OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 November 2014

The Council met at Eleven o'clock

MEMBERS PRESENT:

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.
THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D., R.N.

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN, J.P.

THE HONOURABLE STARRY LEE WAI-KING, J.P.

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUH-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.
THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

DR THE HONOURABLE KENNETH CHAN KA-LOK

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, S.B.S., J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG
THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, S.B.S., J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU, J.P.

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN, B.B.S.

MEMBERS ABSENT:

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE WONG YUK-MAN
PUBLIC OFFICERS ATTENDING:

THE HONOURABLE RIMSKY YUEN KWOK-KEUNG, S.C., J.P.
THE SECRETARY FOR JUSTICE

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

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

MR GODFREY LEUNG KING-KWOK, J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE RAYMOND TAM CHI-YUEN, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE WONG KAM-SING, J.P.
SECRETARY FOR THE ENVIRONMENT

MR LAU KONG-WAH, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL
PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

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

TABLING OF PAPERS

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

Subsidiary Legislation/Instrument

Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2014 .......................................................... 140/2014

Other Papers

No. 32 ─ Immigration Service Welfare Fund
Report on the administration of the Fund prepared by the Director of Immigration Incorporated in accordance with section 12(b) of the Immigration Service (Welfare Fund) Regulation

No. 33 ─ Estate Agents Authority
Annual Report 2013/14

No. 34 ─ The Commissioner on Interception of Communications and Surveillance
Annual Report 2013 to the Chief Executive (together with a statement under section 49(4) of the Interception of Communications and Surveillance Ordinance)

No. 35 ─ The Legislative Council Commission
Annual Report 2013-2014
ORAL ANSWERS TO QUESTIONS


Financial Position and Operation of Kai Tak Cruise Terminal

1. MR RONNY TONG (in Cantonese): President, the Kai Tak Cruise Terminal (the Terminal), built at a cost of over $8.2 billion by the Government with the aim of developing it into the Asia cruise hub, was commissioned in June last year. The Government has awarded a 10-year tenancy for operating and managing the Terminal to an operator which is required to pay the Government a fixed rent of about $13 million in total, plus a variable rent based on a progressive percentage of the operator's gross receipt. Up to the end of this year, there will be 37 ship calls at the Terminal only, and only 55 ship calls are expected for next year. On the other hand, it has been reported that there were respectively more than 100 ship calls at the cruise terminals in Singapore and Shanghai in the second year after their commissioning in 2012, and quite a number of cruise vessels have chosen to homeport at these two terminals. In this respect, the performance of Hong Kong is poor vis-à-vis the performances of these two places. In this connection, will the Government inform this Council whether it knows:
(1) the financial position of the Terminal since its commissioning, including the fixed rent and variable rent paid by the operator to the Government, as well as the various recurrent and non-recurrent expenses; the estimated income and expenditure of the Terminal in the coming 10 years;

(2) the berthing fees that the operator currently charges cruise vessels, as well as the annual rental income it derives from leasing the commercial facilities of the Terminal; the amount of annual variable rent that the Government currently receives from the operator, and its percentage in the operator's annual gross receipts; and

(3) whether, other than the cruise company, which is one of the shareholders of the operator, that will homeport one of its cruise vessels at the Terminal for a period of four months next year, there are cruise companies planning to choose the Terminal as the homeport for their vessels; whether the authorities had set any targets in respect of the number of cruise vessels to homeport at the Terminal, its annual total number of ship calls and its annual total receipts when they planned to build the Terminal; if they had not, of the reasons; if they had, the details of that?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, cruise tourism has been fast developing in the Asia-Pacific region in recent years as rapid increase in the middle-class population in the region spurred an increasing demand for cruise tourism products. As an international metropolis with strategic location and well-developed infrastructure, Hong Kong is well-equipped to become one of the leading international cruise centres in Asia.

Building mega cruise vessels has become an international trend. The Ocean Terminal cannot accommodate such large cruise vessels due to site constraints. In the past, Hong Kong lacked cruise terminals of considerable size, and if cruise companies were to include Hong Kong in the itineraries of their large cruise vessels, such vessels had to berth either at a container terminal or operate at mid-stream. Such arrangement was inconvenient for cruise
passengers and might reduce cruise companies' interest in deploying large cruise vessels to Hong Kong. To facilitate the development of cruise tourism, construction works of the Terminal commenced in 2009. The terminal building and the first berth commenced operation in mid-2013. In March 2012, the Administration, through an open tender, awarded a 10-year tenancy contract to the Worldwide Cruise Terminals Consortium for cruise terminal operations and part of the management of the Terminal.

The development of the Terminal provides the essential infrastructure that enables us to capitalize the rapid growth of the cruise industry in the region. By enhancing the berthing capacity of Hong Kong for large cruise vessels, including the world's largest cruise vessels with a gross tonnage of 220,000 tonnes, the Terminal has enabled us to tap into new source markets of cruise passengers, thus diversifying our tourism industry. Developing cruise tourism can enrich the tourism product portfolio of Hong Kong and offer new choices for local residents. This will, in turn, provide new business opportunities for the travel trade. Upon arrival in Hong Kong, cruise passengers usually join various on-shore excursion tours arranged by travel agents and visit different tourist attractions or places for sightseeing, food and entertainment. Some may stay overnight in Hong Kong and incur spending before or after their cruise journeys, bringing benefits to the tourism, hotel, retail, transport as well as food and beverages industries in Hong Kong. For instance, according to a recent newspaper report, a shopping mall near the Terminal had estimated that for the five ship calls at the Terminal in November and December this year, based on the average spending between $2,000 and $2,500 per visitor, these five scheduled ship calls would bring about approximately $25 million of spending to the mall.

Apart from being used for berthing of cruise vessels, the Terminal also provides restaurants, shops and open space for the enjoyment of visitors and locals alike. With its column-free design, the Terminal can be used for other events when there is no ship call with a view to better utilizing the terminal facilities and increasing visitor flow. The terminal operator has actively promoted the Terminal as an event venue to different parties. Since its commissioning, the Terminal has hosted a variety of events, including brand promotion activities and Cruise Holiday Expo, and so on.
My reply to the three parts of the question is as follows:

(1) and (2)

The rent to be paid by the operator to the Government comprises two components, that is, fixed rent and variable rent. The operator should pay a total of about $13 million as fixed rent over the 10-year operation period. The variable rent payable to the Government is set as a percentage of the Terminal's gross receipts. The sliding scale for receipts sharing has been tabulated in the document provided to Members as follows:

<table>
<thead>
<tr>
<th>Annual Gross Receipts</th>
<th>Percentage of gross receipts payable to the Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Such part of Annual Gross Receipt not exceeding HK$30 million</td>
<td>7.3%</td>
</tr>
<tr>
<td>Such part of Annual Gross Receipt exceeding HK$30 million but not exceeding HK$60 million</td>
<td>18%</td>
</tr>
<tr>
<td>Such part of Annual Gross Receipt exceeding HK$60 million but not exceeding HK$90 million</td>
<td>23%</td>
</tr>
<tr>
<td>Such part of Annual Gross Receipt exceeding HK$90 million</td>
<td>34%</td>
</tr>
</tbody>
</table>

The terminal operator has paid the rent in accordance with the Tenancy Agreement. According to the current financial position, the total gross receipts of the terminal operator over the past year did not exceed $30 million. As such, the Government would share 7.3% of its total gross receipts.

In addition to the income generated by the berthing of cruise vessels, the terminal operator also draws revenue from rental paid by the sub-tenants of the ancillary commercial areas and from venue rental paid by event organizers. In respect of expenditure, the terminal operator is responsible for its own operation expenses, for example,
staff emolument and publicity expenses, as well as utility charges for electricity, air-conditioning fees, property management fees, and so on, for the part of the terminal building under its management.

However, the business income including berthing fees and shop rental, expenditure as well as the financial estimates of the terminal operator are confidential commercial information. We are not in a position to disclose such information.

(3) Generally speaking, cruise companies plan their fleet itineraries and deployment two years in advance. Since the Terminal commenced operation over a year ago in June 2013, the number of cruise berthings has risen steadily. There were nine ship calls (totalling 15 berthing days) in 2013. In 2014, there will be 28 ships calls (totalling 50 berthing days). The number will nearly double to 56 ship calls (totalling 77 berthing days) in 2015. We understand that a number of international cruise companies have expressed interests in deploying cruise vessels (including new fleets) to the Terminal. Whilst we are not in a position to disclose further deployment details, we anticipate that there will be continuous increase in the number of ship calls at the Terminal. Meanwhile, the terminal operator is also actively marketing the Terminal to various cruise companies to attract deployment of more cruise vessels to Hong Kong.

We have been actively promoting cruise tourism through different channels in order to expand our visitor source markets, attract cruise vessels deployment to Hong Kong, and enhance the image of our city. A more recent major cruise industry event is the Cruise Shipping Asia-Pacific 2014, an international cruise industry conference, held last week (19 to 21 November). The event was organized by UBM, with the Hong Kong Tourism Board (HKTB) as the supporting organization. Hong Kong played host to key stakeholders in the cruise industry from around the world. The event helped arouse international cruise companies' interest in deploying cruise vessels to Hong Kong, in particular, in deploying more mega international cruise vessels to berth at the Terminal.
In addition, the HKTB, together with the Tourism Bureau of Taiwan, launched the Asia Cruise Fund (ACF) in April 2014 to promote regional co-operation. The ACF is open for application since June 2014. The amount of financial incentives provided under the ACF is subject to the length of stay at each port under the ACF. The subsidy is used for promotion and publicity or product development. The HKTB has extended invitations to Hainan, Xiamen, seven ports in southern Japan, the Philippines and Vietnam, and so on, and received very encouraging responses. Among them, Hainan and the Philippines confirmed joining the ACF last week.

Therefore, it can be noted that while the Terminal was completed later than our neighbouring ports, it is undergoing a steady development. The Administration will continue to closely monitor the operations of the Terminal to enhance the service levels and ancillary arrangements.

MR RONNY TONG (in Cantonese): President, I often wonder the meaning of raising an oral question in this Council. A paper consisting of three pages was produced by the Secretary to further elaborate on the statistics and facts I mentioned in my main question, and he call it the answer to my question. President, in fact he has completely failed to address our main concern, which is when Hong Kong people will be able to recover the capital cost of $8.2 billion. According to the main reply given by the Secretary, $2 million was recovered last year and although it is expected that the number of ship calls will double next year, the amount to be recovered will not exceed $10 million.

I would like to ask the Secretary if he can provide an answer to part (3) of my main question, which I am going to repeat as follows: Had the authorities set any targets in respect of the number of cruise vessels to homeport at the Terminal, its annual total number of ship calls and its annual total receipts when they planned to build the Terminal; if they had not, what are the reasons; if they had, what are the details? President, will the Secretary answer my question, as he has completely failed to do so?
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): The development of the Terminal is a long-term infrastructural investment and as I have said in the main reply just now, the investment on a new cruise terminal had undergone lengthy discussions in the community before construction works commenced in 2009. After an investment has been made, time is now required to attract more cruise vessels to berth in Hong Kong and for this, the HKTB is actively marketing the Terminal. For example, apart from Taiwan, Hainan and the Philippines have also confirmed their participation in the ACF, which I have mentioned earlier, to help attract more cruise vessels to come to berth in Hong Kong. I believed that such continuous developments will help arouse the interest of international cruise companies in deploying more cruise vessels to Hong Kong, thereby improving gradually the financial condition of the terminal operator.

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

MR RONNY TONG (in Cantonese): I have put my supplementary question to the Secretary in Cantonese and I really do not understand why he cannot give an answer directly. My supplementary question is very simple: Did the Government set any targets when the building of the Terminal was planned and what such targets are; if it did, please tell us the details of the targets; if it did not, what are the reasons for not even setting a single target for the project?

PRESIDENT (in Cantonese): Secretary, did the authorities set any targets when the Terminal was built?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): With the provision of the Terminal, the Government seeks to achieve the major target of developing Hong Kong into one of the cruise hubs in the international market. As mentioned just now, the HKTB and the Tourism Commission have been actively promoting Hong Kong as a cruise centre with distinctive characters, and the best endeavour has been made on various fronts to achieve the goal.
PRESIDENT (in Cantonese): Secretary, has any quantitative targets been set?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): As far as quantitative targets are concerned, when the funding application for the project was submitted to the Legislative Council in 2009, we had estimated that the overall economic benefits that might be brought by the cruise industry in the long run was around HK$1,517 million in 2023 for the low growth scenario and HK$2,562 million for the high growth scenario. This is the projection we had made when a paper was submitted to the Legislative Council in 2009.

MR RONNY TONG (in Cantonese): Why did he not include the information in the document provided to Members and wait until the President has questioned further to furnish such information? President, I find his handling of the information a disrespect for the procedures of raising oral questions in this Council.

PRESIDENT (in Cantonese): Mr TONG, you have already expressed your views. The Administration must have already noted and I hope the Government will pay attention to this.

MR TONY TSE (in Cantonese): President, certain targets or quantitative targets on estimated economic benefits should have been set by the Government for the Terminal since a huge capital cost is involved. I also hope that information in this regard would be handled by the Administration with a higher degree of transparency so that the operations of the Terminal would come under public scrutiny.

President, the Secretary said in the main reply that the number of cruise berthings had risen steadily, and suggestions were also made on the ways to better utilizing the terminal facilities so that the Terminal could be used for other events when there was no ship call with a view to increasing visitor flow. The Development Bureau had also mentioned at the last meeting that one of the problems in this regard was the provision of ancillary transport facilities. In this connection, I would like to ask the Secretary if any plan has been formulated
to strive for traffic improvement in the district? In particular, I hope that the Secretary would provide more detailed information in this respect because temporary transport measures have to be adopted for the time being to achieve the objective of better utilizing the terminal facilities for other events, which has been stated by the Secretary.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Two types of feeder transport services on land, namely green minibus (GMB) services and franchised bus services operated by the Kowloon Motor Bus Company (1933) Limited (KMB), are now available at the Terminal. Service enhancements have been implemented for the services in September and October respectively.

A GMB route number 86 is operated daily in Kowloon between the Terminal and Kowloon Bay. The service hours have been extended, from the original service between 7 am and 8 pm every day to the existing service between 6.40 am and 11 pm daily, with the frequency during peak hours increased to a departure every eight to 10 minutes.

Apart from the GMB services, the KMB also operates a recreational route number 5R running between the Terminal and Ngau Tau Kok/Kwun Tong MTR Stations. In addition to Sundays and public holidays, service is now also available on Saturdays between 11 am and 7 pm. Furthermore, frequency has been increased from every 60 minutes to every 30 minutes.

Another point worth mentioning is that the terminal operator has all along been exploring with the relevant departments on the feasibility of providing ferry services to users of the Terminal. Last Thursday (20 November), the terminal operator and a ferry service provider made use of a pontoon temporarily moored to the Terminal to provide special ferry service to guests attending the cocktail reception of the Cruise Shipping Asia-Pacific 2014, which I have mentioned in the main reply. Thus, attendees of the international cruise industry conference have been provided with an option other than land transport to travel to and from the Terminal. About 320 guests made use of the special ferry service that day and they were generally satisfied with the service.

The terminal operator is now further exploring with the ferry service provider on the possibility of using another pontoon to provide ferry service to
Kwun Tong in Kwun Tong Typhoon Shelter. In this connection, active planning has all along been undertaken and the Development Bureau also disclosed to this Council last week that an additional dual two-lane carriageway would be provided in 2015, which would help improve the connectivity of the Terminal with its neighbouring districts.

**MR YIU SI-WING** (in Cantonese): President, the value of the Terminal lies not only in a significant number of ship calls, but also in a high visitor flow, which will help reflect the value of the Terminal by generating additional income. Apart from the measures put forward by the Bureau just now, such as increasing the number of ship calls at the Terminal and using it to host brand promotion activities, will the authorities conduct a further study with the terminal operator on the formulation of measures to increase the visitor flow of the Terminal with a view to enhancing its commercial value; if it will, what are the details; if it will not, what are the reasons?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): We have all along maintained very close liaison with the terminal operator to monitor the operations of the Terminal and try to identify any other operational problems, if any. When negotiating with cruise companies on business collaboration, we will also address such issues as the measures in place to facilitate entry of visitors upon berthing of cruise vessels each time as well as the provision of feeder transport services to cruise passengers to ensure convenient and efficient access for them to various districts in Hong Kong. Discussions will also be held on possible ways to attract more visitors or local citizens to the Terminal. As I have mentioned earlier, we have been actively following up the provision of ancillary transport facilities and close liaison has been maintained with cruise companies and the terminal operator on other issues. In this connection, follow-up actions have in fact been taken to address the issues concerned.

**MR YIU SI-WING** (in Cantonese): What I was asking just now is: Apart from increasing the number of ship calls at the Terminal and using it to host brand promotion activities …
PRESIDENT (in Cantonese): You have asked the Secretary about the measures in place to increase visitor flow.

MR YIU SI-WING (in Cantonese): … whether measures other than transport arrangements will be implemented for the purpose?

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): The terminal operator has been urged to provide more incentives and actively promote the Terminal as an event venue. As I have said earlier, the building design of the Terminal itself has made it possible for the hosting of major events in the Terminal and a running event has recently been held there. As for other events, follow-up actions have been taken and will be actively pursued.

MR SIN CHUNG-KAI (in Cantonese): The Terminal should mainly be used for the berthing of cruise vessels and should only be used for other events when there is no ship call. I would like to follow up on the supplementary question put forth by Mr YIU Si-wing. As a matter of fact, many cruise vessels are frequenting the port at present but it seems that the Terminal has failed to attract the berthing of such cruise vessels entering Hong Kong waters. I would like to ask the Government if any study has been conducted to find out the reasons for that. What is the utilization rate of the Terminal by cruise vessels frequenting the port?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thanks to the Member for his views. It is normally a commercial decision for cruise companies to determine if their cruise vessels should be deployed to the Terminal. We are now promoting the Terminal actively to arouse cruise companies' interest in deploying mega international cruise vessels to berth at Kai Tak, but it is purely a commercial decision of cruise companies for not deploying their cruise vessels to berth at the Terminal or the Ocean Terminal.
MR SIN CHUNG-KAI (in Cantonese): President, I have asked for the utilization rate of the Terminal by cruise vessels using the port of Hong Kong for embarkation and disembarkation of passengers but the Secretary has not given a reply to that.

PRESIDENT (in Cantonese): Secretary, can you provide the relevant information?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): We do not have the figures requested at hand but I am pleased to provide them after the meeting. (Appendix I)

MR CHUNG KWOK-PAN (in Cantonese): President, it is our original intention to have the Terminal developed in the form of a private investment project but due to the absence of an investor, the Government has finally taken the initiative to implement the project. I understand that eventually, there will not be much return yielded for the $8.2 billion invested but according to the table provided by the Secretary in the main reply, even though the terminal operator has been able to secure a total gross receipt of over $90 million, it is believed that the 34% of the total gross receipt to be shared by the Government would not even be adequate to pay for the interests incurred. Nevertheless, I find it necessary to point out that with regard to the arguments given by the Secretary in the main reply for not in a position to disclose certain information, I consider it incorrect to do so since $8.2 billion has been invested by Hong Kong people and the using of public monies in such a way would be absolutely unfair to the citizens of Hong Kong if no information whatsoever would be disclosed.

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

MR CHUNG KWOK-PAN (in Cantonese): President, I would like to raise a point to the Secretary: Although it has been said that the Government is not in a position to disclose certain information, a projection should have been made by
the Government on the indirect or direct earnings to be derived when it planned to build the Terminal so as to indicate the time when the yielding of a return would be expected.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as mentioned by Mr CHUNG Kwok-pan, information on the business operations as well as the financial reports of the terminal operator are confidential commercial information and we are really not in a position to disclose such information. However, as I have stated just now, some figures were provided to the Legislative Council in 2009 when the funding application for the project was submitted. It was pointed out that according to our estimation, the overall economic benefits that might be brought by the cruise industry was $1,517 million in 2023 for the low growth scenario and $2,562 million for the high growth scenario. This is the objective we are striving to achieve and the information for reference of the Legislative Council.

PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Second question.

The Hong Kong Marathon

2. MR LEUNG YIU-CHUNG (in Cantonese): President, the yearly Hong Kong Marathon (HK Marathon) organized by the Hong Kong Amateur Athletic Association (HKAAA) will be held on 25 January next year. In recent years, the arrangements for the HK Marathon have repeatedly been subject to criticisms and considered lagging far behind similar races held in places such as Europe, the United States and Japan. For example, the replenishment of supplies provided by HKAAA for participants was highly insufficient (for example, bananas handed out to the athletes are very often inadequate); members of the public were unable to cheer participants on both sides of the race routes of the HK Marathon as most sections of the race routes were on expressways which were not easily accessible; and the time limits for wheelchair races were very short, resulting in most of the wheelchair athletes being unable to finish their races. Moreover, as the accounts of the HK Marathon lack transparency and HKAAA has been suspected of reaping money, some runners have called for a
boycott of this year's HK Marathon to air their protest. While HKAAA has all along been organizing the HK Marathon on a self-financing basis, the Government has been providing tremendous support for the event in various aspects, such as traffic diversion arrangements, maintenance of order, and provision of ambulance services, which involves large amounts of public resources. In this connection, will the Government inform this Council whether:

(1) it will consider opening up certain road sections in the city centre to allow the race routes of the HK Marathon to traverse the city centre and extending the duration of road closure to enable the community to participate in the HK Marathon and members of the public to cheer the runners, thereby enhancing their interaction;

(2) it will suggest to HKAAA extending the time limits for wheelchair races to give athletes sufficient time to finish their races; whether it will consider providing subsidies to persons with disabilities to provide them with more opportunities to participate in wheelchair races; and

(3) it will request HKAAA to make public the accounts of the HK Marathon; whether it will consider introducing competition by encouraging other local and overseas organizations to bid for the hosting of the HK Marathon; if it will, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the HK Marathon, which is listed on the calendar of the International Association of Athletics Federations (IAAF) is a highly popular sports event. As the race results count towards athletes' world rankings, every year world-class runners come to compete for the championship, which helps to promote the popularity of distance-running. The Marathon has enhanced Hong Kong's status in the international sports arena.

Registration for entry to the HK Marathon, scheduled to be held in January 2015, took place in September 2014, and the quota of over 70 000 places was filled in just a few days. As in the past, some sections of road will be closed on the morning of the event day to allow for the smooth running of the race. To
this end, I urge people still occupying the roads and obstructing traffic to leave so that the 70 000-odd registered athletes can practise their running unhindered.

My reply to various parts of the question is as follows:

(1) The HK Marathon is organized by the HKAAA, and is recognized by the IAAF as a Silver Label Road Race. As a number of major roads will have to be closed to make way for the race, we need to secure public support and understanding and to co-ordinate assistance from government departments. Every year, the HKAAA consults district councils and relevant government departments on the race arrangements. Government departments provide advice on the HKAAA's proposed arrangements in relation to the race route, starting times, the number of participants, safety measures and road closure duration to help ensure safe public participation.

The HK Marathon is conducive to community-wide participation, in that large numbers of people can come out to cheer on the runners and share the excitement of the event. The HKAAA regularly considers the possibility of modifying the race route, and as long as its proposals are feasible and are supported by the district councils concerned, the Government will consider allowing the use of more roads in the city to be part of the route.

(2) The HKAAA introduced a wheelchair race for the HK Marathon in 2011. Although the race was cancelled in the first year due to insufficient registration numbers, following enhanced publicity and improved race routing arrangements, the wheelchair race has been successfully held in the past three years. Drawing on the annual experience of organizing the wheelchair race, the HKAAA continues to improve the related arrangements, including extending the time limit for the 10 km wheelchair race from 40 minutes to 50 minutes for the coming year, and adjusting the level of difficulty of the race by re-designing the wheelchair race route.

According to the HKAAA, the HK Marathon attracted 421 disabled participants (including wheelchair race participants and visually or
hearing impaired people) in the past three years. The number of participants is increasing each year.

Through different organizations, including the Hong Kong Sports Institute, the Sports Federation & Olympic Committee of Hong Kong, China, the Hong Kong Paralympic Committee and Sports Association for the Physically Disabled and the "national sports associations" (NSAs), the Government subsidizes athletes' participation in sporting competitions at different levels, although we do not directly subsidize individuals' participation in races.

(3) The HKAAA is the NSA responsible for the development of athletics in Hong Kong. A member of the Sports Federation & Olympic Committee of Hong Kong, China, the IAAF and the Asian Athletics Association (AAA), it has the professional qualifications and experience to host marathon races.

The revenue of the HKAAA, a non-profit-making organization, can only be used for purposes specified in its Charter. The HKAAA is registered under the Companies Ordinance, and is therefore also subject to regulation and governance pursuant to the Ordinance. The Government considers that NSAs should be given the necessary room to develop as far as possible in promoting the sports events that they organize, as authorized by the IAAF or the AAA. The HKAAA organizes the HK Marathon on a self-financing basis. According to the HKAAA, the greater portion of the operating revenue from the HK Marathon is used in organizing the event, and the remaining portion is retained by the HKAAA for athlete development and promotion.

Several other sports organizations also host running events of different levels in Hong Kong. In 2014, for instance, we received 52 applications from sports organizations involving requests for road closure and special traffic arrangements to facilitate the organization of sporting events, 23 of which related to running events (including three half marathon races). Of these applications, only one was turned down, as the sections of road concerned were part of the airport operations. In processing applications for the use of roads from the HKAAA and other sports organizations, the government
departments concerned give advice and assistance to applicants with regard to the scale of individual races, the extent of traffic interruptions and other possible public impacts. The Government welcomes the staging of more large-scale sports events, including the HK Marathon, in Hong Kong.

MR LEUNG YIU-CHUNG (in Cantonese): President, over the last decade or so, I have taken part in the full marathon race every year or acted as the one of the leading runners, except for the occasional years when I had leg pains. I also intended to enter for the race this year but as the Secretary said, in three hours after registration had started, the places were all snapped up.

The Secretary said earlier that the race is organized by the HKAAA and participated by a large number of people. Last year, he undertook to hold one more race but eventually he did not honour his words. I would like to ask the Secretary: Can the Government assume a more proactive role to invite more organizations to host international marathon competitions? Then, there can be more exciting competitions to meet the demands of participants and to avert the criticisms that the hosting of the competition is monopolized by a single organization.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Mr LEUNG mentioned in his main question that there has been a call for a boycott of the HK Marathon. I am very happy to learn that Mr LEUNG did not respond to the call and strived to enter for the competition, although he was not successful. Yes, some people hoped to enrol online but failed. I deeply sympathize with them. Regarding this year's marathon competition, the HKAAA has also done its best. For instance, in response to Mr LEUNG's demand raised in the question session of the last meeting to increase the places for the full marathon, the HKAAA has made available an additional 1 000 places.

As I pointed out in the main reply, apart from the HK Marathon, Hong Kong also hosts other running races of different classes. In January 2015, Hong Kong will host another full marathon race. Although the race route will be at the High Island Reservoir instead of covering the urban area, there are also a few thousand participants.
The SAR Government encourages the hosting of various sports activities. As regards Mr LEUNG's proposal for the Government to play host, we do not have the resources or professionals to host marathon races on our own.

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

MR LEUNG YIU-CHUNG (in Cantonese): The Secretary has not answered my supplementary question. I asked him earlier if the Government will proactively invite some organizations to participate, and then select the organizer from among them so as to prevent the HKAAA from monopolizing the hosting of the race. The Secretary has not answered this part.

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): Under Hong Kong's sports framework, the NSAs are responsible for promoting sports activities. As I pointed out in the main reply, the HKAAA is the NSA responsible for the development of athletics in Hong Kong, and the Sports Federation & Olympic Committee of Hong Kong, China, as well as the IAAF and the AAA recognize that the HKAAA possesses the professional qualifications and experience to host athletics, including marathon races. Sports events held by the HKAAA have our support, and there exists no monopolization of the hosting of marathon races by the HKAAA. As for other sports organizations or organizations in general, so long as they meet our requirements, they can also host running competitions. I have also pointed out in the main reply that there have been a lot of such competitions, for example, long runs with race routes covering city streets.

MR FREDERICK FUNG (in Cantonese): President, I remember that my family brought me to see runners who ran in the streets when I was a primary student, but I cannot recall if that was a marathon race. This experience which I had when I was studying in the primary school remains in my mind. If we can bring the marathon sport into the urban area for the citizens to experience themselves
and for a lot of people to participate, it can help to encourage them to exercise. This is conducive to their health.

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

**MR FREDERICK FUNG** (in Cantonese): *I would like to cite one more example, and that is, many cosmopolitan cities in fact hold marathon races in the urban area. The Secretary pointed out in the last paragraph of part (1) of the main reply that the Government will open up more roads in the city as long as the HKAAA's proposals to modify the race route are feasible and are supported by the district councils concerned. May I ask the Secretary if this order can be reversed, that is, to first have the Government propose to hold the race in the city, to be followed by a discussion at the district councils, and then to encourage the HKAAA to amend the race route?*

*I started taking part in the marathon from 2004. Actually, it will end at around 1pm to 2 pm. If ...*

**PRESIDENT** (in Cantonese): Mr FUNG, you have raised your supplementary question. Please let the Secretary reply.

**MR FREDERICK FUNG** (in Cantonese): *I think this will only cause minor obstruction to the people but can help to encourage them to take part in this sports event and exercise. Would the Government consider reversing the order?*

**PRESIDENT** (in Cantonese): Mr FUNG, you have raised your supplementary question. Secretary, please reply.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Thank you, Mr FUNG, for putting this supplementary question. The Government supports this direction. Just as Mr FUNG said, if the marathon or other running races can take place in the urban area for more people to watch or cheer on the participants, it will be beneficial to the promotion of running or the sports culture. Perhaps I
have not expressed nicely in the main reply. Actually, the Government (including the Home Affairs Bureau) is already engaged when the route for the competition is being discussed. Moreover, we have also proposed to the HKAAA that apart from paying attention to various factors, consideration can be given to including in the route more roads in the urban area.

MR MA FUNG-KWOK (in Cantonese): I have also entered for the marathon race. This year, I have to mobilize all family members shortly after 6 am and use all the electronic devices at home to secure a place. I am aware that many people would also like to enrol in this event. The Government pointed out in part (3) of the main reply that there really have been other organizations hosting some races, but they have failed to obtain the same level of support from the Government as the Standard Chartered Hong Kong Marathon has. Since the public has such strong aspirations for this event and it has a positive impact on the promotion of sports for all, I believe the Hong Kong people are very tolerant. I learned from past discussions with the organizer that it has always hoped to bring the race into the city and put back the starting time a bit, but has been restricted from doing so as various government departments have put forward many views.

The Occupy Central movement which is still underway has not made a prior application, but the several hundred people have managed to occupy major thoroughfares for more than two months. It has entered the third month today, the Government and the people can tolerate …

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

MR MA FUNG-KWOK (in Cantonese): My supplementary question is: Can the Government be more proactive? I very much agree with Mr Frederick FUNG's earlier proposal for the Government to take the initiative to come up with some routes which pose relatively lesser impact, consult the district councils and discuss with the HKAAA so that the race can be brought into the city. In addition, the roads should be closed for a longer duration so that more people can participate. The race will not have to start too early in order to facilitate those who are not taking part to come out to see and cheer on the participants.
SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have heard the views of Mr MA. A balance really has to be struck. On the one hand, we see an increasing number of people entering for the HK Marathon. They wish to extend the road closure duration for more people and runners to take part in this event. However, on the other hand, we have also heard criticisms from the transport sector. They say that although the race is held on a Sunday, road closure causes them much inconvenience. Thus, we have to strike a balance between the two. This year, the HKAAA has seen a breakthrough as the total number of people who have entered for the race continues to surpass past figures. We will review after the conclusion of the 2015 race to decide if Mr MA’s view on further extending the road closure duration can be adopted to allow for larger participation.

MR ALBERT CHAN (in Cantonese): President, many sports activities serve as chances for the bigwigs to transfer interests. The situation is akin to the injunction order for Mong Kok. It has been clearly stated in the Court’s injunction order what should be done, but the Police and law-enforcement officers completely ignore the content of the injunction order…

PRESIDENT (in Cantonese): Mr CHAN, please refrain from making comments.

MR ALBERT CHAN (in Cantonese): … entirely breaching the instructions of the High Court and the Court of Appeal …

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

MR ALBERT CHAN (in Cantonese): President, sports are related to livelihood and politics. In Hong Kong, there is no sportsmanship for our sports activities in that we have corrupt referees in football matches, and there are people who take advantage of sports activities to make money …

PRESIDENT (in Cantonese): Mr CHAN, please do not make personal comments.
MR ALBERT CHAN (in Cantonese): … even when clearing the areas, they have totally acted against the content of the injunction order. Therefore, President, I must take this opportunity to condemn the Police for not obeying the Court's injunction order …

PRESIDENT (in Cantonese): Mr CHAN, stop.

MR ALBERT CHAN (in Cantonese): … roughed up the people …

PRESIDENT (in Cantonese): Mr CHAN, stop immediately.

MR ALBERT CHAN (in Cantonese): … nor have they allowed the baliffs to take over clearance as required by the injunction order. Therefore, I must in this Chamber strongly condemn this act by the Police …

PRESIDENT (in Cantonese): Mr CHAN, you are violating the Rules of Procedure. If you do not stop, I will have to order you to leave the Chamber.

MR ALBERT CHAN (in Cantonese): … both the Police and the baliffs are breaching the Court's instructions, I must condemn them. This Chamber should uphold the law …

PRESIDENT (in Cantonese): Mr CHAN, leave the Chamber immediately.

MR ALBERT CHAN (in Cantonese): … but this Council safeguards the interests of the bigwigs, completely disregards …

(The Clerk and security officers walked up to Mr Albert CHAN with the intention of helping him to leave the Chamber)
PRESIDENT (in Cantonese): Leave the Chamber right away.

(Mr Albert CHAN disregarded the Clerk and security officers beside him and continued to shout loudly)

PRESIDENT (in Cantonese): Meeting suspended.

11.48 am

Meeting suspended.

(Mr Albert CHAN left the Chamber under the assistance of the Clerk and security officers)

11.51 am

Council then resumed.

PRESIDENT (in Cantonese): The Council continues to deal with the second oral question.

MR CHAN KIN-POR (in Cantonese): The marathon sport is really very popular, but given the ongoing Occupy movement, it may not be possible for it to be held in Hong Kong. A Member said earlier that the Police circumvented the injunction order when clearing the occupied areas. In fact, the occupiers are taking up the roads and the Police do have the power and reason to clear them out. I wish the Member will not make unreasonable comments.

PRESIDENT (in Cantonese): Mr CHAN, please raise your supplementary question.
MR CHAN KIN-POR (in Cantonese): *I hope that the Secretary can make greater efforts to promote this activity as many people have been unable to enter for the race.*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will actively promote it.

DR KWOK KA-KI (in Cantonese): *President, in many countries and regions, the marathon race is for sure a joyful sports event for their entire nationals to take part in. However, in Hong Kong, we see that the organizer has been scandal-ridden, and many people have been unable to take part in the race.*

*The Secretary said just now more alternatives can be explored. I would like the Secretary to clarify: Will the authorities in the future not allow the HKAAA to monopolize the hosting of this competition? Is it possible for the Government or other voluntary organizations to open some roads in the urban area so that all those in Hong Kong who wish to participate can do so? We are aware that in many places, including Okinawa and Osaka, no caps have been set for the marathon races, and all locals who intend to enter can take part …*

PRESIDENT (in Cantonese): Dr KWOK, you have raise your supplementary question. Please let the Secretary reply.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, just as I said in my main reply, the HKAAA is the professional organization responsible for the promotion of athletics, and the HK Marathon which it hosts has been successful. When it was first held, there were only 1 000 participants, but now, the number has grown to over 70 000 and is ever-increasing. Moreover, as I said earlier, there is no issue of monopolizing the hosting of it. If other organizations want to host sports competitions which require road closures and traffic diversions, they also can do so. In fact, other kinds of marathon races,
half marathons, races covering 10 km or 5 km have also been held in various districts of Hong Kong.

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

**DR KWOK KA-KI** (in Cantonese): I would like to ask the Secretary one more time for his undertaking. In the future, if an organization other than the HKAAA intends to participate and requires closure of roads in the urban area to give it a route which resembles that of the Standard Chartered Hong Kong Marathon, will the Government also give the green light?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, whether it has to take the same route can be discussed. Nonetheless, if other organizations require road closure in the urban area for hosting long runs (including marathons), we will actively consider and render our assistance.

**MR SIN CHUNG-KAI** (in Cantonese): President, in his main reply, the Secretary has not answered part (3) of the main question which reads, "whether it will request HKAAA to make public the accounts of the HK Marathon". Could the Secretary state clearly whether the Government would make that request? If not, why?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the HKAAA is a non-profit-making organization registered under the Companies Ordinance, with its accounts being audited by registered auditors. We consider that the existing management is already adequate.

As regards whether the HKAAA is willing to make public its accounts in the manner preferred by the public, it is up to the HKAAA to decide. Take the HK Marathon as an example, the revenue from this competition is very transparent as the entry fee and the number of people who have entered for the race are known to the public. However, commercial sponsorship is also involved. I believe the HKAAA and the commercial sponsor have worked out
their arrangement on how to disclose the accounts for commercial sponsorship. If the public finds it necessary, it should directly ask the HKAAA to make public its accounts.

For the Home Affairs Bureau, we are only concerned about how the NSAs use public funds. As regards their internal operation, so long as they are in compliance with the requirements for company registration, we will consider them adequate. We should allow the NSAs room to manoeuvre.

MR SIN CHUNG-KAI (in Cantonese): The Secretary has come very close to answering my supplementary question. What he meant was that the Government would not ask the HKAAA to make public the accounts of the HK Marathon — let me emphasize, I am referring to the accounts of the HK Marathon. I would like to ask the Secretary: Has the HKAAA been consulted whether it really has no intention to make public the accounts concerned?

PRESIDENT (in Cantonese): Mr SIN, you are breaching the rules pertaining to the question session. The Secretary has answered your question. This Council has spent more time than is allowed on this oral question. Third question.

Recommendations of United Nations Committee on the Elimination of Discrimination Against Women

3. MR SIN CHUNG-KAI (in Cantonese): President, at its meeting held on the 23rd of last month in Geneva, the United Nations Committee on the Elimination of Discrimination against Women (the Committee) considered the report submitted by the Government of the Hong Kong Special Administrative Region (HKSAR) on Hong Kong's fulfillment of her obligations under the United Nations Convention on the Elimination of All Forms of Discrimination against Women. The Committee published its concluding observations on the 7th of this month, putting forward a number of recommendations to the HKSAR Government. In this connection, will the executive authorities inform this Council:

(1) as the Committee is concerned that maternity leave (ML) in Hong Kong is limited to 10 weeks which does not comply with international standards, and urges the authorities to increase the ML
period, as well as their efforts to promote the use of flexible working arrangements and paternity leave (PL) to encourage men to participate equally in childcare responsibilities, whether the authorities will accept and implement the Committee's recommendations with a view to complying with international standards;

(2) as the Committee has pointed out the low level representation of women in politics in the HKSAR, and recommends the authorities to conduct a study on the impact of the electoral system of functional constituencies on the equal participation of women in political life, whether the authorities will conduct such a study; if they will, of the details; if not, the reasons for that; and

(3) as the Committee is concerned that women foreign domestic helpers (FDHs) are subjected to abuse and unfavourable working conditions, and urges the authorities to strengthen the protection of FDHs from discrimination and abuse by employers and by recruitment and placement agencies, whether the authorities will accept the recommendation?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to the question raised by Mr SIN Chung-kai is as follows:

(1) Under the Employment Ordinance (EO), an eligible pregnant employee is entitled to a continuous period of 10 weeks' ML with pay. If the employee encounters health problems owing to pregnancy or confinement before or after delivery, she is entitled to an additional period of leave up to four weeks. If the employee, by an agreement with the employer, takes further leave, the continuity of her employment shall not be affected.

Regarding PL, the Government introduced on 26 March 2014 the Employment (Amendment) Bill 2014 into the Legislative Council to provide for statutory PL of three days. The relevant Bills Committee of Legislative Council has completed scrutinizing the Bill. We are discussing with Legislative Council on the date of resuming the Second Reading debate of the Bill. We earnestly
hope that the Bill can be passed as soon as possible to benefit the eligible employees who are fathers-to-be.

Given that the varying economic situations and social systems in different places, individual places have to formulate their own employee benefit standards according to their individual circumstances. Taking ML as an example, the cost of ML pay for female employees is fully borne by individual employers in Hong Kong, which is different from the arrangement adopted in some other places around the world where ML pay is fully or partially financed by a social insurance system with contributions from both employers and employees. We consider that the existing provisions on maternity protection under the EO in Hong Kong have offered suitable protection to pregnant employees, while striking a reasonable balance between the interests of employers and employees. In assessing whether the duration of ML should be extended, we have to take into consideration our social and economic situation, and also whether the community has a general consensus on the matter.

I have to point out that the EO only serves to prescribe the minimum level of rights and benefits which the employers have to provide to their employees. The Government will continue to actively encourage employers to adopt employee-oriented good people management practices and, having regard to their own circumstances and the needs of their employees, implement family-friendly measures to enable their employees to take care of family needs through the adoption of more flexible working hours. Employers are also encouraged to draw up, in consultation with their employees, employment terms that are more favourable than those stipulated under the EO.

(2) The HKSAR Government will, in accordance with the law, ensure that all public elections are conducted in an open, fair and honest manner. Article 26 of the Basic Law stipulates that permanent residents of the HKSAR shall have the right to vote and the right to stand for election in accordance with the law. The legislation governing voter registration or the eligibility of candidates, and so on, in the functional constituencies of Legislative Council does not contain any special arrangements on the grounds of gender.
FDHs enjoy equal protection and benefits as local employees under our labour laws, for example, the EO and Employees' Compensation Ordinance. FDHs also enjoy further protection provided by the Standard Employment Contract, including the Minimum Allowable Wage, free accommodation, free food (or food allowance), free medical benefits and passages to/from their places of domicile.

We consider that ensuring that FDHs, employers, employment agencies (EAs) as well as the general public are fully aware of the rights of FDHs is an effective way of preventing FDHs from being exploited. As such, the Government has already stepped up the relevant publicity and promotional efforts in different channels, such as distributing information packs and pamphlets at the airport and through various government departments, staging information kiosks at FDHs' popular gathering places, placing advertisements in local Filipino and Indonesian newspapers, and screening television and radio Announcement of Public Interests in various local media to disseminate information on the rights of FDHs and on the channels for their seeking assistance. The Labour Department (LD) also participates in briefings and cultural activities organized by various consulates for newly-arrived FDHs from time to time, and has intensified collaboration with the consulates of the major FDH exporting countries in Hong Kong, including setting up a regular liaison mechanism for enhancing co-operation and exchanging information on problematic EAs, employers and FDHs.

The Government has always been committed to protecting the rights of FDHs in Hong Kong. We do not tolerate any malpractices of the employers or the EAs and will take rigorous enforcement and prosecution actions against any contraventions of laws. Those FDHs who suspect that they are being exploited or abused should come forward and report their cases to the authorities as soon as possible. Upon receipt of complaints, the Government will promptly investigate and will initiate prosecution if there is sufficient evidence. Furthermore, if satisfied on reasonable grounds, the LD may revoke or refuse to renew the licences of EAs involved. At the same time, the Government has increased the frequency of inspections of EAs and is considering to issue a Code of Practice for
the industry in a continuing process to strengthen the regulation of EAs.

MR SIN CHUNG-KAI (in Cantonese): Part (2) of the Secretary's main reply does not answer this question: will the Government follow the recommendation of the Committee and conduct a study on the impact of the electoral system of functional constituencies on women's equal participation in political life? He has not answered in the affirmative, so I have to assume that it will not conduct such a study. However, if it will not conduct such a study, what are the reasons, may I still ask? Secretary, why doesn't the Government follow the recommendation of the Committee and conduct a study on the impact of the electoral system of functional constituencies on women's equal participation in political life?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): As I have pointed out clearly in the main reply, we do not accede to the idea that the electoral system of functional constituencies has hindered women's equal participation in political life, either directly or indirectly. This is in fact explained very clearly in the main reply. As we all know, the success or otherwise of any candidates in elections will depend on many different factors. This is an objective fact.

The main reply also explains very clearly that the Basic Law confers the right of equal political participation on all Hong Kong people, and this includes the right to be elected or the right to stand for election. We therefore do not think that there exists any difference in treatment. A figure which is worth noting is that women actually constitute 56.8% of the individual electors in all traditional functional constituencies. In some functional constituencies, women constitute more than 50% of their respective electorates, and in the case of the Health Services Functional Constituency, for example, 77% of its electors are women. The figure for the Social Welfare Functional Constituency is 71%, and that for the Education Functional Constituency is 67%. Hence, women do have adequate political participation, as can be evidenced adequately by statistics. The Administration therefore thinks that we do not need to conduct any study on the recommendation of the Committee. The reason is that simple.
MISS CHAN YUEN-HAN (in Cantonese): President, regarding the Secretary's reply to Mr SIN Chung-kai's question on ML and PL just now, I think his reply misleads the public in some aspects. He says that the cost of ML pay is fully borne by individual employers in Hong Kong. I wish to point out that employers only bear four fifths of the cost of ML pay. I think the Secretary's reply misleads everybody in this respect. I hope he can offer an explanation a moment later. Anyway, my supplementary question is not on this point.

My question is as follows. Nowadays, the number of core families is rising. A common phenomenon is that a couple who have given birth to a child will face the problem of having no one to help them. After the birth of the baby, both the father and the mother will be thrown into a state of confusion and helplessness. In view of all such phenomena, the United Nations has set down the standard of giving women 14 days of ML, and the days of PL it recommends is even larger than the number currently proposed in Hong Kong. I hope the Secretary can squarely address this issue because if we are to change the existing situation and respond to the recommendations of the United Nations, the Government must seek to promote the cause. Why can't the Government change the length of ML for women to 14 days? Why does the Government say that the cost of ML pay is fully borne by individual employers in Hong Kong? This is not the case in reality. If the Government continues to think in this way and refuses to squarely address the plight faced by women of core families after their delivery, including the plight faced by men …

PRESIDENT (in Cantonese): Miss CHAN, please state your supplementary question clearly.

MISS CHAN YUEN-HAN (in Cantonese): My question is: Why does the Government insist that it is proper to grant 10 days of ML, and that the existing system is good enough? I hope the Secretary can give a reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I should first thank Miss CHAN for asking this question. But I must clarify that the 14 days of ML she mentioned should actually be 14 weeks. Not 14 days but 14 weeks.
To begin with, the international labour standards referred to are based on the Maternity Protection Convention, 2000 (No. 183) of the International Labour Organization, under which the period of ML is basically 14 weeks. Actually, Hong Kong has already exceeded the standards recommended by this international convention in certain respects. One simple example is that while the convention recommends an ML pay of not less than two thirds of a pregnant woman's previous earnings, we pay four fifths. Actually, we have already exceeded the international standard. This is the first point.

Second, what the Maternity Protection Convention, 2000 (No. 183) recommends is merely an ML of 14 weeks. If Members have read the main reply carefully, they will know that in Hong Kong, if the employee encounters health problems owing to pregnancy or confinement before or after delivery, she is entitled to an additional period of leave up to four weeks. In case of health problems, the period of leave shall be 10 weeks plus an extra four weeks. This is already a flexible approach.

The third point which Members must note is that at present, only 29 countries in the whole world have ratified the convention, and countries such as China, the United Kingdom, the United States, France, Germany, Japan and Singapore have not done so. Members must understand that the provision of ML is operated differently in each and every country or place. This convention of the International Labour Organization recommends that ML pay should be financed by social insurance, and this means that employees will also make contributions. It is also recommended that in case the cost cannot be met by social insurance, the government should pay the total cost. In Hong Kong, the cost of ML pay is fully borne by employers. We are therefore of the view that given the need for balancing the affordability of employers and employees' interests and the flexible arrangement of "10 weeks plus four weeks", we must first conduct extensive social consultation if we really want to grant 14 weeks of ML, and we must also realize that this will significantly increase the costs borne by employers. That said, we will still closely monitor the situation. We do not totally rule out the possibility of making changes. Provided that there is such a need in society and a consensus can be forged, we will do so. All along, we have been keeping our labour legislation under review. But I wish to clarify that there are actually many internationals standards, so Members must look at the whole picture very carefully and note that many countries have not ratified this convention. This is the first point. Second, the convention recommends that the 14-week ML pay should be financed mainly by social insurance to which
everybody contributes, or be met fully by the Government. Members must therefore understand that the situation in Hong Kong is not too bad already. We pay four fifths of the ML pay, while the standard is just two thirds.

PRESIDENT (in Cantonese): Miss CHAN, what is your point?

MISS CHAN YUEN-HAN (in Cantonese): He has not replied to my supplementary question directly, and he has only given various statistics as an explanation.

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

MISS CHAN YUEN-HAN (in Cantonese): My supplementary question is very simple. At present, Hong Kong families are mainly core families, so both the husband and the wife will turn very anxious after the birth of their child.

PRESIDENT (in Cantonese): Please direct your question to the Secretary.

MISS CHAN YUEN-HAN (in Cantonese): My supplementary question is: why is the Government reluctant to make any changes in this respect? The Secretary spoke with an extremely conservative attitude just now, saying that others were lagging behind us and we should not …

PRESIDENT (in Cantonese): Miss CHAN, I cannot allow any debate in the oral question time. Miss CHAN, you have repeated your supplementary question. Please sit down.

MISS CHAN YUEN-HAN (in Cantonese): He has not replied to my supplementary question directly. I hope he can give a reply directly.
PRESIDENT (in Cantonese): Miss CHAN, the Secretary has done so already. If you are not satisfied, please follow up the issue on other occasions, including the meetings of the relevant Panel.

MISS ALICE MAK (in Cantonese): President, when replying to Miss CHAN Yuen-han's supplementary question just now, the Secretary pointed out that in Hong Kong now, the cost of ML pay and related benefits were borne by employers. This is correct. But I must say that in many countries, the relevant pay is not borne by employers themselves. In some Scandinavian countries, the ML pay given by employers to employees is borne by the government. Secretary, when you answered Miss CHAN Yuen-han's question just now, you said that the ML pay in some places was just two thirds of the employee's salary, but in Hong Kong, it was four fifths. Well, once again, I must say that there is full-pay ML in foreign countries, but we have pay deduction. Secretary, since the relevant pay is borne by the government in some countries, may I ask whether the Government is supposed to bear a certain degree of responsibility in the provision of employee benefits?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, in respect of social welfare, the Government has all along been providing heavily subsidized services, such as childminding service and "ageing in the community" service, which are accessible to the majority of grass-roots people. Many of the services provided by the Social Welfare Department are offered free of charge regardless of people's backgrounds. We must therefore look at the whole picture. Admittedly, ML pay in some countries is borne by the government. But the tax rates in these countries are 50%, while the tax rate in Hong Kong is only 15%. Therefore, the socio-economic circumstances of every place must be a very significant and key factor to be considered.

We are truly committed to the improvement of labour welfare. But we must adopt a gradual and orderly approach, mindful of the need for balancing the respective interests of employers and employees and safeguarding Hong Kong's overall interests. We have not remained stagnant, and there is one simple example which Members may still remember. When 10-week ML was first introduced, a female employee was given no pay during the period of leave. Later, two thirds of the relevant income was paid. Still later, the sum increased to four fifths. We have been progressing step by step. Having achieved the
international standard of two thirds of the employee's previous earnings, we did not stop going forward. The sum of four fifths already exceeds the standard set by the International Labour Organization. We have always been making improvement. But the Government must assess and consider the abilities of all sides.

MRS REGINA IP (in Cantonese): I wish to ask the Secretary a question on women's political participation, because given the current composition of the Election Committee for selecting the Chief Executive, the participation rate of women has always remained low throughout the successive terms of the Chief Executive election. Will the Secretary support the idea of allocating some seats to women organizations in the Phase Two consultation on political reform, so that more women can be elected to the Election Committee or the future nominating committee?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I will definitely relay Mrs Regina IP's opinion truthfully to the relevant Secretary, though I am not responsible for this issue. But I also think that the Government needs to carefully consider all ideas about the well-being and rights and interests of women.

MS EMILY LAU (in Cantonese): President, I hope women can be given more opportunities to enjoy "one person, one vote" and participate in elections. Just stop clinging to functional constituencies from now on. President, I wish to ask a question on FDHs because the United Nations Committee on the Elimination of Discrimination against Women is very concerned about matters relating to them, and some cases in Hong Kong have even caused quite an enormous furore in the world. According to the Secretary, it is necessary to step up the reporting and prosecution of such cases, and he also says that a code of practice will be formulated to regulate EAs. But a code a practice is not legally binding. Besides, President, do you know that many FDHs simply dare not report to the authorities? Inspections are rare too. Therefore, are there any active measures to respond to the concern of the United Nations about the difficulties faced by FDHs in Hong Kong?
SECRETARY FOR LABOUR AND WELFARE (in Cantonese): My thanks to Ms LAU for asking this supplementary question. Actually, we have always paid very close attention to FDHs' rights and interests, with a view to ensuring that they will not be exploited by others. We have already put in place a whole series of measures. First, at the practical level, we will definite press charges if there is sufficient evidence. In fact, an employer was sentenced to three months of imprisonment last year, and in the first half of this year, a prison sentence of two months was handed down to one employer as well. If there is evidence, we will not hesitate and will certainly take all necessary actions under the law. This is the first point.

Second, we will also allocate more manpower to the LD for inspecting EAs. In the case of problematic EAs, we will deploy additional manpower to inspect them and take other required actions. We and the relevant consulates general have also put in place a mutual notification mechanism. This started half a year ago because certain isolated incidents in recent days had aroused our great concern. We now maintain a sound notification mechanism mainly with the Indonesian Consulate General and the Philippine Consulate General. In case they detect problems with any EAs, employers and even FDHs, they will exchange information with us, and tripartite actions will be taken in conjunction with the Immigration Department.

Second, the relevant consulates general will hold orientation sessions for newly-arrived FDHs, especially those from the Philippines and Indonesia. Staff from the LD will attend such orientation sessions for the purpose of establishing direct contact with FDHs. FDHs will be informed of their rights and the organizations they should ring up for assistance in case of difficulties, such as their respective consulates general in Hong Kong, the LD, the Police and the Immigration Department. This is because in the past, the staff of EAs picking up FDHs at the airport would withhold all the information we wanted to provide to the domestic helpers concerned. We have also advised that when FDHs receive training before they leave Indonesia or the Philippines, they should be told how to handle certain situations and how they should seek assistance and protect themselves when they encounter problems. For instance, they should be advised that they must not allow anyone to retain their passports, that they must keep a duplicate of the employment contract, and that they must not allow their employers to keep their automatic teller machine cards for the purpose of getting back the wages paid to them. These are the preventive measures we have taken.
We are also drafting a code of practice to regulate EAs, with a view to preventing them from engaging in any financial or lending business, and in turn ensuring that FDHs will not incur any debts and face any dunning. We have actually sought to handle the problems under a comprehensive approach.

**DR HELENA WONG** (in Cantonese): President, I am very disappointed at the Secretary's reply. The standard adopted by the International Labour Organization is an ML of 14 weeks. But we only provide 10 weeks, and we pay four fifths of the employee's earnings only. There is also the issue of PL. His legislative proposal provides for three days of PL only. Has he ever consulted the general public and workers to see if they will accept such a meagre leave of merely three days?

President, in part (2) of his main question, Mr SIN Chung-kai asks if women can have fair participation in political life, especially functional constituencies. Secretary, do you know how many of the existing 35 functional constituency seats are occupied by women? Two only. Worse still, none of them was returned by a traditional functional constituency. Hence, the United Nations Committee on the Elimination of Discrimination Against Women now wants to ask the Secretary whether the system of functional constituencies will do any unfairness to women in respect of political participation. How can he explain the election of two women only? Why was no woman elected in all the traditional functional constituencies? You are now asked to conduct a study, but you are simply "gender blind", saying that there are no problems and therefore no special arrangements. All is because you are blind to …

**PRESIDENT** (in Cantonese): Dr WONG, please stop expressing opinions. You have stated your supplementary question. Please let the Secretary give his reply.

**DR HELENA WONG** (in Cantonese): Secretary, are you aware that the Women's Commission has already requested you to start the work of gender mainstreaming? But you have failed to do precisely this task. Is there any discrimination against women in traditional functional constituencies? I want you to answer two questions. First, are housewives treated as one traditional functional sector, and are they entitled to the right of voting as a sector? Also,
how many of the traditional functional sectors are biased towards men? Can the division of functional sectors adequately reflect the gender situation in reality?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, Dr WONG's supplementary question just now involves several aspects. Let me give a quick reply here. First, she asked if three days of PL was long enough. The Labour Advisory Board has already discussed this question for a very long time and forged a consensus with the labour sector and commercial sector. It is considered that a period of three days is an appropriate starting point. But we do not think that this is the finishing point. Dr WONG, I have said many times that one year after the passage of the relevant legislation, we will review the actual situation. If there is any room for improvement, we will definitely make the required efforts. This is a very important undertaking because we now wish to see the resumption of Second Reading debate on the bill in December, in the hope of benefiting fathers-to-be as early as possible.

Second, you said that the ML pay was just four fifths of the normal wages. But please note that the standard adopted by the International Labour Organization is only two thirds. We have already exceeded the relevant standard.

Besides, I also want to say a few words on women's right to participate in elections as mentioned by Members. In respect of elector statistics, as indicated by the final registers of electors in 2014, female electors constitute 50.62%, or more than half, of all electors. As I already mentioned when replying to Mr SIN's question just now, 76.8% of the electors in the Health Services Functional Constituency are women; in the Social Welfare Constituency, which comprises many social workers, women constitute 71% of the electors; and in the Education Functional Constituency, 67% of the electors are women. Therefore, election success or otherwise actually depends on many different factors, and is not related so much to any structural impediments. One cannot argue that election defeat must be caused by any so-called structural impediment.

PRESIDENT (in Cantonese): We have spent almost 23 minutes on this question. Fourth question.
The Rule of Law in Hong Kong

4. MR TAM YIU-CHUNG (in Cantonese): Some members of the public have relayed to me that the remarks about the rule of law recently made on a number of occasions by some politicians with legal background, who are also supporters of the illegal road occupation movement, may have misled the public. For instance, these politicians have claimed that even if some people have deliberately breached the law, the rule of law will not be undermined insofar as they subsequently turn themselves in to bear the legal consequences, and that the rule of law does not mean unconditional compliance with the law. In addition, these politicians have also criticized the Police for their earlier arrest of two occupiers for allegedly fighting with three other persons in a public place, claiming that these two occupiers were then merely exercising "the power of citizens to arrest" under section 101A of the Criminal Procedure Ordinance (section 101A) to stop those three persons from throwing objects at the occupiers. In this connection, will the Government inform this Council:

(1) whether it has studied the impacts of the aforesaid remarks made by these politicians (that is, the rule of law will not be undermined insofar as the people who have deliberately breached the law subsequently turn themselves in, and the rule of law does not mean unconditional compliance with the law, and so on) on the proper understanding of the public about the concept of the rule of law; if the study outcome indicates that there are negative impacts, how the authorities will refute such remarks; if the study outcome indicates that there are no negative impacts, of the justifications for that;

(2) whether it will step up publicity and education to instill in members of the public the correct concept of the rule of law; if it will, of the details; if not, the reasons for that; and

(3) whether it can clearly explain "the power of citizens to arrest" under section 101A in concrete terms, including the criteria for determining whether members of the public have lawfully exercised such power, as well as the degree of force they may use in arresting suspected offenders?
SECRETARY FOR JUSTICE (in Cantonese): President, the rule of law is a fundamental core value of the Hong Kong society; it is also one of the important reasons which makes Hong Kong an international city as well as an international financial and commercial centre. In order to effectively maintain the rule of law, the citizens, the Government and the entire community must respect the rule of law, including paying respect to court decisions. Besides, the rule of law is the cornerstone of democracy. The aspiration to attain universal suffrage surely cannot be used as a pretext to challenge the rule of law.

The reply of the Department of Justice (DoJ) to the three-part question raised by Mr TAM is as follows:

(1) Since the beginning of the "Occupy Central" movement, different members of the community have made remarks on the rule of law. The remarks mentioned in Mr TAM's question have seriously distorted the spirit of the rule of law. On 10 November, the Honourable Mr Justice AU of the Court of First Instance of the High Court ruled on the applications for interim injunction made in the three cases concerning the occupy movement. The relevant judgment contained a clear exposition of the concept of the rule of law. The key points include:

(i) The concept of the rule of law must include the notion that every citizen and the Government alike should obey and comply with the law.

(ii) Even if the defendants are of the view that a court order is wrongly granted, instead of simply disobeying it, they should first comply with it and then seek to challenge that order pursuant to the judicial process. The law cannot allow obedience of its orders to be a matter of individual choice.

(iii) It is wrong for any suggestions that the rule of law is not undermined or under challenged if people can freely or intentionally disobey the law first and then accept the consequences of breaking the law. The rule of law cannot realistically and effectively operate in a civilized and orderly society on this basis.
(iv) The upholding of the rule of law must be built upon, among others, the due administration of justice for the enforcement of court orders and the law.

(v) Worryingly, there have been repeated open suggestions by a number of public figures (including some legally trained individuals) to the public and the protestors and demonstrators en masse to the effect that ex parte injunctions need not to be complied with until they had been determined after an inter partes hearing, and that there is no challenge to the rule of law from merely disobeying civil orders, and that the rule of law is only threatened when there is disobedience of an actual order of committal for contempt of court. These suggestions are wrong and incorrect and would cause the public and the defendants an unwarranted misunderstanding on the concept of the rule of law.

When the Court of Appeal dealt with the relevant applications for leave to appeal, it clearly stated that it echoed the above observations made by the Honourable Mr Justice AU. The Government welcomes the Courts' exposition of the concept of the rule of law. We appeal to members of the public to obey and comply with the law and court orders, and to express their views in a peaceful and law abiding manner, or else there would be profound negative impact on Hong Kong.

(2) The DoJ has all along worked closely with other government departments and bureaux to educate the public on the concept of the rule of law through various channels. For example, the DoJ organizes "Prosecution Week" and actively participates in the "Law Week" organized by The Law Society of Hong Kong on an annual basis so as to enhance the understanding of students and the public in respect of the justice system and the rule of law. Further, the DoJ participates in the works of the Committee on the Promotion of Civic Education, which, inter alia, promotes education on the rule of law in various ways. Further, the Police seek to raise citizens' awareness of law abiding and crime prevention through various channels. As regards primary and secondary schools, the Education Bureau has embedded the legal and rule of law education in the
current primary and secondary school curricula. Schools also foster students' values in respecting the rule of law through diversified learning experiences including court visits. The Government will continue these works, and is proactively considering various ways to enhance this area of work.

(3) Section 101 of the Criminal Procedure Ordinance (the CPO) (Cap. 221 of the Laws of Hong Kong) sets out the circumstances where a citizen has the power to make an arrest. Section 101(2) stipulates that "[a]ny person may arrest without warrant any person whom he may reasonably suspect of being guilty of an arrestable offence", while section 101(4) states that "[e]very person who finds any person in possession of any property which he, on reasonable grounds, suspects to have been obtained by means of an arrestable offence may arrest such last-mentioned person without warrant and take possession of the property".

Thus, "the power of citizens to arrest" as referred to in the question is applicable only in circumstances involving an "arrestable offence". Under section 3 of the Interpretation and General Clauses Ordinance (Cap. 1 of the Laws of Hong Kong), an "arrestable offence" means an offence for which the sentence is fixed by law or for which a person may under any law be sentenced to imprisonment for a term exceeding 12 months, and including any attempt to commit any such offence.

On the other hand, section 101A of the CPO stipulates that "(a) person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large".

As a law-enforcement agency, the duties of the Hong Kong Police Force include upholding the law. The Police have the statutory power to arrest persons suspected of having committed an offence. Should citizens witness any person committing an offence, they should report to the Police at once. If citizens find it necessary to stop any criminal act or to subdue any suspected offender, they may only use such force as is reasonable and proportionate in the
circumstances to control the suspect but they do not have the power to search. Whether the offence in respect of which an arrest is made by a citizen constitutes an "arrestable offence" and whether the force used was reasonable can only be determined after the Police have made comprehensive investigation.

MR TAM YIU-CHUNG (in Cantonese): Secretary, the Occupy action has lasted for 60 days. During this period, some persons and politicians known to have a legal background came out almost every day to make some specious and distorted remarks on the concept of rule of law. For example, as I can recall, Mr Albert HO of this Council once compared the current legal system of Hong Kong to that of Nazi Germany during the Second World War, and in his opinion, it is not necessary to comply with all the laws of Hong Kong.

If the Secretary hears this kind of remarks in the future, would he, as the top tier and most authoritative accountability official on the legal front, denounce or refute these remarks that undermine the rule of law and mislead the public?

SECRETARY FOR JUSTICE (in Cantonese): President, I would like to thank Mr TAM for his supplementary question. I, as the Secretary for Justice, have a responsibility to uphold the rule of law in Hong Kong. Before the release of these remarks or when considering the possible release of these remarks, I have a responsibility to clarify without hesitation. In fact, in respect of the examples cited earlier, inter alia, not only the Government has a part to play in upholding the rule of law, all citizens and the entire society should bear in mind the law-abiding concept as well. I already mentioned that point in the speech I delivered at Ceremonial Opening of the Legal Year in January this year.

After the outbreak of the Occupy Central movement, the relevant persons must comply with the injunction. We have issued a statement, and reiterated the relevant viewpoints and stands when interviewed by the media. In the future, we will make clarification in due course in order to uphold the spirit of rule of law in Hong Kong and avoid misinterpretation by overseas communities as to the implementation of rule of law in Hong Kong. Despite that, here I would like to appeal to members of the public, particularly those with legal background, to think twice before making these remarks, and reasonably assess whether their remarks reflect the truth and whether these remarks would generate any
undesirable impact on Hong Kong. Moreover, I would like to remind these persons not to forget their responsibility for the rule of law of Hong Kong while making these remarks.

Mr IP Kwok-Him (in Cantonese): President, in a case earlier, some persons were suspected of throwing viscera of animals onto another person in the occupied area in Admiralty. Some claiming themselves to be on-site watchers came out to stop them. There were physical conflicts and confrontations during the process and the suspects were subdued and tied up on the ground. As the Secretary mentioned in the main reply, according to the interpretation of "the power of citizens to arrest" under section 101A, that power is only applicable to "arrestable offence". On television, we did see physical conflicts and the subdued persons were injured. Subsequently, a demonstration was staged to criticize the Police for their unjust enforcement of the law and suspected political oppression. May I ask the Secretary whether the Government agrees that the interpretation of "the power of citizens to arrest" given by some persons openly is not comprehensive? Does the Government worry that some people would intentionally mislead the public into believing that the Police will arrest without justification and impose political oppression, and members of the public who have received such incomplete messages may possibly do harm to themselves or others as they interpret and exercise "the power of citizens to arrest" in a wrong way?

Secretary for Justice (in Cantonese): President, I would like to thank Mr IP for his supplementary question. Given that the Police is still conducting investigation on the case, and later on the Department of Justice may consider whether the case should go through the relevant judicial proceedings, it is not appropriate for me to make specific comment on the case at this stage. Nonetheless, please allow me to throw light on the following points. The first point is that, in many cases, members of the public make comments on some issues that they have learnt from the television or media, yet very often these comments are not based on comprehensive information. In the event of this kind of incidents in the future, if the Police are still probing into the case, I urge members of the public to respect the basic principle that a person is still regarded innocent before conviction. The second point is that in the absence of comprehensive information, rather than coming to a conclusion hastily, one should make consideration in a rational, balanced and comprehensive manner.
For that reason, this case should be passed to the Police for investigation, based on which a fair judgment will be reached to determine who is right and who is wrong. In addition, any different views on the Police's treatment in this respect should be addressed according to the existing mechanisms instead of jumping to a conclusion hastily.

**MR ABRAHAM SHEK:** President, according to the publication by the Department, "Legal System in Hong Kong", if I may quote, "... the fundamental principles of law that govern the way in which power is exercised in Hong Kong. The rule of law has several different meanings and corollaries. Its principal meaning is that the power of the government and all of its servants shall be derived from law as expressed in legislation and the judicial decisions made by independent courts." President, my question is: Why has the Government not exercised its power under different legislation in clearing the streets and only has to wait for court orders to clear the streets?

**SECRETARY FOR JUSTICE** (in Cantonese): President, I would like to thank Mr SHEK for his supplementary question. The Government, particularly the Hong Kong Police Force, absolutely has the statutory power to take enforcement actions, including criminal prosecution, on illegal behaviours.

Since the outbreak of the Occupy action, the officials concerned have time and again remarked on public occasions that in the light of the unusual nature of the incident, the Government needs to study the circumstances carefully and will only take enforcement actions at a suitable timing in order to avoid any undesirable outcome or bloodshed.

As everyone is aware, the courts have granted interim injunctions. But I remind Members and the public to make it clear — as the Honourable Mr Justice AU and the Court of Appeal pointed out in the relevant judgment — despite the injunction's civil nature, given the unusualness of the current circumstances, an additional clause has been incorporated which confers on the Police the power to arrest any person who prevent the bailiffs from discharging their duties. Nonetheless, this only serves to clarify the existing power of the Police. Consequently, civil and criminal matters are two different aspects. The injunctions do not affect the law-enforcement power of the Police in this respect. For this reason, take last night's incident as an example, the Police had an
absolute right to exercise its statutory power in order to handle the situations at that time.

MR ABRAHAM SHEK (in Cantonese): President, the Secretary has not answered my question. My supplementary question is: Why did the Government undertake to clear the streets only after the promulgation of court orders 50 days later? The Government is empowered all the time. According to the definition of the rule of law I read out just now, the Government can clear the streets without having to wait for the promulgation of court order. It can clear the streets pursuant to the existing laws and regulations, but why did it refrain from doing so? The Secretary has not yet given me an answer.

SECRETARY FOR JUSTICE (in Cantonese): President, I would like to thank Mr SHEK for his question. As I replied just now, we have been monitoring the development of the Occupy action right from its beginning. As I said just now, earlier on, the responsible officials have indicated that even though the Government has the power and capability to take enforcement actions, we want to avoid any bloodshed. Hence the Government has been highly tolerant so far. We are waiting for a suitable timing to take enforcement actions. This also explains the Government's attitude and stand on handling the Occupy action this time.

MS STARRY LEE (in Cantonese): President, now the Police is helping the bailiffs to execute the orders. During the clearing process yesterday, it came to our attention that some demonstrators dispatched on the Internet some terrible messages, which said that if the mob was big enough, in fact the cops could do nothing about it.

As we saw yesterday, the bailiffs' attempts to clear the blockades in Mong Kok eventually prompted many demonstrators to block and occupy the adjoining streets. Unreasonably, the demonstrators seemed to claim that occupying the road was not an offence, while the Police's enforcement actions were not justifiable.
May the Secretary explain to me a bit? In face of the massive movements incited by these remarks — if the mob is big enough to the extent that they outnumber the cops on site, in fact the Police can do nothing about it — has the Secretary assessed the possible blow they may cause to the rule of law? And how is the Government prepared to tackle these movements?

SECRETARY FOR JUSTICE (in Cantonese): President, I would like to thank Ms LEE for her supplementary question. Inciting others, no matter through the Internet or other channels, to do anything illegal may constitute a criminal offence. We have been watching the situations in this respect. The Police and other departments concerned have been keeping an eye on the situations in this respect. This kind of behaviours will be treated like other criminal offences, against which the Police and other departments concerned will take suitable actions when we consider it necessary.

Lastly, I would like to take this opportunity to appeal to members of the community that the Police are exercising their statutory power to take enforcement actions. I urge members of the public to remain composed, not to believe in the misconception that a big mob can prevent the Police from exercising its power lawfully, and to leave the occupied site expeditiously.

PRESIDENT (in Cantonese): We have spent almost 23 minutes on this question. Fifth question.

Measures to Improve Air Quality

5. MR DENNIS KWOK (in Cantonese): President, in February this year, the Subcommittee on Issues Relating to Air, Noise and Light Pollution under the Panel on Environmental Affairs of this Council submitted its report to the Panel, putting forth a number of suggestions on issues relating to the improvement to air quality to be made by the Government, and so on. Regarding the progress of the follow-up actions on these measures which the Government has pledged to take, will the Government inform this Council:
(1) given that the Air Quality Objectives (AQOs) must be reviewed at least once every five years as required by the law and the authorities have undertaken to report to the Panel on Environmental Affairs of this Council before the end of next year on the progress of formulating the approach and methodology for conducting the review, of the progress of such task, including whether the authorities will submit regular progress reports before reporting such progress to the Panel so that the first review can be rolled out in 2019; what criteria the authorities plan to adopt for assessing the health hazards caused by air pollution;

(2) as the authorities have indicated that the Environmental Protection Department (EPD) is launching the strengthened emission control on petrol and liquefied petroleum gas (LPG) vehicles by using roadside remote sensing equipment and dynamometer for emission testing while the Transport Department (TD) is planning to adopt dynamometer-based emission testing in its vehicle roadworthiness examination, of the progress and effectiveness of the two tasks; whether the two departments have worked together to enhance the effectiveness of the tests; if they have, of the details; if not, the reasons for that; and

(3) since it was as early as the middle of last year when the authorities stated that it was upgrading an air quality modelling system known as "Pollutants in the Atmosphere and their Transport over Hong Kong" (that is, PATH), of the reasons why the new system will not be launched until January next year, and the present progress of such task; what measures the authorities will take to help research institutions such as universities and green groups, and so on, learn about the new system?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, at the meeting of the Panel on Environmental Affairs of the Legislative Council held on 17 July this year, the Environment Bureau provided response to suggestions raised in the report issued by the Subcommittee on Issues Relating to Air, Noise and Light Pollution and briefed Government's latest progress of follow-up actions. As for the question raised by Mr Dennis KWOK, our reply is as follows:
(1) The World Health Organization (WHO) recommends that different regions when formulating their air quality standards, should consider carefully their own circumstances and take into account health risks associated with air quality, practical technologies, as well as economic, political and social factors. The WHO also recommends interim targets to reduce air pollution in a progressive manner.

When formulating the new AQOs implemented in 2014, we made reference to the interim and ultimate targets recommended by the WHO and air quality standards of other advanced countries. The new AQOs are broadly comparable to those adopted by advanced countries such as the United States and the European Union. In order to protect public health and keep improving the air quality, the Air Pollution Control (Amendment) Ordinance (the Ordinance) also stipulates that the AQOs will be reviewed at least once every five years so as to achieve the long term goal of meeting the ultimate targets under the WHO's Air Quality Guidelines.

In the coming review of the AQOs, we will take full account of the above considerations. Specifically, we will assess the effectiveness of the air quality improvement measures, the emission trend in the Pearl River Delta (PRD) Region, the development of emission reduction technologies and the risk of air pollution to human health.

(2) Poorly maintained petrol and LPG vehicles emit excessive nitrogen oxides and hydrocarbons, causing high concentrations of nitrogen dioxide (NO₂) at roadside. As commercial vehicles have much higher mileage than private cars, our previous surveys indicated that some 80% and 45% of LPG taxis and light buses respectively had excessive emission problems, which were much higher than that of private cars at 7%.

One of the major reasons that causes excessive emissions from taxis and light buses is the failure of their catalytic converters and oxygen sensors. Between October 2013 and April 2014, the Government launched a one-off subsidy scheme to replace catalytic converters and oxygen sensors; 13 942 taxis and 2 881 light buses participated in the scheme, accounting for some 80% of eligible vehicles. In the first half of this year, the meteorological factor caused a 6% increase
in the average concentration of ozone recorded in Tap Mun Air Quality Monitoring Station over the same period last year, accelerating the conversion of nitrogen oxides emitted by vehicles to NO₂. During the same period, however, instead of an increase, the average concentration of NO₂ recorded at roadside air monitoring stations decreased by 6% when compared with that of last year. It indicates that the emission reduction measures we put in place are taking effect.

Furthermore, starting from 1 September this year, the EPD has deployed roadside remote sensing equipment to detect emissions from petrol and LPG vehicles. Owners of vehicles with excessive emissions are required to repair their vehicles within a specified period of time and pass the specified emission test before they can drive the vehicles again. Failure in the specified test will lead to cancellation of the vehicle licence. The strengthened emission control can help owners develop the habit of proper vehicle maintenance and repair.

In September and October this year, the roadside remote sensing equipment detected the emissions of about 59 000 vehicles, which accounted for about one-tenth of the petrol and LPG vehicles in Hong Kong. Taxis, light buses and private vehicles found with excessive emissions accounted for 3.3%, 4.8% and 0.5% respectively of the detected vehicles. This shows that taxis and light buses with excessive emissions have reduced significantly.

The TD and the EPD are studying jointly the feasibility of including the dynamometer-based test in the annual examination for licence renewal of taxis and light buses. Vehicle found with excessive emissions and failed to pass the emission test within the time specified by the EPD will have its licence cancelled by the TD.

(3) PATH is a modelling system to assess the impact of air quality caused by air pollutant emissions at a certain location. The PATH is extensively used in environmental impact assessment studies. The PATH system comprises meteorological, chemical and transport modules, and each module involves sophisticated scientific theories and calculation. Assessment on the impact of air quality has to take
into account the characteristics of air pollutant emissions, meteorological information, chemical reactions, topography and the background air quality.

In order to complete the updating process more efficiently, the EPD invited in August 2013 academics in the modelling field to form an ad hoc working group to study in-depth the various modules; to validate the system; to enhance its performance as well as to verify the results. In updating the PATH system, the verification and enhancement work requires a lot of time and care must be taken to ensure data accuracy. We expect that the updating of the system will be completed by mid-2015. We, together with the ad hoc working group, will brief the relevant users about the operation and application of the new modelling system before it is launched.

MR DENNIS KWOK (in Cantonese): President, air pollution brings risks to public health, and we are very concerned about this problem. The Ordinance states that there will be a review every five years. However, the Bureau should not delay the review until 2019 as the issue is related to the influence on public health. Instead, the review should be conducted annually. Therefore, I would like the Bureau to answer whether a review has already been commenced at the moment, and the results of the reviews will be accumulated gradually so that we will have a very objective review mechanism by 2019 to see how public health is being affected.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr KWOK for his supplementary question. I generally agree with what he said. Our colleagues have been constantly monitoring the changes and effectiveness of various aspects. We have been working all along. What I can supplement is that in order to attain our new AQOs in 2020, the Government is putting efforts in introducing a series of air quality improvement measures. They are directed against the main sources of pollution, including power plants, vehicles and marine vessels. Together with the Mainland authorities, we will also enhance the air quality of the entire PRD. Hence, one of the main duties in reviewing the AQOs is to assess the actual effectiveness of these measures. We have been monitoring constantly the progress and changes of the effectiveness in this aspect.
Not after we have made substantive progress in these emission mitigation measures can we conduct further assessment based on these achievements. Our target is to submit our report to the Panel on Environmental Affairs by the end of 2015. We will give a detailed account on the review mechanism of these AQOs, as well as the timetable, in the report. I reiterate that we pay much attention to the effectiveness of these air quality improvement measures. We will also monitor constantly so that we can have sufficient data for our future reviews.

**MR FRANKIE YICK** (in Cantonese): President, I am going to follow up on part (2) of Mr KWOK’s question. According to the reply from the Bureau, in September and October this year, the roadside remote sensing equipment detected the emissions of some vehicles. Taxis, light buses and private vehicles found with excessive emissions accounted for 3.3%, 4.8% and 0.5% respectively of the detected vehicles. Among them, the ratios of taxis and light buses are relatively high. We know that before the implementation of roadside remote sensing equipment, the Government has already introduced a one-off subsidy scheme to taxis and light buses so that the vehicle owners concerned can replace their catalytic converters and oxygen sensors. But the problem is that in less than one year, many taxis and light buses have been found to have their emissions beyond the prescribed limit. Some people from the industry told me recently that many of their taxis, not just one of them, have repeatedly failed the test. Not only has this added to the existing excessive workload of the Government Vehicle Examination Centres, thus seriously lengthening the appointment period and waiting time, but has also seriously affected the operation of the industry and increased the operating costs. Hence, I would ask the authorities whether they will temporarily call off the test on taxis and light buses before the source of the problem is found, so that the Government and the industry can have time to identify the source of the problem and figure out an improvement plan.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr YICK for his supplementary question. Basically, we have frequent exchanges and communication with the industry. On the one hand, we have to safeguard our target, which is to improve roadside air quality. On the other hand, we have to communicate with the industry in order to find out how vehicular maintenance can help attain our standard.
I would reiterate that the percentages of such vehicles which had their emissions exceeding the limits were rather high in the past. For instance, the percentages for taxis and light buses were about 80% and 45% respectively. After the efforts we have made this time, their rates of excessive emissions have been reduced to merely 3.3% to 4.8%. Therefore, the effectiveness is remarkable. However, during this process, we note from our communication with the industry that apart from the catalytic converters and oxygen sensors concerned, which are being replaced, other parts of the vehicle will also lead to the phenomenon that the emissions exceed the prescribed limits. For this reason, we have been discussing with vehicle owners to identify the reasons. As such, we have been able to initiate communication in various aspects. That includes fine-tuning some deadlines to dovetail the operation of the entire industry with our emission mitigation target.

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

MR FRANKIE YICK (in Cantonese): President, I think the Secretary has not given an answer. My supplementary question is very simple. I ask whether the test can be called off temporarily until the problem has been resolved at source.

PRESIDENT (in Cantonese): Secretary, will the test be called off temporarily?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr YICK for his follow-up question. I have already pointed out earlier that with the policy coming at this stage, we think the effectiveness is rather good as there are signs of improvement in roadside air quality. We understand the concern of the industry. But I believe it is important to strike a balance. Hence, our colleagues have already frequently communicated with the industry. In our opinion, it is not necessary to call off this measure. However, after communication, we will try to fine-tune our policy so as to help the industry adjust to it.
IR DR LO WAI-KWOK (in Cantonese): President, in respect of the Subcommittee's recommendation, the Administration has preferentially studied with the Central Government and other related departments on the establishment of an Emission Control Area (ECA) for ocean-going vessels in the PRD waters, with a view to improving the air quality in the PRD Region. I would like to ask the Secretary whether the Government has already contacted the Mainland authorities concerned and commenced the related study? If it has, what are the details of the study and the ECA? Will that be progressed under the framework of the Co-operation Agreement on Regional Air Pollution Control and Prevention among Hong Kong, Guangdong and Macao which came into effect in September 2014, or the country's 13th Five-Year Plan in which Hong Kong will participate?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Ir Dr LO for his supplementary question. At the present moment in Hong Kong, among the few major sources of air pollution, emissions from marine vessels have already taken the first place, ahead of the emissions from power plants and vehicles. Therefore, there will be an important directional change in regard to emissions from marine vessels. Directing against ocean-going vessels at present, the related legislation passed in this Legislative Council session will require them to switch fuel at berth.

However, further improvement of the air pollution condition requires regional co-operation. Hence, as we have spoken in different occasions, it is hoped that an ECA will be established in the PRD, and this requires frequent communication with the Mainland, especially the PRD in the Guangdong Province. We have already commenced the dialogue concerned with Shenzhen and Guangdong. However, this issue is rather complicated, as it will not only affect the PRD ports in the Mainland but also involve other ports. Hence, I may not be able to supplement a lot of information here. But we are stepping up communication with the related authorities in the Mainland. We hope that apart from Hong Kong's self-regulation, improvement in the air quality of the related Mainland ports can also be achieved as soon as possible.

MR JAMES TIEN (in Cantonese): President, in the main reply, the Government mentioned cross-border air pollution, which was generally related to transportation and trucks. President, I hope you can grant me permission to ask
this question, as it is exactly what the main question is concerned. In the past, many people had the wrong perception that air pollution in Hong Kong was mainly due to the factories in Shenzhen where the pollutants came from. Of course, this falls outside the main question. But can the Government answer the following question of mine? Nowadays in Hong Kong, apart from the air pollution generated locally, the major source is cross-border vehicles. Is it because other industries have already been slackening or have moved to other places so that there is a great decrease in the ratio?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr TIEN for his supplementary question. When we look at the recent air pollution improvement figures of Hong Kong, we see that actually various aspects have been improved, except for one aspect and that is VOCs (volatile organic compounds), which keep on increasing instead of reducing. One of the main reasons is that VOCs are being emitted in the course of production in some factories of the region. Hence, if we have to improve the air quality of Hong Kong as well as the region in the long run, VOCs will be the focus in the future. Therefore, together with the Mainland authorities, we now focus on this aspect and hope to step up our efforts. Hong Kong's special contribution is the Cleaner Production Partnership Programme which aims to subsidize some Hong Kong factory owners' production in the PRD and even the Guangdong Province. Our subsidy is to help them reduce various emissions during the operation. In the future, we will also step up efforts in reducing their VOC emissions. Therefore, this is what the Hong Kong Government is working on currently.

At the same time, as we said earlier, we have a 10-year plan with Guangdong Province, and we have our respective emission reduction targets. There will be an interim review in 2015, and both places will set targets directing against different major pollutants. By 2020, there will be another emission reduction target. Hence, through agreement by both sides, we are working together on various aspects.

As regards Mr TIEN's supplementary question, VOCs will be one of the major challenges in the coming few years, and they are directly related to the operation of Mainland factories.
PRESIDENT (in Cantonese): Mr TIEN, has your supplementary question not been answered?

MR JAMES TIEN (in Cantonese): President, the Secretary has not answered the most important part of my supplementary question. Has the cross-border pollution figure nowadays dropped from the 80% mentioned earlier, or how much has it dropped? I would like to know the figure concerned. Has the cross-border pollution figure really dropped? Does the Government have such data?

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr TIEN for his follow-up question. According to our data, the ratio of cross-border pollution affecting Hong Kong did not change much over the past period of time. However, as I said earlier, VOCs are one of the major pollutants, and we will thus focus our improvement work in this aspect.

MS CYD HO (in Cantonese): In fact, the Secretary has already answered part of my supplementary question. Catalytic converters and oxygen sensors can only alleviate the level of emissions but are not a radical solution. The radical solution lies in whether the main engine of the vehicle can effectively burn the fuel so as to reduce emissions. However, while the Government provides economic incentives to assist vehicle owners in purchasing emission reduction equipment, which are subject to ageing, if the Government does not impose punitive measures, how many times can it subsidize such owners?

In the main reply, the Government has mentioned that it is now studying the inclusion of an emission test which has to be passed in the annual examination for licence renewal of vehicles. Even though the Government requires the vehicles to pass the emission test, they may pass in the morning but exceed the limit after two weeks. My question is: First, in the course of legislation, will the Government consider adopting punitive measures in the legislation in order to reduce emissions; and secondly, how is the Government
going to prevent the situation in which a vehicle has passed the test in the examination but its emissions will then exceed the limit after two weeks?

Secretary for the Environment (in Cantonese): President, I thank Ms HO for her supplementary question. In regard to this question, we now adopt a two-pronged approach. On the one hand, in the examination for licence renewal of vehicles, we now impose a requirement. At the same time, in the operation of vehicles, we just set up the roadside remote sensing equipment this year. We will conduct spot checks at different places in Hong Kong to make sure that the vehicles meet our requirements during operation. Both measures will be implemented together to enable a better monitoring and improvement of the air.

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

Personal Safety of Sex Workers

6. Mr Kenneth Leung (in Cantonese): President, on the 1st of this month, the Police uncovered a double murder case in a flat in Wan Chai in which two Indonesian women were killed. It has been reported that these two women were sex workers who entered Hong Kong on visit visas and one of them overstayed. Regarding the personal safety of sex workers (especially those entering the territory on visit visas), will the Government inform this Council:

   (1) in each of the past five years, of the number of persons (including Mainland residents) who entered the territory on visit visas and, among them, the number of those who overstayed but were not arrested, as well as the respective numbers of persons who were arrested for alleged overstaying and contravening the conditions of stay; a breakdown by nationality of the number of such persons arrested; among the persons arrested, the number of those who allegedly engaged in sex work; what measures the authorities have put in place to reduce cases of overstaying and contravention of conditions of stay by persons who enter the territory on visit visas;
(2) of the measures taken by the authorities to protect the personal safety of sex workers (including educating them on how to protect themselves), and the details of implementation of such measures in the past three years; and

(3) whether the Police have estimated the current number of sex workers in Hong Kong; in each of the past five years, of the respective numbers of cases reported to the Police on intimidation, assault, theft, indecent assault, rape and murder committed against sex workers, as well as the number of prosecutions instituted by the authorities against the suspects in such cases; among such cases, the number of those involving persons entering the territory on visit visas; what measures the Police took, when investigating such cases involving sex workers, to protect these sex workers' privacy and safety as well as to protect them from discrimination?

SECRETARY FOR SECURITY (in Cantonese): President, my reply to Mr LEUNG's question is set out below:

(1) Visitors from about 170 countries and territories are allowed visa-free visits to Hong Kong for periods ranging from seven to 180 days. If a person wishes to visit Hong Kong but does not have the right of abode or right to land in the HKSAR and does not enjoy the visa waiver concession; or if he wishes to stay beyond the visa free period, he must obtain a visa or entry permit before he can come to Hong Kong.

The yearly breakdown of the total number of visitor arrivals (including those requiring and not requiring a visa or entry permit) over the past five years is at Table 1. The yearly breakdown of the number of persons arrested for being suspected of taking up unlawful employment (including sex work) during the same period is at Table 2. The Immigration Department (ImmD) does not maintain statistics on the number of arriving passengers on visit visas. In regard to the number of persons who have overstayed but were not arrested, a majority of the overstayed visitors did not do so on purpose. They might have inadvertently failed to pay attention
to their limit of stay, or because of emergency, medical emergency or sudden change in itinerary, could not leave Hong Kong as scheduled or apply for extension of stay. Under such circumstances, if the ImmD accepts the explanation upon investigation, the person will be allowed to leave Hong Kong after completing the extension of stay formalities. No further arrest or prosecution actions will be taken. The ImmD does not maintain separate statistics for this group of persons.

The ImmD is committed to preventing visitors from and fighting against visitors overstaying and breaching the conditions of stay in Hong Kong and has taken the following measures and enforcement actions:

(i) to assess visit visa applications and reject applications if the applicant's bona fides are in doubt;

(ii) to perform immigration control at control points to avoid visitors from entering Hong Kong to engage in activities not commensurate with the conditions of stay;

(iii) to enhance intelligence collection and step up enforcement operations against doubtful intermediaries or agents;

(iv) to step up investigation and prosecution actions against persons who overstay and contravene the conditions of stay and also the intermediaries or agents which aid and abet them;

(v) to step up enforcement actions including joint operations with other law-enforcement agencies; and

(vi) to enhance publicity to drive home the message that hiring illegal workers is a criminal offence and that employers have to inspect travel documents of non-Hong Kong permanent resident job seekers before hiring them; and encourage the public to report illegal employment via hotline, facsimile, mail or online platform.
(2) and (3)

The victims concerned as mentioned in the Mr LEUNG's main question were not allowed to work in Hong Kong legally. As regards the Mr LEUNG's enquiries concerning crime situation of cases with sex workers as victims, my reply is as follows.

The Police do not have any estimation of the current number of sex workers in Hong Kong. Figures of victims claiming to be local sex workers under "violent crimes against persons" between 2010 and 2014 are at Table 3. Such crimes include rape, indecent assault, murder and manslaughter, wounding and serious assault, and criminal intimidation. The Police do not maintain figures of violent crimes involving visitors or overstayers who conducted illegal prostitution activities in Hong Kong. The Administration does not maintain any prosecution figures of individual criminal offences by reference to the background or occupation of the victims.

The Police strictly abide by the Personal Data (Privacy) Ordinance and the Victims of Crime Charter (the Charter) in the protection of the informant's privacy and personal data, irrespective of the informant's identity, background and occupation. In accordance with the Charter, victims have the right to privacy and confidentiality. All those involved in the criminal justice system, from police officers to judiciary staff, shall respect the victim's right to privacy and confidentiality.

The Crime Prevention Bureau of the Hong Kong Police Force always maintains communication with sex workers' concern groups to address sex workers' safety issues. In addition to general crime prevention advice, the Crime Prevention Bureau distributes fight crime leaflets to sex workers, giving information on the mode of operation of unsolved criminal cases that targeted sex workers as well as descriptions of wanted persons. Furthermore, divisional task forces of the Police maintain direct liaison with sex workers in their divisions through regular visits conducted by teams of police officers, comprising, as far as practicable, one male and one female officers, whereby exchange of crime information is enhanced. On another front, the Crime Wing Support Group shall, in the light of
the circumstances, regularly meet with sex workers' concern groups to discuss topics of mutual concern.

Apart from installation of indoor closed circuit televisions, sex workers are also encouraged by the Police to set up alarms in their premises that connect to security companies or to their adjoining counterparts for emergency or life-threatening situations.

In addition to better protection for sex workers, measures like fight crime leaflets and liaison visits have successfully brought some criminals to justice. With crime prevention as an objective, the Police shall continue to adopt various measures through the above channels to maintain communication with sex workers' concern groups and individual sex workers.

### Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Number of Visitor Arrivals</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>36,052,759</td>
</tr>
<tr>
<td>2011</td>
<td>41,931,221</td>
</tr>
<tr>
<td>2012</td>
<td>48,615,138</td>
</tr>
<tr>
<td>2013</td>
<td>54,298,857</td>
</tr>
<tr>
<td>2014 (Jan to Oct)</td>
<td>49,873,678</td>
</tr>
</tbody>
</table>

### Table 2

<table>
<thead>
<tr>
<th>Year</th>
<th>Taking Up Unlawful Employment (Excluding Sex Work)*</th>
<th>Taking Up Unlawful Employment (Sex Work)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>1,912</td>
<td>4,606</td>
</tr>
<tr>
<td>2011</td>
<td>1,682</td>
<td>3,939</td>
</tr>
<tr>
<td>Year</td>
<td>Taking Up Unlawful Employment (Excluding Sex Work)*</td>
<td>Taking Up Unlawful Employment (Sex Work)*</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------------------------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>2012</td>
<td>2 230</td>
<td>3 619</td>
</tr>
<tr>
<td>2013</td>
<td>2 223</td>
<td>3 829</td>
</tr>
<tr>
<td>2014 (Jan to Oct)</td>
<td>1 540</td>
<td>3 526</td>
</tr>
</tbody>
</table>

Note:

* Including persons who have contravened the condition of stay (such as overstaying) and illegal immigrants

Table 3

Victims Claiming to be Local Sex Workers under "Violent Crimes against Persons" between 2010 and 2014

<table>
<thead>
<tr>
<th></th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>Jan to Aug 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Intimidation</td>
<td>8</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Wounding and Serious Assault</td>
<td>16</td>
<td>14</td>
<td>14</td>
<td>18</td>
<td>3</td>
</tr>
<tr>
<td>Indecent Assault</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Rape</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Murder and Manslaughter</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Notes:

(1) "Violent crimes against persons" include criminal intimidation, wounding and serious assault, indecent assault, rape, murder and manslaughter.

(2) Figures in the table were only cases where the victims claimed to be sex workers.

(3) Cases where the victims were visitors were not included in the above figures.

MR KENNETH LEUNG (in Cantonese): President, Hong Kong has really been very eye-catching in international media coverage lately. In addition to the Umbrella Movement which appears on the front pages of newspapers in the West, the reports on this double murder case involving two Indonesian women have also been on front pages of British newspapers for several days in a row.
Nevertheless, it seems that the Secretary's main reply has failed to answer my question. Even though Table 2 tells us that more than 3,500 incoming sex workers have been arrested over the past five years, the Secretary has not informed us specifically of the measures the authorities have in place to prevent foreign visitors from engaging in sex work in Hong Kong, neither has he mentioned about any measures to safeguard the personal safety of these sex workers who come to work in Hong Kong on visit visas — I know they have breached the law, but the Secretary should not ignore their personal safety.

SECRETARY FOR SECURITY (in Cantonese): President, first of all, I must point out solemnly that visitors coming to Hong Kong are not allowed to take up any unlawful employment, including sex work. I have pointed out clearly in my main reply that in carrying out its duties at the various control points and performing law-enforcement duties with other departments, the ImmD will enforce the law against persons who have contravened the conditions of stay (including sex workers, naturally). This is the first point.

As for the second point, my main reply has also made it clear, particularly in the final part of the main reply, that regardless of the status of the victims, the Police will handle all cases alike so long as the persons concerned find their personal safety being threatened. Having said that, we cannot publicize at control points or other places about what visitors should do if they come to Hong Kong to engage in sex work. As they will be breaching the law if they do such things in Hong Kong, how can we provide people breaking the laws of Hong Kong with the arrangements mentioned by the Member?

Nevertheless, I can reassure the Member once again that regardless of the status of the persons concerned, the Police will handle their cases alike so long as they find their personal safety being threatened.

MR KENNETH LEUNG (in Cantonese): I have the feeling that the Secretary has not been making due effort to combat illegal workers (including illegal sex workers) over these past five years, as the figures have all along been standing high. Could the Secretary inform this Council whether there are any specific measures …

PRESIDENT (in Cantonese): Mr LEUNG, please stop making comments again and raise the question you want the Secretary to answer.
MR KENNETH LEUNG (in Cantonese): I hope the Secretary can inform us of some specific measures and explain to us the number of enforcement actions the authorities have made in combating illegal sex workers.

PRESIDENT (in Cantonese): Secretary, do you have any information in this respect?

SECRETARY FOR SECURITY (in Cantonese): I have already mentioned about some specific measures in my main reply just now, but if what Mr LEUNG wants to know are the figures about the law-enforcement actions taken by the ImmD or the ImmD in collaboration with other departments, I will look into the data we have. I will provide Members with such figures if they are available. (Appendix II)

MR CHAN CHI-CHUEN (in Cantonese): The Secretary has mentioned at the beginning of parts (2) and (3) of the main reply and in answering Mr Kenneth LEUNG’s supplementary question just now that persons entering Hong Kong on visit visas to engage in sex work are not allowed to work in Hong Kong legally. We are aware of this point for sure.

The fact that the Secretary has made mention of this point repeatedly is reflective of the Government's way of thinking. In the Government's view, these people have breached the law in the first place, and then they even dare to ask the Government for personal protection when the problems they have are all of their own making. This is just like the way the Government thinks about the Occupy movement: As the participants have breached the law, the beatings or attacks they incur are but troubles of their own making ...

PRESIDENT (in Cantonese): Mr CHAN, please raise your supplementary question and stop making comments.

MR CHAN CHI-CHUEN (in Cantonese): Let us not talk about incoming sex workers for the time being. Even in the past, we received complaints from many sex workers, and the complaints were about the various outrageous acts of police officers abusing their authority, including misleading the sex workers, making
trumped-up charges, framing them up, and beating them up to force them to admit the charges. What is more, in performing their "undercover" "check-up" duties, some front-line police officers have even take advantage of the situation and asked for free service, which is commonly known as "free meal" or "non-paid meal" …

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

MR CHAN CHI-CHUEN (in Cantonese): I want to point out to the Secretary that the figures as shown in the three tables appended to the main reply are totally inaccurate, as they are much lower than the actual figures. This is all because the sex workers dare not report the cases to the authorities while the Government has failed to implement real measures to help them.

Here is my supplementary question: When the authorities received reports from persons entering Hong Kong to engage in sex work on visit visas — we understand that they have breached the law, the Secretary does not have to repeat that point to us — whether the authorities will arrest the persons concerned right away on account that they are suspected of overstaying or breaching the conditions of stay and engaging in illegal work, or help them deal with the reported cases in which their personal safety is under threat? If the authorities arrest them first, will the cases be closed without being settled after these persons are repatriated?

SECRETARY FOR SECURITY (in Cantonese): President, please allow me to give a longer reply this time, as I want to respond to a number of issues raised by Mr CHAN just now. If any persons staying in Hong Kong should have suffered any personal harm, regardless of whether they have breached the Immigration Ordinance, the Police would … I have said that two to three times, and I am now going to say it again … we would treat their cases on the same footing as others. As Mr CHAN knows, an incoming sex worker has breached the Immigration Ordinance, and if that person is the victim of some kind of assault, we will handle the two issues at the same time. We will arrest that person for breaching the Immigration Ordinance, but we will not leave the case unsettled after that person is repatriated upon completion of the legal proceedings concerned.
As regards the various kinds of complaints referred to by Mr CHAN just now, I believe Members all know that we have a Complaints Against Police Office and members of the public may lodge their complaints there; besides, the Independent Police Complaints Council will be monitoring the complaint handling work as well. As to the question of whether the relevant figures are too high or too low, I am afraid I cannot give Members an answer, as the figures are reflective of the numbers of reported cases we have received. There is nothing we can do if the victims of crimes do not report their cases to the Police.

Nevertheless, we have indeed made a lot of efforts with the relevant concern groups. For example, we will give these two publications I am now showing to the relevant concern groups when we meet with them, and these publications are about personal safety issues. We will also keep in contact with the relevant concern groups from time to time and exchange views with them on the personal safety issues they are faced with. As I have already referred to the details of such arrangements in my main reply just now, I am not going to repeat them here.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): Just now I was asking the Secretary about the handling arrangement. I asked him whether the authorities would handle the person's reported case first or that person's breach of conditions of stay. The Secretary said they would handle both issues at the same time, but I do not understand how they are going to handle the issues at the same time.

PRESIDENT (in Cantonese): Secretary, do you have anything to add? Is there any order of priority in handling the crime case reported by sex workers and their breach of conditions of stay?

SECRETARY FOR SECURITY (in Cantonese): If the victims suffer any physical injuries and need to see the doctor, or if the circumstances require some evidence (medical evidence) to be collected immediately, we will deal with such
work right away. However, if the victims have breached the conditions of stay, we will open a file for the case and handle the two issues side by side.

Perhaps let me put it this way. In some individual cases there are indeed priorities. For instance, if the victim suffers physical injury, we will not take any other actions but send the victim to hospital for treatment. We will certainly do that, irrespective of the status of the person concerned. Even if we see a victim somewhere else, we will certainly take such action first, and we will do that for sure.

MRS REGINA IP (in Cantonese): As pointed out by Mr Kenneth LEUNG just now, the brutal murder of two Indonesian women in Wan Chai has given rise to a great deal of unfavourable press coverage in the West. The Global Mail in the United Kingdom and The Wall Street Journal alike took this opportunity to depict Hong Kong as the breeding ground of crimes. Some articles even say that anyone who want to commit suicide should go to work in Hong Kong, as there are plenty opportunities for one to take drugs or meet with prostitutes, all of which would induce one to commit crimes.

In the face of such unfavourable press coverage, has the Secretary considered ways to promote or explain to other people the work done by the authorities, such as the teams of one male and one female officers formed by the Crime Prevention Bureau to liaise with and protect the sex workers whom the Police is aware of. Could the Secretary inform this Council whether the authorities will put in greater effort to promote such positive information?

SECRETARY FOR SECURITY (in Cantonese): Thanks to Mrs Regina IP for her suggestions. We will proceed in such directions. Nevertheless, the SAR Government can do nothing about how the foreign media report or publish the information we provide them with. This is a very brutal double murder case, and fortunately the Police have arrested a suspect. Certainly, as the judicial proceedings of the case have commenced, I cannot disclose too much details of the case here. However, regarding the instances raised by Mrs Regina IP just now, or the footage of some overseas media which may mislead readers about the situation in Hong Kong, we will take proactive actions by disseminating the corresponding information to enable people of the world to have all-round information about Hong Kong and make informed judgment of their own.
MR CHAN CHI-CHUEN (in Cantonese): President, Mr Kenneth LEUNG asks the Government about the measures to protect sex workers, but the so-called measures referred to by the Government so far are in fact useless. Such measures include distributing fight crime leaflets, distributing the leaflets which it has referred to in answering questions put by the United Nations, enhancing exchange of information on crimes, encouraging sex workers to set up alarms in their premises, and so on. Yet all such measures are in fact measures for the sex workers to protect themselves on their own. What I wish to ask is: What specific work will the Government do in this connection, such as reviewing the legislation on "one sex worker apartments", so that sex worker do not have to work in a helpless environment where crimes are likely to take place?

SECRETARY FOR SECURITY (in Cantonese): Let me first respond to the first part of the supplementary question, even though my reply may not be addressing the issue in question directly. Mr CHAN said there was no successful case but I am afraid I must beg to differ. In May 2008, through the co-operation of various parties concerned, we have expeditiously brought a suspected robber to justice. In May 2010 and July 2010, through their liaison with concern groups for sex workers, members of the Tsuen Wan Task Force respectively arrested two criminals in the Tsuen Wan district, and one of them was even sentenced to imprisonment for five years and four months by the Court.

Furthermore, I believe Mr CHAN is very much concerned about the issue of "one sex worker apartments". According to my understanding, certain Legislative Council Panels have also discussed this issue. From a law-enforcement perspective, we believe that some problems may arise if the "one sex worker apartments" are changed into apartments for "two sex workers" or "three sex workers". Firstly, it would be more difficult for the Police to track down crimes suspected of involving prostitution activities, and hence the change is not an advisable move. Secondly, introducing such a change would involve the views from other perspective, such as the views of the general public in Hong Kong on this proposed amendment. However, as far as the Government's stance is concerned, we do not have any intention to introduce any legislative amendment in this respect.

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

Holding Trade Fairs and International Mega Events at Kai Tak Cruise Terminal

7. MR TOMMY CHEUNG (in Chinese): President, some members from the tourism, exhibition, retail and catering industries have relayed to me that since its commissioning in June 2013, the Kai Tak Cruise Terminal (the Terminal) has all along not been fully utilized. As a result, the terminal building has very few visitors and the shop tenants there have poor business. Yet, the Wine and Dine Festival, which was re-sited to the Terminal and held at the end of October this year, had a record-breaking attendance as high as 180,000, demonstrating that the Terminal has the potential for holding large-scale trade fairs or international mega events, thus creating more business opportunities for the aforesaid industries. In this connection, will the Government inform this Council:

(1) whether it knows the names of the activities planned to be held at the Terminal next year by the Terminal's operator as well as the expected number of participants of and amount of spending to be brought by each of such activities;

(2) whether it has plans to position the Terminal as a venue for holding large-scale trade fairs or international mega events and launch promotional activities accordingly; if it has such plans, of the details; if not, the reasons for that;

(3) as members of the aforesaid industries have also relayed that due to the inadequate parking spaces for private cars and the limited capacities of nearby roads, it is difficult for the Terminal and its vicinity to accommodate a large number of private cars going there, thereby limiting the types of trade fairs that can be held at the Terminal, whether the authorities have any improvement measure in this respect; and

(4) whether it has examined how the Terminal may, through holding trade fairs and international mega events at the Terminal, attract more high-end visitors to visit Hong Kong via the cruise vessels that berth at the Terminal?
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, apart from being used for berthing of cruise ships, the column-free architectural design of the Kai Tak Cruise Terminal (KTCT) allows the KTCT to be used as an event venue during non-cruise days. Since commissioning, the KTCT has hosted a variety of events, including car shows, floating book fair, Youth Skills Competition, brand promotion activities, Cruise Holiday Expo and banquets, and so on. Meanwhile, the area in the vicinity of the KTCT has become an interesting venue for hosting events, such as music festival, marathon and the Hong Kong Wine and Dine Festival, and so on. We believe such trend could help drive the development of the area.

My reply to the four parts of the question is as follows:

(1) Previous successful experiences in hosting events at the KTCT and the surrounding area have inspired a number of organizations to consider staging events at the KTCT. Some have initiated contacts with the terminal operator for detailed discussion. Concrete details of the events will be announced by the organizers after the confirmation of the events. We are not in a position to disclose them now.

(2) and (4)

To enable the KTCT to host different events when there is no ship call, the Administration, back in the design stage of the terminal, has adopted a column-free architectural design to enhance the usage flexibility of the terminal. The terminal operator has deployed dedicated staff to promote the strengths of the KTCT as an event venue and actively arrange site visits for organizations that are interested in staging events at the KTCT, with a view to attracting as many major events to be held there during non-cruise days as possible. Recent major events held at the KTCT include the 2014 Guangzhou/Hong Kong/Macao/Chengdu Youth Skills Competition cum Carnival in October and the welcome reception of the Cruise Shipping Asia-Pacific 2014 (CSAP 2014), an international cruise industry conference last Thursday (20 November).

The terminal operator and relevant government departments will endeavour to provide appropriate support on traffic and crowd
control, and so on, to ensure that major events could be smoothly held.

(3) Kai Tak Development (KTD) is a project of considerable scale. The terminal building and the first berth of the KTCT were the first batch of completed facilities. Having completed detailed planning of the transport infrastructure for the KTD area, the Administration will proceed with the implementation of road works and associated infrastructures having regard to actual demand and the completion schedules of the development projects within the area. For instance, the Administration is planning to commence works for a dual two-lane carriageway next year for replacing the existing single two-lane carriageway linking Cheung Yip Street in Kowloon Bay with the KTCT, in order to serve the development projects to be launched progressively at the southern tip of the former runway.

In the long-run, with the commissioning of the developments in the former runway area including hotels and residential developments, the Administration will complete the works of a dual two-lane carriageway around 2021, linking the former runway area with the road networks of the northern part of the former aircraft holding area, so as to further enhance the transport infrastructure of the former airport area. The Administration is also planning for the next stage of connecting roads of the KTD to the external areas, including the Central Kowloon Route and Trunk Road T2, and so on, so as to provide quick and direct road linkage between east and west Kowloon, making it more convenient to commute to and from the KTD.

In addition, when events or banquets are held at the KTCT, the terminal operator would provide temporary parking spaces within the KTCT for the vehicles or shuttle buses of participants and organizers having regard to actual need. On the other hand, the terminal operator and the relevant departments are also exploring the feasibility of providing special ferry service to the KTCT. The terminal operator, together with a ferry company, made use of a temporary pontoon connecting with the KTCT to provide special ferry services for guests attending the welcome reception of the CSAP 2014 last Thursday (20 November), offering an alternative to
land transport for attendees to commute to the KTCT. Around 320 guests took the ferry and they were generally satisfied with the service.

**Provision of Hillside Escalator Links and Elevator Systems**

8. **MR MICHAEL TIEN** (in Chinese): *President, as a number of hillside housing estates have not yet been provided with escalators and lifts, the residents there have to walk up and down many steps or slopes when commuting to and from the housing estates, which is particularly inconvenient to the elderly and persons with disabilities. In this connection, the authorities established in 2009 an assessment system for the provision of hillside escalator links and elevator systems (the assessment system). Subsequently, the authorities gave scores under the assessment system to 18 territory-wide project proposals and set their implementation priorities. It has been reported that most of the construction works for these projects have not yet commenced and there is no timetable for completion. In this connection, will the Government inform this Council:

1. of the basis upon which the authorities formulated the scoring criteria under the assessment system and determined the respective weightings of various considerations (that is, circumstantial, beneficial and implementation factors);

2. given that the authorities will, in evaluating the circumstantial factors of a project proposal, consider the steadiness of existing pedestrian flow in the district concerned, whether the authorities will consider at the same time the population structure of such district, so as to ensure a more accurate assessment for each project proposal; and

3. given that the authorities did not conduct the feasibility studies on the aforesaid 18 project proposals at one go and such studies took/take two to four years to complete, and that most of these project proposals are currently still in design and consultation stages, whether the authorities will take measures, such as increasing the manpower of the Highways Department, to expedite
the progress of the studies and the works concerned, so as to benefit the residents living in hillside areas at the soonest possible time?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government established in 2009 a set of comprehensive, objective and transparent scoring criteria for assessing proposals for hillside escalator links and elevator systems (hillside escalator links) to determine the priority for conducting preliminary technical feasibility studies for the 20 works proposals received at that time. On this, the Government also consulted the Legislative Council Panel on Transport in May 2009. Upon completion of the assessment, the results were reported to the Legislative Council Panel on Transport in February 2010. Two proposals were screened out initially, and 18 others were ranked. The Government indicated at the time that preliminary technical feasibility studies for the proposals ranked top 10 in the assessment would be conducted by batches, and that the remaining proposals would be followed up after the smooth implementation of the top 10 proposals.

Our reply to the three parts of Mr Michael TIEN's question is as follows:

(1) As mentioned above, the Government briefed the Legislative Council Panel on Transport in 2009 and 2010 on the scoring system, including the evaluation criteria as set out in the table below.

<table>
<thead>
<tr>
<th>(i)</th>
<th>Circumstantial factors</th>
<th>(Total score: 40)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>existing population/employment within catchment</td>
<td>(6)</td>
</tr>
<tr>
<td>(b)</td>
<td>existing population of 65 year-old or above within catchment</td>
<td>(5)</td>
</tr>
<tr>
<td>(c)</td>
<td>topographical conditions, that is, steep gradient/level difference</td>
<td>(11)</td>
</tr>
<tr>
<td>(d)</td>
<td>connectivity with other existing/committed pedestrian facilities</td>
<td>(4)</td>
</tr>
<tr>
<td>(e)</td>
<td>connectivity with existing/committed mass public transport facilities within catchment</td>
<td>(4)</td>
</tr>
<tr>
<td>(f)</td>
<td>connectivity with existing/committed centres of activity within catchment</td>
<td>(4)</td>
</tr>
<tr>
<td>(g)</td>
<td>steadiness of existing pedestrian flow</td>
<td>(6)</td>
</tr>
</tbody>
</table>
As shown in the table of part (1) above, when assessing the circumstantial factors of a proposal, the Government will not only take into account the steadiness of the existing pedestrian flow, but will also consider the existing population/employment within the catchment, as well as the existing population of 65 year-old or above within the catchment.

The Government's original plan is to conduct the preliminary technical feasibility studies for the proposals ranked top 10 in the assessment by batches, and then follow up on the proposals ranked lower after the smooth implementation of the top 10 proposals. Subsequently, upon reviewing the manpower resources of the relevant departments, we have commenced the preliminary technical feasibility studies for the proposals ranked 11th (Lift and Pedestrian Walkway System between Tai Wo Hau Road and Wo Tong Tsui Street) and 12th (Lift and Pedestrian Walkway System at Luen On Street). These two studies were completed in the second and third quarters of 2014 respectively. The current progress of the 18 ranked proposals is as follows:

<table>
<thead>
<tr>
<th>Rank</th>
<th>Proposal</th>
<th>Progress of the project</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pedestrian Link at Tsz Wan Shan</td>
<td>This link is implemented under the Shatin to Central Link project.</td>
</tr>
<tr>
<td>2</td>
<td>Braemar Hill Pedestrian Link</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>Rank</td>
<td>Proposal</td>
<td>Progress of the project</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3</td>
<td>Lift and Pedestrian Walkway System at Cheung Hang Estate, Tsing Yi</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>4</td>
<td>Escalator Link and Pedestrian Walkway System at Pound Lane</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>5</td>
<td>Lift and Pedestrian Walkway System between Kwai Shing Circuit and Hing Shing Road, Kwai Chung</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>6</td>
<td>Lift and Pedestrian Walkway System between Castle Peak Road and Kung Yip Street, Kwai Chung</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>7</td>
<td>Lift and Pedestrian Walkway System between Lai Cho Road and Wah Yiu Road, Kwai Chung</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>8</td>
<td>Pedestrian Link near Chuk Yuen North Estate</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>9</td>
<td>Lift and Pedestrian Walkway System at Waterloo Hill</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>10</td>
<td>Lift and Pedestrian Walkway System between Lai King Hill Road and Lai Cho Road</td>
<td>It is revealed in the preliminary technical feasibility study that the project involves two dangerous private slopes. The Highways Department will revisit the project after the owners concerned have completed repairing the dangerous slopes satisfactorily.</td>
</tr>
<tr>
<td>Rank</td>
<td>Proposal</td>
<td>Progress of the project</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>11</td>
<td>Lift and Pedestrian Walkway System between Tai Wo Hau Road and Wo Tong Tsui Street, Kwai Chung</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>12</td>
<td>Lift and Pedestrian Walkway at Luen On Street</td>
<td>The preliminary technical feasibility study has been completed.</td>
</tr>
<tr>
<td>13</td>
<td>Yuet Wah Street Pedestrian Linkage</td>
<td>This project is being implemented by the Civil Engineering and Development Department under the Kwun Tong Town Centre Redevelopment.</td>
</tr>
<tr>
<td>14</td>
<td>Escalator Link System between Hong Sing Garden and Po Hong Road</td>
<td>This proposal would be followed up after the smooth implementation of the higher-ranking proposals.</td>
</tr>
<tr>
<td>15</td>
<td>Lift System between Lai King Hill Road and Princess Margaret Hospital</td>
<td>The Hospital Authority is conducting ground investigation</td>
</tr>
<tr>
<td>16</td>
<td>Lift and Pedestrian Walkway System between Saddle Ridge Garden and Sai Sha Road</td>
<td>This proposal would be followed up after the smooth implementation of the higher-ranking proposals.</td>
</tr>
<tr>
<td>17</td>
<td>Lift and Pedestrian Walkway System between Hing Shing Road and Tai Wo Hau Road</td>
<td>This proposal would be followed up after the smooth implementation of the higher-ranking proposals.</td>
</tr>
<tr>
<td>18</td>
<td>Escalator Link System between Sha Tin Sui Wo Court and MTR Fo Tan Station</td>
<td>This proposal would be followed up after the smooth implementation of the higher-ranking proposals.</td>
</tr>
</tbody>
</table>
Construction works for two of the 18 ranked proposals have already commenced. The first-ranked Pedestrian Link at Tsz Wan Shan has been included under the Shatin to Central Link project. Construction works commenced in July 2012 and are scheduled for completion by phases between 2014 and 2016. The 13th-ranked Yuet Wah Street Pedestrian Linkage is being implemented by the Civil Engineering and Development Department under the Kwun Tong Town Centre Redevelopment. Construction works commenced in April 2013 and are scheduled for completion in the fourth quarter of 2015.

In addition, the Hospital Authority is currently conducting ground investigation for the Lift System between Lai King Hill Road and Princess Margaret Hospital (one of the 14th-ranked proposals).

Works for hillside escalator links often involve considerations such as slopes, structures, soil properties, diversion of underground utilities and land resumption, and are therefore considerably complex. Subject to the findings of the preliminary technical feasibility studies, the Highways Department will continually carry out various tasks of pre-construction preparation, which cover investigation and preliminary design, consultation with District Councils and relevant stakeholders, gazettal of the proposals and handling of any objections under the Roads (Works, Use and Compensation) Ordinance (Cap. 370), land acquisition if necessary, formulation of detailed design, application for funding approval from the Legislative Council in respect of individual projects and invitation for tenders, and so on. Since these pre-construction tasks involve complicated procedures and are relatively controversial in nature, the time required for these works projects varies with actual circumstances.

Currently, staff members of the Highways Department, Transport Department and Electrical and Mechanical Services Department are assisting in the implementation of the hillside escalator links. We will review the works progress and manpower resources need in a timely manner.
Support for Ethnic Minority Students in School

9. **MS CLAUDIA MO** (in Chinese): President, I have recently received complaints from the parents, students and ex-teachers of a school, alleging that the school has been incessantly admitting ethnic minority (EM) students in a bid to avoid being requested by the Government to cease operation due to under-enrolment under the policy on consolidation of schools (commonly known as "closure of schools"). However, the school has not provided appropriate learning support for these students who have therefore become the victims of the prevailing education policy. In this connection, will the Government inform this Council:

(1) whether the Education Bureau received complaints in the past three years about EM students not receiving appropriate learning support in schools; if it did, how the Education Bureau followed up such complaints; if not, whether the Education Bureau will take the initiative to understand the learning condition of EM students and consider setting up a task force to conduct investigations;

(2) whether the Education Bureau has measures in place to prevent schools from enrolling, in a bid to avoid closure of schools, EM students to a number beyond the coping capacity of their teaching resources; if the Education Bureau does, of the details; if not, the reasons for that;

(3) whether the Education Bureau will conduct regular reviews to see if those schools which have admitted relatively more EM students but whose total numbers of students are on the low side have sufficient teaching resources, so as to ensure that EM students can receive appropriate learning support and integrate into school life;

(4) of the name of each of the schools which admitted 10 or more EM students in the 2013-2014 and 2014-2015 school years (please use codes to replace school names if it is considered inappropriate to make public the names of the schools concerned), the districts in which the schools are situated, as well as the respective numbers of EM students admitted by each school and their percentages in the total numbers of students, broken down by the race and grade of EM students; and
(5) of the number of schools which admitted EM students in the 2014-2015 school year, with a breakdown by the number of EM students admitted (below 10, 10 to 19, 20 to 29 and 30 or more) and its percentage in the total numbers of students?

SECRETARY FOR EDUCATION (in Chinese): President, the Education Bureau must clarify that there is no such "school closure" policy as alleged by some people. Aided secondary schools, even those operating only one Secondary One (S1) class, can continue to operate under various school development options. Furthermore, all eligible children, irrespective of their ethnicity, are entitled to equal opportunities to education. The Education Bureau has been providing schools with resources and support to facilitate the learning of non-Chinese speaking (NCS) students. My reply to the five-part question is as follows:

(1) to (3)

The Government is committed to encouraging and supporting NCS students' early integration into the community, including facilitating their adaptation to the local education system and mastery of the Chinese language. Apart from providing schools with resources and support, the Education Bureau, through school visits and communication with stakeholders concerned, understands the learning of NCS students in schools to ensure that they are given support as appropriate. The Education Bureau has not received in the past three years complaints about NCS students not being provided with appropriate learning support in schools.

The Education Bureau conducts the annual Student Enrolment Survey to, among others, better understand schools' admission of NCS students, and continuously reviews and enhances the support measures for NCS students to cater for their learning needs. We noted that some stakeholders had proposed capping the number of NCS students admitted to a school and/or setting a ratio of NCS to Chinese-speaking students with the objective of exposing NCS students concerned to an immersed Chinese language environment in schools to facilitate their learning of the Chinese language. After thorough deliberation, stakeholders(1) generally considered it

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(1) Stakeholders include the Special Needs Groups Task Force under the Commission on Poverty, the Panel on Education of the Legislative Council, and so on.
necessary to take into account the worries and views of some NCS students and parents about school choice as well as concerns of schools. On balancing the views of different stakeholders, the Education Bureau revised, in the 2013-2014 school year, the mode of support to schools admitting NCS students. In brief, we abolished the so-called "designated schools" system\(^{(2)}\). Capitalizing on the experience in supporting NCS students, the Education Bureau provided additional funding to all schools admitting 10 or more NCS students to facilitate schools' development of school-based support measures for their NCS students with a view to widening NCS parents' school choices.

In tandem, upon review of the measures for supporting NCS students' learning of the Chinese language, the Government announced in the 2014 Policy Address that the Education Bureau would, starting from the 2014-2015 school year, provide schools with the Chinese Language Curriculum Second Language Learning Framework (Learning Framework)\(^{(3)}\). Developed from the perspective of second language learners, the "Learning Framework" seeks to further address the concern about NCS students' learning of Chinese as a second language with a view to enabling them to bridge over to mainstream Chinese Language classes, and to ensure equal opportunities for all NCS students in learning Chinese on par with their Chinese-speaking counterparts. The Government has also significantly increased the additional funding to schools to about $200 million a year starting from the 2014-2015 school year to facilitate schools' implementation of the "Learning Framework" and creation of an inclusive learning environment in schools.

\(^{(2)}\) From the 2006-2007 to 2012-2013 school years, schools admitting a critical mass of NCS students, having experience in taking care of NCS students, ready to partner with the Education Bureau to develop school-based support measures and share experience with other schools were provided with an annual additional funding ranging from $300,000 to $600,000 depending on the number of NCS students admitted and professional support services for these schools to develop specific school-based support programmes and Chinese Language learning and teaching materials. These schools needed to share their experience with other schools admitting NCS students through the school support network that the Education Bureau had formed so that all NCS students would benefit. These schools were generally referred to as the so-called "designated schools".

\(^{(3)}\) To facilitate schools' implementation of the "Learning Framework" and to strengthen teachers' skills in teaching NCS students Chinese Language, the Education Bureau has implemented a series of support measures, including provision of practical tools and steps, and second language learning reference materials by phases prior to the start of the 2014-2015 school year. A designated webpage collating containing all the supporting materials has been set up. In tandem, the Education Bureau has enhanced teachers' professional development in teaching Chinese as a second language for Chinese Language teachers and provided school-based professional support to schools through diversified modes.
Starting from the 2014-2015 school year, schools admitting 10 or more NCS students are provided with an additional funding ranging from $0.8 million to $1.5 million per annum depending on the number of NCS students admitted. The schools concerned are required to submit an annual school plan on support to their NCS students. The plan should cover NCS students' overall learning performance as revealed in the assessment through using the Chinese Language Assessment Tools in conjunction with the "Learning Framework" and teaching strategies to be adopted with regard to their NCS students' learning targets, performance and progress. By the end of a school year, schools are required to submit a report which should cover, among others, overall summative assessment results of all NCS students, implementation of other complementary support measures and the use of additional funding (with breakdown on the expenditure). We have set up a dedicated team for implementation and monitoring of the enhanced funding support to schools. Regarding evaluation and monitoring of the support measures for NCS students at systemic level, we have invited experts to formulate a research framework for the evaluation of the effectiveness of various support measures to ensure the quality of the support services and refine individual measures where appropriate.

(4) A total of 151 and 173 (provisional figure) schools admitting 10 or more NCS students in the 2013-2014 and 2014-2015 school years respectively have been provided with additional funding to support their NCS students. The percentage of NCS students among all students in these schools is similar in the school years concerned, ranging from about 1% to about 98%. The number of NCS students in schools admitting 10 or more NCS students by district and by grade is tabulated at Annex 1. As regards the situation of individual schools, it is the established practice that we do not disclose the names and situation of individual schools (including the use of code), particularly when the additional funding support is applicable to all public sector schools meeting the threshold, so as to avoid unnecessary labelling effect on schools and the misconception that we intend to remove by abolition of the so-called "designated schools" system in the 2013-2014 school year. Besides, given that as many as 17 ethnicity codes are adopted in the Student Enrolment Survey and the figures of NCS students at Annex 1 have already
included all the students whose spoken language at home is not Chinese, we have not tabulated the number of students by ethnicity.

(5) The provisional number of schools with NCS students (ranging from "less than 10", "10 to 19", "20 to 29" and "30 or above") and provisional percentage of NCS students among all students of these schools in the 2014-2015 school year are tabulated at Annex 2.

Annex 1

Number of NCS students
in schools with 10 or more NCS students and provided with additional funding by district and by grade in the 2013-2014 school year

<table>
<thead>
<tr>
<th>District</th>
<th>P1</th>
<th>P2</th>
<th>P3</th>
<th>P4</th>
<th>P5</th>
<th>P6</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>102</td>
<td>75</td>
<td>86</td>
<td>67</td>
<td>65</td>
<td>49</td>
<td>444</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>150</td>
<td>138</td>
<td>149</td>
<td>142</td>
<td>164</td>
<td>164</td>
<td>907</td>
</tr>
<tr>
<td>Eastern</td>
<td>22</td>
<td>23</td>
<td>18</td>
<td>14</td>
<td>14</td>
<td>10</td>
<td>101</td>
</tr>
<tr>
<td>Southern</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td></td>
<td>12</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>170</td>
<td>165</td>
<td>165</td>
<td>151</td>
<td>158</td>
<td>132</td>
<td>941</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>97</td>
<td>112</td>
<td>100</td>
<td>133</td>
<td>152</td>
<td>134</td>
<td>728</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>68</td>
<td>90</td>
<td>60</td>
<td>59</td>
<td>49</td>
<td>55</td>
<td>381</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>27</td>
<td>33</td>
<td>38</td>
<td>49</td>
<td>50</td>
<td>68</td>
<td>265</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>127</td>
<td>143</td>
<td>134</td>
<td>141</td>
<td>140</td>
<td>171</td>
<td>856</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>26</td>
<td>32</td>
<td>21</td>
<td>22</td>
<td>19</td>
<td>13</td>
<td>133</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>11</td>
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Secondary Schools:

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Provisional number of NCS students
in schools with 10 or more NCS students and provided with additional funding
by district and by grade in the 2014-2015 school year

Primary Schools:

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<th>District</th>
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Notes:

1. Figures refer to the position as at September of the respective school years. Please note that figures for the 2014-2015 school year are provisional and subject to verification.

2. The above data cover those students whose ethnicity is Chinese but who are NCS based on the spoken language at home.

3. The data include NCS students in public sector and Direct Subsidy Scheme (DSS) schools. Figures do not include students in special schools.
Annex 2

The provisional number of schools with NCS students ranging from less than 10, 10 to 19, 20 to 29 and 30 or above, and provisional percentage of NCS students of all students of these schools in the 2014-2015 school year

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<th>School Year</th>
<th>Number of schools/ Percentage of NCS students among all students of the schools</th>
<th>Number of NCS students</th>
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<td>Number of schools</td>
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<td>2014-2015</td>
<td>Percentage of NCS students among all students of the schools</td>
<td>0.1% - 3.6%</td>
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<tr>
<td>Secondary schools</td>
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<tr>
<td>2014-2015</td>
<td>Percentage of NCS students among all students of the schools</td>
<td>0.1% - 3.6%</td>
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Notes:

(1) Figures refer to the position as at September of the school year. (Please note that these are preliminary figures provided by schools and are subject to verification.)

(2) The above data cover those students whose ethnicity is Chinese but who are NCS based on the spoken language at home.

(3) The data include NCS students in public sector and DSS schools, including one DSS secondary school offering non-local curriculum. Figures do not include students in special schools.

Foreign Domestic Helpers Being Sent by Employers to Work on the Mainland

10. MR WONG TING-KWONG (in Chinese): President, earlier on, some intermediaries for foreign domestic helpers (FDHs) relayed to me that some Hong Kong residents sent their FDHs employed in Hong Kong to perform domestic duties in their properties on the Mainland. In this connection, will the Government inform this Council:
(1) whether it has looked into the situation where employers send FDHs to perform domestic duties in their properties on the Mainland; if it has, of the details, including whether such a situation has become increasingly common; if it has not looked into the situation, the reasons for that; whether such practice of the employers is regulated under the existing legislation;

(2) whether it received, in the past three years, complaints made by FDHs for being sent by employers to perform domestic duties on the Mainland, as well as requests for assistance due to injuries at work on the Mainland; if it did, whether the authorities provided assistance to these FDHs; whether these FDHs are protected by the labour legislation of Hong Kong when they are on the Mainland; and

(3) whether it will step up its publicity and education efforts to enhance the understanding of FDHs and intermediaries for FDHs of employees' rights and benefits, the restrictions imposed on employers in assigning duties to FDHs as well as occupational safety; if it will, of the details; if not, the reasons for that?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the question raised by Mr WONG Ting-kwong is as follows:

(a) Clause 3 of the Standard Employment Contract (SEC) for a domestic helper recruited from abroad provides that a FDH shall work and reside in the employer's residence in Hong Kong as stated in SEC. Clause 4 of SEC provides that an FDH shall only perform domestic duties in the employer's residence as set out in SEC. Moreover, the employer and FDH are required to undertake in the relevant visa application forms that FDH will reside in the employer's residence as stated in SEC and will not perform duties other than those set out therein. If FDHs and/or employers breach their undertaking in SEC and the relevant application forms (for example, undertaking work in places other than that set out in SEC), the Immigration Department (ImmD) will take their conduct into consideration in assessing FDH's future employment visa or extension of stay applications or the employer's future applications for employing FDHs, and may refuse
such applications. Employers and/or FDHs who furnish false information in the course of an application may contravene the Immigration Ordinance (Cap. 115). Under the prevailing laws, a person who makes false statement to the ImmD commits an offence and is liable to prosecution and, upon conviction, to a maximum fine of $150,000 and imprisonment for 14 years. Aiders and abettors will also be prosecuted.

The ImmD and the Labour Department (LD) do not maintain statistics regarding FDHs being arranged to work in their employers' properties on the Mainland. Any FDH who suspects that his/her employer has contravened any contractual terms may seek assistance from the LD or ImmD.

(b) As required under the contract, save for the period during which the FDH leaves Hong Kong of his/her own volition and for his/her own personal purposes, the employer has to provide free medical treatment to the FDH if the latter is ill or suffers personal injury, regardless of whether this arises out of and in the course of employment. Therefore the LD has all along been advising employers to take out suitable insurance for their FDHs to cover the medical expenses in case their FDHs were ill or injured during the contractual period. In any event, like other local employees, FDHs also are equally provided with the protection accorded by the Employment Ordinance (Cap. 57) (EO) and the Employees' Compensation Ordinance (Cap. 282) (ECO). An FDH may file a claim should he/she feel deprived of the benefits conferred by EO or SEC, regardless of whether he/she had accompanied the employer to go overseas during the contractual period. If there is any dispute, the case could be referred to the Court for adjudication.

In the past three years (2011 to 2013), the LD received reports of five cases by employers whose FDHs have sustained injuries outside Hong Kong during employment. Upon receipt of notification of injuries caused by accidents from employers, the LD will closely follow up the relevant cases and provide prompt assistance to both employers and employees with a view to settling the cases as soon as possible.
(c) The LD has all along been organizing education and publicity programmes for FDHs and their employers to enhance their understanding of the relevant provisions under EO and ECO, as well as information relating to occupational safety and health. LD has also stepped up publicity and promotional efforts recently through different channels, such as distributing information packs and pamphlets at the airport and various government departments, staging information kiosks at FDHs' popular gathering places, placing advertisements in local Filipino and Indonesian newspapers, organizing briefings regularly, and screening television and radio Announcement of Public Interests in various local media to disseminate information on FDHs' rights and channels for seeking assistance. In parallel, the LD has intensified collaboration with the consulates of major FDH exporting countries in Hong Kong by participating from time to time in briefings and social events for newly-arrived FDHs organized by the consulates. It has also appealed to the consulates concerned to assist in arranging videos on FDHs' rights to be shown before the helpers arrive in Hong Kong and distributing the information packs and pamphlets to them so as to raise FDHs' awareness of their rights as well as occupational safety and health. Moreover, the Government has established a regular liaison mechanism with the consulates of major FDH exporting countries in Hong Kong for sharing information as well as co-ordinating the various education and promotional efforts.


11. **MS EMILY LAU** (in Chinese): President, the Chief Executive of the last term announced on 26 February 2012 the establishment of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (the Committee), and appointed the retired Chief Justice of the Court of Final Appeal as its Chairman. The Committee was responsible for reviewing the regulatory systems for the prevention of conflicts of interests concerning Chief Executive, Non-Official Members of the Executive Council, and Officials under the Political Appointment System. The Committee submitted its report (the Report) in May of the same year, putting forward 36 recommendations.
The recommendations included enacting legislation to set up an Independent Committee to handle matters relating to granting approvals for solicitation and acceptance of advantages by Chief Executive, as well as amending the Prevention of Bribery Ordinance (the Ordinance) to apply section 3 of the Ordinance to Chief Executive and to stipulate that Chief Executive had to obtain permission from the Independent Committee for acceptance of any advantage. In this connection, will the executive authorities inform this Council:

(1) as it has been more than two and a half years since the Report was published, of the reasons why the authorities have not yet introduced to this Council any legislative proposal to amend the Ordinance, including the problems encountered; when the authorities expect the relevant proposals to be introduced to this Council;

(2) of the number of recommendations in the Report that the authorities have studied and dealt with so far; those recommendations that will be implemented in the coming year, as well as the recommendations that are not accepted by the authorities and the reasons for that; and

(3) whether the authorities have assessed if the non-implementation of the various recommendations in the Report after a long time will arouse public concern that the authorities do not have the commitment to deal with and prevent potential conflicts of interests concerning Chief Executive, Non-Official Members of the Executive Council, and Officials under the Political Appointment System; if they have assessed, of the outcome; if not, the reasons for that?

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (IRC) submitted the Report on 31 May 2012, putting forward a total of 36 recommendations. These recommendations cover several major areas, including revisions to the Code for Officials Under the Political Appointment System (the PAO Code) currently applicable to PAOs for refining the regulatory regime for the declaration and handling of potential conflicts of interests, and the acceptance of advantages and entertainment; making recommendations on such matters as the Chief Executive's observance of related provisions in the PAO Code and the declaration system applicable to the Executive Council Members; as well as extending the application of sections 3
and 8 of the existing Prevention of Bribery Ordinance (POBO) (Cap. 201) to Chief Executive.

The incumbent Chief Executive stated on the day when the Report was released that he agreed in principle with the Report and would consider how to follow up and implement its specific recommendations.

As the recommendations on the revisions to POBO have constitutional, legal and operational implications and may have impact on the existing POBO, the Government needs to handle them prudently and study them in an in-depth and holistic manner. We will endeavour to complete the study as soon as possible and then consult the Legislative Council.

In fact, the Government has implemented more than half of the recommendations of the Report, including the revisions to the PAO Code to formulate regulations on the handling of potential conflicts of interests by PAOs, and their acceptance of advantages and entertainment; and the formulation of guidelines on the relevant issues. The Government attaches great importance to the recommendations of IRC and will continue to follow up on the outstanding recommendations proactively.

Non-local Students Studied in Local Universities

12. DR KENNETH CHAN (in Chinese): President, in recent years, tertiary institutions funded by the University Grants Committee (UGC) (funded institutions) have admitted quite a number of non-local students to their sub-degree, undergraduate and postgraduate programmes (programmes offered by funded institutions). Regarding the pursuit of studies by those students in Hong Kong, will the Government inform this Council:

(1) whether it knows, in each of the past three academic years, the number of non-local students studying in programmes offered by funded institutions, with a breakdown by institution, programme category and the place of origin of the students;

(2) whether it knows, in each of the past three academic years, the number of cases in which non-local students were found to have used false or forged academic qualifications to apply for admission to
programmes offered by funded institutions, and the follow-up actions taken by the Government and the institutions concerned, and set out the information by institution;

(3) whether it knows, in each of the past three academic years, the number of cases in which non-local students studying in programmes offered by funded institutions sought assistance from the institutions concerned as they were unable to adjust to the campus life in Hong Kong, and the follow-up actions taken by the institutions concerned, and set out the information by institution and nature of the cases;

(4) whether it knows the measures currently taken by various institutions and the Government to help non-local students adjust to the learning environment in Hong Kong, and whether they have plans to review such measures in the near future; if they do, of the details; if not, the reasons for that;

(5) whether it has plans to adjust the policy on funded institutions' admission of non-local students to their sub-degree and undergraduate programmes; if it does, of the details; and

(6) whether it has plans to lower the upper limit of the proportion of non-local students being admitted to programmes offered by funded institutions, so as to avoid the situation of individual programmes admitting an excessively high proportion of non-local students, thereby reducing the prospects of local students being admitted to such programmes; if it does, of the details; if not, the reasons for that?

SECRETARY FOR EDUCATION (in Chinese): President, response to the questions is set out below.

(1) The number of non-local student enrolment of UGC-funded programmes by institution, level of study and place of origin from the 2011-2012 to 2013-2014 academic year is tabulated at Annex.

(2) The number of non-local students found to have furnished false academic qualifications or falsified academic records in support of
their applications for admission to UGC-funded programmes from the 2011-2012 to 2013-2014 academic year is tabulated below.

<table>
<thead>
<tr>
<th>Academic Year</th>
<th>Institution</th>
<th>Level of Study</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
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<td>CityU</td>
<td>Research Postgraduate</td>
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</tr>
<tr>
<td>2012-2013</td>
<td>PolyU</td>
<td>Undergraduate</td>
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<td>2013-2014</td>
<td>CityUCUHK</td>
<td>Research Postgraduate</td>
<td>3</td>
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</tbody>
</table>

All the above cases involve students who were found to have furnished false academic qualifications or falsified academic records during the processing of the applications concerned. The applications were disqualified and the admission offers were withdrawn in cases where admission offers had been made.

(3) The number of cases of non-local students seeking assistance and support services from institutions from the 2011-2012 to 2013-2014 academic year is tabulated below.

<table>
<thead>
<tr>
<th>Academic Year</th>
<th>CityU</th>
<th>HKBU</th>
<th>LU</th>
<th>CUHK</th>
<th>HKIEd</th>
<th>PolyU</th>
<th>HKUST</th>
<th>HKU</th>
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<td>2</td>
<td>200</td>
<td>50</td>
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Non-local students seek assistance and support services from institutions in different areas, including academic, career development, social, financial and personal issues. Each institution has its own established counselling and support service mechanism. In general, the institutions would render assistance and support service having regard to the nature and severity of the case. In the cases set out above, the students were provided with appropriate support services, including personal and psychological counselling, individual mentoring, academic advice and assistance, career development advice, financial assistance, and so on, by staff from the relevant units of institutions such as academic, student affairs, finance and accommodation/hall management units.
The Government and institutions are committed to assisting non-local students in adapting to the local environment and study life by various measures and support services.

At the institutional level, various measures, activities and support services have been adopted and provided to help non-local students adapt and integrate into a new living and learning environment. A range of diversified services and activities are offered to non-local students throughout the year, including orientation and familiarization programmes, language enhancement programmes, needs surveys, cultural exchange and social events and gatherings, adjustment support, advice and counselling services, community services, mentoring and peer support schemes, academic and career advice, and so on.

At the Government and UGC level, recognizing the importance of internationalization, the UGC implemented a Matching Grant Scheme for Internationalization from 2005-2006 to the end of 2014 to provide a total of $90 million to the UGC-funded institutions on a $1-to-$1 matching basis. The funds have been used to support various internationalization initiatives, including initiatives to help non-local students integrate with local ones. Thereafter, the UGC completed strategic dialogues with institutions in 2012 with a view to developing a mutual understanding with institutions and common objectives in the area of internationalization and engagement with the Mainland. Drawing on the discussions at the strategic dialogues, the UGC, the Education Bureau and the institutions have together put forth a funding of $4 million in the 2013-2014 and 2014-2015 academic years to facilitate integration of local and non-local students through student-initiated projects that encourage multi-cultural integration. It is believed that this bottom-up approach initiated by students within campus would be effective in achieving multi-cultural integration and helping non-local students adapt to both local and campus life.

The above measures and services are considered generally effective in supporting and facilitating integration of non-local students. Nevertheless, institutions would continue to monitor the
effectiveness of their support services for non-local students and, for the new initiatives put forward, collect feedback from students and staff who help in the endeavours for regular evaluation, review, planning and enhancement of services.

(5) and (6)

Under the existing policy of the Government, UGC-funded institutions may admit non-local students to their sub-degree and degree programmes up to a level not exceeding 20% of the approved UGC-funded student number of these programmes. As non-local students are primarily admitted through over-enrolment beyond the approved student number targets and institutions will process applications for admission from non-local students independently of those applications from local students, it would not constitute direct competition with local students. Admission of non-local students will help diversify the local higher education sector and enhance the competitiveness of our students and Hong Kong. A multi-cultural learning environment, with students coming from other countries/regions, will help enhance cultural exchanges, broaden the horizons of the local students and help ensure that our graduates are globally competitive and able to study and work in a multi-cultural environment. A 20% quota of the approved student number for admission of non-local students is comparable with international benchmarks of countries or regions with good-quality universities. Currently we do not have plan to adjust the concerned ratio.

Annex

Non-local Student Enrolment (Headcount) of UGC-funded Programmes by Institution, Level of Study and Place of Origin, 2011-2012 to 2013-2014

<table>
<thead>
<tr>
<th>Academic Year</th>
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<th>Place of Origin</th>
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### Notes:

1. To tie in with the implementation of the new academic structure, UGC-funded institutions have admitted two cohorts of undergraduate students under the old and new academic structures in the 2012-2013 academic year.

2. Research postgraduate figures include only students funded by UGC within normal study periods.

3. The place of origin of non-local students is determined having regard to their nationality.

4. Figures may not add up to the corresponding totals owing to rounding.

5. "-" denotes "nil".

6. Abbreviations for Institutions are as follows:

   - CityU: City University of Hong Kong
   - HKBU: Hong Kong Baptist University
   - LU: Lingnan University
   - CUHK: The Chinese University of Hong Kong
   - HKIEd: The Hong Kong Institute of Education
   - PolyU: The Hong Kong Polytechnic University
   - HKUST: The Hong Kong University of Science and Technology
   - HKU: The University of Hong Kong

7. Abbreviations for level of study are as follows:

   - SD: Sub-degree
   - Ug: Undergraduate
   - TPg: Taught postgraduate
   - RPg: Research postgraduate

### Ancillary Transport Facilities for Double Haven (Yan Chau Tong) Geo-Area of Hong Kong Global Geopark of China

13. **DR ELIZABETH QUAT** (in Chinese): *President, the Double Haven (Yan Chau Tong) Geo-Area (the Geo-Area) of the Hong Kong Global Geopark of*
China (Geopark) covers places such as Sha Tau Kok and Lai Chi Wo. Some residents living in the vicinity of the Geo-Area have relayed to me that very few travellers visit the Geo-Area due to inadequate ancillary transport facilities for the Geo-Area. In this connection, will the Government inform this Council:

(1) given that at present, travellers visit Lai Chi Wo mainly by ferry from the Sha Tau Kok pier (STK pier) but the travellers must produce a Closed Area Permit (CAP) issued by the Police for entry to the STK pier, which is located inside the Frontier Closed Area (FCA), whether the Government will consider relaxing the relevant restrictions, such as issuing CAPs to group visitors, so as to facilitate travellers visiting Lai Chi Wo via the STK pier, thereby providing impetus to the economic development in Sha Tau Kok; if it will, of the details; if not, the reasons for that;

(2) whether it will consider removing the area around the STK pier from the coverage of FCA, so as to facilitate travellers visiting the Geo-Area; if it will, of the details; if not, the reasons for that; and

(3) whether it will consider incorporating the following work into the policy areas for which the Tourism Commission (TC) is responsible: the Geo-Area's tourism development, enhancement of its ancillary facilities (such as pier facilities) and promotion of the Geo-Area to overseas tourists; if it will, of the details; if not, the reasons for that?

SECRETARY FOR SECURITY (in Chinese): President, having consulted the relevant departments, the Administration's reply to the three parts of the question is as follows.

(1) and (2)

The FCA restriction helps combat illegal immigration and other cross-boundary criminal activities. According to the laws of Hong Kong, any person who enters a FCA must hold a CAP issued by the Police. The Police will only issue CAPs to those who live in the FCA or have a genuine need to enter the area. According to the existing policy, tourists are not eligible for CAPs.
The Yan Chau Tong Marine Park is not part of the FCA. Members of the public may hire boats to visit the park. They may also visit Lai Chi Wo and the tourist spots nearby via the hiking trails at Wu Kau Tang.

The STK pier is located within the Sha Tau Kok Town which is part of the FCA. The Administration is reducing the coverage of the FCA by phase. The areas that have already been excised from the FCA include parts of Sha Tau Kok. The Sha Tau Kok Town, however, is kept within the FCA because of its physical setting. There is no physical barrier along the Hong Kong — Mainland boundary to separate the Sha Tau Kok Town from the Mainland. Moreover, Chung Ying Street in the Sha Tau Kok Town is the only place in Hong Kong where there is no boundary control facility but movement of people and goods across the boundary is allowed. Therefore, from the border security perspective, there is a need to maintain the FCA restriction for the Sha Tau Kok Town.

As regards proposals for partial relaxation of the FCA restriction for the Sha Tau Kok Town to facilitate tourism, such as allowing tourist groups to use the STK pier under certain conditions, careful consideration is necessary, including whether the proposals and their implementation arrangements comply with the laws and meet the border security requirements.

(3) The TC, established under the Commerce and Economic Development Bureau, is tasked with formulating tourism policy, handling and co-ordinating policy matters on tourism with government departments and other organizations, enhancing Hong Kong's tourism facilities, and supporting the development of new attractions, and so on.

The establishment of the Geopark aims at pursuing the objectives of conservation, education and sustainable development in both the geo-areas and the neighbourhood areas. Therefore, the Agriculture, Fisheries and Conservation Department is responsible for the management and operation of the Geopark, which is under the policy area of the Environment Bureau.
The Geopark is one of the Government's major focuses of promotion for green tourism. In promoting the Geopark, we also take into account the importance of conservation. The TC is partnering with relevant government departments (including the Agriculture, Fisheries and Conservation Department), the travel trade, other event organizers and the Hong Kong Tourism Board (HKTB) to promote the Geopark and other green attractions of Hong Kong, including the Double Haven Geo Area, to visitors and the overseas travel trade through the HKTB's "Great Outdoors Hong Kong!" marketing platform. The HKTB also promotes relevant guided tours organized by the local travel trade, including those featuring the Yan Chau Tong Marine Park.

Proposed Co-operation Between Hong Kong and the Mainland in Respect of Internet Financing and Internet Security Systems

14. **MR CHARLES PETER MOK** (in Chinese): President, the Commission on Strategy Development (CSD), for which the Central Policy Unit provides research and meeting services support, held a meeting on 31 July this year to discuss Hong Kong's positioning in China's 13th Five-Year Plan for the National Economic and Social Development. In this connection, will the Government inform this Council:

(1) as some CSD members suggested at the meeting that Hong Kong should explore her participation in the Internet financing business on the Mainland, whether the authorities have drawn up specific plans in this regard; if they have, of the details, including Hong Kong's positioning as well as how it ensures that the credibility of Hong Kong's current or future financial regulatory regimes in the international arena will be maintained;

(2) as some CSD members suggested at the meeting that studies be conducted on how to reduce the discrepancies between Hong Kong and the Mainland in respect of Internet security systems relating to financial services, whether the authorities have conducted studies on such discrepancies, including the differences between the two places in the requirements and standards for Internet security systems; if they have conducted such studies, of the details; whether they have considered adopting in Hong Kong the standards for Internet
security systems on the Mainland in order to reduce the discrepancies between the two places; if they have considered, of the details; if not, what specific measures the authorities have in place to strengthen Hong Kong's Internet security set up and promote the adoption of Hong Kong's standards for Internet security systems on the Mainland, so as to enhance the security levels and international credibility of the Internet security systems in both places; whether the authorities have plans to enhance the co-operation with the Mainland on Internet security systems in areas other than financial services; if they have such plans, of the details; and

(3) whether the authorities have assessed the impacts on Hong Kong's freedom of information that may be brought by the co-operation between Hong Kong and the Mainland in respect of Internet financing and Internet security systems, and what measures the authorities will take to ensure that the co-operation between Hong Kong and the Mainland will not cause Hong Kong's freedom of information to be affected by the implementation of Internet censorship on the Mainland; if they have assessed, of the details?

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

(1) We have been maintaining close communication with relevant Mainland authorities in promoting financial co-operation with the Mainland, seeking to facilitate further participation of the Hong Kong's financial services sector in the development of the Mainland's financial market, and at the same time to serve the Mainland's real economy better, thus resulting in mutual benefits. The Mainland's Internet financing business is an emerging industry. We will study it carefully and explore potential co-operation opportunities with the Mainland.

A robust and reliable payment platform is conducive to the development of financial services in Hong Kong. In this regard, the Financial Services and the Treasury Bureau and the Hong Kong Monetary Authority (HKMA) are preparing a Bill to establish a legislative framework for stored value facilities (SVF) and retail payment systems (RPS). The proposed regulatory regime seeks to
ensure the security and soundness of SVF and RPS in Hong Kong, and to ensure adequate protection of the float in SVF. This helps contribute to the stability and effective working of the financial and payment systems in Hong Kong, and maintain our status as an international financial centre.

(2) and (3)

Generally speaking, the security requirements and standards of Internet security systems are formulated in accordance with specific industry regulations and needs of the places which provide Internet services. The Government of the Hong Kong Special Administrative Region is committed to promoting the adoption of internationally recognized information security standards and related industry best practices by local enterprises and Internet service providers in the development of their network systems and electronic services so as to ensure the security of their networks, information systems and data assets. The Government also encourages enterprises to attain third-party certification of their security capabilities to enable continuous improvements in the security and credibility of the related systems.

As regards information and network security, the Office of the Government Chief Information Officer (OGCIO) maintains liaison with international, regional and Mainland security experts in various technical areas. For example, in the development of information security and risk management standards, guidelines and service certification for cloud computing, the OGCIO maintains close co-operation with the Economic and Information Commission of Guangdong Province to develop and promote the use of related security standards and best practices by the cloud industry in both places in order to enhance the security and credibility of cloud computing services in the region.

Regarding security matters of Internet financial services, regulators attach considerable importance to the integrity of e-finance, and maintain ongoing monitoring of computer systems and Internet security of financial institutions. Supervisory guidelines or codes of practice on technology risk management and security measures regarding e-finance have been published in the light of market
developments. Financial institutions are required to take adequate precautions to safeguard their systems and data against Internet financial frauds and hacking risks, and put in place effective contingency plans.

During the above process, regulators also liaise with the Police, the OGCIO, the financial industry, and overseas regulatory bodies (including regulators in the Mainland and other regions) from time to time to share information on such risks and regulatory experiences. With the information gathered, the supervisory focus of regulators is to formulate or update relevant supervisory guidelines that are appropriate for the local situation and needs of Hong Kong, after taking into account the situation of the banking industry and customers, the latest developments of information technology risk management and the trend of technology crime. Furthermore, the HKMA reviews from time to time the concrete measures that should be taken to strengthen the electronic banking security in Hong Kong. Recently, the HKMA is engaging close discussions with the Hong Kong Association of Banks and has started work to update its supervisory guideline on electronic banking.

In conclusion, the Administration and regulators will continue to improve and enhance the existing regulatory regime and measures, and monitor international trends and developments in information technology and security closely. We will strive to protect the interest of clients and maintain financial stability, by ensuring the safety and sustainable development of our financial infrastructure and systems. This will in turn strengthen the status of Hong Kong as an international financial and trade centre.

Bus-Bus Interchanges on Tuen Mun Road

15. MR TAM YIU-CHUNG (in Chinese): President, the Bus-Bus Interchange (BBI) on Tuen Mun Road (TMR) (Kowloon-bound) in Siu Lam, Tuen Mun, and the BBI on TMR (Tuen Mun-bound) in Tai Lam Kok, Tuen Mun, were commissioned in December 2012 and July last year respectively. Regarding the utilization of the BBIs, will the Government inform this Council:
of the average number of bus trips and bus routes using the aforesaid BBIs during the following time slots on a working day at present:

<table>
<thead>
<tr>
<th>Time Slot</th>
<th>Kowloon-bound (Number of bus trips)</th>
<th>Tuen Mun-bound (Number of bus trips)</th>
<th>Number of routes</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 am to 8 am</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 am to 9 am</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 pm to 8 pm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 pm to 9 pm</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 pm to 10 pm</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

whether it has set a level of utilization of the BBIs which is considered to be saturated; if it has, of the details;

whether it has assessed if other vehicles passing by the BBIs will be endangered when the number of buses utilizing the BBIs has exceeded the latter's capacity; if such an assessment has been made, of the outcome; and

whether it has planned to expand the BBIs to accommodate more buses?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Kowloon-bound BBI and Tuen Mun-bound BBI on TMR were commissioned in December 2012 and July 2013 respectively. At present, some 10 000 and 14 000 daily passenger-trips are made at the two BBIs for interchange with other bus routes heading to other districts. The BBIs have been well-received by the residents.

My reply to the various parts of Mr TAM Yiu-chung's question is as follows:

The average number of bus trips made and number of bus routes using the TMR BBIs during the morning and afternoon peak hours are as follows:
(2) The number of buses and passengers that can be accommodated at a BBI is subject to geographical constraint and its size. The Kowloon-bound BBI and Tuen Mun-bound BBI on TMR can currently allow at least 13 and 12 buses respectively for boarding and alighting at the same time.

The stopping frequency and duration that a bus spends at a BBI are mainly affected by the number of bus routes stopping at the BBI, frequencies of such routes, as well as number of boarding/alighting passengers. As the patronage during peak and off-peak periods varies considerably, we cannot rely only on the number of stopping routes or bus trips to determine whether a BBI has reached its full capacity. Rather, indicators such as whether buses arriving at a BBI are blocked from stopping by other buses during peak hours and the queuing situation of passengers at the waiting area are reliable indicators to show whether a BBI is approaching its full capacity.

From the observation of the Transport Department (TD), buses arriving at and departing from the TMR BBIs are not blocked by other buses. These buses can usually complete boarding/alighting in three to five minutes without causing congestion or delay. During peak hours, about 40% of the TMR BBIs area is utilized by the waiting passengers. There remains sufficient pedestrian access for passengers in the BBIs. The operation of the BBIs is generally satisfactory.

(3) The TMR BBIs are designed to provide motorists with sufficient sightline in accordance with road safety standards. Bus-only lanes are also designated. These measures help ensure that other vehicles can pass by the TMR BBIs safely even when there is temporary queuing by buses during peak hours.
(4) The TMR BBIs should have the capacity to accommodate more bus routes and passengers having regard to the present usage. The TD therefore does not have any expansion plan for the BBIs at the moment. That said, the TD will closely monitor public transport demand arising from the new developments in North West New Territories and actual usage of the TMR BBIs. The TD will examine the feasibility of expanding the BBIs with the departments concerned in good time based on demand.

Management of Public Markets

16. DR ELIZABETH QUAT (in Chinese): President, the Audit Commission conducted reviews on the management of public markets under the Food and Environmental Hygiene Department (FEHD) in 2003 and 2008, revealing that there were quite a number of long-standing vacant or non-trading stalls in the markets and making recommendations for improvement to the FEHD. However, it has been recently reported that the aforesaid situation has not improved at all. In this connection, will the Government inform this Council:

(1) of the current vacancy rate in each public market;

(2) given that public market stall tenants who use their stalls for storage purposes and not for trading are in breach of the tenancy agreements, of the measures to be taken by the FEHD to curb this situation;

(3) whether the FEHD has any new measures to increase the customer flow of those markets with a high vacancy rate in order to improve their business environment, and whether the Government has any plan to redevelop these markets for other uses in order to make optimal use of public resources; if it does, of the details; if not, the reasons for that;

(4) as it is suggested that the Government should, by making reference to the operation mode of Shang Yin Shui Chan fish market in Taiwan, redevelop some public markets in the urban areas and turn them into new attractions, thereby revitalizing these markets, whether the Government will study the feasibility of the suggestion; if it will, of the details; if not, the reasons for that; and
(5) as there are views that the Government should contract out the management of public markets to the private sector in order to enhance the management efficiency, whether the Government will study if such a practice is feasible; if it will, of the details; if not, the reasons for that?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, at present, there are 101 public markets under the management of the FEHD, including 76 public markets that sell mainly fresh provisions and other dry and wet goods, as well as 25 standalone cooked food markets.

My reply to the various parts of the question is as follows:

(1) As at 30 September 2014, the 101 public markets mentioned above provide a total of 14 440 stalls, with a vacancy rate of about 9%. For the vacancy rate of each market, please refer to the Annex.

(2) In the past, many public markets were used to accommodate on-street hawkers. As many of these stalls are small in size, stall operators need extra space for storage. To cater for their actual needs, long-standing vacant stalls and stalls in less attractive locations are designated for storage purposes for lease by stall operators. However, such an arrangement is only applicable to operators running their business in the same market. On the other hand, for stall operators who fail to operate as required under the terms of tenancy or wilfully use their stalls for storage without permission, the FEHD will take appropriate actions against them for breaches of tenancy agreements. The FEHD staff inspect markets on a daily basis to ensure compliance with tenancy terms. From 2003 to October 2014, the FEHD issued a total of 252 warning letters and terminated the tenancy agreements of 16 stalls due to breaches of tenancy terms in operation. Moreover, the FEHD will conduct an in-depth review of the operation of public markets and consider shutting down markets with a high vacancy rate.

(3) The occupancy of public markets is influenced by many factors, such as competition from retail outlets selling similar commodities in the
vicinity and demographic changes in the district. The FEHD has been seeking to improve the environment and ancillary facilities of public markets, in order to attract patronage, enhance competitiveness and improve the operating conditions of stalls. In order to better utilize stalls that have been left vacant for a long time because of their poor locations, the FEHD has, since February 2009, put in place lower upset auction prices at 80% and 60% of the open market rental for stalls which have been left vacant for six months and eight months respectively. This is aimed at enhancing the stalls' attractiveness. As at October 2014, a total of 2,539 stalls were let out through this arrangement. In addition, starting from July 2009, the FEHD has gradually introduced service trades, light refreshment and bakery stalls into public markets for service diversification. Under this scheme, a total of 122 stalls were let out for these services as at October 2014. In October 2010, the FEHD also started to let out small stalls through short-term tenancy on a trial basis to allow more flexibility for prospective tenants so as to increase the occupancy rate of public markets. As at October 2014, a total of 38 stalls were let out through short-term tenancy for three months, with 19 tenancies renewed for another three months, and 11 subsequently renewed for 30 months.

Apart from the above measures, the FEHD also conducts monthly statistical survey and data analysis of the number of stalls let out, vacant and frozen in its public markets. It holds meetings of Market Management Consultation Committees on a regular basis to learn more about the actual operation of various markets, and explores with the relevant District Councils and other stakeholders the feasibility of implementing improvement measures such as consolidating floors or stalls and introducing light refreshment and service trade stalls. If no other alternative is considered feasible, we will actively explore the option of closing down or consolidating the operation of the markets concerned. Recently, the Mong Kok Market, Kwong Choi Market and Bridges Street Market were closed down, while stalls in the Peng Chau Market and Tang Lung Chau Market were re-arranged to vacate a floor each to serve other purposes.
On improving the operating environment of public markets, we strive to improve and upgrade their facilities as appropriate to give full play to their functions to effectively serve the needs of the community. To enhance the facilities and competitiveness of public markets, the FEHD completed in the past three years 10 enhancement projects involving a total outlay of about $31 million. Such enhancement works include upgrading of fire services installation, replacement of wall/floor tiles, upgrading of drainage, ventilation system and general lighting, and refurbishment of ceiling and toilets. The FEHD also strives to keep the markets clean and conducts promotional activities regularly for public markets (including festive decorations and celebration activities, talks on food therapy and cooking demonstrations, exhibitions and open competitions) with a view to providing customers with a pleasant shopping environment.

(4) To improve the operating environment of public markets to facilitate fulfillment of their functions in a manner befitting their positioning, the Government has engaged a consultant to assist in developing improvement proposals. The consultant commenced the study in December 2013, and will survey certain representative markets and put forward concrete improvement proposals based on the merits of the markets' situation and the opportunities they have. The consultant will also make suggestions for the routine improvement works of public markets and for the preservation of market stalls that are selling traditional commodities or involving traditional specialty.

(5) We note the views on improving the management mode of markets. In fact the Government has also requested the consultant mentioned in part (4) of the reply to make in the study a comprehensive analysis of various factors affecting the operating environment of public markets, including the mode of market operation, current management constraints and manpower arrangements. In developing improvement proposals, we shall give due consideration to the opinions on the operation and management mode of public markets from all parties and the consultant's views.
### Occupancy Rate of Public Markets
(as at 30 September 2014)

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Public Market</th>
<th>Commencement Year</th>
<th>Number of Stalls</th>
<th>Number of Vacant Stalls</th>
<th>Number of Frozen Stalls</th>
<th>Total Number of Stalls</th>
<th>Occupancy Rate</th>
<th>Vacancy Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Aberdeen Market</td>
<td>1983</td>
<td>326</td>
<td>9</td>
<td>0</td>
<td>335</td>
<td>97%</td>
<td>3%</td>
</tr>
<tr>
<td>2</td>
<td>Aldrich Bay Market</td>
<td>2008</td>
<td>60</td>
<td>11</td>
<td>0</td>
<td>71</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td>3</td>
<td>Ap Lei Chau Market</td>
<td>1998</td>
<td>61</td>
<td>2</td>
<td>0</td>
<td>63</td>
<td>97%</td>
<td>3%</td>
</tr>
<tr>
<td>4</td>
<td>Bowrington Road Market</td>
<td>1979</td>
<td>294</td>
<td>2</td>
<td>0</td>
<td>296</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>5</td>
<td>Causeway Bay Market</td>
<td>1995</td>
<td>50</td>
<td>1</td>
<td>11</td>
<td>47</td>
<td>74%</td>
<td>26%</td>
</tr>
<tr>
<td>6</td>
<td>Centre Street Market</td>
<td>1976</td>
<td>35</td>
<td>1</td>
<td>11</td>
<td>47</td>
<td>74%</td>
<td>26%</td>
</tr>
<tr>
<td>7</td>
<td>Chai Wan Kok Cooked Food Market</td>
<td>1979</td>
<td>32</td>
<td>0</td>
<td>0</td>
<td>32</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>8</td>
<td>Chai Wan Market</td>
<td>2001</td>
<td>166</td>
<td>7</td>
<td>0</td>
<td>173</td>
<td>96%</td>
<td>4%</td>
</tr>
<tr>
<td>9</td>
<td>Cheung Chau Cooked Food Market</td>
<td>1991</td>
<td>17</td>
<td>0</td>
<td>0</td>
<td>17</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>10</td>
<td>Cheung Chau Market</td>
<td>1991</td>
<td>235</td>
<td>2</td>
<td>0</td>
<td>237</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>11</td>
<td>Cheung Sha Wan Cooked Food Market</td>
<td>1982</td>
<td>12</td>
<td>0</td>
<td>16</td>
<td>28</td>
<td>43%</td>
<td>57%</td>
</tr>
<tr>
<td>12</td>
<td>Cheung Tat Road Cooked Food Market</td>
<td>1987</td>
<td>12</td>
<td>0</td>
<td>0</td>
<td>12</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>13</td>
<td>Choi Hung Road Market</td>
<td>1988</td>
<td>91</td>
<td>0</td>
<td>25</td>
<td>116</td>
<td>78%</td>
<td>22%</td>
</tr>
<tr>
<td>14</td>
<td>Electric Road Market</td>
<td>1993</td>
<td>97</td>
<td>2</td>
<td>0</td>
<td>99</td>
<td>98%</td>
<td>2%</td>
</tr>
<tr>
<td>15</td>
<td>Fa Yuen Street Market</td>
<td>1988</td>
<td>178</td>
<td>2</td>
<td>0</td>
<td>180</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>16</td>
<td>Fo Tan Cooked Food Market (West)</td>
<td>1982</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td>15</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>17</td>
<td>Fo Tan Cooked Food Market (East)</td>
<td>1982</td>
<td>24</td>
<td>0</td>
<td>0</td>
<td>24</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>18</td>
<td>Haiphong Road Temporary Market</td>
<td>1978</td>
<td>58 (2)</td>
<td>0</td>
<td>30</td>
<td>88</td>
<td>66%</td>
<td>34%</td>
</tr>
<tr>
<td>19</td>
<td>Heung Che Street Market</td>
<td>1972</td>
<td>222</td>
<td>1</td>
<td>0</td>
<td>223</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>20</td>
<td>Hung Cheung Cooked Food Market</td>
<td>1979</td>
<td>11</td>
<td>0</td>
<td>0</td>
<td>11</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>21</td>
<td>Hung Hom Market</td>
<td>1996</td>
<td>223</td>
<td>1</td>
<td>0</td>
<td>224</td>
<td>99%</td>
<td>1%</td>
</tr>
<tr>
<td>22</td>
<td>Hung Shui Kiu Temporary Market</td>
<td>1987</td>
<td>83</td>
<td>0</td>
<td>132</td>
<td>215</td>
<td>39%</td>
<td>61%</td>
</tr>
<tr>
<td>23</td>
<td>Java Road Market</td>
<td>1993</td>
<td>187</td>
<td>7</td>
<td>0</td>
<td>194</td>
<td>96%</td>
<td>4%</td>
</tr>
<tr>
<td>No.</td>
<td>Name of Public Market</td>
<td>Commencement Year</td>
<td>Number of Stalls Let Out</td>
<td>Number of Vacant Stalls</td>
<td>Number of Frozen Stalls</td>
<td>Total Number of Stalls</td>
<td>Occupancy Rate</td>
<td>Vacancy Rate</td>
</tr>
<tr>
<td>-----</td>
<td>---------------------------------------------</td>
<td>-------------------</td>
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<td>------------------------</td>
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<td>----------------</td>
<td>-------------</td>
</tr>
<tr>
<td>24</td>
<td>Ka Ting Cooked Food Market</td>
<td>1983</td>
<td>13</td>
<td>3</td>
<td>0</td>
<td>16</td>
<td>81%</td>
<td>19%</td>
</tr>
<tr>
<td>25</td>
<td>Kam Tin Market</td>
<td>1964</td>
<td>41</td>
<td>0</td>
<td>0</td>
<td>41</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>26</td>
<td>Kik Yeung Road Cooked Food Market</td>
<td>1981</td>
<td>14</td>
<td>0</td>
<td>0</td>
<td>14</td>
<td>100%</td>
<td>0%</td>
</tr>
<tr>
<td>27</td>
<td>Kin Wing Cooked Food Market</td>
<td>1979</td>
<td>17</td>
<td>0</td>
<td>3</td>
<td>20</td>
<td>85%</td>
<td>15%</td>
</tr>
<tr>
<td>28</td>
<td>Kin Yip Street Cooked Food Market</td>
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Notes:

# As at 30 September 2014, a total of 976 market stalls were frozen for reasons such as forthcoming improvement works. They are counted as vacant stalls in the calculation of vacancy rate/occupancy rate. Separately, there are 213 ex-poultry stalls which are excluded from the table above.

( ) Figures in brackets denote the number of stalls occupied for storage purpose.
17. **MR KENNETH LEUNG** (in Chinese): *President, on the 6th of this month, the Government issued a press release indicating that the expenditures of the Hong Kong-Zhuhai-Macao Bridge Hong Kong Boundary Crossing Facilities Project (the Project) might exceed the approved project estimate by $5 billion. In this connection, will the Government inform this Council:

(1) of the approved and latest estimates of expenditure of various works items under the Project and, among the various works items, the respective increases in expenditure, and their percentages in the approved estimates, of those major expenditure items (for example, wages, construction materials and engineering equipment) which will likely involve overspending;

(2) whether there are any mechanism and method in place at present to mitigate the impact of adjustments in construction costs on the overall expenditures of the Project; if there are, of the details; and

(3) whether it has conducted a study on the overspending of the Project to reduce the overspending amounts by improving the tendering process, the procurement work, the division of labour, and the contract design, and so on?

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

(1) In the PWSCI(2014-15)7 paper issued by the Government on 14 October this year, it gives an overview of the potential capital works items (a total of 89 items) to be submitted to the Public Works Subcommittee in the 2014-2015 Legislative Council session. One of them is the Hong Kong-Zhuhai-Macao Bridge (HZMB) Hong Kong Boundary Crossing Facilities (HKBCF) project. We stated in the said paper that as the tender prices/estimated tender prices for the works contracts awarded/to be awarded are higher than the estimate in 2011, together with the increase in provision for price adjustment, we need to seek the approval of the Finance Committee for
increasing the approved project estimate to meet the latest forecast of construction expenditure. Subsequently, the Transport and Housing Bureau stated in a press release issued on 6 November that as regards the cost for the HKBCF, the approved project estimate in November 2011 was $30.4339 billion. But according to the current preliminary estimate, the approved project estimate has to be increased by about $5 billion, mainly because the tender prices/estimated tender prices for the works contracts awarded/to be awarded are higher than the estimate when the Government sought approval from the Legislative Council in 2011 due to the surge in wage levels of construction workers, prices of construction materials and machinery, and so on, in recent years.

The Highways Department (HyD) is still conducting detailed assessment on the progress of the project and the latest increased cost. When the amount is finalized, the Government plans to give a detailed account to the Legislative Council Panel on Transport and then seek approval for the increase in the approved project estimate from the Legislative Council Public Works Subcommittee and the Finance Committee.

(2) Under the mechanism for public works in general, the Government will allow in the project cost estimate a provision for price adjustment to cater for fluctuations in labour and material costs during the contract period.

According to the existing mechanism, we will adopt the price adjustment factor(s) derived from the Government's latest set of assumption(s) on the trend rate of change in the price of public sector building and construction output for the contract period to convert the cost estimate of a capital works project from its constant price into the money-of-the-day (MOD) prices. The difference between the MOD prices and the constant price will be the provision for price adjustment to be included in the project cost estimate.

Since the provision for price adjustment is the best estimate based on the latest information available at the time of funding application, supplementary provision has to be sought if there is volatile cost fluctuation or significant deviation of the actual situation from the
estimated trend. Currently, the HZMB HKBCF project is facing this situation.

(3) Regarding the cost of the HZMB HKBCF, the HyD has implemented a series of measures to strictly control the project expenditures. When devising the design of the HKBCF, the HyD has optimized and adopted as far as possible cost-effective design and materials for stringent cost control. On tendering and procurement, the HyD has examined in detail the appropriate arrangement and packaging of works. As such, the superstructure works of the HKBCF have been divided into a number of civil, building as well as electrical and mechanical contracts and the scope of the contracts have been reduced as far as possible to increase the number of contractors capable of undertaking the works, thus resulting in more competitive tender prices.

Potential Housing Sites

18. **MR VINCENT FANG** (in Chinese): President, in a paper submitted to a panel of this Council in January this year, the Government indicated that it had identified 152 potential housing sites, and expected that such sites would be made available for housing development in the coming five years (that is, from 2014-2015 to 2018-2019) for the provision of about 215,000 residential units. Nevertheless, it is necessary for the authorities to make amendments to the respective statutory plans of these sites for change of land use and increase in development intensity before such sites can be used for housing development. In this connection, will the Government inform this Council:

(1) of the location/address, site area and original use of each of the 152 sites (set out in Table 1 according to the order of the District Council districts);

<table>
<thead>
<tr>
<th>District Council district</th>
<th>Location/address</th>
<th>Site area (sq m)</th>
<th>Original use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wan Chai</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(2) of a breakdown, by type of housing (that is, public housing, Home Ownership Scheme (HOS) and private housing) and by District Council district, of the 215 000 residential units to be provided on the 152 sites (set out in Table 2);

<table>
<thead>
<tr>
<th>District Council district</th>
<th>Number of residential units to be provided</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public housing</td>
</tr>
<tr>
<td>Central and Western</td>
<td></td>
</tr>
<tr>
<td>Wan Chai</td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

(3) of the progress in making amendments to the respective statutory plans of the 152 sites; among such sites, of the number of sites which will be available for housing development in accordance with the schedule originally forecast, and the number of units that can be provided on these sites; and

(4) whether the Government has identified, apart from the 152 sites, new potential housing sites; if it has, of the details; if not, the reasons for that?

SECRETARY FOR DEVELOPMENT (in Chinese): President, as announced in the 2014 Policy Address, the Government has adopted 470 000 units as the new public and private housing total supply target for the coming 10 years, with public housing (comprising both public rental housing and subsidized sale flats) accounting for 60% of the new production. To deliver this target is undeniably a huge challenge for both the Government and community.

To increase land supply to meet the housing and other development needs of Hong Kong, the Government has adopted a multi-pronged approach to increase land supply in the short, medium and long term. Taking forward such long-term land supply projects as new development areas and reclamation, however, needs comparatively long time. Hence, in the short term, we need to identify suitable sites in the developed area and its vicinity or other Government, Institution or Community sites with no pressing needs for conversion to residential use, and to
increase the development intensity of residential sites as far as allowable in planning terms, in order to optimize the use of the precious land resources and to address the call from the community.

Regarding the land use rezoning, as stated in the paper to the Panel on Development of this Council submitted by the Development Bureau in January 2014, some 150 potential housing sites were identified to have potential for housing development. The respective statutory plans would need to be amended so that the sites could be made available in the coming five years for providing over 210 000 flats, of which 70% are for public housing. To rezone these sites for residential use and increase development intensity, we have to take into account a whole host of practical planning factors, including traffic and infrastructure capacity, provision of community facilities and open space, relevant technical constraints, local characteristics and existing development intensity, potential impacts on the local environment, and visual and air ventilation impacts, and so on. Relevant departments are working on these in full gear with a view to making the land available for housing development as soon as possible.

My reply to the various parts of the questions is as follows:

(1) and (2)

In January 2014, the Development Bureau provided a paper to the Panel on Development of this Council, of which include the distribution of the some 150 potential housing sites by district (see Annex). Most of these sites are still subject to further technical assessments for ascertaining their feasibilities and firming up the planning parameters (including the site area, plot ratio, number of flats, and so on). That said, in order to enable the District Councils to better understand the plan on the overall rezoning works in the district, the Development Bureau, together with the Planning Department and other relevant departments, have commenced the consultation with individual District Councils, providing them with an overview picture of potential housing sites requiring plan amendments. The information includes the indicative location, existing and planned zoning, proposed housing types (that is, public or private), and so on. The land use rezoning exercise covers 16 of the 18 districts in Hong Kong. As at mid-November, the
Administration has presented the relevant information to 13 District Councils, and will submit the site information to the other District Councils at an appropriate time. After consulting all the relevant District Councils, we will summarize the overall situation and update the proposal and details of individual sites, as and when necessary, for proceeding with the relevant procedures.

(3) Since the announcement of 2014 Policy Address, out of the some 150 potential housing sites, statutory planning process have been initiated for 42 sites with an estimated flat yield of 37,800 units, of which 57% are public housing units, as at mid-November.

(4) At this stage, the Government is working full steam ahead to proceed with the rezoning works on the some 150 sites abovementioned. The Government will continue to closely monitor the land demand and supply and, if required, to identify and review other sites for housing development and other uses that meet the more pressing needs of our community. As always, the Government will consult the relevant stakeholders if and when suitable sites are identified.

Annex

Distribution of Some 150 Potential Housing Sites
(As at January 2014)

<table>
<thead>
<tr>
<th>District Council</th>
<th>Number of Sites</th>
<th>Estimated Number of Flats (Approximate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central and Western</td>
<td>2</td>
<td>2 700</td>
</tr>
<tr>
<td>Eastern</td>
<td>5</td>
<td>3 300</td>
</tr>
<tr>
<td>Southern</td>
<td>14</td>
<td>10 400</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>13</td>
<td>16 000</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>1</td>
<td>1 900</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>8</td>
<td>5 100</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>1</td>
<td>1 100</td>
</tr>
<tr>
<td>North</td>
<td>6</td>
<td>19 500</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>11</td>
<td>8 100</td>
</tr>
<tr>
<td>Tai Po</td>
<td>23</td>
<td>27 600</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>12</td>
<td>25 300</td>
</tr>
<tr>
<td>District Council</td>
<td>Number of Sites</td>
<td>Estimated Number of Flats (Approximate)</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>14</td>
<td>42 000</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>22</td>
<td>32 600</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>7</td>
<td>6 700</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>12</td>
<td>12 000</td>
</tr>
<tr>
<td>Islands</td>
<td>1</td>
<td>1 000</td>
</tr>
<tr>
<td>Total</td>
<td>152</td>
<td>About 215 000</td>
</tr>
</tbody>
</table>

Notes:

1. No sites were identified for rezoning for residential use in two districts (Yau Tsim Mong and Wan Chai) out of the 18 districts.

2. The Development Bureau, together with the Planning Department and other relevant departments, have been consulting the relevant District Councils on the overall planning of the sites concerned since April 2014. Individual sites may change subject to the latest planning situation. Relevant information will be updated after the consultation with District Councils but may be different from the figures above shown.

Impacts of Road Occupation Movement on Front-line Police Officers

19. **MR JEFFREY LAM** (in Chinese): President, it has been reported that since the occurrence of the road occupation movement (the occupation movement), most of the front-line police officers have been required to work overtime and have even been subjected to abuses hurled at them from time to time by the protesters and supporters of the occupation movement. As a result, they have become physically and mentally exhausted and even their relationship with family members has been affected. In this connection, will the Government inform this Council:

1. since the occurrence of the occupation movement, of (i) the shift arrangements for police officers, (ii) the number of staff members of the Police who worked overtime for performing duties relating to the occupation movement and the total numbers of hours and days of such overtime work, and (iii) among these staff members, the respective numbers of those who are regular police officers, auxiliary police officers and civilian staff members; and the respective percentages of such numbers in the total numbers of the staff members concerned;
(2) how the Police compensate the staff mentioned in part (1) for the overtime work performed by them;

(3) since the occurrence of the occupation movement, of the number of police officers who were injured when performing duties relating to the occupation movement, or suffered from emotional problems, fell ill or sought help from the Hong Kong Police Force because of excessive pressure; and

(4) whether it has assessed the impacts of the occupation movement on the manpower of the Police so far; if it has assessed, of the outcome?

SECRETARY FOR SECURITY (in Chinese): President, the Administration's reply to Mr Jeffrey LAM's question is as follows:

(1) and (4)

As a law-enforcement agency, the Police have the statutory duties to maintain law and order, as well as to safeguard life and property. Given the serious impact of Occupy Central (or the Occupy Movement) on public safety and public order, the Police have to deploy substantial manpower and resources for handling operations related to Occupy Central on the one hand, and maintaining day-to-day police work and public services in various districts in Hong Kong on the other.

In the face of large-scale unlawful assemblies triggered by Occupy Central at a number of locations for almost two months, front-line officers have remained steadfast to their duties around the clock. Police officers involved in the handling of Occupy Central are required to work for a long span of time. Their duties include preventing violent incidents within the occupied areas and their vicinity; conducting mediation and separating crowds with different views to minimize confrontations and physical scuffles; taking enforcement actions against acts in serious breach of law; following up on arrests and providing other support services. The Police have flexibly deployed their internal manpower and resources to meet the operational needs arising from Occupy Central and, at the same time, provided various districts with sufficient manpower (including
auxiliary police) to maintain day-to-day police work. The Police's deployment of manpower involves operational particulars, and is, therefore, not to be disclosed.

(2) The Hong Kong Police Force compensates police officers for their overtime work in accordance with the Civil Service Regulations. Overtime work shall normally be compensated by time-off in lieu. Disciplined services overtime allowance would be paid to an eligible police officer if granting of time-off cannot be arranged within one month after the officer has undertaken overtime work.

(3) Occupy Central has been going on for almost two months, coupled with large-scale unlawful assemblies in different districts at the same time. The complexity of Police's operations in response to Occupy Central is unprecedented. Police officers are facing immense challenge and are under enormous stress. The storming and confrontations at different locations of unlawful assemblies in recent days have resulted in the injury of 69 police officers.

The Police have been making proactive efforts to promote a caring culture and establish a well-designed information system on stress management training and education to strengthen police officers' resilience. Starting from the foundation training, new recruits are provided with courses on psychology in policing and management of stress. The Psychological Services Group (PSG) of the Police also provides officers with training on positive psychology for sustained positive work attitude and emotion. The PSG keeps abreast of the daily development of Occupy Central-related operations. In addition to delivering encouraging messages to colleagues through the Carelinks Cadre, which is formed by voluntary officers having completed psychological service training, and mobile phones and the Police intranet, the PSG also gives advice on self-care and emotional adjustment. To help officers in their emotional adjustment and to understand their morale, Police's senior management and Police Clinical Psychologists visit front-line officers at places including the Police Headquarters, the Central Government Offices and the Mong Kok Community Centre to communicate with them directly. As at 24 November 2014, requests for PSG's assistance were received from eight police officers on account of post-operational stress.
During the operations in the recent two months, Hong Kong Police have stood fast to their posts and performed their duties with perseverance and untiring devotion in a professional and impartial manner with a high level of restraint. The SAR Government fully supports the Police in their continued efforts to handle with professionalism such extremely difficult tasks.

### Measures to Combat Illegal Trading of Endangered Species

20. **MR CHAN HAK-KAN** (in Chinese): President, the Government has implemented the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through the enactment of the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) (the Ordinance). However, it is learnt that at present, Hong Kong remains a hotspot for illegal trading of endangered species, and such illegal trading is increasingly rampant on the Internet. In this connection, will the Government inform this Council:

1. of (i) the respective numbers of cases of illegal trading of species covered by Cap. 586 which were cracked down by the authorities, (ii) the types, quantities and market values of the species involved in those cases, and (iii) the numbers of persons concerned who were convicted, as well as the maximum and the minimum penalties imposed on them, in each year since 2011; whether there has been an upward trend in the numbers of these cases in recent years; if so, how the authorities will step up actions to curb such illegal activities;

2. whether the authorities have taken law-enforcement actions against the illegal trading of endangered species on the Internet; if they have, of the annual number of prosecutions instituted by the authorities and the penalties imposed on the convicted persons in the past five years; whether the authorities have stepped up publicity and education on the Internet with a view to enhancing public awareness of the protection of endangered species;

3. of the countries/regions of origin of the endangered species seized by the authorities; whether the authorities have put in place notification
mechanisms with the countries/regions concerned and joined hands with them in law enforcement;

(4) of the respective numbers of licences and certificates issued by the authorities for import and export of endangered species in each year since 2011, with a breakdown by type of species; whether there has been an upward trend in these numbers in recent years; if so, of the reasons for that; whether the authorities will consider issuing less of such instruments; and

(5) how the authorities handle the endangered species seized during law-enforcement actions?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(1) and (2)

The Government is committed to the implementation of the CITES through the enforcement of the Ordinance. There was a wide range of endangered species involved in the enforcement actions taken to combat illegal trade in endangered species. The more common species include live tortoise/turtle and snake, reptile leather product, pangolin carcass/scale, ivory and orchid, and so on. The statistics on enforcement against illegal trade in endangered species between 2011 and 2014 (up to June) is summarized below:

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014 (up to June)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases</td>
<td>348</td>
<td>356</td>
<td>596</td>
<td>462</td>
</tr>
<tr>
<td>Number of prosecutions</td>
<td>117</td>
<td>135</td>
<td>161</td>
<td>122</td>
</tr>
<tr>
<td>Number of convictions</td>
<td>113</td>
<td>125</td>
<td>158</td>
<td>130</td>
</tr>
<tr>
<td>Maximum penalty</td>
<td>Imprisonment for six months</td>
<td>Imprisonment for eight months</td>
<td>Imprisonment for four months</td>
<td>Imprisonment for 10 months</td>
</tr>
<tr>
<td>Minimum penalty</td>
<td>A fine of $100</td>
<td>A fine of $100</td>
<td>A fine of $100</td>
<td>A fine of $100</td>
</tr>
</tbody>
</table>
With the rigorous measures taken by law-enforcement agencies to combat illegal trade in endangered species, the number of seizure and prosecution cases has increased. To combat illegal activities, the Agriculture, Fisheries and Conservation Department (AFCD) will continue to take enforcement actions against illegal trade in endangered species, including import and export control, shipment and shop inspection, and investigation of reported and suspected cases. The Customs and Excise Department (C&ED) and the AFCD will continue to co-operate with overseas and Mainland agencies concerned to combat illegal activities of smuggling endangered species.

The AFCD has also been monitoring online trade of endangered species stipulated in the Ordinance and conducts follow-up investigations on possible contravention of law. In the past three years (2011, 2012 and 2013), the numbers of prosecutions taken involving illegal trade in endangered species on the Internet are 12, eight and nine cases respectively.

The Government keeps in view on and has been taking initiative to contact a number of popular websites/forums involved in online trade in pets, to advise and remind the webmasters of the regulation on trade in endangered species under the Ordinance. Relevant information has also been posted on the AFCD's website: <http://www.afcd.gov.hk/english/conservation/con_end/con_end_info/con_end_info_online/con_end_info_online.html>.

(3) As regards prosecution, the endangered species seized were mainly imported illegally from the Mainland China, Ivory Coast, Ethiopia, South Africa, and the United Arab Emirates. To strengthen co-operation with other countries/regions and organizations in combating smuggling of endangered species, the C&ED exchanges information of smuggling cases involving seizure of endangered species (such as quantities of the seized items, smuggling routing and means of transport, and so on) with their counterparts in other countries and regions regularly through the World Customs Organisation. The AFCD also reports such cases to the CITES Secretariat and CITES Management Authorities of the countries concerned to assist local law-enforcement agencies in initiating
investigation and stepping up combat actions against transnational smuggling of endangered species in a timely manner.

(4) The number of endangered species licences/certificates issued by the AFCD in the past five years is set out below. A wide range of endangered species are involved which cannot be set out in great detail. The more common species include reptile leather product, live tortoises/turtles, live lizards, live parrots, corals and American ginseng, and so on.

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licences/certificates issued</td>
<td>18,429</td>
<td>20,097</td>
<td>21,614</td>
<td>25,909</td>
<td>26,935</td>
</tr>
</tbody>
</table>

Between 2011 and 2013, the number of endangered species licences/certificates issued by the AFCD per annum has been increasing, mainly due to the increase in consignments of endangered species re-exported from Hong Kong. The AFCD issues endangered species licences/certificates under the Ordinance in pursuance of the CITES guidelines, ensuring that no detrimental effect will be caused to the survival of the species by regulating legitimate trade. As endangered species certified with licences and certificates are legally acquired, issuing less of such instruments would not help in combating illegal trade in endangered species. The Administration will continue to step up enforcement actions against illegal trade in endangered species.

(5) If the illegal specimen seized belongs to a species regulated by the Ordinance, it will be disposed of according to the CITES guidelines. For live animals, the AFCD will seek the advice of the CITES Management Authority of the country of export and send them back to the country of export or the country of origin if deemed appropriate. For animals of a native species, they will be released to a suitable habitat locally if they are diagnosed to be healthy and fit for release. For animals that are not suitable to be released back to the wild or returned to the country of export/origin, the AFCD will consider donating them to local or overseas institutes for the purposes of education or scientific research. If the physical condition of an animal is not satisfactory, or it is likely to die or be
subjected to unnecessary suffering if kept in captivity, it will be disposed of by euthanasia. Regarding the dead specimens of endangered species, the AFCD will consider donating to other CITES Management Authorities, government bodies, schools or non-government organizations for training, education or other purposes that are in line with the CITES or other means of disposal.

Quality of Water from Drinking Fountains in Public Parks

21. **MR WONG KWOK-HING** (in Chinese): President, it has been reported that 27 primary school students collectively suffered from acute gastroenteritis earlier and prior to that, they had drunk water from the drinking fountains in Tai Po Waterfront Park. This incident has aroused public concerns. Regarding the hygiene conditions of the drinking fountains in the public parks under the Leisure and Cultural Services Department (LCSD), will the Government inform this Council:

1. given that the authorities have, in response to the aforesaid incident, taken water samples from some drinking fountains in Tai Po Waterfront Park for laboratory tests, of the relevant test results (including whether the drinking fountains concerned have been contaminated);

2. of the respective numbers of reports received by LCSD in the past three years about members of the public seeking medical treatment and being hospitalized for feeling sick after drinking water from the drinking fountains in public parks; the number of complaints received by LCSD about the hygiene conditions of the drinking fountains, as well as the mechanism for following up such complaints;

3. whether LCSD regularly conducts tests on the quality of water from the drinking fountains in public parks; if it does not, of the reasons for that; if it does, the manpower so deployed and the amount of expenses so incurred in the past three years, and whether the test results indicated that the water quality met the standards for drinking water;
whether LCSD will enhance the sanitization and maintenance of the drinking fountains in public parks, so as to improve the quality of drinking water from the drinking fountains; if it will, of the details, including whether it will allocate additional manpower and financial resources to carry out such work; if not, the reasons for that; whether the sanitization and maintenance for the drinking fountains in public parks are currently carried out by outsourced contractors; if so, whether it will consider deploying civil servants to carry out such work instead, with a view to improving the hygiene conditions of the drinking fountains; and

(5) given that some experts on infectious diseases have pointed out that drinking fountains can easily become the agents for spreading pathogens, whether LCSD will replace all the drinking fountains in public parks, so as to enhance the protection for public health; if it will, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the LCSD attaches great importance to the hygiene of drinking fountains and has laid down guidelines on their maintenance and sanitization. My reply to the five parts of the question is as follows:

(1) Regarding the recent outbreak of acute gastroenteritis in a primary school, the Centre for Health Protection pointed out that as yet there was no evidence of any relation between the incident and the drinking fountains in the LCSD Tai Po Waterfront Park. Nevertheless, the LCSD has arranged for the relevant works department to inspect the drinking fountains in Tai Po Waterfront Park. The results indicated that the drinking fountains were functioning properly. The works department also took water samples for laboratory tests, which are still in progress. The staff of Tai Po Waterfront Park has been following the LCSD guidelines by sanitizing the drinking fountains on a daily basis, including disinfection with alcohol or with one part to 99 diluted household bleach. Regarding maintenance, the filter cartridges and ultra-violet lamps inside the fountains are replaced regularly to ensure that the water quality meets hygiene standards.
(2) In the past three years (from January 2012 to October 2014), the LCSD has not received any reports about members of the public seeking medical treatment and being hospitalized due to their feeling ill after drinking water from the drinking fountains in public parks. During this period, the LCSD received 10 complaints about the hygiene of the drinking fountains, mostly involving unpleasant taste or odour in the water, dirty drinking fountains or abnormal water quality. Upon receipt of a complaint of this kind, the LCSD will immediately inspect the drinking fountain concerned, require the relevant works department to perform a detailed inspection, and conduct tests on the water quality as necessary to ensure the water quality meets hygiene standards. The cleaning procedures and deployment of cleaning staff will also be reviewed to make sure the guidelines for the maintenance and regular sanitization of the drinking fountains are followed.

(3) The LCSD does not normally collect water samples from all the drinking fountains in public parks for water quality tests. Nevertheless, the relevant works department performs regular inspections of the drinking fountains and takes water samples for laboratory tests when necessary to ensure that the fountains are functioning properly. The LCSD did not receive any reports of abnormal water quality from the works department in the past three years.

(4) At present, the sanitization and maintenance of the drinking fountains in the LCSD leisure venues are undertaken by cleaning contractors and the relevant works department. The LCSD has reminded the staff concerned to carry out the maintenance and regular sanitization according to the guidelines, which includes cleaning the drinking fountains (including the mouthpiece and press-button area) on a daily basis, and before and after the opening hours of the venues, disinfecting the fountains thoroughly with alcohol or one part to 99 diluted household bleach before rinsing them through with water. To keep a drinking fountain clean, its filter cartridge and ultra-violet lamp have to be replaced every three and six months respectively. The LCSD venue managers will
closely monitor the contractors' sanitization work to ensure that the responsible staff maintain and clean the drinking fountains according to the guidelines.

(5) According to advice from the Department of Health, it is important to keep the mouthpiece and protective guard of drinking fountains free from contamination by oral or respiratory secretions. Therefore, in addition to requiring the staff concerned to carry out the maintenance and regular sanitization specified in the guidelines, the LCSD also displays in its venues the advice of the Department of Health to remind the public about the proper use of drinking fountains. The LCSD currently has no plan to replace all the drinking fountains in public parks as they are generally functioning properly and are maintained regularly.

Eligible Electors in Hong Kong

22. MR ALAN LEONG (in Chinese): President, according to the paper submitted to the Panel on Constitutional Affairs of this Council by the Government on the 20th of last month, the 2014 Final Register of electors contained 3,507,786 registered electors for geographical constituencies, representing a registration rate of 73.5%. In this connection, will the Government inform this Council:

(1) of the annual numbers of persons eligible for registration as electors from 2012 to 2014;

(2) of (i) the annual numbers of persons eligible for registration as electors in each District Council (DC) district from 2012 to 2014, and (ii) among them, the number of those who had not registered as electors, with a breakdown by the age group and gender to which they belong set out in Table 1; and

(3) in respect of each of the past three DC general elections (held in 2003, 2007 and 2011), of (i) the number of persons eligible for registration as electors in each DC district and (ii) among them, the number of those who had not registered as electors, as well as
(iii) the number of persons who voted in the elections, with a breakdown by the age group and gender to which they belong set out in tables of the same format as Table 2?

Table 1 (M — male; F — female)

<table>
<thead>
<tr>
<th>DC district</th>
<th>Age group</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>18-20</td>
<td>21-25</td>
</tr>
<tr>
<td></td>
<td>M F</td>
<td>M F</td>
</tr>
<tr>
<td>Central</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Western</td>
<td>(i)</td>
<td></td>
</tr>
<tr>
<td>Wan Chai</td>
<td>(i)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii)</td>
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<tr>
<td>...</td>
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<td></td>
</tr>
</tbody>
</table>

Table 2 (M — male; F — female)

<table>
<thead>
<tr>
<th>DC district</th>
<th>Age group</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>18-20</td>
<td>21-25</td>
</tr>
<tr>
<td></td>
<td>M F</td>
<td>M F</td>
</tr>
<tr>
<td>Central</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Western</td>
<td>(i)</td>
<td></td>
</tr>
<tr>
<td>Wan Chai</td>
<td>(i)</td>
<td></td>
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<tr>
<td></td>
<td>(ii)</td>
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<td>(iii)</td>
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</tr>
</tbody>
</table>

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

(1) The Registration and Electoral Office (REO) estimates the number of persons eligible for voter registration on the basis of the population estimates of Hong Kong compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders. Accordingly, the estimated number of persons eligible for voter registration is 4 711 900 in 2012, 4 744 300 in 2013 and 4 773 800 in 2014 respectively.
(2) In estimating the number of persons eligible for voter registration, the REO takes the population in Hong Kong as a whole instead of using DC delineation as the basis. Hence, we only have the estimated number of persons eligible for voter registration in Hong Kong as a whole according to age groups and gender, but not the estimated number of persons eligible for voter registration by DC delineation.

The number of registered electors is an actual figure based on the Final Registers published by the REO annually.

The number of persons eligible for voter registration but yet to be registered is derived by subtracting the actual number of registered electors from the estimated number of persons eligible for voter registration. Hence, the number of persons eligible for voter registration but yet to be registered is an estimate as well.

According to the estimation and calculation mentioned above, from 2012 to 2014, the number of persons eligible for voter registration in Hong Kong, registered electors, and persons eligible for voter registration but yet to be registered according to age groups and gender, are set out in Table 1.

(3) Regarding the estimates of the number of persons eligible for voter registration in 2003, 2007 and 2011, similar to the reason given in the reply to part (2) of this question, the REO only has the estimated number of persons eligible for voter registration in Hong Kong according to age groups and gender but not the estimates according to DC delineation. For the 2003, 2007 and 2011 DC Election, the number of persons eligible for voter registration in Hong Kong, registered electors, persons eligible for voter registration but yet to be registered, as well as the statistical breakdown of electors who have cast their votes according to age groups, gender and DC delineation are set out in Table 2.
### Breakdown of persons eligible for voter registration and registered electors in 2012

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
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<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration (estimated figure)</td>
<td>114,500</td>
<td>108,900</td>
<td>150,900</td>
<td>187,000</td>
<td>202,400</td>
<td>171,100</td>
<td>191,400</td>
<td>150,500</td>
<td>192,300</td>
<td>170,200</td>
<td>193,200</td>
<td>189,400</td>
<td>244,600</td>
</tr>
<tr>
<td>Number of registered electors (actual figure)</td>
<td>74,348</td>
<td>69,400</td>
<td>114,612</td>
<td>109,758</td>
<td>115,635</td>
<td>111,188</td>
<td>125,428</td>
<td>119,650</td>
<td>134,808</td>
<td>136,735</td>
<td>135,492</td>
<td>132,543</td>
<td>179,829</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered (estimated figure)</td>
<td>40,152</td>
<td>39,500</td>
<td>76,287</td>
<td>77,242</td>
<td>86,765</td>
<td>57,912</td>
<td>65,972</td>
<td>30,850</td>
<td>57,491</td>
<td>33,567</td>
<td>57,708</td>
<td>36,857</td>
<td>64,771</td>
</tr>
</tbody>
</table>

**Notes:**

1. The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2011 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.
3. The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
## Breakdown of persons eligible for voter registration and registered electors in 2013

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
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<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
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</tr>
<tr>
<td>Number of persons eligible for voter registration (estimated figure)</td>
<td>115,600</td>
<td>60,700</td>
<td>99,900</td>
<td>183,300</td>
<td>198,700</td>
<td>174,300</td>
<td>191,400</td>
<td>150,600</td>
<td>192,000</td>
<td>169,500</td>
<td>188,400</td>
<td>187,000</td>
<td>235,700</td>
</tr>
<tr>
<td>Number of registered electors (actual figure)</td>
<td>58,700</td>
<td>56,081</td>
<td>124,000</td>
<td>117,776</td>
<td>111,261</td>
<td>108,779</td>
<td>126,301</td>
<td>121,320</td>
<td>133,292</td>
<td>133,120</td>
<td>132,972</td>
<td>149,382</td>
<td>168,620</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered (estimated figure)</td>
<td>56,500</td>
<td>53,619</td>
<td>66,896</td>
<td>67,524</td>
<td>67,439</td>
<td>65,521</td>
<td>65,100</td>
<td>26,271</td>
<td>58,708</td>
<td>36,371</td>
<td>55,426</td>
<td>37,618</td>
<td>67,080</td>
</tr>
</tbody>
</table>

**Notes:**

1. The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2012 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.


3. The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
Breakdown of persons eligible for voter registration and registered electors in 2014

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
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<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration (estimated figure)</td>
<td>115,600</td>
<td>107,700</td>
<td>192,800</td>
<td>184,100</td>
<td>193,200</td>
<td>176,000</td>
<td>192,600</td>
<td>153,800</td>
<td>188,200</td>
<td>165,000</td>
<td>187,800</td>
<td>188,500</td>
<td>222,000</td>
</tr>
<tr>
<td>Number of registered electors (actual figure)</td>
<td>54,149</td>
<td>52,171</td>
<td>132,339</td>
<td>121,996</td>
<td>109,590</td>
<td>106,918</td>
<td>126,067</td>
<td>122,631</td>
<td>130,485</td>
<td>129,547</td>
<td>152,707</td>
<td>147,983</td>
<td>156,896</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered (estimated figure)</td>
<td>61,451</td>
<td>57,529</td>
<td>60,461</td>
<td>59,144</td>
<td>83,610</td>
<td>69,082</td>
<td>66,333</td>
<td>31,749</td>
<td>57,715</td>
<td>35,453</td>
<td>55,093</td>
<td>40,517</td>
<td>65,104</td>
</tr>
</tbody>
</table>

Notes:

1. The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2013 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.


3. The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
(i) Breakdown of persons eligible for voter registration and registered electors in 2003

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
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<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration (estimated figure)</td>
<td>131,200</td>
<td>115,100</td>
<td>209,200</td>
<td>160,900</td>
<td>214,300</td>
<td>169,300</td>
<td>213,300</td>
<td>180,300</td>
<td>262,600</td>
<td>248,400</td>
<td>299,100</td>
<td>263,300</td>
<td>248,600</td>
</tr>
<tr>
<td>Number of registered electors (actual figure)</td>
<td>20,053</td>
<td>31,776</td>
<td>102,621</td>
<td>105,062</td>
<td>126,699</td>
<td>119,456</td>
<td>125,340</td>
<td>121,428</td>
<td>160,724</td>
<td>164,643</td>
<td>207,854</td>
<td>204,572</td>
<td>186,773</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered (estimated figure)</td>
<td>102,167</td>
<td>83,324</td>
<td>106,579</td>
<td>57,838</td>
<td>87,601</td>
<td>49,844</td>
<td>87,960</td>
<td>67,877</td>
<td>101,876</td>
<td>83,758</td>
<td>91,246</td>
<td>58,726</td>
<td>61,827</td>
</tr>
</tbody>
</table>

Notes:

(1) The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2002 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.

(2) Actual figures based on the Final Registers published by the Registration and Electoral Office in September 2003.

(3) The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
## Breakdown of voter turnout in the 2003 District Council Election

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
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<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
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<tbody>
<tr>
<td>Male</td>
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</tr>
<tr>
<td>Central and Western</td>
<td>405</td>
<td>471</td>
<td>837</td>
<td>805</td>
<td>1106</td>
<td>1177</td>
<td>1259</td>
<td>1355</td>
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</tr>
<tr>
<td>Wan Chai</td>
<td>163</td>
<td>198</td>
<td>560</td>
<td>561</td>
<td>550</td>
<td>552</td>
<td>977</td>
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<td>Eastern</td>
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<td>Southern</td>
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<td>Yau Tsim Mong</td>
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<tr>
<td>Kowloon City</td>
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<td>Kwun Tong</td>
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<tr>
<td>Total</td>
<td>12,746</td>
<td>14,250</td>
<td>28,608</td>
<td>28,946</td>
<td>31,839</td>
<td>30,499</td>
<td>36,973</td>
<td>38,083</td>
<td>52,915</td>
<td>59,372</td>
<td>74,175</td>
<td>78,302</td>
<td>69,040</td>
</tr>
</tbody>
</table>

### Notes:
1. Statistical figures from polling stations.
### Breakdown of persons eligible for voter registration and registered electors in 2007

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
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<tr>
<td>Number of persons eligible for voter registration&lt;sup&gt;(1)&lt;/sup&gt; (estimated figure)</td>
<td>121,500</td>
<td>120,400</td>
<td>208,200</td>
<td>188,200</td>
<td>205,800</td>
<td>163,900</td>
<td>207,400</td>
<td>165,200</td>
<td>205,300</td>
<td>182,200</td>
<td>258,800</td>
<td>243,300</td>
<td>286,200</td>
</tr>
<tr>
<td>Number of registered electors&lt;sup&gt;(2)&lt;/sup&gt; (actual figure)</td>
<td>34,919</td>
<td>35,561</td>
<td>95,529</td>
<td>98,398</td>
<td>124,544</td>
<td>121,918</td>
<td>142,352</td>
<td>134,583</td>
<td>141,244</td>
<td>142,583</td>
<td>186,915</td>
<td>197,200</td>
<td>222,179</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered&lt;sup&gt;(3)&lt;/sup&gt; (estimated figure)</td>
<td>86,581</td>
<td>84,839</td>
<td>112,671</td>
<td>89,802</td>
<td>81,256</td>
<td>41,902</td>
<td>65,048</td>
<td>30,615</td>
<td>64,056</td>
<td>39,617</td>
<td>71,885</td>
<td>46,300</td>
<td>64,021</td>
</tr>
</tbody>
</table>

**Notes:**

1. The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2006 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.


3. The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
## Breakdown of voter turnout in the 2007 District Council Election

<table>
<thead>
<tr>
<th>Area/Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inland</td>
<td></td>
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<tr>
<td>Eastern</td>
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<tr>
<td>Western</td>
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</tr>
</tbody>
</table>

Note: Statistical figures from polling stations.

**Table:** Breakdown of voter turnout in the 2007 District Council Election.
(i) Breakdown of persons eligible for voter registration and registered electors in 2011

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-20</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71+ Total</th>
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</thead>
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<td>Female</td>
<td>Male</td>
<td>Female</td>
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</tr>
<tr>
<td>Number of persons eligible for voter registration&lt;sup&gt;(1)&lt;/sup&gt; (estimated figure)</td>
<td>112 240</td>
<td>111 240</td>
<td>192 240</td>
<td>191 240</td>
<td>203 240</td>
<td>172 240</td>
<td>151 240</td>
<td>195 240</td>
<td>178 240</td>
<td>203 240</td>
<td>194 240</td>
<td>203 240</td>
</tr>
<tr>
<td>Number of registered electors&lt;sup&gt;(2)&lt;/sup&gt; (actual figure)</td>
<td>75 867</td>
<td>68 857</td>
<td>108 109</td>
<td>105 134</td>
<td>120 447</td>
<td>119 458</td>
<td>133 605</td>
<td>128 568</td>
<td>144 875</td>
<td>146 543</td>
<td>147 166</td>
<td>161 375</td>
</tr>
<tr>
<td>Number of persons eligible for voter registration but yet to be registered&lt;sup&gt;(3)&lt;/sup&gt; (estimated figure)</td>
<td>45 333</td>
<td>44 543</td>
<td>84 691</td>
<td>86 266</td>
<td>85 253</td>
<td>53 042</td>
<td>58 695</td>
<td>22 432</td>
<td>50 721</td>
<td>31 657</td>
<td>56 734</td>
<td>33 325</td>
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</table>

Notes:

(1) The Registration and Electoral Office estimated the figures on the basis of the Hong Kong population estimates as at 31 December 2010 compiled by the Census and Statistics Department and the number of Hong Kong permanent identity card holders.

(2) Actual figures based on the Final Registers published by the Registration and Electoral Office in September 2011.

(3) The estimated figures were derived by subtracting the number of registered electors from the number of persons eligible for voter registration.
### Breakdown of Voter Turnout in the 2011 District Council Election

<table>
<thead>
<tr>
<th>Age Group</th>
<th>18-29</th>
<th>21-25</th>
<th>26-30</th>
<th>31-35</th>
<th>36-40</th>
<th>41-45</th>
<th>46-50</th>
<th>51-55</th>
<th>56-60</th>
<th>61-65</th>
<th>66-70</th>
<th>71 or above</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>Sex</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
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<td>Male</td>
<td>Female</td>
<td>Male</td>
<td>Female</td>
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<tr>
<td>Central and West</td>
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<td>472</td>
<td>844</td>
<td>749</td>
<td>999</td>
<td>974</td>
<td>1206</td>
<td>1121</td>
<td>1563</td>
<td>1647</td>
<td>1714</td>
<td>1900</td>
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<td>291</td>
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<td>352</td>
<td>475</td>
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<td>674</td>
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<td>817</td>
<td>923</td>
<td>1147</td>
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<td>1000</td>
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<td>1682</td>
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<td>1295</td>
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<td>1652</td>
<td>2169</td>
<td>2342</td>
<td>2747</td>
<td>2373</td>
<td>2396</td>
</tr>
</tbody>
</table>

**Notes:**

1. Statistical figures from polling stations.

2. The Registration and Electoral Office had no breakdown of voter turnout by District Councils according to the age group and sex of electors who have cast their votes at the dedicated polling stations in the police stations and penal institutions. As a result, the aggregate figures did not include the 735 electors who have cast their votes at the dedicated polling stations in the police stations and penal institutions.
MR CHAN CHI-CHUEN (in Cantonese): President, a point of order. I request a headcount under Rule 17(2) of the Rules of Procedure.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

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

**BILLS**

**Second Reading of Bills**

**Resumption of Second Reading Debate on Bills**

PRESIDENT (in Cantonese): Bills. We now resume the Second Reading debate on the Contracts (Rights of Third Parties) Bill.

**CONTRACTS (RIGHTS OF THIRD PARTIES) BILL**

**Resumption of debate on Second Reading which was moved on 26 March 2014**

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

MR KENNETH LEUNG: President, in my capacity as Chairman of the Bills Committee on Contracts (Rights of Third Parties) Bill (the Bills Committee), I report on the deliberations of the Bills Committee.

The Bills Committee supports the Contracts (Rights of Third Parties) Bill (the Bill) which seeks to provide for the enforcement of contractual terms by third parties and related matters.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)
The Bills Committee notes that in response to the concern raised by the Hong Kong Bar Association, deeds of mutual covenants (DMCs) are to be excluded from the application of the Bill because the law relevant to building management and enforcement of rights under a DMC consists of a range of applicable legal provisions under the Building Management Ordinance (Cap. 344), the Conveyancing and Property Ordinance (Cap. 219) and the common law. These applicable legal principles create a unique and intricate legal regime which sets clear limits on the enforceability of land covenants. The current legal regime for the enforcement of a DMC has over the years developed specifically in response to the needs of regulating the occupation and management of multi-storey buildings and estate developments in Hong Kong. Any change to the DMC regime will affect a large number of people and it would be inappropriate for the Bill to alter or relax the legal regime of DMCs without full consultation specifically aimed at reform of this branch of the law. To address the issue that a DMC may contain terms not relating to land, the Administration has proposed to amend clause 3(2) of the Bill, so as to clarify that all provisions in a DMC as well as a covenant relating to land are to be excluded from the application of the Bill.

The Bills Committee has sought clarification on whether excluding DMCs from the application of the Bill would render tenants of private buildings and users of common parts of private buildings who are not owners of the private buildings unable to rely on the Bill to enforce a term of the DMC. According to the Department of Justice (DoJ), as tenants of private buildings and users of common parts of private buildings are not owners of the private buildings, they are generally not entitled to bring an action under a DMC. The exclusion of a DMC from the application of the Bill does not add to or diminish their rights under the DMC. Neither does the exclusion preclude contracting parties, if they so intend, from conferring an enforceable right of action upon a tenant or a user of the common parts of a private building so long as the requirements under other applicable laws are complied with.

Deputy President, the Bills Committee notes that a third party can presently seek to enforce a contract from the Court through devices such as agency and trust. Members of the Bills Committee have asked whether the rights of the third party to enforce a contract would be diminished following the implementation of the Bill. As clarified by the DoJ, the Bill, if implemented, would provide the third party with an additional channel, which is more convenient, to enforce the contract if it is the contracting parties' intention to permit a third party to enforce the contract. Deputy President, the objective of
the present reform is to confer rights on a third party rather than to derogate from them. Thus, the existing rights of a third party under stature law and at common law would not be affected after the implementation of the Bill.

On the implementation arrangements, the Administration has been asked to step up publicity efforts in the promotion of the new legislative regime, with a view to assisting the general public and various stakeholders in preparing for the implementation of the Bill. In response to members' suggestion, the Administration has advised that it would liaise closely with the legal professional bodies in this regard. The Administration also agreed to consider the feasibility of bringing the new legislative regime into operation one year after passage of the Bill.

Next, Deputy President, I would like to give my personal views on the Bill.

Deputy President, the doctrine of privity of contract provides that a person who is not a party to a contract cannot acquire any rights under that contract or be subject to any of its burdens. This remains the general rules in Hong Kong law.

The fact that a third party beneficiary of a contract could not enforce the contractual benefits in its favour was generally regarded as unsatisfactory and indeed a number of devices were developed in the past in order to circumvent this aspect of privity doctrine. In addition, a number of exceptions were developed where third party rights were recognized. These devices and exceptions can be artificial and complex so that there were calls for reform of the third party beneficiary rule. These devices and exceptions remain, despite the enactment of the Bill.

The Bill follows the major contents and direction of the English Contracts (Rights of Third Parties) Act 1999. Very generally speaking, the Bill allows a third party to a contract the right of enforcement provided that either limb of a two-limb test is satisfied. First, either that a third party may enforce the contract if the contract contains an express term to that effect, or, if the contract contains a term which purports to confer a benefit on a third party, that party may enforce that term unless on a proper construction of the contract, the parties to the contract do not intend that the third party may do so.

Deputy President, I support the passage of the Bill. Indeed, I think the Bill should come at an earlier date, so that Hong Kong's contract law system can be more in line with that of most other common law jurisdictions.
There are three types of contracts which I would like to mention here. These are contracts which would have more bearings on the daily lives of the citizens of Hong Kong.

First, contracts regulating the relationship between employers and employees. Deputy President, the Bill will not alter the contractual agreements entered into between employers and employees in the capacity of parties to an employment contract. However, the Bill contains a provision (under clause 3(4)) to prohibit a third party from enforcing a term of employment against an employee by a third party. This provision does not apply to an employer. In simple terms, a third party may still be able to enforce a term of an employment contract against an employer, provided that the conditions of the enforceability requirement in the Bill are satisfied. This provision gives more protection to an employee who is often seen as the party with weaker bargaining power in an employment relationship.

Second, I am also concerned about consumer rights in a consumer contract. Mr Dennis KWOK raised a question at the Bills Committee meeting on 7 May 2014. Essentially, the requirement of the enforceability test under clause 4 of the Bill which I have highlighted above will not enable consumers to have direct and convenient remedies for damages, injury or loss suffered due to a breach of a contract to which he was not a party. This view was indeed shared by the Consumer Council.

The Government, in response to this concern, merely stated that the Government shared the view of the Law Reform Commission and considered that it was more appropriate to give effect to the contracting parties' intention whether to confer legally enforceable right on a third party. This response, I believe, is not satisfactory and I would urge the Government to review this aspect of the Bill at an appropriate time. Indeed, would the Government let me know the redress and remedy a consumer can obtain if he is injured by a faulty product as a consumer but nonetheless he is not a party to a consumer contract? I believe that any claim could be conducted under a tortuous claim head or a statutory claim under any product liability legislation, but I should be very grateful if the Government can confirm this point.

Third, it is important to note that insurance contracts are not excluded from the Bill, so it would be possible for parties to an insurance contract to exclude the operation of the Bill in their contract through proper construction of the policy
wording if the parties so intended. In the context of insurance contracts, I am therefore concerned that a subject of insurance who may not be a party to an insurance contract — maybe he is not paying the premium — may not be able to enforce such a contract.

In terms of the complexity and technical nature of the Bill and given the fact that normal citizens and consumers in general will be affected by the Bill, I would urge the Government and, indeed, the Law Society of Hong Kong to put in adequate resources and time to educate the public about the implications of the Bill before its full enactment. And I would like the Government to give an undertaking in this Council to do so.

Last, on behalf of my constituents, I would like the Government to clarify unequivocally the implications of the Bill on corporate documents. The first type of documents I am concerned about is the constitutive documents of a Hong Kong-incorporated company, that is, the memorandum of association under the new Companies Ordinance. What is the effect of the Bill on such constitutive documents which traditionally only bind the shareholders and the company?

Secondly, what is the effect of the Bill on any public offer documents for shares or securities offered to the public under the Companies Ordinance or the Securities and Futures Ordinance? The proper construction of the second question, I believe, of any person who subscribes for shares or securities under a public offer document should be a party to a contract and the terms of the public offer documents would become the terms of the subscription, and therefore those subscribers are not third parties to such a subscription contract and any purported exclusion clause drafted under the Bill would have no effect on the subscribers. Please, will the Government confirm that my understanding is correct here?

Deputy President, subject to my above comments, I support, and would urge Honourable Members of this Council from across the political parties to support, the resumption of the Second Reading and the passage of the Bill.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?
MS STARRY LEE (in Cantonese): Deputy President, the Contracts (Rights Of Third Parties) Bill (the Bill) seeks to introduce third party's right to enforce contractual term for the third party's benefit under the contractual law regime of Hong Kong. This approach breaks with the conventional doctrine that a person cannot acquire and enforce rights under a contract to which he is not a party to the contract. According to the doctrine of the past, a third party could not enforce a contract since the effect of the contracting parties' intention to benefit a third party was prevented, unless the third party had recourse to devices such as agency or trust to allow him to enforce a right conferred on him. Nor can he enforce the contract under the existing contractual law regime. For that reason, it has long been criticized as artificial and contrary to the contractual parties' intention to benefit a third party.

In some cases, a third party may have to resort to a lot of separate contracts to enforce the relevant right conferred on him. This not only incurs extra cost but also makes things complex and inconvenient. Deputy President, in view of this unfavourable circumstance, various common law jurisdictions have reformed the doctrine of privity by way of legislation. These places include Australia, Canada, England, New Zealand and Singapore.

Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Report on Privity of Contract published by the Law Reform Commission (LRC) some years ago which recommends a reform of the existing doctrine of privity of contract by way of a detailed legislative scheme. We also support the passage of the Bill, with a view to implementing the LRC's recommendation in full, thereby enhancing the contractual law regime in Hong Kong, and aligning it with other major common law jurisdictions.

Deputy President, to get to the root of the matter, the report on privity of contract was published as early as September 2005. However, it has taken almost 10 years to draft the recommendations, to legislate and to enact the law. It demonstrates once again that the progress of development in various areas is moving forward at a snail's pace. This is definitely alarming. In order to enhance Hong Kong's competitive edge on various levels, the SAR Government should look into each link and consider ways to expedite the procedure of enhancing our contractual law regime.
Deputy President, as far as allowing a third party to enforce a right conferred on him is concerned, although Hong Kong is moving at a very slow pace while the United Kingdom only introduced the United Kingdom's Contracts (Rights of Third Parties) Act in 1999, after studying relevant cases after reforms were conducted in the United Kingdom and various common law jurisdictions, the Administration introduces the amendment as the first step this time around. The administration has struck a balance between the contracting parties' intention and the interests of a third party. It has also considered the unique situation of Hong Kong, including the exclusion of land covenants under the new arrangement. Besides, the Bill has also provided certain exclusions in law, including bills of exchange, bills of lading, letters of credit, company's articles and employment contracts in connection with employees. Furthermore, the Bill provides a two-limb test and only the satisfaction of either limb will permit a third party to enforce the right conferred on him. A third party may enforce the contract (1) if the contract contains an express term to that effect; and (2) if a contract contains a term to confer a benefit on a third party. Nevertheless, if the contracting parties have no intention to benefit a third party, then the third party is not allowed to enforce the contract by virtue of the relevant law.

The two-limb test is a safeguard to the contractual parties. It ensures that the reform will not cause unpredictable litigation risk to all contractual parties, and that Hong Kong will not be turned into a city of litigations. However, this arrangement has its pros and cons. It is a reasonable arrangement if some tailor-made contracts are signed by contractual parties of similar strength. However, as the litigation threshold is comparatively high, it is less favourable to the parties with weaker bargaining power. With regards to the parties with weaker bargaining power, we will normally associate them with consumers, and just now Mr LEUNG has mentioned that most contracts are drawn up by service providers, thus there is very little room for consumers to make alteration upon the signing of contracts.

The Consumer Council has also noted the issue. Therefore, it also points out in its submission that the intention to confer benefit on a third party may not be manifested as far as improving the position of consumer third party is concerned. The Consumer Council therefore recommends that the above two-limb test of enforceability be slightly relaxed for consumers to allow them to take legal action as the third party, with a view to complementing the existing ordinance which does not provide comprehensive protection to consumers. Of course, LRC points out that consumer protection should not be implemented
merely by way of the ordinance. While the fundamental doctrine of the Bill is to uphold the principle of freedom of contract, if it is relaxed as recommended by the Consumer Council, it will contravene the principle of freedom of contract.

Deputy President, I consider that very reasonable if the principle of freedom of contract is adopted by some tailor-made contracts while the bargaining power of both sides are more or less the same. However, as I said just now, we can see that contractual parties are not always on an equal footing in terms of the information technology or know-how involved. I can cite examples easily to illustrate the case, such as the contract signed between consumers and banks or insurance companies. Actually, the two sides are absolutely not on equal footing as far as information, technology and know-how are concerned. Under such consideration, if the threshold for enforcement by consumer third party is lowered, I will consider that a kind of balance being struck.

Deputy President, although I understand that the Administration will not consider that at the present stage, I support the idea of introducing the Bill as the first step. I also understand that this approach is by and large more acceptable to all sides in society. However, I urge the Administration not to ignore the reality that in the course of signing a contract, the situation of uneven distribution of information, technology and know-how may arise at the time of contract conclusion. The DAB urges the Administration to keep on monitoring the implementation of the Bill and propose relevant amendments in the next review.

With these remarks, I support the Bill.

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

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, the Contracts (Rights of Third Parties) Bill (the Bill) I introduced to this Council in March this year has been examined in detail by the Bills Committee chaired by Mr Kenneth
LEUNG. I would take this opportunity to express my gratitude to Mr Kenneth LEUNG, members of the Bills Committee and deputations for their valuable opinions.

As I said when introducing the Bill into this Council, the Bill seeks to implement the recommendations of the Report on Privity of Contract published by the Law Reform Commission of Hong Kong in September 2005, so as to reform the common law doctrine of privity of contract.

Under the common law doctrine of privity, a person not a party to a contract (that is, a "third party") cannot acquire or enforce rights under the contract. This doctrine has long been criticized as incapable of giving effect to contracting parties' intention to confer benefit on a third party and thereby giving rise to injustice or inconvenience in respect of the third parties' rights.

The Bill enables contracting parties to confer enforceable contractual rights on a third party if they so wish. Simply put, if it is the contracting parties' intention to allow a third party to enforce the contract, the Bill would give effect to the contracting parties' intention and provide the third party with a more direct legal means to enforce the contract. If the contracting parties do not wish the Bill to be applicable to the contract, they would be at liberty to make such a provision in the contract.

The Bill will further enhance Hong Kong's contractual law regime and align it with those of the other major common law jurisdictions, including England, Australia and New Zealand.

I shall move a couple of Committee stage amendments later. The Committee stage amendments have all been endorsed by the Bills Committee. I will briefly outline them.

Clause (2) of the Bill excludes a number of types of contracts from the application of the new legislative scheme. One such type of contracts is a covenant relating to land which includes a deed of mutual covenant. Since a deed of mutual covenant may contain provisions not relating to land, we propose to amend Clause (2) so as to clarify that all provisions in a deed of mutual covenant as well as a covenant relating to land are to be excluded from the application of the Bill.
In addition, we propose a very minor amendment to the English text of Clause (2) so as to improve the presentation of that sub-clause.

Deputy President, as I pointed out earlier, the Bill, when enacted, will enhance Hong Kong's contractual law regime. The contents of the Bill will be further improved with our proposed amendments.

With these remarks, I urge Members to support the Second Reading of the Contracts (Rights of Third Parties) Bill and endorse the amendments proposed by the Administration at the subsequent Committee Stage.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Contracts (Rights of Third Parties) Bill be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Contracts (Rights of Third Parties) Bill.

Council went into Committee.

Committee Stage

DEPUTY CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.
CONTRACTS (RIGHTS OF THIRD PARTIES) BILL

DEPUTY CHAIRMAN (in Cantonese): Members may refer to Appendix I to the Script for the debate and voting arrangements for the Bill.

I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Contracts (Rights of Third Parties) Bill.

CLERK (in Cantonese): Clauses 1, 2, 4 to 7 and 9 to 16.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 2, 4 to 7 and 9 to 16 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3 and 8.
SECRETARY FOR JUSTICE (in Cantonese): Deputy Chairman, I move the amendments to the clauses read out just now, the amendments proposed to these clauses are set out in the paper distributed to Members. Earlier on today, I have explained the objectives of the amendments, and that the Bills Committee has indicated support for the aforesaid amendments upon discussion. I urge Members to support the passage of these amendments.

Thank you, Deputy Chairman.

Proposed amendments

Clause 3 (see Annex I)

Clause 8 (see Annex I)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 3 and 8 as amended.
DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 3 and 8 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

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

CONTRACTS (RIGHTS OF THIRD PARTIES) BILL

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, the Contracts (Rights of Third Parties) Bill

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.
DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Contracts (Rights of Third Parties) Bill be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

Mr CHAN Chi-chuen rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for five minutes.

DEPUTY PRESIDENT (in Cantonese): Will Members please proceed to vote.

DEPUTY PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Prof Joseph LEE, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr WU Chi-wai, Mr MA
Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Miss Alice MAK, Dr KWOK Ka-ki, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr Martin LIAO, Mr POON Siu-ping, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

THE DEPUTY PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY PRESIDENT announced that there were 35 Members present and 34 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Contracts (Rights of Third Parties) Bill.

Resumption of Second Reading Debate on Bills


STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2014

Resumption of debate on Second Reading which was moved on 30 April 2014

DEPUTY PRESIDENT (in Cantonese): Mr TAM Yiu-chung, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

MR TAM YIU-CHUNG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2014 (the Bills Committee), I now submit the report and briefly report on the deliberations of the Bills Committee. The Statute Law (Miscellaneous Provisions) Bill 2014 (the Bill) is an omnibus bill consisting of 15 parts. It
proposes miscellaneous and technical amendments to various Ordinances and subsidiary legislation.

The Bills Committee has held a total of four meetings with the Administration to scrutinize the Bill. In principle, the Bills Committee does not object to the proposed amendments under various Parts of the Bill.

Members has noted that in Part 2 of the Bill, the Administration proposes to repeal and amend certain sexual offence provisions relating to male homosexuality in the Crimes Ordinance that were declared to be unconstitutional by the courts in 2006 and 2007. Some members have expressed concern that as the Administration has not introduced the necessary amendments to the Crimes Ordinance, many homosexual persons and even some front-line police officers have been under the misconception that the relevant provisions are still valid. The Administration has clarified that since the relevant judgments were handed down by the Court, the Police and the Secretary for Justice have not laid any charges based on these provisions. The authorities have also reminded front-line police officers that the provisions concerned no longer have any legal effect.

With regard to other existing provisions under the Crimes Ordinance which are discriminatory on the basis of sex or sexual orientation, the authorities have told members that the Review of Sexual Offences Sub-committee under the Law Reform Commission is now reviewing the law relating to sexual and related offences in stages.

The Bills Committee notes that as the Communications Authority has met certain enforcement difficulties in the course of performing its functions, the authorities hence propose amendments to the Unsolicited Electronic Messages Ordinance, adding further modes for serving specified notices to the person concerned, including ordinary post, in addition to registered post. Members have also discussed with the authorities the presumption of successful serving of notice and the feasibility of serving notices by electronic means.

Another proposal which has been considered by the Bills Committee in detail is the amendment to Trade Descriptions Ordinance proposed in Part 8 of the Bill. Having regard to the ruling handed down by the Court of Final Appeal, the Administration proposes to amend certain defence provisions, specifying that these provisions impose merely an evidential burden on the accused, with the persuasive burden remains throughout on the prosecution. Some members of and the legal adviser to the Bills Committee have raised alternative views on the
drafting of Articles 52(2) and 54 and questioned whether the draft Committee stage amendments (CSAs) to these articles as prepared by the authorities can adequately reflect the policy intent. After consideration, the authorities informed members that the drafting style of Articles 52 to 54 was consistent with that of similar provisions in the other ordinances. For the maintenance of consistency across the statute book and having regard to the Court of Final Appeal ruling, the authorities will not make major amendments to the drafting format of Articles 52 to 54.

The relevant details of the Bills Committee's scrutiny of the various Parts of the Bill are set out in the written report

The Administration is going to move CSAs to certain provisions of the Bill. The Bills Committee raises no objection to these CSAs and is not going to move any CSA in other capacities.

Deputy President, the below are my own views on the Bill. Colleagues from the Democratic Alliance for the Betterment and Progress of Hong Kong and I hold no objection to the contents of the Bill. We also support the Bill and the relevant CSAs proposed by the authorities. Having said that, we would like to raise some comments regarding omnibus bills introduced by the Law Drafting Division of the Department of Justice to the Legislative Council, that is, bills that propose miscellaneous and technical amendments to a number of ordinances and subsidiary legislation.

This Bill, Statute Law (Miscellaneous Provisions) Bill 2014, comprises 15 parts and 173 clauses and is related to a number of policy areas which include equal rights for people of different sexual orientations, the powers of members of the Equal Opportunities Commission and the Lands Tribunal as well as the operation of the organizations concerned, the admissibility of evidence in court proceedings, the addition of further modes for the service of specified notices issued by the Communications Authority, the amendment of the Building Management Ordinance to allow partial replacement of statutory declarations by written statements, the disciplinary issue of the Law Society of Hong Kong, and standardization of the references to the Chinese titles of "Commissioner of Customs and Excise", "Deputy Commissioner of Customs and Excise" and "Assistant Commissioner of Customs and Excise" across a number of provisions and subsidiary legislation. There are a multitude of policy areas mentioned above, each of which is unrelated to the others.
Omnibus bills which span across a large number of different policy areas have posed certain problems to members in the scrutiny process. Why do I say that? The 70 Members of the Legislative Council all come from different sectors and backgrounds and each of them has different interests and concerns. Facing an omnibus bill which involves a large number of different policy areas, members of the bills committee may not be familiar with all the policy areas involved and problems may arise from such an arrangement.

Of course, I understand that the Bill primarily involves technical amendments but we hope that the Law Drafting Division of the Department of Justice can consider avoiding as far as possible such kind of "chop suey" or "frying everything together" approach in drafting, so that Members will find it more convenient in scrutinizing the bills.

With these remarks, I support the Bill and the CSAs proposed by the Administration.

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


Actually, the contents of the various provisions on sexual offences under the existing Crimes Ordinance are based mainly on the sexual crimes legislation enacted by England in 1956. This set of legislation was formulated more than 50 years ago, and many of its provisions are found to be full of problems when they are applied in present-day Hong Kong, in 2014. They are dismissed as being discriminatory and contradictory in nature. There are many other problems that have led to various criticisms too.

The Government claims that the amendments are technical in nature. In this connection, I must put particular emphasis on section 118C of the Crimes Ordinance. I believe Members should have heard of "衰十一" in Chinese, which means "the crime of 11 characters" in English. The 11 characters in Chinese are "與未成年少女發生性行為", meaning "intercourse with an
underage girl". This offence in fact implies that the legal age of heterosexual intercourse is 16. Under section 124 of the Crimes Ordinance, "a man who has unlawful sexual intercourse with a girl under the age of 16 shall be guilty of an offence". Members may not be so clear about the penalty. Well, the offender shall be liable to imprisonment for five years.

But what is the legal age of man-with-man sexual intercourse? Even today, many Hong Kong people are still not very clear about this. Well, according to the relevant legal text, section 118C of the Crimes Ordinance, "a man who commits buggery with a man under the age of 21 shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life." This is how the legal text is written. However, in 2004, the High Court ruled that the relevant provision was unconstitutional, as it involved discrimination against sexual orientation, which is in contravention of the human rights protection under the Basic Law and the Hong Kong Bill of Rights Ordinance.

Subsequent to the court ruling, the SAR Government still lodged an appeal, which was dismissed by the Court of Appeal in 2005. Since the dismissal of the appeal, the SAR Government has never lodged any more appeals. Hence, according to this court precedent, the legal age of man-with-man sexual intercourse is the same as the age for heterosexual intercourse, namely the age of 16. Nine years have passed, but the Hong Kong Government still refuses to amend the wording of the unconstitutional provision. Many people and even the media are not aware of the court precedent, and they think that the legal age of man-with-man sexual intercourse is still 21. Even the Police, who are responsible for law-enforcement, still invoke this unconstitutional ordinance to prosecute male homosexuals aged 16 or above despite the complaints they have received.

The Chairman remarked just now that the Government had never instituted any prosecution. It is true that there has never been any successful prosecution. But then, the Government has still invoked this out-dated and legally void ordinance to arrest people and require them to post bail for their release. But it does not press any charges in the end. There have been no substantiated charges — of course no, because even if a charge is laid before it, the Court will still question why an out-dated and unconstitutional ordinance should have been invoked, and it will thus dismiss the charge. However, even so, the process will still inflict a lot of harm on the person concerned. Hence, on many occasions, I
have reminded the Security Bureau and the Police that they must be very cautious and should issue clear reminders to their law-enforcement personnel. I hope today is the last time that I talk about this issue. The reason is that with the passage of the Bill after Third Reading, an amendment replacing the age of 21 by the age of 16 can be formally made to the ordinance, thus aligning the age of homosexual intercourse with the legal age of heterosexual intercourse.

However, Deputy President, from the time of the court ruling to the present moment when the ordinance is yet to be formally amended, many male homosexuals still do not know which age — 21, 18, or 16 — should be the legal age of man-with-man sexual intercourse. There were cases in which certain lawbreakers who claimed to be under 21 blackmailed some ill-informed male homosexual adults, threatening that if they were not given any money, gifts or advantages, they would report to the Police. Thinking that those people were really under 21 and the legal age of man-with-man sexual intercourse was still 21 (that is, they were under 21 and were still minors), the victims succumbed to their demands in order to avoid prosecution, thus suffering huge psychological pressure, financial losses and other kinds of harm. The victims did not know that they had not violated any law, and that they were in fact the victims of blackmailing. Although the legislation was ruled unconstitutional and has since become void automatically, the Government has failed to amend the legislation after a delay of nine years. This has caused immense frustration to the gay communities. The Government must take the blame and should seriously reflect on its inaction.

While gay organizations have received frequent requests for assistance in this respect, my office has likewise received such enquiries and requests for legal assistance. I once questioned the Government why it had put up a delay of nine years before it agreed to amend the legislation. The Security Bureau simply shifted the blame to the Law Reform Commission (LRC), saying that the LRC wanted to amend this legislation and other legislation on sexual offences in one single exercise in order to achieve greater coherence. However, the Security Bureau also explained that since it would take the LRC a very long time to conduct its studies, the Security Bureau had eventually decided to take "a free ride" (the Bill under discussion) and include section 118C of the Crimes Ordinance in the Bill, so that the age could first be amended and lowered from 21 to 16 at least.
Regarding its present reform of the legislation relating to sexual offences, the LRC expects to put forward three consultation documents for public discussion. The first document, which falls within the responsibility of its Review of Sexual Offences Sub-committee, was already released in September 2012. But when will the remaining two documents be released? No one dares to answer. How long must we wait? 10 years? 20 years? At this moment, no one can give any answer. No one dares to give any answer. Neither the Department of Justice nor the Security Bureau dares to answer this question. The authorities now adopt the approach of statute law amendment to amend the unconstitutional legislative provision. I can only say that this is a piecemeal reform. It is well-intentioned and better than doing nothing after all. We may have to "pocket it first".

However, even after making the amendment, the problem will not be completely solved, Deputy President. For instance, at present, the maximum penalty for intercourse with a girl aged under 16 (that is, the crime of 11 characters which I mentioned just now) is imprisonment for five years. But under section 118C (in which the age is to be lowered from 21 to 16), unlawful homosexual intercourse with or by man under 16 shall be an offence punishable by a maximum penalty of life imprisonment. In other words, "the crime of 11 characters" will lead to 5-year imprisonment in the heterosexual case but will be punishable for life imprisonment if it is committed between two males. The presence of discrimination in legislative provisions is not the only thing, as there are also differences in the sentences handed down by the Court.

According to the statistics on court sentences provided by the Government, the sentences for unlawful homosexual intercourse are much heavier than those for unlawful heterosexual intercourse. The rate of immediate imprisonment for male homosexuals was 54.8%, with the length of imprisonment ranging from nine months to nine years. On the other hand, the rate of immediate imprisonment for male heterosexuals was merely 11.7%, with the lengths of imprisonment ranging from three months to six years. I believe that, Members can notice very huge differences simply from these statistics. At least one person in every two male homosexuals facing charges would be sentenced to immediate imprisonment. Therefore, is there any discrimination against sexual orientation in Hong Kong? Of course there is. Discrimination is found not only in legislative provisions but also in court sentences.
Many sexual offences relating to man-with-man intercourse are not found in the case of heterosexual intercourse. Two examples are section 118F and section 118J on sexual intercourse by man with man otherwise than in private. The Government only proposes to repeal section 118F and paragraph 2(a) in section 118J. The offence of procuring others to commit homosexual buggery provided for in section 118G and section 118K as well as the offence of gross indecency in sections 118H, 118I, 118J, 118K are not found correspondingly in the case of heterosexual intercourse. This amounts to discrimination against sexual orientation. Section 118F on homosexual buggery committed otherwise than in private and section 118J on gross indecency by man with man otherwise than in private under the existing Crimes Ordinance are very similar in structure. However, the authorities only propose to repeal the former, that is section 118F, and the latter will not be repealed. This will lead to disputes. In case anyone applies for a judicial review, the Government will probably lose on the ground of proportionality between the two provisions.

I also note that the authorities are of the view that the repealing of section 118J will in effect increase the maximum penalty of two-year imprisonment under section 118J to the level of penalty for another offence under common law. This means that if section 118J is repealed, another legislative provision will be invoked for prosecution, and this is the offence of "outraging public decency" with a maximum penalty of 7-year imprisonment. We therefore do not dare to repeal this provision. But the Government is only trying to threaten us, saying that if this provision is repealed or amended … Of course, the Government can even withdraw the Bill and say that if we introduce such a drastic amendment to our statute law … The Government now says that if this provision is repealed, it must then turn to another offence with a maximum penalty of 7-year imprisonment. It will also say that this offence is more serious and repealing section 118J will thus do a disservice. But all this is merely the excuse of the Government, aimed only at intimidating the public. I simply do not believe that after repealing section 118J, the Government will really turn to the more serious offence of "outraging public decency".

The Government will repeal section 118F on homosexual buggery committed otherwise than in private. But section 118J will not be entirely repealed. In that case, will the police switch to section 118J for the purpose of pressing charges? If yes, they will be sustaining the discrimination against sexual orientation, and there will be no fundamental change at all. The
Government is obviously in the wrong. But it has sought to shift the blame to the LRC and has even gone so far as to threaten the public and Members, saying that it is better not to repeal this provision. What kind of logic is this? Discrimination is discrimination. What is written down in legislative provisions cannot be denied. Corresponding offences are simply not found in the case of heterosexual intercourse, so why do the authorities still adopt such a double-standard and lay charges such as gross indecency against male homosexuals?

I think following the amendment of this legislation, the situation will turn into a complete mess. There will be discrimination not only against homosexuals but also against heterosexuals. The reason is that with the amendment of section 118C, the age of lawful homosexual buggery with or by man will be lowered to 16. But under section 118D, a man who commits buggery with a girl under the age of 21 shall be guilty of an offence and shall be liable to imprisonment for life. A man and a woman must wait until the woman reaches the age of 21. This is discrimination against heterosexuals, isn't it? At the age of 16, two men can already engage in homosexual buggery, and a heterosexual couple will have to wait until the woman reaches the age of 21. We are talking about the same kind of acts, so this is obviously in contravention of the gender equality principle. The existence of such different standards can aptly show the extreme urgency of reforming the legislation on sexual offences.

In the final analysis, what is the Government's line of thinking anyway? Frankly, it does not want to do anything at all. Owing to the court ruling, it is forced to take actions despite its reluctance. But then, it has still put up a delay of nine years and refused to take any actions until this exercise of miscellaneous legislative amendments. In my view, it has sought to hold out for as long as possible and has decided to take actions only due to the lack of any alternatives. I of course know that some government officials are well-intentioned, and they want to catch this "free ride", in the hope of introducing as many amendments as possible in the meantime. However, if we look at all those unconstitutional provisions on which the Court has not handed down any rulings, we will see that they will not be defensible if the logic of the court precedent is applied. If there is a judicial review of any case, the Government will definitely lose, and its attitude is one of indifference. Resorting to a review by the LRC is just like plunging all these legislative provisions into a black hole. Once these legislative provisions are taken up by the LRC, Members will have no power to exert any
pressure — or precisely, instead of "will have no power", we should say "will be unable". Members will be unable to force the LRC to submit a report within two years, three years or five years. The LRC will not respond to our request.

Deputy President, let me repeat one point here. In September 2012, the LRC released the Consultation Paper on Rape and Other Non-consensual Sexual Offences, in which the major proposals on repealing the existing section 118A of the Crimes Ordinance were set out. However, it is still necessary to conduct public consultation. At one meeting, I asked when the LRC could complete its 3-step mechanism. The reply of the Government really took me by total disbelief: "Owing to the wide scope of issues involved, the Subcommittee of LRC has advised that it is not practicable to specify a definite timetable for completion of the prosecution." This actually means an indefinite wait. Since the Court ruled that the relevant provision was unconstitutional, we have waited nine years before the lowering of the age from 21 to 16 can formally go through Third Reading today. I hope that from today onwards, all Hong Kong people, including people who are gay or not gay, the media and the Police can know that the age of lawful homosexual intercourse is now 16, rather than 21. But it is not enough to introduce this amendment only. I hope that the LRC can expeditiously (The buzzer sounded) … conduct a comprehensive review of the Crimes Ordinance.

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

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, since the introduction of the Statute Law (Miscellaneous Provisions) Bill 2014 (the Bill) into the Legislative Council in April this year, four Bills Committee meetings have been held. The Bills Committee chaired by Mr TAM Yiu-chung has thoroughly examined the clauses and the issues involved. I would like to
express my gratitude to Mr TAM Yiu-chung and all the members of the Bills Committee for their hard work and valuable opinions.

As I pointed out when introducing the Bill into the Legislative Council, the Bill seeks to propose technical or, in our view, non-controversial amendments to various ordinances for the purpose of updating or improving the relevant existing legislation. The Bill comprises 15 parts and deals with miscellaneous amendments proposed by bureaux and the Department of Justice (DoJ) in a consolidated manner.

The proposed amendments in the Bill fall roughly into three categories. The first category of amendments are those proposed by the relevant bureaux in the light of court rulings, including amendments to certain sexual offence provisions in the Crimes Ordinance and certain defence provisions in the Trade Descriptions Ordinance.

The second category of amendments in the Bill aim to implement proposals put forward by individual bodies or organizations. They include: (1) the various miscellaneous amendments to the four anti-discrimination ordinances proposed by the Equal Opportunities Commission; (2) the amendments to the Evidence Ordinance suggested by the Hong Kong Society of Notaries relating to admissibility of notarial instruments; (3) the amendments to section 8A of the Legal Practitioners Ordinance in response to the proposals of The Law Society of Hong Kong (Law Society); and (4) the amendments to section 7 and Schedule 2 of the Building Management Ordinance so as to implement one of the proposals of the Interim Report of the Review Committee on the Building Management Ordinance.

The third category concerns miscellaneous and technical amendments to various ordinances or subsidiary legislation proposed for different purposes mainly by the DoJ and other relevant bureaux.

I will be moving some amendments at the Committee Stage later. These amendments have all been agreed by the Bills Committee and can be grouped into the following six categories which I will outline briefly below.
Amendment to Clause 43 of Part 4

Clause 43 proposes to amend section 81 of the Evidence Ordinance (Cap. 8). However, after the gazettal of the Bill, amendments to section 81 of the Evidence Ordinance have also been proposed under clause 13 of the Competition (Amendment) Bill 2014. The Competition (Amendment) Bill was passed before the Bill and gazetted as an Ordinance on 21 November. With reference to the latest version of section 81 of the Evidence Ordinance, I will propose a Committee stage amendment (CSA) to clause 43 of the Bill in order to ensure that the proposed amendments will be properly effected.

Deletion of Part 10 (that is, Clause 57)

The proposed amendment in Part 10 of the Bill, which seeks to repeal item 29 of Schedule 1 to the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (1997 Ordinance)(94 of 1997), was suggested by the Law Society. The policy intent of the Law Society is to reinstate the law prior to the above 1997 Ordinance so that only solicitors or foreign lawyers could become trustees or co-trustees of a trust. In view of the views expressed by the Panel on Administration of Justice and Legal Services, the Administration consulted the Law Society further on a number of occasions about their policy intent. The Law Society subsequently confirmed in May 2014 that as the proposed amendment in Part 10 might not achieve the intended objective, they would not pursue the proposed amendment. I will therefore move a CSA to delete Part 10 of the Bill.

Amendment to Clause 63 of Part 12

Having regard to the Companies Ordinance (Cap. 622) which has come into operation on 3 March 2014, I will propose a CSA to clause 63 to add the entry of "Registrar of Companies" specified for the purposes of the Companies Ordinance to the proposed Schedule to the Specification of Public Offices Notice (Note) (Cap. 1 sub. leg. C).

Addition of Division 5 in Part 12 (with consequential amendment to Clause 1(2) and addition of Clause 1(5))

To follow on a consequential amendment that was omitted in previous amendment exercise, the opportunity is taken to add the entry of "Secretary for
Home Affairs" specified for the purposes of the Books Registration Ordinance (Cap. 142) to the existing Specification of Public Offices (Cap. 1 sub. leg. C) by way of CSA. The amendment is deemed to have come into operation on 9 April 1998.

**Addition of Divisions 47A and 47B and replacement of Division 53 by the new Divisions 53 to 55 in Part 14**

After the gazettal of the Bill, four new regulations have been enacted under section 3 of the United Nations Sanctions Ordinance (Cap. 537). I will propose CSAs to add the new Divisions 47A and 47B and to replace Division 53 by the new Divisions 53 to 55 in Part 14 in order to amend the definitions of Commissioner in the Chinese texts of the regulations concerned by removing the references to "香港" in "香港海關總署長" (Commissioner of Customs and Excise), "香港海關副署長" (Deputy Commissioner of Customs and Excise) and "香港海關助理署長" (Assistant Commissioner of Customs and Excise).

**Amendments to Clauses 1(3), 14(2), 48(3), 51, 52(2), 54, 64 and 68(2)(a)**

These technical amendments in the Bill seek to refine the provisions.

Deputy President, with these remarks, I urge Members to support the Second Reading of the Statute Law (Miscellaneous Provisions) Bill 2014 and endorse all the amendments to be moved by the Administration at the subsequent Committee Stage.

Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Statute Law (Miscellaneous Provisions) Bill 2014 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)
Mr CHAN Chi-chuen rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for five minutes.

DEPUTY PRESIDENT (in Cantonese): Will Members please proceed to vote.

DEPUTY PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr WU Chi-wai, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Miss Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

THE DEPUTY PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY PRESIDENT announced that there were 44 Members present and 43 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.


Council went into Committee.
Committee Stage

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2014

DEPUTY CHAIRMAN (in Cantonese): Members may refer to Appendix II to the Script for the debate and voting arrangements for the Bill.

I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Statute Law (Miscellaneous Provisions) Bill 2014.

CLERK (in Cantonese): Clauses 2 to 13, 15 to 42, 44 to 47, 49, 50, 53, 55, 56, 58 to 62, 65, 66, 67, 69 to 145 and 147 to 173.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 2 to 13, 15 to 42, 44 to 47, 49, 50, 53, 55, 56, 58 to 62, 65, 66, 67, 69 to 145 and 147 to 173 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr CHAN Chi-chuen rose to claim a division.
DEPUTY CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for five minutes.

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

DEPUTY CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

THE DEPUTY CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY CHAIRMAN announced that there were 39 Members present and 38 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

MR RONNY TONG (in Cantonese): Deputy Chairman, I move that in the event of further divisions being claimed in respect of the clauses of the Statute Law (Miscellaneous Provisions) Bill 2014 or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.
DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ronny TONG be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

DEPUTY CHAIRMAN (in Cantonese): I think the question is agreed by a majority 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 clauses of the Statute Law (Miscellaneous Provisions) Bill 2014 or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

CLERK (in Cantonese): Clauses 1, 14, 43, 48, 51, 52, 54, Part 10, clauses 63, 64, 68 and Division 53 of Part 14.

SECRETARY FOR JUSTICE (in Cantonese): Deputy Chairman, I move the amendments to the clauses and division read out just now. These amendments have been set out in the paper circulated to Members. I have explained the purpose of these amendments earlier today. The Bills committee has discussed
the above amendments and indicated its support. I beg Members' support of the passage of these amendments. Thank you, Deputy Chairman.

*Proposed amendments*

Clause 1 (see Annex II)

Clause 14 (see Annex II)

Clause 43 (see Annex II)

Clause 48 (see Annex II)

Clause 51 (see Annex II)

Clause 52 (see Annex II)

Clause 54 (see Annex II)

Part 10 (see Annex II)

Clause 63 (see Annex II)

Clause 64 (see Annex II)

Clause 68 (see Annex II)

Division 53 of Part 14 (see Annex II)

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

(No Member indicated a wish to speak)

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

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

(No hands raised)

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

DEPUTY CHAIRMAN (in Cantonese): As the amendment to delete Part 10 has been passed by the Committee, Part 10 is deleted from the Bill.

CLERK (in Cantonese): Clauses 1, 14, 43, 48, 51, 52, 54, 63, 64, 68 and Division 53 of Part 14 as amended.

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 14, 43, 48, 51, 52, 54, 63, 64, 68 and Division 53 of Part 14 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr CHAN Chi-chuen rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for one minute.

DEPUTY CHAIRMAN (in Cantonese): Will Members please proceed to vote.
DEPUTY CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the amendments.

THE DEPUTY CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY CHAIRMAN announced that there were 39 Members present and 38 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): New Division heading before new clause 66A

Division 5 — Specification of Public Offices (Cap. 1 sub. leg. C) (Amendment Relating to Books Registration Ordinance (Cap. 142))

New clause 66A

Schedule amended

New Division heading before new clause 135A

Division 47A — United Nations Sanctions (Sudan) Regulation 2013 (Cap. 537 sub. leg. BF)
New clause 135A  Section 22 amended (power of authorized officers to enter and detain vehicles)

New Division heading before new clause 135B Division 47B — United Nations Sanctions (Liberia) Regulation 2014 (Cap. 537 sub. leg. BG)

New clause 135B Section 2 amended (interpretation).

SECRETARY FOR JUSTICE (in Cantonese): Deputy Chairman, I move the Second Reading of the new division headings and new clauses read out just now. These have been set out in the paper circularized to Members. I have also explained the purposes concerned earlier today. The Bills Committee has discussed and indicated its support. I urge Members to pass the motion. Thank you, Deputy Chairman.

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new division headings before clauses 66A, 135A and 135B, and new clauses 66A, 135A and 135B be read the Second time.

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

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): I now put the question to you and that is: That the new division headings before clauses 66A, 135A and 135B, and new clauses 66A, 135A and 135B be read the Second time. Will those in favour please raise their hands?

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

(No hands raised)

Mr CHAN Chi-chuen rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for one minute.

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

DEPUTY CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

THE DEPUTY CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY CHAIRMAN announced that there were 39 Members present and 38 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

SECRETARY FOR JUSTICE (in Cantonese): Deputy Chairman, I move that the new division headings and new clauses read out just now be added to the Bill, the contents of which are contained in the document distributed to Members. Earlier today, I have explained the purpose, and the Bills Committee has also discussed them and given its support. I implore Members to approve them. Thank you, Deputy Chairman.

Proposed additions

New Division heading before new clause 66A (see Annex II)

New Division heading before new clause 135A (see Annex II)

New Division heading before new clause 135B (see Annex II)

New clause 66A (see Annex II)

New clause 135A (see Annex II)

New clause 135B (see Annex II)

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new division headings before clauses 66A, 135A and 135B, and new clauses 66A, 135A and 135B be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)
Mr Gary FAN rose to claim a division.

DEPUTY CHAIRMAN (in Cantonese): Mr Gary FAN has claimed a division. The division bell will ring for one minute.

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

DEPUTY CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

THE DEPUTY CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE DEPUTY CHAIRMAN announced that there were 39 Members present and 38 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

DEPUTY CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.
Third Reading of Bills

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

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2014

SECRETARY FOR JUSTICE (in Cantonese): Deputy President, the Statute Law (Miscellaneous Provisions) Bill 2014 has passed through the Committee stage with amendments. I move that this Bill be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Statute Law (Miscellaneous Provisions) Bill 2014 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

Mr Gary FAN rose to claim a division.
DEPUTY PRESIDENT (in Cantonese): Mr Gary FAN has claimed a division. The division bell will ring for five minutes.

(While the division bell was ringing, THE PRESIDENT resumed the Chair)

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

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr Ronny TONG, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mrs Regina IP, Mr Alan LEONG, Mr James TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr Gary FAN, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Mr IP Kin-yuen, Mr Martin LIAO, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE voted for the motion.

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

THE PRESIDENT announced that there were 42 Members present and 41 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Debates on motions with no legislative effect. This Council will now continue the debate the motion on "Constitutional reform".

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

CONSTITUTIONAL REFORM

Continuation of debate on motion which was moved on 21 November 2014

MR WONG KWOK-HING (in Cantonese): President, I speak in support of Mr Ronny TONG's original motion as I find the wordings of Mr TONG's motion positive and constructive. With regard to Ms Emily LAU's amendment, however, as pointed out by a number of colleagues from the pro-establishment camp, it contravenes the Basic Law as well as the decision made by the Standing Committee of the National People's Congress on 31 August, and the proposal concerned is inadvisable. Hence, I cannot support this amendment and have to raise my objection against it. I have also noted that in Mr TONG's speech for moving the motion, many of the arguments raised are relatively sensible. I therefore support Mr TONG's original motion.

Mr TONG's original motion "urges the Government to expeditiously put forward a practical and feasible constitutional reform package." Given that Mr TONG would like to see the Government expeditiously put forward a practical and feasible constitutional reform package, he would naturally ask the Government to conduct a consultation. However, as we all know, when the Government was preparing for the next stage of consultation on constitutional reform, what happened in Hong Kong were the launching of the illegal Occupy movement which so far has lasted for 60 days and the initiation of a non-co-operative movement by the pan-democratic camp in the Legislative Council. The two movements actually bear certain similarities. The Occupy movement features the occupation of roads, impeding the passage of vehicles and hindering students from going to school and people from going to work, in addition to disrupting businesses operation and even the economic running of the entire society. Meanwhile, the so-called non-co-operative movement taking place in the Legislative Council is like an undeclared battle unfolded with incessant filibustering and persistent delay of normal funding applications.
The prerequisite for the Government to expeditiously put forward a practical and feasible constitutional reform package, in my opinion, is that the pan-democratic camp expeditiously conclude these two unreasonable and illegal movements, so-called, which affect the interests of the people.

About this Occupy movement, we can tell by the general atmosphere and people's sentiments that it has lost its popularity by now. Hence, the pan-democratic camp should expeditiously bring it to a conclusion …

(Mr Gary FAN stood up)

PRESIDENT (in Cantonese): Mr WONG, please hold on. Mr Gary FAN, what is your point?

MR GARY FAN (in Cantonese): President, please do a headcount according to Rule 17(2) of the Rules of Procedure.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): Mr WONG Kwok-hing, please continue with your speech.

MR WONG KWOK-HING (in Cantonese): President, as I pointed out a moment ago, the Occupy movement, which is organized in part by the pan-democratic camp, has failed to gain support from the people. For two months, Nathan Road has been blocked off and no vehicles can pass through. Following the resumption of vehicular traffic at Argyle Street, Nathan Road today is reopened for vehicular movement and this is highly commended by the people. I would also like to take this opportunity to extend my gratitude towards the
Police for their righteous, vigilant and impartial enforcement of law. Because of the above circumstances, it actually ran contrary to people's aspiration for the pan-democrats to claim territory in the occupied area in Admiralty some 10-odd days ago, at a time when the Occupy movement was increasingly losing popular support. Hence, if you want the Government to expeditiously focus on implementing the constitutional reform, you should immediately declare an end to the illegal Occupy movement.

Meanwhile, as I have pointed out just now, the pan-democratic parties are now driving a non-co-operative movement in the Legislative Council, trying to paralyse the normal operation of the Council. In the first half of this year, more than 20 funding proposals have failed to gain approval, leading to a waste of $1 billion of public money. Since the commencement of the current legislative year, the Finance Committee — which held a meeting this morning — has so far approved only one funding proposal. The Public Works Subcommittee has similarly granted only one other funding approval. Under such circumstances, many tasks are left unaccomplished. For instance, in the meeting of the Public Works Subcommittee held this morning, there were four long overdue funding proposals which have yet to be approved. The Government has made it clear that if these funding proposals cannot be approved by April or May next year, the relevant contracts will lapse. By then, tenders will have to be invited again while, as we all understand, project costs are soaring dramatically. If the pan-democratic parties continue to hold back the Government's progress and flush Hong Kong people's money down the drain, how can the Government focus on implementing the constitutional reform?

Therefore, as Mr Ronny TONG is asking the Government to expeditiously put forward a practical and feasible constitutional reform package, you should ensure that the Government has sufficient energy to spare for the consultation. If the illegal Occupy movement and the so-called non-co-operative movement are not brought to an end, how can the Government and the people begin the next phase of work? A journey of thousand miles always begins with a step forward now. Rather than securing the passage of Mr TONG's motion, it would be better for you to do something practical: bring the Occupy movement and the non-co-operative movement to an immediate halt; allow the Government and the Legislative Council expeditiously resume their normal operations.
MR ALAN LEONG (in Cantonese): President, I do not know how Mr Ronny TONG felt when he heard Mr WONG Kwok-hing say that he supported his motion. However, I wish that Mr WONG Kwok-hing had not given a wrong support, as Mr TONG has clearly stated that he supports Ms Emily LAU’s amendment.

President, if one asks what Hong Kong's major problem is, I believe it is that there are people here who shamelessly call a stag a horse, turn black into white, distort the truth and reverse the cause and the effect. President, you may recall that we have tried our best and I got very close to issuing a ruling with the intention of placing the handling of the funding application pertaining to five schools, three sewage treatment facilities, one gymnasium and one government complex before that of the whatever artificial island in the middle of the sea. However, the obstinate LEUNG Chun-ying considered that not feasible and the discussion was thus stuck. I have therefore made repeated appeals. The civil servants should have got their salary increases on 1 April but are now still receiving the old pay. They should ask their big boss LEUNG Chun-ying as he is standing in the way, preventing the funding application for their salary increase from being approved. I have to make this point clear.

As regards the law-enforcement action by the Police at Portland Street yesterday, the Civic Party finds it regrettable. In the first place, the Police were only acting on the demand of the bailiffs to assist in the execution of the civil injunction order, but why then did it descend into a violent clearance action? President, I know you are wondering if my speech has digressed but in fact it has not, because Mr TONG proposed that the Government should put forward a practical and feasible constitutional reform package which will then avert these scenes from happening. If the Hong Kong people, especially the next two generations, see no hope, it will be futile no matter what action is taken to clear the occupied areas. Obstacles on Argyle Street and Nathan Road may have been cleared, but how can the will of the Hong Kong people to pursue genuine universal suffrage be removed? Thus, if the Government wants to fully address this political problem, it must put forward a practical and feasible constitutional reform package.

President, it has been reported on an article in The Wall Street Journal that sources said the Central Government would relax the formation of the Nominating Committee through an interpretation of the 31 August Decision of the NPCSC. It is hoped that this will make the Nominating Committee more
reflective of public sentiments, in particular the voices of the pan-democratic camp. At the same time, Beijing, that is, the Central Government, can rest assured that it can continue to have the say on the election procedures. Nonetheless, last week, some reports said the Central Government has through some avenues, asked some people in Hong Kong who boast themselves to be close to the Central Government to stop making too many comments on subjects including the youth and women, or even on turning corporate votes into directors votes, as it has no real intention of doing so. President, of course, the reports offer no consensus and are divergent, and we have no knowledge of what is going on. However, regardless of whether what has been reported is real or not, I wish the Central Government could understand that the Hong Kong public is asking for a genuine choice. President, you may recall that when Mr Antony LEUNG was the Financial Secretary, he said people should not be fed with fish. Rather, they should be given a fishing rod and taught how to fish. That is the right direction of administration. Unfortunately, right now, the youth can see no fish, not even fry, in the pond before them. What good is it to give them a fishing rod then? On the inaugural ceremony of the Our Hong Kong Foundation, Mr Antony LEUNG expressed that constructing some low-priced housing for the youth to buy is the way to address their discontent. This is tantamount to building for them a hut beside a fish pond without fish, not even fry. President, I believe the young people will not care about such dwellings doled out to them.

In fact, the young people are asking for a system under which the Chief Executive cannot just "shine the shoes" of his superiors and say the words which Beijing finds favourable. They do not want a system which will produce another LEUNG Chun-ying who when running for the office depicted himself as a nemesis of hegemony, a saviour of the grassroots, only to become a 14K after the election — people with a monthly salary of below $14,000 are not entitled to the same election right. The young people want to reform this system and change this: The entire pond has been occupied by the Central Government and some people who are too plump to put on their socks, preventing fish from jumping to the pond which is in front of the young people. This is their simple wish. So Mr Ronny TONG's proposal is in fact a well-timed exhortation. I wish the Chief Secretary Carrie LAM will not waste more time on the second round of consultation. If it is subject to the 31 August Decision by the NPCSC, it is not possible for the people of Hong Kong to have a genuine choice. I so submit.
MR LEE CHEUK-YAN (in Cantonese): Mr Ronny TONG submitted this motion in March. At that time, he said he hoped that the Government could expeditiously put forward a practical and feasible package. Unexpectedly, however, after half a year, it is merely impossible for the Government to put forward a feasible package today, unless something is definitely withdrawn. What does that mean? Unless the 31 August Decision of the Standing Committee of the National People's Congress (NPCSC) is withdrawn. Therefore, the word "撤" (to withdraw) should be used to replace the word "切" (practical) in the Chinese version of Mr Ronny TONG's motion …

(Mr Gary FAN stood up)

PRESIDENT (in Cantonese): Mr Gary FAN, what is your point?

MR GARY FAN (in Cantonese): President, please do a headcount in accordance with Rule 17(2) of the Rules of Procedure.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

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

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, please continue with your speech.

MR LEE CHEUK-YAN (in Cantonese): I just mentioned about Mr Ronny TONG's motion. If the word "撤" (to withdraw) can be used to replace the word "切" (practical) in the Chinese version of the motion, this package will stand a chance. It is very obvious at present that the 31 August Decision of the NPCSC is rendering the whole discussion of constitutional reform and any package not feasible. What we want is genuine universal suffrage, but it is fake universal suffrage under the Decision of the NPCSC. Hence, if we are to have genuine
universal suffrage, under the Decision of the NPCSC, it is downright impossible to have a feasible package. Therefore, we strongly request and have been asking for the withdrawal of the 31 August Decision of the NPCSC. Moreover, the 31 August Decision of the NPCSC is definitely an unauthorized, illicit and illegal decision made against the Basic Law.

Why do I say that the 31 August Decision of the NPCSC is against the Basic Law? It is very clear that there are only three steps in the Basic Law. Of course, you will later say that after the "Three-step Process", a "Five-step Process" was devised in the Decision of the NPCSC in 2004. You can see clearly that in the Basic Law, the "Three-step Process" consists of only the endorsement of a two-thirds majority of all the Members of the Legislative Council, the consent of the Chief Executive, and the approval of the NPCSC. It was originally a "Three-step Process". After this "Three-step Process", two more steps were added in the Decision of the NPCSC in 2004 — this is already an unauthorized structure, which was forcibly added to the Basic Law. Two more barriers need to be passed: The first barrier is submission of a report by the Chief Executive. The second barrier is that the NPCSC has the right to make a determination on whether any amendment is needed or not. The wording is to "make a determination".

What is the content of the existing 31 August Decision? In the 31 August Decision, not only a determination has to be made, there will also be a proposal on how to make an amendment. It has set up a framework and has forcibly built a bird's cage. As we know very clearly, in the Decision of the NPCSC, the support from a majority of members of the Nominating Committee is required. There are four major sectors, and two to three candidates can be nominated at the most. Hence it is clearly an unauthorized decision. If Hong Kong is being restricted and must follow the three "shut-the-door" decisions under an unauthorized decision, how can there be genuine universal suffrage? Let us look at these three "shut-the-door" decisions. The first is that there must be four major sectors. We have no other alternatives. It has to be 300 members from the industrial and commercial sectors, 300 from the professions, 300 from the grassroots and 300 from the political sector. You may want a composition of Legislative Council Members who are genuinely elected by people, but this is not negotiable. And neither will there be universal suffrage in the election of the Nominating Committee. There have to be the four major sectors.
At present, how do people explain why industrial and commercial sectors have to be included in the four major sectors? The clearest explanation comes from LEUNG Chun-ying. I have explained before, but this explanation from LEUNG Chun-ying is better. According to him, if we look for a balanced participation, the situation will be terrible when all grassroots, including those whose income level is below $14,000, have the nomination rights. Once they have the nomination rights, they will be in favour of the grassroots and there will be unbalanced participation in Hong Kong. Is that going too far? President, in respect of either the central authorities, LEUNG Chun-ying, the pro-establishment camp or the industrial and commercial sectors in Hong Kong, I think their understanding of capitalism is terribly below standard. According to their understanding, the industrial and commercial sectors are linked up with an unfair constitutional system, so that the policies will be in favour of the industrial and commercial sectors, and this is the development of capitalism — but it is absolutely not the case.

If we look around the world, all places in which capitalism is put into practice do have a democratic political system, but of course, with varying degrees of democracy. However, there is no such a place as ridiculous as Hong Kong, where the nomination right will be controlled. At present, not only is the nomination right controlled; under the existing policy, the election right is controlled. In future, the nomination right will be controlled. Then what are the public going to elect? Secondly, the support from a majority of members of the Nominating Committee is needed. In the Nominating Committee, 80% of the members are under the control of the central authorities. Thus there is no need to ask more questions. When 80% of the members are under their control, that means the central authorities are the master of the game. We can rather say that the central authorities will identify some candidates for the people to choose, and this is very clear.

Therefore, under the framework of the 31 August Decision, it is downright impossible to have genuine universal suffrage. Members do not like listening to the international standard. But the United Nations Commission on Human Rights (UNCHR) has spelt out the international standard very clearly, and that is, people have the right to elect and the right to be elected. And for the latter, there cannot be unreasonable restrictions. It is very obvious that the existing Decision of the NPCSC does impose unreasonable restrictions. It is because only the member of the Nominating Committee being identified by the central authorities can be nominated — the so-called fake election. That election is actually fake.
Obviously, how can there be genuine universal suffrage under this framework? It is impossible. Hence, under this framework, there will not be any practical and feasible package.

Recently, we have been asking the NPCSC not to shut the door. The door is now shut. And we see that public grievances are on the upsurge or exploding. It is nearly two months since the Occupy movement commenced. What is the purpose of the Occupy movement? What is the purpose of the Umbrella Movement? It wants to tell the central authorities not to shut the door. After the door is shut, can the door be opened so that we can start the discussion again? If the door was not shut then, this incident would not have happened today. Nonetheless, the door is shut. The NPCSC has made that decision and forcibly imposed its decision on Hong Kong. The Hong Kong people are not convinced. It is because Hong Kong people think that they should decide on their own fate. There is no reason that it is imposed on us by the NPCSC. This is what leads to the Umbrella Movement, and leads to the frenetic reaction of police officers and overuse of force by the Police. This is all made by the Government. (The buzzer sounded)

PRESIDENT (in Cantonese): Mr LEE, your speaking time is up.

MR JAMES TIEN (in Cantonese): President, in a Members' motion debate, the Liberal Party of course has to listen to Members' speeches. But the most important thing is the wording of the motion. Mr Ronny TONG's original motion urges the Government to expeditiously put forward a practical and feasible constitutional reform package. The Liberal Party is in support of it. On the contrary, Ms Emily LAU's amendment says that beside complying with the Basic Law, the package also has to comply with the International Covenant on Civil and Political Rights, and should be supported by the majority of people. In our opinion, in the light of the existing environment of Hong Kong, this amendment is not practical and therefore we will not give our support.

President, in regard to the so-called practical and feasible constitutional reform package, it has always been the viewpoint of the Liberal Party that it refers not only to election. We think it is true that the credibility of a Chief Executive being elected by universal suffrage is high, and this is conducive to his
administration. However, the situation remains the same, which is that he does not have even one vote in the Legislative Council. Similarly, in the course of election, neither can he decide who will be the three Secretaries of Departments, nor can he decide who will be the 12 Directors of Bureaux. It will be unknown if there is any team spirit. Even if a Chief Executive is elected in this way, when a practical and feasible constitutional reform package is being introduced, will the governance be improved? It may be still unachievable. Hence, we think that the most important point is not to walk on a treadmill, and not to have the Chief Executive chosen by 1 200 persons only.

For what was said earlier by Mr LEE Cheuk-yan, I agree with half of it but not really with the other half of it, particularly when he said that members of the Nominating Committee all came from the industrial and commercial sectors. He even said that they had nearly monopolized the entire Nominating Committee. He seems to have been exaggerating as this is not the fact. In the first sector among the four major sectors, only 300 members come from the industrial and commercial sectors. In the second major sector, the members come from the professions. Members in the third major sector are the grassroots. In the fourth major sector, the members are from the political field. According to this, four candidates can be nominated from four different major sectors, including the grassroots. There will never be the situation in which the industrial and commercial sectors nominating three to four candidates from their own sectors at one go.

As regards whether the election of the Chief Executive needs to follow this method, the Liberal Party always thinks that the mode of "one country, two systems" and "high degree of autonomy" is uniquely adopted in Hong Kong only, not anywhere else in the whole world. It is thus difficult to cite examples from other places and apply them to Hong Kong. Not only must we consider the concept of sovereign state in "one country", we have to consider the concept of jurisdiction in "two systems" too. On the contrary, there are only two ways to present this question. Can Hong Kong decide on the mode of election at its own will, and the Chief Executive thus elected will be awaiting appointment by the central authorities? However, if the central authorities thinks that the person elected does not love either China or Hong Kong and thus do not want to appoint him, the problem will be very serious.

In my opinion, although there is such a provision in the existing Basic Law, the provision may not be feasible when put in actual practice. On the contrary,
we have to respect the viewpoint from that of "one country". If among the candidates, there are at least a few who can be acceptable in the eyes of the central authorities, we think that universal suffrage in 2017 is a feasible package, which is also known as "half cup of water" or "pocket-it-first" package. Of course, we also hope that in the 2022 election, more candidates can be defined as those who love China and love Hong Kong, including candidates from the pan-democratic camp. Or can more water be added to the half cup of water? If we do not accept this package at present, we worry very much that by 2022, whether we can still put this package forward for further discussion, or whether this may be postponed for many years later.

Therefore, we think that whether this package can be passed will depend on Members from the pan-democratic camp, and we cannot help at all. However, if this election package cannot be passed, we think the question of Chief Executive election can hardly be resolved even after a very long period of time.

Mr Ronny TONG has mentioned one point and that is: If the "pocket-it-first" package is accepted for the Chief Executive election in 2017, can all the functional constituency seats in the Legislative Council be abolished in 2020 as an exchange? I think this involves two issues. First, it is about all the decisions made by the Standing Committee of the National People's Congress (NPCSC). The National People's Congress is subject to re-election every five years. It is not possible that the 31 August Decision made recently in 2014 by the NPCSC will be a decision or undertaking on the constitutional reform package after five years. Looking back at the decisions on constitutional reform package made by various terms of the NPCSC, none of the undertakings would straddle beyond the next five years. This is not something possible because the few hundred members of the NPCSC of the next term will be different from those of this term. How can they make such an undertaking? Second, the Liberal Party always think that the concept of functional constituency is to recruit elites or those who are representative. The elites refer not only to those from the industrial or commercial sectors, or people who they are rich or not. No matter in the labour sector or in the social welfare sector, their representatives are elites. If each sector can nominate some elites for the general public to choose from, it will be fine. Instead of limiting to the present situation when a Member is being elected with as few as a hundred odd votes or votes amounting to a few dozen thousands, the general public are given two choices. One is to vote for Members through direct election and the other is to vote for Members from functional constituencies. As regards whether they can choose among all candidates, or they are able to take another vote … At present, we see that in the Legislative
Council, there are already five seats from the District Councils returned by functional constituency election. The candidates concerned are nominated by District Council members for election by the general public. In our opinion, in other sectors, such as the banking, legal and labour sectors, they can also nominate candidates for the several million people of us to vote for. This is an option which can be considered, while the professionals in our Council can also air their views. The candidates concerned also have recognition and credibility, and can be elected through different batches of voting from the several million people. We think these are the more feasible options.

Finally, I have to reiterate that in terms of governance, we think the most important point is that if the Chief Executive elected has no vote in the Legislative Council, it is impossible for him to stick to the executive-led approach only. He has to co-operate with the Legislative Council Members from different political parties. For the mode of co-operation, whether it is appointing Members to be Members of the Executive Council or to be the Secretaries or Directors of certain Departments or Bureaux, this can be discussed then. Thank you, President.

MR TONY TSE (in Cantonese): President, according to the decision made by the Standing Committee of the National People's Congress (NPCSC), the Chief Executive will be returned by universal suffrage in 2017 and the Legislative Council in 2020 the earliest. The relevant decision has paved the way for the constitutional reform by setting out a well-defined timetable for the universal suffrage of the Chief Executive and the Legislative Council. It is definitely a long stride in Hong Kong's democratic progress. NPCSC has made the pledge to confer universal suffrage upon Hong Kong, but if we are to carry out a feasible and practical constitutional reform and implement the universal suffrage for the Chief Executive Election in 2017 as scheduled, as well as to provide the prerequisite for the implementation of the election of all Legislative Council members by universal suffrage, we should stick to two major principles. First, they should be conducted under the framework of the Basic Law. Second, we should act in accordance with all the relevant decisions made by the NPCSC on Hong Kong's constitutional reform, including the Decision of the NPCSC on issues relating to the selection of the Chief Executive by universal suffrage and on the method for forming the Legislative Council in the year 2016. Therefore, if any suggestion or proposal relating to constitutional reform departs or varies from these two major principles, they could hardly be accepted as they lack the legal basis in the constitutional sense.
President, to realize the selection of the Chief Executive by universal suffrage through "one person, one vote" in 2017 as scheduled is the common aspiration of the Central Government, the SAR Government as well as the majority of Hong Kong people. If some people still maintain their views on some unrealistic suggestions and proposals which prevent the implementation of the universal suffrage for the Chief Executive in 2017 as scheduled, and thereby indirectly affect the 2020 Legislative Council Election, they will ultimately inhibit the progress of Hong Kong's constitutional reform as Hong Kong will be forced to stay put or even go backward. I believe it is not the result welcomed by the majority of Hong Kong people, and it is obviously not in the best interest of Hong Kong. For that reason, I hope that as far as the issue of universal suffrage is concerned, those who insist their views on those unrealistic proposals will return to a more pragmatic direction in keeping with the Basic Law and decisions of the NPCSC and to bring about the attainment of the largest consensus in society on the package of universal suffrage at early as possible according to the Basic Law and NPCSC’s decisions.

Whenever the constitutional reform package was discussed in society in the past, we heard people argue from time to time that the relevant package should conform with the International Covenant on Civil and Political Rights, and that the universal suffrage for the Chief Executive in 2017 should be in compliance with international standards. The relevant saying is also mentioned in today's amendment. Nevertheless, Prof RAO Geping, member of HKSAR Basic Law Committee, criticizes in his newspaper column that at the present time, some people propose and insist that the universal suffrage of Hong Kong should toe the line of international standard just because their intentions are to place international standards above the Chinese laws, and the objective is to suppress and resist Basic Law's stipulations and NPCSC's decisions by means of international standards, with a view to scrambling for the leading position in the universal suffrage argument.

President, I agree with the relevant criticism made by Prof RAO Geping because I have all along been questioning people who made such requirements whether or not they know the legal basis for Hong Kong's universal suffrage, what the so-called international standards are and from what perspective do they weight the international standards. Actually, the so-called international standards could vary from people to people as there are different standards and actually no common standards. For that reason, in essence, to those who propose that the Hong Kong universal suffrage has to be in compliance with
international standards, their only wish is that the universal suffrage in Hong Kong can fit what they envisage in their minds. As to whether they conform with the two major principles I have mentioned just now, which are the requirements under the Basic Law and the NPCSC's decisions, they do not necessarily take note of them, or they simply refuse to take note of them. As Prof RAO Geping points out, they just want to fight for the leading position in the universal suffrage argument. Their intention will not be backed by us.

With regards to another proposal in the amendment, by which some Members urge the Government to abolish all functional constituency seats in the Legislative Council no later than 2020 and to implement universal suffrage for electing all Legislative Council Members, first of all, one of the two major principles of universal suffrage, namely that it should be carried out according to the relevant decisions made by the NPCSC, must be followed. That is to say, the Chief Executive of the HKSAR can be elected by universal suffrage in 2017 and then the Legislative Council can also be elected in the same manner in 2020. For that reason, the prerequisite for the universal suffrage of the Legislative Council is the universal suffrage of the Chief Executive. Yet, 2020 is the earliest time to have universal suffrage for the Legislative Council, not the deadline. If Members vote against the package of universal suffrage for the Chief Executive, it will not only jeopardize the implementation of the universal suffrage for the Chief Executive in 2017 as scheduled, it will also directly affect the progress of the universal suffrage for the Legislative Council and make it impossible for the implementation of universal suffrage for the Legislative Council as early as 2020. Moreover, as to the question of whether all functional constituency seats in the Legislative Council should go or stay, there is no major consensus in society at the present stage. Some people require their abolition while some hope vehemently to preserve those seats. For that reason, before sufficient discussion is made and larger consensus is reached, any decision made hastily is unrealistic and will not be backed by us.

President, I so submit.

MR CHRISTOPHER CHEUNG (in Cantonese): President, further development of the constitutional reform is now an issue we are all deeply concerned about. Earlier, as some people were dissatisfied with the decision made by the Standing Committee of the National People's Congress (NPCSC) on 31 August (the NPCSC Decision), an illegal Occupy Central movement was
launched and it later mushroomed all over the territory, leading to a major
disruption of social order and traffic flow, splitting the society and creating
incessant internal attrition.

The Election of the Chief Executive by universal suffrage in 2017 is an
opportunity made readily available to us. The question is: Even though some
consider the current proposal not good enough and far less than perfect, shouldn't
we focus on implementing universal suffrage for Chief Executive election under
the NPCSC framework, before discussing how to enhance the election system at
the next stage? It is inadvisable for us to use Occupy Central, an act of
self-destruction which is illegal and jeopardizes the overall interest of Hong
Kong, to try to compel the Central Government for a reversal of its decision.

Indeed, the position of the Central Government is crystal clear. The
demand for reversal of the NPCSC Decision implies a disregard of the fact that
China has resumed sovereignty over Hong Kong, and that the territory is now a
special administrative region of China. To willfully challenge the decision made
by the highest power structure in China is actually an irrational and unrealistic
behaviour. Therefore, I totally disapprove of anyone who fights for a so-called
ideal election model with an "it's now or never" or indiscriminately destructive
approach.

President, Members from the pan-democratic camp always highlight the
need to respect public opinion. If so, shouldn't they also try to understand
people's opinion about the NPCSC Decision? Ming Pao Daily, for instance,
asked people's opinion in early September on the NPCSC Decision made on
31 August. It was found that 52% of the respondents considered the proposal
acceptable, even though the pan-democrats would be barred from entering the
race for the next Chief Executive.

It merits our attention that after the launch of the Occupy Central incident
on 28 September, Ming Pao Daily conducted the same survey again on
10 November, asking people if they were willing to "pocket first" the proposal
put forward by NPCSC. The new findings showed no big difference from the
previous ones, and 23% of the interviewees accepted the proposal, indicating in
fact a one percentage point marginal rise from the previous survey, whereas the
proportion of those who preferred a policy status quo dropped by three
percentage points to 34%.
Furthermore, the Centre for Communication and Public Opinion Survey of The Chinese University of Hong Kong completed a public opinion survey in mid-November. It revealed that 67% of the surveyed held that the occupy protesters should evacuate all the occupied areas, only 13.9% believed they should continue to stay; and, in a reversal of public opinion, 43% did not support the Occupy Central movement, a proportion much higher than the 30.9% who showed support. And according to the latest survey by the Public Opinion Programme of The University of Hong Kong, 83% of the surveyed said the occupy protesters should stop occupying, only 10% held they should continue with the movement.

In my opinion, if anyone insists on using Occupy Central to demand for universal suffrage, he is in fact "breaking the rice bowls of the small and medium enterprises", tarnishing the international image of Hong Kong, destroying the good business environment, antagonizing the general public, and eventually making himself a public enemy condemned by all.

President, before discussing whether functional constituencies should be fully abolished in 2020, I would like to ascertain if we are going to realize the Election of the Chief Executive by universal suffrage in 2017. If this can be realized, then we can go ahead electing all the Members of the Legislative Council by universal suffrage in 2020, in accordance with the NPCSC Decision. However, when electing all the Members of the Legislative Council by universal suffrage, does it mean that we have to forgo all functional constituencies? Alternatively, while proceeding to universal suffrage, can we also enhance the representativeness of functional constituencies and pay heed to the economic development of Hong Kong, so as to allow chances for a group of Members who are familiar with the development of the industries and concerned with the overall economic development of Hong Kong to continue participating in politics? Otherwise, Hong Kong's development will come to a standstill, and this is definitely … the contributions made by Members returned by functional constituencies surely cannot go unnoticed.

With these remarks, President, I support the motion moved by Mr Ronny TONG and oppose the amendment raised by Ms Emily LAU. Thank you.
MR LEUNG YIU-CHUNG (in Cantonese): President, I recall that during the debate on Mr Ronny TONG's motion last week, a Member commented that the content of this motion was as explicit as the fact that mothers are women. I believe what he meant was that the Government was about to start the local legislation process, in consideration that if there were further procrastination, the Government might not be able to make it on time, hence the proposed package was expected to be passed quickly. Meanwhile, given that the package put forward by the Government is believed to be a practical and feasible one — otherwise the Government would not submit it to the Legislative Council — in his view, this motion was not that meaningful. I believe this happened to prompt Ms Emily LAU to propose some amendments to this motion, _inter alia_, to add in the original motion the aspiration for returning the Chief Executive and electing all Legislative Council Members by universal suffrage which complies with the International Covenant on Civil and Political Rights and international standards, and so on.

President, although this motion put forth by Mr Ronny TONG contains nothing concrete and specific, I do believe it aims to convey a profound and far-reaching message. The motion candidly and conscientiously calls on the Government to expeditiously put forward a package which must be practical and feasible. Nonetheless, what he means is not just a package considered practical and feasible by the SAR Government itself. A meaningful package, in his view, is one considered practical and feasible by two thirds of Legislative Council Members. It would be meaningless to put forward a package that cannot gain support from two thirds of Members.

Hence, in my opinion, the most important objective of the motion is to remind the Government, particular the SAR Government, not to indulge in self-talk when introducing the package. It should take into consideration the views of all the Members as well. President, one should understand that if a so-called practical and feasible package is drawn up in accordance with the "shut-the-door" framework announced by the Standing Committee of the National People's Congress (NPCSC) on 31 August, the chance for the passage of such package in the Council is indeed very slim. The pan-democratic Members have indicated that we will cast opposing votes if the constitutional reform package is based on the abovementioned framework. Thus we would like to draw the Government's attention to the problems in this regard.
In fact, before and after the announcement of the "shut-the-door" framework by the NPCSC on 31 August, both the SAR Government and the Chief Secretary for Administration time and again emphasized that as announced during the previous term of the Government, the basic principle of "one person, one vote" would be applicable to the citizens of Hong Kong. In the light of the specific arrangement proposed, they wondered why the people of Hong Kong opted not to pocket the proposal first. As to the issue of nomination, it could be discussed later on without haste.

President, the "pocket-it-first" issue is not about principle but about strategy. If the Central Authority and the SAR Government would conduct a genuine democratic election in Hong Kong out of good faith, I believe the "pocket-it-first" strategy is not necessarily non-negotiable. Regrettably, the Central Authority and the SAR Government have neither told us nor showed us that they truly want to implement genuine universal suffrage in a comprehensive manner. Up till now, they have neither given us the definition of universal suffrage in their mind, nor the time of actual implementation. They only say that there will be democratic election in our political system one day. But what does that mean? The empty words they say do not carry much meaning.

Up till today, the people of Hong Kong really do not have confidence to bet on the so-called "pocket-it-first" package. President, what makes me say so? In 2010, at the time when the previous constitutional reform package was approved by the NPCSC, "The overall process leading to the passage of the draft proposal is a significant step forward in forging the development of democracy", said Mr LI Fei. What did he mean? That step he said was based on "one person, one vote", as we put it today. President, today when we see that the process of enacting local legislation is at its final stage, the NPCSC nevertheless has shut three thick doors all of a sudden. In addition, it has provided a strong justification for shutting the doors. What is it? The doors are shut for the sake of national security. President, speaking of national security, I really do not have a clue as to how democratic universal suffrage will genuinely be implemented in Hong Kong. Today they tell us that there is a need to shut the three doors heavily for the sake of national security. In that case, in the next term of government, will the issue of national security vanish? Will the Central Authority be able to relax it? President, I really do not get it. If, for the coming election, the Central Authority raises the issue of national security — in fact the issue of national security will still prevail in each and every election — if it is a "NO" today, why will it become a "YES" next time? I really do not get it and do not have a clue.
Hence the Government's request for us to pocket it first is equivalent to coaxing us to accept the package, and that is it. President, it is not completely impossible for us to accept this proposal. As I said just now, the Government needs to show us the prospects, but how can we see the prospects? Under the circumstance that the Central Authority has already cited national security as a strong justification, how can this be fixed? How can the Government tell us that in the future, we will have a more democratic nomination method which genuinely complies with international standards? President, under the current circumstance, unless the Government today tells us that the three doors will be abolished or taken back by the NPCSC when local legislation is enacted in the future, we do not see any prospect for real democracy in Hong Kong.

For that reason, it is our opinion that Mr Ronny TONG's motion is not meaningless as the motion urges the Government to put forward a practical and feasible package, which means he would like the Government — to be specific, the SAR Government and the Central Authority — to understand that the passage of the package requires support from two thirds of Legislative Council Members.

DR HELENA WONG (in Cantonese): President, I speak to support Mr Ronny TONG's original motion and Ms Emily LAU's amendment.

Mr Ronny TONG really has the foresight to mention "a practical and feasible constitutional reform package" in his motion. Mr LEE Cheuk-yan just now suggested that the Chinese character "切" (pronounced as cit3 to mean "genuine") should be replaced by "撤" (also pronounced as cit3 to mean "withdraw"), which he found more appropriate. Is it possible to withdraw the decision? It is indeed possible. If the Standing Committee of National People's Congress (NPCSC) responds to the calls of Hong Kong people voluntarily, it absolutely has the power to revise and withdraw this decision which is considered unwelcome by the people of Hong Kong. It is therefore possible to withdraw the decision.

But the problem is, have the officials, the local NPC deputies or pro-establishment Members attending this meeting ever responded to the calls of the people? Have they ever conveyed public views to the Central Authority or the NPCSC and sought for the withdrawal of the decision? They only call on the students and occupiers to retreat, but have they ever appealed to the Central Authority or the NPCSC to withdraw the decision?
President, the decision must be withdrawn should we want to find a way out for Hong Kong. You once said if the constitutional reform package is negatived, Hong Kong will become ungovernable. Today in this Council, there is no harmony and things have come to a deadlock. The passage of many items has been shelved or deferred due to the non-co-operation movement initiated by some Members. Among the three occupied sites outside the Council, the one in Mong Kok was cleared yesterday and earlier today. Yet will the protesters come back tonight? What is the situation in other occupied sites? As everyone can see, many people were injured and bleeding. These scenes are certainly not what we want to see.

President, Hong Kong has no way out now as the NPCSC has not yet withdrawn the 31 August Decision. During the last two months, there were many discussions on the Decision in our society and the people generally believe that the three heavy doors shut by the Decision will stifle genuine universal suffrage. Some pro-establishment Members even say they are well aware that the so-called "universal suffrage" is indeed a fake, yet they would like us to "pocket it first" submissively. The Government, as the salesperson, already knows that the so-called "universal suffrage" is a fake. In that case, how is the Government going to market the package when the public know that the Government is selling them "fake medicine"? Hence, the Decision must be withdrawn should we want to find a way out for Hong Kong.

According to the Basic Law, what is referred to as a practical and feasible package must be in compliance with the actual situation in Hong Kong. What does it mean by "actual situation"? Now in Hong Kong, the actual situation is that there is no way out or any leeway. The Government has not yet put forward a package that can be passed by two thirds of Members. Moreover, the people outside this Council will not accept the existing package.

A public opinion poll conducted recently pointed out that the majority of people support the view that the occupiers should evacuate expeditiously. We find this result understandable, as the Occupy action has persisted for almost 60 days and it has broken the 56-day record set by the Tian An Men Democracy Movement in 1989. In fact, the occupiers themselves want to evacuate too. The student leaders have applied to the universities concerned and are allowed to take leave for one academic term. Now the first academic term will be over soon, and it is time for the students to sit for the examinations. Having sacrificed one academic term, it is unlikely that they want to sacrifice another.
They want to go home as soon as possible. We hope the Government can give them a chance.

Up till now, what has the Government done? The Government attempted to clear the sites as early as 28 September, and fired 87 tear bombs for that sake. Last night, the Police even resorted to "pepper spray-based solution" and various means to deal with the people. The Government has only exchanged dialogues with the student leaders for once, which was conducted in haste, and the officials put the blame on the students. The Government did not negotiate further with the students subsequently.

During the exchange of dialogues, the Secretary made two undertakings, one of which was on the "Public Sentiments Report". However, despite Members' numerous attempts to pursue the details from government representatives on the meetings of the Panel on Constitutional Affairs, now we still have no idea what the Government is prepared to do with the report. For instance, we would like to know whether the Government is prepared to table the report in this Council for Members to discuss and comment on. Yet we have not received any reply from the Government so far. As for the platform involving different sectors of the community, has any progress been made? It would probably be forgotten in the end. The Government added that further exchange of dialogues, if any, would focus on the post-2017 issues only. The people remaining in the occupied sites are fighting for dual elections by universal suffrage in 2016 and 2017. If the Government is only willing to discuss the post-2017 issues, that means there is no room for discussion or any leeway. President, having come to such a deadlock, who should be held responsible?

The Democratic Party urges the Government to re-activate the platform involving different sectors of the community, through which the Government can conduct serious discussions with various stakeholders, including the student leaders, pan-democratic Members, civil bodies, participants of the Occupy movement, and so on. This will be more constructive than using "pepper spray-based solution" and batons to scatter the demonstrators and calling on them to evacuate. In fact, the problem remains unresolved as the conflicts are still there. Moreover, the constitutional reform package has not yet got a green light.

I feel rather heart-stricken when I hear some Members say that they have to uphold the functional constituency (FC) system and make it last forever. The Basic Law has stipulated that all the Members of the Legislative Council will
eventually be returned by universal suffrage. This monstrous FC system, which first appeared in mid-1980s, has been maintained for 30 years. It is unbelievable that some Members still want to uphold this system. The reason behind their royalty is that the representatives of functional bodies usually make their way into this Council and become a Legislative Council Member through the FC system. Under the system, they have no need to face the voters; even if they have to, it is only a small group of voters. The system is extremely unfair. As for the election of the Chief Executive, the threshold is rather high. Candidates who want to be qualified for the election must obtain support from half of the members of the nominating committee. The candidates from the opposing camp is likely to get eliminated at an early stage. As stated in the Basic Law, the nominating committee is to perform the function of nomination instead of conducting preliminary screening, but some people made a disguised displacement of the concept. Hence, if the Decision is not withdrawn, Hong Kong will have no way out.

With these remarks, President, I urge the Government to think twice. If the constitutional reform package is negatived, I would call on the three officials (The buzzer sounded) …

PRESIDENT (in Cantonese): Dr WONG, your speaking time is up.

DR HELENA WONG (in Cantonese): … to resign.

MR FREDERICK FUNG (in Cantonese): President, this motion moved by Mr Ronny TONG was original scheduled for the meeting held on 9 July; hence it is really a bit outdated to discuss it today. I believe Members can still recall that at that time the pan-democrats was trying to persuade the Central Authority to refrain from "shutting the door" through different channels. No matter whether we were meeting ZHANG Xiaoming in four groups or in Shenzhen, we incessantly urged the Central Authority to refrain from "shutting the door", so that we could have more room for discussion after the Standing Committee of the National People's Congress (NPCSC) has made its decision. But then, as heaven and hell can be changed within a flash of thought, "shutting the door" today is obviously a move pushing Hong Kong to hell.
As we have seen, after the decision of "shutting the door" is announced, not only the Occupy Central Trio and the two students' associations but also the general public reacted very strongly. We all believe that such reactions were not organized activities; members of the public just came out on their own initiative. The Occupy movements held in Admiralty, Causeway Bay and Mong Kok in these two months are attempts made by the public with their own bodies, languages or even law-violating activities to strive for the constitutional reform they support.

Very obviously, the NPCSC has assessed the situation in Hong Kong incorrectly in making its decision this time, and thus caused the people of Hong Kong to react so strongly. What are the factors contributing to such a situation? Is it attributable to some wrong assessments made by the Central officials, some mistakes made by the ultra-leftists within the Central Authority, or is it because the report submitted by the Hong Kong Chief Executive has given the Politburo Standing Committee some false information?

Actually, the issue facing us today is not only an issue for today but also something we have to deal with in the future. Both the Chief Executive and the Central Authority have misinterpreted Hong Kong people's demands, as they consider that the discontent of the students and members of the public in Hong Kong are solely related to some economic reasons, and therefore they believe they can pacify the people of Hong Kong by organizing more youth activities and providing more welfare measures. I wish to tell the incumbent government officials and the Central Government that they are wrong if this is really what they believe.

It is true that the people of Hong Kong are under the influence of western culture, but I believe they still adhere to some traditional Chinese thinking. By that I mean they care not only their own needs but also justice, a society that upholds justice and equality. Hence, to address the current issue, the ultimate solution is not improving the economy or organizing youth activities. Rather, the Government should revert to the constitutional front and put forward a system which is acceptable to the people of Hong Kong.

I see three major problems in Hong Kong. First, the political system is deficient. The existing political system in Hong Kong is by no means complete but full of deficiencies, as the Government is not supported by a political party and does not have any forward-planning policies. Besides, the Chief Executive
assumes the position in the capacity of an "individual", with one Chief Executive replacing another. We just do not know what kind of person will become our Chief Executive in the end. Second, the policies are biased. As we all know, most of the policies of the three Chief Executives are basically tilted towards the business sector and have eventually give rise to the existing problem of disparity between the rich and the poor, the worst consequence of which is the public discontent with the Hong Kong Government. Third, the community has no vision and no way out. The younger generations do not know what they can do and feel as if they were being besieged. I wonder if anybody knows that some of the people sitting in the occupied areas in Admiralty and Mong Kok are earning more than $20,000 a month but they resigned from their jobs to sit quietly in the occupied areas because they consider they have no future and no way out. Does anybody know about such kind of persons? Why do they choose to do that?

Let us take a look at the systems of some developed democratic countries. The nationals of these countries can choose their national leaders and replace their leaders, and their government can be a "leftist" or a "rightist" one. Under their systems, corresponding mechanisms are in place to complement with and monitor their governments despite the change in leadership. Hong Kong's system is lagging way behind theirs, which are relatively more comprehensive. When we cannot freely choose or replace our leaders, when we cannot choose a "leftist" or "rightist" government, how can we ... In the view of the people of Hong Kong, the greatest contribution made by the three Chief Executives in the past 17 years is the enhancement of the people's civic awareness, as the people are all dissatisfied with the performance of these three Chief Executives.

If the Government leaves this elevated civic awareness unaddressed within an insensitive political system, this contradiction will exist not only at present but also in the future. Let me cite an example, even though it may not be a very appropriate one. We have seen Japanese Prime Minister Shinzo ABE advancing the general election recently. Do you think this general election can be considered a referendum? This is more than a referendum. Instead of putting forward several questions for people to choose, he has offered his policies on economic reform and sales tax implementation for people's choices in this general election. The electors can have him replaced by not voting for him, and they can change a new government by choosing candidates of another party.
In countries that uphold liberty and democracy, the people can make such choices when they are dissatisfied with their governments. But then, we all know that as Hong Kong is not a country, we may not be able to do so. We may not be able to do that because we have a Central Government. When it comes to issues involving the constitutional matters or political system, we particularly need to seek the consent of the Central Government. Under such circumstances, how can the existing contradiction be addressed?

During the 1990s, the Hong Kong Association for Democracy and People's Livelihood and I put forward the approach of "negotiating and criticizing". The meaning of "negotiating and criticizing" is that while we have to accept the situation where the public take their discontent with some livelihood or political issues to the street and seek to resolve some internal contradiction within Hong Kong by peaceful resistance, we also need to reach a decision acceptable to all through negotiation to resolve the contradiction and turn the relevant arrangement into policies or a piece of legislation. Negotiations are a must throughout the process. It is through "negotiating and criticizing" that a result can be achieved.

In the face of an incomplete system and the fact that the Central Government is the final decision maker of the constitutional system, we hope that the causes that members of the public strive for can be dealt within the system and by way of policies and legislation. Obviously, if the approach of "negotiating and criticizing" is to achieve any results, the agreement of the Government and the Central Government is indispensable. If the Government feels that the people are criticizing it and thus refuses to communicate with them, the "negotiating" part cannot be done. If the Government chooses to "negotiate" with some people only and "criticize" those it finds unacceptable, it can never hear the views from members of the public who strongly oppose the constitutional system or policies it put forward. Should that happen, the Government can never take in the views of the people as public opinion and consolidate the opinion into its policies.

I want to say one more thing. If the Government of the Special Administrative Region and the Central Government do not accept the "negotiating" and "criticizing" parts to work together, members of the public will have no choice but to take to the street, as there is no way for them to "negotiate".
MS CYD HO (in Cantonese): President, I support Ms Emily LAU's amendment and the original motion moved by Mr Ronny TONG. First of all, we need to discuss what is meant by "practical and feasible". We are currently in need of a constitutional reform because the legitimacy and propriety of the Government's governance work call for improvement. The Government is having difficulty in discharging its governance duties because it fails to have the people's consent. Naturally, a democratic election is the easiest way for the Government to resolve the legitimacy issue, but this is exactly what we are missing now, and that is why we need to talk about constitutional reform.

Before a democratic election is available, what can be done to make the public accept and agree that the governance of the Government is sensible, reasonable and lawful? It all depends on whether or not the Government can convince members of the public that it is capable of safeguarding the interest of all the people in a fair and just manner. However, the existing Government of the Special Administrative Region can hardly do that. The continuous rise in accommodation expenses in Hong Kong is attributable to the collusion between the government and the business sector, so much so that the middle-class people are becoming have-nots, while the grassroots can never get out of poverty. What is more, some government officials have accepted bribes blatantly. It seems that our infrastructure projects are automatic teller machines. The Government keeps submitting funding proposals and supplementary provision proposals in the names of such projects. Under the governance of the existing Government, only a limited number of persons with power and influence can really get increasingly wealthy, whereas the grassroots and common people in the street can never enjoy protection by justice. Further still, the Police Force is being used as an instrument for political suppression, while the triad societies are allowed to attack the general public. In addition, even though the Chief Executive has violated the law by constructing unauthorized structures in his home, so far he has never been brought before the law. How can one not suspect the legitimacy of this Government?

Hence, a practical and feasible constitutional reform package must be able to address Hong Kong people's query about the Government. In addition to winning a two-thirds support in the Council, a "practical and feasible" package must be able to win the hearts of the people, in particular the younger generations. Otherwise, in 10 to 15 years' time, the Government will find it even harder to govern Hong Kong.
According to a survey conducted by Ming Pao Daily, only 7% of the respondents in the 15 to 25 age group oppose the Occupy Central movement, while 12% of the 25 to 36 age group oppose the movement. I have to ask the Government: in 15 years' time, how is it going to govern Hong Kong? In 15 years' time, these two age groups will be in their 30s to 50s and they are the mainstay of our society. They have demonstrated their resolution by taking to the street today. If the Government does not respond to their request for democratic progression, it will not be able to govern Hong Kong after 15 years.

A non-government association known as Civic Council conducted an opinion poll at the Umbrella Square in Admiralty to find out people's view about the Occupy Central movement and the constitutional reform, and a very useful information item provided in the survey report is the background of the respondents. Out of the 2 200 respondents, 17% are holders of associate degrees or higher education qualifications, 48% are degree holders, and 17% are holders of Master's degrees or higher qualifications. The sum of these figures added together is 82%, which represents a total of over 80% of the respondents. As for their age groups, more than half of the respondents are below 30. Any government should be shocked on seeing such data, as these young middle-class people have come out to say no to the Government and say that the Government has done wrong. Regrettably, the Government just focuses on consolidating its power and authority and demonstrate no hesitation in using violence to clear the occupied sites. However, this can only clear the occupied areas but not the hearts of the people. In particular, after LEUNG Chun-ying has stepped down from office in 2017 — I certainly hope this would happen earlier — the succeeding governments has to take care of all the troubles left behind by him.

Political issues should be resolved by political means and negotiations, rather than relying excessively on the injunction orders issued by the Court. Further still, the Government should never resort to using increasingly violent means to resolve the problems. Regrettably, however, just yesterday alone, the voluntary first-aid station in Mong Kok has received 170 help-seeking cases. My heart really ached when I saw the images of people's heads being broken and bleeding. Hereby I have to ask the Government: how many heads you have to break before you are willing to stop beating up the people savagely; how many members of the public you have to injure before you are willing to sit down and have practical dialogues with the commonality to negotiate a constitutional reform package which is acceptable to the general public? The Government just
chooses to enhance the force for dealing with the situation. However, when the Police Force increased the force and violence it uses, greater resistance from the people will be resulted.

LEUNG Chun-ying was right in saying that "you cannot deal with the younger generations by wheedling alone". I am not sure whether the next sentence he said after that was "you should slap them harshly if wheedling does not work", but his first sentence was right because the younger generations are able to find out the truth. If some people should put forward today some "lame ideas" like organizing dance parties for youngsters in the hope that the youngsters' energy would be used up in the parties like what happened back in 1967 after the riots, these people have really under-estimated our younger generations too much. The Government has spent a fortune to sponsor the young students to go on exchange tours to the Mainland, yet they are even more scared after seeing the Mainland governance issues during the exchange tours. What is more, they are even more determined to stop the practices of corruption, power abuse and law stretching prevailing in the "one country" government from destroying the "system" of Hong Kong.

Many young people staying in the square are highly pampered children of their families, but why are they so eager to achieve their objective of a democratic constitutional reform in one go? I have talked to these young people, and they told me they were in fact sacred because they had seen Hong Kong deteriorating and degrading at high speed. Seeing that freedom of the press is not safeguarded and they are even deprived of the choice of television stations, they cannot help but feel so anxious.

President, power corrupts people, and when a small number of people have the power to nominate candidates, they will corrupt even more quickly. The benefits enjoyed by a small number of people in Hong Kong are in fact paid for by the majority of the population through hard toil. The constitutional reform that the people of Hong Kong yearn for today is in fact a mechanism to remove the environment where a small group of people can engage in corrupted practices. If the Government intends to use "one person, one vote" to cover up the proposal whereby the Government can collude with the business sector to reap benefits, such a proposal will never help enhance its governance efforts in a "practical" or "feasible" manner, and we will vote against this proposal for sure.
Instead of implementing in vain the framework decided by the National People's Congress, the authorities should re-activate the five-step mechanism expeditiously and start the consultation process anew, so as to respond practically the people's call for democracy.

DR KWOK KA-KI (in Cantonese): President, so far the Umbrella has been held for almost 60 days, and today is the day when the occupied areas in Mong Kok will be cleared. As such, it is indeed a bit outdated to discuss this subject today. With regard to the situation before us today, the seriously torn society, the younger generations' lack of confidence in the Government (both the Government of the Special Administrative Region and the Central Government alike), the increasingly deeper cracks in our society, and people's zero hope in the constitutional reform, if we are to hold someone responsible for all these issues, Mrs Carrie LAM, the Secretary for Constitutional and Mainland Affairs sitting on the opposite side and LEUNG Chun-ying, who has been pretending that he cannot see the matter, are the ones that must be held accountable.

The people of Hong Kong have been waiting for more than 20 years since the constitutional reform discussion was first commenced, by that I mean the day when the Basic Law stipulated clearly that Hong Kong could implement universal suffrage for returning the Chief Executive in 2017. The "shutting the door" decision made by the Standing Committee of the National People's Congress (NPCSC) on 31 August has in effect sentenced the election by universal suffrage to death. Our demand is in fact very humble. It is no more than the elections by universal and equal suffrage prescribed under Article 25 of the International Covenant on Civil and Political Rights. Nevertheless, such a humble demand is not acceded to.

I have once used a parable to explain that the "pocket-it-first" recommendation is a fraud. If something is genuine, there is no need to wheedle people to "pocket it first". If the election by universal suffrage is absolutely genuine, I am sure the vast majority of the people of Hong Kong will be more than happy to accept it. The problem is the so-called election by universal suffrage presented to us now is but an article of tribute, a totally fake one. For the parts of the Government and the NPCSC alike, if they do not claim this as genuine universal suffrage, they should state clearly that the election is a "birdcage proposal". In my view, "a fraud" is perhaps a more appropriate term. Not that the people of Hong Kong will accept the proposal if they say the truth bluntly, but at least they should not use the term "genuine universal suffrage" to
cheat and threaten the people of Hong Kong. What I hate and resent most is the Government's threat that if we do not "pocket it first" today, we will have nothing in future. In fact, the Government has resorted to using this lame method of threatening the people because it has failed to find a better pretext. Certainly, the Government would find it better if it could beat the people up.

We have seen on television yesterday and today how the police officers used their batons to hit the people participating in the gatherings. If we see the matter on the surface, the Police certainly have to arrest the people who have engaged in charging and violated the law. However, has anybody thought about the reasons why these people chose to do that? Many of these people are the elites of our society. They are the hope of our future; they are college students; and they are the ones whom we hope to take charge of our society in the future. Nevertheless, as we have seen, in addition to ignoring them and their words, the Government has even made continuous attempts to tear them apart by using some … Sure enough, the Police Force is part of the Government, but rather than serving the people of Hong Kong, the Police Force is most probably serving only some individual persons with power or LEUNG Chun-ying. The police officers are used to cover up the objective of the constitutional reform or divert people's attention from it. They are actually required to perform some political duties. While the Government may succeed in driving away the young people from the occupied areas, I am afraid so doing will only serve to deepen the cracks between the Government and the young people, so much so that they will resent the Government even more.

We can see from a recent opinion survey that the confidence of the people of Hong Kong, particularly the younger generations, in the Central Government has dropped to a historical low, and their acceptance of the idea of "Chinese nationals" has also reached a new historical low. All along since the Reunification, both the Government of the Special Administrative Region and the Central Government have been hoping to minimize the gap between Hong Kong and the Mainland, or to practically realize the so-called integration of Hong Kong and China, but results of opinion surveys have shown that the outcome of their efforts runs contrary to their expectation.

As Members may recall, Chief Secretary Carrie LAM said in May that the universal suffrage should not be turned into "the flower in the mirror, the moon in the water". However, the one who has turned the universal suffrage into "the flower in the mirror, the moon in the water" is exactly the Government, no matter whether it refers to Carrie LAM or LEUNG Chun-ying. Both the report
submitted by the Government in July and the "shutting the door" decision made by the NPCSC in August have left the majority of the people of Hong Kong greatly disappointed. There have been many chances and methods for the Government to change this "stagnant situation" or "doomed situation", including the proposed meeting with students, the proposed report on public opinions, and even the setting up of a platform for the purpose. However, looking back from now, all these proposals were but empty promises, as the Government did not sincerely want to do such things.

The students have written to LI Keqiang to request for the withdrawal of the 31 August Decision. On top of that, they have also made some remarks which I wish to quote here. The remarks read: "For us young people of this generation, our deepest feeling we have since the day we were born is that Hong Kong is an unfair and unjust society offering highly unequal opportunities. This city leaves us in great despair because the political and economic lifelines are in the hands of a very limited number of privileged persons with power." These students are the hope of Hong Kong, and yet the Government has been pretending that it did not hear their voices or see their demands, thereby causing this "doomed situation" to remain unchanged.

These senior government officials have failed to face our younger generations. These students are Hong Kong's future. They are also the children of many Hong Kong people, and we have to depend on them to strive for elections by universal suffrage. But then, as they have seen what is happening today and the ugly acts of senior government officials and LEUNG Chun-ying, I believe they are greatly disappointed. Nevertheless, I also believe that the people of Hong Kong, in particular the younger generations, will never give up. The Government can never succeed in dispersing them, and it has no chance to drive them away either. The Umbrella Movement will never stop. It will go on until the day we have genuine universal suffrage.

With these remarks, I support the original motion and the amendment. Thank you.

MR CHARLES PETER MOK (in Cantonese): President, the motion moved by Mr Ronny TONG seeks to urge the Government to expeditiously put forward a practical and feasible constitutional reform package. Very surprisingly, although the idea of moving the motion was first conceived as early as in March, according to Mr TONG, it is still so timely to have the issue discussed at this very
moment. However, on second thought, it is really pathetic to see that if things go on like this, no matter when the motion is discussed, it would still be timely, meaning that the Government will never be able to put forward a practical and feasible constitutional reform package.

What exactly is the problem? In particular, is it still possible for the SAR Government to put forward a practical and feasible package after the 31 August Decision has been made? Has the Government fully discharged its duty toward the people of Hong Kong and followed the people's will to put forward a package of proposals for the establishment of an electoral system with no screening? It has failed to do so before the making of the 31 August Decision and I am afraid that neither will it be able to do so in the days to come.

Nevertheless, what has been the Government's attitude toward the Umbrella Movement since its outbreak? No attempt has been made to respond to the aspirations of the people. The whole purpose of the Government is to embark on a clearance operation, divert public attention, turn a cold shoulder on the people's appeals, thereby intensifying the conflicts among the people of Hong Kong and let different groups of people oppose each other.

Very ironically, I have to admit that the strategy adopted by the Government as mentioned above has been successful and the success actually lies in what objectives are intended to be achieved. Judging from the overall strategy adopted by the Government at present, it seems that the handling of the Umbrella Movement does not aim at resolving the conflicts between the people and the Government or even the Central Authority but intensifying them instead. As a matter of fact, the Government has never genuinely tried to identify an electoral package which is feasible and widely accepted in the community or a fair electoral system with no screening which is truly convincing to everyone. Probably, its real motive is to defend the policy of Beijing. Thus, as we can see, it has been the Government's attitude to focus its efforts for constitutional reform on the 31 August Decision of the Standing Committee of the National People's Congress, and the Decision is even more conservative than the most conservative package that any Member of the pro-establishment camp in this Chamber may put forward.

There is obviously a dereliction of duty on the part of the Government in this regard since it has neither conveyed the views of Hong Kong people nor made its best effort to fight for our aspirations. No wonder the Administration
has assumed the same attitude in handling the Umbrella Movement by turning a deaf ear to the people's appeals and their original intention, seeking only to divert public attention and refusing to engage in an active dialogue with the people. The Government has waited until members of the public are fed up with the Occupy action and public opinion against the movement is becoming prevalent to take advantage of the favourable conditions to threaten occupiers to leave or justify the launching of a clearance operation by the Police. Yet, with regard to the Government's failure to try its best in implementing constitutional reform, the fact that there is indeed a dereliction of duty on its part has been concealed.

President, such a favourable public opinion is created by cheating and the support thus gained is just an illusion. It may be true that more and more people are now against the Occupy action since the movement has caused them inconvenience and they are fed up with it. This is also the reason why the popularity rating of the Government and that of LEUNG Chun-ying have ironically risen. However, the Secretary should not be complacent about this because an improved popularity rating achieved by cheating is simply self-deceiving. You will get it wrong if you take this as an indication to suggest that public support has actually been obtained for the option of "pocket it first", since the real problem has not yet been resolved at all. If LEUNG Chun-ying really wants to see a further rise in his popularity rating so that he may indulge in self-delusion, the intention of launching a clearance operation might as well be abandoned and thus, his popularity rating would definitely be on the rise constantly. Is it not self-deceiving for achieving all these in such a way? It is simply impossible for the Government to evade its responsibility.

I do not know if Members of the pro-establishment camp are going to support the motion since I was not in Hong Kong and was therefore absent from the Council meeting last week. However, I do notice that some Members of the pro-establishment camp have indicated their intention to do so. This may due to the fact that the motion moved by Mr Ronny TONG is considered relatively neutral since it literally seeks to urge for a practical and feasible constitutional reform package and support could therefore be given. Nevertheless, I would like to point out that support should in fact not be given by Members of the pro-establishment camp to the motion because as a few colleagues such as Mr LEE Cheuk-yan and so on have just said, when it comes to "practical and feasible", a proposal would only be feasible when the framework set out in the 31 August Decision is withdrawn. In reality, any package formulated under the framework of the 31 August Decision is not feasible because certainly, it will not
be passed in this Council and such a screening is not acceptable to the general public. It is therefore a must for the Government to restart the "Five-step" constitutional process before a genuinely practical and feasible constitutional reform package can be put forward and passed in this Council.

However, Members of the Liberal Party opined that it would not be possible to have a reform package "supported by the majority of people" as stated in the amendments proposed by Ms Emily LAU. It turns out that public opinion will be taken as reference when it serves the purpose but will be put aside when it does not suit the needs. Besides, there are also some very interesting comments, such as those expressed by Mr Tony TSE, who pointed out that consensus has to be reached but there is no consensus at present for the abolition of functional constituency election, while it is generally agreed that we should "pocket it first". It is so true that things are open to his free interpretation and he can take things the way he prefers, and public opinion is intended to be distorted in this way.

President, no matter what we say in this Council, public aspirations will remain unchanged. People will not put their aspirations for universal suffrage behind simply because of the possible inconvenience caused by the Occupy action, and neither will they forget and turn a blind eye to all sorts of social unfairness and injustice. Government's failure in policy implementation is not over; corruption cases concerning the Chief Executive remain unresolved; dereliction of duty on the part of senior officials can still be seen and problems previously unveiled have never been solved. As for the real development of the society, the Government still provides no strategy and produces no satisfactory results. Thus, in the final analysis, the Government should not mistakably think that as public opinion is now on its side, the idea of "pocket it first" would be acceptable to the people. The 31 August Decision must be withdrawn. Thank you, President.

MR CHAN CHI-CHUEN (in Cantonese): The motion moved by Mr Ronny TONG on "Constitutional reform" is very simple, to the extent that there is only one sentence in the motion as follows: "That this Council urges the Government to expeditiously put forward a practical and feasible constitutional reform package."

From what I have heard in the debate of last week and today, quite a number of Members of the pro-establishment camp have said that support can be
given to Mr Ronny TONG's original motion since it contains neither controversial wordings nor disputable concepts which may very much irritate the Chinese side and the royalists. It has made no mention of civil nomination and international standards; no suggestion has been made to abolish or reduce the number of functional constituency seats; and the only criterion left is "practical and feasible".

Meeting the criterion of "practical and feasible" is just like filling in the blanks. It will be alright to fill in whatever you like, as long as you are satisfied with it. After all, what is the meaning of "practical and feasible"? It means that the package should have the support of two thirds of the Members in the Legislative Council. In other words, there should be 47 Members voting in favour of the package to render it a feasible option.

The debate on the motion moved by Mr Ronny TONG was originally scheduled to be held on 9 July, before the 31 August Decision of the Standing Committee of the National People's Congress (NPCSC) was promulgated. Theoretically — only theoretically — it was still possible for the Government to put forward a practical and feasible constitutional reform package then. However, as soon as the framework under the 31 August Decision of the NPCSC shut the three doors on universal suffrage, it has become impossible for the Government to put forward a practical and feasible constitutional reform package since the democratic Members has already made it clear that there would be no room for discussion if no change is made to the framework set out by NPCSC and if the decision is not withdrawn. Therefore, when Mr Ronny TONG spoke on his motion last week, I thought that he would withdraw the motion after finishing his speech. Nevertheless, it is also possible that by not withdrawing the motion, he would like to give Members of the democratic camp another chance to express their views once again in this respect.

As a matter of fact, 27 democratic Members have said many times, both openly and in private, their determination to vote against any package of fake universal suffrage and the only reassurance not yet given is a swearing on our lives. Our efforts to fight for a package of genuine universal suffrage are now described as unrealistic by Members of the pro-establishment camp but I would also like to say that it is equally unrealistic for the Government to plan for an activation of the second round of the public consultation on constitutional reform in the next month since 27 democratic Members have already made it clear that they would vote against the Government's proposal while the framework under
the 31 August Decision of the NPCSC would not be withdrawn. Your proposals to enhance the composition of the nominating committee will not be acceptable to us and so the efforts you are now making are likewise unrealistic. Therefore, our action should not be described as unrealistic because you are no better in fighting a hopeless battle with the hope of winning it.

As regards the enhancements to the composition of the nominating committee, it has been known from the media reports last week that the Chinese would not prefer saying much. Proposals put forth earlier on comprising representatives from the women sector and the student community should also be mentioned as little as possible, let alone the option put forward and elaborated by you, President, that is, the "multi-candidate election" which should be superior to the "single-candidate election" adopted in 2012. I wonder if you consider the option a practical and feasible package.

I would like to reiterate that 26 Members of the pan-democratic camp have signed on 20 August the "Undertaking on Constitutional Reform" to pledge that "We, as Members of the Legislative Council and elected representatives of the people, shall be accountable to the people of Hong Kong. We are determined to achieve genuine universal suffrage and do solemnly promise that we will vote against the constitutional reform package put forward by the Government if it is not in line with international standards." Thus, I find it a bit puzzling that in the wording of Mr Ronny TONG's original motion, no reference has been made to international standards though Mr TONG is one of the 26 Members who have signed the undertaking. Why is there such an omission? As the point is included in the amendment proposed by Ms Emily LAU, I cannot help but wonder if Mr Ronny TONG will object to the amendment proposed by Ms Emily LAU.

The possibility has already been ruled out just now by Mr Alan LEONG, who said that Mr Ronny TONG would very likely support the amendment proposed by Ms Emily LAU. Nevertheless, Mr Ronny TONG has also been heard saying that he had moved six motions on constitutional reform package since 2005 but all of the five motions moved previously had been voted down. Such being the case, the length of his motions has becoming shorter and shorter, being trimmed down from half a page in 2005 to only one sentence this time. The advocacy of civil nomination has been excluded since Mr Ronny TONG has frankly said that it is not an appropriate strategy to insist on the implementation of civil nomination. The reference to international standards has also been deleted
as he has indicated that as long as there is no imposition of unreasonable restrictions, it would not be necessary to specifically mention international standards.

Nevertheless, I would like to remind everyone here that in the electronic referendum held on 22 June, a total of over 700 000 voters have opted for the proposals put forward respectively by the Alliance for True Democracy, the People Power or the student community and all of these three proposals have asked for the inclusion of civil nomination. As to the second question on whether the Legislative Council should veto the Government's proposal if it cannot satisfy international standards, nearly 700 000 voters are in support of vetoing the proposal. Therefore, I hope the Government can face the reality.

The Financial Secretary, who is Acting Chief Executive now, indicated in an article written in his blog last week that the demonstrators definitely had the right to express their dissatisfaction with the decision of the NPCSC but millions of Hong Kong people would be deprived of their right to select the Chief Executive if the Government's proposal was vetoed, which would run contrary to the ideal of fighting for democracy. I would like to challenge John TSANG to a referendum if he dares to arrange for one, otherwise he should not use public opinion as a plea for our support. In the latest public opinion survey conducted by the Centre for Communication and Public Opinion Survey of The Chinese University of Hong Kong, which some Members have also mentioned just now, 46.7% respondents consider that we should vote against the constitutional reform package to be put forward while only 36.1% consider that we should approve it. How dare you try to threaten us with public opinion?

Since Ms Emily LAU has suggested in her amendment proposed today that "this Council also urges the Government to abolish all functional constituency seats in the Legislative Council no later than 2020", I cannot give her my support. The People Power has been calling for the abolition of functional constituency seats in the 2016 Legislative Council Election and a proposal of abolishing the seats no later than 2020 would be tantamount to giving up the target of having them abolished in 2016. The same can also be applied to price bargaining. If it has been made known that the target selling price is $200 and in no way will the deal be made at a price under $100, no one will pay $200 for this but will only offer to pay $100 instead.
As for Mr Ronny TONG's original motion, I may be the only Member who will vote against the motion today. Mr WONG Yuk-man said in his speech last week that he would vote against it but he is now in Taiwan. Mr Albert CHAN has been ordered by the President to withdraw from the Chamber while "Long Hair" has been arrested and thus, I may be the only one who will vote against the motion here. Nevertheless, although it is possible that Mr Ronny TONG's original motion will be passed in this Council, I do not consider it something worth cheering and rejoicing.

DR LAM TAI-FAI (in Cantonese): President, since the Government launched the first round of the public consultation on constitutional reform in December last year, public response has been very enthusiastic and multitudinous views have been expressed by many people, including me. The framework set out by the Standing Committee of the National People's Congress (NPCSC) on 31 August has also aroused a lot of controversies in the community and even led to the outbreak of the Occupy Central movement. It is thus sufficient to prove that Hong Kong is a diversified society with a lot of forums and opportunities for expressing views.

President, what Hong Kong people aspire for and care about now is very much different from before. Matters of great concern to the public and things they were after in the past were generally those concerning their daily lives, economic conditions, educational problems, livelihood issues and housing matters, but society has evolved and changed. Democracy and constitutional reform have now become — or to be exact, have already become — the major concerns and aspirations of the people. Therefore, people have expressed much concern about the development of a democratic system and not only have they cared about the democratic development at present, they are also anxious to know what degree of democracy can be enjoyed by the next generation. Frankly speaking, the struggle for democracy has a price to pay and it really hurts to see the outbreak of the Occupy Central movement, but it is in fact worth rejoicing that the people of Hong Kong have shown great enthusiasm in their pursuit of democracy.

To be frank, regarding the constitutional package or reform we are now talking about, to whom does it actually belong? Does it belong to the demonstrators in the occupied area outside or those who are against the Occupy Central movement, comprising mainly the Alliance for Peace and Democracy?
Does it belong to the pro-establishment camp, the opposition camp such as the pan-democratic camp, the Liaison Office of the Central People's Government in the Hong Kong SAR or even the SAR Government? I can say that constitutional development belongs to everyone in Hong Kong and this is precisely the reason why no one enjoys any privilege and priority as far as the formulation of a constitutional reform package is concerned, and no one can make a decision on their own. A constitutional reform package can only be described as feasible when it has the support from a great majority of Hong Kong people. The problem, however is that Hong Kong is a diversified society and every one of us holds different views on and has different aspirations for constitutional reform, as well as the pace and the details of constitutional development, which have rendered it completely impossible for us to identify a constitutional reform package that can satisfy everyone. As a matter of fact, there is no perfect package in this world that can truly accord with the wishes of everyone, just in the same manner as Snow White is not necessarily meant for Prince Charming.

Since there is no perfect package, Mr Ronny TONG is now being "morally flexible" by settling for the second best to urge for a practical and feasible package, but what is meant by "practical and feasible"? According to my understanding, a package can only be described as practical and feasible when it can best suit the actual situation and can be carried out. Otherwise, it is merely empty talk. Then, what makes a package practical and feasible?

To be frank, under the principle of "one country, two systems", it is necessary to realize the spirit of "one country". When we talk about "one country", we are actually referring to China, the major concerns of which are national security, the integrity of sovereignty as well as territorial integrity. Therefore, the Central Government has stated clearly time and again that the Chief Executive elected in future should love the country, love Hong Kong and the Basic Law should be strictly complied with since Hong Kong has already returned to China and there is no reason to stick to the practice adopted before when it was still a British colony. Thus, apart from complying with the Basic Law and the framework set out by the NPCSC, respect should also be given to the nominating committee's status as the only nominating organ. The first condition to be met, therefore, for being practical and feasible is: to follow the requirements of the Central Government and to be in keeping with its aspirations, lest an appointment by the Central Government would be declined in the final step of the "Five-step" constitutional process. Any package which fails to secure an
appointment by the Central Government can hardly be considered practical and feasible and it is thus the first condition to be met.

As for the second condition to be met, although I have said earlier in high-sounding words that the constitutional reform package to be devised belongs to everyone in Hong Kong, it is in fact not the case if we come down to earth. To be realistic, it actually belongs to the Legislative Council since the package has to be passed by this Council under the voting procedures involving all of the 70 Members. However, not only are the executive and the legislature on very bad terms at present, the relationship between Members of this Council also leaves a lot to be desired. Not only are Members of the pro-establishment camp and the pan-democratic Members vying with each other, they can even be described as fighting a life-and-death struggle. When support is given by one side, the other side will definitely oppose, or vice versa, and no one is calling a spade a spade while everything is treated in a twisted manner.

Such being the case, the package to be introduced should first of all be adequate to boost the courage of Members of the pro-establishment camp so that they will dare to defend the Government. They should neither be caused to become over-cautious nor refrain from speaking in defence of the package put forward, and should not just brazen it out for the sake of supporting the Government. Rather, the package should enable Members of the pro-establishment camp to have the determination needed to defend the Government most willingly with self-confidence and self-assurance. The package should therefore be effective in selecting a Chief Executive who loves the country, loves Hong Kong and has both talent and virtue so that Members of the pro-establishment camp will dare to back him up and support him courageously. Otherwise, they do not dare to come forward and state their positions since the seven million people in Hong Kong will be monitoring the way they qualify a candidate for the selection.

Besides, how can we have some pan-democratic Members changed tack and joined Members of the pro-establishment camp in supporting the constitutional reform package put forward? The crux of the matter is to ensure that they will be able to explain their positions to the voters and justify themselves in passing a package with screening and thus, there should first of all be a room for exercising democratic supervision. If a system can be put in place in future for the exclusion of candidates in the "horse race" with low popularity rating according to the findings of an opinion poll, there will be good reasons for
giving their support to the constitutional reform package. If a candidate with obviously or supposedly low popularity rating can still win the race, how can they change tack and support the constitutional reform package?

Secondly, the nominating committee should be made accountable to the people under the constitutional reform package. Just like the provision of after-sale service, the nominating committee should also have the stranglehold to follow up on the performance of the candidate nominated for the selection and finally elected the Chief Executive. If his performance falls short of public expectation, a motion should be moved to hold him politically accountable and require him to step down, even if no requests have been received from Members of the Legislative Council. Consequently, pan-democratic Members will have the courage to change tack and offer their support so that a chance will be given to prove the effectiveness of the package.

Besides, under the system to be put in place, not only the candidates but their political team will join the race also. In other words, candidates running for the office of Chief Executive should be required to submit a full list of his political team so that every member on the list will be subject to scrutiny. Under the circumstances, pan-democratic Members will be able to exercise democratic supervision (The buzzer sounded) … the spirit of accountability can be realized and thus, they will not hesitate to change tack and support the pro-establishment camp.

PRESIDENT (in Cantonese): Dr LAM, speaking time is up. 

MR JAMES TO (in Cantonese): President, Occupy Central is certainly the most fervently discussed topic in recent months. In fact, Occupy Central is just a symptom. After all, everyone eyes on whether Hong Kong can implement universal suffrage in 2017, and many people aspire for genuine universal suffrage in Hong Kong. According to my observation so far, I believe this hinges on, to a pretty large extent, the wisdom of the Central leaders. The Public Sentiments Report that the Government prepares to draft shortly will have to tell the story from 31 August because the Standing Committee of the National People's Congress (NPCSC) had not consulted the people of Hong Kong when it made the Decision. The key therefore lies in whether the Central Authority can reassess the circumstances smartly and wisely. The Decision not only came as a surprise
to the people of Hong Kong who had not been consulted, it was also a big shock to the pro-establishment colleagues, since the Decision is even more conservative than the proposition put forth by the most conservative pro-establishment Members. Whose decision was it, and who concretized the Decision? The issue is totally unheard of in Hong Kong. Unbelievably, such a conservative and outrageous package has never consulted the views of Hong Kong people.

President, a Central leader in the Mainland once remarked that it was important to find out the highest common factor in the course of administration and discuss it with the people subsequently. He added that this was how the spirit of democracy was incarnated. I assume this remark to be true because it was made by a high ranking Central leader on a formal occasion. Nonetheless, if the "shut-the-door" package announced on 31 August has never consulted Hong Kong people, how can the Government insist to say that the package has gone through the relevant procedures and we have no choice but to accept it? The consequence is very simple. At the time when the Government conducts the second round of consultation with respect to the "shut-the-door" package on which Hong Kong people have never been consulted, irrespective of the Government's lobbying words, we the pan-democratic Members have clearly indicated that we are not authorized by the people to accept the package, and we have all along undertaken to pursue democracy for the people, hence there is no way to make a turn. In other words, after the activation of what is called the second round of consultation, despite all the efforts that the Government intends to make within the framework of the "shut-the-door" package, at the end the pan-democratic Members will still tell the Government — in fact we have already stated our stand on a press briefing conducted recently — that we will boycott the consultation and vote against the package collectively. Does this mean the issue is settled? Not yet. I believe at that time some Members may advocate a referendum campaign triggered by the resignation of Members with a view to re-activating the "five-step mechanism" for constitutional reform, which I believe would be supported by the people.

Does the Central Authority really look forward to the implementation of universal suffrage in 2017? I do not have a big doubt about that. I believe the Central Authority indeed looks forward to the implementation of universal suffrage in 2017. Of course, its definition of universal suffrage may not necessarily be the same as the one pursued by the pan-democratic camp.
However, the pan-democratic camp or the two student groups¹ have never said that the package have to be 100% in compliance with the mode of universal suffrage they demand. If the pan-democratic camp is really forced to vote against the package by then, will the Central authority respond by saying, "Good, let them vote it down, as the Central is happy that universal suffrage cannot be implemented"? I do not know why, but I have a feeling that the Central Authority does not think in this way. In my view, the Central Authority indeed looks forward to the implementation of universal suffrage.

Of course, some people would say this is in fact very simple. The Central Authority only needs to win several votes over, no matter by means of digging up scandals, smearing, intimidation or threatening. "Buddy", we have seen many of these tricks over the last month or so. Have we not seen enough of these tricks over the last few years? All in all, the Central Authority only needs to win several votes over, no matter by appointing some special agents to complete this mission, or whatever, the point is that they have to dig out the secrets behind all the Members. Or if certain Members desire money, the Central will give them a few dozen million or several hundred million dollars as reward — I just do not know if these Members deserve such a big sum of money — no matter what, they will pay in a bid to buy several votes. If the Central Authority is desperate to implement universal suffrage, I am sure it can achieve that goal, no matter by means of buying votes, intimidating or threatening to kill the family members of Members. I am sure the Central Authority will have the victory as they can get several succumbing votes by then. That said, in the light of China's position on the international stage, and its relationship with other major international partners, particularly the new relationship it has developed with the United States, I doubt if the Central leaders would take it to the extreme and play these dirty tricks, just to win over a few votes for the passage and implementation of its package.

The Central leaders emphasize ruling the country in accordance with the constitution and law. In fact, not only was the 31 August Decision made without consulting Hong Kong people, it was in contravention of the interpretation of law given by the NPCSC in 2004. Mr LEW Mon-hong cited 10 justifications in the article he wrote for Ming Pao Daily, though I do not intend to read it out in detail here. Even Mr MA Ying-jeou, the President of Taiwan, made particular mention of the problems faced by Hong Kong when he delivered

¹ Hong Kong Federation of Students and Scholarism
a speech on the National Day of Taiwan. He believed that Hong Kong's situation would have serious impact on the relationship between Taiwan and the Mainland. In addition, the commentators in Taiwan also pointed out that the 31 August Decision made by the Central Authority was in contravention of the interpretation of the Basic Law in 2004, and set a precedent of not ruling the country in accordance with the constitution.

Consequently, I urge the Government to submit the Public Sentiments Report expeditiously, so that the Central Authority can rethink on how to help Hong Kong implement genuine universal suffrage in 2017.

MR STEVEN HO (in Cantonese): President, for the sake of preparing my speech this time around, I have been sitting here for quite a long time and I have written quite a number of pages of notes. Upon listening to the speeches of fellow Members, I have written down three more pages of notes. Therefore, if I am unable to deliver all the points within my speaking time, perhaps the President will stop me from keep on speaking …

PRESIDENT (in Cantonese): If you talk less about these things, you may have more time to speak on the script that you have just written down.

MR STEVEN HO (in Cantonese): … therefore, I will speak very rapidly.

First of all, I wish to thank Mr TONG for proposing this motion. I consider Mr TONG a rational guy among all Members in the pan-democratic camp. He is pragmatic, too. He mentions the term "practical and feasible" in his motion. This Council, society as well as Members have all mentioned the definition of the term "practical and feasible". Just now Dr LAM Tai-fai has also talked about this issue. In fact, there are different interpretations as far as the term "practical and feasible" is concerned. My interpretation is more or less the same as that of the majority of Hong Kong people and Members of the pro-establishment camp. I mainly focus on two things. First, it should comply with the Basic Law; and second, it should conform to the 31 August Decision made by the Standing Committee of the National People's Congress (NPCSC).
The Basic Law is the ultimate constitution of Hong Kong. We will lose everything if we depart from the Basic Law. Our freedom of speech, freedom of assembly, freedom of protest and so on are actually bestowed upon us by the Basic Law. If someone says that they can do something which does not comply with the Basic Law, others will question whether other things can be done without complying with the Basic Law. People will ask this question. From a pragmatic point of view, will any Member think that the Central Authority will abandon the established principles for the sake of getting the universal suffrage package passed in the Legislative Council? I don't think so.

Earlier, the Central Authority was reported by the press to have said that the continued Occupy movement would only aggravate the losses suffered by Hong Kong, while it would do no damage to the Mainland. If you want the other side to compromise, you should have the bargaining chip in hand before you can carry out the negotiation. If the Mainland suffers no losses, how can you negotiate with the Central Authority? The state will focus on its own interests and will have no reason to back off.

The Occupy movement in Hong Kong has been going on for almost 60 days. From day one, the movement would only cause substantial impact on the actual interest of Hong Kong. This is something factual. First of all, as to economic losses, the interest of a number of trades was undermined. The Occupy movement has even forced some organizations to apply for injunction orders to clear the occupied sites, remove barricades and call for protesters to retreat, in the hope of minimizing the losses. I believe that after the Occupy movement, other organizations suffering losses will seek settlement from those Occupy movement initiators.

Politics-wise, the most commendable aspect of Hong Kong in the international arena is the rule of law, which is undoubtedly true. The basis of Hong Kong's economy, constructions, intellectual life of the people and the fact that everybody can live in peace and work in contentment, is the rule of law. Many Central leaders say, "Socialist democracy should be built on the foundation of the rule of law." Nevertheless, why do some Hong Kong people want to undermine the rule of law in Hong Kong?

Dr Elizabeth QUAT cited an example earlier. A child said to his grandmother, "I need not stop and refrain from crossing the road even though the red light is on. As those people at Admiralty are breaking the law, why should I
abide by the law?" This example shows that the Occupy movement has completely jeopardized Hong Kong's rule of law. We should act in accordance with the law, the Basic law and the NPCSC's decisions.

Just now I heard Mr LEE Cheuk-yan say that the current "Five-step Process" is an illegal structure built on the foundation of the "Three-step Process". For that reason, I browse through the Basic Law and please allow me to quote the relevant requirement as follows. "If there is a need to amend the method for selecting the Chief Executives for the terms subsequent to the year 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Legislative Council and the consent of the Chief Executive, and they shall be reported to the Standing Committee of the National People's Congress for approval." Furthermore, another stipulation is about the Legislative Council, "With regard to the method for forming the Legislative Council of the Hong Kong Special Administrative Region and its procedures for voting on bills and motions after 2007, if there is a need to amend the provisions of this Annex …" Again, the subsequent process mentioned in the basic Law is also related to the "Three-step Process"

Three questions have been derived from this. First, who initiates the amendment to the relevant stipulation; second, who validates the need to amend it; and third, who puts forward the amendment bill? However, they are not prescribed in the original "Three-step Process".

The Basic Law is an authorizing law, not the common law. It is not the kind of law that you can do something as long as it is not written down in it. Nor is it the case that the Legislative Council must vote on a motion when Mr Ronny TONG has moved it. We consider that the 2004 Interpretation, that is, the Interpretation made by the NPCSC in 2004, is necessary. The purpose of the Interpretation is to prescribe the necessary steps to be adopted for amending the constitutional reform framework, instead of something like what Mr LEE Cheuk-yan has said, something unauthorized.

As to the Nominating Committee, it reminds me of the things I wish to discuss. The NPCSC's Decision prescribes that the nominating committee should be broadly representative. The provisions for the number of members, composition and formation method of the nominating committee shall be made in accordance with those of the Election Committee. Therefore, regarding the Government's proposal in the constitutional reform consultation this time around,
we may not necessarily need to conduct any in-depth discussion on the composition and relevant issues of the Nominating Committee, nor should there be drastic changes in that respect. Even if we make some proposals, they may not meet the requirements of the 31 August Decision.

Just now I have also mentioned broad representation. As far as documents or records are concerned, broad representation may carry two explanations. First, it means "simple majority representation", that is, it is representative as long as it has the support from the majority. Second, it is a "descriptive representation", meaning that the features of individuals are listed and categorized.

The arrangements made according to the above two explanations will have their pros and cons. The composition of the existing Election Committee and the future Nominating Committee is actually based on the latter explanation. It is widely known that weakness can be found in the arrangements made under these two explanations respectively. As to simple majority, since the Hong Kong society is formed by numerous sectors, the adoption of this system cannot reflect the characteristics of Hong Kong. Therefore, we choose the second type of broad representation. But it also has its drawback as the battlefield will switch to the Election Committee or the future Nominating Committee, making it the battlefield of the war for seats or resources

As such, in order to reach consensus in society as well as to achieve a practical and feasible package, perhaps we do not need an in-depth discussion this time, as we can entrust the Chief Executive elected by "one person, one vote" in the next term to make the adjustment. We consider that we should get a clear understanding of the "actual situation" and the "principle of gradual and orderly progress" set down in the Basic Law.

President, I so submit.

MR CHAN KAM-LAM (in Cantonese): President, Mr Ronny TONG proposes that the constitutional reform package should be practical and feasible. There must be a reason behind it, and that is, the package must be in compliance with the laws and regulations and be reasonably formulated. Compliance with the Basic Law and the Decision made by the Standing Committee of the National People's Congress (NPCSC) is the only legal basis for universal suffrage. If the
opposition camp can discuss constitutional reform under the concept of being practical and feasible, I believe that a constitutional reform is still hopeful.

The Government is going to commence the second round of consultation on constitutional reform. However, it is a pity that Members from the pan-democracy camp have repeatedly claimed that they will boycott the second round of consultation. In other words, no matter how practical and feasible the package put forward in future is, they will not participate in the discussion. The opposition camp is taking an attitude of better to die with honour than to survive in disgrace. They will accept this package only if there is an illegal civil nomination. Such an obstinate attitude will only impede the progress of Hong Kong towards democracy.

It is provided in the Basic Law that a democratic political system in Hong Kong has to be developed in a gradual and orderly manner. I think this is forward looking. Judging from the existing situation of Hong Kong, it is totally devoid of the conditions for a totally open election. The following few reasons are worth our consideration.

First, the knowledge of Hong Kong people on the pace of democratic development is very weak. As we all know, Rome was not built in one day. In promoting democracy, we need to do it in a gradual and orderly way, and we cannot copy the western approach indiscriminately. We have to determine the pace of democracy according to social development, and we cannot settle the matter at one go. Since the reunification of Hong Kong in 1997, democratic compositions in the Chief Executive and Legislative Council elections are getting stronger one term after another in accordance with the stipulations of the Basic Law. This is to ensure that democratized elections can develop healthily, while the economy and people's livelihood will not be affected by the rising of populism. This demonstrates that the Central Government has already materialized the undertaking in the Basic Law on the gradual and orderly progress of political system. Mr Alan LEONG says that the Central Government is perfidious by not giving democratic elections to Hong Kong. When making such a remark, he is shamelessly distorting the truth and confounding right and wrong.

Second, it depends on whether the Hong Kong people can sufficiently uphold the spirit of the rule of law. In realizing universal suffrage, we have to comply with the Basic Law and the Decision of the NPCSC. This is an
unalterable principle. Some people are now trying to materialize an illegal aspiration with law-breaking acts, in addition to brutal occupation of major trunk roads, disregarding the injunction of the Court, and openly destroying the core values of Hong Kong — the rule of law is the core of the core values. If democracy, freedom and human rights cannot be safeguarded by the rule of law, tragedy will be the result. Mr Albert HO and Mr Alan LEONG have mentioned many times that being law-abiding is not the whole of the rule of law, and not abiding by the law is not tantamount to not complying with the rule of law. They have even advocated that after breaking the law, only if they surrender themselves to the Police and shoulder the legal consequences, it is still complying with the spirit of the rule of law. Such misleading remarks are highly dangerous. These two Members have run the Chief Executive elections and are veteran legal figures. It is highly irresponsible of them to make such remarks. Recently, the acts of violence in the Occupy Central movement have further stepped up. We have seen illegal acts of very serious nature recently, such as charging at the Legislative Council Complex, obstructing the bailiffs from executing the injunction and hampering the Police from clearing the scenes. People are obviously being misled by such distorted remarks. The pan-democracy camp has unshakable responsibility for all the brutal acts happening in Hong Kong nowadays.

Third, the community does not have comprehensive knowledge of the true essence of democracy. Democracy is a vague concept. It carries different forms in different countries, and the ways in which democracy is realized are also different. Democracy cannot only be realized by civil nomination. In fact, the true essence of democracy is tolerance, respect and the minority subordinating to the majority. It is unfortunate that in the guise of democracy, some people in the community today carry out the Occupy movement, destroy social harmony, hamper economic development and tear the whole community apart. The public are thus more cautious about the pace of democratic development.

Fourth, the public have shallow knowledge of democratic elections. The general public, who need to work hard for a living every day, only have a sketchy knowledge of a democratic election system. First of all, in countries that enjoy sovereignty, there is basically neither a so-called international standard, nor is there an election method applicable to all places. Civil nomination has never been the principal arrangement for nominating the chief executive of the executive authorities.
Lastly, the backgrounds of politicians in Hong Kong, especially those in the democratic camp, are very complicated. Some are collaborating with foreign countries and some are being controlled by political black money. The reason for electing a Chief Executive who loves China and Hong Kong is to prevent foreign forces from carrying out subversive activities against the Chinese Government through Hong Kong. No matter what kind of Occupy movement has happened in Hong Kong, the Central Government will make no concession on this point. According to some newspaper coverage, a media mogul has been financing a number of political parties in the Legislative Council, such as the Democratic Party and the Civic Party, as well as some persons like Cardinal Joseph ZEN, the former bishop of the Catholic Diocese of Hong Kong, since 2005. Concerning the organizers of this Occupy movement, we all feel that some foreign forces are intentionally influencing the political situation of Hong Kong. The more probable it is, the more we have to stand fast and remain at our line of defence. We cannot elect a Chief Executive who is antagonistic to the Central Authority.

Hong Kong people should return to reality. If we face the existing problems of Hong Kong squarely, universal suffrage can be realized.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now speak on Ms Emily LAU's amendment. The speaking time limit is five minutes.

MR RONNY TONG (in Cantonese): President, my purpose for proposing this motion in the most neutral wording was to allow my fellow Members to express their own views freely. However, I am rather astonished to see that those who questioned me most are Members from the democratic camp.

Ms Emily LAU added two things in her amendment. The first is "international standards" and the second is "to abolish all functional constituency seats". Nevertheless, she queried me in her speech whether I object to "international standards". I wonder why she has this kind of query.
President, the constitutional reform proposed by me last year was recognized by international experts as having met international standards. I have also stated very clear in my speech that I do not mention international standards as I don't consider it necessary to do so.

President, why do I say so? It is because I think that we can still achieve the goal of meeting international standards without mentioning them. It is explicitly stipulated in Article 25 of the Basic Law that "All Hong Kong residents shall be equal before the law" while Article 26 stipulates that "Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law". That is to say, Hong Kong people should be entitled to a fair (that is, universal) right to vote and the right to stand for election. President, this is the essence of the so-called international standards, which means that there should be no unreasonable restrictions.

President, as I have pointed out in my initial speech, political wisdom and strategies are vital to the powerless people. At present, there are two methods to reach the same goal. The first is a rather controversial method and the second is a less controversial. I think that if you adopt a more controversial method to fight for your goal, it is rather unwise, especially when you are a powerless person.

President, I said last week that if I had the power in my hand, I did not need to care about which method to adopt. But now, as I do not have the power in my hand, I have to think of a way which is most effective and easiest to succeed for striving for universal suffrage. President, as I said just now, that is why I say we need not insist on civil nomination. The reason is simple. If we fight for one thing and the other side says that it violates the Basic Law or the NPCSC's decisions, it will be virtually vetoed before it is proposed.

President, what I am proposing is a practical and feasible constitutional reform package. The meaning of the term "practical and feasible" is quite simple: it has to be able to get passed by the legislature. Two criteria should be met for the legislature to pass the package. First, the package should conform with the Basic Law and NPCSC Decision. If it does not conform with the Basic Law or the NPCSC Decision, or the other side considers that it does not conform with the Basic Law or the NPCSC Decision, then it will be very difficult to convince the pro-establishment camp or Beijing to agree to the package, thereby
allowing it to get passed by the legislature. The second most basic requirement is that there should be no unreasonable restrictions. If there are unreasonable restrictions, it is very unlikely for the democratic camp to pass it. In other words, a practical and feasible package should satisfy these two fundamental requirements. We should not allow side issues or new problems crop up unexpectedly.

President, in the package proposed by me, there are no unreasonable restrictions. Actually, it also meets international standards. However, it just so happens that the other side does not like the term "international standards". We may say that it conforms with Articles 25 and 26 of the Basic Law, and then we can avoid a lot of controversies, right? President, to make it clearer, I do not oppose to international standards; I just don't think it is necessary.

President, with regard to functional constituencies, Article 68 of the Basic Law has not mentioned nomination. Therefore, if anyone considers that universal suffrage for the Legislative Council equals to people nominated by functional constituencies and elected by Hong Kong people, then I must say sorry, because this is not in conformity with Article 68 of the Basic Law, which clearly stipulates that "the election of all the members of the Legislative Council by universal suffrage." Some Members said that perhaps we should let some functional constituency seats remain, or even increase the number of functional constituency seats, but this is not in conformity with Article 68 of the Basic Law either. However, this is not … we do not need to mention as remote as or as controversial as international standards. The Basic Law itself has already been able to illustrate the kind of universal suffrage that the pan-democratic camp can get.

President, it is simple. If we can use some political wisdom to think about the most effective type of strategy to be adopted in securing what they want, then I believe we can eliminate some of the hurdles. Thank you, President.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the motion was first proposed by Mr Ronny TONG in March this year but due to such reasons as the staging of a filibuster, the adjournment and cancellation of meetings, and so on, debate on the motion has been delayed until last week and today. As the Chinese saying goes, "One mere day in the mountain, a millennium in the mortal world has lapsed."
日，世上已千年). Many things have actually happened since Mr TONG proposed this motion. The expectation of many people in our community about the selection of the Chief Executive by universal suffrage in 2017 has changed from "optimistic" in the beginning to "cautiously optimistic", and then further to "not optimistic" and even "very pessimistic" lately. Although I was in Beijing yesterday, I did notice from certain news reports that pan-democratic Members had once again put forward their requests on constitutional reform, in particular the withdrawal of the 31 August Decision (Decision) of the Standing Committee of the National People's Congress (NPCSC). The request is unrealistic, not feasible and not conducive to the implementation of universal suffrage for the selection of the Chief Executive in 2017.

President, according to the wordings of the motion moved by Mr TONG, he "urges the Government to expeditiously put forward a practical and feasible constitutional reform package". Mr Ronny TONG spoke with mixed feelings last week and, to be fair, from putting forward his own constitutional reform package initially to the granting of support by other pan-democratic Members to the "three-track nomination" option with "civil nomination" as one of the elements and the recent injunction order by the Court, Mr TONG gives me the impression that he has been doing his utmost to hold fast to his opinions. Though faced with the taunting or reproach from quite a number of fellow companions, he holds on firmly to the belief that the constitutional reform package put forward should comply with the Basic Law, and that court decisions should be respected to safeguard the rule of law. I would like to take this opportunity to express my personal respect to Mr TONG.

President, Mr TONG urges the Government to expeditiously put forward a package in his motion and as a matter of fact, it is our original planning to activate the second round of the public consultation when the current Legislative Council Session began on 8 October. However, the plan has unfortunately been upset by the illegal Occupy movement, which is not yet over at this very moment and thus a definite timetable for the consultation cannot be worked out by the SAR Government. We believe that the general public is now most eager to see restoration of social order in Hong Kong so that their daily life will resume to normal as soon as possible. This is also an objective fact fully shown in the findings of a number of public opinion surveys conducted recently.

The motion moved by Mr TONG seeks to urge the Government to put forward a "practical and feasible" package and the idea is most agreeable to me.
It has come to our knowledge that many Members who have spoken also concur that a practical and feasible package should be put forward by the SAR Government to implement universal suffrage for the selection of the Chief Executive in 2017. This is precisely the reason why rational and pragmatic discussions strictly in accordance with the Basic Law and the framework set out in the Decision of the NPCSC should be held in the second round of the public consultation. In fact, this is the genuine and the only practical and feasible way to implement universal suffrage.

Some students' organizations and pan-democratic Members have still in recent days repeatedly urged for "civil nomination" and the withdrawal of the Decision adopted by the NPCSC on 31 August to restart the "Five-step" constitutional process. I have to reiterate that the SAR Government will not and cannot accede to such requests. First of all, with regard to "civil nomination", the SAR Government, officials of the Central Government as well as various sectors of the community, including organizations in the legal profession, have pointed out clearly many times that "civil nomination" does not comply with the provision of Article 45 of the Basic Law. Therefore, regardless of what is written in the Decision adopted by the NPCSC on 31 August, "civil nomination" is in essence not conforming with the Basic Law and will in no way be included in the constitutional reform package to be put forward by the Government.

Secondly, regarding the withdrawal of the Decision adopted by the NPCSC on 31 August, I have to point out that from the constitutional perspective, it is procedurally, practically and politically impossible and unrealistic to put the suggestion into practice.

As far as the constitutional procedure for determining the method for selecting the Chief Executive in 2017 is concerned, two steps in the statutory procedure of the "Five-step" constitutional process have been completed and the next move is to proceed with the third step, that is, the SAR Government's putting forward a reform package to the Legislative Council and obtaining the endorsement of a two-thirds majority of all Members of the Legislative Council. Thus, such a step of "withdrawing" the Decision does not exist in the relevant constitutional procedure. Furthermore, it is expressly stipulated in paragraph IV of the Decision adopted by the NPCSC on 31 August that:

(I quote) "If the specific method of universal suffrage for selecting the Chief Executive is not adopted in accordance with legal procedures, the method
used for selecting the Chief Executive for the preceding term shall continue to apply." (unquote)

Similar provisions are also set forth clearly in the 2004 Interpretation and the 2007 Decision of the NPCSC. According to the provision, if the package put forward by the Government is not endorsed by the Legislative Council, the method used for selecting the Chief Executive in 2012 shall apply to the selection of the Chief Executive in 2017 and procedurally, the possibility of restarting the "Five-step" constitutional process does not exist.

Practically, in order to realize the goal of selecting the Chief Executive by universal suffrage through "one person, one vote" in 2017, adequate time should be allowed for making amendments to the local legislation even though the "Five-step" constitutional process is completed smoothly so as to finalize the various details on the methods for universal suffrage. Objectively speaking, time does not allow the so-called "restarting the 'Five-step' constitutional process".

Politically speaking, President, judging from the social climate at present, I think all of us would agree that in the current course of events, the aspirations of different Members and organizations are actually poles apart. It would be totally impossible, no matter from the position of the Central Government, in this Council and even in the community, to withdraw the Decision adopted by the NPCSC on 31 August or restart the "Five-step" constitutional process.

President, Hong Kong is a diversified society and it is very common for members of the public holding different positions and views on constitutional development. The crux of the matter lies in the identification of the highest common factor. The greatest consensus of different sectors of the community at present is to adopt the method of "one person, one vote" in the selection of the Chief Executive in 2017 so that universal and equal election rights can be exercised by 5 million eligible voters in Hong Kong. We should not sacrifice the opportunity of implementing universal suffrage for the dissenting views on nomination procedures.

President, the SAR Government will expeditiously carry out the second round of the public consultation in accordance with the Basic Law and the Decision adopted by the NPCSC on 31 August, and a proposal to amend Annex I
to the Basic Law will be subsequently introduced into the Legislative Council. The SAR Government will make every endeavour to obtain the endorsement of a two-thirds majority of all Members of the Legislative Council as well as the support of the general public, so that we will be able to realize the goal of selecting the Chief Executive by universal suffrage through "one person, one vote" in 2017.

With these remarks, President, I support the original motion of Mr Ronny TONG but object to the amendment of Ms Emily LAU.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Ms Emily LAU to Mr Ronny TONG'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.

(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 five minutes.

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

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.
Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted for the amendment.

Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the amendment.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Ms Claudia MO, Mr WU Chi-wai, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the amendment.

Mr Gary FAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, eight were in favour of the amendment and 22 against it; while among the Members returned by geographical constituencies
through direct elections, 28 were present, 13 were in favour of the amendment, 13 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Constitutional reform", 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 Mr Andrew LEUNG 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 "Constitutional reform", this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.
PRESIDENT (in Cantonese): As Mr Ronny TONG has already used up his speaking time, I will not ask him to give a reply.

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

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Chi-chuen rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen 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:

Mr Albert HO, Mr James TO, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Frederick FUNG, Prof Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr IP Kin-yuen,
Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the motion.

Dr LAM Tai-fai abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Ms Claudia MO, Mr WU Chi-wai, Mr CHAN Han-pan, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the motion.

Mr Gary FAN and Mr CHAN Chi-chuen voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 30 were present, 29 were in favour of the motion and one abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 25 were in favour of the motion and two against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): Motion debate on "Ensuring occupational safety".

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

I now call upon Mr POON Siu-ping to speak and move the motion.
ENSURING OCCUPATIONAL SAFETY

MR POON SIU-PING (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. Early last year, I moved a motion entitled "Ensuring Occupational Safety". This year, I am going to move the same motion for debate. Some Members asked me, "You already moved the motion in the past, so why do you want to move it again this year?" They are right. I am going to move the same motion this year. The reason is very simple. Since I moved the motion last year, there has not been any marked improvement to the number of casualties caused by industrial accidents. In 2013, there were 23 fatal industrial accidents in the construction industry. During the period from the beginning to October of this year, 18 fatal accidents already occurred in the construction industry. At this very time when the Hong Kong Government is pushing ahead with infrastructure projects, I am extremely worried about the work safety of workers.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

Early this year, when the Secretary for Development answered Members' questions in this Council, he said that with the progressive launching of massive infrastructure projects, the expenditure on infrastructure projects had increased progressively from $45.3 billion in 2009 to more than $70 billion the previous year. The Secretary also expected that infrastructure investments would stay at the level of more than $70 billion per year. According to the statistics of the Construction Industry Council (CIC), the value of construction works in Hong Kong has increased from $129 billion 10 years ago to the level of almost $200 billion this year. It is possible that the value may exceed $200 billion in the future.

The overall booming of the construction industry has led to substantial wage adjustments in the industry. It has been reported that construction industry workers will receive an average wage increase of 9.5% this year, and in the case of certain job types, the rate will even be as high as 15% or above. On the one hand, I am happy see that employees can receive higher incomes. On the other hand, I am rather worried. As reported, permission for 24-hour works has been granted to some construction sites. Some workers who want to earn more money therefore choose to work 15 hours a day from 7 am to midnight. They
practically live in their construction sites. A dilemma has thus emerged. On the one hand, we do understand why some workers want to work so hard; the construction industry is an industry with drastic fluctuations of works volumes, so workers must earn as much as they can while possible. However, a straight day's work from the morning to midnight will cause very great physical exhaustion, thus affecting workers' health and greatly increasing the risks of industrial accidents.

In the coming few years, Hong Kong will see the simultaneous and massive commencement of many construction projects within a compressed time frame. This will do no good to infrastructure projects and even the health of the construction industry. As a matter of fact, the undesirable consequences of this have already surfaced. For example, as several works projects were launched simultaneously by the MTR Corporation Limited (MTRCL) earlier on, some of these projects have been unable to progress as scheduled, and this may affect the inauguration dates of certain rail lines. I do not know whether the MTRCL will request works contractors to arrange more shifts and lengthen the works hours in order to catch up with the scheduled progress; whether workers under MTRCL projects will have to work from early in the morning to the night and even midnight, just like the workers described above; and whether the MTRCL will make workers bear higher risks of accident in a bid to catch up with the scheduled progress.

The Government's public works projects can basically serve the purpose of adjusting the works volumes of the construction industry in times of fluctuations. When the number of private-sector projects increases, the Government should appropriately adjust the volume of public works projects, so as to avoid any sudden surge of construction works volume and the resultant extra social costs. In very much the same way, when there is a shrinkage of private-sector works projects, the Government should launch more public works projects to make up for the inadequacy of the former. The sustained and steady launching of works projects for the construction industry will always be beneficial to the sound development of this industry, its manpower recruitment, and even the livelihood protection and health of construction industry workers.

All the time, whenever the Chief Executive and even the relevant government officials touch upon the huge expenditure increases for infrastructure projects, they invariably speak with a sense of pride. Hong Kong needs to ensure the sustained development of its public works projects, so as to maintain
its competitive edge. But apart from emphasizing such development, the Government should also consider the idea of reviewing the priority of these projects. It should, as far as possible, refrain from launching them simultaneously, so as to reduce the fluctuations of works volumes in the construction industry. In this way, construction industry workers will not need to worry about having to earn as much as they can while possible, and they will not need to work from morning to midnight. This will help foster occupational health and industrial safety in the construction industry. These are some of my suggestions at the policy level. I hope that the Government can give thoughts to them.

On the 19th of last month, an accident involving the collapse of a working platform occurred in a construction site of the Hong Kong-Zhuhai-Macao Bridge, causing one death and four injuries. This was already the third fatal industrial accident in the construction sites of the Hong Kong-Zhuhai-Macao Bridge in a period of six months. In July this year, a worker's glove was snagged by a pipe he was transporting from a barge to the artificial island, and he fell into the sea and died. In September this year, a worker fell into the sea and was drowned as he was handling some sludge on board a barge off the artificial island. In October 2012, there occurred a serious accident in a construction site of the Hong Kong-Zhuhai-Macao Bridge, in which a working platform plunged onto the ground, causing one death and 14 injuries. So far, the construction works of the Hong Kong-Zhuhai-Macao Bridge have claimed the lives of four people.

Last week, when the Government replied to Members' questions on the industrial accidents in the construction sites of the Hong Kong-Zhuhai-Macao Bridge, it said that there were only two fatalities in such accidents during the period from 2011 to the first half of this year. This figure is obviously not in line with the actual situation. Early this month, the media reported the cost overruns and construction delay of the Hong Kong-Zhuhai-Macao Bridge. I fear that more industrial accidents may occur when the Government seeks to compress expenditure and speed up the works concerned. In all future construction works, the Government must take effective measures to prevent the recurrence of any serious industrial accidents in the construction sites of the Hong Kong-Zhuhai-Macao Bridge.

We may look at the statistics for the first half of this year as an example. As announced by the Government, the number of fatal industrial accidents in the first half of this year stood at 15, a rise of 200% against the corresponding figure
in the first half of 2013. When the Secretary for Labour and Welfare responded to my motion on occupational safety last year, he said that the Labour Department and the stakeholders in the construction industry had phased in a number of proposals on raising safety standards, including the systemic prevention of industrial accidents at source. Besides, he also said that they would focus on high-risk work procedures and adopt specific measures to handle the problems concerned. However, there has not been any marked improvement to the number of industrial accidents over the past few years, thus showing that the relevant measures have not been quite so effective. At present, the Occupational Safety and Health Council is mainly responsible for publicity and education, and the Labour Department takes full charge of the actual operation of occupation safety, covering the rules, monitoring and law enforcement of industrial safety. Such division of labour should require review.

The construction industry is the area worst-hit by fatal industrial accidents, and the catering industry is most seriously hit by accidents of work injuries. The catering industry employs more than 250,000 workers. Last year, this industry recorded 5,740 accidents, meaning that the accident rate was about 25 in one thousand workers. The three major categories of injuries were scalding, injuries by stoves and falls. They accounted for 60% of the accidents. According to a survey of the Occupational Safety and Health Council, close to 50% of the scalding victims claimed that their employers did not display any "high temperature" warning signs at the work sites; almost 30% of those injured by stoves claimed that they were hard-pressed by time; and nearly 70% of those who suffered falls pointed out that there were no anti-skidding measures at the work sites. It is not very difficult to resolve these problems. If the number of such accidents can be reduced, it will be possible to substantially enhance occupational safety in the catering industry.

When championing occupational safety, I must mention the issue of lower limb disorders. At present, upper limb disorders are already included as occupational diseases, but this is not yet the case with lower limb disorders. The catering industry and retail industry in Hong Kong together employ nearly 500,000 workers, or 16.8% of all employees in Hong Kong, a figure which is the highest among all industries. However, front-line employees of these two industries must remain standing for prolonged periods at work, and the lower limb disorders they thus suffer are not yet included as occupational diseases. I request the Government to include lower limb disorders as occupational diseases as soon as possible for the protection of employees' health.
Deputy President, in his election manifesto, Chief Executive LEUNG Chun-ying undertakes to set up a task force comprising representatives of employees, employers and the Commissioner for Labour for the purpose of conducting a study on improving the work injury protection for workers in high-risk occupations in respect of insurance coverage, compensation, medical treatment and rehabilitation services. I hope that the Chief Executive can expeditiously set up the task force to honour his election undertaking. Besides, I also hope that the task force can conduct a comprehensive review of the policy on the occupational safety and health of employees in Hong Kong, so as to reduce the number of industrial accidents and enable employees to really enjoy occupational safety.

With these remarks, Deputy President, I hope that Members will support my motion.

Mr POON Siu-ping moved the following motion: (Translation)

"That, as the number of work injury accidents and fatal industrial accidents in Hong Kong remains high, this Council urges the Government to establish a dedicated committee for comprehensively reviewing the policies on Hong Kong employees' occupational safety and health, including the protection coverage of occupational diseases and improvement of the protection for workers in high-risk occupations (i.e. insurance, compensation, therapy and rehabilitation)."

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

DEPUTY PRESIDENT (in Cantonese): Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will first call upon Mr TANG Ka-piu to speak, to be followed by Mr CHAN Kin-por; but they may not move amendments at this stage.
MR TANG KA-PIU (in Cantonese): Deputy President, to people like us who are engaged in the promotion of labour rights and services, it is most saddening to hear the occurrence of any serious work injuries or even fatal industrial accidents. When a worker dies, his family will be plunged into helplessness because construction workers or professional drivers are mostly from grass-roots families. Apart from losing their most beloved ones, the families concerned will also face immediate livelihood problems. Mr POON Siu-ping's motion is similar in content to the one he moved last year, but I think it nonetheless reflects the concern of the labour sector in this respect. As pointed out by Mr POON Siu-ping just now, despite everybody's concern, despite the undertaking in the election manifesto of Chief Executive LEUNG Chun-ying, it appears that there has not been any improvement over the past two years, or one can even say that the number of such cases can show a deterioration of the situation.

We often ask for annual statistics relating to fatalities caused by work injuries. The Government will invariably begin by providing statistics on fatal industrial accidents as defined in the Factories and Industrial Undertakings Ordinance. But we need to look more broadly at the statistics reported to the Labour Department under the Employees' Compensation Ordinance, as these statistics cover the employees of all industries in Hong Kong, including office workers and services industry employees. What is that number then? In the first half of 2013 — not the whole year — 83 fatalities were reported. In the first half 2014, 102 such cases were reported, showing an obvious deterioration. Over the past one year, have the Secretary and the Government made any attempts or efforts, such as introducing legislative amendments, conducting publicity and education, and even making fundamental improvement to the workplaces of workers?

The issue of long working hours is a factor which is of grave concern to the labour sector. As pointed out by Mr POON Siu-ping just now, many occupational injury accidents may occur when the construction industry needs to catch up with the scheduled progress. I must say at the same time that the long working hours of Hong Kong's overall workforce is likewise a factor causing potential problems. When working hours are long, employees will be unable to have sufficient rest and thus cannot maintain concentration at work. Errors are inevitable, thus increasing the incidence of accidents. An annual survey on employees' wages and working hours shows that the median working hours per week of employees in Hong Kong have risen from 45 hours to 49 hours. This means that economic development has not led to any decrease in the working
hours of employees in Hong Kong. Their incomes may have increased. But is everybody really so keen to work? The truth is that they cannot make ends meet with their basic wages, so they must work overtime. Secretary, all these factors are inter-related. I very much hope that the authorities can see things from the perspectives of employees' occupational, physical and mental safety, and then seek to persuade the various social sectors, including the commercial sector, to support the enactment of legislation on standard working hours, with a view to making thorough improvement to the workplace environment and safety of employees. This is the first point.

Second, Mr POON Siu-ping mentioned the issue of the Hong Kong-Zhuhai-Macao Bridge just now. Earlier on, the Hong Kong Construction Industry Employees General Union (HKCIEGU) and I held a press conference to express our concern about the fatal drowning accidents involving workers performing tasks in the marine construction sites of the Hong Kong-Zhuhai-Macao Bridge. It was a pity that the press conference was held after the date of this motion debate — this motion debate was originally scheduled on 9 July, and the press conference was held in September — if not, my amendment would certainly focus on asking the Government to introduce legislative amendments on increasing penalties, with a view to protecting workers taking part in marine construction works of the bridge. The existing legislation is much too loose in wording. The contractor only needs to provide life-saving gear within the areas of marine construction works. What is meant by life-saving gear? They can be ropes, life buoys and still better, life jackets. What kinds of gear should be provided? This is not specified in the legislation. Are workers required to wear such gear? If life jackets are provided, are workers required to wear them? There is no elaboration. How much is the fine in case there is any contravention of the requirements? $50 000. This simply cannot meet the needs of society and works safety. I believe that the Government should be conducting studies on several projects involving marine construction works. Although the preliminary studies on the artificial island have been shelved, I estimate that in the future, many projects, such as the building of the third runway of the airport, the construction of an incinerator on Shek Kwu Chau and the ongoing works of the Hong Kong-Zhuhai-Macao Bridge, will still require lots of marine construction works. We very hope that the Secretary can introduce legislative amendments as early as possible, so as to offer more protection to construction industry workers and enable them to work without any worries.
As I mentioned just now, the fine is $50 000. But this is only the amount provided for in the legislation, and we do not know whether the judge will really impose a fine of $50 000 at the end of the day. For instance, on 18 November 2014 … That day, the Government was to report to the Panel on Manpower Hong Kong’s occupational safety performance. It so happened that on the previous day, the Court heard the case of an industrial accident in a Hung Shui Kiu construction site in which a construction worker died accidentally due to the improper machinery provided by the employer. The two contractors were respectively sentenced to a fine of $20 000 and $38 000. This means that the value of one human life is only $58 000. This is much too low, isn’t it? We therefore hope that the authorities can conduct some studies on such penalties to ascertain whether a minimum level should be set in addition to the maximum level, and how such fines can serve the purpose of alerting employers to the need for according priority to workers’ safety. This is very important.

Speaking of machinery and lifting, in the accident at the Hung Shui Kiu construction site, the worker concerned was squeezed to death precisely by machinery. The HKCIEGU emphasizes that in the first half of 2014, there were quite a number of cases in which workers were crushed or dragged to death by ageing machinery or faulty machinery parts. How many cases were there? On 12 February 2014, a worker in a Yuen Long construction site was crushed to death by a forklift truck; on 17 February, in a Tsim Sha Tsui construction site, the chain pulley holding three tons of I-beams snapped and a foreman was crushed to death; on 27 May, a lift truck at a pier ran over a maintenance worker and killed him; on 19 June, the telescopic jib of a crane truck fell off suddenly, causing the death of one worker. Are there any preventive measures? The construction industry was plagued with electrocution incidents the year before last. Then, there were accidents caused by machinery, and in summer, cases of drowning occurred. Has the Secretary ever attended seriously to the safety problems in the construction industry? Besides training up more construction industry workers, what has he done in respect of safety? The HKCIEGU recommends that targeting on major construction projects, a service life limit should be set for the machinery which must be used by contractors. For instance, the limit may be set at 10 years, beyond which the machinery concerned must not be used any further. Will the authorities consider such proposals, so that workers can work without any worries?

My amendment contains six points, but the main theme is an emphasis on professional drivers. As I said at the beginning my speech, of the many work
injury cases we have handled, the most saddening ones are those involving logistics industry drivers or professional drivers. Why? Because some professional drivers do not enjoy any employment protection due to the absence of clear employment relationship. Put simply, they will not have any insurance protection in case they encounter any accidents. They will not be entitled to any labour insurance. Some may say that there is third party liability insurance. But frankly speaking, it is difficult to know the amount of compensation after filling a claim, and there is also the question of who should be held liable. Members all know that under the insurance policies taken out by employers, compensation is paid regardless of fault, so there is some sort of basic protection. In Hong Kong, many professional drivers must however bear the high risk of having no protection at all in case of accidents. And, how about the actual accident statistics relating to them? According to statistics of the Transport Department, there were more than 100 fatal accidents involving drivers of commercial vehicles in the past five years. In other words, 100 commercial vehicle drivers died in traffic accidents in the past five years. Could they enjoy any protection? Except for drivers of franchised buses or green minibuses, all of them could not enjoy any protection. That is why we recommend the Government to set up a "central employees' compensation fund", or the "central occupational insurance compensation fund" mentioned in my amendment. In this way, drivers who cannot take out any labour insurance policies due to their lack of employment status, or other people who likewise cannot take out any labour insurance policies due to the nature of their occupations, can all join the fund and thus enjoy the basic statutory protection of labour insurance under the Employees' Compensation Ordinance. If the Government thinks that it is difficult to put this proposal into practice given the large number of occupations in Hong Kong, can it start with professional drivers? We sincerely hope that the Secretary can consider our proposal and attempt to start with professional drivers. Is it feasible to launch a separate scheme for professional drivers under the existing Traffic Accident Victims Assistance Scheme? I believe it is only by doing so that the Secretary can help make Hong Kong a more harmonious society.

Thank you.

MR CHAN KIN-POR (in Cantonese): The number of industrial accidents and related fatal casualties remains high in Hong Kong, with the number of industrial accidents exceeding 5,400 early this year. Although the total number of accidents has decreased from that recorded a couple of years ago, heavy
casualties are expected with the continued roll-out of a substantial number of projects which are going to draw more workers to the front-line of construction sites.

We have no ways to fully prevent accidents from happening but we should be able to help expedite the rehabilitation of injured workers. Today, I would like to spend more time speaking on the issue of rehabilitation and presenting a research project sponsored by the Hong Kong Federation of Insurers.

We are all aware that facilitating the rehabilitation of injured workers not only helps them recover speedily, reduce the damage inflicted by industrial injuries, but also enables them to resume their normal life as early as possible. However, Hong Kong has all along been lagging behind in this respect. Under the present healthcare system, injured workers are mostly treated with painkiller before they can have a chance to receive specialized treatment several months later. However, during the course of receiving specialized treatment, they are frequently referred from one specialist to another in a way like a ball passed around a group, with absolutely no one managing the overall co-ordination nor following up on their return-to-work status after rehabilitation. The present system fails to provide maximum benefits for the injured, but rather leaves them helpless and without support.

In addition, injured workers are mostly orthopedic patients. If they are not treated appropriately in the rehabilitation process, including not being treated under an orthopedics work rehabilitation concept, they may lose the golden chance for rehabilitation intervention, will not be able to regain the best physiological functions and thus may have to endure a lengthier recovery or even long-term disability.

To help examine issues about occupational rehabilitation management, the Hong Kong Federation of Insurers has sponsored the "Multidisciplinary Orthopedics Rehabilitation Empowerment Program" (the Program), a study conducted by the Department of Orthopedics and Traumatology of The Chinese University of Hong Kong (CUHK), which features the concept of orthopedics work injuries. As orthopedic doctors have a comprehensive understanding of the treatment workflow for work injuries, their participation as main co-ordinator in orthopedics work injury rehabilitation provides early intervention for patients, enabling better co-ordination among various specialized treatments, and thus bringing about greater benefits to patients, achieving the goal of speedy recovery.
The workflow of the Program is as follows: First, taking up case referral of patients who were injured on duty and consequently suffer from lower back pain; second, arranging the injured for magnetic resonance imaging test; third, providing professional advice, formulating rehabilitation plan and co-ordinating with other specialists by the orthopedic doctor; fourth, implementing the rehabilitation plan, including the provision of occupational therapy and physiotherapy; and fifth, conducting work injury assessment and co-ordinating with the employer for return-to-work arrangement of the rehabilitated worker by the case manager.

The Program has achieved encouraging results so far. According to the information provided by the CUHK, a total of 183 patients has participated in the Program since its inauguration in 2011 till June this year. All the Program participants are able to return to work earlier, receive medical assessment referrals earlier and have shorter sick leaves. On average, participants return to work in 7.6 months after the injury. When compared to those who were injured similarly but needing 13.7 months to return to work, the research findings are startling as they reveal that injured workers can shorten the time needed for a complete recovery by half. These workers are just fettered by the present system and suffer undue delay in rehabilitation.

Work rehabilitation requires multifarious contribution from society, including the participation by employers, which is critically vital. As of now, there is no formal channel in place within the existing healthcare system for rehabilitated workers to communicate with their employers, leaving out a function to be taken up by the case manager in the Program. The case manager under the Program can enhance the communication between the employer and the employee, facilitating the worker's smooth resumption of duty. As an injured worker can receive treatment earlier, he recovers sooner and resumes duty promptly. Moreover, the employer can thus reduce the loss resulting from employee's sick leave and the hospital can spare more time looking after other patients. The outcome is indeed an all-win situation.

CUHK indicated that the research was only a preliminary clinical study, further study would be needed for a more comprehensive research result. However, the model devised by the Program which allows injured employees to receive the most appropriate treatment within the shortest period is certainly worthy of reference. At present, the policy on work injury rehabilitation in Hong Kong is underdeveloped and hopefully the research by and the
development of the Program can help advance occupational injury rehabilitation. The research scholar concerned further hopes that a public work injury rehabilitation medical centre can be established in Hong Kong for the general public in the future.

My amendment today seeks to point out that the lack of policy on work injury rehabilitation in Hong Kong at present is impeding the rehabilitation progress of injured workers. The Program shows that a good work injury rehabilitation scheme benefits the employer, the employee and the society at the same time. Similar work injury rehabilitation schemes are found commonly in foreign countries and their effectiveness has long been recognized. Therefore, I suggest various sectors in society join hands in the research and promotion of the schemes concerned, with a view to bringing advantages to work injured workers and subsequently to the rest of the society.

I would also like to comment on Mr TANG Ka-piu's amendment in which he suggests the setting up of a central occupational insurance compensation fund. I have reiterated time and again that as employees' compensation insurance has long been plagued by insurance fraud (including individual fraud and syndicated fraud), the insurance industry sustains long-term losses consequently. A government-operated employees' compensation insurance scheme will only impose a heavy burden to the Treasury. As the Government works less efficiently than the private sector but at higher salary costs, undoubtedly it is harder for the Government to achieve a balance when privately-run employees' compensation insurance schemes are suffering from severe losses. In the end, when public money is used to subsidize the shortfall, a lot more problems will be created. Therefore, I oppose the amendment put forward by Mr TANG Ka-piu.

I so submit.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, first of all I would like to thank Mr POON Siu-ping for proposing the motion on ensuring occupational safety and employees' protection, and Mr TANG Ka-piu and Mr CHAN Kin-por for proposing the amendments, thus giving us the opportunity to elaborate on the Government's efforts in promoting occupational safety and health as well as implementing policy on employees' compensation.
The provisions of the existing legislation and regulations on occupational safety and health stipulate the responsibilities of employers and employees to ensure a prescribed standard of safety and health at work as well as the measures required to observe such rules. Besides, employers should provide their employees with safe workplaces, plant and work systems, as well as the necessary information, instruction, training and supervision for that purpose. Employers should also conduct risk assessment on workplaces and, if the situation warrants, work out suitable safety measures. Prosecution will be instituted by the Labour Department (LD) against employers found violating the requirements on occupational safety, and "improvement notices" or "suspension notices", that is, the so-called "suspension orders", will be issued.

The Government attaches great importance to occupational safety and health in Hong Kong. The total number of industrial accidents for all sectors in the first half of 2014, that is, the first half of this year, is 5,463, representing a drop of 3.6% over 5,669 in the same period of 2013; and the accident rate per 1,000 workers also decreased by 4.5%, from 18.8 to 18. However, there were 1,533 accidents in the construction industry in the first half of 2014, up by 6.5% when compared with 1,439 in the same period of 2013. The situation is worrying.

With the commencement of the major infrastructure projects and a large number of maintenance works projects for old buildings in recent years, and in anticipation of the construction boom in the coming years, the construction workforce is constantly on the rise and the number of construction workers has increased from some 50,000 in 2009 to over 80,000 in the first half of this year. These developments pose challenges to the occupational safety in the construction industry. As at mid-November of this year, 25 industrial fatalities were recorded and 20 of them occurred at construction sites. The Government is very much concerned about the situation.

Besides, the food and beverage industry recorded the highest number of industrial accidents among all industries, while three fatal accidents occurred in the container handling industry in the first half of 2014. The LD will strive to minimize hazards at workplaces for all sectors by keeping on its step-up efforts in the three areas of inspection and enforcement, publicity and promotion, as well as education and training and through the launching of various sponsorship schemes.
As for employees' compensation, 52 occupational diseases have been prescribed under the existing legislation on employees' compensation. The LD will continue to make reference to the criteria adopted by the International Labour Organization and take into account factors such as local disease patterns to introduce amendments to the list of prescribed occupational diseases in the Schedule to the Employees' Compensation Ordinance (ECO) when necessary. Furthermore, the ECO also provides for the claim of compensation for a disease that is not prescribed in the Ordinance but can be proved in individual cases to be a personal injury by accident arising out of and in the course of employment.

It is also stipulated in the existing legislation that notice must be given by an employer of any work accident within the time prescribed after the accident. Any employer who without reasonable excuse fails to give notice within the time prescribed or fails to notify the LD of any work accident, or furnishes any false or misleading information, commits an offence and is liable on conviction on indictment to a maximum fine of $50,000.

The Government is very concerned about the compensation and protection for injuries at work for employees of high-risk industries. In order to assist employers of high-risk industries to take out labour insurance policies for their employees, the insurance sector has introduced the Employees' Compensation Insurance Residual Scheme to provide a market of last resort for labour insurance. With regard to work injury rehabilitation, integrated treatment and rehabilitation services are available to employees who have sustained work injuries in hospitals and clinics under the management of the Hospital Authority. Moreover, the LD has also implemented the Voluntary Rehabilitation Programme in collaboration with the insurance sector and further details about the programme will be given later in my concluding remarks.

Deputy President, the Government will conduct review from time to time in this respect having regard to changing social needs and the latest economic developments so as to keep us abreast of the times. After listening to views expressed by Members, I will give a more concise and detailed response later.

Thank you, Deputy President.
MR SIN CHUNG-KAI (in Cantonese): Deputy President, I rise to speak on behalf of the Democratic Party to express support for Mr POON Siu-ping's original motion and also the amendments proposed by Mr TANG Ka-piu and Mr CHAN Kin-por.

Both the numbers of occupational injury cases and industrial accidents have shown a marked decline over the past decade. While the former has dropped from 44,025 in 2004 to 38,027 last year, the latter has also shrunk from 17,533 to 11,820, registering a drop of as many as 30%. Certainly, these figures are still unable to put our mind at rest. At present, three major industries face more industrial accidents, namely the construction industry, the transportation industry, and the accommodation and food services industry mentioned in the table provided by the Government. I believe industrial accidents mostly occur in the food services industry. The aggregate number of industrial accidents involving the aforesaid three industries already accounts for 80% of the total.

Speaking from the perspective of risk management, I would say the proposal of setting up a central occupational insurance compensation fund (CCF) put forward by Mr TANG Ka-piu in his amendment is actually a meaningful one. As far as I can remember, a similar motion debate was held in 2003, and there were also debates on this topic in the Legislative Council before 2003. There have been discussions on this topic for 20 solid years, but it seems that the Government still remains unconvinced despite the passage of two decades. Secretary, I think it is time for the authorities to seriously consider the idea of implementing the relevant measure for those higher-risk industries on a priority basis.

A moment ago, Mr CHAN Kin-por said that workers were covered by labour insurance. In fact, employers in all industries are required to take out labour insurance for their employees. This has been clearly stipulated, and I also understand the requirement. As an employer myself, I have also taken out labour insurance for my employees. But the point is that labour insurance is targeted on employees in general. According to a report submitted by the authorities to a Panel of the Legislative Council last week, among the three industries concerned, the construction industry faces the most serious situation. However, its number of industrial accidents is not the highest. The food services industry is the one with the highest number of industrial accidents. The professional drivers industry ranks the third.
I know that the construction industry has imposed a levy on construction workers in order to provide them with vocational training. In fact, can part of the levy be used to provide additional compensation to those construction workers injured in accidents? They are of course under the coverage of labour insurance, and I also know that everybody ... I do not want to repeat the accidents mentioned by Mr TANG Ka-piu and Mr POON Siu-ping just now. In fact, 20 years ago, I once went to a hospital to visit the victims of a lift-falling accident in Kwai Tsing. What I saw there was indeed saddening. This is my personal encounter. At that time, I got in touch with some family members of the injured and the deceased in the hospital. When I asked them if I could be of any help to them, one of them asked me back, "Can you bring my husband back to me?"

Even if compensation is provided to family members of the deceased, it cannot make up for the bereavement they suffer. Certainly, it is best to improve the precautions against industrial accidents. But apart from preventing industrial accidents, shouldn't the authorities take one more step and offer compensation? Mr TANG Ka-piu's amendment proposes to set up the CCF or compensation funds for employees by industry (ICFs). But if the Government is to require all industries to participate at the outset, industries with lower accident risks will have the feeling that they are subsidizing those with higher accident risks as they have already taken out labour insurance for their employees. In that case, speaking from the risk management perspective, shouldn't the Government first implement the ICFs proposed in Mr TANG Ka-piu's amendment for the three industries with higher accident risks I mentioned a moment ago?

Another example is the construction industry levy I talked about just now. One of its uses is the provision of vocational training. Can the authorities make slight adjustment to the levy, or use a portion of the levy to provide compensation? I believe that doing so will definitely involve legislative amendment. Can the Government give consideration to doing similar things first so as to offer protection to more construction workers?

Just now, the two representatives of the labour sector already pointed out clearly that since the number of infrastructure projects would increase in the time ahead, they were concerned and worried that the number of accidents might also climb up. The Secretary has also admitted in his earlier speech that accidents in the first half of this year has already outnumbered the total of last year. Therefore, I think it is high time that the authorities considered doing something.
Apart from taking precautionary measures, the authorities should step up compensation, shouldn't they? I hope the Secretary can give a reply later on whether he will consider the idea of expanding the uses of the construction industry levy as a means of enhancing workers' protection.

Of course, the Secretary must consult the relevant industry and take into account the views of the industry players. However, I think that if the authorities are to require all industries and trades to participate in the CCF right at the beginning, there are bound to be no positive results even after further discussions in the next 10 or 15 years. I say so because this proposal was already discussed in 2003, and debates on this proposal had also been held at Council meetings before 2003. I do not want to see that we are still debating this issue 10 or 15 years later. So, may I ask whether the Secretary can actively consider giving priority to the implementation of the ICFs in the three industries I mentioned a moment ago? The reason is that the aggregate number of industrial accidents involving those three industries already accounts for 80% of the total. If the Secretary can implement the ICFs in the three industries, he may be able to deal with 80% of all the industrial accidents. I think this risk-based management approach can help raise the occupational safety awareness in the three industries concerned. Therefore, I hope the Secretary can adopt this specific measure to deal with the problem.

Actually, there is no need for the authorities to require all industries to participate at the outset. Of course, the Secretary may come up with some more holistic ideas after consideration. But I just want to say that these are my views, and I hope the Secretary can consider them. I also hope that the labour sector can shed light on how to deal with problems associated with industrial accidents.

With these remarks, I support the original motion and all the amendments.

MR WONG KWOK-HING (in Cantonese): My seven-minute speech is for putting forward the aspiration of all professional drivers in Hong Kong, as well as for enriching and supplementing item (6) of Mr TANG Ka-piu's amendment, which is to ask the Government to positively study and consider setting up a central employees' compensation fund for professional drivers. There should also be a timetable and a roadmap.
Deputy President, why is there such a need? I have some statistical data from the Government on hand. In fact, the statistics on the number of professional drivers who died, heavily or slightly injured in accidents is rather high on the whole year. In 2012, for the five categories of motor vehicles including taxis, public light buses, light goods vehicles, medium and heavy goods vehicles, a total of 9,049 cases were involved in accidents, which accounted for 41.6% of a total number of 21,175 vehicles from 10-odd categories of motor vehicles. In 2013, the total number of motor vehicles concerned was 21,833. For the five categories of vehicles with professional drivers just mentioned, a total of 9,314 cases were involved in accidents, which accounted for 42.7% of the total number of vehicles concerned. In other words, the percentage has risen.

Every year, nearly 10,000 professional drivers are unable to obtain employees' compensation. What is the reason? It is because they may be self-employed persons. Simply because they are self-employed persons, whom the Government has been neglecting. Deputy President, I now have a reply from the Secretary for Labour and Welfare — it is of course not from Secretary Matthew CHEUNG himself, but is undersigned by his subordinate Mr Ernest IP — to the Legislative Council Panel on Manpower dated 13 December 2012. In the last paragraph of this letter, they mentioned that there were no statistics on the number of self-employed persons — the professional drivers that I mentioned earlier — involved in accidents. That means they have basically not conducted any study. They just disregard them and treat them as non-existent.

Deputy President, at present, for all injuries and deaths due to accidents while at work, these self-employed professional drivers can only apply for the Traffic Accident Victims Assistance Fund. However, in applying for the Traffic Accident Victims Assistance Fund, they say that there are three problems. First, it takes at least three months to process an application on average, and it may take even six months. The processing period is just too long. Second, the amount of financial assistance is too small to cover the medical and family expenses during the period when they are unable to work, as they are the breadwinners in the family. Furthermore, if they fell down and sustained injuries or had other accidents while at work, it may be said that the injuries are unrelated to traffic accidents. The injuries may also be unrelated if they sprained, fell down or suffered from sunstroke, and hence they may get nothing as assistance. Therefore, I think the Government should attach importance to this issue and such situation.
We now see that professional drivers are not covered by the protection under the Employees' Compensation Ordinance, as they may be regarded as self-employed persons. Besides, the Government's Occupational Safety and Health Ordinance is also unrelated to them, as these professional drivers are not covered. Hence, Deputy President, I think the amendment moved by Mr TANG Ka-piu today is very meaningful. I raised this question in the Panel on Transport of this Council much earlier for discussion. I raised it already in the previous Legislative Council Session, but it has just been procrastinated till the current session. In this Legislative Council Session, the Secretary for Transport and Housing says that this is not related to him but a matter of concern for the Panel on Welfare Services, at which the topic is to be discussed. This topic of discussion is then being transferred to the welfare area.

However, frankly speaking, in the reply letter from the Labour and Welfare Bureau dated 13 December 2012, it says that there are no statistics and information concerned. Plainly speaking, this issue is unrelated to the Bureau. In my opinion, whether in occupational safety or employees' compensation, professional drivers cannot and should not be the orphans. Hence, under the circumstances, Mr TANG Ka-piu's proposal of setting up a central occupational insurance compensation fund or employees' compensation fund for professional drivers is recommendable and forward looking. I am afraid it will be difficult to deal with all other occupations at the same time. But can priority be given to professional drivers? Therefore, I ask Secretary Matthew CHEUNG to give an response later in this respect. Can he tell the professional drivers of the whole territory whether the Government will take a proactive attitude?(The buzzer sounded)

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, last year, Mr POON Siu-ping also moved a motion on "Ensuring occupational safety". He has proposed in the present motion to comprehensively review the occupational safety and health policy for Hong Kong employees and also to improve the protection for workers sustaining work injuries. I do not think Members from various political parties and groupings will raise any objection. However, I, together with Members from the Business and Professionals Alliance for Hong
Kong, have reservations about his proposal to the Government on setting up a dedicated committee to deal with the relevant matters.

In fact, the Occupational Safety and Health Council (OSHC) has been established in Hong Kong to discharge similar functions. Set up in 1988 under the Occupational Safety and Health Council Ordinance and seeking to upgrade the safety management levels of enterprises, the OSHC is a statutory body vested with the duties of research and strategies development, education and training, promoting occupational safety and health in the community, providing consultancy services, and so on. Seven Functional Committees and two Advisory Committees have been set up in the OSHC for the purpose of providing professional advice. There are also 10 Industry-based Safety and Health Committees covering industries such as the construction industry, the manufacturing industry, the logistics and freight transport industry, the electrical and mechanical trade and repair of vehicles, sedentary and professional services. They will provide these industries with tailor-made information on occupational safety and health.

In addition, the OSHC consists of 19 members representing the Government, employers, employees, the professional sector and the academia. I think the OSHC is already highly authoritative and representative in its composition, so it is not necessary to establish another dedicated committee with similar functions, lest problems such as duplication and fragmentation of responsibilities may arise.

However, statistics have shown that the existing occupational safety and health measures are still marked by plenty of room for improvement. This is prominently the case with the construction industry. While the number of accidents and the accident rate concerning the construction industry have dropped respectively by 15.7% and 32.5% over the past 10 years, it still ranks the top among various industries in its number of fatal accidents and accident rate. In 2013, industrial accidents in the construction industry led to 22 deaths, which represented an increase of 13.4% over the yearly average of 19 deaths recorded over the past five years. Among the 15 fatal industrial accidents which occurred in Hong Kong in the first half of this year, 12 involved the construction industry, reaching 80% of the total and registering a substantial increase of 300% over the figure for the same period last year.
The industrial accident causing one death and four injuries at the Chek Lap Kok worksite of the Hong Kong-Zhuhai-Macao Bridge last month is indeed saddening. It also shows that there is absolutely no room for any slackness when it comes to ensuring employees' occupational safety. In my view, the various social sectors must co-operate with one another and strive to achieve "zero injury and death" by adopting a "zero tolerance" attitude towards any unsafe work environment. In this respect, the Government should adopt a multi-pronged approach and formulate policy measures as support, in a bid to strengthen occupational safety for the construction industry. First, as a means of keeping pace with the times, the Government must improve the relevant legislation and enhance the various regulatory measures, including timely amendments to the Employment Ordinance, the Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance and also the Employees' Compensation Ordinance. If necessary, dedicated legislation should be enacted. The Construction Workers Registration Ordinance is an apt example. This ordinance was enacted in July 2004. With a view to enabling stakeholders to gradually adapt themselves to its implementation, the regulatory provisions were implemented in phases. The first phase of prohibition was implemented in September 2007 to forbid unregistered construction workers carrying out any construction work on construction sites. For the purpose of implementing the remaining phase of prohibition, the Government introduced the Construction Workers Registration (Amendment) Bill 2014 to the Legislative Council in April this year. Subsequently, a Bills Committee under my chairmanship was formed to scrutinize the bill. Under this bill, workers may register under specified trade divisions in accordance with their respective modular skills in the future. A skills development ladder has also been formulated so that workers who have obtained registration under the various trade divisions of a category may register as "master" under that particular category. Moreover, the bill also seeks to enhance and upgrade regulatory efficiency. I believe all this is conducive to nurturing a team of construction workers with a diversified range of skills.

Second, the Government should step up its support so as to raise practitioners' occupational safety awareness in all aspects. The Government, for instance, should support the industry in providing more comprehensive on-the-job training to workers, and also encouraging workers to enrol on related programmes offered by the Construction Industry Council (CIC) and the OSHC. Speaking of contractors, the CIC has been promoting the Pay for Safety Scheme since 2012 whereby contractors are required to set out clearly the expenditure items...
concerning worksite safety in their tender documents. If a contractor's safety performance is good, it will receive payments for such expenditures, whereas in the case of poor performance, it may only get partial or even no payments, depending on the circumstances. The purpose of so doing is to urge contractors to attach importance to ensuring occupational safety.

Deputy President, in order to comprehensively tackle the problem, the authorities should even squarely address and expeditiously resolve the problems of labour shortage and imbalance faced by the construction industry. According to the surveys conducted by organizations such as the Hong Kong Construction Association in recent years, the rate of labour shortage in the construction industry has persistently exceeded 15%, and the industry has fallen short of as many as 10,000 workers, thus posing severe challenges to works progress and worksite safety. As a result, while the industry can hardly deploy manpower to guide new entrants, workers' occupational safety has inevitably come under significant adverse impacts as they are very often forced to work prolonged hours and excessive overtime. The authorities should conceive ways to rectify this problem.

Deputy President, I must also make it a point to say that the construction industry has been plunged into the present situation because political arguments have hindered the approval of appropriation requests concerning public works projects. Since certain Members have initiated the unco-operative movement, the vetting and approval of public works projects by the Public Works Subcommittee and the Finance Committee have been delayed by their filibustering. Plagued by the plight of "dying of overwork at one time and dying of starvation at another", the construction industry can only hope that policy deliberations in an orderly, fair and proper manner can be restored in the legislature as early as possible. For this reason, they have organized themselves into an alliance to show their opposition to filibustering.

Deputy President, I so submit.

DR CHIANG LAI-WAN (in Cantonese): Deputy President, the motion we discuss today is about ensuring occupational safety.

Speaking of occupational safety, a recent and rather serious occupational safety incident involving some public officers will naturally come to our mind. This is the gas explosion incident which has caused injury to a number of
firemen. I have heard that a fireman is still in critical condition while another one is severely injured. Regardless of how the incident took place, I believe the government is now conducting a review in this connection. Nevertheless, we can see from this incident that whether or not the employer has followed fully the requirements of the relevant policies, in order to prevent any accidents, it is very important for the employees to attach great importance to their own occupational safety.

(THE PRESIDENT resumed the Chair)

In 2013, a total of 38,027 occupational injury/death cases took place in Hong Kong, of which 188 persons died of serious injury. From these figures we can see that occupational safety is an issue we cannot afford to overlook. In some cases, when an employee has an incident, his whole family will be affected. Indeed, many stories behind the occupational injury/death cases are very saddening.

I will now focus on a number of points, such as how employers can create a good and safe working environment and how employees can cultivate good habits of occupational health and safety, as employees should be most concerned with their own personal safety. On the other hand, in recent years, more and more young people are joining industries that require professional skills, such as the construction industry. Indeed, every day we can see banner headlines claiming that new comers with several months' experience can earn as much as some $10,000-odd a month. Hence, we must not overlook the need to provide them with occupational safety education before they enter the relevant industry.

Regarding the issue of a safe working environment, we all know that restaurants and the related trades have a higher accident rate, and kitchens are the places where most accidents take place. Some kitchens are very small in size and filled with cooking fume. The air quality inside such kitchens is therefore rather poor. Besides, as the floors of some kitchens are often very slippery, accidents just happen from time to time even though the employees are wearing protective gear like anti-slip shoes or anti-cut gloves. Moreover, as many employees have to stand long hours in discharging their duties, they are often suffering from repetitive strain injuries, such as back injury.
For industrial accidents like slips or cuts, as the problems involved can be seen very clearly, the employees concerned can claim compensation or sick days right away. However, some other types of industrial accidents are in fact results of accumulated strains, and the adverse effects may only be felt after one has retired. One example is the computer industry whose employees have to sit in front of the computer for a long time. The problems will not surface immediately, but if the persons concerned have some bad sitting habits or posture, with the passing of time and particularly when they grow old, their cervical vertebrae and backbones will be in trouble. But then, to be very honest, the employers may not be able to help their employees. Perhaps they can provide the employees with some guidelines, but the employees have to take care and protect themselves after all.

Seeing that many young people are entering the labour force and engaging in industries like the construction industry I referred to just now, we feel rather upset in recent years, as some young people have incurred injury or even death shortly after joining the industry. In a recent case, the worker concerned died on the first day of work. I cannot help but feel that he did not deserve it. Why did such thing happen? Was it because the employer had not given him clear instruction or he was not careful enough? Would there be other reasons as well? Given that starting from this academic year the Government is providing schools with an annual subsidy equivalent to a teacher's salary to implement "Life Planning Education", I hope that in the "Life Planning Education" classes the teachers concerned can provide proper occupational safety knowledge for the students or those who will enter the workforce shortly. In a nutshell, occupational safety is worth of our attention and the Government should join hands with employers and employees to promote occupational safety.

With regard to Mr POON Siu-ping's original motion and the amendments proposed by Mr TANG Ka-piu and Mr CHAN Kin-por, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) shares their relevant ideas and believes that such ideas have a positive effect on the efforts to promote occupational safety. We also support that the Government should conduct a comprehensive review of the policies related to occupational safety. The DAB supports the original motion and amendments of the aforesaid Members and will vote in favour of them.

I so submit. Thank you, President.
MR CHUNG KWOK-PAN (in Cantonese): President, I believe Members all agree that it is very important to secure occupational safety. As a person's life is very precious, one single occupational casualty is considered too many. Actually, occupational safety may affect the employer's business operation directly. In particular, given the problem with labour shortage at present, if occupational safety is not properly secured and many labourers are hurt at work, we will have difficulty recruiting the manpower required. Besides, we all know that the existing legislation requires employers to take out labour insurance policies for their employees, but some friends in the logistics sector tell us that they have problem in taking out labour insurance policies because many insurance companies refused to provide accident insurance for the sector on the ground that both the accident rate and claim rate of the sector were on the high side. As such, some insurance companies simply refuse to provide insurance for them, while comparatively higher premiums are charged by companies which do provide them with insurance.

Hence, if we can enhance occupational safety effectively, we can certainly minimize accidents and make it easier for employers to recruit workers at the same time. What is more, expenses on insurance premium will also be reduced, thereby facilitating the operation of different industries. Hence, we have all along been attaching great importance to occupational safety. Nevertheless, after taking into account Hong Kong's policy on occupational safety and its effectiveness, the Liberal Party has reservations about the proposal to "urge the Government to establish a dedicated committee for comprehensively reviewing the policies on Hong Kong employees' occupational safety and health", which is set out in the original motion, as we find this proposal arguable. Why do we think so? As we all know, the Labour Department (LD) has already set up under it a dedicated Occupational Safety and Health Council, as well as seven ad hoc committees and two advisory committees, all of which are responsible for providing professional advice on policies relating to employees' occupational safety and health. Besides, the LD has also set up industry-based safety and health committees to deliver industry-based occupational safety information to different industries and people from all walks of life. As such, we believe that the efforts will be duplicated if one more dedicated committee is set up to deal with occupational safety matters.

Over the past years, thanks to the co-operation between employers and the relevant divisions under the LD, the promotion and education efforts in this respect have been enhanced continuously, and the occupational safety situation
has actually improved while the overall occupational injury and death figures have been on the decrease. According to the latest figures of the LD, the overall number of occupational injuries recorded in 2013 has dropped by 4.7% when compared with the figure of 2012, and the accident rate per 1,000 workers has dropped from 14.1% to 13.2%, representing a 6.4% reduction. Let me cite the construction industry as an example. As we all know, the Government has commenced many public works projects and the actual expenditure in this respect has increased greatly in recent years. When compared to the figures of 2006, the total value recorded in 2013 has almost been doubled. Despite the increase in public works projects, the accident rate has been dropping year after year, from 13.2% in 2006 to 7.3% in last year.

I have here a table showing the relevant figures. This is the 2006 situation and the difference in figures is very limited, whereas the difference record in 2013 is much greater. From here we can see that even though works projects have increased, cases involving occupational safety have actually decreased. Moreover, the logistics sector has seen in the first half of 2014 a 15% decrease in the number of industrial accidents involving container handling when compared to the figures of the same period in 2013. Besides, the industrial accidents incurred by industries like transportation, storage, as well as postal and courier services have also decreased by 20%. All these figures are reflective of the fact that the system established to monitor occupational safety is relatively effective.

As I have mentioned just now, one of the reasons why insurance companies raise their premiums is that both the accident rate and claim rate are on the high side. In this connection, many people are of the opinion that this is attributable to the abuse of the work injury compensation system. Earlier on, some newspaper reports have pointed out that the number of cases involving employers hiring private detectives to check if employees are obtaining work injury compensation, sick leaves or even insurance premium by fraud has increased by folds. Hence, if we arbitrarily extend the coverage of work injury and raise the relevant amounts of compensation in the absence of appropriate and effective measures to curb abuses of work injury protection, more lawless persons will be claiming work injury protection by fraud. Naturally, in addition to discussing the issue of occupational safety, employers should provide sufficient safety measures, training and equipment to ensure the occupational safety of their employees.
Let me cite an example. At present, most professional drivers are working relatively long hours and in poor health, but why is that so? Given that the majority of professional drivers are over 50 years old, their physical conditions are naturally not good enough as they grow older every day. Hence, under the premise of protecting both the drivers and the passengers and preventing drivers from working excessively long hours, we hope that the authorities will face up to the driver shortage problem of the transportation sector, including cross-border transport, non-franchised buses, green minibuses, and so on, and introduce measures to encourage more people to join the trade. Otherwise, they should attempt to alleviate the driver shortage problem through the Supplementary Labour Scheme. (The buzzer sounded) ... Thank you, President. I so submit.

MR KWOK WAI-KEUNG (in Cantonese): President, occupational safety and workplace safety are very important to both employees and employers, and the labour sector has always attached a great deal of importance to these two aspects. Therefore, I support the motion on "Ensuring occupational safety" proposed by Mr POON Siu-ping again. In December last year, we already held a debate on this issue. At that time, many Members expressed concern about bogus self-employment in their speeches and talked about the associated occupational safety problems. Sadly, despite the passage of one year, we have not yet seen the Government take any concrete or further actions to eradicate the loopholes arising from bogus self-employment. In fact, apart from its efforts to combat bogus self-employment, its work on enhancing occupational safety has similarly failed to achieve any remarkable results. For instance, work injury cases have still occurred persistently in the catering industry, the transportation industry and the construction industry, and employees in these industries are still unable to get rid of the plight of high premiums for and difficulties in taking out labour insurance. Below are several observations of mine.

My first observation is about bogus self-employment. At present, in order to reduce costs and evade their due responsibilities as employers, many unscrupulous employers are still willing to risk violating the law by forcing their employees to work under bogus self-employment, thus sacrificing their employees' interests. These people are nominally self-employed, but in reality, an employment relationship obviously exists as they have been discharging the tasks given by their employers. In the past, we often heard that the bogus self-employment problem was more common in the construction industry, the professional drivers industry and also the catering industry. However, due
precisely to the authorities' lax efforts in monitoring and enforcement, the problem has spread to other industries. As the law has not clearly defined the employment relationship involving people under bogus self-employment, employers may refuse to take out labour insurance and provide reasonable employees' benefits for such employees. As a result, in case of injuries, workers must bear exorbitant medical expenses themselves as they are stripped of any due protection from labour insurance.

My second concern is about labour insurance. In fact, while people under bogus self-employment lack occupational safety protection, many industries and job types are still facing high labour insurance premiums and difficulties in taking out labour insurance. Some industries such as the catering industry, the cleaning services industry, the transportation industry, the recycling industry and the construction industry must pay exorbitant premiums for labour insurance. Cases of drastic increases in labour insurance premiums and also insurance companies refusing to underwrite labour insurance are literally countless. According to a labour union, the annual premium paid by a bamboo scaffolding worker taking out life insurance under self-employment can be as much as some $100,000 or $200,000. Suppose a contractor is willing to take out life insurance for its machinery operators such as slingers, expenses on premium payments will probably account for one-third of the total works costs. In other words, insurance companies may still refuse to provide insurance for high-risk industries even if such industries have the required money. To cope with the problem, the Hong Kong Federation of Insurers introduced in 2007 the Employees' Compensation Insurance Residual Scheme (ECIRS) covering 22 high-risk industries. But the premium levels are still very high, and premiums for the bamboo scaffolding industry in 2012 were 15% higher than those in 2010.

According to the statistics provided by the Employees' Compensation Insurance Residual Scheme Bureau, during the period from 1 April 2012 to 31 March 2013, totally 219 insurance applications were received. Among them, 39 were accepted by individual scheme members in the vetting and approval process, and 153 by the ECIRS. The remaining applications are still pending further actions. Moreover, as the ECIRS does not cover services industries such as the catering industry, there has been a case where a Chinese restaurant which once paid compensation out of its insurance has faced substantial increases in its premium from several hundred thousand dollars to some $1 million or $2 million. Both employees and employers are facing monopoly by insurance companies. The labour insurance provided by the private market is utterly unable to offer sufficient protection. What is more, the market operation and determination of
premiums lack of transparency, so insurance companies may increase or reduce labour insurance premiums at will. However, the Government has been relying on the Insurance Companies Ordinance as its shield and saying that it cannot interfere with the setting of premium terms and charges, thus leading to the deteriorating situation where insurance companies agree to provide insurance only when there are profits.

In fact, we can see that even the ECIRS is still unable to help different industries to fully solve their difficulties in taking out labour insurance and the problem of high premiums. Premiums paid by the transportation industry and the catering industry are respectively 10 times and six times higher than those for other industries. This has directly given rise to bogus self-employment, which is taken as a means to reduce costs. Hence the protection for employees is sacrificed, and some employees are asked to carry out high-risk tasks in the absence of any insurance coverage. Does the Administration have any idea about how much of the premium charged by an insurance company under a labour insurance policy is spent on management fees and costs, and how much is truly put in the risk pool to help employees? The Government, in collaboration with the Occupational Safety and Health Council, has introduced a safety accreditation scheme for the renovation and repairs industry to provide small and medium contractors with safety training and subsidies for purchasing fall-arresting devices and conducting safety audits. The Government has also collaborated with the Employees' Compensation Insurance Residual Scheme Bureau to offer subsidies capped at 50% of the premium to bamboo scaffolding contractors accredited under the scheme. However, up until early March this year, only 70 applications were received, and merely 16 contractors were accredited.

The Hong Kong Federation of Trade Unions has proposed that the Government should directly set up a Central Occupational Insurance Compensation Council, rather than launching so many schemes, for the purpose of implementing a central occupational insurance compensation fund, so as to provide centralized labour insurance services, put the existing scattered management of work injury cases under a single organization, and reduce the administration fees charged under work injury compensation insurance. At the same time, it can also assume the function of offering occupational injury compensation to all employees in Hong Kong, including the provision of subsidies for their rehabilitation treatment. Thank you, President.
MR TONY TSE (in Cantonese): President, according to the statistics provided by the Government, there are 17,895 cases of occupational injuries in the first half of this year, in which 102 fatal cases occurred in workplaces. While industrial accidents account for one third of the total number of accidents, the total of which is 5,463 cases, 15 are fatal cases. It is a two-fold increase when compared with the five cases occurred in the first half of 2013. The Government explains that 10 fatal industrial accidents occurred in the first quarter of this year, which has led to a drastic surge in the number of fatal cases. However, the tendency of fatal accidents that occurred in Hong Kong's construction industry has not stopped in the second half of this year. The number of fatal cases in the construction industry as at the end of October this year reached 19, which is seven cases more than the total of 12 cases during the same period of last year. Among such cases, six were related to work-at-height, three were related to lifting operation and three were electrocution accidents. In average, there are about two fatal cases involving the construction industry each month. The situation is actually very serious. I consider that the Government, the contractors and construction workers should face the problem squarely and seek to minimize the number of cases and achieve the ultimate goal of zero accidents.

The above statistics will naturally remind us that the construction industry is one of the most high-risk industries in Hong Kong. In view of this, the Government has been seeking to enhance occupational safety and health of the working population from various aspects in recent years, including legislation, enforcement, publicity, promotion, as well as education and training, so as to lower the workplace safety hazard to a more controllable level. With regards to employers, employees, contractors, safety professionals, trade associations, labour unions, relevant organizations and the Government, they are able to make concerted effort with a positive attitude, which has made improvement in the overall occupational safety performance to a certain extent, thereby preventing some unnecessary accidents effectively. However, at the same time, I also note that instead of a decline, the number of cases relating to fall from height accidents in the construction industry has increased, surging from two cases in 2011 to 14 cases in 2013, in which seven fatal cases were related to repair, maintenance, alteration and addition works. The situation is rather worrying.

President, the mandatory building inspection and mandatory window inspection schemes implemented by the Government in recent years have caused an increased in the relevant repair and maintenance costs. However, as the construction industry is facing a succession problem, the average age of workers
is relatively old. We will inevitably worry that this will exert much pressure on the workers, as they may neglect work safety considerations in order to finish the increased number of repair and maintenance works. All these issues should be faced squarely and dealt with by the Government and relevant parties. I know that the Buildings Department has launched some new arrangement in the implementation of the mandatory building inspection scheme. Old buildings with more imminent needs are given priority in the hope that resources will be used in a more effective manner when the mandatory building inspection scheme is implemented. I support the relevant arrangement.

Moreover, in recent years, a lot of private buildings adopt a more innovative and unconventional design, such as glass wall and decorative shutter of external wall and so on. These designs are undoubtedly very popular among buyers, but they will also cause an impact on repair and maintenance workers who need to work on the external walls of buildings. At the same time, the maintenance access to the external wall of a lot of newly built residential blocks is too narrow. Many repair and maintenance works which need to be done through the external wall cannot be carried out. Moreover, the design of the external wall of some buildings may obstruct the scaffolding structures in many ways, which has forced workers to take more risk when they are engaged in the relevant works, thereby causing a surge in the risks of accidents.

In an interview in a programme of the RTHK (TV) earlier, I have also spoken on the relevant issue. I think that it is alright for developers to solicit customers by adopting an aesthetic and practical approach in the sale of flats, but at the same time we should not neglect the occupational safety of construction workers. About the impact of building designs on the repair and maintenance works of building, I suggest that the Government may consider addressing the problem in two directions. First, developers should be required by way of legislation to provide feasible repair and maintenance arrangement of the relevant buildings as soon as approvals for development are granted to developers. Second, incentive should be provided. For example, if the architects or developers can make proposals to facilitate future repair and maintenance of the building in the design of the new building and meet prescribed standards, the Government may consider allowing an appropriate increase in the floor area so as to encourage developers to make a more comprehensive consideration in designing the building in conjunction with the repair and maintenance arrangement for it.
President, I concur that site inspection by the Labour Department is an effective way to minimize the number of accidents. But I also hope that the Government can avoid affecting the works progress in the course of site inspections, so that the supply of flats will not be hampered. Moreover, I also hope that construction workers can enhance their awareness of personal occupational safety, so as to jointly improve Hong Kong's overall occupational safety performance.

President, I so submit.

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

MR LEUNG YIU-CHUNG (in Cantonese): President, I think the motion proposed by Mr POON Siu-ping today is one of great importance. Many statistics can aptly show that industrial safety have improved. Particularly, during our discussion on the issue of industrial safety at a meeting of the Panel on Manpower (the Panel) a few days ago, the government representative also said that today was different from the old days, in the sense that many aspects had seen marked improvement, especially in the number of industrial accidents involving casualties.

President, I also believe that in recent years, many aspects, such as the numbers of industrial accidents with casualties and cases involving occupational diseases, have in fact seen improvement. This is honestly a fact, and I will not quote the relevant statistics here again. Since many colleagues have quoted the relevant statistics, I do not want to repeat them. But the point I am driving at is that, as I mentioned at that particular Panel meeting, one industrial accident is already way too many to us. I believe the Secretary will also strongly agree to this, right?

Why do I say that one industrial accident is already way too many? It is because the most miserable impact caused by an industrial accident is not only the infliction of injuries on workers, but also the possible consequences on their families. Therefore, I would say industrial accidents indeed produce very serious impacts. What is more, in case deaths are unfortunately involved, outcomes even harder to accept will result. The livelihood of the families concerned will be affected while they have to endure the pain arising from the death of their family members. For these reasons, I believe the Secretary and the Government will certainly agree to my remark that one such case is already
way too many. I believe the Secretary can also recall a saying we very often refer to, which goes, "Going to work happily and going back home safely". This is a catchphrase we often quote. Therefore, in this regard, I do not think we will disagree with each other.

But I think the major question is how to achieve a persistent decline in the number of industrial accidents, rather than seeing it "remain high", just as Mr POON Siu-ping has asserted in his motion. However, having seen the present development of the construction industry and other industries, I am concerned that the situation may go the other way around, meaning that the number may rise rather than decline. This is my greatest worry. President, why do I say so? First, as some Members said just now, the amount of money committed to infrastructure projects has kept rising, and substantial manpower is therefore required. But as everybody knows, the manpower supply in this industry is rather tight due to its difficulties in attracting young entrants. At present, some contractors try to deal with the situation by increasing working hours, just as some Members mentioned just now. This is where the major problem lies.

As I already pointed out at the last Panel meeting, a major problem with increasing working hours is that this will produce tremendous impacts on workers' states of mind and also other aspects for the reason that this industry requires a great deal of manual labouring, and workers must very often endure the scorching sun and rains while working. Therefore, long working hours will inevitably lead to accidents. This is a very important point to note. So, I really hope that the Secretary can expeditiously handle the long-discussed issue of standard working hours, rather than delaying any longer. The Government should not stop short of entrusting the committee led by Dr LEONG Che-hung with the task of conducting studies without examining the actual implementation arrangements for standard working hours. It runs counter to our request if the Government merely studies standard working hours as a general issue, because we expect the authorities to examine the actual implementation arrangements. Therefore, I would say what the Government has done is disappointing.

Apart from standard working hours, there is also the issue of retirement, one which seems to be irrelevant but which I think is closely related to this topic. At present, many workers are worried that as they are engaged in manual labouring, they must retire at the time when their physical strength and working ability decline due to ageing. They are worried as they do not know who will support their living after their retirement, and how they can "store up grains for future famines" now. The latter question honestly poses a major difficulty to
them. The reason is that they have fixed expenses every month, and such expenses are after all inevitable despite their wage adjustments. In that case, they are worried about their means to save up enough money to cope with their retirement life. Honestly, they may not be able to do so. Therefore, I think the only way to protect their retirement life is universal retirement protection. When universal retirement protection is put in place, their worries, the immense mental stress on them, as well as the incessant hard work demanded of them for catching up with the scheduled progress can be reduced. Industrial accidents can be reduced only by relieving their mental stress and shortening the time they spend on manual labouring. Therefore, I think this is also an important issue.

Moreover, I must also point out that the number of industrial accidents in the catering industry is by no means small owing to its unsatisfactory working environments. If you have the chance to visit the kitchen of a restaurant, you will see that apart from the wet floor, many items are packed in the cramped environment. Let me take dish-washing workers, who are now in great demand, as an example. As they need to stand for prolonged periods, they may be physically exhausted and may sustain serious strain injuries. As a result, they very often suffer back pain. Such ailments, when accumulated, may develop into serious health problems when they retire at old age. But it seems that we have never taken account of their working environments and working hours but have instead allowed such problems to exist. As a result, they will have to suffer from various residual defects.

For these reasons, I think the Government is obligated to deal with all these problems. I hope the authorities will not focus solely on statistics and cases, as they can at best tell us what the visible problems are. But hidden problems may exist persistently. I hope the Secretary can give thoughts to these hidden problems and make more efforts. My two proposals on standard working hours and universal retirement protection may be able to offer some help, as they may somehow indirectly or directly help to alleviate the problems associated with industrial accidents and occupational diseases. That said, I must point out that the most direct approach is certainly to step up inspection, upgrade the industrial safety devices and equipment, and improve publicity and education. All these are necessary. As the Secretary will report on these aspects of work every year, I am not going to repeat them. I have only put forth the two proposals for your consideration.

President, I so submit.
PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr POON Siu-ping, you may now speak on the two amendments.

MR POON SIU-PING (in Cantonese): President, I thank the 10 Members who spoke on this motion. With regard to the amendments of Mr TANG Ka-piu and Mr CHAN Kin-por, I share their views in principle. Mr TANG Ka-piu has proposed some substantive measures to ensure occupational safety. For example, he points out that the Occupational Safety and Health Ordinance does not cover the professional driver's seat in a vehicle. In the past, concern groups on labour rights and interests, including the Federation of Hong Kong and Kowloon Labour Unions to which I belong, have also mentioned this point. Concerning the substantive measures to ensure occupational safety, protection for employees working under inclement weather, including the employee's health and occupational safety protection when Typhoon Signal No. 8 or above is hoisted, the Air Quality Health Index is at a rather high and severe level, and the Very Hot Weather Warning is in force, is not mentioned either in my motion or in Mr TANG Ka-piu's amendment. However, occupational safety protection under inclement weather is equally important. These can serve as additional proposals to Mr TANG Ka-piu's amendment, which I hope can be heard and followed up by the Secretary.

In Mr CHAN Kin-por's amendment, he proposes to review the existing rehabilitation policy for workers injured at work. This is also a practical proposal, particularly when the Voluntary Rehabilitation Programme launched since 2003 has been criticized by not a few organizations as being ineffective in safeguarding employees' rights and interests and has to be reviewed. Hence, I will support that proposal.

Finally, I thank again those Members who have spoken. I hope that colleagues can support my motion. Thank you, President.
SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I once again thank Mr POON Siu-ping for moving this motion tonight, Mr TANG Ka-piu and Mr CHAN Kin-por for moving their amendments, as well as eight Members for their speeches made earlier. They have put forward many useful and valuable opinions. Let me reiterate: the SAR Government has all along paid great attention to ensuring the occupational safety and health of employees and safeguarding their rights and interests against injuries.

Mr POON Siu-ping proposed in his original motion that a dedicated committee be established by the Government to review the policies on occupational safety and health; Mr CHAN Kin-por proposed in his amendment that the Government review the existing rehabilitation policy for workers injured at work. I would like to point out that in his manifesto, the Chief Executive advocated the establishment of an ad hoc committee to be made up of representatives of employers, employees and the Labour Department (LD) to conduct related studies. In this connection, the Government has set up an inter-departmental working group to discuss the implementation of this proposal in the manifesto. Apart from examining in detail the existing employees' compensation system and the situation of employees' compensation insurance being taken out, the working group has also conducted in-depth study and made proposals on how to improve on subjects pertaining to insurance, compensation, treatment and rehabilitation service for the relevant Policy Bureaux/departments/organizations to further consider what follow-up action should be taken. Initially, we expect that the next phase of work can be announced in the first half of next year.

In addition, the Labour Advisory Board (LAB) has established under it the Committee on Occupational Safety and Health, with employers, employees, professional organizations and government representatives as its members. The Committee reviews the standard of occupational safety and health in Hong Kong, codes of practice on work safety and advises the LD on how to improve the current enforcement of legislation pertaining to occupational safety and health. All along, the Committee has offered a lot of valuable opinions on the subject of occupational safety and health which is of concern to the industry, in particular on the issue of occupational safety and health for the construction industry. The Committee has assisted the Government in formulating suitable and appropriate policies and measures.
I will now respond concisely to the other opinions and proposals of Members.

First, with regard to the occupational safety and health for the construction industry, the LD, the industry and the Occupational Safety and Health Council (OSHC) have mapped out various corresponding measures, endeavouring to prevent accidents from happening at source. These measures involve efforts in four aspects.

First, stepping up of inspection and enhancing the intensity of monitoring. In addition to the some 50,000 annual routine inspections of work sites, the LD will also take special law-enforcement action from time to time on working at height, electrical work, tunnel works and lifting operation. Over the last two years, the LD has stepped up inspection on work sites and strictly enforced the law to stop dangerous operations. The simplest example is that when we discover a breach of the law, we will not give them any grace period or warning. Rather, we will make immediate prosecution. If the breach is serious, we will even issue a suspension order. Moreover, through stronger co-ordination with the initiators of large-scale works projects, the LD will urge the contractors to enhance the safety management system relating to high-risk work at work sites. Moreover, the LD will continue to urge contractors and work site management personnel to include as soon as possible the elements of work safety in the construction plan and design while designing the works, inviting tender, making prior arrangements for construction and during construction. It is hoped that this can more effectively address the systemic safety risks at source.

Second, we have focused on bringing down the systemic risk. The LD has stepped up analysis on the systemic risk behind serious accidents of the construction industry, in order to map out some targeted law-enforcement inspection action. Meanwhile, thematic seminars on safety will be held and codes of practice on work safety will also be drawn up. This year, the LD has held a number of seminars on safety for high-risk work procedures and issued systemic safety warnings to urge the contractors, employers and safety practitioners to take the appropriate systemic safety measures. In addition, in the middle of this year, the LD has, in conjunction with the Construction Industry Council (CIC), released new guidelines and amended the relevant code of practice on work safety in order to ensure safety at work for workers carrying out external wall works on bamboo scaffolding. The LD has also taken special law-enforcement action to urge the industry to obey the new code of practice on work safety.
Third, we have reinforced the reward and penalty system of occupational safety and health for the construction industry. First, together with the OSHC, the LD has rolled out various subsidy and safety certification schemes. In June, 2012, we have introduced the OSH Star Enterprise safety certification scheme to provide safety training to small and medium contractors in the industry, to subsidize them in the purchase of anti-fall facilities, and to conduct safety vetting. We also co-operate with the insurance industry to provide bamboo scaffolding contractors who have obtained safety certification with up to 50% discount off the premium for employees' compensation insurance. At present, the annual premium for a construction craftsman is around $120,000. If the scaffolding company has obtained a safety certification qualification, it can save up to around $60,000 annually on premium for each construction craftsman. As of the end of October this year, 23 decoration and maintenance SMEs have obtained this safety certification qualification, and another 41 enterprises are waiting for their applications to be approved. Moreover, last April, we introduced another subsidy scheme to encourage contractors of small and medium scale to purchase mobile platforms which are up to specifications to replace the dangerous "A" ladders so as to enhance work safety for the industry. As of the end of this October, the OSHC has approved 1 470 applications, benefiting 16 000 workers.

On raising legal penalties, the LD will hand in sufficient information to the Courts as reference for sentencing, including the serious consequences of accidents, the rising trend of accidents and the past maximum sentencing record of similar cases. Depending on individual cases, we will request the Department of Justice to consider asking the Courts for review or appeal on conviction and fines when necessary. We are aware that over the past year, there has been a notable increase in fines meted out by the Courts to fatal industrial accidents of the construction industry.

Fourth, we have strengthened promotion on education and training. Joining the OSHC and related organizations in the industry, the LD organizes the annual Construction Industry Safety Award Scheme, with the aim of raising the awareness of employers and employees of the construction industry to occupational safety and health. The LD will also co-operate with the trade unions to organize safety talks, to explain to the workers tete-a-tete the causes and prevention of accidents, especially the trauma inflicted by accidents on families. We have invited some who have been injured, or the family members of those who have even lost their lives in fatal accidents to talk about their trauma. This is very useful, and the response has been very positive. The LD will also at
times amend the content of the green card. For example, case analyses of serious accidents involving workers falling from heights, lifting and electrocution have been included in it. The Department will continue to issue "work safety alert" through mobile phones to notify the industry of serious incidents and remind it to take precautionary measures to prevent similar accidents from happening.

President, as for the occupational safety of the catering and servicing industry, the LD will continue to organize the territory-wide large-scale Catering Industry Safety Award Scheme with the industry. Last June, the OSHC rolled out the Pilot Scheme on Catering Safety Accreditation. Through this scheme, we hope to enhance the occupational safety and raise the health awareness of catering industry employees so as to improve workplace safety and cleanliness. Enterprises which can pass the vetting will be issued safety accredited certificates, and will receive subsidies to purchase anti-slippery shoes and anti-cut gloves. Up to the end of this October, over 800 food establishments have taken part in this Scheme. The LD has also produced and broadcast in February on television and radio stations a new series of announcement of public interests on work safety for the catering and servicing industry.

On the occupational safety and health for the handling of containers, the LD will regularly deploy officers to inspect the container terminals, and will take special law-enforcement action each year to urge the people in charge to comply with the legislation on occupational safety and health. On discovery of breaches, we will prosecute and issue statutory notices. The LD has also urged the container terminal companies to make improvements to aspects such as the meal breaks for terminal workers, toilet rounds and work arrangements in case of typhoons or inclement weather. In addition, the LD will from time to time hold occupational safety and health talks on the handling of containers with those in the related industry to raise the employees' awareness to occupational safety and health. The content of the talks includes caring for the work safety of new employees, traffic control, prevention of muscle strain and case analyses.

Mr TANG Ka-piu and Mr WONG Kwok-hing have earlier expressed concern for the occupational safety and health of professional drivers. I want to say that the safety of drivers when driving involves many factors, including the design and maintenance of vehicles and roads, the driving skill of drivers, the use of safety devices and the conduct of road users. At the moment, such aspects are regulated by road traffic legislation, and in actual circumstances, it is very
difficult for the employers of professional drivers to monitor the attitude of the drivers when they are driving. Therefore, the Occupational Safety and Health Ordinance does not cover driver's seats of vehicles. That said, the Ordinance ensures the occupational safety and health of employee drivers when they are performing other duties which are not related to driving. In respect of injuries, the Employees' Compensation Ordinance (ECO) is applicable to professional drivers who are employed. Employers cannot at their discretion list their professional drivers as self-employed to dodge the responsibilities which they are liable to fulfil under the Ordinance. These include paying compensation to employees who are injured at work, and the responsibility to take out employees' compensation insurance for the employees.

When considering whether a disease should be listed as an occupational disease which can be compensated under the labour legislation, the LD will make reference to the relevant criteria of the International Labour Organization, as well as the local disease model and other relevant factors. Even if the disease suffered by an employee is not included in the list of occupational diseases of the ECO, so long as the individual employee can prove that the injury is sustained as a result of an accident at work during the period when he is employed or that he died of the accident, he can also claim compensation. Currently, since epidemiological evidence proves that certain musculoskeletal diseases, forearm tenosynovitis, for instance, are clearly related to specific occupations which involve manual labour and occupations requiring the frequent use of the wrists or repetitive movement, we have included such diseases into the occupational disease schedule of the ECO. As regards health problems such as pain in the waist, the back, the neck, the shoulders and the upper limbs, as well as varicose veins of the lower limbs, they do not fit into the definition for occupational disease as they may originate from various factors other than work, like personal lifestyle and dietary habit, age, medical history and family history which are not directly related to work. The LD will from time to time examine the coverage of the legislation concerned in accordance with the established mechanism.

On improving protection against injuries for workers, the LD has always paid great attention to this. Lately, we have reviewed the amount of compensation offered under the ECO, the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and the Occupational Deafness (Compensation) Ordinance according to the established mechanism. After considering the changes in salaries and commodity prices in the past two years and other factors, the LD has proposed to adjust upwards the amount of compensation for a total of
18 items, with the increases ranging from 5.73% to 44.44%, in order to provide reasonable protection for the injured employees and sufferers of occupational diseases. Having secured the support of the LAB, we have tabled these proposals to the Panel on Manpower of the Legislative Council for discussion on 18 November. We are grateful to the Panel for its support. We plan to table amendment proposals to the Legislative Council early next year, hoping that the amendments can be approved soon for early implementation of the relevant adjustments.

The proposal for the establishment of a "central employees' compensation fund" has been brought up in today's motion debate. This is a very complicated subject. Just as several Members said, a few years back, we had a thorough discussion in this Council. We have to carefully consider the various problems this proposal may generate. One major argument for this proposal is that some employers of high-risk businesses find it difficult to take out insurance for their employees in the private market. To help some employers of high-risk businesses take out employees' compensation insurance, and to improve injury protection for employees of high-risk businesses, the insurance industry has in fact introduced the Employees' Compensation Insurance Residual Scheme in May 2007 under the co-ordination of the LD. In August 2011, the Employees' Compensation Insurance Residual Scheme Bureau had for the first time activated its function as the backup market. It acted directly as the insurer and issued policies to employers met with difficulties in taking out employees' compensation insurance. As of this October, there are a total of 608 cases in which the Bureau or members of individual insurance companies have acted directly as the insurer, providing the employers concerned with the ultimate insurance protection. Since the present model of private employees' compensation insurance has proven to be effective under the mandatory requirement of employees' compensation insurance, and can better fit the actual circumstances in Hong Kong to protect the rights and interests of injured workers, we really find it inappropriate to make substantial changes to the mechanism at the moment.

As regards Mr TANG Ka-piu's proposal to report work injuries and occupational diseases, I would like to point out that the ECO has stipulated that employers have the responsibility to report accidents involving employees. An employer who, without reasonable excuse, fails to give notice of an accident or report to the LD commits an offence and is liable to a maximum fine of $50,000 upon conviction.
The LD has in conjunction with the insurance industry introduced the Voluntary Rehabilitation Programme. The Programme provides an additional avenue for injured employees (including those of high-risk industries) to have free access to private rehabilitation and nursing services through arrangements by insurance companies for early recovery and to return to their positions under a safe condition. This will forge a three-win situation for the employers, the employees and the insurance companies, and is also beneficial to the entire society. At present, 16 insurance companies have joined the Programme. From its implementation in March 2003 to the end of last year, employees of over 12,700 cases of work injuries have participated in the Programme, with close to 30% of the cases being related to the construction industry. The Programme has in fact provided an additional protection to injured workers.

In his earlier speech, Mr TANG Ka-piu expressed concern about safety for works carried out at sea. I would like to point out that the Marine Department will, in accordance with existing marine legislation, require those in charge of the works to provide workers working on the shipping vessels with suitable protective gear and equipment, as well as to put in place adequate life-saving equipment. Also, for workers engaged in construction works carried out along the shore or at sea, in accordance with occupational safety and health legislation, the LD will ask the ship owner or contractor to assess the risk of their workers falling or being drowned. They have to put up sturdy railings and have in place life-saving equipment which prevents drowning at places of the said risks where the workers work. Employers are required to ensure that workers at risk of drowning must put on their life jackets while at work. The Marine Department and the LD have respectively drawn up codes of practice for the relevant legislation. The two departments will also take special action jointly to inspect the work safety condition for construction works carried out at sites at sea. If irregularities are discovered, they will definitely be handled according to the law. Moreover, the CIC will join hands with the Marine Department and the LD to produce posters on safety and will hold a large-scale seminar on construction safety at sea on 4 December to promote the safety awareness of employees while they are working at sea.

President, over the last decade or so, with efforts from all sectors, occupational safety has seen continued improvement. However, over the past one to two years, a large number of construction projects have been launched in succession and casualties have increased, thus inviting concern. That said, I am confident that with the combined efforts of the employers, the employees and the
Government, we can surely overcome this challenge. The Government will continue to adopt the multi-pronged approach to enhance the overall level of occupational safety and health with the industry's stakeholders.

President, the Government is much concerned about the general protection for employees. All along, the Government has from time to time reviewed labour legislation according to changes in the Hong Kong society and the pace of development of the economy. The actual situation will also be taken into account. This move is to ensure that protection extended to employees by such legislation can keep abreast of the times and is within the employers' affordability. We will continue to adopt an open-minded attitude when considering proposals pertaining to employees' occupational safety and health and their rights and interests. We will continue to pay attention to the situation in society and in all aspects and listen to your opinions. There will be timely reviews and improvements for a reasonable balance between protecting the employees' occupational safety and health and their rights and interests on the one hand, and ensuring the employers' affordability on the other.

Thank you, President.

PRESIDENT (in Cantonese): Mr TANG Ka-piu, please move your amendment.

MR TANG KA-PIU (in Cantonese): President, I move that Mr POON Siu-ping's motion be amended.

Mr TANG Ka-piu moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "in recent years,"; to add ", but the existing legislation is unable to provide employees with comprehensive protection; taking the traffic and transportation industry as an example, the numbers of occupational injuries and deaths reach double digits every year, but owing to the lack of a clear employer-employee relationship, some professional drivers are not covered by the protection under the Employees' Compensation Ordinance, and also the Occupational Safety and Health Ordinance does not cover the driver's seat of a vehicle, rendering the regulation of occupational safety and health in respect of the traffic and transportation industry not comprehensive enough; in view of this" after "remains high"; and to add ", etc., so as to
reverse the existing policy of relying on the sectors to self-regulate occupational safety and health; specific proposals are as follows: (1) to step up regular monitoring and inspection of industrial establishments, impose severe penalties on law-breaking employers, and make public the items in respect of which prosecutions have been instituted by the Labour Department during inspection; (2) to enact dedicated legislation to provide for the work procedures, safety measures and criminal liabilities, etc. for work-at-height activities, so as to reduce the accidents of construction workers falling from height; and to specify a useful life for the machinery used in the construction industry to ensure its efficiency and safety; (3) to motivate employers to dutifully shoulder the responsibility for ensuring employees' occupational safety and health, such as allocating resources for employees' training, and providing facilities and a work environment that ensure employees' occupational safety and health; (4) to stipulate that when employees, including subcontractors and self-employed persons, have accidents in workplaces and suffer from occupational diseases, employers, contractors or persons in charge of the construction sites must report such cases to the Administration, or else they will constitute a criminal offence, so as to protect employees' rights and interests; (5) to comprehensively review the Employees' Compensation Ordinance, including the addition of mental impairment in the category of injury under Schedule 1 and the classification of repetitive strain injury and heat stroke as prescribed occupational diseases under Schedule 2; and in addition to providing employees with financial compensation, to improve the mechanisms for prevention and rehabilitation of work injuries and occupational diseases, so as to assist injured employees in expeditious recovery and rejoining society; and (6) to set up a 'central occupational insurance compensation fund' or compensation funds for employees by industry (such as a 'central employees' compensation fund for professional drivers'), so as to provide comprehensive compensation protection to employees for all injuries and deaths or occupational diseases arising from work irrespective of the employer-employee relationship" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TANG Ka-piu to Mr POON Siu-ping's motion, be passed.
PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Members have already been informed, as Mr TANG Ka-piu's amendment has been passed, Mr CHAN Kin-por has withdrawn his amendment.

PRESIDENT (in Cantonese): Mr POON Siu-ping, you may now reply and you have three minutes 33 seconds.

MR POON SIU-PING (in Cantonese): President, I thank Members of this Council for speaking on my motion and putting forth some very useful advice on how to ensure occupational safety. I hope the Government can take on board and implement the proposals. I believe Members are clear about the contents of my motion, so I have decided not to use my remaining speaking time. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr POON Siu-ping, as amended by Mr TANG Ka-piu, be passed. Will those in favour please raise their hands?

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday 3 December 2014.

Adjourned accordingly at 7.56 pm.
Annex I

Contracts (Rights of Third Parties) Bill

Committee Stage

Amendments moved by the Secretary for Justice

<table>
<thead>
<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>3(2)(b)</td>
<td>By deleting “a covenant relating to land, including”</td>
</tr>
<tr>
<td>3(2)</td>
<td>By adding—</td>
</tr>
<tr>
<td></td>
<td>“(ba) a covenant relating to land;”</td>
</tr>
<tr>
<td>8(2)(b)(ii)</td>
<td>In the English text, by deleting “that”</td>
</tr>
</tbody>
</table>
Annex II

Statute Law (Miscellaneous Provisions) Bill 2014

Committee Stage

Amendments moved by the Secretary for Justice

<table>
<thead>
<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(2)</td>
<td>By deleting “(3) and (4)” and substituting “(3), (4) and (5)”.</td>
</tr>
<tr>
<td>1(3)</td>
<td>In the English text, by deleting “after” and substituting “commencing on”.</td>
</tr>
</tbody>
</table>
| 1      | By adding—
|        | “(5) Division 5 of Part 12 is deemed to have come into operation on 9 April 1998.”. |
| 14(2)  | In the Chinese text, by adding “所有” before “‘、(g)’”。 |
| 43     | By deleting the clause and substituting—

43. Section 81 amended (warrant or order to bring up prisoner to give evidence)

(1) Section 81(2)—

Repeal

“or judge of the Court of First Instance who is a member of the Competition Tribunal by the operation of section 135(1) of the Competition Ordinance (Cap. 619)”

Substitute

“, judge of the Court of First Instance who is a member of the Competition Tribunal by the operation of section 135(1) of the Competition
Ordinance (Cap. 619) or member of the Lands Tribunal referred to in section 4(1)(a), (b), (c) or (d) of the Lands Tribunal Ordinance (Cap. 17)”.

(2) Section 81(2)—
Repeal
“or Competition Tribunal” (wherever appearing)
Substitute
“, Competition Tribunal or Lands Tribunal”.”.

48(3) In the proposed section 77F(2)(c)(iii), in the Chinese text, by deleting “或該文件” and substituting “及該文件”.

51 In the proposed section 44(1A), in the English text, by deleting “The notice is presumed to have been served, in the absence of evidence to the contrary” and substituting “In the absence of evidence to the contrary, the notice is presumed to have been served”.

52(2) In the proposed section 12(2A)(a)(i)(B), in the Chinese text, by adding “該人” before “無理由”.

52(2) In the proposed section 12(2A)(a)(i)(C), in the Chinese text, by adding “該人” before “即使”.

52(2) In the proposed section 12(2A)(b), by deleting “the person” and substituting “the person charged”.

54 In the proposed section 26AA(a)(ii), in the Chinese text, by adding “該人” before “無理由”.
In the proposed section 26AA(a)(iii), in the Chinese text, by adding “該人” before “即使”.

In the proposed section 26AAB(a)(ii), in the Chinese text, by adding “該人” before “無理由”.

In the proposed section 26AAB(a)(iii), in the Chinese text, by adding “該人” before “即使”.

Part 10
By deleting the Part.

In the proposed Schedule, by adding—

“Registrar of Companies Ordinance (Cap. 622).”

after—

“Registrar of Registered Trustees Incorporation Ordinance (Cap. 306).”

By deleting “Part” and substituting “section”.

In Part 12, by adding—

“Division 5—Specification of Public Offices (Cap. 1 sub. leg. C) (Amendment Relating to Books Registration Ordinance (Cap. 142))

66A. Schedule amended
The Schedule, before the first entry relating to the Secretary for Home Affairs —

Add

“Secretary for Home Affairs Books Registration Ordinance (Chapter 142)”. “
68(2)(a) In the English text, by deleting “and before” and substituting “but before”.

New In Part 14, by adding—

“Division 47A—United Nations Sanctions (Sudan) Regulation 2013 (Cap. 537 sub. leg. BF)

135A. Section 22 amended (power of authorized officers to enter and detain vehicles)

Section 22(4), Chinese text, definition of 閘長—

Repeal

“香港” (wherever appearing).

Division 47B—United Nations Sanctions (Liberia) Regulation 2014 (Cap. 537 sub. leg. BG)

135B. Section 2 amended (interpretation)

Section 2, Chinese text, definition of 閘長—

Repeal

“香港” (wherever appearing). ”.

Part 14 By deleting Division 53 and substituting—


146. Section 1 amended (interpretation)

Section 1, Chinese text, definition of 閘長—

Repeal

“香港” (wherever appearing).

Division 54—United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014 (L.N. 52 of 2014)

146A. Section 1 amended (interpretation)

Section 1, Chinese text, definition of 閘長—

Repeal

“香港” (wherever appearing).
Division 55—United Nations Sanctions (Côte d’Ivoire) Regulation 2014 (L.N. 114 of 2014)

146B. Section 1 amended (interpretation)

Section 1, Chinese text, definition of "關長—

Repeal

“香港” (wherever appearing).”.
Appendix I

WRITTEN ANSWER

Written answer by the Secretary for Commerce and Economic Development to Mr SIN Chung-kai's supplementary question to Question 1

As regards further statistical information on cruises berthing at Hong Kong and using Kai Tak Cruise Terminal, the statistics on traditional cruises with destinations calling at Hong Kong since the commissioning of Kai Tak Cruise Terminal in June 2013 are listed at Annex.

Annex

Statistics on Traditional Cruises with Destinations Calling at Hong Kong

<table>
<thead>
<tr>
<th></th>
<th>Number of Ship Calls of Traditional Cruises with Destinations</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Overall Figure in Hong Kong</td>
<td>Number of Ship Calls at Kai Tak Cruise Terminal</td>
<td>Proportion of the Number of Ship Calls at Kai Tak Cruise Terminal out of the Overall Figure in Hong Kong</td>
</tr>
<tr>
<td>June to December 2013 (that is, since the commissioning of Kai Tak Cruise Terminal)</td>
<td>89</td>
<td>9</td>
<td>10%</td>
</tr>
<tr>
<td>2014</td>
<td>138</td>
<td>28</td>
<td>20%</td>
</tr>
<tr>
<td>2015 (forecast)</td>
<td>117</td>
<td>56</td>
<td>48%</td>
</tr>
</tbody>
</table>
Appendix II

WRITTEN ANSWER

Written answer by the Secretary for Security to Mr Kenneth LEUNG's supplementary question to Question 6

As regards the number of law-enforcement actions against illegal sex workers, from time to time, the Immigration Department (ImmD) would carry out joint operations in collaboration with the Hong Kong Police Force (HKPF) to combat sex workers who are in breach of conditions of stay. The numbers of anti-vice operations jointly conducted by the ImmD and the HKPF in the past five years are set out as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>238</td>
</tr>
<tr>
<td>2011</td>
<td>276</td>
</tr>
<tr>
<td>2012</td>
<td>281</td>
</tr>
<tr>
<td>2013</td>
<td>312</td>
</tr>
<tr>
<td>2014 (January to November)</td>
<td>254</td>
</tr>
</tbody>
</table>