue of fostering harmony among ethnic groups in Xinjiang has remained unresolved so far.

President, people's representatives serve the interest of the people. How nice of the NPC Deputies to cheer and voice out for the people! It should be the glory of Hong Kong Deputies to the NPC to demonstrate courage and righteousness from the beginning to the end. A small step made by them in making a joint submission to the NPC represents a giant step towards people supervising the Government, as well as a giant step taken by Hong Kong Deputies to the NPC to become their own masters. All the people are waiting to see this happen.

According to Article 10 of the Organic Law of the NPC, a delegation or a group of 30 or more Deputies may submit to the NPC bills or proposals that fall within its scope of functions and powers. The Presidium may decide whether or not to put the bills or proposals on the agenda of the Congress.

According to Article 16 of the Organic Law of the NPC, a delegation or a group of 30 or more Deputies may raise written questions. The Presidium shall decide whether or not to refer the questions to the organs concerned for written replies or oral replies.

If the 36 Hong Kong Deputies to the NPC can brace up and unanimously agree to make a joint submission, it will mean the moving of a motion with legislative effect by a delegation comprising Hong Kong Deputies to the NPC, and that the NPCSC must deal with the motion and give a formal reply. This

would even mean that the Xinjiang government must respond to the queries raised in connection with the assault of journalists and vindicate Hong Kong journalists according to facts.

President, as we all know, the making of a joint submission by Hong Kong Deputies to the NPC has ended up in an anti-climax, or a farce fooling Hong Kong people. Maria TAM cited three reasons after vetoing the making of a joint submission:

- (a) This is merely an isolated incident, not a policy of the Central Authorities;
- (b) Many NPC Deputies have already written to the leadership, and there is no need for a joint submission; and
- (c) As the National Day is imminent, there is no urgency to request the Central Authorities to give a reply at this point in time.

President, there are just too many instances of the Central Authorities and local governments suppressing news coverage by Hong Kong journalists. From major incidents taking place in 2008 alone, including instances involving Hong Kong reporters covering the Beijing Olympic Games being assaulted by public security officers, those covering dissidents in Sichuan being suspected of possession of drugs and those covering riots in Urumqi being arrested and repatriated immediately, and coupled with this recent incident involving journalists covering news in Xinjiang being assaulted, detained and accused slanderously of inciting disturbance, we can see endless instances of journalists being suppressed on all pretexts, from the central to local levels, and these are definitely not isolated incidents. In Raymond HO's words, this will tarnish the national image. How can Hong Kong Deputies to the NPC turn a blind eye to it?

If the NPC is to address the controversy in Xinjiang, a joint submission by more than 30 Deputies is required before a legal basis can be established to prompt a response from the Xinjiang government and Hong Kong reporters be vindicated and done justice. A joint submission is definitely much more effective than separate letters. Why do the Hong Kong Deputies to the NPC seek to evade making a legal joint submission?

The imminent National Day was cited as one of the reasons for vetoing the joint submission. With respect to this issue, WONG Kwok-kin has once made it clear that the joint submission is not meant to oppose or embarrass the State, only that the State has simply not lived up to people's expectations. Why did the Hong Kong Deputies act so courageously in the beginning and then chicken out like a rusty rubber-stamp in the end?

In order to divert and evade the responsibility of making a joint submission, some Deputies said that they were prepared to draft a news law while others supported the enforcement of the Law of the People's Republic of China on the People's Armed Police Force. My dear NPC Deputies, please do not fool Hong Kong people anymore! Despite the existence of the Organic Law, you refuse to make a joint submission; despite the existence of a supervision law, you refuse to exercise supervision. Yet, you pin hope on a news law, which is yet to be enacted despite the passage of 20 years or use the Law of the People's Republic of China on the People's Armed Police Force as an excuse. Are you treating Hong Kong people like fools?

FEI Fih, a NPC Deputy, has been most candid in remarking to this effect, "The people's disappointment is not a big deal because the people's representation system is not practiced in Hong Kong. Our role is limited as our biggest role is to participate in national affairs."

FEI Fih's remarks have indeed awakened Hong Kong people. When did Hong Kong Deputies to the NPC ever represent Hong Kong people? The disappointment felt by Hong Kong people is totally attributed to their own wishful thinking and sentimentality. Loss of hope is the greatest tragedy. There is nothing to regret at all. The NPC Deputies simply do not listen with their hearts or hear anything.

With these remarks, President, I seek to move my amendment.

**MS MIRIAM LAU** (in Cantonese): President, freedom of the press, a fundamental and core value which has all along been taken seriously and treasured by Hong Kong people, is also the cornerstone of Hong Kong's success and advancement. Therefore, the SAR Government should seek to defend and safeguard it.

With the increasingly close relations between Hong Kong and the Mainland, there are more and more opportunities for local media organizations to send journalists to cover news on the Mainland. At the same time, with the opening up and progress of the nation, journalists covering news on the Mainland will enjoy a rising degree of freedom and convenience. For instance, during the Sichuan earthquake and Beijing Olympics last year, the Central Government's open attitude towards the media even won unanimous acclaim from the international community.

But regrettably, there were recently instances of Hong Kong reporters being intervened by law-enforcement officers while covering news in Chengdu and Urumqi. In one case, a reporter covering news in Chengdu was accused of "suspected possession of drugs" and subsequently detained in a hotel until the trial she was supposed to cover was over. In another case, a reporter covering news in Urumqi was even assaulted and detained. The incidents tend to grow from bad to worse.

In view of the use of force against journalists in the incidents in Urumqi and, after the so-called investigation conducted by the Xinjiang authorities, the serious accusations against the involved journalists, such as "suspected of inciting disturbance" and "violating the rules on news coverage", the Liberal Party, joined by its Hong Kong Deputies to the NPC and delegates of the Chinese People's Political Consultative Conference (CPPCC), wrote a joint letter to Premier WEN Jiabao on 9 September to express our grave concern about the incidents.

The Liberal Party considers the accusations made by the Xinjiang authorities against the journalists extremely serious. And yet, the results of the investigation cited have failed to give a detailed account of the entire incident and there is a lack of convincing evidence substantiating the relevant accusations. For instance, such accusations as the relevant reporters "failing to heed advice and refusing to produce identification papers" are obviously entirely different from what Hong Kong people saw on the television. Both the reporters involved and their media organizations insisted that the reporters possessed valid press cards, including the temporary press cards issued by the information office of Xinjiang and the press cards issued by the All-China Journalists Association in Beijing. We could also see on the television that at least two reporters carried press cards at that time. The accusation of "suspected of inciting disturbance by

using hand signals to gesture to personnel gathering people for possessions" is, likewise, lack of substantive support and puzzling.

Furthermore, in the incident in Sichuan in which a search was conducted by law-enforcement officers for "suspected possession of drugs", some of the officers did not produce their identification papers, and no search warrant was shown. In the end, no "drug" was seized. We could simply not help querying whether the search was used by the law-enforcement officers as a pretext to impede news coverage by the reporter.

The Liberal Party is deeply disappointed with the approach taken and accusations made by local law-enforcement officers on the Mainland against the reporters in the two incidents.

In the opinion of the Liberal Party, the acts of obstructing and even assaulting and detaining reporters covering news legally in accordance with Mainland rules and regulations are not in line with the Central Government's established policy of "welcoming Hong Kong reporters" and "protecting reporters' legitimate right of newsgathering", as well as the commitment made by President HU Jintao in his opening address during the World Media Summit of "protecting reporters' legitimate rights and interests in accordance with relevant laws and regulations". Therefore, the SAR Government should fully convey our concern to the Central Government and relevant departments on the Mainland with a view to protecting the legitimate rights and interests of reporters and preventing the recurrence of similar incidents.

During a Question and Answer Session on the policy address, Chief Executive Donald TSANG revealed that during the celebrations held in Beijing marking the 60th anniversary of the founding of the nation, he personally related the concern of the SAR Government to the Minister of Public Security, MENG Jianzhu. We consider it fitting for the Chief Executive to do so. We hope the SAR Government can continue to keep the incident in view and seek to safeguard reporters' safety and legitimate right of newsgathering on the Mainland.

However, both the original motion and amendments are considered by the Liberal Party as inadequate, as they merely focus on calling on the Mainland authorities (in Xinjiang and Chengdu) to "conduct a just investigation afresh" with respect to the two abovementioned incidents involving aggrieved Hong Kong journalists. This is because, if we hold major objection to the approach

taken by certain departments of the local governments, how can we ask them to conduct an investigation on themselves? I believe not many people will have confidence in them even if they prepare the report afresh. This is why the Liberal Party thinks that the local authorities must not be allowed to conduct another investigation. Instead, the Central Government should intervene and conduct an investigation afresh, as Hong Kong people do have more confidence in the Central Authorities and believe that the latter will handle the matter impartially. This explains why the Liberal Party wrote to Premier WEN Jiabao that day to request the Central People's Government to conduct an investigation afresh.

I believe Members may still recall that earlier on, Premier WEN Jiabao apologized to readers throughout the country for a trivial matter involving typographical errors. Actually, for readers in general, the mistake of confusing "metamorphic rocks" (變質岩) with "volcanic rocks" (火山岩) might not be glaring and make much difference. However, Premier WEN considers that any mistake found in articles issued in his name must be corrected. This shows that the Premier is conscientious and meticulous in dealing with everything. Hence, the Liberal Party is confident in the Central Authorities and believes that they will act impartially and dig out the truth. Should the investigation dig out the truth and find that the Hong Kong reporters were not at fault, the local authorities or units involved should apologize and vindicate the reporters.

Lastly, the Liberal Party believes that the Central Authorities have already received the relevant message as, after the Xinjiang incident, a number of Hong Kong Deputies to the NPC, including the Liberal Party's Hong Kong Deputies to the NPC and delegates of the CPPCC, have already separately reflected the concern of society and the media to the Central Government and requested that the incident be investigated. As far as I know it, some Hong Kong Deputies to the NPC consider it no longer necessary to relate a similar message, in the form of a joint submission, as the message has already been conveyed. Personally, though I also hope that Hong Kong Deputies to the NPC will make a joint submission, we will still understand it if individual Hong Kong Deputies think otherwise, making the submission fall through. Moreover, we do not think that regret should thus be expressed, since doing so smacks of making a mountain out of a molehill.

President, I so submit.

**MR RONNY TONG** (in Cantonese): President, the National Day this year also marked the 60th anniversary of the founding of the People's Republic of China. However, it is a pity that what we witnessed were two scenes of total incongruity. On the one hand, there were the massive military formations that paraded past the Tiananmen Rostrum, giving people the impression that the nation had ascended to superpower status. However, on the other hand, we also saw that in a bid to ensure the absolute effectiveness of the security measures in the national capital, the Central Government adopted various high-handed measures to suppress human rights activists and prevent petitioners from making petitions in Beijing peacefully. A high level of vigilance against the news media was also maintained lest any news harmful to national stability might be spread to the outside world.

President, in early September this year, some Hong Kong reporters were manhandled by members of the Armed Police Force in Xinjiang. From this, we can see the "progress" that has been made by New China. People are outraged by the treatment suffered by the three reporters and how the Urumqi Information Office explained the incident and accused the reporters afterwards. All this, together with the false accusation of drug possession brought earlier against Now TV reporters by Sichuan provincial officials and the subsequent detention of five more Hong Kong reporters, has led to the fear that Hong Kong journalists covering news on the Mainland are caught in a situation not very much better than that faced by the human rights activists there. What is even more worrying is that at this very time when the SAR Government is advocating our integration with the Mainland ..... Hong Kong people simply wonder whether the press freedom they value so much will be sacrificed in the course of such integration.

President, what we see today may just be the tip of the iceberg. The situation faced by Hong Kong reporters covering news on the Mainland has never been easy over the past 20 years. Following the 4 June crackdown, the Central Government promulgated the "seven points to note for Hong Kong and Macao journalists wishing to cover news in Mainland China", "the seven points to note" in brief. These seven points have turned out to be the straitjacket around Hong Kong reporters covering news on the Mainland. Many reporters are subjected to varying degrees of interference when engaged in reporting activities on the Mainland. But in order to avoid trouble, many media simply tell their reporters to sign a statement of repentance to secure their return to Hong Kong without even disclosing the incidents. The "seven points to note" were put in place nearly 20 years ago, and it was amended four times. Early this year, it was replaced by the "Measures for the Reporting Activities in the Mainland

Conducted by the Journalists of Hong Kong and Macao" (the "Ten Measures"). The wording of the "Ten Measures" seems to suggest the relaxation of certain news coverage restrictions, but there are still many major obstacles.

To begin with, Hong Kong reporters intending to cover news on the Mainland must apply for prior approval from the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office). There has never been any revision of this requirement throughout the days from the "seven points to note" to the "Ten Measures". According to the supplementary explanatory notes of the "Ten Measures", Hong Kong reporters must still apply to the Liaison Office for a press card issued by the All-China Journalists Association seven days before the intended reporting activities. This poses very great inconveniences to journalists, rendering them totally unable to cover any breaking news. We are indeed reminded from time to time that over the past decade of operation, the Liaison Office and the mass media have built up a tacit understanding that the processing of press card applications will be expedited in the event of breaking news. But I must still point out that this requirement is a major hindrance to the freedom of news coverage.

More importantly, when it comes to the granting of approval, the applications of certain mass media are invariably rejected. Over the past decade or so, these mass media have never been issued any press cards. As a result, in order to find out the situation on the Mainland, they must engage in "unlawful" reporting activities. This of course poses even greater danger to the reporters concerned. The sudden detentions and expulsions of reporters that we heard of in the past were attributable to the restrictions imposed by such requirements. The only exception was that during the time of the Beijing Olympics last year, these mass media were once "graciously" permitted to cover news on the Mainland. But as Members may remember, attempts were still made to hinder the reporting activities of the journalists concerned after their entry into the Mainland.

Another requirement that has never changed throughout the days from the "seven points to note" to the present "Ten Measures" is the one forbidding reporters to conduct activities unbecoming of their organizations' status or their status as reporters. But the meaning of "unbecoming of" is altogether baffling. In early September, officers of the Xinjiang Armed Police Force assaulted Hong Kong reporters, and afterwards, an official of the Urumqi Information Office accused the reporters concerned of "giving orders" to protesters. She made up

false accusations and attempted to frame them up. The very regulation she referred to was precisely the one mentioned above.

The Hong Kong Journalists Association has repeatedly pointed out that all these provisions, especially the one on the application for press cards as a prerequisite of reporting activities, must be revoked, for they are unreasonable and arbitrary hindrances that stifle and suppress freedom of the press. It is a pity that both the Central Government and the Liaison Office have completely ignored the request.

President, as a matter of fact, freedom of the press is protected under the Constitution of China. Article 35 of the Constitution provides, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration." More importantly, Article 41 also provides, "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organ or functionary. Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, violation of the law or dereliction of duty by any state organ or functionary; but fabrication or distortion of facts with the intention of libel or frame-up is prohibited."

At this very time when the government is not yet elected by the people, these provisions are especially important to safeguarding the right of monitoring government officials. But if there is no freedom of the press in our society, how can we ensure the protection of this right? How can we ensure that the people are well-informed when they exercise the right of monitoring government officials?

There is something very disappointing. Faced with the repeated interferences, hindrances and even violent treatment experienced by Hong Kong journalists covering news on the Mainland, faced with the mounting challenges to "one country, two systems", have the officials of our SAR Government done anything at all? It was not until the day before yesterday that Chief Executive Donald TSANG, when pressed by Members, finally disclosed that he did mention the Xinjiang incident to the Minister of Public Security during the National Day celebrations. But the reply he got from the Minister was only a simple undertaking that Hong Kong reporters will definitely be protected in their conduct of lawful reporting activities. However, how is this undertaking going to be honoured? What is the definition of lawful reporting activities? In case any

Hong Kong reporters are manhandled by officers of the Armed Police Force on the Mainland again, how can we seek justice for them? System-wise, how can we protect Hong Kong journalists' right of news coverage on the Mainland?

President, the amendment today carries the solemn requests of the Hong Kong Journalists Association. The Government is duty-bound to assure the exercise of this right, a right which is reasonable, in line with internationally recognized standards and protected under our country's Constitution. That way, all mass media can enjoy fair chances of covering news on the Mainland.

President, over the past few years, the Chief Executive has been advocating Hong Kong's integration with China, claiming that if we cannot maintain Hong Kong's unique advantages, we will lag behind cities on the Mainland. I hope that the Chief Executive can once again open his eyes wide and see what Hong Kong's advantages are. Hong Kong's advantages are the rule of law and the presence of independent media plus freedom of the press! We must not allow our freedom of the press to be devoured in the course of Hong Kong-China integration. We hereby urge the SAR Government to approach the Central Government and the local governments concerned and make a serious protest against the violent treatment suffered by Hong Kong reporters in several past cases. We also urge the SAR Government to persuade the Central Government to rescind the requirement on applying for press cards as a prerequisite of news coverage on the Mainland, so that press freedom can be safeguarded. Thank you, President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I shall give my reply later.

**DR PRISCILLA LEUNG** (in Cantonese): President, earlier on, a Now TV news crew from Hong Kong doing news coverage in Sichuan were detained in their hotel rooms for more than six hours on the ground of suspected drug possession by a bunch of suspicious men who claimed themselves to be public security officers without producing any proof of identity. This reminds me of what happened to me and my husband in Inner Mongolia a few years ago.

My purpose of relating this particular experience is just to let Members know, that injustices of this kind are not uncommon. I remember that about

three years ago, my husband and I stayed in a certain hotel in Inner Mongolia, along with the head of the local Department of Finance, who accompanied us during our trip. Around three o'clock one morning, five big guys stormed into the room where my husband and I were staying. They claimed to be public security officers and asked us to produce our marriage certificate. I therefore led them to the adjacent room, explaining to them that our children and Filipino domestic helper were also with us. But they said that this could not prove anything. They insisted that we must produce our marriage certificate, or we would have to be taken to the Public Security Bureau. At that time, I was a total stranger to Inner Mongolia, despite the fact that I visited the Mainland very frequently. Infuriated, my husband was prepared to go straight to the Public Security Bureau with them. As for me, I raised objection to their actions based on what little knowledge I had about Mainland laws. And, I also made a decision which was quite right at that time — running out into the hallway, trying to awake all the hotel staff on duty and the head of the Finance Department who was responsible for looking after us. At long last, the five "public security officers" realized that they had made a mistake, for we were also their VIPs, so to speak. Afterwards, they moved over to another room, where they argued for a very long time. Then, around five o'clock in the morning, the head of the local Department of Public Security made the five public security officers apologize to us in his presence. At that time, with the scanty knowledge I had, I could still see that there should be an inside story, although I could not quite figure out what they were up to. First, someone must have told them that some outsiders had moved into the hotel; if not, they would not have targeted only on our room for investigation. Second, such incidents should be very common, which was why they were so confident that we would surely go with them to the Public Security Bureau. Third, no one could tell what would happen to us after following them to the Public Security Bureau.

Why have I related this particular incident? Because my memory of it is so vivid. Whenever I hear of any similar incidents involving Mainland public security officers ..... Honestly speaking, we did consider the idea of playing up the whole incident. But then, since the five public security officers nearly went down on their knees to ask for forgiveness, we stopped short of doing so. The first thing they chose to do that day was to tender an apology.

What I want to point out is that although it was not very long after the incident in Sichuan, the Xinjiang Information Office still tried to handle the

incident under discussion in a way we all consider extremely unreasonable. In the end, the Xinjiang Information Office even chose to defend itself by making accusations of the Hong Kong reporters in its investigation report. I must say that this is doubly wrong. Tendering an apology is actually the best key to resolving a problem. But the Xinjiang Information Office instead chose a tactic of defence that made us think that it was trying to harbour its own peers.

Personally, I wish to raise several points about this issue. First, I do think that when Hong Kong reporters are covering news in the Mainland, they must abide by the laws of China, but I must add that Hong Kong reporters are also protected by the Constitution of the People's Republic of China. As long as they are engaged in reasonable news reporting activities, their personal freedom and civil rights should all be protected.

Public security officers must of course abide by the Constitution of the People's Republic of China. But since the Basic Law is also a national law, I think that public security officers in Xinjiang should also abide by and respect it.

The incident under discussion reminds me that many years ago, before I took up teaching, I also worked as a reporter for a short period of time. At that time, I was just a fresh university graduate, but I already went to many dangerous places to cover news and recorded all I witnessed without the slightest bit of hesitation. I believe that when covering news of the incident under discussion, many Hong Kong reporters were not necessarily aware of the dangers. Or, maybe, as they had never experienced any similar situation before, they simply did not know what they should do when any difficulties or sudden problems cropped up. Or, it had never occurred to them that even after disclosing their identity as a reporter, they would still be treated in this way.

I wish to point out that on the night I mentioned, I did disclose that I was a legal practitioner, and that I knew many people in the legal profession of the Mainland. But all this was useless. We did struggle with them physically as they tried to shove us away. I believe that similar incidents will happen again. But still, in regard to the incident under discussion, there are several points we may consider. First, I think the Central Government must adopt a positive attitude towards the whole thing. The Xinjiang Information Office has announced a report that we all find untruthful. Its supervisory unit, the State Council Information Office, should carry out an administrative review of the report and give it an opportunity to correct its own mistake. The supervisory

unit of the Xinjiang Information Office in the same system should check whether it has indeed made an erroneous decision. If we still find the State Council Information Office's decision unreasonable (Many Hong Kong people do not have any great faith in the Mainland's judicial system) ..... But from the system point of view ..... The Hong Kong media concerned may in fact sue the relevant executive authorities under the Administrative Procedure Law. But as Members may have seen from the film "The Story of Qiu Ju", it is always so difficult to sue government officials.

However, we still enjoy an advantage. We may still seek justice through the mass media, political system and even the Legislative Council in Hong Kong. I hope that the State can really handle this incident with a positive attitude.

I must stress that tendering an apology is the best key to resolving the problem. As a result of this incident, many people living overseas who are concerned about the situation in China are extremely worried, and their hearts are broken. Thank you, President.

**MR IP KWOK-HIM** (in Cantonese): President, freedom of the press is a core value of Hong Kong. Freedom of speech and of publication are civil rights protected under both the Constitution of China and the Basic Law. It is the intrinsic duty of all Legislative Council Members to defend freedom of the press.

The incidents that happened respectively in Xinjiang and Sichuan earlier this year, in which Hong Kong journalists' news reporting activities were interfered with, have aroused the grave concern of Hong Kong people.

The DAB is extremely concerned about these incidents, and it is also worried about the personal safety and the right to lawful news coverage of Hong Kong journalists on the Mainland. Immediately after the manhandling of Hong Kong journalists by law-enforcement officers in Xinjiang, the DAB expressed its grave concern by reflecting the opinions of the news media and people in Hong Kong to the Mainland via the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office). The DAB also approached the relevant reporters, expressing its solicitude and concern. Later, the DAB also forwarded the reporters' personal notes on the incident to the relevant government departments on the Mainland for follow-up.

The DAB's seven Deputies to the National People's Congress (NPC), namely, Joseph LEE, YEUNG Yiu-chung, Carson WEN, LAU Pui-king, CHOY So-yuk, Maria TAM and I, also issued a joint letter to WU Bangguo, Chairman of the Standing Committee of the NPC (NPCSC) on 7 September, reflecting the grave concern of Hong Kong people and journalists about the incident. The letter states clearly, to this effect, "The assault of Hong Kong journalists engaged in lawful news coverage in Xinjiang is hardly acceptable. The governance of the country according to the law is a basic objective set out in the Constitution of China. Hong Kong people are also Chinese citizens, so the legitimate rights of all Hong Kong people, including Hong Kong journalists, should be protected on the Mainland." We requested the Central Authorities to conduct an in-depth investigation into the manhandling of Hong Kong reporters by officers of the Armed Police Force.

Regarding the Xinjiang Information Office's accusation that the Hong Kong reporters had tried to incite a riot, Mr TAM Yiu-chung, the DAB Chairman, also wrote to Vice President Xi Jinping on 9 September, stating clearly that most journalists and many people in Hong Kong can hardly believe such an accusation. He also pointed out that suspected incitement of a riot is an extremely serious charge, so there must be sufficient justifications, and all evidence gathered in the investigation must be disclosed, or it will be difficult to convince the public. On behalf of the DAB, Mr TAM Yiu-chung has requested the Central Authorities to conduct a thorough investigation to protect the right to lawful news coverage and personal safety of Hong Kong journalists on the Mainland.

President, freedom of the press is an inalienable right. It manifests the role of public opinions as a watchdog, and is a civil right that should be protected in a modern democratic society. We are concerned about the conduct of normal news reporting activities, about the civil rights of Hong Kong people on the Mainland and also about the implementation of "governance according to the law" on the Mainland. But in return, as Chinese citizens, we are also duty-bound to uphold the stability and unity of our country and to promote its development and progress. Hong Kong and the Mainland are "one country practising two different systems". The political systems of the two places are different. Mainland people and Hong Kong people have different mindsets and ways of doing things. This is a fact of the objective realities. Neither the Mainland nor Hong Kong can ignore the other side. There must be mutual respect. When there are problems, we must discharge the duty of reflecting public opinions and monitoring law enforcement and administration, so as to urge

the Central Authorities to squarely address the problems. That way, the administration quality of all levels of governments on the Mainland can be enhanced, thus making it possible to build up a clean and people-based society marked by high efficiency and justice. The DAB urges the Mainland to conduct a fair and open investigation into the incidents that occurred in Xinjiang and Sichuan. It also requests the Mainland authorities to assure the freedom of lawful news coverage, so as to ensure the protection of legitimate civil rights.

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

We note that in the opening ceremony of the World Media Summit on 9 October (mentioned also by Ms Emily LAU just now), President HU Jintao once again made it clear that China attaches very great importance to media development, and will continue to guarantee the people's rights to be informed, to participate, to be heard and to oversee. Besides, various organizations of the Central Government, such as the Ministry of Foreign Affairs, Ministry of Public Security, State Council Information Office and the Liaison Office, have repeatedly emphasized that the policy of safeguarding the legitimate rights of Hong Kong reporters on the Mainland according to the law will be maintained, and that all provinces and cities of the Mainland will continue to welcome Hong Kong reporters to cover news on the Mainland.

For all these reasons, the DAB has come to the view that the Central Authorities are already very clear about the opinions of Hong Kong people and Hong Kong media about the incidents in question. The DAB will continue to monitor their development and the progress of the investigations. It will also continue to pay attention to how the different levels of governments on the Mainland implement the policies of "governance of the country according to the law" and safeguarding civil rights. But before there are any investigation outcomes, we will have reservations about moving a motion of condemnation. This explains precisely why, as mentioned by Ms Emily LAU just now, the DAB does not support the motion. The DAB will only support the amendment of Dr Philip WONG, and will oppose the original motion and all the other amendments.

The amendment of Mr CHEUNG Man-kwong criticizes the Deputies to the NPC. The DAB does not agree to his views. In his speech earlier, Mr CHEUNG Man-kwong even lashed out at and belittled the views of these

Deputies. I must express my deep regret. As a matter of fact, shortly after the incidents, many Hong Kong Deputies to the NPC, including former Legislative Council President, Mrs Rita FAN, already sought to reflect their individual views to the Central Authorities through different channels. All of them have expressed their unequivocal concern about these incidents and put forward their own opinions. This is a very clear fact. The various social sectors, including Members of the Legislative Council, may indeed hold divergent views. This is only normal and understandable. However, the expression of regret in the Legislative Council at how NPC Deputies discharge their duties is not in line with "one country, two systems", and will bring negative impacts. The DAB opposes Mr CHEUNG Man-kwong's .....

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

**MR IP KWOK-HIM** (in Cantonese): The DAB opposes Mr CHEUNG Man-kwong's amendment. Thank you.

**DR RAYMOND HO** (in Cantonese): Deputy President, freedom of the press is an important cornerstone of an open and advanced society. In Hong Kong, the lawful news reporting activities of journalists are not supposed to be interfered with by anybody in any manner. Freedom of the press is one of the basic rights enjoyed by Hong Kong residents and guaranteed by the Basic Law. Article 27 of the Basic Law provides, "Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike."

As Chinese citizens, Hong Kong residents have been keeping a special interest in the events in China and the latest news about it. Hong Kong journalists stationed on the Mainland have been covering the latest news about the country with immense professionalism and a serious attitude, often in unsatisfactory reporting circumstances and even great dangers. I believe Members should still remember how Hong Kong reporters won the respect and esteem of everybody when they disregarded their personal safety and tried to give us comprehensive news coverage of the situation in the disaster areas and victims'

plight following the devastating earthquake that hit Wenchuan, Sichuan, on 12 May last year.

Precisely because of my respect for Hong Kong journalists' dedication and my insistence on freedom of the press, as soon as I learnt in September this year that some Hong Kong journalists covering news in Xinjian had been manhandled by local law-enforcement officers and put under brief detention, I immediately wrote to Premier WEN Jiabao to draw the Central Government's attention to the incident, expressing the hope that the authorities concerned could handle the matter appropriately. The letter was relayed to the Premier by Director PENG Qinghua of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region.

In this letter, I pointed out that the violent manner in which officers of the Armed Police Force and public security officers handled reporters who were doing news coverage constituted a serious impediment to freedom of the press, and that the incident has produced negative impacts on the country's international image. I also make special reference to the People's Armed Police Force Law (PAPFL) discussed and passed by the Standing Committee of the National People's Congress (NPCSC) in late August this year. As a Hong Kong Deputy to the National People's Congress (NPC), I was able to attend the NPCSC meeting in August and participate in the relevant discussions. Article 19 of the PAPFL prohibits Armed Police Force officers from restricting individual freedom by detention or body searches as well as raiding individual properties without a legal warrant. Article 21 provides, "Officers of the People's Armed Police Force shall behave in a civilized and courteous manner, abiding by social moral values and showing respect for people's religious faiths and customs." It is a pity that the behaviour of Armed Police Force officers in the incident ran completely counter to what all Chinese people expect of the PAPFL.

Following the incident, the Xinjiang Information Office even accused the Hong Kong reporters concerned of inciting a riot. Thinking that the accusation was a very serious one, I decided that at the regular meeting of Hong Kong NPC Deputies in September, I should ask all the 36 Hong Kong Deputies to issue a joint letter requesting the Central Authorities to conduct a thorough investigation. Unfortunately, my proposal was not endorsed by the meeting. I therefore expressed my disappointment.

In spite of this, I still hope that the Central Government can carry out an in-depth investigation into the incident and disclose all the findings, so that all Chinese people, especially Hong Kong people, can know the truth. It is also my hope that this can prevent any negative impacts on the international image of our country. Therefore, at this stage, I do not think that it is appropriate to condemn the Mainland authorities or ask them to tender an apology. We should first urge the Central Government to launch an investigation. Further discussions on follow-up actions should be held only after the publication of investigation findings. This is my voting position on the motion and amendments today.

Deputy President, I so submit. Thank you.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, the motion proposed by Ms Emily LAU today can enable me to talk about "platitudes", raise some opinions which have long since been ignored and even express some humble regret.

When drafting the script of this speech, I re-read a long article of mine published in *Ming Pao Monthly* in December 1989. The title of the article is "Is there any freedom of speech in Hong Kong?". The motion topic today concerns the violence inflicted by the relevant Mainland authorities on Hong Kong reporters doing normal news coverage. The threat of violence is a major impediment to freedom of the press. This is only common sense.

On 31 March 1945, in the *Xinhua Daily* (the official mouthpiece of the Communist Party of China in Chongqing, which carried many articles on democracy and freedom of the press in the 1940s), the Communist Party of China (CPC) gave a very clear explanation of the relationship between freedom of the press and democracy. The CPC said, to this effect, "Freedom of the press is a hallmark of democracy. Without freedom of the press, there can never be genuine democracy. On the other hand, democracy and liberties form the very basis for freedom of the press. In the absence of democratic politics, it is never possible to achieve genuine freedom of the press." These were the arguments advanced by the CPC in support of freedom of the press 64 years ago. The *Xinhua Daily* also carried many other articles at the time. The aspirations stated in such articles are exactly the same as those advocated by the pan-democratic camp today, even in terms of the expressions used — putting an end to one-party dictatorship, returning power to the people and implementing universal suffrage.

Such were the demands put forward to the Kuomintang by the CPC many years ago. Surprisingly, 64 years later, we the so-called democrats are still advocating the same aspirations. Many more examples can be cited if they are desired. MAO Zedong talked even more about these topics. But what he did after seizing political power was completely different from his advocacies.

The absolute control over the news media under the one-party dictatorship of the CPC in the past 60 years can aptly prove the truth of the CPC's own ideas on freedom of the press more than 60 years ago. The mass media in the People's Republic of China under the rule of the CPC are still under the tight control of the state apparatus. Right after the commencement of reform and opening, there were some signs of the restrictions being relaxed. In 1979, approval was given for the formation of a press law drafting group, with a view to protecting the monitoring role of public opinions and freedom of the press. But this liberal atmosphere was brought to an end by the 4 June tragedy in 1989. Even now, political expression is unable to enjoy the same degree of freedom found in the early 1980s.

We often hear that some editors and reporters on the Mainland are oppressed and even arrested by public security authorities for exposing the wrongdoings of local authorities. Journalism is a high-risk profession on the Mainland. However, despite all the restrictions on freedom of speech, many journalists who have a conscience and who want to uphold justice have still sought to uncover the truth without any regret, even though this may mean their arrests.

Journalism is a noble cause rather than an occupation. Wearing the very crown called "the fourth power", reporters are servants of the lofty yet pragmatic journalistic ideal of "a free and responsible press". They all seek to uncover the truth and uphold justice. A senior American journalist once made a remark which I find most meaningful and appropriate to the present-day social context of Hong Kong. He said, "Don't believe anything until it is officially denied." Yesterday, the Executive Council announced that Donald TSANG did not funnel any benefits to anybody. The Government announced lots of information, and the Government did many things ..... But he denied having done anything. How can reporters know the truth? The answer is that what the Government denies must be the truth. Reporters should always be sceptical and critical. In a place like Hong Kong, where political injustices and government-business collusion abound, the fourth power has long since been courting its own

shrinkage. With the unhealthy prevalence of "self-censorship" and "yellow journalism", freedom of the press is distorted and so is the social portrait.

In mid-May this year, the Freedom House, an American research institute, published a report on the Freedom of the Press 2009 Survey. The status of Hong Kong was downgraded from "free" last year to "partially free". Under the influence of market economy principles in a capitalistic society, mass media in Hong Kong will always consider the wishes of their proprietors and the proceeds from advertisements. As a result, they simply impose self-censorship, thus posing threats to media independence. Their views have turned identical and more and more pro-establishment. Such examples abound, and it is impossible to enumerate all the evil deeds of the mass media.

The concluding remarks of the article "Is there any freedom of the press in Hong Kong?" published in *Ming Pao Monthly* in December 1989 are still valid in the present-day context, although 20 years have already elapsed:

"Some may well think that the mass media must now exercise self-restraint in order not to provoke the Chinese communist regime. But myopia cannot possibly enable us to gain an overview of the current situation, so the mass media in Hong Kong should not make any retrograde movement.

On their part, the mass media must conduct self-examination, improve the quality of their opinions, return the right of access to the media to the public and prevent the views of "opinions leaders" from being flaunted as public opinions, so as to make Hong Kong a free opinion market in the literal sense of the term.

It is only in this way that freedom of speech can be preserved and sound public opinions generated. It is only in this way that democratic politics can truly emerge!"

Deputy President, the League of Social Democrats supports Ms Emily LAU's motion and Ms Miriam LAU's amendment. I so submit.

**MR PAUL CHAN** (in Cantonese): Deputy President, throughout all our discussions on Hong Kong's advantages, especially those on whether Hong Kong, or Shanghai, is the financial centre of China, we have been mentioning Hong

Kong's unique advantages. We hold that the Mainland cannot possibly rival us in terms of one advantage: our freedom of information as well as freedom of the press, and of speech. If we lose this advantage, the competitiveness of Hong Kong as an international financial centre will be greatly reduced.

On the fourth of last month, some Hong Kong journalists covering news in Xinjiang were battered, handcuffed and detained by local law-enforcement officers. Members should have seen all the news footages on the incident, and their memories of these footages must be far more vivid than any lengthy description I can possibly give here. However, I still wish to repeat one point. That day, although the reporters concerned had already shown their press cards and repeatedly identified themselves as journalists, they were still subjected to violence by law-enforcement officers. This is really infuriating.

The use of violence by law-enforcement officers is already infuriating and disappointing enough. But worse still, later on when the Xinjiang Information Office, which is responsible for dealing with the media, announced the so-called investigation findings, it even said that the three journalists who had been beaten up (one reporter and two cameramen) were under "the suspicion of inciting public disorder", as they had been found "following the crowd for filming" and "making gestures towards the protesters" that day. But the Information Office did not have any eye-witness, nor could it produce any material evidence. The findings are hardly convincing and even amount to a frame-up. Hong Kong people really cannot swallow their discontent.

Last year, after Sichuan had been hit by a devastating earthquake, we were able to see many stirring footages of how the helpless victims screamed, how the selfless masses provided disaster relief and how the leaders expressed their heartfelt concern for the victims. Thanks are due to all journalists, including those from Hong Kong media, for transmitting every piece of news and footage back to Hong Kong. Hong Kong people's active participation in disaster relief was to a certain extent the result of media coverage, which enabled us to see the gravity of the disaster and the latest development from a thousand miles away. It was only with a high degree of transparency that disaster relief and rehabilitation could be launched so smoothly.

It is a pity that earlier this year, when some Hong Kong reporters returned to Sichuan to cover the trial of TAN Zuoren (who was arrested for uncovering the "tofu-dreg" projects in the course of investigating the Sichuan earthquake), they

were troubled by some men who claimed themselves to be public security officers and forbidden to go out for news coverage on the ground of suspected drug possession. This was in marked contrast to the high degree of transparency a year ago, when journalists were allowed to cover the Sichuan earthquake without restrictions. And, law-enforcement officers' suspected involvement in using false accusations and serious charges as a means of hindering news coverage is also very, very disappointing.

It is indeed true that Hong Kong and the Mainland adopt different practices of handling the mass media and information dissemination, but since Hong Kong media workers must file applications under the measures for Hong Kong and Macao reporters intending to cover news on the Mainland promulgated by the Central Authorities, and since they can cover news only with approval, provincial and municipal officials of the Mainland should abide by the regulations and facilitate reporters' work. Most unfortunately, rather than abiding by these regulations, provincial and municipal officials of the Mainland instead put up various obstacles and seek to hinder reporters' work.

One Section of the Hong Kong Journalists Association's Annual Report published in August this year talks about the problems encountered by reporters covering news on the Mainland. Several reporters who frequently cover news on the Mainland point out that after being issued a press card and arriving at the destination ..... Please allow me to quote a few lines from the Annual Report, "They say some provincial officials do not know much about the press card — and insist that journalists must apply for accreditation from the province. They say officials sometimes warn Hong Kong journalists that they should not report negative news. The officials also sometimes monitor the activities of journalists."

I hope that the SAR Government can bring the attention of the Central Government to these problems. Since the Central Authorities have promulgated the measures for Hong Kong reporters intending to cover news on the Mainland, these measures should be implemented across the whole country. There should be no localization of such enforcement. When handling these problems, the SAR Government must bear in mind that freedom of the press is a much-treasured core value in Hong Kong. We hope that when dealing with such matters, the SAR Government can show quick responses and take active follow-up actions.

The original motion and the amendments all urge media organizations to safeguard the security of journalists covering news on the Mainland. This request cannot be disputed. All employers, regardless of which industries we are talking about, have the duty to safeguard the security of their employees in the course of work.

In the aftermath of the financial tsunami, all trades and industries in Hong Kong have sustained various impacts. The media industry is no exception. So far this year, we have not heard the closure of any large media organizations. But news of layoffs and pay cuts has never stopped. Since the mass media are the fourth power monitoring the Government, the status of media workers should be respected. Unfortunately, as I am aware, the remunerations of many media workers are very low, and this has led to the drain of talents. I must call upon media organizations to offer journalists reasonable remunerations and at a level they deserve.

Deputy President, I so submit.

**MR JEFFREY LAM** (in Cantonese): Deputy President, Hong Kong journalists were assaulted and alleged of suspected possession of drugs by Mainland officers while covering news in Xinjiang and Sichuan. This has obstructed the freedom of news coverage and the freedom of the press. We request the relevant Mainland authorities to conduct investigations into these incidents of journalists being assaulted deliberately and also the truthfulness of such allegations as Hong Kong journalists inciting disturbances and being suspected of in possession of drugs. We also request the relevant authorities to make public the investigation results.

The Chief Executive said sometime ago that the SAR Government was concerned about matters relating to news coverage by Hong Kong journalists in the Mainland and that he had reflected his concern to the Xinjiang Municipal Government through the Hong Kong and Macao Affairs Office of the State Council and was given an undertaking that the lawful news reporting activities of Hong Kong journalists would be protected. The Minister of Public Security, MENG Jianzhu, also said that the rights of Hong Kong journalists to cover news lawfully in the Mainland would be protected. I very much hope that these undertakings can all be honoured.

We hold that the lawful right to news coverage in the Mainland of the local press must be respected. We also hope that journalists will not be subject to similar unreasonable treatment and will not be illegally detained or beaten up when covering news in the Mainland in future. We consider that the Mainland authorities should promptly learn a lesson, so as to ensure greater protection for Hong Kong journalists covering news in the Mainland. This is a more constructive approach to take.

We are concerned not only about the safety of Hong Kong journalists in their news coverage activities on the Mainland in future. We also hope that the Mainland authorities can show a greater degree of transparency in the criteria for news coverage. I hope that the SAR Government can provide ongoing assistance in relaying in detail the concern of Hong Kong press to the relevant Mainland authorities, such as what lessons the Mainland authorities should learn from these incidents and what specific obstacles Hong Kong journalists have consistently encountered when covering news in the Mainland lawfully. These should be expressly conveyed to the relevant Mainland authorities. Only when these concerns have been allayed can there be greater protection for Hong Kong journalists covering news in the Mainland.

On the other hand, Hong Kong journalists covering news in the Mainland should foster communication with the press offices in the Mainland, because the offices ..... Deputy President, can I .....

(There were noises from some Members)

**DEPUTY PRESIDENT** (in Cantonese): According to the Rules of Procedure, other Members shall remain silent while a Member is speaking. Mr Jeffrey LAM, please go on.

**MR JEFFREY LAM** (in Cantonese): Yes. Because in the more remote parts of the Mainland, the culture may be different from that of Hong Kong, and Hong Kong journalists should therefore be more vigilant, in order to protect their personal safety.

Deputy President, I so submit.

**DR MARGARET NG** (in Cantonese): Deputy President, there is an article written by Mr LAU Yui-siu in *Ming Pao* today with the title "A long way to go for protection of the freedom of news coverage". Mr LAU reminded us that the higher echelons of the Communist Party of China still think in a way as they did in the revolution era, perceiving the modernized media as a tool or means to serve political purposes. For this reason, the freedom of the press simply does not exist. He reminded us that there is a pet line among Mainland bureaucrats: "Political power grows out of the barrel of a gun", and the next line is: "Political power is maintained through the point of a pen". This shows that news will always remain to be a tool to serve political purposes.

Deputy President, this article reminds us that under the rule of an autocratic political party, it is difficult to achieve freedom of the press in a short span of time. Therefore, in Hong Kong where "one country, two systems" is practised, we need to specifically protect the freedom of the press and keep a close watch on it. The Xinjiang incident has precisely served as a reminder to all Hong Kong people, that they must not think that they can lower their guard now and need not protect "two systems". Seeing the armed police beating up people, that their government spokesman had only given some brief comments to shrug it off and worse still, making very serious and slanderous accusations against Hong Kong journalists, all Hong Kong people just flew into a rage. This fit of rage has precisely reminded Hong Kong people that we must hold dearly to the freedom of the press and freedom of speech that we have been enjoying, or else these freedoms would vanish. This incident also has another positive meaning. I saw on television that a Hong Kong journalist who was covering the press conference in the Mainland and who was outraged by the conduct of the local government dauntlessly questioned the spokesman as to whether the public security officers had beaten up people. He was defying the norm that journalists must adopt a politically correct attitude when covering news in the Mainland and must not ask questions in such a loud voice. The answer that we heard then was that this was not within the scope of investigation, meaning that no investigation was being conducted into this. What we consider to be most in need of investigation simply falls outside the scope of investigation, according to them.

Deputy President, I therefore wish to take this opportunity today to tell Hong Kong people that we cannot remain silent anymore. We must make our voices heard. Deputy President, a book entitled *Flat Earth News* written by Nick DAVIS was published recently. The writer is an experienced journalist of

*The Guardian* in Britain, who is very concerned about the trend of the media in Britain as well as in the rest of the world. He considers that there is a tendency of a departure from principles in the media. He pointed out in his book that each trade or industry has its own core values. What are the core values of the media? According to his definition, these are honesty and the attempt to tell the truth. He considers that we cannot go against or depart from these principles, for they represent the primary goals of the media and the *raison d'être*. He notices that the media in places all over the world is more and more inclined to report press releases made by public relations agencies and government bodies, while there have been less and less news reports corroborated by investigation conducted by the journalists themselves. Deputy President, this trend does warrant great concern from us. While it is important to uphold the freedom and autonomy of the press, we also hope that the responsible media can assume their responsibility to protect this fine tradition.

Dr Philip WONG said earlier that the media must have a sense of responsibility. What we must protect is the media which have a sense of responsibility and this, I cannot agree with him more. But what is the responsibility of the media? According to Dr Philip WONG, it means protecting the reputation of the country. Deputy President, if you share the view of Nick DAVIS, that the primary function of the media is to report the facts, then when the State has done something disgraceful and dishonourable, do you think the journalists should give a truthful account of the facts in their reports or aim only to defend the reputation of the country? The answer is most obvious. So, I agree with Ms Emily LAU that harmony is simply out of the question. More often than not, reports by journalists may upset other people and cause disruption to harmony. But why do journalists have to do this? They do it, they report the facts because this is their duty. If they do not report the facts honestly, it would be very difficult to protect the value of the freedom of the press.

Deputy President, like other places in the world, Hong Kong is facing a great danger, that is, the erosion of the media. In *Flat Earth News*, it is mentioned that the media is shrinking because location coverage is very expensive and may open a can of worms and arouse opposition from many people. But it would be different if official sources are quoted because with so many press releases made by the government every day, citing from these sources will not cause any trouble. Mr LAU Yui-siu also discussed in his article why the freedom of the press could hardly be realized in Mainland China and in his

view, this is because there is no genuine market economy. However, it is all because Hong Kong has attached far too much importance to market economy that not many people still care about what important value the media has. When everybody only thinks about how they can make quick money, the media will only find itself in the greatest danger ever. So, I have risen to speak today in the hope that the media (*The buzzer sounded*) .....

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

**DR MARGARET NG** (in Cantonese): ..... can work hard with us together.

**MS AUDREY EU** (in Cantonese): Deputy President, first of all, I thank Ms Emily LAU for proposing the original motion today. In fact, the motion has two key points. Deputy President, on the one hand, the motion mentions the difficulties encountered by journalists when covering news in Xinjiang and Sichuan recently but on the other, the last point under item (c) of the original motion is also very important. Deputy President, while we call on Hong Kong people to respect and fight for the freedom of the press and while we are all the more prepared to defend the freedom of the press, we must also pay attention to one point and that is, the quality of journalists and their remuneration, which should be taken into consideration altogether. Margaret NG mentioned an article in her speech earlier and, Deputy President, I would also like to talk about another article on the remuneration of journalists.

Deputy President, this article is written by Eva CHAN, a veteran journalist. In her column she mentioned that the editor-in-chief of a long-established local newspaper had written an article entitled "She comes from Tuen Mun" which recounted a story about an enthusiastic graduate in journalism applying for a job with this long-established newspaper. This young girl, the applicant for the job, lived in Tuen Mun and she aspired to pursuing a career as a journalist. She understood that the remuneration of this job is meagre and so, she already started to save money when she was a student. She must save up \$50,000 because she knew that a green journalist would be paid some \$9,000 to \$10,000 only. But as she lived in Tuen Mun and had to work in Siu Sai Wan on Hong Kong Island, which would require her to spend over \$1,500 on transport fares monthly, so

apart from living on her savings, she also asked for help from her friend and moved into her friend's flat, in order to reduce the transport costs.

The editor-in-chief was very much moved by her story and so, he wrote in his article that these aspiring young journalists who care only about pursuing their goals irrespective of what they have to give away are what the press industry would need in order to move on from one generation to the next. But Eva CHAN, a veteran journalist, was furious on reading this article of the editor-in-chief. She simply did not feel good at all. Because she said that 17 years ago in 1992 when she first started as a journalist, she was paid \$10,000 monthly but today, which is 17 years down the line, a greenhorn is paid \$8,500 monthly which is inconceivably low. She considered that — to put it in her own words — journalists working in a newspaper are not working for a charity organization, and it is not right for them to only think about pursuing their goals but not the salary. This can lead to a more serious problem because making journalists work like volunteers is not viable in the long term. When a "change of blood" takes place every two or three years, like a patient suffering from thalassaemia constantly in need of a change of blood, it would not be a good thing to the newspaper and to the profession as a whole.

Deputy President, we can also look at a survey conducted by the Hong Kong Journalists Association in 2008 before the financial tsunami. Findings showed that compared with 2007, despite an increase in the remuneration of most journalists, 32.2% of the respondents still indicated that they would leave the press industry in two years, while 29.7% would switch to another field in three to six years. According to the survey, journalists with 10 years of work experience in the press (who accounted for 33.8% of the total number of respondents) generally considered that their work conditions had deteriorated, with 76.1% of them attributing this to the company's tendency to hire greenhorns who were less expensive and 68.1% considering this the result of the company cutting staff to control cost. They were worried that the worsened work conditions would cause the quality of news coverage to drop, speed up the wastage of journalists and lead to declined professionalism.

Deputy President, the survey was conducted before the financial tsunami. It is imaginable that the situation has become even worse in the wake of the financial tsunami. Certainly, Deputy President, we understand that media organizations are no charity organizations and they must have regard to the profit

margin. We also understand that it is more difficult to run a newspaper nowadays because there are so many newspapers running at low costs, some of which may not reach the standard of the paid ones in general. However, I wish to make an appeal to newspaper publishers and also to the people of Hong Kong. While it is necessary to defend the freedom of the press, these problems must not escape their attention. If all Hong Kong people read free newspapers only and do not support paid newspapers, thus making it impossible for journalists to make ends meet even though they have tightened their belts, it would be pointless to simply talk about the freedom of the press. As Eva CHAN has said, we cannot solely rely on the aspirations or enthusiasm of the journalists, for this simply cannot last long. Experienced journalists are important assets. Particularly, as Margaret NG has said, we are facing greater and greater difficulties. Please take a look at the policy address released recently. It is very much a policy address which looks to the north, as we are told to work for full integration with the Pearl River Delta in all matters. However, what we must do is to uphold "one country, two systems" and the freedom of the press in Hong Kong. This original motion is very important. I now call on friends in this Chamber to support the original motion of Ms Emily LAU, apart from speaking on this very important issue of great concern to Hong Kong people.

Deputy President, we cannot accept Philip WONG's amendment. Thank you, Deputy President.

**MR LEE WING-TAT** (in Cantonese): Deputy President, I speak in support of Ms Emily LAU's motion. The freedom of the press is very important to Hong Kong and this, I think, does not require any further debate in this Chamber. But it is also very important to the country. Having listened to Dr Philip WONG's speech on the freedom of the press, I must say that I cannot agree with his point about the press having the responsibility to protect the reputation of the country. In many cases, it is difficult for us to argue whether this intention is right or wrong. It is right to protect the reputation of the country, but we must be careful with the ways to do so. Do we have to conceal the facts in order to protect its reputation? Sometimes, the facts may not be too pleasing to many people, many organizations and the State in the short run.

This is like the case when I am at work and somebody said to me, "LEE Wing-tat, you have done it wrong" or "you have done your work very badly".

Certainly, I would not be glad to hear this. But if a review can be conducted in the light of the criticisms and improvement can be made subsequently, this will be beneficial to the organization and to the country in the long run.

(THE PRESIDENT resumed the Chair)

I would like to cite an example to discuss the question of whether the press has to protect the reputation of the country. In the Mainland, a pro-democracy activist (or human rights activist) named HU Jia revealed that over a period of time (from around the end of 1980s to the early 1990s) in Henan Province, many peasants were in abject poverty and could not make ends meet from farming. The county government then told them that they could give blood for money, and what they could receive from giving blood once was almost equivalent to the income from farming labour for one to several months. Therefore, many peasants gave blood and the blood collecting agencies then made a profit from selling the peasants' plasma. The problem was that these agencies used contaminated equipment to collect blood and as a result, AIDS was widely spread through the blood-giving procedure in many counties and towns in Henan Province. Many villages in Henan Province were thus given the name "AIDS village". From the perspective of Dr Philip WONG, if journalists from newspapers in Henan Province or other newspapers in China report this incident, the national reputation is set to be jeopardized in a short time, and this may even reveal scandalous and shameful situations. How come peasants were told to give blood and so many peasants had been infected with AIDS because of substandard equipment and ineffective monitoring by the health authorities of the State? Among these people there were not only adults, but also children, and many had even died of the disease. Moreover, there were cases of all members in a family being infected and died of the disease. After the exposure of this story, the country's reputation is set to be adversely affected. But if journalists completely cover up this incident, will it really do any good to the nation? It seems that in the short run, it may do some good to the nation temporarily if there is no bad news. But in the long run, officials in charge of public health responsibilities will only become reckless and unscrupulous, and the State will hence find it impossible to exercise monitoring independently. This is actually the greatest problem faced by the State in the course of development and progress. There is no democratic election, and there is no freedom of the press; there are no independent intermediary forces in society, no independent trade

unions, no independent and autonomous religious groups, and no independent and autonomous community organizations.

I would like Dr Philip WONG, a Hong Kong Deputy to the National People's Congress (NPC), to think about this: Is it a good thing to the country if there is over-centralization of powers in national development? I do not consider this a good thing. When the country's economic development has become more and more prosperous, checks and balances will have to come into existence. In the absence of the freedom of the press, there are bound to be difficulties. I am not suggesting that the freedom of the press in the country should make such a leap as to be on a par with that in Hong Kong. I am just suggesting that members of the press in the Mainland be given a greater degree of freedom in news coverage. So, I do not quite agree with the point made by Dr WONG.

President, I was not in Hong Kong when the Xinjiang incident took place and so, I do not wish to comment on something of which I have little understanding. However, I do appreciate the difficulties now faced by Hong Kong journalists. Nowadays, most bosses in the media do not only run newspapers, as many of them are also operating other businesses. Some people doing business in the Mainland treat media organizations as a business, mindful only of the sales turnover. This may not be compatible with the vocation of journalists (if they do have such an aspiration) and the principle of reporting facts upheld by journalists. Journalists are under enormous pressure and yet, they are not well paid. So, I think we should give them more support and encouragement in their work. I think today's motion should most importantly give recognition to the work of journalists and also affirm the freedom of the press. Thank you, President.

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

**MR ALBERT HO** (in Cantonese): President, regarding the recent incident of Hong Kong journalists being subjected to violence in Urumqi, I think it is not difficult to distinguish between right and wrong. This is exactly why the incident has caused an enormous public outrage.

Miss Maria TAM said that this is an isolated incident. This is absolutely not true. Some time ago, we also saw that some other Hong Kong journalists

were alleged of suspected possession of drugs when they were covering news on the trial of TAN Zuoren in Sichuan. They were subsequently held up and could not make it to the court in time to cover the trial. These facts are known to all. Moreover, as the National Day celebrations are imminent, public security officers broke into the hotel room of some foreign news journalists for no reason and even subjected the journalists to abusive and insulting treatment. This incident has also been widely reported. In fact, these incidents abound. How can that be an isolated incident?

There is the view that anyone with some common sense will know that this is the way it is under the policy on news coverage in the Mainland. They said that journalists should know that they have to avoid politically sensitive cases, and as Dr Philip WONG said, they should also protect the reputation of the country, rather than revealing the dark side of it, or else it would mean total disregard of the overall interest of the country and they should therefore be punished. Now I realize that there are really people who hold such a view, thinking that the journalists just do not know which side the bread is buttered.

We have all seen how the Central Government has responded, not to mention the response made by the local government. Of course, they all seek to defend and shield the local law-enforcement officers. While the Central Government has again stressed its respect for news coverage in principle, it has merely vowed to protect the right to lawful news coverage. Emphasis has consistently been put on lawful news coverage, and this involves another problem. As Dr Margaret NG pointed out when she cited the article of LAU Yui-siu earlier, the news media is still often considered an instrument of governance and so, the press should not report the true facts in order not to do any harm to the national image. Instead, it should promote the policies of the State. Well, are the laws not also an instrument of governance? As we can see, even if our journalists are covering news lawfully, as long as they have violated some policies or tarnished the national image, sorry, the journalists, according to the State, will no longer enjoy the protection of the law because the journalists have made a mistake politically. So, we can see that the laws have remained an instrument. Politics still overrides the law. This is the way on the Mainland.

When our country was bidding for the right to host the Olympic Games some years ago, we all had expectations of the country, thinking that the preparations for and hosting of the Olympic Games would enable the country to become open, and the state leaders had also made such a pledge repeatedly. However, we have been disappointed over and over again as these incidents of

suppression have occurred one after another. We can only come to the conclusion that under this autocratic institution, there is simply no room for trust in the people, in the people's mouthpiece (or the media), and also in the rule of law and legal system that protect the people's rights. This, I think, is very, very regrettable. I must say this over and over again, and even though this year marks the 60th anniversary of the country, I really feel very upset and angry about this. I have seen time and again people who sought to do justice to the country and to the civilians put behind bars. These people include journalists, writers, university professors and even human rights lawyers. In comparison, the suppression imposed on the journalists is actually negligible and this is only meant to teach the journalists a small lesson for not knowing which side the bread is buttered. But President, in Hong Kong, we clearly know what values and beliefs we should espouse. We are duty-bound to continuously uphold these values and beliefs. We have the responsibility to urge the State to fulfil its pledge, rather than saying one thing but doing another. The laws written on paper and the laws being enforced in reality should not be poles apart from each other.

We can see that under the present circumstances in Hong Kong, we must support the efforts of the journalists. We must support them in their vocation, which is reporting true facts. We must also have the courage to continuously say "No" to these arbitrary and unreasonable acts of the government. This we should do. If we do not even do this, how can it be convincing for us to tell others that Hong Kong is a place with freedoms, that we are representatives returned by the people?

A number of local Deputies to the NPC did give the impression that they would speak up for justice when they first took up office. But shortly afterwards, their efforts had totally collapsed under political pressure. Mr IP Kwok-him said earlier that we must not belittle the local NPC Deputies but there is not even a need for us to belittle them actually. They have already laid bare their true faces, so why is there still a need to belittle them? Is it that, as suggested by Priscilla LEUNG earlier, it would be best to make the acquaintance of some bigwigs in the Mainland, so that one can be protected in case something happened and when one runs into trouble, one can have more conveniences and be taken under their wings? This is the way they are. This is not the attitude expected of NPC Deputies. If they do take this attitude, how can they do justice for the country?

**MR WONG KWOK-KIN** (in Cantonese): President, during the period between July and August this year, a spate of unrests occurred in Xinjiang, inflicting serious damage on the lives and properties of the people there and causing 197 deaths. I think we should strongly condemn those who took part in the riot.

As Hong Kong and Xinjiang belong to the same country, Hong Kong people are particularly concerned about the developments in Xinjiang. We sincerely hope that the conflicts and confrontations among ethnic groups in Xinjiang can be settled promptly so that the people there can resume their normal lives and live and work happily and contentedly.

In view of the public concern, many media organizations in Hong Kong sent their journalists to Xinjiang to report instantly to members of the public the latest conditions in Xinjiang. But regrettably, we saw on the television four Hong Kong reporters being tied and forced on to the ground. Not only were they detained, they also complained of having been assaulted.

Despite their subsequent release, and even the commander of the armed police was reported to have apologized to the reporters, such a brutal way of treating reporters and acts of impeding news coverage are indeed unacceptable. Worse still, the Information Office of Xinjiang even accused Hong Kong reporters of inciting disturbance without any factual support. This sort of distorted rhetoric and such attempts of concealing faults reflect the foolishness of the relevant local authorities which are responsible for handling the incident.

Fortunately, it seems that the Central Government does not approve of the comments made by the Information Office of Xinjiang. A number of leaders of the Central Authorities have publicly reiterated, on numerous occasions, that the State will protect news coverage and the personal safety of journalists. Even the Liaison Office delivered fruit baskets to the journalists in question afterwards to express solicitude. Actually, this reflects that the brutal treatment of journalists is merely an isolated incident, not a state policy. As far as I know it, one of the reporters has stayed in Beijing for nearly two months, and so far no one has tried to make things difficult for him or follow up on the matter with him. This can be taken to reflect the attitude of the Central Government towards this incident.

President, the NPC Deputies of the Hong Kong Federation of Trade Unions have immediately reflected our concern and views, through an effective channel,

to the relevant authorities and publicly expressed our discontent to the media. We support a fair investigation into this incident and public clarification for the purpose of vindicating the journalists involved and preventing Hong Kong journalists from encountering similar incidents in future.

We support Dr Philip WONG's amendment because it can reflect the concern and aspirations of various parties in Hong Kong, including the Legislative Council, in a more pragmatic manner, and it is conducive to the maintenance of a good relationship between Hong Kong reporters covering news in various provinces and cities on the Mainland and the relevant Mainland authorities in future.

We hope incidents similar to the one that occurred in Xinjiang will not occur again. President, I so submit.

**MS CYD HO** (in Cantonese): In the television news report on 13 September, I saw that some 20 journalists staged a demonstration at the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office) in Western District. Some of the journalists look familiar as we always see them in the corridors of the Legislative Council Building. They are all young journalists. On that occasion, they assumed a different role, carrying with them loud-hailers, and affixed a letter of protest at the gate of the Liaison Office. One would feel very agitated watching such a scene. Why? Because the role of journalists should primarily be neutral; they must refrain from becoming part of the news and they must also refrain from making news. But the spate of incidents in which journalists covering news in the Mainland were obstructed, assaulted, arrested and alleged slanderously has made the situation become very serious indeed. When the freedom of news coverage of journalists is threatened, they must come forth to protest. However, what the journalists are defending is not only their personal safety and freedom, but also the freedom of speech and of the press and the people's right to know as well as their monitoring of the Government.

After Beijing had successfully bid for the hosting of the Olympic Games 2008, journalists have been required to apply for a press card within 24 hours. On the surface, this measure seems to be an improvement, but the undertone has

actually remained to be restricting news coverage. This undertone has remained unchanged in that journalists are allowed to cover news only when their application is approved. This is not conducive to the freedom of speech in the press and the monitoring of the Government. Unfortunately, during the hosting of the Olympic Games, we could see that the Mainland had wasted no time in launching its suppression of the media.

On 24 July 2008, when Now TV News filmed shots of dereliction of duty on the part of public security officers when covering news on Beijing citizens queuing up to buy tickets of the Olympic Games, the public security officers launched an open attack and forcefully took the journalist onto the police vehicle. It was after the Hong Kong and Macao Affairs Office of the State Council had interfered that the journalist was released. The next day, that is, on 25 July, even more journalists were involved when reporters of the Cable TV, TVB, Now TV News and *South China Morning Post* covering news on the ticketing queues were intervened violently, and some reporters were assaulted and sustained injuries. A journalist of the *South China Morning Post* was even alleged of kicking and injuring a public security officer and detained for interrogation for six hours.

On 7 July 2009, a journalist of the *Apple Daily* — I wonder whether or not he was luckier — flew to Urumqi to cover the riot but was immediately repatriated back to Hong Kong as soon as he disembarked from the plane. On 10 July, a journalist of the *South China Morning Post* was arrested by public security officers for illegal news coverage while covering news on the riot in Urumqi. On 12 August, a journalist of Now TV News was charged for suspected possession of drugs even though nothing had been seized from her and yet, she had been detained in the hotel for six hours and some video tapes had even been erased. On 7 September, another five Hong Kong journalists covering news in the Mainland were arrested in Xinjiang.

President, these incidents have shown us that the Mainland authorities do not want some true facts to be reported by journalists which would cause embarrassment to the country. Here, I must salute the Hong Kong journalists who cover news in the Mainland. It is because the laws and regulations in the Mainland are completely different from ours and there is no protection to speak

of for the freedom of speech in the press but these journalists still continue with their work courageously and fearlessly.

A survey conducted by the Committee to Protect Journalists shows that in 2008, a total of 125 journalists were imprisoned in the world, and China topped the list with 28 journalist detainees. According to the Reporters sans frontières' press freedom ranking in the world, China is ranked the 168th. Which countries do we fare better than? We fare better than Iran and Cuba. Which countries fare better than us? Even Russia where journalists were assassinated is ranked the 158th, which is still better than us.

President, the State has always vowed to work for advancement, but it has been indifferent to the concerted efforts made by media workers in monitoring the government and revealing the dark stories of law enforcement in many places. How can we possibly be convinced that the Central Government is genuinely committed to promoting the advancement of the country?

Earlier on a number of colleagues have made criticisms against the Hong Kong Deputies to the NPC, so I am not going to repeat their points. But I have to criticize the SAR Government because when Hong Kong people run into trouble in the Mainland, the SAR Government actually is duty-bound to take follow-up actions and there are channels for follow-up with the Central Government. But why did the SAR Government not do so? I think the reason is that the SAR Government itself also arrests journalists.

In 2003, a group of parents fighting for the right of abode for their children had assembled at the Chater Garden for as long as a month. Planning to remove the demonstrators, the police drove all journalists away from the Chater Garden in a bid to stop them from recovering news. A photographer of the Asia Television at the Chater Garden fell down in a scuffle with the police. He was even handcuffed, arrested and injured.

President, there are many views that Hong Kong journalists covering news in the Mainland have to play it by ear and they must bear in mind that the laws are different between the two places. This implies that journalists who courageously go there to cover news are just asking for troubles. In fact, where there is truth and where news coverage is barred by law enforcers, there is always

danger. Hong Kong is no exception. This applies universally. The Mainland and Hong Kong are just the same.

Since neither of the two governments is reliable, what can we do? Earlier on Dr Philip WONG said that we must be vigilant in times of peace. It is true that Hong Kong's current conditions are less restrictive where news can be covered with more leeway, and there is also the freedom of speech. But it does not mean that it will remain that way forever. What we can do is for all the people who support the freedom of speech in the press to stand united and say "No" to the autocrats.

Thank you, President.

**MR WONG YUNG-KAN** (in Cantonese): President, on 5 July this year, a riot broke out in Urumqi, Xinjiang, and in view of the incidents arising from the riot, all Chinese people in Hong Kong would hope that the armed police enforcing the law could suppress the riot without sparing even one rioter, in order to protect the personal safety of all ethnic groups and ensure social stability in the country, and all would hope that Hong Kong journalists sent to Xinjiang could report news on what happened there to Hong Kong speedily. But much to our regret, some Hong Kong journalists were assaulted and detained by the armed police in the course of covering news and subsequently, at a press conference the Information Office of the Xinjiang Autonomous Region made serious allegations against Hong Kong journalists without producing evidence, and this is unbelievable.

In all fairness, I think the entire incident was resulted from the fact that the two sides have different cultural background and, as they were in different positions at the time, this unpleasant incident thus occurred due to a lack of communication and understanding with each other. The officials of the Information Office were obviously not good enough, and this has added fuel to the flames.

Hong Kong journalists are long known for their fearlessness in standing up against power, their courage and diligence, as well as very high efficiency. Take journalists reporting news of this Council as an example. They can often obtain information on government policies even earlier than we Members can, and they can obtain much insider information. For these few reasons alone, many

officials as well as members of the press in the Mainland with whom I am familiar have expressed profound appreciation and admiration for them. However, some friends engaging in law enforcement in the Mainland have told me that all their law-enforcement forces strictly obey orders. Once the superior gives an order, the law enforcers must carry it out stringently, and there is absolutely no room for slippage.

Looking back, what happened there and then was in a state of emergency as violent conflicts were on the verge of outburst. It gave no cause for criticism when Hong Kong journalists sought to get near to the scene in order to obtain detailed information, while it was only the duty of the armed police not to allow interference or obstruction from other factors in order to prevent the situation from worsening. Similar cases often happen in Hong Kong too, but since Hong Kong journalists and the police share social and cultural background, they will understand the needs and bottomline of each other and so, there is some tacit understanding between them in striking a balance. When they carry out their duties in the same place, the police officers know how to provide journalists with a location which is best for their filming, whereas journalists also know what to do in order not to get in the way of police work. But in spite of this, once in a while there are still cases when journalists have conflicts with the police in the course of covering news. In this incident in Urumqi where the armed police was in conflict with Hong Kong journalists, I believe it is because they interpreted the situation from different perspectives and lacked communication with each other, thus resulting in misunderstandings. But in any case, beating up unarmed journalists and the handling approach of the Information Office of the Xinjiang Autonomous Region are absolutely undesirable.

I think this incident is purely an individual incident caused by unprofessionalism on the part of the armed police and officials of the Information Office. It should not be taken as the tightening of the State policy on foreign media. Because when the riot broke out on 5 July, the Mainland authorities expeditiously permitted foreign media, including Hong Kong media, to cover news freely in Urumqi, which won international acclaim, and there is no reason for the State to change this policy. President HU Jintao and officials of the Ministry of Foreign Affairs and the Liaison Office who represent the State have repeatedly stressed that the policy to protect the lawful rights of foreign journalists has remained unchanged.

For these reasons, I agree that the Central Government should conduct an investigation into this incident and release the investigation results to the public in order to prevent the recurrence of similar incidents. But as Ms Emily LAU proposed to make condemnation and to seek clarification and apologies before an investigation is carried out to clearly find out what happened in the incident, I think it is immature to make these proposals and so, I have reservation about them.

Mr CHEUNG Man-kwong's amendment has the underlying meaning that the refusal of Hong Kong Deputies to the National People's Congress (NPC) to issue a joint submission conveying their dissatisfaction to the Central Authorities is tantamount to these local NPC Deputies attaching little importance to this incident. This, I cannot agree. According to what Miss Marie TAM of the DAB, who is a local NPC Deputy, said after the meeting on 17 September, all Hong Kong NPC Deputies have reflected their views to the Central Government through the Liaison Office. All local NPC Deputies have directly written to the central leaders through various channels. Take the seven Hong Kong NPC Deputies of the DAB as an example. They wrote to WU Bangguo, Chairman of the Standing Committee of the NPC, on 7 September requesting the Central Government to thoroughly conduct an investigation into the incident. All NPC Deputies have done what they should do. So, what is there to regret at?

We must bear in mind that the Hong Kong NPC Deputies are not a caucus of a certain political party. Rather, they either come from different political parties or have no political affiliations at all. They have different styles and approaches in their work. As long as they have expressed their views to the Central Authorities, they should be considered as meeting the expectation of Hong Kong people, and there is no reason to make them act in the manner suggested by Mr CHEUNG Man-kwong. If they are hence alleged to be attaching little importance to this incident, I would think that this is unfair to them. This is similar to criticizing the Democratic Party for going against the objective of dual universal suffrage in 2012 if Legislative Council Members of the Democratic Party refuse to take part in the collective resignation proposed by the Civic Party and the League of Social Democrats, in which case I would also consider it unfair to the Democratic Party.

President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Ms Emily LAU, you may now speak on the four amendments. You may speak for up to five minutes.

**MS EMILY LAU** (in Cantonese): President, I thank the several colleagues for proposing amendments which have enriched our discussion. I think the focus inevitably falls on Dr Philip WONG. As mentioned by a number of colleagues, Dr Philip WONG stressed the need to refrain from disclosing news to the detriment of the reputation of the country. This is one of the points he made. But Dr WONG said that he very much supports the freedom of the press because this is a core value, just that he added, "But it is all the more necessary to protect the core interests of the country". President, this is actually not something new. Recently, this is also mentioned even in the international community. As China and Australia are not on very good terms, there has been discussion on the questions of values and interests. Some people may think that Chinese officials attach the greatest importance to interests, but I hope Dr Philip WONG will understand that if we compare core values with core interests, I believe we will consider core values very important. By core values, I mean democracy, human rights, freedoms, the rule of law, and so on. I do not believe that journalists have the duty to protect the so-called core interests. President, the duty of journalists is to report news fairly, impartially and accurately.

I notice the amendment proposed by Dr WONG to my motion. I mentioned the incident in which journalists were assaulted and accused slanderously of inciting disturbance in Xinjiang. He deleted the words "accused slanderously" and replaced them with "alleged", meaning that the Information Office only alleged the journalists of such an act. I said that the incidents "seriously undermined" the freedom of news coverage. He deleted the two words, replacing them with "obstructed". I said that the incidents "damaged" the core values of freedom of the press, and he replaced "damaged" with "affected". I proposed to condemn such acts — a colleague also commented on this earlier, saying that I proposed condemnation before investigation; but it is because we did

see journalists being beaten up that I proposed condemnation — but he also deleted the word and replaced it with "expresses grave concern".

I think Dr Philip WONG, having sat in this Chamber for a long time, must have listened to the speeches made by a lot of Members. He did see those footages of journalists being assaulted, handcuffed and forced onto the ground. But Dr WONG still sees fit delete these words and phrases. Even though he agrees that this has really happened, he still intends to handle it in a low profile. So, I cannot agree with his amendment. That said, President, there is actually one thing that I should be thankful because after all, Dr WONG has not proposed to delete everything in my motion, and he does not deny the occurrence of this incident, which means that he agrees that this incident did take place — President, I am indeed laughing very happily — he agrees that there was such a case, just that he does not consider it too serious. But as a number of colleagues mentioned earlier, we all consider this incident very serious. So, I consider it totally unacceptable that Dr WONG has deleted all these words to play down the incident.

I accept Ms Miriam LAU's amendment which calls for an investigation by the Central Authorities. She mentioned Premier WEN, saying that he is serious in his deeds as he came forth to correct himself when he made a mistake with just one word. This is all very good, but it does not mean that all the mistakes will be corrected or made right, President. Had that been the case, there would not have been so many cases of injustice or wrong verdicts. When a mistake is made with a word, correction can be made. But with regard to so many other mistakes, I have not seen any attempt to correct them.

But in any case, many local NPC Deputies and Hong Kong delegates to the Chinese People's Political Consultative Conference (CPPCC delegates) have spoken a lot here, and I have come to realize that — I have heard something new tonight, President, but you may know better — I finally realized that an investigation is underway. Nobody has ever mentioned this before. We have only seen the investigation by the Xinjiang Information Office and everybody was seething with rage on learning about that. But nobody has come forth to say anything afterwards. Although I understand that letters have been sent, nobody has told us to stop arguing because an investigation will really be carried out with results to be made public at a certain time. I really have no idea about this.

Some colleagues said tonight that there would be an investigation, and colleagues from your party also said earlier that follow-up actions would be taken. I believe the many NPC Deputies and CPPCC delegates in this Chamber — there are about 20 of them here — will follow this up. I am not sure if Secretary Stephen LAM is lucky or unlucky because he has not been the target of many people tonight. However, I think the amendments have not denied the point that the SAR Government must seriously take actions, rather than passing the buck to the NPC Deputies and CPPCC delegates. I have no idea what they will do to follow this up, but the SAR Government has an unshirkable duty insofar as these incidents are concerned. Judging from the current state of affairs, everything has remained unresolved. President, there is great pressure here and the problem has yet been resolved. I hope that the Secretary can tell us more.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, today, a number of Honourable Members have expressed their views on this very important motion. I would like to thank them for expressing their points of view.

The SAR Government is very concerned about the incidents involving Hong Kong journalists covering news in Xinjiang and Sichuan, and has been following up the incidents. Through the Hong Kong and Macao Affairs Office of the State Council, we have reflected the strong views of the press in Hong Kong to the government of the Xinjiang Autonomous Region. We have also maintained communication with the Sichuan Provincial Government with a view to reflecting the views of various strata and different groups in Hong Kong. Therefore, Ms Cyd HO's remark that the SAR Government has not made use of our existing channels in addressing this matter is not true.

During the Question and Answer Session held in the Legislative Council last Thursday, the Chief Executive also mentioned the meeting between the Minister of the Public Security and him ahead of the National Day celebrations. During the meeting, the Chief Executive expressed his concern about the incident involving Hong Kong reporters covering news in Xinjiang. The Minister also indicated clearly that he appreciated the SAR Government's concern about the incident. At the same time, he reiterated the stance of the Central Government that the Hong Kong reporters' legitimate right of newsgathering on the Mainland

must be protected. As such, Ms Emily LAU's claim that the SAR Government will not mention on the Mainland the core values of the freedom of the press enjoyed by Hong Kong journalists is also untrue.

With the Mainland's further reform and opening up, there will be more and more frequent news coverage by the Hong Kong media on the Mainland. Not only will news coverage involve more extensive areas, more in-depth stories will also be written by news reporters. This process is perfectly natural and welcomed by all. On 6 February this year, the Measures for the Reporting Activities in the Mainland Conducted by Journalists of Hong Kong and Macao were promulgated by the Mainland authorities to facilitate lawful news coverage and reporting by Hong Kong and Macao journalists on the Mainland. Under the system of "one country, two systems", Hong Kong media organizations sending Hong Kong reporters or correspondents to cover news on the Mainland are required to cover news in accordance with the relevant Mainland laws and regulations. The SAR Government will provide reporters covering news on the Mainland with as much assistance as possible.

The original motion requests the SAR Government to provide journalists covering news on the Mainland with assistance when they are in distress. Actually, when Hong Kong residents working or living on the Mainland, including people working in the media profession, encounter any difficulties on the Mainland, the SAR Government and our offices on the Mainland will strive to provide them with practicable assistance, which covers three major areas:

First, upon their requests, we will provide them with relevant information on Mainland laws and regulation. If there are certain areas of which representatives of the media do not understand clearly and wish to gain a better understanding, the SAR offices on the Mainland will endeavour to provide them with the required information.

Second, upon their requests, we will assist them in communicating and liaising with the relevant authorities on the Mainland.

Third, some officers of the Immigration Department are now stationed at the Office of the SAR Government in Beijing and the Economic and Trade Office of the SAR Government in Guangdong. If representatives of the Hong Kong media are in distress while working on the Mainland, and Mainland laws or other

circumstances are involved, the officers of the Immigration Department will provide practicable assistance to help-seekers.

President, I have also noticed that there are several amendments in addition to the original motion today. I would like to express some of my views on the original motion and various amendments.

First of all, one of the amendments mentions the requirement for applying for press cards. Actually, members of the Hong Kong media covering news in various parts of the world respect the local laws and systems. I believe members of the Hong Kong media are, likewise, prepared to respect Mainland laws and systems and act according to the relevant rules when covering news on the Mainland.

Second, one of the amendments also mentions what stance Hong Kong Deputies to the NPC should adopt towards the incidents involving Hong Kong reporters in Xinjiang. Actually, various Hong Kong Deputies to the NPC have already expressed their concern and taken actions with respect to this matter. I think individual Hong Kong Deputies to the NPC should be allowed to make their own decision on how to reflect to the Central Authorities the views and concern of Hong Kong.

Third, while one of the amendments proposes that the Central Government should follow up and investigate this matter, another amendment proposes that the Mainland authorities should take up this task instead. I think it is more appropriate for the Mainland authorities to decide on their own how follow-up actions should be taken and what level of government organs should be tasked with taking the follow-up actions.

President, in the debate conducted just now, there are several very important areas and there are some commonalities:

First, it is unanimously agreed and shared by Honourable Members that freedom of the press and flow of information are the cornerstones of Hong Kong's success as well as the core values of Hong Kong society. Over the years, the media, the Government, different political parties and groupings and every sector of society have been striving to safeguard the core value of freedom of the press.

Second, various parties and political parties and groupings agree that the Mainland authorities are duty-bound to protect the Hong Kong media's right of newsgathering in accordance with the law on the Mainland. The Mainland authorities understand this very well. Subsequent to the Chief Executive expressing concern to the Minister, the Beijing authorities have reiterated their stance of protecting the media's right of newsgathering in accordance with the law.

Third, it is the wish of every Honourable Member that the SAR Government can promptly reflect the concern and views of the Hong Kong media. In this connection we have repeatedly reflected this wish and are prepared to maintain communication with the Mainland authorities.

President, in conclusion, the core values of freedom of the press are shared by all of us. In this connection, the SAR Government and all Honourable Members here jointly advocate and support freedom of the press and agree that it has to be safeguarded properly.

President, I so submit.

**PRESIDENT** (in Cantonese): I now call upon Dr Philip WONG to move his amendment to the motion.

**DR PHILIP WONG** (in Cantonese): President, I move that Ms Emily LAU's motion be amended.

**Dr Philip WONG moved the following amendment: (Translation)**

"To add "according to media reports, recently" after "That"; to delete "accused slanderously" after "and even" and substitute with "alleged"; to delete "seriously undermined" after "incidents have" and substitute with "obstructed"; to delete "damaged" after "as well as" and substitute with "affected"; to delete "condemns" after "the press; this Council" and substitute with "expresses grave concern about"; to delete "solemnly" after "(a) to"; to add "the concerns of the press in Hong Kong that the

Mainland authorities are expected to ensure" after "reflect to the Mainland authorities"; to delete "be requested to" after "law enforcement officers on the Mainland" and substitute with "will"; to delete "request the Mainland authorities to" after "journalists, and"; to delete "and ensure that similar incidents will not happen again" after "the offenders" and substitute with ", in order to prevent such incidents from happening"; to delete "unjust investigation of the abovementioned incidents and the slanderous" after "in regard to the" and substitute with "serious"; to add "in the abovementioned incidents" after "by the Mainland authorities"; to delete "make clarifications and apologies," after "to request the Mainland authorities to"; and to delete "afresh" after "a just investigation".

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr Philip WONG to Ms Emily LAU'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 HO rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE and Mr CHEUNG Kwok-che voted against the amendment.

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 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, 24 were present, 17 were in favour of the amendment and seven

against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 10 were in favour of the amendment and 15 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.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Defending freedom of the press" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Defending freedom of the press" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, you may move your amendment.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I move that Ms Emily LAU's motion be amended.

**Mr CHEUNG Man-kwong moved the following amendment: (Translation)**

"To add "expresses deep regret at some Hong Kong deputies to the National People's Congress refusing to issue a joint submission conveying their dissatisfaction to the Central Authorities; in this connection, the Council" after "such acts and"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Man-kwong to Ms Emily LAU'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 CHEUNG Man-kwong rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for one minute.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE voted against the amendment.

Ms LI Fung-ying 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 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, 25 were present, four were in favour of the amendment, 20 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 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): Ms Miriam LAU, you may move your amendment.

**MS MIRIAM LAU** (in Cantonese): President, I move that Ms Emily LAU's motion be amended.

**Ms Miriam LAU moved the following amendment: (Translation)**

"To add "the Central People's Government to" after "apologies,"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Miriam LAU to Ms Emily LAU'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 IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Mr Timothy FOK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr Paul CHAN, Mr CHAN Kin-por and Mr Paul TSE voted against the amendment.

Dr Raymond HO, Mr WONG Yung-kan, Ms LI Fung-ying, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou 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 and Mr WONG Yuk-man voted for the amendment.

Mrs Regina IP voted against 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 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, 25 were present, seven were in favour of the amendment, 10 against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 were in favour of the amendment, one against it 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 amendment was negated.

**PRESIDENT** (in Cantonese): Mr Ronny TONG, you may move your amendment.

**MR RONNY TONG** (in Cantonese): President, I move that Ms Emily LAU's motion be amended.

**Mr Ronny TONG moved the following amendment: (Translation)**

"To delete "and" after "the public;"; and to add "and (d) to strive for the Central Government's pledge to respect freedom of the press and abolish the requirement for Hong Kong journalists to apply for a press card before they can cover news on the Mainland; " after "possible;"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Ms Emily LAU'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 Ronny TONG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Ronny TONG has claimed a division. The division bell will ring for one minute.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul TSE voted against the amendment.

Mr WONG Yung-kan, Mr Timothy FOK, Ms LI Fung-ying, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou 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 and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG and Mrs Regina IP voted against 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 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, 24 were present, four were in favour of the amendment, 11 against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 were in favour of the amendment, two against it and eight abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Ms Emily LAU, you may now reply and you have two minutes 54 seconds. This debate will come to a close after Ms Emily LAU has replied.

**MS EMILY LAU** (in Cantonese): President, as I said in my opening speech, the chances of this motion being passed today are really slim and now, you can see that it is true. This motion on the freedom of the press will definitely be negatived in the Legislative Council, especially when I see that even Dr David LI and Mr Timothy FOK have rushed back to the Chamber. I know that there is

going to be big trouble, and I also know that some people are very anxious. As I said earlier, they must see to it that this motion is negatived.

What Secretary Stephen LAM usually does is to make remarks that are devoid of any substance. But what we would like the SAR Government to do is to convey the message to the Central Government and yet, he has not given any response at all. He only told the journalists to make enquiries with the Government if they are not well-versed in Mainland laws, adding that the Government would provide assistance to them. But it is precisely because such serious incidents have occurred that we call on the SAR Government to do something. Earlier on Mr Jeffrey LAM, who gave a very good speech before Mr WONG Yuk-man's mockery of him, really expressed grave concern about these incidents and made good points in his speech. Mr Jeffrey LAM, my fellow townsman, can see that this is very important, and this view is also shared by many other Members who have spoken. Ms Audrey EU and Mr Paul CHAN even spoke on the remuneration of journalists. Although my motion will be negatived, I still hope that those bosses can heed our opinions and treat their employees well.

I must also thank Mr WONG Yung-kan who, as I eventually find out, is also concerned about the freedom of the press. He said that Mr CHEUNG Man-kwong should not chide the local Deputies to the NPC because they have done their part. President, had they really done their part, we would not have to discuss this for so long a time. Moreover, I really do not know that an investigation is underway, as also mentioned by Mr IP Kwok-him. If so, then they should clearly tell us so. Who is conducting the investigation? Ms Miriam LAU said earlier that it is not desirable to make a request to the Central Government and that the Deputies would have to make their own decision. The problem now is that we cannot even express our views. See how nervy she is. So, how can we rely on her to convey our views?

The point is, we think that some people have been doing a poor job. Ms Miriam LAU said that she would trust the Central Authorities only, and she even rejected the call for NPC Deputies to convey our views. What kind of a Legislative Council is this? Even though the motion will be negatived, the message is very clear and that is, even Members who oppose the motion consider

an investigation necessary. We are now waiting for Stephen LAM, Donald TSANG or local NPC Deputies or Hong Kong delegates to the CPPCC to give us an explanation, and I think the entire press industry in Hong Kong is also waiting for that.

Even if the motion is negated, it will not undermine Hong Kong people's support for this core value of the freedom of the press. Yet, I must say that this is really regrettable.

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

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**PRESIDENT** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Mr Paul CHAN and Mr CHEUNG Kwok-che voted for the motion.

Dr David LI, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr IP Kwok-him and Mr Paul TSE voted against the motion.

Dr Raymond HO, Ms LI Fung-ying, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming and Dr PAN Pey-chyou 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 and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP voted against the motion.

Mr WONG Kwok-hing, 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, 25 were present, five were in favour of the motion, 14 against it and six abstained; while among the Members returned by geographical

constituencies through direct elections, 26 were present, 15 were in favour of the motion, seven against it and three 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.

## **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 28 October 2009.

*Adjourned accordingly at nine minutes past Eight o'clock.*

**Annex I**VILLAGE REPRESENTATIVE ELECTION LEGISLATION  
(MISCELLANEOUS AMENDMENTS) BILL 2009**COMMITTEE STAGE**Amendments to be moved by the Secretary for Home Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
2	By deleting "16 November 2009" and substituting "9 November 2009".
16	(a) By deleting subclause (3) and substituting - "(3) Section 2(5) is amended by repealing everything before paragraph (a) and substituting - "(5) If a notice of claim or a notice of objection is lodged under Part 5 of the EAC Regulation in respect of a provisional register on or before 9 September of the year for which the relevant register is being compiled, the hearing date in respect of that notice -". (b) By adding -

"(5) Section 2(5)(b) is amended, in the English text, by repealing "the notice is received" and substituting "a copy of the notice is received by the Revising Officer".".