

OFFICIAL RECORD OF PROCEEDINGS

Saturday, 3 July 2004

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, S.B.S., J.P.

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

DR THE HONOURABLE DAVID CHU YU-LIN, J.P.

THE HONOURABLE CYD HO SAU-LAN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

DR THE HONOURABLE ERIC LI KA-CHEUNG, G.B.S., J.P.

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

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, G.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHAN KWOK-KEUNG, J.P.

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI, J.P.

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

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

THE HONOURABLE WONG YUNG-KAN, J.P.

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

THE HONOURABLE HOWARD YOUNG, S.B.S., J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG, B.B.S., J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

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

THE HONOURABLE AMBROSE LAU HON-CHUEN, G.B.S., J.P.

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

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

DR THE HONOURABLE LAW CHI-KWONG, J.P.

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

DR THE HONOURABLE TANG SIU-TONG, J.P.

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

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

THE HONOURABLE HENRY WU KING-CHEONG, B.B.S., J.P.

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE LEUNG FU-WAH, M.H., J.P.

DR THE HONOURABLE LO WING-LOK, J.P.

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE LAU PING-CHEUNG, S.B.S.

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

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

MEMBERS ABSENT:

THE HONOURABLE ALBERT HO CHUN-YAN

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

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING, S.B.S., J.P.

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

THE HONOURABLE CHOY SO-YUK

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR HOUSING, PLANNING AND LANDS

PROF THE HONOURABLE ARTHUR LI KWOK-CHEUNG, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

DR THE HONOURABLE YEOH ENG-KIONG, J.P.
SECRETARY FOR HEALTH, WELFARE AND FOOD

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

THE HONOURABLE AMBROSE LEE SIU-KWONG, IDSM, J.P.
SECRETARY FOR SECURITY

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

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

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003.

UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) BILL 2003**Resumption of debate on Second Reading which was moved on 21 May 2003**

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

MR JAMES TO (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bills Committee), I would like to first report on the deliberations of the Bills Committee.

The United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill), introduced into the Legislative Council on 21 May 2003, seeks to amend the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) to:

- (i) give effect to the outstanding obligations of freezing terrorist property other than funds under United Nations Security Council Resolution (UNSCR) 1373 and the Financial Action Task Force on Money Laundering (FATF);
- (ii) implement the United Nations International Convention for the Suppression of Terrorist Bombings, the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the United Nations Protocol for the

Suppression of Unlawful Acts Against the Safety of Fixed Platforms
Located on the Continental Shelf; and

- (iii) provide for the power of investigation in relation to offences under the Ordinance, and powers of seizure and detention of property suspected to be terrorist property, and so on.

The Bills Committee held a total of 16 meetings with the Administration. In addition, the Bills Committee has met with four organizations/individuals, and has received written submissions from another 16 organizations/individuals.

Members noted that according to the definition of "public body" under clause 2(1), a private body may be required to furnish information or produce materials in accordance with a court order issued under new section 12A(2) or 12B(2).

The Administration stated that new section 2(8) had no intention to specify organizations that are purely private. To address members' concern, the Administration will introduce an amendment to delete the definition of "public body" and sections 2(8), 12A(10), 12B(7) and 12B(12). The Administration also agreed to explain the above at the Committee stage. According to new sections 12A and 12B, any "person" may be required to furnish information or produce materials. "Person" is defined according to the Interpretation and General Clauses Ordinance (Cap. 1) as including "any public body and any body of persons, corporate or unincorporated", so as to avoid the misunderstanding that public bodies are excluded from the definition of "person".

To address the concerns raised, the Administration will tighten the definition of "terrorist act" by strengthening the element of "intention".

Another provision that aroused great concern from members is clause 5, which extends the power of the Secretary for Security to freeze terrorist property to non-fund terrorist property, and empowers the Secretary for Security to authorize seizure of the frozen property to prevent it from being removed from Hong Kong.

In response to members' request, the Administration has agreed to add provisions under clause 5 to the effect that the Secretary for Security may give a

direction to seize terrorist property only if he has reasonable grounds to suspect that the property will be removed from Hong Kong.

Members considered that the scope of the existing section 7 on the prohibition to supply funds to terrorists and terrorist associates has exceeded the requirement of paragraph 1(b) of UNSCR 1373. The Administration agreed to amend the existing section 7 to follow closely the formulation of paragraph 1(b) of UNSCR 1373.

Miss Margaret NG considered that the threshold in using the mental element of "having reasonable grounds to believe" in section 8 on the prohibition to make funds, and so on, available to terrorists and terrorist associates and section 9 on the prohibition to supply weapons to terrorists and terrorist associates is too low. Miss NG has therefore suggested replacing it with the element of "recklessness". It is an objective test, with the proof being whether the risk involved would have been obvious to an ordinary prudent man.

The Administration agreed to replace the mental element of "having reasonable grounds to believe" with "recklessness" in sections 8 and 9. The Administration also agreed to replace the mental element of having "reasonable grounds to believe" concerning the prohibition on recruitment to specified terrorist groups in new section 10 with "recklessness".

Concerning clause 8 on the disclosure of knowledge or suspicion that a property is terrorist property, Miss Margaret NG pointed out that neither UNSCR 1373 nor FAFT requires Hong Kong to make a potential criminal of every ordinary citizen to disclose information on suspicious terrorist transaction. Miss NG has therefore suggested that section 12 be revised by making reference to the United Kingdom Terrorism Act 2000 (the Act) to the effect that the obligation to report terrorist property would only cover information or other matters which come to a person arising from his work.

The Administration has agreed to consider the possibility of introducing in Hong Kong a two-tier reporting system provided for under sections 19 and 21A of the Act. In view of the possible implications such a reporting system may have on the sectors concerned, as well as the need to ensure consistency between the reporting requirements under section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance and Organized and Serious Crimes Ordinance, and under section 12 of the Ordinance, the Administration considered that a thorough

consultation should be carried out before amendments should be contemplated. The Administration has agreed to undertake a review of the present reporting requirements under the three Ordinances in the context of the exercise scheduled to start in 2004-05.

In order to remove the liability imposed on "any person" by the existing section 12(1), Miss Margaret NG has given notice to move a Committee stage amendment to the provision to the effect that the obligation to report terrorist property would only cover information or other matters which come to a person arising from his work. As the mental element has remained unchanged, she believes that this will not affect the relevant sectors in any way.

Apart from the above provisions, the Bills Committee was also very concerned about the issue of compensation.

Members have pointed out that the compensation provision under the existing section 18 is not of practical benefit to someone who is wrongly specified as a "terrorist" or "terrorist associate" and whose property is wrongly specified as "terrorist property", the main reason being that it would be difficult for the affected persons to satisfy the Court there has been "serious default" on the part of the Government.

To address members' concern, the Administration has agreed to lower the threshold from "serious default" to "default" under the existing section 18(2)(c) and new section 18(2B)(a), and to add a new section 18A to clearly preserve remedy available in common law.

Ms Cyd HO, Mr Albert HO, Miss Margaret NG and I are of the opinion that a compensation arrangement better than the common law position should be provided, in view of the Administration's wide freezing power under section 6.

Ms Miriam LAU did not agree with these members' suggestion concerning the existing compensation policy, given the impact of the suggestion on the existing compensation policy, public expenditure as well as the compensation arrangement available under existing law.

Madam President, the above report has been presented on behalf of the Bills Committee.

Next, I will express some of my personal opinions briefly. I wish to comment only on the arrangements for compensation mentioned just now.

The Government in fact has extensive powers in freezing properties according to the law. If we compare this piece of anti-terrorism legislation with other legislation on criminal offences in general, this power designed to combat crime in general is obviously greater than that provided for in other legislation. In the context of anti-terrorism, we feel that the basic principle of conferring greater powers is to a certain extent justified because the Secretary or the Government has to exercise these powers to take certain actions, for example, to freeze a person's property, which is the object of suspicion or to continue to detain the property after freeze for investigation and international co-operation purposes. However, in the event that something goes wrong in one area, for example, if a country with a global intelligence network or investigation agency finds that a sum of money or certain people have suddenly reached Hong Kong, Hong Kong as a responsible member of the international community will often find it rather difficult to refuse the requests for co-operation. Of course, before exercising his powers, the Secretary has to consider some fundamental legal principles and criteria. However, in the event that he issues an order and freezes some properties but finds afterwards that some overseas organizations may have made a mistake, or although the degree of his suspicion was founded on reasonable or reliable intelligence, the intelligence may not necessarily be accurate, so it is proven ultimately that a mistake has been made (but at that time, the degree of suspicion was very high), then the person involved will turn out to be totally innocent. If we say to that person that it is unfortunate he has been singled out, however, because the world and mankind as a whole are fighting terrorism, so we have to act fast and he was sacrificed, I think putting things this way will not deliver the message that the public as a whole has to be involved in the cause of fighting terrorism.

Since it is necessary to engage all members of the public in the anti-terrorism effort, it is a commensurate measure to assume the responsibility for offering compensation. We cannot say that because fighting terrorism is a joint effort, therefore, should anyone happen to suffer any loss and should this befall any person, for the sake of the campaign waged by mankind against terrorism, that person has to be sacrificed. I think this is fundamentally unjustifiable. Of course, some people may put forward the argument that in the global effort against terrorism, sometimes the intelligence we gathered or the requests we received may come from other countries, in that case, can we

request other people to offer us compensation? If Hong Kong, as an international financial centre, receives this kind of requests frequently and has to comply because of reasonable grounds, but in the end, it turns out that several million people in Hong Kong have to bear the burden of offering compensation to perhaps one individual, in that case, is it fair? It is not possible to solve this problem because in fact, no matter in which country, region or jurisdiction, it is impossible to request other people to agree to sign an undertaking in compliance with your demands on account of the inherent value of anti-terrorism and the need for global co-operation in fighting terrorism.

Therefore, I can only say that if our community can achieve this, then at least everyone will find things more palatable and for the benefits of others and oneself, they will bear the burden and co-operate with the whole world. However, the bottomline held by the Secretary is only to amend "serious default" to "default". In fact, we can imagine that an innocent person only knows that his properties have been frozen, but there can be many possibilities for this. It is possible that the names happen to be the same, or a third party has monetary or commercial connections with an innocent person under circumstances unbeknown to him. For example, it is possible that your company has many clients and they may pay you money for goods. In other words, any situation is possible. Therefore, in the meetings of the Bills Committee, members discussed whether the Secretary should consider some possibilities. One line of thought is that if a person whose properties are frozen or is the object of suspicion is found to have done nothing wrong, that is, he is innocent rather than having done something to arouse suspicion, in that case, should the Government undertake to offer compensation to show that all people have to assume responsibility in fighting terrorism? We cannot just say that though somebody is innocent, since neither the Government nor the whole world has done anything wrong, only that something has perhaps been mistaken, that person should bear the consequences himself. Of course, another argument is that if it is proven that someone has not done anything wrong, nor has the Government or any party for that matter, that means no compensation will ever be offered in the whole world. This is another kind of standard.

However, as things now stand, we are putting the onus of proof on the suspected person and the one whose properties have been frozen. In that case, it is useless even if he can prove that he has done nothing wrong. It will suffice only if he can go further and prove that the Government is at fault. However, in an anti-terrorism situation, he has no idea at all who provided the information

to the Government, from which intelligence agency the information came or about the provenance of the information. What he knows is that within his scope, he is in possession of little information. He only knows that one day, his account or some of his properties were frozen for no apparent reason. How can he provide any proof? In fact, it is not only difficult for the suspect to provide any proof, I think that in most situations, according to my understanding of the system's operation, this is next to impossible.

In addition, since the Government has the defence of public interest immunity, in many legal proceedings, often it is not even possible to disclose certain information. Moreover, it is also possible that the Government has promised other international organizations or intelligence agencies in their conditions of co-operation that under no circumstances will any disclosure be made because some matters may involve other operations being carried out globally. Therefore, even though the Government may want to make some disclosures so that the legal process can be fairer, it is not possible to do so. In the end, the victim or the aggrieved person will have no recourse available to him.

If the present term of "serious default" is revised to "default", in the final analysis, I can only say to the public that if you have any religious faith, I hope your religious faith will lead you not into becoming an innocent victim, other than that, there is no other way. Of course, I also hope that if members of the public really know or have reasons to suspect that certain people are terrorists, or know what properties or funds belong to terrorists or are associated with them, then of course they have to make reports and should also avoid consorting with these people. However, sometimes it may be impossible to do so even though one wants to because there is no way of knowing. Terrorists do not etch any mark on their foreheads. They adopt very covert, sophisticated and shrewd tactics and can even elude government intelligence agencies and enforcement officers. Can the general public identify them easily? This is an inadequacy of the Bill.

On behalf of the Democratic Party, I want to say that owing to reasons such as our international responsibilities, even though we feel that there are inadequacies and undesirable areas in this regard, if we look at the existing piece of legislation as a whole, it can be seen that the Bill has not just made improvements to the first phase of the anti-terrorism legislation, but even at the final stage, the Government has also made huge improvements to many of the

provisions. On this basis, the Democratic Party is of the view that it can vote in favour of the Bill, so as to show support for our duties in the international anti-terrorism effort and our resolve to co-operate.

However, I hope that the Government can consider if further review is called for after implementing this piece of legislation for a period of time. In case it considers committing to an unlimited amount of compensation impractical, it can set a lower limit of, say, \$100 million or \$50 million to show that the Government will at least protect innocent victims within its means, rather than make the public to pay premiums as though they were taking out insurance policies, so that innocent victims will not have to bear the full and unwarranted costs of the general anti-terrorism effort on their own.

Concerning Miss Margaret NG's amendment, the Democratic Party will support it.

MISS MARGARET NG: Madam President, anti-terrorism is a global issue. This summer, the International Commission of Jurists (ICJ) is holding its biennial conference in Berlin on "Counter-Terrorism and Human Rights". In its invitation letter, the ICJ says and I quote:

"In the global 'war against terrorism', states in all parts of the world have adopted new or strengthened laws and policies to suppress and punish terrorism. Governments must protect their people from terrorist attacks. Many counter-terrorism measures, however, have themselves become a critical threat to human rights, undermining international human rights and humanitarian law and fundamental principles of the rule of law."

It is in this context that this Council should regard the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill).

Almost exactly a year ago, on 11 July 2003, I spoke strongly against the Bill. It was rushed through this Council in a few weeks' time. Although the Government accepted part of the views and suggestions of the Bills Committee and made some amendments, a great many provisions which infringed upon basic rights were left unamended, and I referred to this in my speech in the Second Reading debate.

In my last ditch efforts, I moved a great many amendments at the Committee stage. The Government rejected every one of them, and under its opposition, every one of them was defeated, and these glaring defects remained on our statute book. In fact, the then Secretary for Security was so headstrong about getting all the provisions passed that she refused to withdraw what was clause 9 of the Bill prohibiting the recruitment to an organization specified in the Gazette as terrorist, although she fully realized that that clause had become a nonsense. Clause 9 is now section 10 of the Ordinance. In fact, one of the aims of the Bill now before this Council is to remove this blot. But, in the meantime, this nonsense has the effect of law in the Hong Kong Special Administrative Region (SAR).

This year's experience has been fortunately somewhat better. It did not begin well. The main purpose of the Bill was to restore the excessive investigation powers of "authorized officers" rejected by the last Bills Committee. To prevent members from taking the opportunity to amend other parts of the Ordinance, the Bill is given a long title of unprecedented length and specificity. The scrutiny of the Bill was extremely tough-going for many months because the Government resisted every demand of members and non-governmental organizations which made representations, including Justice — the Hong Kong section of the ICJ.

Thankfully, the Government changed its attitude in the end, and worked together with the Bills Committee with a more open mind. The many amendments to be introduced by the Government is a result of that process. Although it has caused us much effort, I am pleased that it has happened, and I do sincerely thank the Government for its co-operation.

I took some time to revisit the Committee stage amendments I proposed last year. I am pleased to say that many of them are now being effected through the Government's amendments. I would like to mention the most significant improvements from the point of view of better legislation and better regard for human rights.

The definition of "terrorist's act" is to be tightened up more or less along the lines I proposed last year, namely, there has to be a specific intent not only to do an act which resulted in various harm, but also the harm has to be intended. The person who commits the act must intend the act to cause the serious harm set

out in the provision. Moreover, when action is threatened, the threat has to be made with the intention of using action which would have the result of causing those harm. In this way, the law protects the innocent while punishing the true terrorist, and the legitimate exercise of the freedom of expression and industrial action will be safe from being gagged as "terrorist acts".

Amendment is being proposed to criminal provisions under section 10, as well as sections 7, 8 and 9. The Government's proposed amendments do not go as far as the amendments I proposed last year, but they are more thoroughly considered.

Two general principles apply in all these sections. One is the criminal intent which, under the Ordinance, is "knowing or having reasonable grounds to believe". There is great objection against "having reasonable grounds to believe". Recent judicial decisions have made clear that this is an objective test. If the reasonable grounds are objectively there, and known to the defendant, then it matters not even if he can prove that he did not in fact, believe. This punishes the innocent who happens to be stupid or lacking in common sense. This is not the aim of the law. We checked against the United Nation's resolution which China, and therefore the Hong Kong SAR, is under obligation to implement. It is plain to see that the resolution concerned does not require us to go that far.

The other principle is that a person does not commit an offence for making funds available to someone who is not a terrorist, or for a purpose which is not to further terrorism. For example, a person donates money to the XYZ Recreation Club knowing that it is the XYZ Recreation Club, does not commit an offence if, unknown to him, this XYZ Recreation Club is a terrorist organization. This is largely a drafting point, but the drafting is all important.

The Government's Committee stage amendments accept that "having reasonable grounds to believe" is too low a threshold. These are serious offences with a maximum sentence of 14 years imprisonment. However, the Government still considers something short of actual knowledge is necessary. In the end, "recklessness" is accepted as the middle ground.

There is some problem applying this compromise to section 10(2). This subsection makes it an offence for a person not to take all practical steps to cease

to be a member of an organization gazetted to be a terrorist organization as soon as practicable after he has come to know, or have reasonable grounds to believe, that the organization has been so gazetted. How does recklessness apply to such an offence? There may be a way, but I am glad to hear that the Government is prepared to do away with the offence under this subsection altogether. This offence is of no practical value. A true member of a terrorist organization is hardly likely to be deterred, and moreover, can be caught under other offences of supporting terrorism.

A person who has joined an organization not knowing that it is an under-cover terrorist group should be allowed to stop having anything more to do with it as soon as he finds out that it has been gazetted as a terrorist group. He should not be required to seek it out in order to tender his resignation.

Madam President, there remains three important defects. The present offence under section 11 on "false threats" and communicating these "false threats" should be removed. This is not required by any United Nations resolution, and is already covered by other legislation where justified. The section is also badly drafted, making a mentally unbalanced person who is no terrorist liable to be convicted. In fact, the section had been used to prosecute just such a person. Unfortunately, it is outside the scope of the Bill to amend the Ordinance by repealing this. I hope the Government will revisit this point as soon as possible.

The second serious defect, and one I feel very strongly about and spoke at some length on it last year, is the duty imposed on every person who "knows or suspects that any property is terrorist property" to report this to the authorities. If he fails to do so, he commits an offence under the existing section 12(1) of the Ordinance.

On the last occasion, I was at a loss how to amend such a provision. This time, the Bills Committee had the benefit of seeing the United Kingdom legislation, namely the Terrorism Act of 2000, amended later under an Act of 2003. In the earlier Act, the reporting duty was confined, in effect, to professions and services sectors which money laundering attempts may pass through. In the later Act, the duty is imposed on a defined "regulated sector". Hong Kong can safely adopt either without fear of failing to meet its international obligation. The unjustified threat of criminal prosecution should and must be removed from the ordinary citizen.

The Government basically agrees with these principles, but does not agree with me on the need to put things right immediately. Instead, it proposes to carry out a consultation and introduce amendments if the consultation warrants it. I agree if we follow the later Act and establish a "regulated sector", we must first consult. But it is unnecessary to wait if the amendment is confined to just narrowing down section 12(1) so that ordinary people will no longer be caught. Those who will be within the scope of section 12(1) are already within it now, without any change.

An unjustifiably broad offence should be corrected as soon as possible. It is possible to do so now. I will, therefore, move a simple amendment to section 12(1) at the Committee stage of the Bill. I hope Members will support my proposal.

Lastly, the lack of a fair provision for compensation is still outstanding. I know that the Honourable Albert HO has tried to introduce an amendment, but that has not been approved by the President for the reasons she has issued to Members. The Chairman of the Bills Committee, James TO, has spoken at length on this point, and I shall not repeat what he said. I just want to record my agreement with him.

The Bill is not about old defects only but also about new additions. My major concern is the wide powers of investigation, although the requirement of a warrant provides some safeguard. The Government is proposing certain amendments which I consider an improvement, but I remain uneasy about the overall effect. The exercise of these powers should be kept under review.

Madam President, subject to the Committee stage amendments, I support the Second Reading of the Bill.

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

MS MIRIAM LAU (in Cantonese): Madam President, as a member of the international community, Hong Kong is duty-bound to introduce local legislation to comply with the United Nations' Resolution on combating terrorism. Therefore, the Liberal Party has also made an effort to contribute to the scrutiny of this Bill. In the scrutiny of the Bill, the stance of the Liberal Party has all

along been that of striving to strike a balance between anti-terrorism measures and protecting the rights of the public. The Government will move a number of Committee stage amendments later, mainly to address the concerns expressed by the Bills Committee on the provisions of the Bill, with a view to making the provisions clearer and more focused, as well as complying more closely with the requirements the United Nations Security Council Resolution 1373. The Liberal Party believes that these amendments can achieve the aim of striking a balance between the two aspects mentioned above, therefore, it welcomes and supports them.

However, not all suggestions proposed by members of the Bills Committee during its meetings were taken on board by the Government. For example, in clause 5, the Government has adopted the test of "having reasonable grounds to suspect" when freezing property. Some members considered that this test might be too subjective because the Secretary for Security can freeze suspected terrorist properties without having to make any application to the Court. The Government explained that in conforming to the test of "having reasonable ground to suspect", apart from subjective opinions, it is also necessary to have objective collaborative evidence to support the subjective opinions, that is, the Secretary for Security must have genuine suspicion that the property concerned is terrorist property and there must be reasonable grounds for forming such a suspicion. If the standard of this test is raised and the weight of the objective element is increased, the difficulty in law enforcement will actually increase and those targets that should actually be hit may be able to slip through the net of justice, such that the goal of striking a balance between anti-terrorism measures and protecting the human rights of the public will be missed. The Liberal Party accepts the explanations given by the Government, however, since freezing other people's property is a very serious matter, it is imperative for the Government to exercise the relevant power in an extremely prudent manner.

As regards the amendments proposed by the Government, the first one is to section 2(1) of the Ordinance on the definition of terrorist act. In the original provision, only the criminal element is included without highlighting the element of criminal intent. However, since this definition is the focus of the entire provision, it must not be ambiguous in any way or catch innocent members of the public. To incorporate the element of criminal intent will also be in keeping with the standard of proof in common law.

After considering the suggestions of members, the Administration has made amendments to the provision by revising the drafting on criminal acts in the

original provision and introduced a provision that includes both criminal intent and criminal element, so that the definition of terrorist act can be complete and clearer. The Liberal Party considers that the amendment can reflect the spirit of common law and avoid putting the human rights of the public in a vulnerable position because of the provision. It therefore supports the Government's amendment.

On sections 8 and 9 of the existing Ordinance relating to the prohibition on supplying funds and weapons to terrorists and terrorist associates, the Liberal Party believes that in such situations, it seems that adopting the test of "having reasonable grounds to believe" is too low a standard of proof. If a member of the public inadvertently and unknowingly supplies funds to terrorists or terrorist associates published in the Gazette in the course of doing business, he is liable to prosecution and conviction. After consideration, the authorities have raised the standard of proof from "having reasonable grounds to believe" to that of "recklessness", which is more objective and stringent. The Liberal Party supports the amendment.

Concerning the amendments to be moved by Miss Margaret NG at the Committee stage, I wish to make some comments here. Section 12(1) of the anti-terrorism Ordinance provides that where a person knows or suspects that any property is terrorist property, the person has the duty to disclose the information to an authorized officer. Certainly, it is the desire of the Administration to have sufficient legal backing to combat terrorist activities more effectively and attain the end of engaging the public in anti-terrorism efforts. This requirement on making reports is consistent with those in the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance. On the amendments to be moved by Miss Margaret NG at the Committee stage, in fact we learned that Miss Margaret NG would move amendments in this regard only towards the end of the scrutiny process because she submitted her amendments at a rather late stage. Making reference to the United Kingdom Terrorism Act 2000, Miss Margaret NG suggests that the persons covered by the provision be tightened to only cover those who deal with terrorist properties as a result of their work.

The Liberal Party considers that if it is necessary to tighten the coverage, as did the anti-terrorism act in the United Kingdom, and to draw up separate provisions to step up supervision of specific sectors, such as the legal and accounting sectors, then these professions should be consulted first and

corresponding amendments should then be made to the three ordinances containing the same reporting requirements, so as to avoid confusion. The authorities have also made an undertaking in this regard and will conduct a consultation and review later. The amendments proposed by Miss Margaret NG have in fact only adopted part of the relevant provisions in the United Kingdom which are in fact more detailed. It is probably because of Miss Margaret NG's desire to introduce concise amendments that she adopted them partially. However, should the amendments proposed by Miss Margaret NG be passed, inconsistency with the reporting requirements in the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance would arise. I have mentioned earlier on that doing so may lead to problems. Therefore, the Liberal Party cannot support Miss NG's amendments at this stage. However, we urge the Government to conduct a review and consultation on such requirement as soon as possible.

Madam President, I so submit.

MR LAU KONG-WAH (in Cantonese): Madam President, to combat international terrorism, we must clamp curb their channels of recruiting members and financing. These terrorist groups will look for opportunities all over the world to recruit new members and obtain funds through various economic and financing channels to acquire ammunitions and launch biochemical attacks. To them, an internationalized society will enable them to come into contact with and recruit people of different ethnic origins and creed as members of their groups, and they can also raise funds and conduct money laundering through various channels and means. To prevent Hong Kong from becoming the breeding ground for international terrorism, and in order to implement the resolution of the United Nations, the SAR Government should on the one hand actively participate in international organizations and the collection of intelligence to help tracking and combating these terrorist groups. On the other hand, it should strengthen local anti-terrorism legislation, and endeavour to curb their organizational ability and cut off their source of income. Therefore, the Democratic Alliance for Betterment of Hong Kong (DAB) supports the SAR Government to pass a bill to combat terrorist activities.

Insofar as this anti-terrorism Bill is concerned, the Government has accepted many suggestions of the Bills Committee. The proposed amendments all aim to balance the rights of all sectors in the community, raise the standards

for monitoring the Government and introduce more provisions on the protection of human rights. As proposed by the Government, insofar as the definition of terrorist act is concerned, the element of intention will be strengthened in order to narrow the scope of terrorist act, so that general criminal acts will not be easily defined as terrorist acts. Moreover, the Government has explicitly stipulated that the Secretary for Security, before making a decision on seizure of property suspected to be terrorist property, must have reasonable grounds to suspect that the property will be removed from Hong Kong, and only under this circumstance that such decision can be made. This can narrow the power of the law enforcement agencies in seizure of property. Regarding provisions on offences involving the mental element, such as prohibition on supplying funds and weapons to terrorists and terrorist associates and prohibition on the recruitment of terrorists, the Government has proposed an amendment to the effect that a higher mental element, that is, "recklessness", will replace "having reasonable grounds to believe", so that prosecution will require the collection of more information and submission of more evidence. With respect to empowering law enforcement agencies to require the relevant persons to furnish information for the purposes of investigation into terrorist acts, the Government has also proposed an amendment to require that such order which confers this power on law enforcement agencies should be issued by the Court of First Instance and to adopt the model of the exercise of law enforcement powers in the Organized and Serious Crimes Ordinance, in order to prevent the powers of the law enforcement agencies from becoming too wide. Besides, in the provisions on compensation, the Government has lowered the threshold for proving default on the part of the Government by deleting the word "serious", so that the affected persons only have to satisfy the Court on default on the part of the Government. This will reduce the burden of proof on the affected persons and facilitate claims for compensation by the claimants. For these reasons, the DAB supports the Committee stage amendments to be proposed by the Government.

Anti-terrorism legislation involves public security, but it may, to some extent, affect the freedoms of individuals. To strike a balance, it requires appropriate consultations and due consideration to options. On Miss Margaret NG's amendment, however, the DAB considers that both public interest and public security must be protected and both should be considered on an equal footing. When Members continue to stress the rights of individuals and narrow the obligations of individuals, the public cannot but ask: Who will be there to protect public security, public interest, social order and world peace? An

imbalanced anti-terrorism legislation riddled with loopholes will only create more opportunities for terrorists. Miss NG pointed out that neither the United Nations Security Council Resolution 1373 nor the Financial Action Task Force on Money Laundering makes it a duty for every ordinary citizen to disclose information on suspicious terrorist transactions. She, therefore, suggested that section 12 be revised by making reference to the United Kingdom Terrorism Act 2000 to the effect that the obligation to report terrorist property would only cover information or other matters which come to a person arising from his work. From another viewpoint, Resolution 1373 does not provide for a compensation mechanism, but there are indeed provisions on compensation in this Bill. Insofar as international covenants and provisions are concerned, the member states will comply with and observe the original intent and wording of the relevant provisions as far as possible in formulating their own legislation. But it does not mean that when formulating their own legislation, no country or territory can take into account the needs of the time, the place and the individual situation and enact laws in accordance with the local actual circumstances. Furthermore, even though we should make reference to the United Kingdom Terrorism Act 2000, the Act itself has provided that every person has the duty to disclose their knowledge and suspicion of terrorist transactions. In this connection, the disclosure requirement in the United Kingdom Terrorism Act 2000 consists of two tiers, providing for different standards on the mental element for ordinary citizens and members of regulated sectors. Therefore, there are different standards for this duty of disclosure. Miss Margaret NG's amendment has nevertheless changed the two-tier system in the United Kingdom Act into a single-tier system and narrowed the scope of information to be disclosed to information which comes to a person arising from his work. This will greatly reduce the duty of individuals to protect public security and public interest and hence undermine the investigation into terrorists, and this amendment has never been published for consultation with the relevant sectors. Therefore, the DAB cannot support Miss Margaret NG's amendment.

The propriety of any anti-terrorism legislation depends on whether or not it can keep abreast of the ever changing international trends in combating terrorism and standards of human rights protection. Therefore, the DAB welcomes the proposal of the Government that a detailed and extensive consultation be conducted on the reporting system in section 12 of the Ordinance together with the reporting provisions in the Drug trafficking (Recovery of Proceeds) Ordinance and under section 25A of the Organized and Serious Crimes Ordinance. The two-tier standard for disclosure mentioned in the

United Kingdom Terrorism Act 2000 can also be included in the consultation. Moreover, the DAB hopes that the Government can regularly review the provision concerning the freezing of terrorist property by the Secretary for Security in section 6 of the Ordinance and look into whether the power to freeze such property can be exercised by the Judiciary.

Madam President, I so submit.

MR AMBROSE LAU (in Cantonese): Madam President, on behalf of the Hong Kong Progressive Alliance, I support the Bill and the amendments proposed by the Government. According to the direction given by the Central Government in 2001, Hong Kong must implement the United Nations Resolution on combating terrorism. This is also an international obligation of Hong Kong as a world metropolis.

We consider that the existing reporting requirement is not the most desirable arrangement. But Miss Margaret NG's amendment will make the reporting duty in the United Nations (Anti-terrorism Measures) Ordinance inconsistent with the references in the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance. Besides, Miss Margaret NG's amendment is far from comprehensive and so, we consider it necessary for the Government to comprehensively review and study in detail the reporting provisions in various Ordinances. We hope that the Government can expeditiously consult the relevant sectors on how the reporting provisions can be improved. But given a rather tight timeframe and as it is necessary for Hong Kong to expeditiously fulfil its international obligation, I hope the Government can conduct the relevant studies and consultation immediately. We cannot support Miss Margaret NG's amendment at this stage. We hope that after studies and consultation, the Government can put forward some proposals to further protect the rights and interest of the public.

Madam President, I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR SECURITY (in Cantonese): Madam President, first of all, I would like to thank Mr James TO, Chairman of the Bills Committee and all other members for having scrutinized carefully all the provisions in the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill) as well as reviewing all the relevant provisions in the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) passed in 2002 in more than 10 meetings. In the course of scrutiny, the Bills Committee had proposed a number of workable concrete proposals. Later, we will propose amendments at the Committee stage to incorporate these proposals. We believe the Bill as amended will be able to discharge Hong Kong's international obligation in combating terrorism and meet Hong Kong's actual needs.

Hong Kong has all along been a safe city with low risks of terrorist attack. However, as an international financial centre, the frequent flow of funds is not subject to any restriction. Neither is there any foreign exchange control. So, Hong Kong has to formulate effective legislation against financing terrorism to prevent Hong Kong from being used as a fund-raising or fund deployment centre.

In fact, according to the information in hand, the way the terrorists plan their actions now are very different from the past. In the past, terrorist attacks were made through organized and detailed planning. But now they tend to take smaller-scale, self-financed and regionalized actions. They may not necessarily belong to some known terrorist organizations, rather, they may act on their own. So it is more difficult to predict and prevent their acts. And their fund-raising methods are wide ranging. Their funds may, on the surface, come from proper trades or organizations, such as non-profit-making bodies, or from other illegal activities such as drug trafficking, blackmailing, and so on. Because of such situation, it is all the more necessary for us to have comprehensive and effective legislation for combating terrorist financing in order to prevent Hong Kong, as a city of active fund movement, from being used, rendering Hong Kong a weaker link in the international community.

A two-stage approach is adopted by us to implement the anti-terrorism legislation. In stage one, the Ordinance was enacted in July 2002 to give effect to most of the mandatory elements of the United Nations Security Council Resolution (UNSCR) 1373 and the most pressing Financial Action Task Force on Money Laundering (FATF) Special Recommendations in order to combat terrorist financing acts.

In stage two, we aim to fulfil through the Bill Hong Kong's outstanding international obligations in anti-terrorism, including the following items:

- (1) UNSCR 1373 and the FATF Special Recommendations to freeze non-fund terrorist property;
- (2) The United Nations International Convention for the Suppression of Terrorist Bombings, under which State Parties are required to criminalize terrorist type attacks by means of explosives or other lethal devices; and
- (3) The United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the United Nations Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf which respectively require State Parties to criminalize unlawful acts endangering safety of maritime navigation and fixed platforms attached to the sea-bed for exploiting offshore resources.

The existing section 10 of the Ordinance on prohibition of recruitment of members for terrorist groups will also be amended by the Bill so as to improve the wording of the provision and provide for the appropriate mental element. It will also provide the law enforcement agencies with the powers required.

As far as we know, all major common law countries like the United Kingdom, the United States, Canada, Australia, New Zealand and Singapore have formulated legislation and measures to implement UNSCR 1373 and the FATF Special Recommendations. As regards the European Union (EU), a framework resolution with legal effect to suppress the financing of terrorist acts was formulated long time ago. All EU states are required to fully implement the relevant provisions. So, the enactment of legislation against terrorism is not only meant to fulfil the international requirements and keep Hong Kong abreast of the legislative measures of its international partners, but also uphold the integrity of Hong Kong's financial system. It is an indispensable preventive measure to suppress the fund-raising activities of terrorists.

The Bills Committee fully agrees to the need and importance of the legislation. During the scrutiny of the Bill, it has raised many valuable and constructive proposals so as to make the provisions more accurate and sound.

Having accepted most of the proposals made by the members, we have amended various parts of the proposed provisions of the Bill as well as the existing provisions of the Ordinance. The following are the more significant ones:

- (1) to tighten the existing definition of "terrorist act" in the Ordinance so as to strength the "intention" element. This should dispel worries that the scope of the definition is too wide;
- (2) in order to reflect our policy intent more clearly, we have improved the terms used in some provisions. For instance, in clause 5 of the Bill on freezing of property, it is stipulated that the Secretary for Security can instruct any person not to "deal with" terrorist property instead of "make available" the relevant property as in the original provision. The interpretation of the provision will become more precise. Another example is the exchange of information between the law enforcement agencies and their local and overseas counterparts. A provision regarding the purpose of information disclosure is added so as to specify that the relevant information can only be referred to the relevant authorities when it is related to the specified offences and the relevant information will not be disclosed in an unrestricted manner;
- (3) in respect of drafting the offence provisions, we have accepted the proposal of the Bills Committee to replace the mental element of "having reasonable grounds to believe" with "recklessness" in sections 8, 9 and 10. Section 7 of the Ordinance and Parts 3A and 3B of the Bill have been amended so that the relevant provisions will more closely reflect the drafting of the UNSCR 1373 and the three international conventions and protocols;
- (4) in respect of enforcement power, we agree to the views of the Bills Committee that an authorized officer be clearly defined as a police officer, a member of the Customs and Excise Department, a member of the Immigration Department and an officer of the Independent Commission Against Corruption. And the operation mechanism for the enforcement of authorized power will completely follow the model currently established under the Organized and Serious Crimes Ordinance. We have also improved the drafting of provisions in addition to deleting individual provisions to put it

beyond doubt that nothing in the relevant provisions affects the protection of legal privilege and of the privilege against self-incrimination.

I will explain the details of the amendments at the Committee stage.

I understand that some members of the Bills Committee consider that the amendment relating to compensation provision is not satisfactory. According to their opinion, although we have lowered the threshold from "serious default" to "default" on the part of the Government, the claimant will still have difficulty in meeting the new standard of proof. Members are of the view that in most cases, the Government is based on overseas information and intelligence to specify or freeze the terrorist property. If there is a mistake, most likely it is due to inaccurate overseas intelligence — if there is a mistake, most likely it is due to inaccurate intelligence and there is no "default" on the part of the Government. So, if neither the Government nor the aggrieved has defaulted, it is very unfair to the latter if the latter has to prove that the Government has defaulted in order to get compensation.

We understand members' concern. In fact, before proposing the amendments, we have considered carefully the compensation arrangement in respect of anti-terrorism in other major common law countries. We notice that compensation is not provided for wrongful specification or freeze in these countries. Besides, under the common law principle, compensation is provided only if it can establish that serious negligence on the part of the Government has led to damage suffered by the parties concerned. So, after careful consideration, we propose to lower the threshold from the original "serious default" to "default" and add a provision which clearly preserves remedy available in common law. We consider that the amended compensation provision is proportionate and reasonable. It complies with the existing criteria for compensation available in law, and strikes a balance between our obligation to combat terrorist financing and the need to compensate the aggrieved.

We understand that Mr Albert HO wishes to amend the compensation criteria which require the claimant to prove that there has not been any default or misconduct on his own part instead of proving that there has been "serious default" on the part of the Government. We are also aware that since Mr HO's proposed amendment will increase the Government's compensation expenditure

and have charging effect on public moneys under Rule 57(6) of the Rules of Procedure of the Legislative Council, the President has ruled that the amendment cannot be raised. We understand that Mr Albert HO considers that the compensation should be borne by the whole community in order to protect the interests of the aggrieved. But on the basis of the justifications I have mentioned, we cannot accept Mr HO's proposal. We believe the compensation provision as amended by the Government will ensure a proportionate and reasonable compensation arrangement.

Besides, concerning section 12 on the disclosure of terrorist property, a member has suggested that the two-tier reporting system provided for under the United Kingdom Terrorism Act 2000 be adopted. We understand the possible implications the proposed reporting provision may have on the general public and the related sectors, such as accountants, lawyers, estate agents, company and trust service providers, and precious metals and precious stones dealers, as well as the need to ensure consistency with the reporting requirements under the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance, the Bills Committee agrees to undertake a review, including a consultation, of the present reporting requirements under the three Ordinances.

We agree to the Bills Committee's opinion and the review will be undertaken in the context of the exercise to implement FATF's Forty Recommendations which is scheduled to start in 2004-05. The review will cover both the scope of the obligation to report as well as the mental element to be adopted for making disclosures, having regard to similar legislation in the United Kingdom and other common law jurisdictions. Besides, it will also involve consultation with the abovementioned sectors to be brought into the fold of the Recommendations and thus are subject to the reporting requirements.

With these remarks, I urge Members to support the Bill and the amendments I will move in due course. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003.

Council went into Committee.

Committee Stage

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

UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) BILL 2003

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003.

CLERK (in Cantonese): Clauses 1, 3, 10, 12, 13, 15 to 18 and 20.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 4 to 9, 11, 14 and 19.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendments to clauses 2, 5 to 9, 11, 14 and 19, and the deletion of clause 4, as set out in the paper circularized to Members.

Clause 2 — the existing definition of "terrorist act" in the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) be amended; the definitions of "authorized officer" and "premises" in the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill) be amended; the definition of "public body" in the Bill and relevant clauses be deleted

Clause 4 — deletion

The amendment to clause 2 seeks mainly to amend the existing definition of "terrorist act" in the Ordinance, rectify the definitions of "authorized officer" and "premises", and delete the definition of "public body" and relevant provisions in the Bill.

As mentioned by me earlier, we have adopted the proposal of the Bills Committee to tighten the existing definition of "terrorist act" and, with reference to the Terrorism Suppression Act 2002 of New Zealand, extend the existing "intention" element in paragraphs (a)(i)(E) and (F) of the definition to paragraphs (a)(i)(A) to (D). The definition of "terrorist act", after amendment, will become tightened to mean the use or threat of action where the action will lead to serious consequences listed in paragraphs (a)(i)(A) to (F) of the definition. They would have the effect of, for instance, causing serious violence against a person, causing serious damage to property, endangering other persons' lives, creating a serious interference or disturbance to an electronic system, and so on, or the threat of action has the intention of causing actions that would lead to those serious consequences.

As for the definition of "authorized officer", it originally referred to any public officer of the Hong Kong Police Force, Immigration Department,

Customs and Excise Department, Independent Commission Against Corruption or the Department of Justice, authorized by the Secretary for Security under new section 3A. The Bills Committee considers it inappropriate for officers of the Department of Justice to be authorized by the Secretary for Security. Furthermore, according to actual enforcement of law, it is not necessary for officers of the Department of Justice to exercise such power as demanding relevant persons to answer questions or produce materials.

We share the views of the Bills Committee. It is anticipated that only officers of the Hong Kong Police Force, Customs and Excise Department, Immigration Department and Independent Commission Against Corruption will take part in investigating offences specified in the Ordinance. As such, we propose to amend the definition of "authorized officer" by putting it beyond doubt that "authorized officer" is confined to officers of the abovementioned four law enforcement agencies, whereas officers of the Department of Justice will be excluded from the list of "authorized officer". Consequent to this amendment, the retention of clause 4 empowering the Secretary for Security to authorize public officers is no longer necessary, and should therefore be deleted.

According to its definition in the Bill, "public body" originally referred to any government department and any public body specified by the Chief Executive under new section 2(8). The Bills Committee is concerned that a private body may be specified under section 2(8) and mandated to furnish information or produce materials under new section 12A or 12B. In this connection, I wish to emphasize that the definition of "public body" is provided mainly for the purpose of putting it beyond doubt that any public body and government department may be required to comply with a court order issued under new section 12A or 12B. For the purpose of section 2(8), we have no intention to specify organizations that are purely private.

We have carefully deliberated the abovementioned provisions in response to the concern of the Bills Committee. Under new sections 12A and 12B, the Court may issue an order requiring any "person" to furnish information or produce materials, whereas "person" is defined in the Interpretation and General Clauses Ordinance to include "any public body and any body of persons, corporate or unincorporated". We can thus see that these provisions have made it clear that "person" includes "public body". In other words, by virtue of a court order issued under new sections 12A and 12B, "public body" is required to fulfil the legal liability specified in the two provisions. In this connection, it is

considered unnecessary to give a new definition to "public body". As such, it is proposed that the definition and section 2(8) be deleted.

The proposed amendment to the definition of "premises" seeks mainly to make drafting improvement; whereas the deletion of the reference to clause 2 is consistent with the conventional practice of drafting.

Clause 5 — provisions on freezing and seizing terrorist property amended

Clause 5 amends section 6 of the Ordinance to provide that the Secretary for Security may specify to the effect that a property not be "made available" to any person should there be reasonable grounds to suspect the property to be terrorist property. The Bills Committee considers the meaning of "making available" far from clear and specific. A person living in a residential flat "frozen" may be considered as "making available" the flat to himself and has thus contravened section 6. The Bills Committee has thus proposed that, with reference to the Organized and Serious Crimes Ordinance (OSCO), "make available" be replaced with "deal with".

On the advice of the Bills Committee, we have further examined the requirements in paragraph 1(c) of the United Nations Security Council Resolution (UNSCR) 1373 and Special Recommendation III of the Financial Action Task Force on Money Laundering (FATF) in relation to freezing funds and other assets belonging to terrorists/terrorist bodies. We are of the view that these requirements are intended to prevent funds and other assets from being made available to terrorists/terrorist bodies and to prohibit terrorists/terrorist bodies from mobilizing funds and other assets. As such, a person living in a "frozen" residential flat should not be considered as having conducted acts prohibited by UNSCR 1373 and FATF.

To better reflect the intention of the abovementioned international requirements, we have accepted the proposal of the Bills Committee to replace the existing "make available" with "deal with". The clause, after amendment, makes it clear that the Secretary for Security may, should there be reasonable grounds to suspect any property to be terrorist property, give a direction that no one can "deal with" the property. Furthermore, we have proposed to replace "deal with" with a new provision based on the definition of "dealing" in the OSCO.

The new section 6(10) to be made under clause 5 provides that the Secretary for Security may, in order to prevent any frozen terrorist property from being removed from Hong Kong, direct authorized officers to seize the property. Both the Bills Committee and legal academics share the view that the power of freezing and seizing property is extremely broad. In order to enhance protection for affected persons, it should be specified that the Secretary for Security may exercise his power of seizure under section 6(10) only when he has reasonable grounds to suspect that the relevant property will be removed from Hong Kong. Sharing and accepting these views, we propose adding section 6(11).

Clause 6 — provisions on prohibition on recruitment of members and so on to terrorist bodies amended

Clause 6 amends section 10 of the Ordinance on prohibition on recruitment of members to terrorist groups or becoming members of terrorist groups. The amendment seeks to improve the language of the provision and provide for appropriate mental element. Considering that the mental element of "having reasonable grounds to believe" in the existing provision too low a threshold for proof and not applicable to offences specified in the Ordinance, the Bills Committee has proposed that "having reasonable grounds to believe" be replaced with "recklessness".

We have carefully considered the suggestions of the Bills Committee and examined the standard of proof laid down as a result of "recklessness" precedents — the prosecution would have to prove that the offender committed an act where there was an obvious risk and he had failed to consider any of those possible risks when he committed the act, or he insisted on committing the act even though he recognized the possibility of those risks.

"Recklessness" is an objective standard of proof, with the proof being whether the risk involved would have been obvious to an ordinary prudent man.

Taking into account that "recklessness", a well-proven mental element, has been in use in Hong Kong and other jurisdictions, and that it is frequently adopted in the existing criminal legislation, we have accepted the proposal of the Bills Committee to replace the mental element of "having reasonable grounds to believe" in the relevant provisions of the Ordinance with "recklessness".

Section 10(1) under clause 6, if amended, requires that a person shall not recruit another person to become a member or become a member of a body, knowing that, or being reckless as to whether it is a body specified in a notice published in the Gazette to be terrorist bodies. The drafting of the provision has been further improved by making "recklessness" applicable to it. In other words, the prosecution will have to prove that the offender either:

- (a) has not given thought to whether the body concerned is a terrorist body specified in the Gazette in circumstances where there is an obvious risk that this is the case; or
- (b) having recognized that there is a risk the body concerned is a terrorist body, still chooses to recruit another person to become a member or become a member of the body.

Clause 6 has originally required in section 10(2) that a person who is a member of a terrorist group specified in the Gazette shall, as soon as possible, take all practicable steps to cease to be such a member. The Bills Committee is concerned whether this requirement is practically feasible.

Have regard to the concern of the Bills Committee, we have re-examined the requirement of paragraph 2(a) of UNSCR 1373 in relation to recruitment of members to terrorist groups. We consider section 10(1) has already met this requirement. As such, we propose to delete the original section 10(2) in the amendment.

In addition, we propose to replace the definition of "body" with a new provision to make it clear that "body" means a body of persons, whether corporate or unincorporated.

Clause 7 — provisions relevant to the implementation of international conventions and the Protocol amended

Sections 11A to 11I made under clause 7 seek to put into effect the United Nations International Convention for the Suppression of Terrorist Bombings (the Bombings Convention), the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (the Maritime Safety Convention) and the United Nations Protocol for the Suppression of Unlawful

Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the Protocol).

The proposed amendments to sections 11B, 11E and 11F seek mainly to tighten the new offence provisions to make the language of those provisions follow more closely the drafting of the abovementioned conventions and the Protocol.

The amendment to section 11D seeks to reflect section 2 of the Maritime Safety Convention. It is provided that the Convention shall not apply to warships, ships owned or operated by a state when being used as a naval auxiliary or for customs or police purposes. Despite the fact that the Convention has referred merely to a "state", it is intended to cover other jurisdictions as well. As such, we propose to add section 11D(ba) to include ships owned or operated by the Hong Kong Special Administrative Region for customs or police purposes for the purpose of exemption under section 11D.

In the course of discussing the implementation of the abovementioned conventions and Protocol, the Bills Committee was concerned whether the interpretation of the expression "in connection with the commission or attempted commission of" will be generally applied to other Hong Kong legislation as a model for defining similar provisions. I hope to reiterate that section 11G is enacted in the light of the specific needs of implementing the Maritime Safety Convention and the Protocol. The drafting of sections 11G(a), (b) and (c) will not become a standard for drafting other legislation. Actually, the drafting of each legal provision has to be based on its own objective and actual implementation requirements, rather than following the existing provisions of other legislation.

Clause 8 — disclosure of information on transactions of suspected terrorist property

Clause 8 replaces section 12(6) of the Ordinance with a new provision to authorize law enforcement agencies to disclose information on transactions of suspected terrorist property which has been obtained pursuant to section 12 to their local and overseas counterparts for the purpose of preventing and suppressing terrorist co-operation. The Bills Committee suggested that the objective of the abovementioned disclosure be made clear in the provision.

On the recommendation of the Bills Committee, we propose to replace section 12(6)(a) with a new provision to specify that the objective of the disclosure of information is to prevent and suppress the financing of terrorist acts. The drafting of section 12(6)(b) is also amended.

Clause 9 — provisions concerning law enforcement powers amended

Sections 12A to 12K made under clause 9 seek mainly to provide for the necessary law enforcement powers to deal with the offences under the Ordinance. The provisions empower law enforcement agencies to require relevant persons to furnish information or produce materials, to search premises for relevant materials, and to seize and retain such materials. These powers are modelled on similar well-proven powers provided under the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRPO) and the OSCO. Law enforcement agencies have to meet all stringent statutory requirements before exercising these powers, and all such powers can be exercised only after the Court has given authorization to do so. The legal threshold and judicial procedure stipulated in the provisions provide the relevant persons with effective protection and serve to prevent abuse or misuse of powers.

In the course of scrutiny, the Bills Committee considered that the coverage of individual law enforcement provisions might not be clear enough. Having regard to the concern of the Bills Committee, we propose to improve the drafting of sections 12A(3)(c)(ii) and 12A(6) to provide that applications to the Court for the furnishing of information or production of materials can be made only under circumstances "relevant to the investigation" rather than "relate to any matter relevant to the investigation" which is considered to be too broad under the existing provision.

The OSCO mechanism adopted

The Bills Committee also recommended that the mechanism established under the OSCO be adopted for the purpose of exercising law enforcement powers. Readily accepting good advice, we agree with the proposal of the Bills Committee. As a result, necessary amendments will be made to sections 12A, 12B and 12D by providing that only the Secretary for Justice may apply to the Court for the furnishing of information or production of materials pursuant to section 12A, whereas the Secretary for Justice or an authorized officer may apply to the Court for the production of materials, and so on, pursuant to section 12B.

Legal privilege and the privilege against self-incrimination protected

The existing section 2(5) has also put it beyond doubt that nothing in the Ordinance shall require the disclosure of or authorize the search or seizure of any items subject to legal privilege, or restrict the privilege against self-incrimination. The Bills Committee is concerned that individual provisions on law enforcement powers might override the protection provided under section 2(5). To remove such worries, we propose to delete sections 12A(9) and 12A(12)(b) and put it beyond doubt that sections 12A(11) and 12B(13) shall be subject to section 2(5).

Sections 12A(10), 12B(7) and 12B(12) will be deleted as consequential amendments subsequent to the deletion of "public body" under clause 2.

Existing provisions improved

Section 12G originally empowers a Magistrate to authorize law enforcement officers to enter premises and to seize and detain any terrorist property. The Bills Committee holds the view that, having regard to the severity of the offences specified in the Ordinance and given the fact that sections 12A to 12C empower the Court of First Instance to issue the relevant order, section 12G should similarly empower the Court of First Instance to issue the order to make the judicial mechanisms giving the authority consistent.

On the advice of the Bills Committee, we have improved the drafting of the provision. The amended section 12G provides that, where it appears to the Court of First Instance upon the oath of law enforcement agencies that there is reasonable cause to suspect that on any premises there is terrorist property or there is evidence of an offence specified in the Ordinance, the Court may issue a warrant authorizing law enforcement officers to enter the relevant premises to search for and seize, remove and detain any terrorist property.

In addition, section 12G originally provides that the Court may empower law enforcement officers to use such assistance or power as is necessary and reasonable to enter the relevant premises. In this regard, the Bills Committee considered it necessary to specify direct in the legislation that law enforcement officers may use assistance or power. On the recommendation of the Bills

Committee, we have added section 12G(1A) to provide that law enforcement officers responsible for enforcing the warrant may, according to circumstances, use such assistance or power as is necessary and reasonable. The drafting of section 12G(2) has also been improved to make it clear that only law enforcement officers entering the relevant premises by virtue of a warrant issued under section 12G(1) may seize, remove and detain suspected terrorist property.

Section 12D provides that law enforcement agencies may disclose information acquired under sections 12A to 12C to local counterparts or overseas authorities. This section seeks to strengthen local and international co-operation in combating terrorist activities and the financing of terrorist acts. Similar to the amendment to section 12(6) earlier, the Bills Committee proposed to put it beyond doubt in section 12D the objective of disclosure. We agree to this proposal. As such, we will in sections 12D(2)(a) and (b) provide that the disclosure of information is to prevent and suppress offences specified in the Ordinance or offences the nature of which is similar to those specified in the Ordinance.

Section 12H provides that any property seized under section 12G may be detained. Given that section 12G has already provided for the seizure and detention of the property, section 12H has actually become redundant. We therefore propose to delete the section.

The amendment to section 12B(3)(a) is an improvement to the Chinese wordings.

Clause 11 — the penalty provisions amended

Clause 11 is amended mainly to improve the penalty provisions, including:

- (a) to make it clear in the existing section 14(2) of the Ordinance that only a person who "knowingly" contravenes a notice on the freezing of terrorist property commits an offence; and
- (b) to make it clear in the new sections 14(7H) and 14(7J) that only a person who "intentionally and without reasonable excuse" obstructs any law enforcement officer in the enforcement of a search warrant commits an offence.

In addition, in the light of the deletion of the provision on the termination of the membership of terrorist groups under section 10(2), a consequential amendment shall be made to the existing section 14(4) of the Ordinance to delete the reference to section 10(2).

Clause 14 — the compensation provisions amended

The existing section 18 of the Ordinance provides that, had the Government wrongfully specified a certain person to be a terrorist or terrorist associate, or wrongfully specified certain property to be terrorist property, the affected person might apply to the Court of First Instance for compensation to be paid by the Government. The Court shall not order compensation to be paid by the Government unless it is satisfied that there has been some "serious default" on the part of the Government and after the Court has considered it fit to do so upon taking account of the whole situation.

In enacting stage-one anti-terrorism legislation in 2002, the Government understood it very well that some Members were dissatisfied with the compensation threshold laid down in the provision, for it was very difficult as well as unreasonable for the claimants to prove that there had been "serious default" on the part of the Government. However, as alteration to the compensation arrangement provided for in the provision will significantly affect the Government's compensation policy, the Government undertook at the time that the provision would be reviewed and the Legislative Council would be briefed in due course.

In the course of the review, we carefully examined the compensation threshold adopted by in common law and made reference to relevant legislation in other common law countries. Under common law, the prerequisite for compensation is that something more than negligence has to be established on the part of the Government. As for the anti-terrorist legislation in place in major common law countries, such as Britain, the United States, Australia, Canada, New Zealand, Singapore and India, no provision has been made to the effect that compensation is required on the part of the Government even if the Government has "wrongfully" specified a person to be a terrorist, or "wrongfully" specified a property to be terrorist property. At the same time, we have reviewed the existing compensation arrangements specified under other criminal legislation in Hong Kong. Insofar as Ordinances of similar nature are concerned, such as the DTRPO and OSCO, the compensation provisions therein have made it clear that

a claimant is required to prove that there has been "serious default" on the part of the Government.

Owing to the abovementioned findings, and subsequent to careful consideration of the suggestions and concern of Members, we propose to amend the compensation threshold in the existing section 18(2)(c) of the Ordinance and new section 18(2B)(a) in the Bill by lowering the requirement of proving that there has been "serious default" on the part of the Government to proving that there has been "default" on the part of the Government. We are of the view that this amendment has taken account of the compensation arrangement under the existing law, the need to compensate the aggrieved and the responsibility of combating terrorist financing, and the need to strike a reasonable and appropriate balance. I implore Members to, in appreciation of the existing compensation mechanism provided by law and the relevant practices of other countries, support our amendments.

Clause 19 — the notice requiring the relevant persons to answer questions or furnish information amended

Clause 19 specifies the notice form requiring the relevant persons to furnish information pursuant to a court order issued under section 12A. Consequential amendment to the notice form is required in the light of the amendment to law enforcement powers under section 12A earlier.

Madam Chairman, the abovementioned amendments have been discussed by the Bills Committee. I implore Members to support and endorse them. Thank you, Madam Chairman.

Proposed amendments

Clause 2 (see annex VI)

Clause 4 (see annex VI)

Clause 5 (see annex VI)

Clause 6 (see annex VI)

Clause 7 (see annex VI)

Clause 8 (see annex VI)

Clause 9 (see annex VI)

Clause 11 (see annex VI)

Clause 14 (see annex VI)

Clause 19 (see annex VI)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): As the amendment to clause 4, which deals with deletion, has been passed, clause 4 is deleted from the Bill.

CLERK (in Cantonese): Clauses 2, 5 to 9, 11, 14 and 19 as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 1A Long title amended

New clause 5A Prohibition on provision or collection of funds to commit terrorist acts

New clause 5B Prohibition on making funds, etc. available to terrorists and terrorist associates

New clause 5C Section substituted

New clause 14A Section added.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that the new clauses read out just now, as set out in the paper circularized to Members, be read the Second time.

New clause 1A — Long title of the Ordinance amended

New clause 1A seeks to amend the long title of the Ordinance to clearly provide for the objectives of the Ordinance, including permitting the implementation of the United Nations International Convention for the Suppression of Terrorist Bombings (the Bombings Convention), the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (the Maritime Safety Convention) and the United Nations Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the Protocol).

The long title of the Ordinance has actually clearly specified its objective of implementing the United Nations Security Council Resolution (UNSCR) 1373, which urges all countries to become signatories of international conventions and protocols relating to terrorism as soon as possible. As such, the existing long title of the Ordinance does cover the implementation of the Bombings Convention, the Maritime Safety Convention and the Protocol mentioned earlier. The Bills Committee proposed that the implementation of the abovementioned conventions and protocol be specified in the long title of the Ordinance to make the scope of the Ordinance clearer and more specific. We agree with this proposal and propose adding clause 1A.

New clause 5A — section 7 of the Ordinance amended to follow closely the drafting of paragraph 1(b) of the UNSCR 1373

Section 7 of the Ordinance seeks to give effect to paragraph 1(b) of the UNSCR 1373 in relation to making funds available to terrorist acts and paragraph 1(d) of the UNSCR 1373 in relation to making funds and so on available to terrorists. The Bills Committee considered it necessary to narrow the scope of section 7 to enable the offences specified therein and the necessary mental elements to follow closely the drafting of paragraph 1(b) of the UNSCR 1373. We agree with this proposal and clause 5A is thus added to amend section 7 of the Ordinance to provide that a person shall not provide or collect funds with the intention or the knowledge that the funds be made available to terrorist acts. Paragraph 1(d) of the UNSCR 1373 will take effect through the Ordinance.

New clauses 5B and 5C — the mental element of "having reasonable grounds to believe" in sections 8 and 9 be replaced with "recklessness"

As mentioned by me earlier, when proposing to amend clause 6 in relation to provisions on prohibition on recruitment to terrorist groups and so on, we have accepted the proposal of the Bills Committee and replaced the mental element of "having reasonable grounds to believe" in the criminal provisions of the Ordinance with "recklessness".

New clauses 5B and 5C seek to amend sections 8 and 9 by replacing the existing mental element of "having reasonable grounds to believe" with "recklessness".

New clause 14A — the common law compensation arrangement retained

In discussing the compensation provisions, we accepted the proposal of the Bills Committee to explicitly provide for the retention of the common law compensation arrangement in the Bill. According to the existing provisions of the Ordinance, the compensation mechanism under section 18 actually goes side by side with the common law compensation arrangement. The power to claim compensation under common law will therefore not be affected.

For the avoidance of doubts, however, we agree with the Bills Committee that it is necessary to explicitly provide for the retention of the common law compensation arrangement. We propose to add section 14A to put it beyond doubt that nothing in section 18 affects any remedy available to a person under common law. Moreover, where a person has received compensation under section 18 while seeking compensation under common law, the Court will have to deduct the compensation amount received under section 18 from the amount of compensation made under a common law order, and *vice versa*.

The Bills Committee has discussed the abovementioned new provisions and expressed approval. As such, I urge Members to give their support and endorsement.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clauses 1A, 5A, 5B, 5C and 14A.

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

Proposed additions

New clause 1A (see Annex VI)

New clause 5A (see Annex VI)

New clause 5B (see Annex VI)

New clause 5C (see Annex VI)

New clause 14A (see Annex VI)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the new clauses read out just now be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 7A Disclosure of knowledge or suspicion that property is terrorist property, etc..

MISS MARGARET NG (in Cantonese): Madam Chairman, I move that new clause 7A, as set out in the paper circularized to Members, be read the Second time.

Madam Chairman, first of all, I would like to speak on the objective of the amendment. In enacting legislation, we must strike a reasonable balance. As mentioned very clearly during the resumption of the Second Reading debate earlier, we on the one hand attach great importance to our international obligations, obligations that we must implement. But on the other, we must attach importance to our responsibilities towards Hong Kong people by protecting their rights and freedoms, so that they will not be caught by the law unnecessarily. I think section 12(1) will unnecessarily cause Hong Kong people to be caught.

Madam Chairman, I would like to start with the substance of my amendment. I have put another paper on the desk before Members today. It is about my Committee stage amendment. Two sentences therein are underlined, and that is all I wish to add. As far as the Chinese version is concerned, excluding the sentences to be added under my proposal, it is provided in the existing legislation that any person who knows or suspects that any property is terrorist property must report such property. The coverage of this provision is very wide and so, I propose to add that reporting of such property is required "where a person knows or suspects on the basis of information or other matter which comes to his attention in the course of trade, profession, business or employment that any property is terrorist property.....".

In other words, ordinary citizens do not have to worry about having to report property suspected to be terrorist property which they come across in their daily and private errands. The case is the same for the English version. Members please read the English version. Originally, reporting is required

"where a person knows or suspects any property is terrorist property", and after incorporating my amendment, it becomes "where a person knows or suspects on the basis of information or other matter which comes to his attention in the course of a trade, profession, business or employment". Such wording has narrowed the coverage, in which case ordinary citizens do not have to worry about committing an offence if they do not report such property as long as the information does not come to them in the course of work or business.

Madam Chairman, the English version here is different from that of the Bill. The reason is that I have completely rewritten the latter half of the English version of section 12(11), for I have no other alternatives. If Members refer to the original English version of section 12(1), they will find that it is ungrammatical. I do not see the need to read it out and it is downright ungrammatical. So, even though the Government does not intend to amend this provision to address the legal issues or issues relating to rights and freedoms, it should still revise this provision to address the grammatical problem for face-saving's sake.

Today, Madam Chairman, many Members and the Government have expressed opposition to the amendment. Why does the Government oppose my amendment? Firstly, the Government considers this to be our international obligation and so, it is necessary to impose this duty on all people of Hong Kong. The Government has based this on Item IV of the recommendations of the Task Force, which reads, "If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to.....terrorism, they should be required to report.....". Since we are neither financial institutions nor businesses, why should this be our duty? The Government said that we are an entity and this entity covers all human beings. This is the first reason, and it has been proven to be untenable.

Another reason of the Government is that all good citizens should report terrorist property. I agree that we should behave as good citizens, and we should report to the authorities if we know or have reasonable grounds to suspect that some properties are terrorist properties. But this does not mean that we will commit an offence if we do not report such property or we may be prosecuted by the Government for not reporting and will be liable to a maximum penalty of three months' imprisonment. In other words, if you have doubts and if do not report, you will be imprisoned for three months. Is such legislation

fair to all? Is this really necessary? When we narrow the coverage, does it mean that we are not resolute in combating money laundering? I think the answer is plain for all to see.

Madam Chairman, another important evidence is the British law. In fact, Britain also has the obligation to combat money laundering and it is also required to implement the various recommendations of the Task Force. However, the British law does not impose this criminal liability on all the people. The wording that I have just read out is actually taken out from an Act enacted in Britain in 2000. As I mentioned in my speech during the resumed Second Reading debate, I was at a loss about this provision last year, but I could not figure out how it should be amended within such a short time to strike the right balance. This year, during the final stage of the deliberations of the Bills Committee, the Government said that such a practice could also be found in the British law and that in 2000, the provision was already confined to information obtained in the course of work or business and reporting was required only for suspicion relating to such information.

If such being the case, why can Hong Kong not adopt the same practice? If Britain considers that this can discharge their international obligation, and when we follow suit, can it be said that we will hence fail to fully honour our international obligation? I believe the answer is clear and that is, we both will fulfil our international obligation. In fact, the Government has agreed to follow the practice in Britain by confining the reporting duty to suspicious information that comes to a person in the course of a business, employment or profession. This restriction will not violate our international obligation.

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

What are the other reasons of the Government in opposing my amendment? The Government pointed out that consultation would be necessary on such amendment. In fact, the Government does not mean that consultation is necessary for my amendment, because if my amendment is passed, the duty on businesses, professions, and so on, will remain unchanged, only that ordinary citizens will not have to worry about being prosecuted any more. The Government said that if the existing ordinance were amended to carry the effect as that enacted in Britain in 2003, that is, if the so-called "regulated sectors"

were introduced and a higher level of duty were imposed on these regulated sectors, then consultation would be necessary. This is true. If certain sectors will be singled out as sectors subject to regulation, and if these regulated sectors will have to bear greater responsibilities than they are required to bear now, consultation is certainly necessary. But this does not mean that consultation is required for my amendment. Since the Government hopes for some better amendments in the future, why does it not accept even these very minor changes proposed by me now? I think this reason cannot hold water. It is unacceptable that the necessary amendments are barred only to leave room for the Government to carry out work in the future.

Secondly, the Government pointed out that if amendments were made only to the reporting duty in the anti-terrorism legislation without amending the same duty under the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance in tandem, the people would be confused. I think the Government really has not thought it through. In fact, I already said a long time ago that this Ordinance is different from the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance. These two latter ordinances have a narrow coverage, that is, a particular offence must be involved and the offence must have been committed and only the proceeds arising from this offence will be regulated by the Ordinance. However, suspicious terrorist property has a wide coverage and should therefore be handled separately. If anyone should feel confused, it is not the people who are confused, but the Government. The people only have to know that if they come across proceeds arising from some offences, they should report such proceeds, and that is all. For general terrorist property, they have no duty to report and so, why is there a need for the people to know this? If it is the duty of the people to do something, tell them categorically; if it is not their duty to do something, it is unnecessary to tell them so case by case or to tell them that it is not their duty to do it, or else they will really feel confused. So, I think this reason of the Government also cannot hold water.

(THE CHAIRMAN resumed the Chair)

Today, both Ms Miriam LAU of the Liberal Party and Mr LAU Kong-wah of the DAB opposed my amendment. One of their reasons is that my amendment was proposed at a very late stage. In fact, in the Bills Committee, I

had put forward this view of narrowing the coverage long before, but the Government had provided the information only at a very late stage. Colleagues who have participated in the work of the Bills Committee should all along know my position. So, regarding my amendment today, firstly, it is not proposed all of a sudden, and secondly, the amendment is not complicated. The Government mentioned that Britain has adopted a two-tier system of responsibility. But neither the first tier nor the second tier involves the daily lives of ordinary citizens. So, this reason is again untenable.

Madam Chairman, concerning the scope of the amendment, firstly, the amendment is necessary because we cannot impose unnecessary criminal liability on ordinary citizens; secondly, the amendment is entirely safe, for there are precedents in other countries and these countries have fully fulfilled their international obligations; thirdly, there is a need for amendment to be made because there is a mistake in the existing provision, particularly in the English version, and we cannot allow this mistake to exist; and fourthly, the various reasons given, including my amendment being put forward at a very late time, or there are better alternatives or a need for consultation, and so on, are all untenable.

Madam Chairman, since there are so many reasons to justify this amendment, we will have nothing to lose but everything to gain from its passage. I urge the Government not to be so resolutely opposing the motions proposed by Members. I also urge Honourable colleagues to support my amendment, so as to relieve the people of this responsibility early. Thank you.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 7A be read the Second time.

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

MS MIRIAM LAU (in Cantonese): Madam Chairman, I just wish to clarify one point. Earlier on, I mentioned Miss Margaret NG's amendment. In fact, its wording was submitted only after the completion of deliberations by the Bills Committee and we had the opportunity to study it only then. After looking at

the wording of Miss Margaret NG's amendment and the way the United Kingdom Terrorism Act 2000 is drafted, I found that they are entirely different.

When I said that the amendment had been proposed at a very late time, I meant that we received the amendment at a very late time. Then we found that it is different from the way this issue is handled in Britain, and that is why we agree that a review be conducted. We also agree with the Government that consultation is necessary and if consultation will be conducted, it should be conducted comprehensively and thoroughly. The other two Ordinances, namely the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance, also carry provisions on reporting. Miss Margaret NG's amendment, if passed, will make the provision different from those in those Ordinances. Will this lead to any problem? We need to spend some time on it and think more clearly about this in the course of the review.

We have also considered the point often stressed by Miss Margaret NG, that legislation should not be enacted hastily and thorough consultation is necessary. According to this principle, it may be rather hasty to conduct consultation now. But as I mentioned during the resumed Second Reading debate, the Government should expeditiously conduct a review and if amendment is considered necessary, it should be made in a comprehensive and thorough manner. We do not wish to see that problems will remain to be handled in the future even after the amendment is made. Thank you, Madam Chairman.

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

(No Member indicated a wish to speak)

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, the major difference between the new clause 7A proposed by Miss Margaret NG and the existing section 12(1) of the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) lies in the addition of "knows or suspects on the basis of information or other matter which comes to his attention in the course of a trade, profession, business or employment that any property is terrorist property" before "the person shall disclose..... the information or other

matter..... as soon as is practicable after that information or other matter comes to the person's attention". This provision is made with reference to section 19 of the United Kingdom Terrorism Act 2000 (the Act). In brief, the scope of reporting will be narrowed so that only information which comes to a person arising from his work is covered as a result of Miss Margaret NG's proposal. In other words, a person is not required to report information which comes to him arising from his work even if he knows or suspects any property to be terrorist property.

However, there are certain problems with Miss NG's proposal. To start with, the information disclosure threshold adopted in Britain involves a two-tier reporting system provided for under sections 19 and 21A of the Act. While everyone is covered under section 19, only the regulated sector is governed by section 21A. These two complementary provisions thus form a comprehensive and integrated reporting mechanism. If we are to make reference to Britain's model, both sections 19 and 21A of the Act, rather than either one of them, will have to be considered. The unilateral and selective approach of choosing either one is considered by us to be improper.

According to the information collected by us, section 19 of the Act is purely a local requirement, not an international standard formulated by organizations responsible for combating money-laundering activities. Before considering whether the introduction of this new concept and reporting requirement to Hong Kong is warranted, it is necessary for us to make reference to relevant legislation in other jurisdictions, in addition to Britain. Furthermore, in view of the profound impact of the relevant proposal on the public and the financial sector, it is imperative for us to consult and listen to the views of all sectors before deciding whether amendment is necessary and how amendment should be made.

The existing requirements of reporting suspicious transactions and property are found in the Drug Trafficking (Recovery of Proceeds) Ordinance, section 25A of the Organized and Serious Crimes Ordinance, and section 12 of the Ordinance. What is covered by these three provisions is consistent at the moment. Miss NG's proposal will result in inconsistency between requirements of reporting drug trafficking, money laundering and terrorist property. Despite the similarity, the scope of the obligation to report will not be the same. This might result in confusion and misunderstanding among the relevant sectors, law enforcement officers, and even the general public.

At the request of the Bills Committee, the Government has agreed to conduct a detailed review of the existing reporting requirements and the scope of reporting under these three Ordinances shortly. Should the review indicate a need for revision, the Government will introduce the relevant amendment in the course of implementing the Forty Recommendations made by the Financial Action Task Force on Money Laundering shortly. We are of the view that a comprehensive and detailed review can not only enable relevant sectors to reach consensus on this proposal, but also prevent possible confusion and misunderstanding brought about as a result of an incomprehensive and selective amendment.

For the abovementioned reasons, we disapprove of Miss Margaret NG's proposed addition. Thank you, Madam Chairman.

MISS MARGARET NG (in Cantonese): Madam Chairman, I would like to respond to some Honourable Members on certain issues. First, Ms Miriam LAU of the Liberal Party said that the first reason for their opposition was that the wording of my amendment was completely different from that used in the relevant British legislation. Why is there the difference? As a matter of fact, they are different because I aim at minimizing the need for amending our own legislation. In other words, we have adopted the minimalist approach to make the least changes to the provisions to achieve a concrete objective. We have adopted this approach to make the provisions readily comprehensible to Honourable Members. Once they read the marked-up copy of the provisions, they can immediately know that the scope of changes is not at all substantial, and will not affect other parts. This is why the wording is different. However, the wording newly added by me is not completely different, and it is essentially the same as Act 19 of the British Act.

Secondly, Ms Miriam LAU pointed out that I am now rushing through this amendment. In fact, last year's anti-terrorist legislation was really enacted in a hurry, which explained why so many slips had occurred. As soon as I have finished reading the following provision in English, you will start realizing that they are grammatically incorrect. It reads, "Where a person knows or suspects that any property is terrorist property, then the person shall disclose to an authorized officer the information or other matter (a) on which the knowledge or suspicion is based; and (b) as soon as practicable after that information or other matter comes to the person's attention". As part (b) is a complete sentence, a

verb should be used there. But it is not. This reflects that we did have a problem last year when we proceeded to enact the legislation in a hurry, and now we must rectify the errors. On the question of whether we are in a hurry in our legislative efforts now, we must examine the issue carefully. Is it just because of the late submission by Margaret NG, so you put it down soon after browsing through it? Or after having read it carefully, you come to the view that you have thoroughly understood the actual substance of this amendment, but you think that there are still a lot of issues to be considered? If Honourable Members can spend 10 minutes reading through this amendment, they will realize that it is essentially the same as its British model.

The Secretary has mentioned the problem of inconsistency because section 19 of the British legislation still covers all the people. However, "all the people" referred to in section 19 is the same as that proposed by me in the amendment, that is, it refers to "any person" who knows or suspects on the basis of information or other matter which comes to his attention in the course of a trade, profession, business or employment, so "any person" is subject to such a restriction. In other words, the provision uses the scope of access to information to qualify "any person". The information obtained by a student, a housewife, an ordinary man, in the sphere of the lives of ordinary people will not lead to criminal liability. Therefore, the amendment proposed by me is exactly the same as section 19 of the British legislation. This concept of "any person" is subject to completely the same restrictions.

The Secretary has just said that there are two tiers in the United Kingdom, and there is a new section 21A for designating a regulated sector, and such a regulated sector carries greater responsibility. Madam Chairman, I am sorry, section 12 of our existing Ordinance has not provided for such a regulated sector, nor is such a regulated sector asked to carry greater responsibility. Therefore, regarding the new section 21A in the British legislation, since we do not have such a section, it can be enacted and incorporated into the Ordinance if it is found to be necessary and feasible after review and consultation. As we do not have section 21A now, and after my amendment is passed, the Ordinance will carry the same effect as its British counterpart, so it should be fairly safe.

Madam Chairman, the Government has really advanced this theory of inconsistency. Who actually will face the confusion? In fact, what the Secretary for Security worries most is that it may cause confusion for law enforcement officers. If law enforcement officers find it confusing, then what

they should do is to study the legislation very carefully, so that they can distinguish clearly between their own responsibility and criminal liability. They should not opt for the easy way out simply by imposing all the responsibility on the people just because the situation is so confusing. I have always found it an unacceptable principle to extend the scope of criminal liability just for the sake of providing law enforcement officers with greater convenience.

Madam Chairman, today, given the opposition from the Liberal Party and the DAB, I know it is ultimately very difficult for the amendment to pass. But I feel that, we still need to insist on upholding one principle, namely, that criminal offences should not be formulated too casually. We should proceed to do so only when we have sufficient reasons and that it is necessary. We shall enact such legislation only when we know that if this is not enacted, it will not be adequate for us to tackle the problem; or upon enactment of this legislation, it will at least help the authorities in enforcement to tackle such serious problems. If we had made one mistake last time when we rushed through the legislation in this Council, and if the mistake can be rectified now, then we should grasp the opportunity to rectify it. In this way, we can save the people unnecessary threat just for our own convenience. Madam Chairman, irrespective of the outcome today, I feel that I must make this point.

Why do so many Members oppose this? One of the reasons put forward by them is, as the Government has already planned to conduct a comprehensive review, why should you be so anxious? Madam Chairman, I am so anxious because we had too much such experience in the past. First, when the Government conducts a comprehensive review, this comprehensive review could be scheduled to be held on an indefinite date in future, and then later no one mentions it anymore. Such things did happen before. Secondly, as a common Chinese saying goes, "After passing through this difficult hurdle, I couldn't care less about everything." Sometimes, after listening to a suggestion made by Members, the Government would say that a consultation had already been held, but there seemed to be mediocre support for it. Insofar as our bills and legislation are concerned, should so many mistakes occur, just as in this case now, which impose an unnecessary criminal liability on the ordinary people? Madam Chairman, if we want to exercise prudence, we should act immediately to amend it. If it can be amended better in future, we can further amend it in future. But we should not use the pretext that this can be amended in future, and then refraining from amending it now even if we can. Madam Chairman, this is unacceptable to us. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That new clause 7A be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Margaret NG rose to claim a division.

CHAIRMAN (in Cantonese): Miss Margaret NG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Miss Margaret NG, Mr SIN Chung-kai, Dr LAW Chi-kwong, Ms LI Fung-ying and Mr Michael MAK voted for the motion.

Dr Raymond HO, Dr Eric LI, Mrs Selina CHOW, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr LEUNG Fu-wah, Dr LO Wing-lok and Mr IP Kwok-him voted against the motion.

Geographical Constituencies and Election Committee:

Ms Cyd HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr LEUNG Yiu-chung, Mr Andrew WONG, Dr YEUNG Sum, Mr LAU Chin-shek, Ms Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr WONG Sing-chi and Ms Audrey EU voted for the motion.

Miss CHAN Yuen-han, Mr CHAN Kam-lam, Mr LAU Kong-wah, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

THE CHAIRMAN, Mrs Rita FAN, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 20 were present, five were in favour of the motion and 15 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 22 were present, 13 were in favour of the motion and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

CHAIRMAN (in Cantonese): As the motion on the Second Reading of new clause 7A has been negatived, that by implication means that Miss Margaret NG may not proceed with her related amendment to the long title at a later stage, as it is inconsistent with the decision already taken by the Committee.

CLERK (in Cantonese): Schedule.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move the amendment to the Schedule, as printed on the paper circularized to Members.

In response to clause 8 of the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 (the Bill) which empowers law enforcement agencies to disclose information obtained on transactions suspected of involving terrorist property to local and overseas counterparts, the Schedule of the Bill seeks to add relevant disclosure provisions to the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance to the effect that law enforcement agencies can exchange information on suspected money laundering transactions with local and overseas authorities in order to promote and strengthen international co-operation in combating drug trafficking and other serious crimes.

Given that clause 8 just passed stipulates the purpose of information disclosure, the Schedule has to make consequential amendments to the disclosure provisions concerning the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance so as to stipulate that disclosure is for the purpose of combating drug trafficking and other offences.

The Bills Committee has discussed and agreed to the amendment. I urge Members to support and endorse the amendment.

Thank you, Madam Chairman.

Proposed amendment

Schedule (see Annex VI)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedule as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Long title.

SECRETARY FOR SECURITY (in Cantonese): Madam Chairman, I move that the long title be amended, as set out in the paper circularized to Members.

The proposed amendment seeks to make a consequential and technical amendment to the long title of the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003, so as to cover various amendments passed earlier. I implore Members support and pass the amendment.

Thank you, Madam Chairman.

Proposed amendment

Long Title (see Annex VI)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Security, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

UNITED NATIONS (ANTI-TERRORISM MEASURES) (AMENDMENT) BILL 2003

SECRETARY FOR SECURITY (in Cantonese): Madam President, the

United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Buildings Ordinance to amend the Fifth Schedule to the Buildings Ordinance.

PROPOSED RESOLUTION UNDER THE BUILDINGS ORDINANCE

SECRETARY FOR HOUSING, PLANNING AND LANDS (in Cantonese): Madam President, I move that the resolution, as printed on the Agenda, be passed.

The motion seeks to amend the description of Scheduled Area No. 3 in the Fifth Schedule to the Buildings Ordinance to include the railway protection areas

as shown on the plans dated 1 June 2004, which were signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry.

The railway protection areas are those within 30 m from the edges of the railway structures. By virtue of sections 14(1), 41(3) and 41(3A)(f) of the Ordinance, ground investigation and underground drainage works carried out in the railway protection areas in Scheduled Area No. 3 require the Building Authority's prior approval of plans and consent for their commencement. This is to ensure the safety of the railway structures and hence the normal operation of the railway system.

At present, Scheduled Area No. 3(1) includes the railway protection areas along the Mass Transit Railway lines and Area No. 3(2) includes those along the railway lines of the West Rail (Phase 1) of the Kowloon-Canton Railway Corporation. Since the railway structures of the new East Rail Extensions — Hung Hom to Tsim Sha Tsui of the Kowloon-Canton Railway Corporation would be completed by September 2004, we therefore propose to include the railway protection areas along this new railway line into Scheduled Area No. 3(2). We have prepared a new set of plans to show correctly the relevant railway protection areas.

Madam President, I beg to move.

The Secretary for Housing, Planning and Lands moved the following motion:

"RESOLVED that the Fifth Schedule to the Buildings Ordinance be amended –

- (a) in area number 3(2), by repealing ", being the areas" and substituting –

"being -

- (a) the areas";

- (b) in area number 3(2)(a), by repealing the full stop at the end and substituting "; and";

(c) in area number 3(2), by adding –

"(b) the areas delineated and shown edged black on the plans numbered KCR/ERE/TSTE/RP/100, KCR/ERE/TSTE/RP/101 and KCR/ERE/TSTE/RP/111, dated 1 June 2004, signed by the Secretary for Housing, Planning and Lands and deposited in the Land Registry."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Housing, Planning and Lands 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 of the Members present. I declare the motion passed.

PRESIDENT (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2004 and the Poisons List (Amendment) (No. 2) Regulation 2004.

Since the Secretary for Health, Welfare and Food is not in the Chamber, I now declare the meeting suspended.

11.24 am

Meeting suspended.

11.32 am

Council then resumed.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD ((in Cantonese):
Madam President, Honourable Members, I am sorry that I was late.

Madam President, I move that the Poisons List (Amendment) (No. 2) Regulation 2004 and the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2004, as printed on the Agenda, be approved.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system drawn up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can be sold only in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be

authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations for the purpose of imposing control on two new pharmaceutical products.

The Pharmacy and Poisons Board proposes to add two new substances to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing such substances must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under section 3 of the Ordinance to regulate the registration and control of pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The amendments are made in view of the potency, toxicity and potential side effects of the medicines concerned.

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

The Secretary for Health, Welfare and Food moved the following motion:

"RESOLVED that –

- (a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2004;
and
- (b) the Poisons List (Amendment) (No. 2) Regulation 2004,

made by the Pharmacy and Poisons Board on 8 June 2004, be approved."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Health, Welfare and Food 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 of the Members present. I declare the motion passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee in respect of the time limits of Members' speeches. I think Members are very familiar with the time limits and there is no need for me to repeat them here. I would just like to remind Members that I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Qualifications framework for employees.

QUALIFICATIONS FRAMEWORK FOR EMPLOYEES

MS LI FUNG-YING (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed. In recent years, slogans like "knowledge-based economy", "upgrading the quality of the workforce", and "lifelong learning" have become globally popular like famous brand names

marketed by multinational companies. So are they in Hong Kong. In 2001, the Chief Executive mentioned his intention of establishing the Continuing Education Fund in his policy address, stressing that the Fund can "help people to pursue continuous learning, thereby preparing us for the knowledge-based economy." This year, the policy address again put forward a new measure, that is, the Government shall be "establishing a qualifications framework to provide learners with a clear articulation ladder."

According to the design of the Government, the qualifications framework shall cover various trades and professions in society. A consultative committee on the qualifications framework, formed by people from different trades and professions, shall be responsible for formulating programmes that can facilitate the interface among all sectors. Such voluntary programmes shall range from Level One, which is equivalent to the level of a Secondary Three school leaver, to the highest level, Level Seven, which is equivalent to programmes for doctoral degree candidates. At the moment, the Government has already established the relevant committees in four industries, namely, the publication and publishing industry, the watch and clock industry, the Chinese catering industry and the hair dressing industry, which serve as the pilot industries for launching the qualifications framework. Officials from the Education and Manpower Bureau even boasted the other day that, upon the implementation of the qualifications framework, we shall be able to see the emergence of the ideal of "every industry has its own doctors". But will it be so ideal?

On the policy level, no one would oppose lifelong learning and upgrading of the quality of the workforce. In fact, the education level of Hong Kong's workforce has been upgrading. The Chief Executive already set an objective in his policy address in 2000, that is, by the year 2010, the percentage of our students receiving tertiary education will be substantially increased to 60%. This will improve the quality of our future workforce, putting us in a better position to herald the arrival of knowledge-based economy. However, just by taking a look at the census data collected by the Census and Statistics Department in 2001, as well as the data contained in the Report on Manpower Projection to 2007, compiled by the various government departments, we have to admit that the educational level of the local workforce is relatively low. And in the future, we will have a serious mismatch which will increase enormously the difficulty for Hong Kong to undergo economic restructuring. Therefore, as we set up the Continuing Education Fund and by now as we intend to establish a qualifications

framework, we must first tackle the situation of having a workforce which has a relatively lower educational standard — upgrading its educational level is the ultimate direction such policies should guide us.

In 2001, when the Continuing Education Fund was first mentioned by the Chief Executive in the policy address, it had already been provided that applicants for the Fund must not be degree holders. This was really a move with the intention of helping people of lower qualifications to upgrade their quality. Unfortunately, in view of the unsatisfactory response as reflected in the number of applicants, the Government subsequently decided to relax the requirements to allow degree holders to apply for the Fund. Last July, when the issue was discussed in the Panel on Manpower, I already queried the Government's approach. Now the Government is going to launch the qualifications framework which is even of a larger scale. This year, when I delivered my speech in the policy debate, I criticized the Government for launching the qualifications framework before it had examined the reasons for the lukewarm response of non-degree holders in applying for the Continuing Education Fund, and that in doing so, the Government would by no means solve the problem.

The Secretary for Education and Manpower mentioned the qualifications framework in the policy debate, but he did not answer my question. Two points in his speech warrant further examination. The first point, I would like to quote the Secretary, "I have to emphasize once again that the qualifications framework is not a mandatory arrangement, and will not affect the employment of serving workers." End of quote. If he meant to say that the implementation of the qualifications framework will have no bearing on serving workers, it would be a mistake in policy direction. When officials of the Education and Manpower Bureau promoted the qualifications framework, they did say that the arrangement was mainly targeted on new workers to the industries. However, I think one of the major objectives in launching the qualifications framework is to upgrade the quality of our current workforce. Therefore, the policy should not ignore the fact that the quality of our workforce is presently at a low level. Even if the qualifications framework is mainly targeted on new workers who have just joined the industry, the objective result is: It is inevitable that the qualifications framework will have substantial impact on serving workers because when employers recruit employees, they will consider whether they possess the recognized qualifications. So, it will surely have far-reaching impact on the employment situation of serving workers.

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

If the qualifications framework is designed to address the situation of the workforce now, the Government must take the realistic situation into consideration. However, from the generic level descriptors announced by the Government in the qualifications framework, we can see that there is an obvious inclination. For example, in the entry level, Level One, in the area of communication skills, the candidate is required to possess the ability to read and identify the main points and ideas from documents about straightforward subjects. Is it necessary for this requirement to be applied to every industry? The Government has mentioned the generic level descriptors, but it has not mentioned the common criteria for some recognized qualifications and experience already acquired by serving workers. This is not compatible with the realistic situation in society. The employment of local workers is rather unstable, nor do they have any job security. They switch from one job to another, or even from one industry to another very frequently. So qualifications and experience are very important to them.

Another point also warrants our further examination. The Secretary said, "The public may choose to acquire the relevant qualifications through the recognized mechanism set up under the qualifications framework or enrol in quality-assured programmes." I would like to ask the Secretary: Has he forgotten why non-degree holders only show very lukewarm responses in applying for the Continuing Education Fund which is voluntary in nature? Why is the Government so confident in launching the qualifications framework which is also about pursuing continuing education on a voluntary basis? If the people also display the same response towards the qualifications framework, that is, the same response as that for the Continuing Education Fund, how will the Government address it?

The speech of the Secretary on that day also mentioned one point, he said, "(we should).....foster an environment conducive to lifelong learning, and raise manpower quality persistently for the purpose of coping with the challenges brought about by globalization and seizing the opportunities brought about by Hong Kong's economic restructuring." I totally agree to this point. However, I disagree that the establishment of a qualifications framework and its associated quality assurance mechanism is equivalent to the creation of a favourable

environment that will promote lifelong learning. In Hong Kong, there are a lot of channels for aspiring people to pursue continuing education. There are all kinds of programmes offered by charitable organizations, as well as extra-mural programmes offered by the various tertiary institutions in Hong Kong. The Open University of Hong Kong has even provided a very clear articulation ladder for aspiring learners. Regarding vocational skills, various relevant industries, such as the catering, transportation and retail services industries, have run skills enhancement courses and training programmes. As for relevant recognized qualifications, both the Vocational Training Council and the Construction Industry Training Authority have introduced skills assessment test systems which have extensive coverage.

With regard to the creation of a favourable environment for promoting lifelong learning, I must repeat those viewpoints I put forward in my speech in the policy debate this year. As a matter of fact, it is really difficult to require a worker, after having worked six days a week, over 10 hours per day, to make use of his spare time to pursue continuing education. If there is no complementary measures in terms of working hours and wages system wise, it will be very difficult for the current grass-roots workforce of over 1 million to benefit from these learning ladders. I believe it is possible to create a favourable environment in Hong Kong for promoting lifelong learning only after the above difficulties have been removed. Only in this way can we upgrade the quality of our workforce, thereby enabling us to meet the challenges ahead.

I trust the successful implementation of a qualifications framework hinges on an effective mechanism in the labour market that will allow employees to strike a right balance among the three aspects of our life, namely, work, learning and rest. And a review of the current Employment Ordinance is one such feasible option to strike an appropriate balance among the three aspects by way of legal provisions. The Federation of Hong Kong and Kowloon Labour Unions, of which I am a member, has all along requested the Government to implement International Labour Convention No. 140, namely, Paid Educational Leave Convention. In addition, we have made some concrete suggestions, such as proposing that the Government should expeditiously enact legislation to provide that an employee should be entitled to four days of paid educational leave for each year of service. I am convinced that the support of employers is most crucial in creating a favourable environment for promoting lifelong learning. As such, I also suggest that the Government should provide some tax concessions

to good employers who take the initiative of reducing the working hours of employees and making arrangements for them to pursue continuing education.

Madam Deputy, I would like to ask the Secretary now: Are there any other countries or regions similar to Hong Kong which have no provisions for the maximum working hours, the lowest salaries and no collective bargaining power on the part of the unions and yet manage to implement the qualifications framework successfully? Are there such examples? Here I must stress that I have no intention to use "the creation of a favourable environment for promoting lifelong learning" to instigate the contradiction between employers and employees, nor do I intend to generate more arguments on the establishment of a qualifications framework. However, if we want to make the social environment more favourable for promoting lifelong learning, if we want to make the qualifications framework really beneficial to the employees and if we want Hong Kong to have a smooth transition to a knowledge-based economy, then we must not overlook the problems that exist in the labour market. In moving this motion today, I actually hope that Honourable colleagues of different parties or different stances can actively speak and present their views, so as to help the Government to eliminate the blind spots that may exist in policies as it moves towards a knowledge-based economy, thereby enabling the entire community to benefit from it.

Regarding Miss CHAN Yuen-han's amendment, many of the points are actually the long-standing aspirations of the labour sector. Therefore, I also support the amendment, though I think that the successful implementation of a qualifications framework warrants discussions and reforms of greater depth in society. Thank you, Madam Deputy.

Ms LI Fung-ying moved the following motion: (Translation)

"That, as the Government has decided to establish a qualifications framework for employees in a number of industries to upgrade the competitiveness of the workforce, this Council urges the Government to comprehensively examine the profound impact on the employment of employees prior to implementing the relevant policy, and to consider using legislative measures and tax concessions to encourage employers to support the qualifications framework on the one hand and, on the other, ensure that the qualifications framework does not create immense pressure on employees."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms LI Fung-ying be passed.

DEPUTY PRESIDENT (in Cantonese): Miss CHAN Yuen-han will move an amendment to this motion, as printed on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Miss CHAN Yuen-han to speak and move her amendment.

MISS CHAN YUEN-HAN (in Cantonese): Madam Deputy, Honourable Members, Hong Kong has discussed the notion of knowledge-based economy for a long time. We can see that many industries attach great significance to the knowledge-based economy. Under such an atmosphere, employers would usually expect job applicants to possess recognized training and qualifications which would serve as reference in selecting employees. As such, many wage earners have to keep on pursuing further studies for their careers and their prospects. Nowadays, the trend of pursuing lifelong education has primarily formed in Hong Kong in a semi-voluntary and semi-forced situation.

The crux of the problem is, all along, there is only an academic accreditation framework in Hong Kong, but not one for assessing vocational skills. When an employer assesses the strengths of a job seeker, he usually has to rely on his academic qualifications: Secondary Three, Secondary Five, Secondary Seven or university graduation. However, the knowledge acquired in school may not exactly meet job requirements in the real life. A Secondary Three school-leaver may not have made very impressive academic achievements, but his skills and performance in baking a cake or working as a beautician could be much better than a master degree holder. This is because he may not possess the natural gift in pursuing academic studies, but is gifted in other skills.

Therefore, it has been long overdue for the Government to establish a vocational skills assessment framework. I mean vocational skills, not the academic aspect. This will provide the young people or anyone aspiring to join the industries with a channel to receive proper training. People already serving in the industries may also have a clearer route of upgrading their skills, so that they can gradually pursue further studies and seek self-enhancement.

However, as at today, the Government still has not decided to set up a qualifications framework with emphasis on vocational skills. As Ms LI Fung-ying said just now, even the Government's lowest level of requirement is still quite high. I have visited The City and Guilds of London Institute, Britain, which has provided five distinctive grades. Of these five grades, the lowest grade just requires the candidate to possess the ability to distinguish between left and right, recognize the different colours and something related to social skills. It does not require the mastering of certain skills. It is of the view that these are the least essential survival skills for any human being. This is the way they look at it. The whole British Government has obviously placed emphasis on the first three grades of persons who cannot catch up with the major economic development of society. Unlike our Government, they do not deliberately force up the qualifications to master degree or even the doctoral degree. I hope the Secretary does know clearly what your assessment framework is intended to do. If you say that you are going to work in the direction of academic accreditation, well, we already have such frameworks. Why do we not consider formulating a vocational assessment system?

As I said just now, the academic abilities of a person do not reflect all his abilities. Photographers, hair stylists, salesmen, beauticians, do they really have to possess the qualifications of a Secondary Five school leaver? Do they really have to pass the Hong Kong Certificate of Education Examination? Is it really necessary? I have once handled a case, in which the people who came to us for assistance were not the car salesmen themselves, but the owner and the management of a certain major vehicle trading company who brought these salesmen to us for assistance. Why? These salesmen are all very good at selling cars for the management, but the Government has a provision which stipulates that car salesmen must possess an educational qualification of Secondary Five as they have to deal with the insurance part in vehicle transactions. As such, the Secondary Five qualifications requirement makes them ineligible for the examination, and the Secondary Five qualifications requirement makes them lose a job that they can do well. They are a group of employees very much favoured by the employer. Yet, eventually our discussions with the relevant department of the Government failed to come to a successful conclusion. I do not want to see such situations keep on occurring in Hong Kong, making many people lose their jobs without any justifiable grounds. In this incident, we can see that though the employer and the management have taken up the case for the employees, they still lose their case due to the limitations imposed by the relevant legislation. Now, the entire concept on the

assessment framework of the Government is also developed in this direction. I strongly hope that such ridiculous situations will not arise in future anymore.

Honourable Members, we certainly understand that we must move forward with the times, and the requirements of society now are very much different from those in the past. Nowadays, all jobs, regardless of their types and categories, require applicants to possess formal educational qualifications and training. However, the experience and qualifications of incumbent workers are also very precious. Both the Government and the employers should respect and treasure them. As I can see now, both the employers and the management in Hong Kong do treasure these people. If the ordinance to be enacted by the Government does not take care of such situations, then we will not be able to help them even if we want to.

At the moment, the Government still attaches great significance to academic requirements in its conception of the qualifications framework. I am gravely concerned that, the above situation, in which car salesmen were forced into unemployment, will happen again in future. The Hong Kong Federation of Trade Unions (FTU) thinks that the most important element in the qualifications framework is the formulation of a comprehensive exemption mechanism. Just as demonstrated in the case of the registration of Chinese medicine practitioners, a proven experience of 15 years will exempt the relevant practitioners from taking the examination. An electrician will be required to possess six years of experience in order to be exempted. The number of years of experience for exemption purpose for senior workers in the construction industry was passed just two days ago — again the requirement is six years. To people charged with the responsibility of formulating policies: I hope you are not always thinking about how some incumbent workers can be eliminated through the introduction of some systems; instead, you should try all means to work out some ways to enable the existing workers to become qualified under the assessment framework.

The Government must realize that, employees mentioned by us are really human beings who have families to support. They should by no means become the victims under the new system. In preparing for the introduction of a qualifications framework, we should be moving in the direction of enhancing our competitiveness, instead of killing their job opportunities and prospects. Now, there is already widespread discontent in society directed against the SAR

Government. If the rice bowls of the people are broken, it will only invite greater criticisms and grievances.

Madam Deputy, as I have just said, the Government has already done some work. So, when Ms LI Fung-ying proposed this motion, the FTU immediately proposed an amendment. We support the original motion of Ms LI Fung-ying, but we can also see a situation, that is, the Government is already using elitism to formulate such an assessment framework. The FTU has kept on taking up the issue with the Government as well as Fanny LAW during the past few years, but it appears that our suggestions have not been accepted.

We understand that the officials charged with the responsibility of preparing the qualifications framework are all groomed by elitist education. However, I hope these officials can bear in mind that not all the people in this world are elites, nor is it possible for us to expect everyone to become an academic elite. I believe the officials would often dine out in their spare time, so they must realize that the chef who can cook a delicious meal may have finished primary education only. And the junior stylist who can make such a great hairstyle for you may have never received education beyond Primary Six. We feel that these people have done a good job in their respective fields, and if they are in overseas countries, they may already enjoy a status equivalent to a master or even a doctoral degree holder. For instance, such a situation does occur in Australia. The mentality of the entire Government should be: Regarding such vocational skills, it should not ignore their existence. If these people are asked to pursue some conventional education, they may have some difficulty. However, if they are asked to do certain projects in which they are gifted, they can complete it most beautifully. We can see a lot of such success examples in many local celebrities and famous designers. For example, I heard that a famous local fashion designer surnamed LAU does not have any bachelor or master degree, but he has become one of the most well-known fashion designers not just in Hong Kong, but also in Southeast Asia, and even in the world through his industrious pursuit. We have a lot of such people around us. Why does the Government not make use of such examples to remind itself? Their professional development has never been hindered by their unimpressive educational qualifications, and society, employers and the management have all given them the opportunities, why should the Government act otherwise and not give them the opportunities?

The FTU supports the establishment of an assessment framework for vocational skills. The absence of a comprehensive assessment framework for vocational skills has led to a chaotic situation in which different training institutions work in different directions, thus wasting a lot of resources. Madam Deputy, we have all kinds of training programmes, such as the Youth Pre-employment Training Programme, the Project Springboard and associate degree courses — it is most confusing. As for the Vocational Training Council, apart from its own training programmes as well as those offered by the institutes of vocational education (IVEs), it is also planning to launch a school for the non-engaged youths. As all kinds of training programmes for further education are really very confusing, it is really necessary for us to plan effectively in this regard, so that the people can choose the right programmes that will best suit their needs on the one hand, and ensure that they can have the opportunity to study and will not be made to pay excessively on the other. It will also help them to have clearer goals of progress in the course of pursuing their studies.

As a matter of fact, assessment systems for vocational skills have long been established in the Mainland, Australia, New Zealand, Singapore and Britain, and so on. The Government should make reference to their experience, adopt their strengths but eliminate their weaknesses, so that a tailor-made vocational skills assessment framework most suitable for the local workforce can be established. During the consultation period, apart from respecting the viewpoints of employers and experts, the Government should also attach equal significance to viewpoints presented by labour unions. As labour unions stand for the interests of workers, and they can provide realistic information on the front-line operations, the Government should conduct in-depth discussions with the unions on such issues as how the training should be conducted, how the qualifications framework should be designed and what the transitional arrangements for serving workers should be, and so on. Now, we can see that such organizations do exist. For example, regarding the framework for the promotion of workers on merit of their vocational skills, there is a committee comprising employers, union representatives and professionals. However, in actual operation, the Government still holds onto the elitist mentality, and is not inclined to listen to such opinions.

Finally, the Government should consider formulating policies to encourage employers to give employees time to participate in training. Under the present difficult employment circumstances, all Hong Kong employees surely

realize the significance of pursuing continuing education as well as enhancing one's own skills. The problem is: They all have very long working hours, and some even have to work on holidays, so there is virtually no time left for them to pursue any further education. While formulating a qualifications framework, the Government should consider providing employers with training allowances or tax concessions, and it may also consider formulating policies on the provision of training leave. In such relevant meetings, employers and union representatives very often would share the same viewpoints. Only that the relevant government officials are reluctant to face the difficulties envisaged today from the perspectives of employees or the management. Therefore, I wish to propose in today's motion that, apart from making the qualifications framework reasonable, the Government must also act with reference to the situation of Hong Kong employees, instead of making decisions from the perspective of the elites. Moreover, we also hope that the Government can really consider implementing the relevant taxation policies as an incentive for the various parties. In order to enable the people to acquire modern knowledge, it is necessary for all of us to make an extra effort.

Thank you, Madam Deputy. I support the original motion and the amendment.

Miss CHAN Yuen-han moved the following amendment: (Translation)

"To add "so as to match the direction of Hong Kong's future long-term economic development" after "the competitiveness of the workforce"; and to delete "comprehensively examine the profound impact on the employment of employees prior to implementing the relevant policy, and to consider using legislative measures and tax concessions to encourage employers to support the qualifications framework on the one hand and, on the other, ensure that the qualifications framework does not create immense pressure on employees" after "this Council urges the Government to" and substitute with "take the following actions: (a) before implementing the relevant policy, comprehensively consult labour unions, business associations and relevant organizations on the formulation of the qualifications framework and details of its implementation; (b) develop a vocational-skills based qualifications framework in accordance with the practical situations of the trades, and study the establishment of an exemption mechanism for serving

employees, so as to ensure that the qualifications framework does not create immense pressure on them; and (c) consider introducing other complementary measures to encourage employers to support the qualifications framework, such as offering tax concessions for employers who make arrangements for their employees to attend training and enrichment courses that meet the requirements of the qualifications framework".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Ms LI Fung-ying's motion, be passed.

MR MA FUNG-KWOK (in Cantonese): Madam Deputy, in order to cater for the needs of Hong Kong's economic development, upgrade the quality of our human capital and encourage lifelong learning, it is necessary to establish a qualifications framework for various trades and industries. However, the establishment of such a framework must be preceded by extensive consultation and thorough planning, otherwise we may fail to achieve the desired objective and results. Besides, serious consideration should be given to the articulation of this framework with that in the Mainland, so as to offer better opportunities to local workers wishing to go north for development and open up new prospects for them.

The rationale behind the Government's decision is that with a qualifications framework, it will be possible for individual trades and industries to set their own standards on nurturing the talents they need, to upgrade the professionalism of their participants and to establish their respective ladders of qualifications, which will in turn encourage aspiring individuals to pursue further studies for self-enhancement. And, employers will also have some sort of criteria to follow in times of staff recruitment or promotion. The training market will prosper as a result, and the courses offered will be better able to suit the needs of the industries concerned. But apart from concentrating on these benefits, we should be a bit more forward-looking; we should consider how the qualifications framework of Hong Kong can converge with that in the Mainland, so that while the competitiveness of Hong Kong workers is enhanced, their development prospects in the Mainland can also be increased.

In recent years, an occupational qualifications certification system has gradually taken shape in the Mainland, and an occupational standards system with government recognition, capable of meeting the practical needs of the various trades and industries and converging with international standards, has already been established. Under such a system, one must obtain the specified qualifications before one can engage in certain technical trades. Currently, in Guangdong Province, there are at least some 60 types of posts and trades which require licensing by examination. If the qualifications framework of Hong Kong can converge with that of the Mainland, we will be able to fight for mainland recognition of the qualifications obtained locally by Hong Kong employees. This is beneficial to those Hong Kong employees wishing to go north for development.

Hong Kong and the Mainland have developed very close economic ties. Since the signing of CEPA, mutual recognition has gradually been established for many professional qualifications, such as those of lawyers, engineers and medical practitioners. As a result, Hong Kong professionals are now able to go north for career development. I understand that the Hong Kong Vocational Training Council is working with the relevant mainland departments on the mutual recognition of qualifications between both places. The industries under consideration include production, transportation and equipment operation, covering posts such as mould making, vehicle repairs, air-conditioning, lift maintenance and numerically-controlled processing. I am sure that mutual recognition of qualifications can serve the long-term interest of Hong Kong workers, facilitate the flows of talents between Hong Kong and the Mainland and promote the economic development of both places. For these reasons, the conditions in the Mainland should be seriously considered in the course of establishing a qualifications framework for the various trades and industries.

Furthermore, it must be borne in mind that Hong Kong is after all a cosmopolitan city where many people hold overseas academic or professional qualifications. This means that consideration should be given to the inclusion of overseas academic or professional qualifications in any qualifications framework adopted in Hong Kong.

There must be wide recognition of the different levels of qualification standards set down for the trades and industries covered by the qualifications framework. Therefore, the drawing up of standards must involve the veterans of the sectors concerned, employers, employees and students, so as to

incorporate the views of different sides. A fair and reasonable system of assessment and ascent must be drawn up, and qualification assessors must be able to command acceptance and credibility. There should also be an autonomous body responsible for monitoring qualifications assessment, so as to avoid any unfairness. Moreover, the qualifications framework should be updated from time to time, otherwise it will fail to keep abreast of social changes and perform its desired function.

It should be noted that the qualifications framework should not focus solely on academic qualifications; it should at the same time take account of experience and skills. In many existing trades and industries in Hong Kong, very little emphasis has been placed on academic qualifications and systematic training, and employees usually learn the skills required and obtain qualifications on the job. Some employees with low qualifications are in fact very rich in experience, so it will be most unfair to them if assessment is based solely on academic qualifications. This means that the qualification standards set down for the various levels in the qualifications framework must not only take account of academic qualifications and education levels, but should also give recognition to vocational skills and experience.

Since there has been a long-standing lack of skills standards in many trades and industries in Hong Kong, the establishment of a qualifications framework must be preceded by thorough planning, and a progressive strategy should be adopted. An assessment system should first be tried out in some industries with higher feasibility, and it should only be extended to other industries when proven successful. In case there is a lack of consensus in a particular industry, no qualifications framework should be applied to it hastily, and care must be taken not to cause any unemployment. If, at the beginning, it is found difficult to assess the skills acquired in the past by those engaged in a certain industry, the pragmatic approach of an exemption system should be considered. In the case of the registration of Chinese medicine practitioners, for example, a number of experienced Chinese medicine practitioners were granted exemption from sitting for examinations. But I also think that there must be a set of objective and effective criteria to assess whether a participant should be granted exemption. If not, all the qualifications standards will become much too rudimentary. The lack of authoritative and objective criteria will make it difficult to convince others and win the recognition of the Mainland. It will thus be difficult to open up new employment prospects for employees in the trades and industries concerned.

Madam Deputy, in order to establish the acceptance of the qualifications framework, we must encourage employers to support such a system by, for example, offering tax concessions to employers allowing their employees to receive training, or by establishing a mechanism similar to the Small and Medium Enterprises Training Fund. Since the workload of employees is extremely heavy nowadays, we should also consider the possibility of establishing a leave mechanism for them, so as to encourage them to pursue further studies.

With these remarks, I support the motion of Ms LI Fung-ying and the amendment of Miss CHAN Yuen-han. Thank you.

MR LEUNG YIU-CHUNG (in Cantonese): Madam Deputy, as pointed out by me in yesterday's debate on the Construction Workers Registration Bill, similar registration systems for certification of workers' qualifications and skills do have merits because, on the one hand, they can provide some objective standards for assessing the skill levels of workers, and on the other, they can provide job protection for workers in their respective trades and industries. If there are clearer training frameworks and objectives, workers will have a greater incentive to further their studies and upgrade their skills. However, when considering this question, we must not just look at the brighter side of it without considering the darker side. This is because in fact when this registration system was formulated, we worried a lot about many aspects, especially on how it impacts on workers' lives and how its requirements could be met.

In March, when this subject was discussed in the Legislative Council Panel on Manpower, I already brought up the above question. Yet, unfortunately, the government representative just said that it was not necessary for us to worry and there would not be any problem. However, is it really as simple as that? In fact, this is not the case, especially when I see that many workers, even those very experienced ones, are gravely worried. What are they worrying about? As pointed out by many Honourable colleagues, if workers are required to take tests, how can they afford the time to receive training or to adapt to the requirements of the tests? If they have to make an effort in this regard, it must bring about great problems. As said by many Honourable colleagues, it takes them the time, energy and money to take the tests. But in their realistic life, this will inevitably cause them great inconvenience, and it is by no means easy. We all know that, the present wage level is so very low. Apart from the need of

spending an additional sum of money on paying for the continuing studies, they still have to take days off to attend the courses. However, if they have to take the leave, we all know that, they will definitely lose their income for the days on which leave is taken. This will bring about an extra burden on them. They have to overcome one hurdle after another. As such, they cannot help worrying about these issues. For this reason, I think these questions must be considered in the course of formulating this framework.

Apart from problems in this regard, Mr MA Fung-kwok has mentioned just now another issue which is also a grave concern to us, that is, the qualifications framework assessment board. A short while ago, he quoted the case of Chinese medicine practitioners as an example. We did quote this example as well yesterday. I would like to repeat what we said once again here. In fact, insofar as the experience of Chinese medicine practitioners is concerned, what we worry most is that, as the Administration will definitely invite people in the industry to serve as members on this board, and there may be the problem of vested interests within the board, thus making it not neutral and incapable of assessing the qualifications of others — as Mr MA Fung-kwok said, while some of the people may be exempted, some others may not, even though they should have qualified as well. In this way, the situation may become very unfair and impartial.

Therefore, we must take these issues into consideration, especially on how to ensure a balanced composition of the board whose members may have different interests, different background and different nature, and how a better and more reasonable approach can be adopted. This is an issue that warrants careful deliberation and prudent consideration. Otherwise, we shall not be able to tackle such problems. For example, when I spoke in yesterday's debate on the Construction Workers Registration Bill, I said that, of the 17 members on the board, only three labour union representatives would be appointed by the Government to represent the workers, and the remaining members will not stand for the interests of the workers. However, the Government said that this was not the case. Among members on the board, some neutral persons, such as the professionals, will be appointed. These persons do not necessarily stand for the employers. Maybe they will speak for the workers. However, this is where the problem lies. On discussing professional issues, many of the so-called neutral persons or the professionals actually belong to the management level. Even if they are not the employers, they are persons belonging to the management level. Therefore, their stances and viewpoints may not cater to the

needs and situations of the grass-roots workers. As such, insofar as a balance is concerned, it looks pretty balanced, but in fact it is not. Therefore, regarding this issue, that is, the composition of the framework, we do have some worries. If the composition of the framework is similar to those of certain existing frameworks, I think the registration in future will definitely and inevitably give rise to some very enormous problems.

As I said just now, the Government keeps stressing the significance of lifelong learning, which no one will oppose. However, the crux of the problem is, with the resources provided, how many workers can be supported to pursue lifelong learning? At the moment, the Government suggests to provide \$10,000 to each worker to pursue learning for one year. However, we all know that, such courses entails expensive tuition fees. For example, each language course will cost at least over \$2,000. If a comprehensive programme is taken, it may cost more than \$10,000. Therefore, as far as resources are concerned, if we advocate the upgrading of qualifications, we must think carefully how the workers can be helped in terms of resources and how we can assist them to upgrade their qualifications. Otherwise, if we just require them to upgrade their skills and professional knowledge without offering them any assistance, we are not doing a favour to the workers at all.

Besides, I have just said that time is also an important issue because some recent government statistics reveal that over 20% of our working population work more than 60 hours per week. In other words, nearly one quarter of our workforce is working more than 60 hours per week. With such long working hours, how can they receive training? How can they make preparations for the tests? This is a very realistic problem. Therefore, I hope that the Government can listen to the demands of the labour sector in implementing this programme, and it must proceed to draft legislation to limit the maximum working hours of workers. Otherwise, the promotion of the so-called lifelong learning and upgrading of skills will just become some empty talks. It will be meaningless and actually does not help to solve the problems.

Moreover, I would like to discuss the issue of transitional arrangements. Yesterday, when we examined the registration of construction workers, we also touched on the issue of senior workers. How should we show our due respect for experienced workers so as to enable them to keep their jobs? On this issue, we hope it can be simplified as far as possible. Take the case of Chinese medicine practitioners as an example. The principles adopted were not bad, but

the actual implementation had been quite lousy. I hope we can really respect the experienced workers — let them have a smooth transition and adopt some simple procedures to address their situations.

Madam Deputy, I so submit.

MR ANDREW CHENG (in Cantonese): Madam Deputy, I must apologize once again for having to speak in such a hoarse voice in expressing my support for the motion and amendment put forward by the two "respected ladies" of the labour sector.

Madam Deputy, according to the Government's manpower studies and estimates, there will be an acute problem of manpower mismatch in the labour market of Hong Kong. There will be a shortfall of more than 100 000 people with tertiary qualifications but a surplus of 230 000 workers with upper secondary qualifications or below. One of the more feasible ways to deal with this mismatch is to upgrade those with insufficient qualifications by offering them training. The establishment of a qualifications framework is a significant step, for it can enable those who wish to upgrade their qualifications to see where they stand on the qualifications ladder.

The Democratic Party has always been urging the Government to work out ways of upgrading the qualifications of local workers, advocating that a qualifications framework is one of the necessary important steps. However, we also think that the actual implementation must be handled very carefully due to the very complex nature of the issue. What we are talking about is the establishment of assessment benchmarks, something that will determine what level of qualifications an employee has obtained and thus whether or not his prior working experience and training can be recognized. If a qualifications recognition framework is worked out rashly and the skills of experienced workers with low qualifications are unfairly denied due recognition, the employment prospects of these workers will be adversely affected.

In establishing a qualifications framework, a number of basic conditions must be considered. First, there must be recognition from employers and training or educational institutions. Second, qualifications assessment must be based on objective standards that can evaluate the skills, knowledge and relevant

experience relating to different industry sectors. Third, there must be feasible avenues for employees' self-enhancement.

In order to ensure recognition by employers and training institutions and to set down workable assessment methods, a qualifications framework must accord with the conditions in different industry sectors. Since the conditions vary, people from the relevant industry sectors must be invited to participate and decide on the establishment of a qualifications recognition system.

The qualifications framework proposed for establishment by the Government is a single, seven-level framework, with generic level descriptors for each level. But this is only the first step. The descriptors drawn up by the Government are relatively abstract, and what matters most instead is the ensuing work of actual implementation, that is, how different industry sectors are going to make concrete decisions on the kinds of skills, length of experience and types of training courses required for recognition.

The Government has decided to set up Industry Training Advisory Committees (ITACs) in different industry sectors. These Committees will be of key importance to whether a fair Recognition of Prior Learning mechanism can be established, and whether the qualifications framework itself can be implemented smoothly. Besides including employers, training institutions and professionals, ITACs must, more importantly, ensure the participation of all levels of employees. We must make sure that before drawing up any recognition mechanism, ITACS will always fully consult employees, employers and other relevant parties, especially grass-roots workers. There may not be enough channels for these workers to understand this issue and reflect their conditions and views, but the qualifications framework may well affect their employment and promotion prospects in the future. That is why more resources must be spent on consulting these workers.

Madam Deputy, one important objective of establishing a qualifications framework is to help employees enhance their own value by receiving training. But the working conditions of many employees simply do not allow them to do so. As pointed out by many Members just now, the statistics for the first quarter this year indicate that 740 000 employees had to work more than 60 hours a week. After the long working hours, it is unlikely that employees can still have any spare energy for further studies. The Continuing Education Fund set up by the Government in 2002 was unable to induce employees with low

qualifications to receive training. The eligibility requirements were therefore relaxed subsequently to allow degree-holders to apply for funding. One of the reasons for this, I believe, was that grass-roots workers simply did not have any spare energy for further studies.

Therefore, when it comes to encouraging employees to upgrade their qualifications, the support of employers is most important. All possible ways to encourage employers to allow employees to receive training should be supported, be they the enactment of legislation on standard or maximum working hours or the provision of tax concessions.

With these remarks, I support the original motion and the amendment.

MR ABRAHAM SHEK: Madam Deputy, I speak in support of today's motion moved by the two gentle but strong ladies of the Union.

I believe the Chief Executive's policy initiative to set up a qualifications framework for employees is a timely suggestion. If properly implemented, it would be welcomed by both the workers and the community at large.

This particular framework will help to address at least some of the manpower problems, namely, the lack of proper recognition for practical and general work skills. It will also be a way to deal with the sizable mismatch between job requirements and workers' qualifications. But perhaps the greatest achievement the proposed framework can offer is to provide an alternative, legitimate "ladder" for personal upgrading to those workers who do not possess the required academic qualifications to enroll in mainstream educational institutions but are motivated enough to want to improve.

In particular, the sectors of catering, printing and retailing, which will be among the first batch of industries to implement the framework, have long lacked any common benchmarks of quality. As a result, many chefs, printing workers and salespersons alike are uncertain whether their skills can adequately meet the standard requirements of their respective industries.

The electrical and mechanical sector, the professional services of which are an essential component of building works, will also be among the first to

implement the qualifications framework. Both the sector and I fully support the introduction of common industry benchmarks. The framework can be tied in with the soon-to-be-introduced construction workers registration system to further promote a culture of quality in the sector.

Madam Deputy, the Government is aiming to develop a universal, seven-level hierarchy of qualifications which can be applied to different industry settings. After testing it out in four industries, the Government claims that the pan-industrial framework is almost ready to be introduced to the wider market. However, to ensure that the policy proposal could achieve its aims, the Government should be prepared to address the extra pressure which will likely be created for both employers and employees.

To employers, the introduction of a qualifications framework may create higher costs in the short term, since they may have to plan for some workers to take time-off to attend training courses, and so on. To promote wider support among employers, I agree that proper financial incentives are necessary. Tax concessions, in particular, can be an effective method of encouragement.

On the other hand, employees, especially those with relatively low skills or little education, may be concerned about whether, and how, the new framework would affect their livelihood. Since the proposed framework is voluntary, it seems unlikely that a worker who fails to pass a particular workplace assessment test would lose his job. However, the enticing promise of an opportunity to progressively climb up a workplace ladder should increase employees' interest, as more industries adopt the same set of qualifications benchmarks. I am almost certain that a work culture of attending courses and undergoing workplace assessments would soon be accepted as part of any workplace. Also, I urge the Government to give financial incentives to the workers for fulfillment of the training needs under this scheme.

Considering the potential impact of the qualifications framework on workers, I believe it is of utmost importance that the assessment guidelines be sufficiently clear, appropriate and effective. To this end, the actual circumstances of each relevant trade must be taken into consideration. A tripartite agreement — namely, the Government, industry trade bodies and workers' unions — must be consulted in the process to develop assessment guidelines for each relevant industry.

Madam Deputy, I realize there are opinions which believe that economically, this is not the right time to implement the qualifications framework. When is the right time? I personally feel that this is the right time. The Government should not defer the policy proposal until the economy has significantly improved, as some have suggested. They should implement it now. One reason why the economy has been stagnant is that it is in the process of changing into a knowledge-based system, creating a mismatch between work and workers. Upgrading the quality of our manpower is an integral part of this economic transformation. I, therefore, consider implementing the qualifications framework, as well as any other measures which would enhance the productivity and competitiveness of our workforce, a matter of urgency.

Thank you, Madam Deputy.

MR CHAN KWOK-KEUNG (in Cantonese): Madam Deputy, when one wants to buy a wardrobe, many would rather spend a bit more money on a customized one, because ready-made products available on the market may not always fit the plans of their home. Similarly, if the Government wants to follow the examples of other countries and introduce a qualifications framework, it must first take account of the features of the local labour market before it can come up with a design that can cater for diverse needs. It must not copy any framework mechanically and hasten to revise its seven-level proposal after seeing that others have adopted five or 10 levels.

The qualifications framework proposed by the Government's consultant encompasses seven levels of qualifications from diplomas to doctoral degrees. The ranking is much too simplistic and biased towards academic attainment. These seven levels are supposed to cover the qualifications required for all industry sectors in society, so to deal with them is as complex as dealing with seven scales in music. Obviously, the proposed levels of qualifications are unable to cope with the complex and ever changing circumstances in society. The current proposal must be subject to further consultation, revision and revamping before it can win the general support of society.

The amendment and the original motion both emphasize that the Government must consult labour unions, business associations and relevant organizations. This is the first premise. Simply by reading the consultancy report, one can already know that Hong Kong is not adequately prepared for the

introduction of a qualifications framework. To begin with, the consultancy report has not put forward anything that can reflect the wishes of employees. For this reason, the Government must consult labour unions and seek to understand the needs of employers before it can come up with a qualifications framework that can upgrade the manpower quality of Hong Kong. Besides, nearly 1 million people in Hong Kong possess only low academic qualifications, so any rash implementation of the consultant's proposals will, just to say the least, exert some kind of pressure on these people, if not deprive them of employment prospects.

In many countries, similar qualifications frameworks are based on vocational competencies, with interface between vocational qualifications and academic ones. This means that capable persons in individual industry sectors are also given wide recognition, in very much the same way as academic qualifications are recognized. This is a feature that must be included in any future qualifications framework. Unfortunately, as pointed out earlier, this is not the case with the proposed framework.

It must be realized that the establishment of a qualifications framework is intended to assist employees in obtaining assessment and recognition, so that the manpower quality of Hong Kong can meet the needs of globalization. Hence, the framework to be adopted must be able to converge with those of the Mainland and the rest of the world. But the bias towards academic attainment will render the proposed framework largely useless in practice. That is why we must focus on vocational qualifications and eliminate any elements that discriminate against people with low academic qualifications. To put it simply, we must "look at qualifications in the context of the industry". One example is the catering industry, where many chefs do not have any high academic qualifications, but many of them are still employed as supervisors or executives in the catering departments of overseas hotels. Ranks do exist in every occupation, so the inclusion of all these ranks in a qualifications framework is indeed a difficult issue. The best people of an industry may just possess very low academic qualifications, but their vocational status must not be ignored.

In other words, the most pressing task of the Government should be to take account of the actual situation of different industry sectors and devise a framework based on vocational skills. This will require the participation of labour unions and relevant organizations, and it is simply impossible to work behind closed doors. Frankly speaking, consultation may well be the most

important stage in the process of establishing a qualifications framework, the lead work that must not be ignored.

What is more, it may be necessary to establish an exemption mechanism in some industry sectors. As in the case of the Construction Workers Registration Ordinance enacted earlier, we must grant exemption to highly experienced persons or recognize their working experience. All such experience cannot be assessed by applying one single standard, nor can it be rashly grouped under any levels, especially those based mainly on academic attainment.

We in the Hong Kong Federation of Trade Unions are of the view that the framework is supposed to achieve the positive result of encouraging employees to further their studies and upgrade their skills. The Government must not stop after introducing a framework but must also put in place a package of other measures to induce employees to upgrade themselves, to climb up continuously on the ladder of qualifications. To this end, tax concessions and training leave are essential. After the Government has set down a clear direction, proper arrangements for the required package of support measures should then be made. This is the only way to achieve the objective of inducing all in society to pursue lifelong learning.

With these remarks, Madam Deputy, I support the amendment and the original motion.

MR TOMMY CHEUNG (in Cantonese): Madam Deputy, the economy of Hong Kong has by now entered a bottleneck of its restructuring. Whether or not there can be any successful restructuring to a knowledge-based economy will depend largely on whether the overall knowledge level of the Hong Kong workforce can keep abreast of the times.

Therefore, the Liberal Party supports the Government's move to establish a qualifications framework that can encourage serving employees to enhance their value, and that can provide a reliable basis of qualifications assessment for employees applying for jobs and employers recruiting staff.

Although we agree that the proposed framework is well-intentioned, in the sense that it can help upgrade the competitiveness of the Hong Kong workforce, we nonetheless do not support its mandatory application through the enactment

of any legislation, because this will create chaos in industry sectors; if the framework is not well-thought-out, or if there are any improper arrangements, many operational problems will emerge, and employees will also be subjected to heavy pressure. That is why the Liberal Party thinks that the framework should be implemented on a voluntary basis, and that all sectors should be encouraged as much as possible to play a part, so as to ensure that the framework can meet the practical needs of all industry sectors. We therefore do not support the enactment of legislation as proposed in the original motion.

On the other hand, we find Miss CHAN Yuen-han's amendment more practical and capable of catering for the practical needs of employers, employees and industry sectors. It is more pragmatic and desirable to encourage participation on a voluntary basis.

To begin with, I support the amendment's proposal on fully consulting industry sectors before formulating a qualifications framework and the various details of implementation. We especially support the principle that a set of cross-sector benchmarks should be worked out. However, the scope of this will be very extensive, so it is most important to ensure that the set of benchmarks are fair, impartial and in line with industry needs, capable of achieving uniformity while fully catering for the practical needs of all industry sectors.

We may look at the catering industry, to which I belong, as an example. Dim sum cooks in Chinese restaurants can be divided into the ranks of apprentices, senior apprentices, dough maker, filling maker, supervisor and division head, and these ranks may vary from restaurant to restaurant. When it comes to chefs, the ranking is even more detailed. In one six-star hotel with a long history, there are as many as nine ranks from Junior Chef to Executive Chef; and there are separate promotion paths in its dessert and Chinese cuisine departments. The ranking in one single hotel is already so complex, so if a seven-level framework is to be drawn up for the entire industry, the participation and input of the industry sector must be of key importance to the feasibility of the whole plan.

For this reason, in order that the seven-level framework and its assessment standards can really keep in line with the practical situations and needs of various industries, the authorities must ensure the full participation of industry sectors and refrain from working behind closed doors or from "placing laymen in charge of experts". If not, the framework may achieve the opposite result of creating troubles for the people.

We also agree to another proposal contained in the amendment, the proposal that the qualifications framework and assessment standards should be based on the relevant vocational skills and experience and truly reflective of the skills levels and experience demanded of the employees of the industry sectors concerned. And, care must be taken to make sure that the training courses offered will not be detached from the actual situations of the relevant industry sectors.

Besides, the new qualifications framework must also offer protection to serving employees possessing relevant prior experience, so that their skills and qualifications can be given due recognition. Therefore, we agree that some sort of exemption mechanism should be established, whereby experienced or senior employees can be assessed by qualified assessors at actual or simulated workplaces. Alternatively, instead of asking them to follow the basic paths of the qualifications framework and undergo any examinations, we may simply grant recognition to their working experience upon the production of proof. In other words, as a general principle, we should not break the "rice bowls" of any experienced serving employees or categorically ignore their prior experience and require them to start afresh, for this will exert unnecessary pressure on them.

Besides, in order to encourage employees to further their studies, we also think that the Government should actively consider the idea of extending the scope of tax concessions from employers currently allowing their employees to receive training to those who let their employers take training courses for the purpose of meeting the requirements of the qualifications framework. As for employees, since only \$800 million has been granted under the \$5 billion Continuing Education Fund, there are still abundant funds open to applications. We therefore think that the authorities can consider the possibility of widening the scope of recognized courses, so that employees from more industry sectors can benefit.

Lastly, I wish to point out that since the qualifications framework involves a very extensive scope and the four Industry Training Advisory Committees (ITACs) newly set up are still in their infancy, employers and employees need more time to understand the nature of the framework and assess its implications. Therefore, the prime tasks of the Government should be to render adequate support and assistance to the ITACs, listen widely to the views of all industry sectors and explain to them all the details of the framework. And, after an industry sector has set down the specific arrangements required, the Government

should allow sufficient time for observing the feasibility of the framework. Rash actions are not advised.

With these remarks, Madam Deputy, I support the amendment.

MR LEUNG FU-WAH (in Cantonese): Madam Deputy, as far as the establishment of a qualifications framework is concerned, the Hong Kong Federation of Trade Unions (FTU) already put forward such an idea as far back as 1992, when the Government set up the Employees Retraining Board. I can remember talking to a certain government official who was then a Principal Assistant Secretary for Manpower and Education, and who is now the Permanent Secretary of a certain Bureau. I said that since the Government intended to launch employee retraining, it should also offer training on occupation-switching. And, I further pointed out that this would involve the assessment of vocational skills in some cases, so a system of vocational skills assessment should be established as part of Hong Kong's manpower training and development. Unfortunately, the then Government paid no heed to these proposals. In retrospect, we can in fact see very clearly that the Government simply regarded the retraining scheme as a means of covering up or delaying the unemployment of middle-age workers. I am just talking about the former Government. The former Government simply would not be so forward-looking as to consider a vocational skills assessment framework.

In 2002, The Government of the Hong Kong Special Administrative Region (SAR) commissioned a consultant to study the possibility of establishing a qualifications framework in Hong Kong. The Education and Manpower Bureau has subsequently put forward a seven-level qualifications framework based on the consultancy studies. With globalization and the increasingly keen competition that comes with it, there is no denying that the success or otherwise of economic development will depend entirely on the factor of manpower resource. With the Report on Manpower Projection to 2007 and the Report of the Task Force on Population Policy, society can now have access to more information for discussion. This shows that the SAR Government does attach importance to manpower development. But it is very surprising that the seven-level qualifications framework is based so simplistically on academic attainment as the principal means of assessing skills levels. This is simply not in line with the actual situations of many industry sectors, totally disregarding the interest of serving employees. The FTU thus finds this hardly acceptable.

Madam Deputy, the proposed seven-level qualifications framework is divided into the levels of certificates, diplomas, associate degrees, first degrees, master's degrees and even doctor's degrees. This is clearly and simply a framework of academic qualifications assessment. It is such a pity that we simply cannot see how such a framework of academic qualifications assessment can deal with the actual situations of different industry sectors. Chefs in the catering industry are one example. As a kind of convention, most chefs in the industry will start their career as an apprentice, with their promotion and remunerations being based entirely on performance, especially creativity and unique cooking styles. Seniority is also one determinant, but academic qualifications are never relevant. There are several world-famous chefs in Hong Kong, and they are in fact the finest in the culinary art sector. If they are to be assessed at all, they will certainly be given the highest ranking. But if academic attainment is taken into account, how can they be given any senior ranking? They all earn their living by cooking. So, if the authorities forcibly introduce this seven-level framework, I am afraid neither employees nor employers will render their support.

The FTU is of the view that a qualifications framework must be based on practical vocational skills and implemented only in industry sectors where skills level requirements are high and where conditions are ripe. Consideration must be given to the problem of convergence with the qualifications frameworks in the Mainland and overseas in devising the division of levels. And, there must be some sort of exemption mechanism to prevent employees from being adversely affected. On this premise, employees may obtain the qualifications required by a variety of means including training and assessment. At the same time, the Government should offer tax concessions and the like to encourage employers to grant study leave to their employees.

At a time when Hong Kong is fast developing into a knowledge-based economy, the FTU supports the Government's formulation of a qualifications framework that can upgrade the local workforce to cope with the increasingly fierce competition ahead. However, the specific benchmarks of this qualifications framework must be based on the actual situation pertaining to the various posts and types of occupations in all the industry sectors. There must be an integrated exemption mechanism and other policies on promoting studies, so as to protect the legitimate interests of workers in regard to employment and training. There must also be the equitable participation of employers,

employees, government officials and various experts before an effective qualifications framework can be formulated for Hong Kong.

With these remarks, Madam Deputy, I support the original motion and the amendment.

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

MR TAM YIU-CHUNG (in Cantonese): Madam Deputy, given the waves of globalization, the development of manpower resources as a means of upgrading the workforce has become an irresistible trend. We do not oppose the establishment of a qualifications framework, but as a prerequisite, such a framework must not be allowed to affect the employment of the existing 1 million-odd non-skilled or semi-skilled workers with just Secondary Three qualifications or below.

(THE PRESIDENT resumed the Chair)

We are of the view that in the course of formulating a qualifications framework, the Government must take these measures. First, it must conduct a proper consultation exercise, fully gauging the views of labour unions, business associations and relevant organizations. Since a qualifications framework carries far-reaching implications, the Government should fully consult the various industry sectors, especially the workers of various trades and industries. The establishment of a qualifications framework should attempted only with the agreement and support of these workers. In the four existing Industry Training Advisory Committees (ITACs) for the printing, hairdressing, clock and watch making and catering industries, there are just a handful of labour union representatives, but there are more than 10 employers' representatives. Labour union representatives are indeed very small in number in comparison. We are of the view that the ITACs should pay heed to the views of union representatives, and that their number should be increased.

Second, the Government should formulate a qualifications framework based on vocational skills, having regard to the situations of industry sectors, so

as to cater for the actual needs of society locally. All over the world nowadays, vocational and academic qualifications are accorded equal importance. In Germany, for example, the employees of each type of occupation are required to hold the relevant qualifications and diplomas; university graduates are no exception. Since vocational and academic qualifications are entirely different qualifications, care must be taken to ensure that academic qualifications are not mechanically set down to impose excessive academic attainment requirements. Rather, skills level requirements and standards should be formulated in accordance with actual industry needs.

Third, the Government should study the feasibility of first introducing a qualifications framework for industries where there are higher skills level requirements, and where conditions are ripe. For instance, the catering and printing industries are quite demanding in respect of skills levels, so they may be considered before others. But in other industries, such as logistics, which involves land, sea and air transportation, the situations may be more complex, and so the conditions may not yet be ripe. That is why we think that for these industries, no rash actions should be taken. Besides, the division of the levels in a qualifications framework should be worked out in the light of actual industry situations, and consideration must be given to their convergence with qualifications frameworks in the Mainland and overseas.

Fourth, the Government should establish a satisfactory exemption mechanism for serving employees. According to the findings of the Census in 2001, 37% of the workforce of Hong Kong possess only junior secondary qualifications or below. Therefore, the introduction of a qualifications framework is likely to affect serving employees with low academic qualifications. Employees will fear that they may either lose their jobs or have to face wage cuts. This is especially the case with senior employees or those earning high wages.

Since serving employees are experienced and skilled, it is only reasonable to establish an exemption mechanism for them. In fact, when licensing systems were introduced in the past, an exemption system was often provided. In 1992, for example, when the registration of electricians was introduced, those with six years of experience or more were exempted from examination. And, in September 1999, when a qualifying examination was introduced for the insurance business, those who joined the sector before 1 January 2000 were also exempted from examination. These are all reasonable measures. We may also look at the recently introduced registration system for construction workers.

A similar arrangement is also put in place. Besides Hong Kong, we may still study the experience of Britain, where workers do not have to undergo any skills tests but can still obtain the required qualifications simply by producing proof of working experience.

In addition, when a qualifications framework is implemented in the future, the Government should allow employees choices. For example, instead of rigidly requiring an employee to receive training, the Government should permit the employee to choose direct skills assessment as a means of attaining the required qualification.

Fifth, in order to encourage employers to support the qualifications framework to be introduced, the Government should consider the formulation of support measures. The Government has in fact been investing huge resources in upgrading workers' vocational skills, but due to various constraints, many employees have been unable to benefit. One example of such constraints is the refusal of employers to grant study leave to their employees. For this reason, the Government should offer tax concessions and conduct publicity and education to encourage employers to grant study leave to their employees. That way, it will be possible to foster employers' support for employees' participation in learning, thereby upgrading the latter's skills. The Government may make use of the levy on foreign domestic helpers as a means of financing skills training.

A qualifications framework is very complex and cannot be established overnight. Therefore, before there is any consensus in society, we must proceed very cautiously. Hasty moves are not advised.

Madam President, I so submit. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms LI Fung-ying, you may now speak on Miss CHAN Yuen-han's amendment.

MS LI FUNG-YING (in Cantonese): Madam President, Miss CHAN Yuen-han mentioned in her amendment that before implementing the relevant policy, comprehensive consultation should be carried out. Now the Government has established respective advisory committees for four industry sectors, that is, printing and publishing, hairdressing, watch and clocks, and Chinese catering. However, it is obvious from the name of the relevant committees, Industry Training Advisory Committees (ITACs), that they are established only for the qualifications framework. Given the names of these committees, and viewing from this angle, it seems that they are confined to providing advice on training courses, so I am concerned that whether we can call it a comprehensive consultation.

Another issue was mentioned by Mr TAM Yiu-chung just now, that is, in these committees, the Government had not considered the issue of balanced participation between employers and employees. Let us take the ITAC of Chinese catering as an example, 14 of the members are representatives of employers, while only six are union representatives. Government officials will say, the will ITAC discuss only issues relating to training, not the disagreement between employers and employees. Madam President, it is obvious that during the course of discussion, despite both the representatives of employers and employees will have agreed to the establishment of a qualifications framework, there will be different opinions when it involves the recognition of qualifications and experience, or they are definitely at odds with each other. If there is no balanced participation from both sides, does it imply that the Government only intends to make these committees discuss questions which have obtained consensus from both sides only, or simply discuss these issues, not other issues arising from the qualifications framework? If that is not the case, I also hope the Government will look into ways to achieve the goal of balanced participation in these committees. Thank you, Madam President.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the economic transformation of Hong Kong has brought about substantial impact and new challenges to the manpower requirements in Hong Kong. In the face of globalization of world economy, rapid development and penetration of technology, and Hong Kong's further progress towards knowledge-based economy, local enterprises, employees and even the whole community have to equip themselves, enhance their productivity and competitiveness so as to grasp the opportunities to be brought about by these

developments. In the process of such drastic changes, the establishment of a qualifications framework (QF), encouragement on training, establishment of progression pathways and promotion of lifelong learning are essential to the long-term manpower development of Hong Kong. I am grateful to Members' concern for the QF. In response to the motion, I would like to take this opportunity to explain to Members the Government's policy objective, key initiatives of implementation and the elements of successful implementation.

Despite a proliferation of qualifications awarded by various education and training programmes in the market presently, we lack the criteria for assessing the quality of these qualifications. Both trainees and industries are uncertain about the effectiveness of these programmes and whether they can help trainees grasp the necessary skills of their respective industry sectors. Besides, the absence of unclear progression pathways in many industry sectors has prevented the industry sectors from absorbing talents. The scope of articulation is so restricted that the choices of programmes available to the trainees are also limited.

The establishment of the QF is to set out clearly the standards required of different qualifications, to ensure the quality of these qualifications, and set out clearly the articulation ladder for qualifications of different levels so that members of the public can define their own goals and draw up their road maps to acquire the relevant qualifications. We hope that through the establishment of the QF, a qualification ladder linking up each other can be built, thus fostering an environment which is conducive to lifelong learning.

Under the QF, qualifications are systematically divided into different levels with clearly defined standards for each so that they can be put in order, enabling articulation arrangements possible. The QF will cover academic, vocational and continuous education sectors, providing pathways for credit accumulation and transfer. The framework is divided into seven levels according to the generic level descriptors, which include not only qualifications, but also knowledge, cognitive skills, core skills and practical skills, and so on. I have to emphasize that the qualifications included in the QF will include not only academic qualifications and qualifications acquired through training. Instead, skills accumulated at work, knowledge and relevant work experience will also be recognized through the Recognition of Prior Learning (RPL) mechanism formulated by various industry sectors. This recognition mechanism is precisely the answer to Ms LI Fung-ying's concern over the

question of whether or not the existing employees can be benefited. It is also precisely the response to Miss CHAN Yuen-han's request for granting exemption to the existing employees' qualifications. Later, I will explain clearly the recognition arrangement.

Quite a number of Members request that communication and consultation with the industries should be strengthened before the establishment of the QF. In fact, before the introduction of the plan, the Education and Manpower Bureau conducted in November 2002 a three-month public consultation on the consultancy report on the establishment of the QF. Besides, we have held more than 20 meetings and consultation seminars with various educational institutions, federations of employers and industry sectors, professional bodies and trade unions. After careful consideration of various sectors' views, a number of pilot schemes were implemented last year. Besides, a consultancy study on whether the Industry Training Specifications (ITSs) were suitable for local industries was conducted last year.

After reviewing the result of the pilot schemes, the Manpower Development Committee proposed to set up a seven-level cross-sectoral QF. The proposal was endorsed by the Executive Council on 10 February. A report on the progress of the establishment of the QF has been submitted to the Legislative Council Panel on Manpower.

During the past year or so, we have visited various major employers' federations and trade unions in order to promote the QF and clarify any possible misconceptions or worries. We have also conducted a series of consultation seminars and encouraged the participation of relevant parties in the work of the Industry Training Advisory Committees (ITACs) so that any problems which may be encountered can be referred to the ITACs direct for discussion. In doing so, they can draw on collective wisdom.

In order to implement the QF, the Education and Manpower Bureau is now assisting various industries to set up their ITACs in stages, which will consist of representatives from employers, employees and relevant professional bodies. Their main task is to formulate ITSs for the industry sectors. These include competency standards, qualifications and assessment criteria. In the course of formulating the ITSs, an ITAC has to consult the industry sector widely so that the ITSs can meet the future needs of the industry sector and obtain full recognition and support of it.

After drawing up the ITSs, training institutions can then design suitable training programmes. These programmes will become recognized qualifications and courses under the QF after going through the quality assurance mechanism of the Hong Kong Council for Academic Accreditation (HKCAA). Newcomers who possess these qualifications will be able to prove to their prospective employers that they have acquired the relevant skills and required standards. This will facilitate their entry to their respective industry sectors.

On the basis of the competency standards and assessment criteria laid down by the ITSs, the ITAC concerned will formulate the RPL mechanism for individual industry sector in order to recognize the skills, knowledge and experience acquired by the employees in the past. Under the RPL mechanism, recognition can be obtained through on-the-job observation, simulated workplace assessment or by producing proof of work experience and performance appraisal reports.

While some Members suggested the establishment of an exemption system for existing employees, some trade unions have proposed that all existing employees should be included in the QF in one go. We understand the trade unions' concern as to whether the existing employees can obtain qualifications immediately. However, we are of the view that the existing employees' relevant experience accumulated through years of work should be recognized positively through the QF rather than being granted exemption in one go. If so, qualifications which have been granted exemption will be regarded as partially recognized. It will damage the credibility of the QF and will not do any substantive good to the employees.

Since the skill requirements of different industry sectors are different and the level of skills of each existing employee is not exactly the same, we consider that it is reasonable for the ITACs to formulate a RPL mechanism which is suitable for the respective industry sectors. This arrangement will also enable individual employees to acquire a suitable level of qualifications under the QF so that they can further studies on the basis of their own qualifications without starting from scratch.

From the employers' point of view, the establishment of the QF will provide them with clear information about the courses, qualifications and standard levels of training providers so that they can recruit or promote staff with the right skills and knowledge. As the competency standards are developed by

the industry sectors, the relevance of the training programmes to the requirements of the industry sectors will be ensured, in addition to better quality. The employers and the industry sectors will benefit from improved productivity and service quality.

Insofar as the employees are concerned, the establishment of the QF will provide them with a variety of progression pathways and modes which are also more flexible. The QF and ITSs will also help the employees to identify the skills they lack and their training needs, thereby making the necessary training focused and making up for their inadequacies. Besides, the establishment of a credit accumulation and transfer system will better suit the training needs of an individual at different stages, thereby helping the individual to realize his aspirations. After the establishment of the QF, the credibility and portability of qualifications will be enhanced, opening a new door to education and promotion for the low-skilled employees with low qualifications.

Furthermore, the establishment of the QF should lead to a vibrant and efficient education and training market which will better meet the needs of the industry sectors. It will also maximize the effectiveness of the resources, efforts and time invested in the training by the trainees.

We understand that the employees may worry that the implementation of the QF will adversely affect their employment. I have to point out that the QF is not a mandatory measure. Its objective is not to impose barriers to employment. On the contrary, the objective of the QF is to develop a set of appealing and forward-looking vocational training and progression pathways for the establishment of a multi-channel learning ladder so as to promote the articulation of academic, vocational and continuous education. Through RPL, a person's existing knowledge and experience can be included in his qualifications and be recognized. It will also encourage the employees to pursue learning at different stages with their own qualifications as the starting point in order to acquire a higher and wider qualification as they accumulate credits. A clear QF and quality assurance system will give impetus and incentive to education and training, thereby enhancing the employees' ability and employment opportunities. It will also reduce job mismatches during economic transformation.

Besides, the establishment of the QF will help employers and employees to reach and enhance consensus in training so that they will know more clearly the

way forward for staff development. And they can select recognized and quality assured training programmes according to the qualifications ladder and thereby enhance skills and efficiency through learning and training.

At the 88th International Labour Conference of the United Nations in 2000, a number of resolutions concerning manpower training and development were endorsed. One of the resolutions assured that the development of national QFs would be beneficial to both the enterprises and the workers. The QF can promote lifelong learning, indicate the way forward for training and employment and help alleviate the imbalance in manpower supply and demand.

In Hong Kong, the QF is in the initial stage. At present, we have set up ITACs for four industry sectors, including printing and publishing, watch and clock, Chinese catering and hair dressing. We will actively help them develop ITSs and RPL mechanisms. In taking forward our work, we will continue to identify which industries are suitable for developing ITACs. We will consider the development and prospects of the industry sectors concerned, as well as their manpower requirements and training needs. I would like to reiterate that ITACs, being industry-oriented, need the support of employers and employees. Their harmonious relationship and sincere co-operation are most important to the establishment and the future work of the ITACs.

Since the QF is not a mandatory arrangement, its establishment does not require the enactment of legislation. However, in order to ensure the credibility of qualifications awarded by various education and training providers under the QF, qualifications included in the QF must have gone through accreditation. The HKCAA will be appointed to take up the quality assurance work of various qualifications under the QF. In this connection, we will amend the Hong Kong Council for Academic Accreditation Ordinance.

I agree with the Honourable MA Fung-kwok that while it is necessary to develop the QF in Hong Kong, it is also necessary to obtain wide recognition in the mainland market in the long run. As far as we know, the vocational qualifications certificate system has been set up in the Mainland. It covers more than 90 job types which require pre-vocational training. In recruitment exercises, mainland employers have to stipulate the level of certificates required which should be commensurate with the vacancies concerned. In the long run, we will study and explore the convergence and mutual recognition of the QF and the vocational qualifications in the Mainland with a view to facilitating Hong Kong people seeking employment in the Mainland.

The QF is concerned mainly about education, training and progression pathways. We agree that employers and employees should be encouraged to attach importance to training and lifelong education. As regards the enactment of legislation on working hours or the introduction of training leave, these are related to wider labour policies. The Secretary for Economic Development and Labour has already, on different occasions, fully explained the Government's position in respect of these issues.

As regards tax concessions proposed by Ms LI Fung-ying and Miss CHAN Yuen-han, self-education is encouraged under the existing taxation policy. Taxpayers can apply for deduction of self-education expenses, which include course fees and related examination fees, from the salaries tax payable. The annual maximum deductible expenses for an eligible taxpayer are \$40,000. Besides, under the existing Inland Revenue Ordinance, expenses incurred by employers for sponsoring staff training courses which are relevant to the industry sectors concerned are also deductible from the profits tax payable for the year of assessment. These tax concessions should tie in with the Government's efforts in developing the QF.

Promoting the QF is a long-term and complex task with far-reaching effects. Our approach will be progressive, pragmatic and prudent. We will also closely liaise and co-operate with various industry sectors. In order to successfully implement the QF, understanding, participation and support from employers and employees and even from the whole industry are essential. We are convinced that the QF will bring about a win-win situation to employers, employees and the whole industry. We will review its implementation and consider introducing appropriate measures to enable the QF to bring its effect in enhancing lifelong learning and talent development into full play.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Ms LI Fung-ying's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Ms LI Fung-ying, you may now reply and you have three minutes 55 seconds.

MS LI FUNG-YING (in Cantonese): Madam President, I am very glad that many colleagues have spoken on this topic. I would like to respond to Mr Tommy CHEUNG on one point. He said that he disagreed with my motion and supported the amendment only, because my motion called for the making of legislation. But I hope he can read my motion more clearly. I am not suggesting that legislation is a must. Rather, I said that the Government could consider enacting legislation for the purpose. So, I hope he can support the original motion.

Another point I wish to make is that the speech of the Secretary is utterly disappointing. It is because insofar as the qualifications framework is concerned, the Secretary said that the qualifications framework was not limited to giving recognition to academic qualifications and that it would also include recognition of employees' relevant work experience and length of service. In his speech, the Secretary said explicitly that representatives of trade unions unanimously demanded that the years of experience of serving workers be recognized, but he stressed that in order not to undermine the acceptability of the qualifications framework, a full transition for all in-service employees would be impossible and that employees might even be subject to on-the-job observation, assessment and simulated workplace tests.

The more the Secretary said, the more afraid I was. I believe the serving workers must feel even more afraid. What are they afraid of? They are afraid

that the Government, in so doing, will break their "rice bowls". The Secretary said that this qualifications framework would serve as a gateway for career advancement. But this gateway may be leading to Heaven anytime. I hope the Secretary can seriously consider this. The serving workers have no bargaining power at all. Although the Secretary said that this qualifications framework would not be mandatory, under objective circumstances, employers will certainly base on the standards of this qualifications framework to set entry requirements and examine the qualifications of employees in future recruitments.

Another point stressed by the Secretary was that all the standards would be set by the representatives of the industry sectors. As I pointed out earlier, since they will be set by the industry sectors, is it very important to ensure balanced participation from representatives of both employees and employers? If, at meetings of the ITACs, there are over a dozen employer representatives but only six members representing employees, and when it comes to a show of hands, Madam President, how can the situation be balanced? Even if employees put up their legs, it may still not be a balanced situation. So, under such circumstance, I hope the Secretary will more squarely address the need to encourage or urge employees and employers to achieve balanced participation in these ITACs. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms LI Fung-ying as amended by Miss CHAN Yuen-han be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hand)

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 and by the Election Committee, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Second motion: Promoting Pan-Pearl River Delta regional co-operation and development.

**PROMOTING PAN-PEARL RIVER DELTA REGIONAL
CO-OPERATION AND DEVELOPMENT**

MR IP KOWK-HIM (in Cantonese): Madam President, I move that the motion as printed on the Agenda be passed.

Madam President, on 1 June this year, nine provinces/regions on the Mainland together with the two Special Administrative Regions (SARs) of Hong Kong and Macao signed the Pan-Pearl River Delta Regional Co-operation Framework Agreement (the Agreement), under which details for co-operation in 10 areas were proposed. The Agreement will open up new horizons in economic co-operation between the nine provinces/regions of the Pearl River Delta (PRD) and the two SARs of Hong Kong and Macao, giving an impetus to economic co-operation and development in the region.

The Democratic Alliance for Betterment of Hong Kong (DAB) is of the view that the Agreement is a win-win arrangement for Hong Kong and the Mainland, in much the same way as the Mainland/Hong Kong Closer Economic Partnership Agreement (CEPA) signed last year. However, we must admit frankly that these agreements actually manifest the support of the Central Authorities for Hong Kong. The signing of CEPA and the later measures of relaxing the restrictions on individual visits by mainland residents to Hong Kong and Macao, plus the permission given to Hong Kong banks to engage in Renminbi personal banking business, all have brought enormous business opportunities to Hong Kong and quickened the pace of economic recovery in the territory. The signing of the Agreement this year should be regarded as opening up for Hong Kong huge business opportunities of an unprecedented scale. As such, the business and industrial sectors as well as the SAR Government especially, must attach great importance to the Agreement. They must seize the business opportunities brought about by the Agreement, gain

access to the economic platform offered by the nine provinces and regions on the Mainland and expand economic and trade links with countries in the Association of Southeast Asian Nations (ASEAN). If these vast and boundless opportunities are missed, it will only go down in history as "missing the boat" as a common saying goes.

As we all know, the world today is characterized by rapid developments in technological innovations, the most obvious being those in information technology. The effect is that a new wave of adjustments in industrial structure on a global scale, and the expansion of international investments and co-operation between different countries and regions, all of which become the driving momentum for globalization. The imbalance in economic development and the different concepts in globalization and interests involved have led to a surge in regional co-operation among places which are geographically and culturally close, as well as having related interests. In recent years and on the international front, the expansion of regional co-operation efforts in the European Union, the North American Free Trade Agreement and the ASEAN as well as those on the Mainland, such as the Yangtze River economic co-operation spearheaded by Shanghai, the East China Sea economic co-operation centred around Beijing and Tianjin, as well as the developments from the PRD to the Greater PRD and the Pan-PRD, all have brought before us vast vistas of regional co-operation.

The Agreement embraces the nine provinces of Fujian, Jiangxi, Hunan, Guangdong, Guangxi, Hainan, Sichuan, Guizhou and Yunnan, as well as the two SARs of Hong Kong and Macao "Nine plus Two". The total area of these places covers as many as 2.5 million sq km, or 20.9% of the total area of China. The population there is 450 million, or 34.8% of the total population of China. The total production value of the region is as much as RMB 3884.6 billion yuan. Adding to this Hong Kong and Macao, the potentials are even greater. With respect to Pan-PRD co-operation, the first task is for all places in the region to seize the strategic opportunities offered by China in its economic boom during the first two decades of this century. In addition, there has been an intensification of the economic co-operation efforts of the ASEAN with China in recent years and a consensus has long been reached with respect to the "Ten plus One" proposal. The Provinces of Guangxi and Yunnan are geographically linked with the countries in Southeast Asia, and Hong Kong is the air and sea meeting points of the two economic regions. There is great room for complementation with respect to the industrial and technological mixes of the

ASEAN and the Pan-PRD. The economic integration of the two regions would lay a solid foundation for the establishment of a free trade area in Southeast Asia. So the Agreement is definitely an advance base for Hong Kong in forging closer ties with the ASEAN countries. Hong Kong can make full use of this platform to gain broader markets and investment venues on more favourable terms, and complete its economic recovery and restructuring, thereby giving full play to the leading position of Hong Kong in Asia as an international financial, logistic, trade and information hub. Then Hong Kong will not only become a window to the Pan-PRD and a bridge linking the world with the Mainland, but also the centre for the entire free trade area in East Asia. With this, the economy of Hong Kong can grow in a sustained and steady manner in the 21st century and this Pearl of the Orient will sparkle in radiance as its people live and work in peace and contentment. Such are the great practical and strategic implications of the promotion of regional synergy to Hong Kong.

The nine provinces/regions on the Mainland, the Macao Government and the business and industrial sectors all attach great importance to the opportunities offered by the Agreement, evident in the studies they have made in recent years on the Agreement, the speeches given by their leaders on the subject, the promotion efforts they have made, and the actions taken. By contrast, Hong Kong lags far behind. In Hong Kong, not many studies on the subject have been made by the Government, the universities and the research institutes. After the signing of the Agreement, I fail to see any policies and follow-up actions of sufficient calibre and weight. Promotion and publicity efforts are insufficient. The media have been enthusiastic for a while before everything becomes quiet again. Calls from the business and industrial sectors to open up the nine provinces and regions on the Mainland are seldom heard. For the DAB, though we have made many studies on that and put forward nine recommendations before the signing of the Agreement, we have to admit that more in-depth studies into the Agreement should be made.

The DAB is of the view that whether the business opportunities offered by the Agreement can effectively be seized would depend on the prerequisite that its importance be recognized. It is because resolute action can only be taken when there is a good understanding of the aims and significance. With respect to enhancing awareness, we think that the Government has been paying more attention to publicizing CEPA than the Agreement. For more than a year in the past, the principal officials have personally involved in such promotions and various departments and the Trade Development Council have made sustained

efforts in promotion. Various publicity channels are used and efforts like holding press conferences, a signing ceremony and seminars are made. Many business groups and even political parties have put in research and promotion efforts. All these have contributed to a trend. For the DAB, we have also done something over this year or so, but we must admit that the results are not that satisfactory. Recently, there was a report in the papers with a headline to the effect of "CEPA potentials to be tapped" and it was reported that Ms CHEN Xing, the deputy director of the Department of Taiwan, Hong Kong and Macao Affairs of the Ministry of Commerce said in Guangzhou when meeting a group of reporters from Hong Kong and Macao that the volume of goods from Hong Kong and Macao entering the mainland market on zero tariff only valued at \$330 million to that date and it was only one tenth of the volume of trade of mainland imports of similar goods of the same tax reference numbers from Hong Kong and Macao. This shows that many Hong Kong manufacturers do not understand the zero-tariff arrangement well enough and so it is still a big problem as to how this preferential treatment given to Hong Kong under CEPA can be fully utilized. When we met the responsible officials in the Central Authorities, they told us that originally the Central Government had anticipated the implementation of zero tariff would cause a shortfall in tax on Hong Kong commodities to the tune of RMB 700 million yuan to RMB 800 million yuan or more within one year. But after half a year since the measure has come into force, there is only some RMB 30 million yuan of shortfall in taxes. The amount is far smaller than anticipated.

So, from the experience of implementing CEPA, we are even more worried that with respect to the Agreement, vast business potentials would just slip through our fingers. In view of this, we hope that the Government will place great emphasis on the implementation of the Agreement, strengthen research efforts and make the best use of the business opportunities available. In our opinion, the first task is to enhance the awareness of this Agreement within Hong Kong, for example, efforts should be made to address the lack of understanding of the relationship between the Agreement and CEPA. A clearer understanding about the relationship between the two should be fostered that while CEPA is a kind of free trade agreement between Hong Kong and the Mainland as a whole, the Agreement is a regional co-operation agreement signed between Hong Kong, Macao and the nine provinces/regions in the Pan-PRD. The terms and conditions of the Agreement are not just applicable to the Pan-PRD but that the region can offer terms and conditions more favourable than those under CEPA among the signatories, subject to the approval of the Central

Authorities. The two instruments should be seen as co-existing and parallel, not contradictory and mutually exclusive.

On this basis, the Government should put in sufficient efforts to engage in extensive publicity campaigns. Seminars, exhibitions and press conferences, and so on, should be held. The mass media should be utilized to enable the business, industrial and other sectors to gain a fuller understanding of the contents and significance of the Agreement. Efforts should then be put into exploring the business opportunities. This is what we consider the most important task which the Government should complete now to implement the Agreement.

As to concrete steps to implement the Agreement, the DAB has proposed a nine recommendations earlier on and I would like to repeat them now.

First, the SAR Government should take the initiative to propose that the secretariat related to the Agreement should be set up in Hong Kong. This would be conducive to the nine provinces/regions to using Hong Kong as a stepping stone to reach out to the world, and would also bring prosperity to Hong Kong.

Second, to facilitate Hong Kong businessmen to invest in the nine provinces/regions, it is suggested that these nine provinces/regions should set up an office or investment services department in Hong Kong to offer a one-stop service to Hong Kong investors. The services provided should include those related to the formalities of starting a business and other information services.

Third, it is recommended that the governments of the nine provinces/regions should make use of the Agreement to encourage mainland enterprises, especially privately-owned enterprises, to come to Hong Kong for inspection visits, investments and setting up branches or offices. We think that this would be of great help to the economic development and employment situation in Hong Kong. Therefore, the Government should spare no efforts on promoting this on the Mainland.

Fourth, efforts should be made to capitalize on the opportunity offered by the signing of this Agreement to co-ordinate and improve the overland transport networks in the PRD. This would entail efforts to co-ordinate the planning and development of the four border crossings at Huanggang, Lo Wu, Man Kam To and Sha Tau Kok. To meet the increased demand for freight transport as a

result of the Agreement, the proposed Hong Kong-Zhuhai-Macao Bridge should be redesigned as a dual-purpose bridge with highways and railways. The rail link should be extended to the container terminals at Kwai Chung.

Fifth, efforts should be made to co-ordinate aviation in the Pan-PRD.

Sixth, greater attention should be paid to small and medium enterprises in Hong Kong which go to the Mainland for investment and they should be given specific support and assistance.

Seventh, the relevant governments should co-ordinate environmental protection on a local level in areas covered by the Agreement.

Eighth, on basis of the Agreement, efforts should be made to strive for more flexible arrangements from the mainland authorities so that Hong Kong businessmen running factories or investing on the Mainland would be given more convenient and freer relocation terms.

Ninth, and the last point, the SAR Government should set up offices in the nine provinces/regions to offer information and essential support services to Hong Kong businessmen investing and running factories on the Mainland. In addition, the SAR Government should propose to the nine provinces/regions that they should set up a central office which Hong Kong people working on the Mainland can direct their inquiries and get help on the problems they encounter.

Later on, other Members from the DAB will talk on other proposals in detail, so I would not repeat what they will say here. I very much hope that we can seize this great opportunity, especially the vast business potentials involved, so that Hong Kong can seek greater development in new horizons.

Madam President, I so submit. Thank you.

Mr IP Kwok-him moved the following motion: (Translation)

"That, as the Pan-Pearl River Delta Regional Co-operation Framework Agreement, signed by the Hong Kong Special Administrative Region, nine provinces/regions in the Pan-Pearl River Delta Region and the Macao Special Administrative Region, opens up a new scenario for economic integration and sustained development in the region and

provides a more convenient and broader platform for Hong Kong's trades and industries to further expand their investments and develop markets in the Mainland, which is conducive to the development of Hong Kong's manufacturing and service industries, this Council urges the Government to attach great importance to the Agreement and grasp the business opportunities it brings about, enhance liaison with the nine provinces/regions and Macao, exert efforts to promote understanding of the Agreement among various sectors of the local business community, and adopt effective measures to give impetus to the implementation and development of the Agreement, so as to reinforce Hong Kong's position as a financial, logistics and commercial centre in the Region, as well as to facilitate the economic development of Hong Kong and create more employment opportunities."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr IP Kwok-him be passed.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG will move an amendment to the motion. Mr SIN Chung-kai will move an amendment to Mrs Sophie LEUNG's amendment. The two amendments have been printed on the Agenda. The motion and the amendments will now be debated together in a joint debate.

I now call upon Mrs Sophie LEUNG to speak and move her amendment.

MRS SOPHIE LEUNG (in Cantonese): Madam President, I move that Mr IP Kwok-him's motion be amended, as printed on the Agenda.

The regional co-operation of the Pan-PRD only took about one year from conception to the reaching of an agreement. Hong Kong is an important member of the Pan-PRD Region and I believe the SAR Government has put a lot of efforts into this. I think that is commendable. The global economy has now entered a stage of regionalization and with the complementary effect worked out between the nine provinces and two SARs with their respective edges, the overall competitiveness of the Pan-PRD will certainly be enhanced. The region is expected to become a more vibrant economic zone. So I agree very much that regional co-operation and development in the Pan-PRD should be promoted.

As Mr AN Min, Vice Minister of the Ministry of Commerce says, the various provinces and regions in the Pan-PRD should give full play to their respective relative edges and complement each other to promote development and ultimately achieve an all-win situation of mutual benefits. Therefore, apart from developing into a services centre, Hong Kong should attach importance to the development of those leading manufacturing industries so that they can be brought into fuller play in the process of the Pan-PRD integration, that they can make use of our knowledge of the international market to create our own brand names, enhance the value of products and access the international markets, thereby playing a positive role in the overall economic co-operation of the region. This is the reason for my proposing the amendment. I hope all the officials who attend the meeting today will take on board our views extensively and refrain from responding to our comments by merely repeating something they wrote yesterday or the day before in their office or copying something from some past papers.

In this regional co-operation of the Pan-PRD, Guangdong Province will become an important base for manufacturing industries because over the past 20 years, Hong Kong businessmen have done a lot in the region and have introduced a lot of industries there. I believe Hong Kong can avail itself to the development and strengthen the high value-added manufacturing industries which we possess some advantage. We can then turn the Pan-PRD into a manufacturing base for international brands. In this way, the position of Guangdong Province as a centre for manufacturing industries can be entrenched and the economic strength of the Pan-PRD can be enhanced while Hong Kong can assume the role of a co-ordination centre.

Recently, I have talked with many academics and friends from the manufacturing sector. They all think that Hong Kong should set up a so-called border industrial zone that will promote further regional co-operation in the Pan-PRD and open up vast business potentials for the region. The reason is that Hong Kong is the only international city in the Pan-PRD and it is also the only free and open economy in the region. Of course, I do not oppose to other coastal cities on the Mainland striving to become international cities, but Hong Kong is already an international city and this is evidenced by our history of being one. Besides, Hong Kong also has rich experience in international trade. All these conditions are conducive to the introduction of foreign capital and exchanges with foreign countries. These, when coupled with CEPA, have induced a wish among many manufacturers of overseas brands to set up factories

in Hong Kong in order to enjoy the zero-tariff treatment and facilitate their entry into the Pan-PRD and other mainland cities.

If a border industrial zone is set up in Hong Kong, the good foundation in co-operation among the various provinces and regions in the Pan-PRD can be used to reorganize and improve the deployment of resources in the Pan-PRD. The purpose of setting up the proposed industrial zone in the border area is to combine the advantages of both sides of the borders. The advantages offered by the Mainland are the supply of a low-skilled workforce, research personnel, rich natural resources, and so on. Those advantages offered by Hong Kong are its enterprises, talents in the manufacturing sector, management personnel, foreign capital, research personnel of international standing, as well as advanced technology. The aims of setting up a border industrial zone are to create a new and diversified platform for investment and exchange of technology. This when coupled by flexible policies can provide a macro environment or enabling environment as we in the Liberal Party would often refer to it, which will help various trades and industries seize the business opportunities available. The existence of such an environment can hopefully attract the attention of foreign businessmen to invest in high value-added trades and industries.

On the setting up of a border industrial zone, there are views that the river loop area is not suitable for industrial use. There are also people who say that there are still some vacant industrial buildings in the urban areas. Some people even say that the costs for land development are high. I agree that all these must be considered carefully, but can these serve to deny the need for a border industrial zone? I think Members had all thought about these issues when they lent their support to the proposal at that time.

I would just like to point out in particular that the border industrial zone is a flexible concept and the zone may not necessarily have to be set up in the river loop area. It can be set up in other parts of the borders. The most important point is that it must enable an easy exchange of resources and a complement of leading edges. As to the question of surplus industrial buildings, I think that even if a border industrial zone is not set up, the possibilities of some high value-added manufacturing industries moving into the vacant industrial buildings are slim, for we cannot expect the manufacturers of some international brands moving into some old industrial buildings in Kwai Chung. The reasons are simply that the place is inconsistent with their high-end image and that it is

difficult for these buildings to match the specified standards and requirements which these international brands have on plant facilities, given that these standards are always changing with the advances in technology.

If people ask why Hong Kong should develop its own manufacturing industries, the answer is that manufacturing industries can bring in more than \$100 billion of foreign exchange for Hong Kong each year, with our textile and garment industries accounting for \$80 billion of the above amount. In addition to this, and more importantly, manufacturing industries may serve to raise the demand for other related service industries. These would include not just trades like banking, shipping, insurance, accounting and so on, other industries in the new economy like the logistics, information and scientific research would all benefit from the high value-added manufacturing industries. If an economy is not based on a foundation of manufacturing industries, it will be much less stable, for the financial and service industries are very likely to fluctuate due to external factors and the inflow and outflow of capital could happen in a matter of instants. By comparison, the investments made on manufacturing industries are of a longer term and they serve to make the economy stable. Without the manufacturing industries, about 150 000 workers in Hong Kong will be forced out of work. A large portion of our working population with low education attainment may become chronically unemployed as they cannot adapt to the economic transformation. Serious social problems will arise. Social workers will feel the acute pressure. Resources which are already stringent will be depleted soon and an adverse impact will be created on public finance. The future development of our manufacturing industries will not merely affect the industries themselves, it will also have great implications on the overall economy of Hong Kong, on social harmony, and on public finance. So can we afford to have an economy and a society totally deprived of manufacturing industries?

In this connection, I would like to elaborate on the emphasis that other advanced countries place on industries. In a country like Switzerland which is predominantly a country of service industries and financial industries and one which is like Hong Kong deficient in natural resources, much effort is made to develop industries there. The country has achieved international fame in high value-added industries like watchmaking, precision instruments and chemicals. In 2001, industries in Switzerland accounted for 26.7% of its economy and about 30% of jobs in the country.

Even in a place so close to us as Macao, though it has set its mind on developing into the betting and tourist centre in the Pan-PRD Region, it has not overlooked the importance of industries. In a forum on the Pan-PRD, Mr Edmund HO, the Chief Executive of Macao said specifically that he hoped that the cross-boundary industrial zone in Macao could play a part in the development of the Pan-PRD Region.

Madam President, during the past two decades, our economy has witnessed development from one characterized by mature manufacturing industries to one dominated by service industries. In such a process, the PRD has become industrialized. Now China is moving in the direction of becoming the works of the world and we are struggling painfully in economic restructuring. On the further integration of Hong Kong with the Mainland, that is first applied to the integration with the economy of the PRD and now to that of the Pan-PRD Region. There is both competition and partnership between Hong Kong and the places involved. How then should Hong Kong maintain its position and edges? In which direction should our economy go? Earlier on, an official from the Shenzhen municipality said on a visit to Hong Kong that he hoped to effect a suitable upgrading of the industrial structure. He also suggested joining hands with Hong Kong to open up the river loop area along the boundary. I expect some positive response from the Hong Kong SAR Government to these proposals from Shenzhen.

As to the amendment proposed by Mr SIN Chung-kai in which he calls for the protection of the intellectual property rights of Hong Kong businesses on the Mainland, I do not think I can offer any grounds to oppose it. I think that intellectual property rights should be protected in the Mainland, Hong Kong and everywhere.

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

Mrs Sophie LEUNG moved the following amendment: (Translation)

"To delete "and" after "local business community," to add "and strengthen the co-operativeness in high value-added industries," after "implementation and development of the Agreement,"; and to add "the further development of the local manufacturing industry and" after "so as to reinforce"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mrs Sophie LEUNG to Mr IP Kwok-him's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Mr SIN Chung-kai to speak and move his amendment to Mrs Sophie LEUNG's amendment.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I move that Mrs Sophie LEUNG's amendment be amended, as printed on the Agenda.

CEPA and the Pan-Pearl River Delta Regional Co-operation Framework Agreement (the Agreement) is of vital importance to the future development of the business and commerce sectors, service industries and financial industry of Hong Kong. But at the same time, many risk factors still exist in the business transactions between Hong Kong and the Mainland. One such risk is related to the question of intellectual property rights and the infringement of which is still rampant on the Mainland. If Hong Kong businesses fail to put in place enough safeguards, they may incur great losses in the course of investment. The Democratic Party suggests that the SAR Government should first step up publicity efforts in Hong Kong among the business sector on the need that it is important for the sector to take measures to protect intellectual property in doing business on the Mainland and that there should be a greater sense of crisis in order that losses can be minimized. Next, the Government should also discuss with the mainland departments and Macao to set up a platform for co-operation which can effectively prevent offences of infringement and enable the places to crack down on infringement activities.

With the implementation of CEPA and the Agreement, more and more Hong Kong businesses and foreign companies in Hong Kong will speed up their attempt to open up the mainland market and promote their products. However, according to the Co-ordination Office of the Intellectual Property Office of Guangdong Province, figures on the patents and registered trademarks by Hong Kong businesses on the Mainland show that there is a lack of a sense of crisis on the part of Hong Kong enterprises in protecting the intellectual property rights of their products. In 2003, there were about 1.59 million applications for patents in China and about 2 million applications from overseas companies, of which

there were about 110 000 from Taiwanese businesses. But there were only 13 800 applications for patents from Hong Kong enterprises on the Mainland.

As for registered trademarks, there was a total of 450 000 applications throughout the year, with 46 000 being from overseas while those from Hong Kong only took up some 8 000.

The figures show that there are some 200 000 Hong Kong products on the Mainland which have not applied for protection in the forms of patents and trademarks. The situation is worrying. While Hong Kong businesses have not done enough to protect their products, there is a year-on-year increase of cases where Hong Kong enterprises on the Mainland, especially in Guangdong Province, whose intellectual property rights have been infringed. Last year, of the some 800 infringement of intellectual property rights cases in Guangdong, about 10% or 80 cases involved Hong Kong products. The Democratic Party is of the view that Hong Kong enterprises investing in the Mainland should take enough precaution by registering their patents or trademarks both in Hong Kong and on the Mainland and guard against infringement activities. This is the best precaution to take and it also has a deterrent effect. So the Democratic Party suggests that the Government should co-operate with the intellectual property departments on the Mainland and engage in promotions in Hong Kong on the formalities and fees charged to apply for patents and trademarks registration on the Mainland. This can encourage Hong Kong businesses to apply for patent protection of their intellectual property. Moreover, the Government should step up efforts to promote the database on intellectual property rights for Guangdong, Hong Kong and Macao which came into operation last December. The database would facilitate searches into information on the intellectual property rights regimes in Guangdong, Hong Kong and Macao, as well as laws on trademarks, patents and layout design, registration procedures and regulations in the three places. This will help Hong Kong manufacturers solve the problems in intellectual property rights which they come across in trying to access the mainland market. On the other hand, the Government should look into establishing a certification platform with the Mainland with respect to intellectual property rights in which both parties will mutually recognize the intellectual property rights and trademarks registered with each other. This will not only enable enterprises from both places enjoy adequate protection, but also reduce greatly the cumbersome application formalities and time on both sides, thereby facilitating the import and export of products in and out of Hong Kong and the Mainland.

In addition, starting from this year, residents of Hong Kong may take part in the national qualifying examination for patent agents organized by the State Intellectual Property Office and qualify as a patent agent on the Mainland. The fact that Hong Kong residents may become patent agents in China will facilitate mutual recognition of intellectual property rights applications.

In respect of law enforcement, both Hong Kong and the Mainland should form a platform for co-operation in enforcement efforts related to intellectual property rights and tackle the worsening infringement problem. A Hong Kong manufacturer of cooking sauces, the Lee Kam Kee Company, which has entered the mainland market for more than 20 years, has pointed out that the *modus operandi* of manufacturers of counterfeit products on the Mainland is getting more professional as China opens up to the world. These people may even operate as a syndicate. According to Lee Kam Kee staff, in the production of counterfeit oyster sauce as an example, the manufacturers of counterfeit products will break down their production line into small parts. Production processes like bottles, caps, labels and oyster sauce will be contracted out or manufactured separately. Then all these are sent to different places for packaging. The daily production amount in each place would only be 50 to 100 bottles and very few stocks will be kept. This has made the work of law enforcement agencies much more difficult. To tackle the problem of counterfeit products, Lee Kam Kee has to make the packaging design unique. They use bottles and caps of special shapes that are difficult to imitate. They also use some bottle caps and containers which can only allow the contents to be poured out and cannot be used repeatedly. These have greatly raised the costs of production of the counterfeiters. The company also organizes its own inspection teams and when they spot a sudden appearance of their products in great amounts and being offered at bargain prices, they will try to track down the sources of these products. They will report to the local commerce and industry departments when they find anything suspicious. At times a reward is offered to encourage people to report the counterfeiters. From the above example, the Democratic Party is convinced that law enforcement agencies in Hong Kong and the Mainland should share intelligence with each other and join hands to launch large-scale campaigns to crack down on infringement activities.

Apart from that, the Federation of Hong Kong Industries has recently been promoting a quality mark certification programme on the Mainland. The Government should lend its full support to this and take actions as appropriate to promote Hong Kong product brands as marks and standards of quality in the

Greater Pearl River Delta Region. In this way Hong Kong products will benefit from the publicity efforts and their intellectual property rights will be better protected.

Madam President, a more important thing is that our liaison offices in Guangdong and Beijing should engage in more discussions with the Mainland in this regard. These offices should also represent Hong Kong companies in efforts aiming at protecting the intellectual property rights of Hong Kong companies on the Mainland. This kind of work is what the Government should do. If this is not done, more serious problems may follow.

With these remarks, I support both the motion and the amendment.

Mr SIN Chung-kai moved the following amendment to Mrs Sophie LEUNG's amendment: (Translation)

"To delete "and" after "implementation and development of the Agreement,"; and to add "and protect Hong Kong businessmen's intellectual property rights in the Mainland," after "high value-added industries,"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mrs Sophie LEUNG's amendment, be passed.

MS MIRIAM LAU (in Cantonese): Madam President, among the nine provinces and two SARs in the Pan-PRD Region, Hong Kong is recognized as a financial, logistics and business centre. Governor of Guangdong Province HUANG Huahua said earlier when meeting a delegation of Hong Kong media paying a visit to the Pan-PRD that Hong Kong enjoyed a clear advantage as a centre of finance, services, logistics, maritime transport and trade and so Hong Kong was assuming a leading role in steering the Pan-PRD Region in advancing to the international arena. The Standing Vice Governor of Sichuan Province JIANG Jufeng also said that Chengdu would intensify its co-operation with Hong Kong and Guangdong Province in the logistics industry, improve the sea and rail transport joint ventures with Shenzhen and develop a modern logistics industry.

In recent years, there have been great advances in the logistics industry in Hong Kong and the industry is regarded by the Government as one of the four pillar industries. It can therefore be seen that the logistics industry is of vital importance to the economic development of Hong Kong. Moreover, since the role of the logistics industry in Hong Kong is recognized in the Pan-PRD co-operation agreement, there is all the more a need for Hong Kong to speed up and complete the software and hardware of its logistics infrastructure to enable a linking up of our logistics network with that in the Pan-PRD Region, thus making possible a seamless flow of passengers and cargo between the two places.

It remains, however, that for a very long time there exists a bottleneck in customs clearance between Hong Kong and the Mainland. Goods take too much time to clear customs and this affects our position as a centre of logistics and shipping in the region. For the past few years, both the Government and the logistics industry have been searching for a solution in a hard attempt to break this physical barrier. However, due to constraints in the geographical background of the border crossings, efforts made by the Government over the past couple of years or so have been confined to the upgrading of software only. This involves measures made to introduce new technologies to shorten the time needed for cargoes to clear customs, adding new lanes of traffic and implementing 24-hour operation of the border crossings.

The 24-hour operation of the border crossings gives truck drivers a greater choice as they can choose the time they wish to clear the customs in Lok Ma Chau/Huanggang. However, even though truck drivers have a greater flexibility with respect to the time they wish to clear the customs, many customs offices in the export areas of Guangdong Province are closed for the night. For example, the customs offices at Fenggang and Changan of Dongguan are closed at 11 pm and the Huangpu customs office in Guangzhou is closed at 9 pm. The opening hours of most customs offices are from 8 am to 9 pm, so during the time from midnight to morning, not many trucks would use the 24-hour customs service on the Hong Kong side.

The Lok Ma Chau/Huanggang border crossing is open 24 hours a day, so are the Hong Kong airport and the container terminals. In future the Shenzhen Western Corridor and the Hong Kong-Zhuhai-Macao Bridge will also open 24 hours a day. But as the mainland customs offices do not operate round the

clock, so the logistics infrastructure in Hong Kong is not fully utilized. This prevents Hong Kong from giving full play to its role as a logistics and shipping centre. So if the mainland customs offices can implement 24-hour customs clearance like Lok Ma Chau/Huanggang, this would not only enhance the efficiency of freight transport but also reduce the operation costs for the freight forwarding industry. Hong Kong will then become more competitive in its role as a regional logistics hub.

Apart from overland freight transport, if Hong Kong is to assume a leading role in steering the Pan-PRD Region in advancing to the world, there is also a need to develop its freight transport on rails. It is only with the development of rail freight transport that Hong Kong can penetrate into places in the interior like Sichuan, Yunan, Guizhou and other remote provinces in the heart of China while the interior provinces can use the port in Hong Kong as a door for their exports. Some time ago I went to Europe for a study tour and found that the Dutch Government would build a railway direct to the container terminals in Rotterdam to upgrade their handling capacity. I urge the Hong Kong Government to give serious thoughts to the construction of a direct rail link to our container terminals.

As for the suggestion on changing the original design of the Hong Kong-Zhuhai-Macao Bridge from a highway bridge to a dual-purpose bridge with a highway and a railway, the Liberal Party is of the view that the suggestion must take into account whether the future cargo flow will justify the operation of a railway and that care should be paid to the cost implications when a railway is included into the design. Having said that, the Liberal Party remains open to this dual-purpose bridge idea but we think that careful studies must be done in the first place so that the project will not become a white elephant.

Madam President, if all the hurdles and barriers between Hong Kong and the Mainland can be overcome so that the logistics infrastructure between the two places is completely articulated with each other, and that a network with Hong Kong as the centre can radiate outwards into the entire Pan-PRD Region, then Hong Kong can make use of its maritime and air transport facilities to clear the way for the Pan-PRD Region and lead it on the way to the world. I think at the end of the day we will see an all-win situation.

Madam President, I so submit.

MR ALBERT CHAN (in Cantonese): Madam President, it is an irresistible trend to gradually regionalize or globalize the economic development of an area or a city. This is also an inevitable development and outcome under capitalism.

Certainly, Hong Kong should collaborate with its neighbouring regions and the signing of the Regional Co-operation Framework Agreement (the Agreement) should be beneficial to both parties. However, the most important point is how to maintain Hong Kong's competitiveness and features, and how to preserve Hong Kong's existing economic status and protect the interests of Hong Kong people under this framework. The collaboration with other regions, other governments or other organizations is often a matter of give and take, during which the public interests will often have to be affected or even sacrificed. I would like to raise two questions for the attention of all parties concerned, especially the attention of the Hong Kong Government.

The first major question is whether the interests of Hong Kong people are protected. Pan-Pearl River Delta (Pan-PRD) regional co-operation is very often focused on the growth of business investment and the issue of how professionals can develop their businesses. However, the employment opportunities for the toiling masses and the grassroots in Hong Kong, especially their local employment opportunities are rarely mentioned. The topics of discussion are all matters of principle. Specific measures such as the method to protect and boost employment are seldom discussed. Therefore, I hope the Government, instead of telling us all too often about tourism and financial services, can specifically advise us how the Agreement will make the industries of Hong Kong continue to survive. Even if there is no such Pan-PRD agreement or development, the financial services sector and tourism industry in Hong Kong can still develop in a healthy way and continue to flourish.

Unfortunately, the industries of Hong Kong are now facing serious contraction and unemployment is worsening. If there are no specific measures or specific direction to revitalize the industries of Hong Kong (we are not trying to revert to the good old days), nourishing a basic status for the industries so as to safeguard employment for the industrial workers, it is a dereliction of duty on the part of the Government.

Any agreement or regional development is most often interactive. How can we achieve the maximum benefits through interaction and utilizing our own advantages? The co-ordination in respect of planning and policy formulation as

well as the deployment of resources are extremely important. The Government always emphasizes that all these are market-oriented. In other words, the principle of "small government, big market" should be upheld. It is particularly true in the investments outside Hong Kong as the Government can best put its emphasis into action. Some senior officials went abroad with some delegations on a tour of investigation, seemingly encouraging the business sector, particularly the multi-billionaires, to invest in places outside Hong Kong. Quite on the contrary, the government officials should bring the mainland conglomerates to Hong Kong to see for themselves the advantages of Hong Kong while exploring investment opportunities here.

I feel sad on seeing senior officials bringing consortia to the Mainland in the past years for investigations, be it the Northeast delegation or the Northwest delegation. Amid serious unemployment and dire straits in Hong Kong, the senior officials, instead of doing something practical for us, have been trying to help the outflow of capital with a view to contributing to the Motherland. I absolutely agree that we should make contribution to the Motherland, but we should not make the people of Hong Kong endure hardship and hunger on one hand and let the rich get richer abroad on the other. This is absolutely not the responsibility of a government official. The first and foremost duty of a government official is to take good care of Hong Kong. If he is unable to solve our own problems but assists some consortia to make money, he is just adding more flowers on the brocade. We need officials who can send in charcoal in snowy weather because there are so many distressed people in Hong Kong who are waiting for timely help.

In view of the change in the new circumstances, the Hong Kong Government should also make corresponding adjustments to the relevant policies. Sometimes, we can see that the government policies are polarized. Some are too rigid without a bit of flexibility while some are changing so very much frequently that people from different trades are at a loss as to what to do.

Moreover, land use is also a very important part as most development projects are land related. Definitely, there are certain rules governing the planning and use of land. Take the PRD as an example. If you had been there before and visited the place two to three years later, you would notice their major changes. However, Hong Kong's changes in this aspect have been relatively slow. Undeniably, Hong Kong is constrained by its objective conditions, but most often there is a causal relation between land policy and land use. I have

mentioned this point many times. There are many trades and industries which are eager to carry out development projects in Hong Kong, but they cannot do anything because of the rigidity in policy on land use. Lands continue to lie idle while investors are not given any assistance by the Government. What are the only things to which the Government will provide assistance? The answer is the Science Park and the Cyberport. One can see that some people do enjoy privileges and know how to obtain favour from the Government through the backdoor. For those honest and steadfast industrialists and people in the industrial sector, the Government has not been seen to have provided any assistance to them.

Another point I wish to raise is that, Madam President, economic development and political development are inevitably interrelated. Some people will make use of their political privileges to obtain benefits. Therefore, in this connection, I urge people from the business sector, particularly the professionals, not to be influenced or controlled by those who make use of their political privileges to procure benefits. Otherwise, it is the people of Hong Kong who may ultimately suffer. Some will betray Hong Kong people in exchange for personal gains. The political and economic interaction is also an inevitable product of economic development. I hope the Pan-PRD regional co-operation and development will benefit Hong Kong after all.

Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, I would like to speak from the perspective of the development of the financial market on the views of the DAB with respect to the so-called "Nine plus Two" Agreement on co-operation in the Pan-PRD Region.

According to information from the National Bureau of Statistics of China, in terms of the average per capita disposable income of major cities on the Mainland in 2003, the two cities which top the list are Shenzhen and Guangzhou, while Shanghai only takes up the third place. In Shenzhen, the annual per capita disposable income for 2003 is RMB 23,900 yuan and for Guangzhou which is in the second place, the annual income is RMB 15,000 yuan.

Owing to geopolitical reasons, the past economic take-off which Hong Kong experienced can be attributed to the reform and opening of Guangdong

Province and at the same time, Hong Kong has been playing a positive role in the process of the reform and opening of Guangdong Province. Now we have a new opportunity in that the Pan-PRD regional co-operation will intensify the economic integration of Hong Kong with south China.

The economic capacity of the Pan-PRD accounts for 40% of China's total and for Hong Kong, this "Nine plus Two" Agreement which offers a vast hinterland for Hong Kong and the integrated market will be a vital driving force for the Hong Kong economy.

In the municipality of Foshan in Guangdong, since it underwent reform and opening at an earlier time, it is a place where private-sector economy is well-developed. There are not only vast numbers of owners of private enterprises but also an equally large population of middle class people with highly paid jobs. The per capita deposits of the Foshan people in the banks rank among the top three in the country.

In future, if the mainland authorities allow their residents to invest overseas, including the securities market of Hong Kong, a major issue in marketing strategies is how these private funds can be directed to Hong Kong. This is also a major issue confronting Hong Kong as an international financial centre and a centre for financing in China.

Admittedly, there are not so many investment channels in China. Over the past few years, the performance of the mainland stocks market still lags behind those in the region and Hong Kong. So with respect to the wealth which is being fast accumulated by the mainland residents and companies, it would in both the medium range and long run, have a demand for appreciation and it should be diverted to new channels of investment.

With the signing of the "Nine plus Two" Agreement, numerous publicity and other activities will be held on the Mainland. These will greatly contribute to a better understanding on the part of the Mainland, in particular the nine provinces and cities in the Pan-PRD Region, of Hong Kong and Macao. The DAB is convinced that the "Nine plus Two" Agreement will enhance the confidence of mainland residents in the markets in Hong Kong and Macao significantly and it will boost the QDII (Qualified Domestic Institutional Investors) Scheme, and Hong Kong banks will engage in more Renminbi businesses.

Among the nine provinces, Guangdong and Fujian are the pioneers of reform and opening. They have maintained constant and close contact with Hong Kong. Historically, residents from these two provinces also showed a tradition of expanding outwards. That is why the people there have a greater understanding of the outside world than those people from other provinces and cities. Now with the "Nine plus Two" Agreement in place, it is believed that the confidence of people from these two provinces in the Hong Kong market would be further enhanced. In future, with the launching of the QDII Scheme and more Renminbi business by Hong Kong banks, it is expected that Guangdong and Fujian will be the first major participants.

So for Hong Kong, the implementation of the "Nine plus Two" Agreement on regional co-operation in the Pan-PRD Region would certainly be of great significance in the enhancement of Hong Kong's function as a centre for financial intermediary services for mainland capital.

To promote the integration of the Pan-PRD Region, the DAB suggests that the SAR Government should step up its efforts to promote in the various provinces and municipalities the leading edges of Hong Kong as an international financial centre and its favourable investment environment. As the "Nine plus Two" Agreement seeks to encourage the provinces and municipalities to use Hong Kong as a springboard to the world, in order that this objective is reached, it is imperative both for Hong Kong and the nine provinces and regions that the SAR Government to carry out publicity work. The DAB will also contribute its part to that. We have planned to go to major cities in Guangdong and organize promotional activities with the relevant departments there. These activities will focus on the investment environment in Hong Kong and provide information on the laws, regulations and formalities for mainland enterprises coming to Hong Kong to set up companies and offices.

To attract more state-owned and privately-owned enterprises from the Mainland to come to Hong Kong for listing and financing activities, the Hong Kong Exchanges and Clearing Limited (HKEx) should take actions to tie in with the "Nine plus Two" Agreement and it should join hands with the governments of the provinces and municipalities concerned to launch a new round of publicity initiatives on how companies from the nine provinces and regions can be listed in Hong Kong.

We also suggest that, with more companies from the Mainland coming to Hong Kong to set up offices, a problem which should be solved as soon as

possible is the outward transfer of their capital, how it can be done lawfully through a system so that the Renminbi can be converted into Hong Kong Dollar. So as the Hong Kong Monetary Authority is discussing with the Mainland on how local banks can engage in more Renminbi business, the SAR Government should take active steps to point out to the mainland authorities the practical needs for Hong Kong to become an off-shore centre for Renminbi. It should also suggest to the Central Authorities that in accordance with the actual needs of co-operation under the "Nine plus Two" Agreement, some sort of relaxation should be effected in the nine provinces/regions on foreign exchange control in outflow to Hong Kong.

Moreover, in implementing the QDII Scheme on the Mainland, consideration should be given to enabling the nine provinces to take, as a first step, to allow privately-owned enterprises and groups in south China to invest overseas, including the capital market in Hong Kong. This will enhance the capital flow in the Hong Kong market.

Lastly, we hope that, based on frameworks like the "Nine plus Two" Agreement and CEPA, the SAR Government should take active steps to seek permission from the Central Authorities to allow mainland residents to buy properties as investments in Hong Kong. Such a plan may start from the nine provinces as this will make it more feasible. If all works well, this will not only inject vitality into the Hong Kong property market but also open up an ideal channel of investment for mainland capital which has accumulated over the years.

With these remarks, I support the motion.

MRS SELINA CHOW (in Cantonese): Madam President, I have to declare that I am the chairman of the Hong Kong Tourism Board (HKTB) because the subject of my speech is on tourism development in the Pearl River Delta (PRD) and the Pan-PRD.

As early as more than a decade ago, there was already some sort of a preliminary concept of tourism in the PRD. The HKTB, the Macao Government Tourist Office and the Guangdong Tourism Administration formed The Pearl River Delta Tourism Marketing Organization in 1993. The Organization was renamed last year as The Guangdong, Hong Kong and Macao

Tourism Marketing Organization and it signalled an expansion of the concept of the PRD into dimensions of the Greater-PRD.

The HKTB has in the past couple of years been engaged in a number of joint efforts with the Macao Government Tourist Office and the Guangdong Tourism Administration to promote the Greater PRD. These include taking part in international tourist fairs in Melbourne, Berlin, Japan and Hong Kong and developing thematic itineraries in Guangdong, Hong Kong and Macao, inviting members of the tourist industry from the source markets to visit the three places and promoting the linking up of websites to publicize tourist attractions in various places, and so on.

With the common recognition of the Pan-PRD Region concept in all quarters, regional co-operation in tourism will be elevated to higher planes. The HKTB has signed co-operation memoranda with the Tourism Administrations of Yunan Province, Sichuan Province and Shenzhen Municipality to develop the tourism business. Closer ties will be forged with other sector participants in the region and the marketing concept of Greater-PRD will be applied to the entire Pan-PRD Region.

The edges enjoyed by the tourism industry in Hong Kong lie in its professional services and its leading position in the international tourism market. When the Hong Kong tourism industry co-operates with its mainland counterparts, these qualities and value will be made all the more obvious. As CEPA has already been implemented, Hong Kong will join hands with the Mainland to engage in external promotional activities, using the PRD as a base. Hong Kong is a transportation hub in Asia, and also a gateway to south China. We can co-operate with various provinces and cities in the Pan-PRD Region and develop diversified "multi-destination" itineraries to attract more international visitors to come to Hong Kong and other cities in the Pan-PRD Region so that the tourist sector in the entire region will benefit.

The Pan-PRD Region is a partner which Hong Kong works with to open up the international tourism market. The Pan-PRD Region is also a source of clients to us. As early as in 2001, we already proposed allowing mainland residents to come to Hong Kong in their individual capacity. We are glad to see the Individual Visit Scheme for mainland residents implemented in the middle of last year as it has given a continuous boost to our tourism industry. Now residents from the entire Guangdong Province, Beijing and Shanghai can apply

for personal exit endorsements to come to Hong Kong. Starting from 1 July, nine cities in eastern China will accept applications for individual visits.

With the marketing concept of Pan-PRD in place, we believe that the individual visit policy will be gradually expanded to cover other provinces and cities in the region and more mainland visitors will come to Hong Kong as a result. The HKTB will endeavour to establish more business development platforms and visitors will be guided to know more about different tourist spots in Hong Kong and gain an unforgettable experience. This will also enable the tourism industry in Hong Kong and other related trades and sectors to derive the greatest benefits and to make the largest contribution to the Hong Kong economy.

We also hope that the authorities concerned can provide greater convenience to mainland visitors in terms of exit/entry arrangements, for example, consideration can be given to allowing mainland visitors with travel permits to and from Macao to visit Hong Kong. For visitors to Hong Kong on visas, if they have left Hong Kong to go to Macao or other destinations, they should be exempted from applying for a visa when they enter Hong Kong in transit again. After the implementation of co-location of immigration clearance, efforts should be made to ensure that mainland visitors can complete their immigration and customs formalities smoothly.

With respect to expanding business on the Mainland, we also hope that the Hong Kong tourist industry should ultimately be allowed to operate on the Mainland and provide a one-stop service to mainland visitors. For example, Hong Kong companies can operate local tour agencies on the Mainland, organize mainland residents to form out-bound tours or to form working partnership with mainland local tour agencies to provide better services to mainland visitors.

For the tourism industry to grow, there must be a good matching of software and hardware. By hardware it means the tourist spots and matching facilities while for software, quality service is crucial. Hong Kong is already endowed with excellent pre-conditions like sound rule of law, business ethics and quality services which are persistent and steady. We should continue to enhance our image as a provider of quality services, and we should encourage the local tourist industry as well as its mainland business partners to upgrade the quality of service constantly out of their own initiatives and to launch products and services which will suit both tourists coming here on individual visits or group tours.

The leading edges enjoyed by the Hong Kong tourism industry are its close tab on the pulse of the international market, its excellent understanding of the international market and also its widely-recognized quality services. In promoting partnership among the tourism industry in the Pan-PRD Region, the Hong Kong tourism industry may bring in information on the international markets, advanced management and manpower training to the Mainland effectively. With respect to all these, the HKTb plays an enabling and catalytic role and it will join hands with counterparts in the Pan-PRD Region to foster co-operation in tourism in the Region as a whole, blaze new trails for the Hong Kong tourism industry and bring in the greatest benefits for other related trades and sectors as well as the overall economy of Hong Kong.

MR CHAN KAM-LAM (in Cantonese): Madam President, the economic development of China is on a gradual process of convergence with international economies. In the face of competition from major advanced economic powers in the world and their gradual invasion of our markets, we need regional co-operation to combine our respective strengths, thereby upgrading our market defence capability, promoting our productivity and making the most effective use of our resources. Only in this way can we give full play to the synergy effect, thus enhancing the economic strength of the Region.

For many years, we have been advocating the establishment of a Greater South China Economy. In this way, we can pool together the financial strengths, resource management systems, raw material production, infrastructure and international network of the South China Region, combined with our advanced legal system, for joint development to promote our common prosperity.

Today, we are very glad to see the implementation of the co-operative initiatives in the Pan-PRD Region. We trust that, through the regional co-operation, we can give full play to the economic strengths of the Pan-PRD Region and help to promote the development of the Region. While certain regions with a slower rate of development may leverage on partners which are better developed to promote their own development, regions already better developed may tap the market potential adequately on the basis of extensive co-operation, thus fostering a win-win situation. Among the regions covered by the "Nine plus Two" Agreement, we can see that the development of the PRD

Region is relatively faster, and has evolved into a strong economic force. However, after the rapid development for more than a decade, the PRD Region can no longer maintain its competitive edge in terms of lower costs, and it must now face squarely the problems caused by the pressure arising from economic restructuring.

Hong Kong is a significant member of the PRD Region, and we have been stressing the significance of the integration of Hong Kong into the PRD economy. However, for a certain period of time in the past, Hong Kong has not made satisfactory progress in expanding such co-operation. For example, in the implementation of CEPA arrangements, there is still no further liberalization of the relevant thresholds and the integration of professional services and the injection of capital into Hong Kong, and so on, and all this constitutes an obstacle to full-scale integration. The differences in the systems and standards between the Mainland and Hong Kong have brought about the effects of discord and rejection. Such a situation is most undesirable. If this cannot be rectified, the development of the PRD Region will be stifled.

Madam President, undoubtedly the "Nine plus Two" Pan-PRD regional co-operation will bring more business opportunities to Hong Kong; there will be more extensive co-operation and opportunities. Last year, the GDP of the PRD Region was US\$630 billion, accounting for about 40% of the gross economic output of the whole country. All along, Hong Kong has been the largest capital provider of the Pan-PRD Region, and Hong Kong enterprises have altogether made an investment amounting to substantially over US\$150 billion, which accounts for more than 50% of all the foreign investments in China. If the co-operation agreement of the Pan-PRD Region can be further implemented, and upon the breaking down of the barriers that exist between the two sides, we believe there will be unlimited development prospects in future.

The DAB thinks that the Government should, through various channels, expedite the implementation of specific plans in the 10 major areas in the Pan-PRD regional co-operation jointly with the nine provinces and Macao, especially in giving full play to the advantages of Hong Kong. We often leave a wrong impression to others, that is, there has been an outward drain of our capital, talents and services. In fact, we have quite a lot of "inward drain" measures. An example of the kind of misconception just mentioned by me is the allegation made by Mr Albert CHAN in relation to a delegation of investors led by the Government to visit certain provinces and cities in the Mainland to

look for business opportunities. Mr CHAN likened this to a favour granted to the major consortiums. In fact, we must try all possible ways to extend our market and to look for more opportunities for our investors.

From our past statistics, we can see that Hong Kong can provide quite a lot of job opportunities through its investments in the Mainland. During the past two years, we can see that more and more people have managed to secure jobs, find posts and work for Hong Kong enterprises in the Mainland. Therefore, it is now an important task for the Government to look for business opportunities and extend the market for investors. The Government should provide assistance in this regard. On the other hand, there are actually quite a lot of "inward drain" measures. The Individual Visit Scheme is a very important measure. We can see that, during the past year, more than 2 million visits had been made to Hong Kong under the Individual Visit Scheme, bringing economic proceeds of over \$12 billion to Hong Kong.

Moreover, we also hope that the Government can strengthen or intensify its work in the 10 major areas. For example, how can we improve the efficiency of the regional transport networks? The hottest topic now is of course the Hong Kong-Zhuhai-Macao Bridge. We do hope that the project can be launched as soon as possible. On the issue of whether the "Double Y Option" or the "Single Y Option" should be adopted, we hope the authorities concerned can consider it from the perspective of long-term planning, thereby enabling Hong Kong to play an important role for the economic benefit of the Pan-PRD Region.

Governor of Guangdong HUANG Huahua has made it very clearly during a recent meeting: Guangdong Province has taken the initiative to promote co-operation in the Pan-PRD Region because of the perceived current important trend of the globalization of regional economies in the world. If we can explore the new economic hinterland in the Mainland under this major trend, and if this new development in the economies of the Pan-PRD Region can be materialized, then Hong Kong as a platform does have the capabilities to compete in the international arena and give full play to our strengths. Insofar as the strengths of Hong Kong are concerned, we can say that no other place in the Pan-PRD Region has ever been able to take its place. Therefore, we do have great expectations for the role to be played by the Government. Thank you, Madam President.

DR RAYMOND HO: Madam President, in early June, Hong Kong signed the Pan-Pearl River Delta Regional Co-operation Framework Agreement (the Agreement) with Macao and nine mainland provinces to enhance regional integration. It marks a milestone in Hong Kong's economic history. I believe that the Agreement will provide Hong Kong with opportunities for economic recovery and long-term growth.

Geographically, Hong Kong is a small city with limited natural resources. It relies on the Mainland for what it lacks such as water and food. Moreover, compared with national markets, Hong Kong has a high population density, but its local market is very small. To sustain its economic development and satisfy its future needs, it must expand outward. Provinces in the vicinity of Hong Kong are obviously good starting points. It was just what I recommended some years back when I urged the Government to speed up the decision on whether or not to build the Hong Kong-Zhuhai-Macao Bridge. Since the Pan-Pearl River Delta Region accounts for about one fifth of China's territory and population and total gross domestic product, it provides a huge potential market to Hong Kong. I believe regional co-operation will help it achieve long-term growth.

Hong Kong has been in economic doldrums for a number of years. Our Government should grasp this opportunity to help various industries revive. Since the Agreement highlights co-operation in 10 areas, namely infrastructure, industry and investment, tourism, commerce and trade, labour and manpower, agriculture, information technology, science and culture, environmental protection, and health, I hope that the Government will offer support to the private firms coming from these areas accordingly to capitalize on the opportunity provided by regional co-operation. For example, setting up a liaison centre to facilitate communication between Hong Kong and other members of the Agreement, and building more highways to facilitate transportation which is essential to the tourist industry as well as logistics development.

Hong Kong's economy is recovering. I hope that people can focus more of their efforts on reviving Hong Kong's economy, and that they can capitalize on the competitive advantages of the member provinces to create business opportunities in Hong Kong and cultivate more business opportunities in the

Mainland. Only by doing so will the unemployment rate be lowered and young professionals have bright career prospects.

Madam President, I so submit. Thank you.

MS AUDREY EU (in Cantonese): Madam President, since the reunification, the domain of Hong Kong/Mainland economic co-operation has gradually expanded to virtually the whole of China, thanks to the Hong Kong/Guangdong Co-operation Joint Conference, the Hong Kong/Shanghai Economic and Trade Co-operation Conference, the Hong Kong business tycoons' delegations to Northwest and Northeast China and most recently the Pan-Pearl River Delta Regional Co-operation and Development Forum. All these, together with CEPA, which will remove the economic and trade barriers between Hong Kong and the Mainland, can undoubtedly help Hong Kong create a situation of "leveraging on China while going global" in the course of its economic development.

The Framework Agreement on Pan-Pearl River Delta Regional Co-operation signed in early June really depicts very rosy economic prospects for Hong Kong and the Pan-Pearl River Delta (Pan-PRD) Region. The combined population of the Pan-PRD Region comprising the nine provinces, Hong Kong and Macao is as large as that of the entire Western Europe, while its total trade volume is on a par with that of Japan. There is no doubt that the Pan-PRD Region is both powerful and full of development potentials in terms of economy. However, while we conjure up rosy pictures of our future, we must guard against any mystification of Pan-PRD economic co-operation. Instead, we should foster the co-operation in a pragmatic manner, and, in doing so, there are three points to note.

First, we must note that the economic development of each place is marked by its unique features and advantages. While we emphasize the need for co-operation, we must also realize that it is impossible to require all places in the Pan-PRD Region to share wholly identical views. Actually, compelling all places in the Region to engage in co-ordination and division of labour in all economic sectors, or confining the development of certain industries to some specified provinces, are both unrealistic and against market principles. I therefore think that co-ordination should be confined to just a few interrelated areas such as commerce and trade, infrastructure, transportation networks and

energy supply. Overall, the main objective should be to perfect the business environment in the Region.

In regard to transportation networks, I am delighted to note that all those attending the Forum agreed on the need to expedite the construction of transportation networks which could connect the various provinces and regions, and that they all looked forward to the participation of Hong Kong enterprises in the construction, deeming that such participation would invariably be mutually beneficial, whether it took the form of direct involvement, or financing assistance, or even exchanges of technologies and experience with the Mainland.

Second, regional economic co-operation must be market-led, meaning that after laying down the necessary laws and regulations, the governments should not interfere too much. Minister of Communications ZHANG Chunxian emphasized during the Forum that the Central Authorities would continue to support Hong Kong's status as an international shipping centre, so if, for example, the turnover of the Yantian Container Terminal in Shenzhen increased too rapidly, some sort of co-ordination would be implemented. We are naturally grateful to the Central Authorities for their concern about Hong Kong, but the people of Hong Kong also realize that this will not do any good to Hong Kong in the end because once free market principles are distorted, there will be no genuine competition, and it will be very difficult to see any improvement in service quality.

Third, economic co-operation must be founded on a mutually beneficial basis. On the part of Hong Kong, we should not perceive such co-operation as a means of getting favours, and the provinces of the Mainland must also abandon their protectionism. As we all know, the business environment in the Mainland is still marked by many barriers, both written and unwritten. These are compounded by bureaucratic red-tape and rampant corruption that have not seen any improvement. I hope the mainland provinces can further liberalize their markets, streamline the regulations on business operation, clamp down on corruption and work hard to eradicate bureaucratic red-tape and the "back door" culture.

A high degree of internationalization, a developed and open capital market and quality professionals services are the advantages of Hong Kong. Therefore, we can serve as a medium through which the mainland economy can converge with the world economy. We can do this by providing support to the

flows of foreign investments into the Mainland and even the entry of mainland products into the world market.

Madam President, I am very pleased to note that apart from economic co-operation, the various places in the Pan-PRD Region have also agreed on the enhancement of co-operation in respect of environmental protection as well as public health and epidemic prevention. This is in line with the long-term social and economic interests, and in fact, the co-operation in these two respects is closely related to economic development. For example, as a result of the spates of discoveries of inferior foodstuffs in the Mainland, its food export industry has been adversely affected. If the various places in the Pan-PRD Region can share their experience of food inspection and establish a mechanism that commands credibility, the confidence of consumers may be restored.

In conclusion, the increasing economic co-operation and ties between Hong Kong and the Mainland have already become an unavoidable trend. I hope that in the course of enhancing exchanges, Hong Kong can also consolidate its existing advantages such as the rule of law, openness and a sound market. I also hope that we can share our success experience with the Mainland, so as to assist its provinces in achieving modernization and bring forth genuine mutual benefits.

With these remarks, Madam President, I support the original motion and the amendment.

MR TIMOTHY FOK (in Cantonese): Madam President, regional economic co-operation has become a major trend of development in the world. The accession of China to the World Trade Organization (WTO), the signing and implementation of CEPA, the introduction of the Individual Visit Scheme for mainland residents and the Pan-Pearl River Delta (Pan-PRD) regional co-operation among the nine provinces and two Special Administrative Regions ("Nine plus Two") will create for Hong Kong a huge market based on regional co-operation and provide unlimited energy to its economic recovery.

"Nine plus Two" is the one economic region in China with the closest external ties, being also the most economically vibrant region of the whole country. And, the varying economic circumstances and structures of its member provinces and cities can enable them to enhance their complementary

partnership and mutual benefits, thus achieving a result of "one plus one is bigger than two". The full-scale integration under "Nine plus Two" is set to bring forth unprecedented opportunities to the sustainable economic development of the Pan-PRD Region, and will also produce positive impacts on the prosperity and stability of Hong Kong.

At present, the economic and trade co-operation between Hong Kong and the Mainland is in the historic best. Hong Kong is the third largest trade partner of the Mainland, its second largest export market and greatest source and destination of inward investments. At the same time, Hong Kong has all along been the greatest source of inward investments for the Pan-PRD Region. As at the end of last year, Hong Kong operated roughly 120 000 enterprises in the nine provinces of the Pan-PRD Region, with actual investments amounting to US\$150 billion, or over half of the region's actual inward investments. Hong Kong thus plays a very important role in the economic development of the provinces. It must of course be admitted that Hong Kong itself is also a main beneficiary of such economic integration, evidenced by the fact that the economic recovery of Hong Kong is largely the result of the Individual Visit Scheme and CEPA.

With the continued horizontal and vertical development of co-operation between Hong Kong and the Mainland, there are indeed huge room and energy for the future development of Hong Kong economy. However, since there has just been a year or so between the initial conception and coming into being of the economic region, many businessmen are still not quite sure how they can play a part in this new market entity, whose population is equal to that of the five major members of the European Union, and whose economic strength is on a par with that of the 10 ASEAN members. Besides, we also need to conduct sensible studies, communication and co-ordination before we can effectively tackle the problems arising from the varying degrees of economic development, industry features and market situations as well as regional protectionism in the different provinces and places. In this regard, the Government of the Hong Kong Special Administrative Region (SAR) will have to play a crucial role. How it is going to guide local industries in opening up new markets, how it is going to restructure the economy for better integration with the Mainland and whether it can enhance communication and negotiations with the various mainland provinces to strive for more development prospects for our industries will all directly affect Hong Kong's future economic development and even our role and status in the "Nine plus Two" economic region. Therefore, the Government must proceed cautiously with all planning lest it may lag behind the prevailing

trends or even misjudge the situation, thus leading to a delay in grasping the business opportunities.

Madam President, infrastructure co-ordination and trade promotion alone are not sufficient to ensure the full and perfect integration of all places in the economic region. There must also be exchanges in the arenas of culture, sports and arts, which can all serve a co-ordinating purpose in establishing a grand platform of regional synergy. As a matter of fact, creative industries have already become the most powerful locomotive of economic development. Hong Kong creative industries still enjoy quite an obvious edge in the mainland market, and many people have in fact gone there to start a new chapter in their career. But what the efforts of individuals can achieve is after all very limited. The Government should therefore adopt an industry-based economic perspective and join hands with the creative industries to work out a policy on assisting the arts and cultural sectors in opening up the mainland market. It should also negotiate actively with mainland authorities, with a view to removing all barriers to the northward expansion of the sectors.

Recently, Guangzhou has been awarded the right to host the Asian Games in 2010, and the municipality has announced that it will spend \$200 billion on planning and construction. I hope that while providing guidance to the local business sector on grasping the immense business opportunities, the Government can at the same time realize the economic potentials of sports and also the development prospects of the regional economy. Madam President, Hong Kong no doubt cannot compare with the Mainland in terms of sports standards, but when it comes to sports commercialization, Hong Kong does possess huge strengths. As long as the Government can draw up an integrated plan on the development of sports in Hong Kong as an industry and invest an appropriate amount of resources in it, Hong Kong sports and its sports industry will certainly advance by leaps and bounds. This will in turn boost the social and economic development of the Pan-PRD economic region. I support the motion.

MR LAU PING-CHEUNG (in Cantonese): Madam President, I speak in support of the original motion and the amendment.

In the past few years, many scholars and economists have compared Hong Kong with Shanghai. They have even extended the level by comparing the Yangtze River Delta (YRD) Region with the Pearl River Delta (PRD) Region.

Of course, some in-depth academic comparisons have focused on the strengths and weaknesses of the two cities or two economic regions and how their respective advantages can complement each other. I have read an analysis by a scholar from Qinghua University, which stated that the leading position of Shanghai in the YRD Region is much firmer than the position of Hong Kong in the PRD Region. Economic development is, in fact, an invisible hand in the shaping of an economic region. Because of its historical background, Hong Kong used to be an external window city for the whole PRD Region. Goods produced in the PRD Region often had to be re-exported through Hong Kong to the outside world for sale, making Hong Kong a container port with the highest throughput in the world. However, this advantage is not forever and Hong Kong can hardly prohibit its neighbouring provinces or cities from developing their own industries. In recent years, the logistics industry in Shenzhen has been developing rapidly and the drastic rise in container throughput has become a direct threat to Hong Kong. How should we look at the development of our neighbouring regions? Should we regard them as competitors or partners of co-operation?

If we regard our neighbouring regions as partners, then we should enhance communication and make good use of the invisible hand to encourage our partners throughout the economic region to co-operate and bring their own advantages into play so as to attain the most benefits for the whole region. In this connection, we must admit that Hong Kong's leading position in the PRD is actually not as firm as Shanghai's in the YRD. In terms of development of infrastructure, the Guangdong-Hong Kong Co-ordination Group, established years ago, was nothing more than an official organ in the early years. It was not until recent years that the Group has made a few achievements. For instance, the Chief Executive proposed in his previous policy address to build regional express rail link, but no solid proposal was ever raised. Take the Hong Kong-Zhuhai-Macao Bridge as an example. Although the Central Authorities have decided, after more than 10 years of discussion, to make the Hong Kong Special Administrative Region (SAR) responsible for the co-ordination work, there has not been any consensus as to whether the "Single Y" or "Double Y" model should be adopted for the bridge. Why? Because after the reunification of Hong Kong, things went slowly under the framework of "one country, two systems" and no active discussion was ever made with the neighbouring provinces/cities on regional planning and development. As a result, the preparation on infrastructure development has made twice the effort but achieved half the result. It is quite a pity that we have wasted a lot of time.

In order to revitalize the economy of Hong Kong, CEPA was signed between the Central Authorities and the SAR last year, breaking the barrier to mutually beneficial development and the result was instant. At the end of May, Hong Kong, Macao and the neighbouring nine provinces organized the "Pan-PRD Regional Co-operation and Development Forum" (the so-called "Nine plus Two"). From another point of view, it was actually a measure to further promote CEPA, providing a platform to various local authorities in the PRD Region, a suitable venue to discuss issues of common concern, exchange views, co-ordinate benefits and resolve differences, and so on. I believe if the Forum can bring its desired effect into play, it will maximize the benefits of CEPA and give further impetus to the economic development of the Region.

At present, the business opportunities brought about by CEPA have yet to be brought into full play. Take the construction sector to which I belong as an example. Real estate and architectural services are among the trades which will benefit. Thanks to the concerted effort made by the Central Authorities and the SAR Government in June last year, the Hong Kong Institute of Architects and the Hong Kong Institute of Surveyors had efficiently reached a formal agreement with the corresponding professional units in the Mainland, that is, the National Management Committee of Registered Architects and the China Institute of Real Estate Valuers on the mutual recognition of professional qualifications, an agenda which had been under negotiation for years. Both parties soon confirmed the details of implementation. The first batch of Hong Kong architects had finished the supplementary examination and submitted their results for approval before 1 July. Attaining China's professional qualification will help their practice in the Mainland. Meanwhile, estate surveyors in Hong Kong who have passed the supplementary examination and qualified through the mutual recognition arrangement will attend the practice certificate award ceremony to be held in Beijing at the end of the month. As for other groups like planners and landscape architects which are also under the category of surveyors, the negotiations with the counterpart bodies in the Mainland on mutual recognition of professional qualifications have been progressing smoothly.

Upon completion of mutual recognition of professional qualifications between Hong Kong professions and their counterparts in the Mainland, the next step should head towards expanding the realms of professional practice. At present, Hong Kong professionals who want to set up companies in the Mainland in order to expand their business are still constrained by certain rules and regulations. There is a difference, for example, between the integrated

mechanism adopted in the Mainland and the single professional practice in Hong Kong. The restrictions also include the requirements of extra capital, additional personnel and experience to enter or step across the threshold of the market in China. Since the professional services in Hong Kong are mainly small and medium companies, it is difficult for them to overcome the threshold. Failure to overcome the threshold means that they will not be able to give full play to their talents in the Mainland. However, the height of the threshold is not up to any professional body to decide. It requires a government-to-government effort in lobbying for lowering the threshold to a reasonable level.

The Forum now provides a suitable platform on which I hope the Government can raise this threshold issue with the neighbouring provinces and municipalities so as to enable more Hong Kong professionals to enter the Pan-PRD Region to start their business. Hong Kong professionals possess such edges in international vision, understanding of their homeland and ability to converge with their global counterparts. All these advantages will help raise the standard of colleagues operating in the PRD Region, reform other industries and create new business opportunities. Moreover, Hong Kong professionals can help China face the challenges and opportunities arising from liberalization of its domestic market in compliance with the requirements for accession to the World Trade Organization, creating a win-win situation, bringing further into play the synergy effect of Pan-PRD regional economic development, and demonstrating the economic potentials of the Pan-PRD Region.

I so submit.

MR NG LEUNG-SING (in Cantonese): Madam President, the Pan-Pearl River Delta Regional Co-operation and Development Forum, which ended on the 3rd of this month, saw the signing of the Pan-Pearl River Delta Regional Co-operation Framework Agreement by various provinces/regions and the two Special Administrative Regions of Hong Kong and Macao. The Agreement laid a solid foundation for the synergy and accelerated development of the Pan-Pearl River Delta (Pan-PRD) Region, commonly called "Nine plus Two", and also the smoother implementation of CEPA. This Forum also received the development and planning support of the Central Government. Such central government departments as the State Development and Reform Commission, the Ministry of Commerce, the Ministry of Transportation, the Ministry of Railway and the China National Tourism Administration all put forward their ideas on the

promotion of co-operation within the Pan-PRD Region, proposing to construct better transportation networks and infrastructure facilities and enhance the co-ordination and development within the Pan-PRD Region in terms of energy, raw materials and tourism. Hong Kong and Macao, which are basically small in land area and population size, will thus be able to integrate fully into their vast neighbouring economies that are so rich in manpower, natural resources and market potentials. It is small wonder that some of our Singaporean friends have commented with envy, "Hong Kong has once again received a big gift from the Central Authorities."

The type of regional co-operation put forward in the Framework Agreement is market-oriented, to be achieved through market operation supplemented by government promotion, and aiming ultimately to complement strengths and bring forth an all-win scenario. I opine that the "market-led" principle can guarantee the achievement of the best possible results for regional co-operation. The roles of the local governments concerned should be to foster co-ordination and co-operation, so as to provide the sound conditions required for the smooth functioning of the vast market in the Pan-PRD Region. Led by the free market, the various provinces/regions will automatically be able to capitalize on their respective advantages and complement one another's strengths, thus achieving a beneficial outcome for all. For instance, given their respective geographical locations and advantages in terms of manpower, talents and material resources, they will be able to achieve an organic division of labour in a joint endeavour to exploit the enormous business opportunities in the long run.

As a member of the banking industry, the clients of which come from all trades and industries, I am of the view that the framework of Pan-PRD co-operation can provide us in the financial industries with more favourable conditions for further capitalizing on CEPA. With CEPA, the regulations and criteria governing the entry of Hong Kong financial industries into the mainland market have become more lenient and much clearer; and, with Pan-PRD co-operation, Hong Kong financial industries will be able to open up the neighbouring markets where they can enjoy the relative advantage of geographical proximity. Since the State Development and Reform Commission has specified the promotion of regional co-operation as the major emphasis of the Eleventh Five Year Plan, the State will focus on supporting the Pan-PRD Region in its endeavour to enhance port infrastructure facilities, improve the layout of transportation networks and strengthen the efforts of co-ordination relating to

energy and raw materials. This development strategy will give Hong Kong financial industries many more market opportunities to provide the necessary financing support. Many provinces/regions in the Pan-PRD Region are rich in natural resources such as hydro-electric power and minerals, but in terms of transportation and transport networks, there is still a need for more construction and development projects. It is believed that under this key development strategy of the State, there will definitely be sufficient room for the financial industries and even other professions of Hong Kong to render their support in the process of development. I hope that the various trades and industries and the SAR Government can maintain close and interactive communication and join hands with other provinces/regions in the Pan-PRD Region to explore the opportunities of co-operation and development arising various infrastructure projects in the future.

I am convinced that the Central Government is always prepared to offer care and help to the SAR in the course of implementing "one country, two systems". The people of Hong Kong should be aware of this, and I am sure that they are confident about maintaining Hong Kong's long-term prosperity.

Madam President, I so submit.

DR YEUNG SUM (in Cantonese): Madam President, the "Nine plus Two" Pan-Pearl River Delta (PRD) Region includes nine provinces, namely, Guangdong, Guangxi, Fujian, Jiangxi, Hunan, Hainan, Sichuan, Guizhou and Yunnan as well as two special administrative regions, namely, Hong Kong and Macao. It covers an areas as large as 20% of the territory of the whole country, with a population of 450 million or 35% of the total national population, and a GDP of RMB 300 billion yuan or one third of China's total GDP.

Coupled with the implementation of CEPA, the agreement in respect of this "Nine plus Two" framework will enable Hong Kong's manufacturing and service industries to enjoy greater room for development. The SAR Government should also formulate policies to tie in with the trend so as to expand the synergy of mutual co-operation. First of all, the Government should continue to explore how to make use of measures like a border industrial zone to induce mainland and overseas enterprises to set up factories in the border areas and help the entry of Hong Kong products into the mainland market. Secondly, the Government should strengthen co-operation with the authorities of the nine

provinces so that Hong Kong SAR commercial support centres can be set up in various major cities in China while offices representing the nine provinces can also be set up in Hong Kong. Apart from providing enquiry services, these mainland offices will complete the formalities required for conducting business in the cities concerned for Hong Kong organizations and enterprises. Besides, the authorities can further negotiate with the nine provinces on the setting up of a mutually recognized arbitration system for commercial disputes which will also provide adequate information on mainland rules and regulations and the market situation. On the other hand, in respect of tourism and transportation, the authorities should actively co-operate with the nine provinces and Macao with a view to promoting a regional itinerary to the world. In respect of infrastructure, the Hong Kong-Zhuhai-Macao Bridge should provide passenger and freight rail lines linking with the network of the "Nine plus Two" Region so as to further develop the logistics and tourism industries. Since the "Nine plus Two" regional framework include Fujian Province, the Government should actively promote the establishment of the Greater China Free Trade Zone, which covers China, Hong Kong, Macao and Taiwan in order to tie in with the future development and maximize the overall economic benefits.

The Democratic Party urges the Government to explore the development of a border industrial zone so as to induce the return of industries whose target market is the nine provinces. With cheap land provided by the Government and complemented by a fixed proportion of imported labour to lower the production costs, the border industrial zone will create more employment opportunities for local manufacturing workers. Furthermore, the Government should also help Hong Kong manufacturers to establish their own brand names. Upon entry to the mainland market, Hong Kong enterprises are bound to encounter lots of difficulties such as matters concerning intellectual property rights, taxation, marketing strategies, and so on. At present, the SAR Government has only set up an Economic and Trade Office in Guangdong Province. Obviously, there is inadequacy in terms of both regional coverage and scope of work in supporting the future development of Hong Kong businesses in the nine provinces. We, therefore, suggest that the Government should expedite co-operation with the local authorities of the nine provinces so as to designate certain major cities for the setting up of "Hong Kong SAR Business Support Centres", which will provide the most up-to-date information on mainland rules and regulations and the market situation, as well as further assist Hong Kong businesses in promoting their goods in the Mainland. Meanwhile, the nine provinces can set up their business liaison offices in Hong Kong to help process formalities for business

operations in the respective provinces and provide enquiry services to organizations and enterprises in Hong Kong. The Hong Kong Government should also expedite negotiations with the Mainland in order to set up a commercial dispute arbitration system to the satisfaction of both sides with a view to protecting Hong Kong manufacturers' interests in products and intellectual property in the mainland market. Since Mr SIN Chung-kai has elaborated on these points, I am not going to repeat them.

In order to enhance the competitiveness of the tourism industry, we suggest that with the implementation of the "Nine plus Two" co-operation mechanism between the Mainland and Hong Kong, Hong Kong's tourism industry should develop in the direction of a regional itinerary. This will enable Hong Kong to develop into a tourism and support centre for tourists from various parts of the world to the Mainland. The authorities should strive to turn Hong Kong into the first stop for all tourists to the Mainland so that they will stay here for sight-seeing for a few days before travelling to the Mainland. Regarding policies, the Hong Kong Government should negotiate with the Mainland in respect of relaxing visa requirements for travel to the PRD Region. At present, foreigners will be granted visa-free access to the nine cities of the PRD Region on group tours of not more than six days after arriving in Hong Kong. The Government can seek to extend visa-free access to the "Nine plus Two" regions and to those who travel on an individual basis. As early as 1993, the Hong Kong Tourism Board formed the Guangdong, Hong Kong, Macao Tourism Marketing Organization with the tourism authorities of Guangdong and Macao. In future, Hong Kong's tourism industry should be promoted in the "Nine plus Two" Region in the form of regional tourism network. As regards transportation, planning should be made in view of the closer partnership between Hong Kong and the Mainland. The Hong Kong-Zhuhai-Macao Bridge should be equipped with a passenger and freight rail line so as to reduce the travelling time between the two places. This will facilitate the travel of tourists who can then stay longer in the PRD Region. In respect of aviation, Hong Kong should further open the skies in order to develop into an aviation hub in the region and the gateway to China. Furthermore, collaboration with the nine provinces should be sought so as to expedite the launch of more flights to the Mainland with a view to tying in with the position of Hong Kong as the aviation hub of the region. The Government should also study with the tourism industry the feasibility of providing one-stop package tour for tourists visiting the Mainland. Under the package tours, Hong Kong will serve as the support and

tourist consultation centre for tours to the Mainland by providing immediate medical, transport and legal support in case of incidents.

Madam President, in response to the global development trend of assigning regional trade agreements, Hong Kong should be more active in promoting bilateral economic agreements so as to alleviate the negative impact arising from other trade agreements resulting in transfer of trade. Meanwhile, we should strive for a larger market for the service industries of Hong Kong. The Hong Kong Government should actively promote the establishment of a Greater China Free Trade Zone covering China, Hong Kong, Macao and Taiwan. Ethnically linked, these four places share the same language. The industrial success of Taiwan, the huge manpower and market of the Mainland, the outstanding financial and service industries of Hong Kong and the tourism of Macao will form a perfect combination. In future, the regional economic zone covering the Mainland, Taiwan, Hong Kong and Macao will become one of the most important economic co-operation agreements in the world.

Madam President, I so submit.

MR AMBROSE LAU (in Cantonese): Madam President, the Pan-Pearl River Delta (Pan-PRD) regional co-operation development is the greatest of its kind in terms of both scale and scope compared with the regional co-operation of the Yangtze River Delta Region, Bohai Sea Encircling Economic Zone and Min Southeast Delta Zone. Moreover, it is a regional co-operation under different social systems and frameworks. The "Nine plus Two" Region is a multi-win option which is conducive to the economic development, prosperity and stability of Hong Kong and Macao. It will facilitate the eastern, middle and western parts of China in complementing the advantages of each other. It will also be conducive to enhancing the level of opening of the nine provinces/regions and expediting the economic transformation of Hong Kong.

The "Nine plus Two" Agreement is another major measure adopted by the Central Authorities in an effort to support Hong Kong. Together with CEPA, it will bring immense room for economic development and abundant business opportunities to Hong Kong. After the Mainland has launched its reform and opening for more than two decades, Guangdong has developed into an important manufacturing base in the world and Hong Kong has also turned into an international logistics, financial and trade centre led by the service industries.

However, Guangdong and Hong Kong are generally faced with the shortage of energy resources and land. Particularly as Hong Kong is in the course of a new economic transformation, it is in dire need of developing high-tech industries and high-tech services. So, Hong Kong has to rely on the technologies and industrial strengths of the economic hinterland as the basis for facilitating its economic transformation. As for the other eight provinces, apart from their strengths in technologies, they also enjoy competitive edges in natural resources, manpower and market. Through the co-operation between Hong Kong and Guangdong, a vibrant co-operative regional economy can be formed in which complementarity of advantages, resource sharing and market expansion will be possible. Meanwhile, lying at the hub of the China-ASEAN Free Trade Zone, the geographical advantage of the Pan-PRD Region is very outstanding.

At present, Madam President, the development of the world economy is driven by several major economic hubs and international cities which give impetus to globalization and regional economic integration. At present, a world-class economic region centred around an international city has yet to emerge in China. In view of the radiation and cohesion of the "Nine plus Two" Region to Asia and the world, it possesses the conditions to develop into a world-class economic zone. The business sector, the professionals and the SAR Government should grasp the opportunities brought about by the "Nine plus Two" Agreement and fully utilize the enormous economic platform provided by the nine provinces/regions to expand Hong Kong's economic domains both inwards and outwards. By expanding inwards, it means expansion to the eastern, middle and western parts through the nine provinces/regions. By expansion outwards, it means economic expansion to ASEAN through the nine provinces/regions. Only by so doing can more wealth and job opportunities be created for Hong Kong people.

Since the "Nine plus Two" Agreement involves co-ordination among different provinces/regions as well as the two independent custom territories of Hong Kong and Macao, the Hong Kong Progressive Alliance (HKPA) is of the view that the Government should pay attention to resolving several problems:

Firstly, emphasis should be put on the establishment of the new mechanism for the "Nine plus Two" regional co-operation. Although Hong Kong should play down its awareness as the leading partner, a leader is still needed for the "Nine plus Two" Agreement. So, the HKPA agrees that the SAR Government should request on its own initiative that the secretariat of the

"Nine plus Two" Region be set up in Hong Kong in order to facilitate co-ordination and the establishment of the new mechanism for regional co-operation. Meanwhile, the nine provinces/regions can set up offices in Hong Kong. The combination of the secretariat and the offices will facilitate the formation of a new mechanism for the "Nine plus Two" regional co-operation. Under the new mechanism, the advantage of Hong Kong in convergence with the international community can be given full play. This will help the nine provinces/regions to participate in international co-operation and competition. Meanwhile, it can also provide relevant services to Hong Kong businessmen who are looking for business opportunities in the nine provinces/regions.

Secondly, planning and co-ordination of cross-boundary infrastructure facilities, as well as the repositioning of the division of labour and co-operation among industries in the Region should be attached sufficient importance. At present, co-ordination in respect of cross-boundary infrastructure facilities and economic structure of the Greater PRD has been effective. However, from the perspective of the Pan-PRD Region, the co-ordination and repositioning of cross-boundary infrastructure and division of labour among industries still require further discussions.

Thirdly, given the wide scope of Pan-PRD regional co-operation and development, Hong Kong should find the best connecting point.

Recently, Hong Kong has signed eight Co-operation Framework Agreements with Shenzhen, implying that these two places are the first to take the substantial step in co-operation under the "Nine plus Two" Agreement. In the HKPA's point of view, the significant details of co-operation between Hong Kong and Shenzhen should include the study and implementation of the Hong Kong-Shenzhen cross-boundary economic zone in an expeditious manner and promotion of the economic integration of the two places. At present, Hong Kong economy is led by service industries which account for 87% of its GDP while Shenzhen is still a manufacturing base with service industries accounting for a relatively small proportion. Although Hong Kong products enjoy zero tariff under CEPA, Shenzhen enjoys a comparative advantage in costs. So, the implementation of a cross-boundary economic zone will enable Hong Kong's financial and service industries and Shenzhen's manufacturing industries to complement each other, thereby promoting the economic development and

transformation of both places. This can become the best connecting point of Hong Kong in the "Nine plus Two" co-operation agreement. Insofar as Hong Kong is concerned, the cross-boundary economic zone between Hong Kong and Shenzhen can strengthen Hong Kong's direct economic hinterland and expand the capacity of Hong Kong as an international metropolis. The implementation of a Hong Kong-Shenzhen cross-boundary economic zone is very significant to promoting the "Nine plus Two" co-operation agreement.

Madam President, I so submit.

MR ABRAHAM SHEK: Madam President, the Pan-Pearl River Delta (PRD) Regional Co-operation Framework Agreement (the Agreement) — signed by Hong Kong, Macao and nine other provinces and regions in the South China PRD Region — will play an important role in consolidating the foundation of our co-ordinated regional planning and development. At a forum which was held early in June, all parties expressed their high expectations on regional collaboration. A successful Pan-PRD collaboration will facilitate regional economic development and enhance the overall competitiveness of the region, and especially Hong Kong. This is what the Hong Kong Government and its citizens hope the Agreement will achieve. We also expect the regional collaboration to be conducted in line with a market-oriented approach and that the process would be open and just, with a view to benefiting each party and complementing one another to achieve a win-win situation all-round.

The Pan-PRD regional co-operation is a new concept. Therefore, it is important the Government carefully considers how we can make use of the advantages for business opportunities brought by this accord. Hong Kong has already contributed significantly towards reforming, opening up and developing the mainland market. But Hong Kong's economy has also benefited in turn. With the Mainland's rapid economic advancement and increasing market strength, Hong Kong should change its role from just assisting the Mainland to improve its manufacturing industry's production techniques. Instead, Hong Kong should better employ its unique advantages by serving as a high value-added services centre by encouraging mainland enterprises to establish their headquarters here and then use the territory as a springboard to "go global". In return, these moves will enhance our own valued-added economic development.

In the past 20 years, Hong Kong has facilitated the Mainland's economic reform not only by direct investment, but also transferring our efficient management techniques and market operation systems into the Mainland. This has greatly enhanced many Chinese companies' understanding of market operation as well as improving their productivity. Now, the Mainland has grown to be a major world economic powerhouse. Its legal structure and market system has gradually been upgraded to international level. We can foresee it participating more fully in global economic competition and co-operation.

Madam President, I firmly believe that Hong Kong is fully capable of assuming a leading role in the Pan-PRD regional co-operation. As the Hong Kong businessmen are smart and diligent, they can capitalize the opportunities afforded by the enhanced level of opening up and develop their businesses.

At this moment, I would like to reiterate what Mr TUNG said in his policy address this year. He clearly pointed out that there is considerable room for improving our business environment, particularly as our regulatory framework is excessively tight and detailed in some areas, causing considerable frustration to some businessmen. In short, we need to simplify procedures and improve regulation. Notwithstanding the Chief Executive's pledge, however, the Administration unfortunately has been relatively slow in cutting red-tape measures in the first half of this year. There has also some bad legislation that defeats the Chief Executive's own pledge. The recent passage of the Inland Revenue (Amendment) Bill 2000 is an example. Therefore, drastic changes are needed to alter the over-bureaucratic mindset of the administration and to ensure that it will provide a healthy market-oriented business environment. With the Pan-PRD regional collaboration, it is expected that more enterprises from the Pan-PRD region and the Mainland at large will come here and establish organizations and going into the market. But if our business regulatory regime is too stringent, it will be difficult to attract and retain the investors in Hong Kong.

To safeguard our unique advantages, Hong Kong should maintain its attractive conditions such as fiercely protecting the rule of law, free market operation, maintaining a fair and just society and a clean government.

Among all Chinese cities, Hong Kong is one truly qualified to be called a cosmopolitan world city. As such, it holds an esteemed place among mainland

authorities. The value of Hong Kong relies on our position as an international city. If Hong Kong loses such position, then it will just be an ordinary city of the motherland and no longer be special. Hong Kong has been a gateway to the mainland market for the world. However, some have noted that there are signs that Hong Kong's role has been weakened in recent years. While we are capable of overcoming such challenges, I concede that there are weaknesses and inadequacies in consolidating and improving our unique strengths. As I have mentioned before, there is ample room for improving our business environment. But more than that, the Government should focus more on nurturing and attracting talents, and making it easier for mainland enterprises to make use of our professional sectors particularly in the area of financial, commercial, medical and health care, education and legal services. Measures in this field will greatly assist our professional sector to exploit the China market or create its market influence and therefore, create more employment opportunities. The Government should conduct comprehensive promotion and publicity of the Agreement to Hong Kong people. It should also utilize the Agreement to promote our unique advantages and explore more business opportunities for the Hong Kong businessmen, with a view to achieving a win-win situation. I hope that the Government can strive to improve its works on the above areas.

With these words, I support both motions. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr IP Kwok-him, you may now speak on the two amendments.

MR IP KWOK-HIM (in Cantonese): Madam President, I welcome the amendment of Mrs Sophie LEUNG and Mr SIN Chung-kai's amendment to her amendment.

Mrs Sophie LEUNG seeks to add "and strengthen the co-operativeness in high value-added industries," so as to reinforce "the further development of the local manufacturing industry". Actually, my motion already makes special

reference to Hong Kong's manufacturing industry and the adoption of "effective measures to give impetus to the implementation and development of the Agreement". Such a reference already implies how the Agreement should be implemented to reinforce the further development of the local manufacturing industry. As for "strengthen the co-operativeness in high value-added industries", it is also one of the main ways to implement the "Nine plus Two" Agreement on strengthening the co-operation among Hong Kong, the nine provinces/regions and Macao.

Over the past 20 years, the manufacturing industry of Hong Kong has been confronted with many problems. Owing to its high rentals and labour costs relative to those in the Mainland, many of its manufacturers have shifted their production lines northward, leading to an overall shrinkage of the local manufacturing industry. As a result, the proportion occupied by the manufacturing industry in the Gross Domestic Product (GDP) has shrunk, and so has the number of local workers it employs. The development of the manufacturing industry will not only produce positive impacts on the GDP, but also offer a solution to the problem of high unemployment rates. However, the development of such labour-intensive industries in Hong Kong is confronted with the problem of relatively high rentals and labour costs, which is not likely to see any abatement in the near future. In contrast, high value-added industries are not so demanding in terms of rentals and labour costs. In other words, as long as the relatively high costs can yield higher value, the enterprises concerned will be able to reap reasonable profits to sustain their survival and development. The survival and development of high value-added industries can in turn create conditions conducive to solving the unemployment problem in Hong Kong. Therefore, given the current situation, the development of high value-added industries is the main way of reinforcing and developing the local manufacturing industry.

Mrs Sophie LEUNG also discussed the issue of a border industrial zone in her speech. The Democratic Alliance for Betterment of Hong Kong (DAB) very much agrees to her viewpoints. As far back as the early 1990s, the DAB already raised this issue, and our focus at that time was the development of the river loop area. Then, in the late 1990s, we even extended the scope of our studies to the entire border area. At the beginning of the 21st century, we very much hope that the case studies on Sha Tau Kok can be used as the basis for promoting the further development of Hong Kong industries. In this regard, we

in the DAB very much hope that the SAR Government can adopt an open, liberal and proactive attitude, and rid itself of the constraints imposed by outdated conventions, concepts and mindsets, so as to materialize the concept of the Sha Tau Kok border industrial zone as early as possible.

Besides, in regard to the promotion of inward investments from financially strong mainland consortia, we can also see that this is a measure conducive to strengthening the further development of the Hong Kong manufacturing industry. Mr Albert CHAN has raised this point, and the DAB shares the same view. Therefore, we also hope to see vigorous efforts of promotion. And, the "Nine plus Two" Agreement can provide exactly an excellent platform that brings forth plenty of good business opportunities.

Mr SIN Chung-kai's amendment mentions intellectual property rights. Honestly, one must admit that many mainland people are not sufficiently aware of the importance of protecting intellectual property rights, and that the relevant laws are not adequate enough for the purpose. As a result, copyright piracy and infringements of intellectual property rights are common, doing harm to the interests of Hong Kong businesses operating there and also the convergence of the mainland economy with the world economy. Therefore, while the SAR Government steps up its co-operation with the Mainland, it should also seek to protect the intellectual property rights of Hong Kong businesses in the Mainland. We think this is very important. For this reason, the DAB will also support Mr SIN Chung-kai's further amendment in this respect.

Madam President, I so submit.

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, first of all, I would like to thank Mr IP Kwok-him for moving this motion on promoting Pan-Pearl River Delta (Pan-PRD) regional co-operation and development, and also Mrs Sophie LEUNG and Mr SIN Chung-kai for moving their amendments. Moreover, I would like to thank Members for giving us their valuable opinions.

The "Nine plus Two" regional development represents not only an immensely important area in the further promotion of the Mainland-Hong Kong relationship, but also a new mission taken by all of us very seriously.

On 1 June 2004, witnessed by the relevant ministries and commissions under the Central Authorities, leaders of nine mainland provinces/regions and the Hong Kong and Macao Special Administrative Regions, the Pan-Pearl River Delta Regional Co-operation and Development Forum (the Forum) was inaugurated in Hong Kong. It was held in Macao and Guangzhou respectively in the following two days.

The Forum marked the formal launching of a regional co-operation project of the largest scale hitherto in our country. During the Forum, leaders of the nine mainland provinces/regions and the Hong Kong and Macao Special Administrative Regions jointly established a direction for co-operation in the Pan-PRD Region, as well as exploring the means of co-operation and ways to achieve it. The Pan-PRD Regional Co-operation Framework Agreement (the "Nine plus Two" Agreement) signed following the Forum also laid a major foundation for future in-depth development of regional co-operation.

The objective of the "Nine plus Two" Agreement in terms of co-operation is to give full play to the regional strengths and special characteristics of the "Nine plus Two" region. On the premise of equality and mutual benefit, the Agreement seeks to enhance regional co-operation, promote the smooth implementation of CEPA signed by the Mainland separately with Hong Kong and Macao, and to realize mutual benefits and a win-win situation all-round. Under the five principles of co-operation, namely voluntary participation, market-led principle, complementary strengths, opening up and co-operation, and compliance with international and mainland conditions and laws, signatories will promote regional co-operation in four aspects.

Firstly, create a fair and open market environment to promote the movement of people, goods and capital within the Region for the purpose of creating favourable conditions for regional economic development.

Secondly, strengthen infrastructure co-ordination within the Region.

Thirdly, gradually build up brand names for regional development through co-operation among various sectors in the community in order to boost the overall influence and competitive edge of the Region.

Fourthly, jointly promote sustainable development.

The Agreement's scope of co-operation is indeed extremely broad, encompassing a diversity of areas such as economic and trade, investment, technology, transport, logistics, information exchange, tourism, environmental protection, and so on. Specific details of co-operation involve the establishment of a "Nine plus Two" departmental co-ordination system whereby the competent authority will be charged with the task of formulating specific measures and agreements for co-operation projects and putting them into implementation. To achieve effective co-operation, a joint conference system involving governors will be established under the framework of Pan-PRD regional co-operation to be responsible for convening annual meetings to examine and decide on regional co-operation planning, and to co-ordinate the promotion of major issues relating to regional co-operation. In addition, a co-ordinating system involving secretary-generals from respective governments will be set up to take charge of co-ordinating and monitoring the progress of co-operation, arrange relevant departments to jointly compile topical planning with respect to promoting co-operation and development, and submit a progress report to the governors' conference on an annual basis. The Chief Executive has stated in unequivocal terms that Pan-PRD co-operation, a brand new idea, will enable Hong Kong and the Mainland to make a significant stride towards promoting co-operation between the two places. The SAR Government is determined to, under the principle of "one country, two systems", actively promote Pan-PRD regional co-operation and make concerted efforts with various sectors of the community in promoting development of the regional economy.

The SAR Government attaches great importance to work in this area. While the Chief Executive will attend the governors' joint conference, the Chief Secretary for Administration will assist in the co-ordination and supervision of the progress of co-operation. On behalf of the Hong Kong SAR Government, I will join as a member of the "Nine plus Two" secretary-general co-ordinating mechanism. I believe the first meeting will be convened by end-July. Coupled with the all-out effort made by various Policy Bureaux in taking matching measures and the study made by Central Policy Unit on Pan-PRD regional co-operation, I believe Hong Kong can, and will be better able to, grasp the opportunities brought about by Pan-PRD regional co-operation and development as well as injecting new momentum into our long-term economic development.

Pan-PRD regional co-operation saw a promising prospect right from the beginning. There have been keen expectations from all sides too. The Pan-PRD Region, boasting a combined area of 2 million sq km, has a population

of 450 million and a collective GDP reaching US\$630 billion, accounting for 20%, 30% and 40% respectively of the country's total figures. Spanning eastern, central and western China, the Pan-PRD Region acts as a powerful force enabling the various parts to complement one another economically. Coupled with its close liaison with the international community, the Pan-PRD Region can, through activating economic co-operation in the region, not only upgrade its integrated competitive edge to promote the rapid growth of the regional economy, but also promote the reforms, liberalization and economic development of the country. Insofar as the local business sector is concerned, more investment and expansion opportunities on the Mainland will be created, and this will in turn promote Hong Kong's long-term economic development and create more job opportunities.

Hong Kong has actually been the largest foreign investor to the Pan-PRD Region, with investment from the former accounting for more than half of the latter's actual intake of foreign investments. Hong Kong is playing an immensely active and significant role in the economic development of various provinces/regions. The mainland provinces are important manufacturing bases and consumer markets and, in terms of resources and market access, stand at the forefront of the country. Hong Kong, on the other hand, boasts quality services and the advantage of international convergence. It can therefore serve as a regional high value-added services centre and, at the same time, link the Pan-PRD Region with the rest of the world. In the future development of the Pan-PRD Region, Hong Kong is expected to play a highly active and significant role.

Insofar as the specific details of co-operation are concerned, such professional services as business and trade, finance, logistics, tourism, accounting, auditing and legal services are Hong Kong's economic pillars and are fiercely sought after by the Pan-PRD provinces/regions. The SAR Government will highlight its efforts in promoting co-operation in these areas in order to combine and bring the advantages of both parties into play to the fullest extent.

On the business and trade front, through the Pan-PRD regional co-operation, Hong Kong businesses can expand their original production base in the PRD further into the Region to lower production costs. On the other hand, the Pan-PRD Region, with its vast size and large population, provides Hong Kong products with a huge market for domestic sales. Coupled with the fact that Hong Kong products can enjoy zero-tariff benefit under CEPA, the

competitive edge of Hong Kong products in the Mainland will be enhanced. In addition, Hong Kong businesses can actively capitalize on the advantages of local high value-added industries to build up brand names for Hong Kong goods, thereby bringing local goods a still larger consumer market. All this is going to benefit the development of the local high value-added manufacturing sector. Given that Hong Kong has always been an international trade cosmopolitan city, the use of Hong Kong as a bridgehead for regional access will become a key consideration for overseas investors. By fully capitalizing its networks, Hong Kong can also play a bridging role and serve as the platform for Pan-PRD provinces/regions to "go global".

As the first shot to put into effect business and trade exchange and co-operation in the Pan-PRD Region, the first Pan-Pearl River Delta Regional Economic and Trade Co-operation and Development Symposium is scheduled to be held in Guangzhou in mid-July this year, to be attended by a delegation of representatives from the industrial and commercial sectors led by the SAR Government. Through this symposium, we hope to enhance the sectors' understanding and knowledge of the Pan-PRD regional co-operation to enable them to expeditiously grasp business opportunities in all areas and promote Hong Kong as an intermediary platform for regional services. Furthermore, Invest Hong Kong and the Hong Kong Trade Development Council have planned to organize various types of seminars and promotional activities to promote Hong Kong brand names and Hong Kong as the platform and springboard for overseas investment for the purpose of attracting nine provinces/regions and overseas enterprises to establish manufacturing, trade and services offices here.

Given the bridging role played by the Government and the business sector's willingness, we hope the industrial and commercial sectors can, by virtue of their vision and efforts, grasp the opportunities brought about by the new Pan-PRD economic region. The SAR Government will continue to spare no efforts in fostering and creating an even better business environment to promote trade exchanges among Hong Kong, nine provinces/regions and Macao. We will also continue to promote the implementation of CEPA and play our role in strengthening information exchange within the Pan-PRD Region, in order to enable the business sector in Hong Kong to grasp trade and commerce updates. Insofar as assisting Hong Kong businesses in protecting their intellectual property rights is concerned, Hong Kong's Customs and Excise Department has been exchanging intelligence with relevant law enforcement agencies on the Mainland to help curb infringements across the boundary. I believe our efforts

in this area can respond to the key points raised by Mr SIN Chung-kai when he spoke earlier. We will continue our efforts in these areas in future.

Hong Kong's Customs and Excise Department has signed a co-operation agreement with the Mainland's General Administration of Customs to further strengthen mutual co-operation. Under the framework of the Hong Kong Guangdong Cooperation Joint Conference, both parties will strengthen co-operation in intellectual property protection and law enforcement. Assisted by Hong Kong's Intellectual Property Department, Guangdong has successfully promoted the "No Fakes Pledge Campaign" as a trial scheme in Guangzhou, Shenzhen, Dongguan and Shantou. Similar activities will be launched in more cities in Guangdong too. On the financial services front, the Mainland and Hong Kong have been maintaining a close partnership; a number of financial institutions have set up branch offices across the boundary too. The People's Bank of China has, from this year onwards, provided clearing arrangement to enable Hong Kong banks to provide services in personal Renminbi (RMB) savings, money exchange, remittance and RMB credit card. This arrangement allows the free flow of RMB between Hong Kong and the Mainland (the Pan-PRD Region included) through the banking system, thus promoting economic integration of the two places and provide residents of the two places spending convenience. Grasping the opportunity provided as a result of the implementation of CEPA, we will actively examine the possibility of strengthening further financial co-operation with the Pan-PRD Region. We very much welcome Pan-PRD enterprises to fully capitalize on Hong Kong's advantage as the country's prime international financial centre to raise capital by way of listing in Hong Kong. Through meeting our listing requirements, mainland enterprises will be induced to bring their corporate governance on par with international standards. The SAR Government will support communication and exchanges of financial professionals, including those engaging in the areas of securities, futures, banking, insurance, accounting, and so on, between the two places. Through the exchanges, Hong Kong's financial professionals will gain a better understanding of the mainland markets. At the same time, their experience will benefit mainland financial practitioners.

In order to attract investors, capital raising organs and financial institutions to invest and raise capital in Hong Kong, we are making preparations to launch a series of initiatives to upgrade the quality of our market for the purpose of ensuring regulatory authorities are efficient and transparent and are capable of meeting international standards to maintain investor confidence. We will also streamline our procedures, and provide efficient financial infrastructure

to tie in with the innovations and development of our market. At the same time, we will actively seize various opportunities to promote our financial services and investment opportunities.

On the development of logistics, the air freight throughput of our airport is the highest in the world. Moreover, Hong Kong is the largest international hub for container throughput in the world. We therefore hope to fully capitalize on these two advantages to upgrade the overall competitive edge of the entire Pan-PRD Region in terms of sea and air freight, logistics, associated operations, and so on.

On the air transport front, the "Nine plus Two" Agreement has made specific reference to the need to strengthen co-operation between the airlines and airports of the two places to boost the number of air routes within the Region, so as to facilitate the transportation of passengers and cargoes. We share these goals and will endeavour to promote co-operation in this area. For instance, we will encourage more Pan-PRD airports to open to Hong Kong and Macao airlines, expeditiously set up joint clearance at various airports, and operate air-controlled flight paths to allow more flights between Hong Kong and the Pan-PRD Region. The Hong Kong airport will also be encouraged to provide faster sea and air transport connecting services for Pan-PRD passengers and cargoes. As for co-operation among airports, regional airport management authorities should, on the basis of mutual benefit and complementary advantages, strengthen co-operation according to commercial principles. Co-operation in these areas will be promoted and supported by the Government. At the same time, we will strengthen the infrastructural development of the Pan-PRD Region and consolidate Hong Kong's position as the regional air freight and logistics hub. Specifically, we will propose strengthening intermodal operation within the region, perfecting the development of roads, railways and river channels within the Region to give impetus to the Region's industrial development, strengthening the convergence of logistics assets and thereby expanding the sourcing hinterland for Hong Kong. In order to foster a multi-win situation and avoid overlapping construction, we hope Hong Kong and Pan-PRD provinces and cities can co-ordinate their infrastructure projects (port infrastructure facilities included) and, in the course of planning, strengthen exchange of information to enhance mutual understanding.

On the tourism front, we hope to give further impetus to the interaction of tourist sources between the SAR and various provinces/regions with the

Pan-PRD acting as a channel, step up our efforts in implementing "multi-destination tourism" for visits in Guangdong, Hong Kong and Macao, a concept we have endeavoured to promote overseas, for the purpose of optimizing the abundant tourism resources possessed by various provinces/regions, and introduce newly suggested itineraries to provide overseas tourists with more choices and thereby increase our overall attractiveness. It is forecast by the World Tourism Organization that the Mainland, presently the fifth largest inbound tourist destination in the world, is expected to rise to the top by 2020. It is estimated that the number of tourists visiting the Mainland will reach more than 130 million annually by then. In 2003, a total of 2.72 million overseas tourists visiting Hong Kong travelled to the Mainland via Hong Kong, representing 38% of the total number of visitors to the territory. While this ratio continues to show a tendency to rise, we have seen the "multi-destination tourism" itinerary becoming an international trend of tourism development.

Madam President, before conclusion, I would like to respond to the points specially highlighted by a number of Members today. Mr IP Kwok-him, Mr Ambrose LAU and Dr YEUNG Sum have mentioned the need to strengthen liaison between the nine provinces/regions and the two SAR Governments. Several Members have also raised the point that the secretariat should be set up in Hong Kong, and the nine provinces/regions should be encouraged to set up investment service offices here. I will reflect their views to the Chief Executive and share them with principal officials. Should I have the chance to meet with colleagues from the nine provinces/regions and the Macao SAR in future, I will examine with them ways to strengthen liaison and co-operation at the government level.

Mrs Sophie LEUNG has specially stressed the need to retain the manufacturing industry in Hong Kong, a point shared by the SAR Government. It was precisely for this reason that we decided to work with the Mainland to promote the zero-tariff arrangement under the framework of CEPA. Organizations such as the Science Park and my colleagues have also consistently expressed their hope to maintain and boost investments in the manufacturing industry in Hong Kong. As we have only recently begun actively exploring with Guangdong and Shenzhen Governments on the development of the river loop and the boundary, I believe it will take some time for a proposal to be submitted for Members' discussion.

Mr Albert CHAN said he did not quite understand why principal officials at times would organize delegations, joined by Hong Kong businessmen and professionals, to the Mainland or overseas countries for promotional activities. I believe Members will understand a very fundamental point that capital flow is two-way. Over the years, Hong Kong has been upholding the free economy principle, whereas investment is not a zero-sum game. It can be clearly seen that Hong Kong's manufacturing industries have thrived on the Mainland over the past several decades. In times of abundant profits, these industries can seek listings in Hong Kong. The same applies to private and state enterprises on the Mainland too. Such an interaction is therefore two-way, and all parties will eventually be benefited. An increase in investment by Hong Kong enterprises can help create more job opportunities locally too.

Madam President, it is our belief that the reform and opening of the country and the achievements brought about by the "Four Modernizations" over the past two decades or so have opened for Hong Kong a new path of development. Given a new hinterland, Hong Kong's manufacturing industries have thrived over the past two decades or so, sustaining the territory's economic growth for years. Last year, Hong Kong and the Mainland signed CEPA with the objectives of enabling Hong Kong commodities to enjoy zero tariff and providing various service industries with more opportunities to expand on the Mainland and develop the market supported by a population of 1.3 billion.

Today, the "Nine plus Two" Agreement has enabled us to better focus our attention on the nine provinces/regions and Macao, thus allowing greater scope of development for our manufacturing, services, logistics and tourism sectors. This scope of development is directly linked with Hong Kong. Geographical proximity has boosted Hong Kong's strengths. Over the past two decades or so, the development of many places in Guangdong Province has matured — with wages and land prices in those places having begun a continuous rise. As such, even the Guangdong Government has encouraged us to consider investing and developing the hilly regions in the eastern and western wings of the Province. I believe Hong Kong's business sector will surely develop in this direction in the days to come, and will consider seeking further development in the other eight provinces/regions too.

Madam President, under the framework of co-operation provided for under the "Nine plus Two" Agreement, we have to promote work in all aspects. At this stage, however, we have to particularly tighten our grip on three aspects.

First, we have to connect the infrastructure and transport facilities of the nine provinces/regions with those of the Hong Kong SAR. Hong Kong's road networks have thus to be connected with highway networks on the Mainland. As such, it is necessary to expedite the implementation of the Hong Kong-Zhuhai-Macao Bridge project and the alignment of the express railway between Hong Kong and Guangzhou. Such work, if completed satisfactorily, can surely enable us to maintain and strengthen Hong Kong's position as an international transport and shipping centre.

Second, we have to actively encourage enterprises in the nine provinces/regions to establish companies in Hong Kong and seek listing in our financial market. This will help strengthen our financial sector and upgrade our position as an international financial centre.

Third, we have to progressively strive to, under CEPA, upgrade and strengthen various professional services on the Mainland, particularly within the "Nine plus Two" Region. We should start by concentrating our efforts on providing a diversity of professional services in key cities like setting up legal, accounting and architectural firms in Guangzhou, and then radiating these professional services units to peripheral provinces and cities. As these professional services have to be built upon human relations, it takes time for investment to be made and for these services to be gradually established. In addition to the abovementioned professional services, we have to pay due attention to the services sector in all aspects, such as tourism, logistics, and so on.

Madam President, we can thus see that the outlook for co-operation in the Pan-PRD Region is enormously broad. Looking into the future, Hong Kong and the Pan-PRD provinces/regions are expected to develop in a faster and better manner upon a complementary and mutually-beneficial partnership. The SAR Government will strive to promote the implementation and development of the "Nine plus Two" Agreement. It will also spare no efforts in encouraging and promoting our business sector and various sectors to fully grasp the opportunities brought about by Pan-PRD regional co-operation to promote Hong Kong economy and create more job opportunities.

Lastly, Madam President, I would like to express my gratitude again to Mr IP Kwok-him, Mrs Sophie LEUNG, Mr SIN Chung-kai and those Members who have spoken today for their concern, care and support for Pan-PRD regional

co-operation. My sincere gratitude also goes to Members for offering us a lot of valuable opinions. I hope that, through our concerted efforts in future, Pan-PRD regional co-operation can continuously upgrade and bear new fruits.

Madam President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr SIN Chung-kai to Mrs Sophie LEUNG's amendment, 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 and by the Election Committee, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mrs Sophie LEUNG's amendment, as amended by Mr SIN Chung-kai, to Mr IP Kwok-him's motion, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr IP Kwok-him, you may now reply and you have 16 seconds.

MR IP KWOK-HIM (in Cantonese): Madam President, I am very much grateful to the 15 Honourable colleagues who have spoken and expressed support. I hope the Government can attach importance to the insights offered by Honourable colleagues, so as to enable co-operation in the Pan-PRD Region to find greater scope of development.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Kwok-him, as amended by Mrs Sophie LEUNG and Mr SIN Chung-kai, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion as amended passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 7 July 2004.

Adjourned accordingly at half-past Three o'clock.

Annex VI

UNITED NATIONS (ANTI-TERRORISM MEASURES)
(AMENDMENT) BILL 2003

COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	<p>(a) By deleting "empower the Secretary for Security to authorize" and substituting "provide for".</p> <p>(b) By deleting "to repeal and replace section 10 of that Ordinance so that the new section 10 reflects the substance of this provision as proposed by the Administration during the committee stage of the Bill which became that Ordinance upon enactment" and substituting "to revise the definition of "terrorist act" and the offences relating to financing and supplying weapons to terrorists and membership of specified groups".</p> <p>(c) By deleting "of authorized officers".</p> <p>(d) By adding "; in relation to compensation, to change "serious default" to "default", to extend compensation to seizure of property and to preserve common law remedies" after "terrorist property" where it last appears.</p>
New	By adding -

"1A. Long title amended

The long title to the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) is amended by adding ", and in that connection, to permit the implementation of the United Nations International Convention for the

ClauseAmendment Proposed

Suppression of Terrorist Bombings, the United Nations Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the United Nations Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf" after "acts".

2

(a) By deleting "of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)".

(b) In paragraph (a) by adding -

"(ia) in the definition of "terrorist act", in paragraph (a) -

(A) in subparagraph (i) -

(I) by repealing "(including, in the case of a threat, the action if carried out)" and substituting "is carried out with the intention of, or the threat is made with the intention of using action that would have the effect of";

(II) in sub-subparagraphs (A) and (B), by repealing "causes" and substituting "causing";

(III) in sub-subparagraph (C), by repealing "endangers" and substituting "endangering";

(IV) in sub-subparagraph (D), by repealing "creates" and substituting "creating";

ClauseAmendment Proposed

- (V) in sub-subparagraphs (E) and (F), by repealing "is intended seriously to interfere with or seriously to disrupt" and substituting "seriously interfering with or seriously disrupting";
- (B) in subparagraph (ii) -
 - (I) by repealing "是";
 - (II) in sub-subparagraph (A), by repealing "擬強迫特區政府或擬" and substituting "的意圖是強迫特區政府或";
 - (III) in sub-subparagraph (B), by adding "是" before "為推";
- (c) In paragraph (a)(iii) -
 - (i) by deleting the proposed definition of "authorized officer" and substituting -
 - ""authorized officer" (獲授權人員) means -
 - (a) a police officer;
 - (b) a member of the Customs and Excise Service established by section 3 of the Customs and Excise Service Ordinance (Cap. 342);
 - (c) a member of the Immigration Service established by

ClauseAmendment Proposed

section 3 of the Immigration
Service Ordinance
(Cap. 331); or

- (d) an officer of the Independent
Commission Against
Corruption established by
section 3 of the Independent
Commission Against
Corruption Ordinance
(Cap. 204);";

- (ii) in the proposed definition of "premises" in paragraph
(b) by deleting "removable" and substituting
"movable";

- (iii) by deleting the proposed definition of "public body";

- (iv) by deleting the semicolon at the end and substituting
a full stop.

- (d) By deleting paragraph (b).

4 By deleting the clause.

5 (a) By deleting paragraph (a)(ii) and substituting -

- "(ii) by repealing "the funds, direct that the funds
not be made available, directly or indirectly, to
any person" and substituting "the property,
direct that a person shall not, directly or
indirectly, deal with the property";".

- (b) In paragraph (g) by adding -

ClauseAmendment Proposed

"(11) The Secretary may exercise the powers under subsection (10) only if he has reasonable cause to suspect that the relevant property will be removed from the HKSAR.

(12) In subsection (1), "deal with" (處理), in relation to property, means -

- (a) to receive or acquire the property;
- (b) to conceal or disguise the property (whether by concealing or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it or otherwise);
- (c) to dispose of or convert the property;
- (d) to bring into or remove from the HKSAR the property; or
- (e) to use the property to borrow money, or as security (whether by way of charge, mortgage or pledge or otherwise)."

New

By adding -

"5A. Prohibition on provision or collection of funds to commit terrorist acts

Section 7 is amended by repealing everything after ", funds" and substituting -

ClauseAmendment Proposed

" _

(a) with the intention that the funds be used; or

(b) knowing that the funds will be used,

in whole or in part, to commit one or more terrorist acts (whether or not the funds are actually so used)".

**5B. Prohibition on making funds, etc.
available to terrorists and
terrorist associates**

Section 8 is amended by repealing everything after "person" where it secondly appears and substituting "knowing that, or being reckless as to whether, such person is a terrorist or terrorist associate."

5C. Section substituted

Section 9 is repealed and the following substituted -

**"9. Prohibition on supply of weapons to
terrorists and terrorist associates**

A person shall not provide or collect, by any means, directly or indirectly, weapons -

(a) with the intention that the weapons be directly or indirectly supplied to or otherwise used;

ClauseAmendment Proposed

- (b) knowing that the weapons will be directly or indirectly supplied to or otherwise used; or
- (c) being reckless as to whether the weapons would be directly or indirectly supplied to or otherwise used,

by a person and knowing that, or being reckless as to whether, such person is a terrorist or terrorist associate."."

6

By deleting the proposed section 10 and substituting -

"10. Prohibition on recruitment, etc. to a body specified in a section 4(1) or (2) notice or a section 5(2) order

- (1) A person shall not -
 - (a) recruit another person to become a member; or
 - (b) become a member,

of a body specified in a notice published in the Gazette under section 4(1) or (2) or an order published in the Gazette under section 5(3), knowing that, or being reckless as to whether, it is a body specified in such a notice or order (as the case may be).

(2) In subsection (1), "body" (團體) means a body of persons, whether corporate or unincorporate.".

ClauseAmendment Proposed

7

- (a) In the proposed section 11B -
- (i) in subsection (1) by adding "unlawfully and intentionally" after "not";
 - (ii) in subsection (2) by adding "unlawfully and intentionally" after "not";
 - (iii) in subsection (2)(a) by deleting "the destruction of all or part" and substituting "extensive destruction";
 - (iv) by deleting subsection (2)(b) and substituting -

"(b) where such destruction results in or is likely to result in major economic loss."
- (b) In the proposed section 11D -
- (i) in paragraph (b) by deleting "or" at the end;
 - (ii) by adding -

"(ba) a ship owned or operated by the Government when being used for customs or police purposes; or".
- (c) In the proposed section 11E(1) by deleting ", without lawful excuse," and substituting "unlawfully and".
- (d) In the proposed section 11F(1) by deleting ", without lawful excuse," and substituting "unlawfully and".

8

In the proposed section 12(6) -

- (a) in paragraph (a) by adding ", for the purpose of preventing and suppressing the financing of terrorist acts" after "Corruption";

ClauseAmendment Proposed

(b) by deleting paragraph (b) and substituting -

"(b) by any authorized officer to the authorities or persons responsible for investigating or preventing terrorist acts, or handling the disclosure of knowledge or suspicion that any property is terrorist property, of any place outside the HKSAR which the authorized officer thinks fit, for the purpose of preventing and suppressing the financing of terrorist acts."

9

(a) In the proposed section 12A -

(i) in subsection (1) by deleting "An authorized officer" and substituting "The Secretary for Justice";

(ii) in subsection (3)(c) -

(A) by deleting "authorized officer" where it first appears and substituting "Secretary for Justice";

(B) in subparagraph (i) by deleting "the authorized officer" and substituting "an authorized officer";

(C) by deleting subparagraph (ii) and substituting -

"(ii) to produce any material, or any material of a class, that reasonably appears to the Secretary for Justice to be relevant to the investigation,";

(iii) in subsection (5) -

ClauseAmendment Proposed

- (A) by deleting "an authorized officer" where it first appears and substituting "the Secretary for Justice";
 - (B) by deleting "the authorized officer" where it first appears and substituting "an authorized officer";
 - (C) by deleting "the authorized officer" where it secondly appears and substituting "the Secretary for Justice";
- (iv) by deleting subsection (6) and substituting -
- "(6) Where an order under subsection (2) authorizes the Secretary for Justice to require a person to produce any material that reasonably appears to the Secretary for Justice to be relevant to the investigation or be of a class that is so relevant, the Secretary for Justice may by one, or more than one, notice in writing served on that person require him to produce at a specified time and place, or at specified times and places, any specified material that reasonably appears to him to be so relevant or any material of a specified class that reasonably appears to him to be so relevant.";
- (v) in subsection (7)(a)(v) by deleting "an authorized officer" and substituting "the Secretary for Justice";
- (vi) in subsection (7)(c) by deleting "subsections (8), (9) and (10)" and substituting "subsection (8)";
- (vii) by deleting subsections (9) and (10);

ClauseAmendment Proposed

- (viii) in subsection (11) by deleting "A person" and substituting "Subject to section 2(5)(a), (b) and (c), a person";
 - (ix) in subsection (12) by deleting everything after "except" and substituting "in evidence in proceedings under section 14(7F) or under section 36 of the Crimes Ordinance (Cap. 200).".
- (b) In the proposed section 12B -
- (i) in subsection (1) -
 - (A) by deleting "An authorized officer" and substituting "The Secretary for Justice or an authorized officer";
 - (B) by deleting "elsewhere" and substituting ", in the case of an application by the Secretary for Justice, elsewhere";
 - (ii) in subsection (2) by deleting "subsections (6) and (7)" and substituting "subsection (6)";
 - (iii) in subsection (3)(a) by deleting "招引" and substituting "招致";
 - (iv) by deleting subsections (7) and (12);
 - (v) in subsection (13) by deleting "A person" and substituting "Subject to section 2(5)(a), (b) and (c), a person".
- (c) In the proposed section 12D -
- (i) in subsection (1) by adding "to the Secretary for Justice" after "authorized officer";

ClauseAmendment Proposed

(ii) in subsection (2) -

(A) in paragraph (a) by adding ", for the purpose of preventing and suppressing a relevant offence" after "Corruption";

(B) by deleting paragraph (b) and substituting -

"(b) to any corresponding person or body, where the information appears to the Secretary for Justice to be likely to assist that person or body to discharge its functions relating to preventing and suppressing offences of a similar nature to relevant offences; and".

(d) In the proposed section 12G -

(i) by deleting subsection (1) and substituting -

"(1) Where it appears to the Court upon the oath of any person that there is reasonable cause to suspect that -

(a) in any premises there is terrorist property; or

(b) there is in any premises any thing that is, or contains, evidence of a relevant offence,

the Court may issue a warrant authorizing an authorized officer to enter the premises named in the warrant and there to search for

ClauseAmendment Proposed

and seize, remove and detain any terrorist property.

(1A) An authorized officer executing a warrant issued under subsection (1) may use such assistance and force as are reasonable and necessary for the purposes for which the warrant is issued.";

(ii) in subsection (2) by deleting "Any authorized officer" and substituting "An authorized officer who has entered any premises by virtue of a warrant issued under subsection (1)".

(e) By deleting the proposed section 12H.

11

(a) By renumbering the clause as clause 11(3).

(b) By adding -

"(1) Section 14(2) is amended by adding "knowingly" before "contravenes".

(2) Section 14(4) is amended by repealing "or (2)" where it first appears."

(c) In subclause (3) -

(i) in the proposed section 14(7H) by adding "intentionally and without reasonable excuse" after "who";

(ii) in the proposed section 14(7J) by adding "and without reasonable excuse" after "intentionally".

ClauseAmendment Proposed

14

(a) By renumbering the clause as clause 14(2).

(b) By adding -

"(1) Section 18(2)(c) is amended by repealing "serious".".

(c) In subclause (2) in the proposed section 18(2B)(a) by deleting "serious".

New

By adding -

"14A. Section added

The following is added -

"18A. Saving of common law remedies

(1) Subject to subsection (2), nothing in section 18 affects any remedy available to a person at common law.

(2) Where a court orders any compensation under section 18 or damages at common law in respect of any default, the court shall take into account, in reduction of the amount of compensation or damages, any amount awarded as damages or ordered as compensation (as the case may be) in respect of that default."."

19

In the Form in the proposed Schedule 2 -

(a) in paragraph 4 -

ClauseAmendment Proposed

(i) by deleting "an authorized officer" where it first appears and substituting "the Secretary for Justice";

(ii) in subparagraph (b) by deleting everything after "appears to" and substituting "the Secretary for Justice to be relevant to the investigation or be of a class that is so relevant.";

(b) by deleting "Authorized officer" and substituting "for and on behalf of the Secretary for Justice".

Schedule,
section 1

In the proposed section 25A(9) -

(a) in paragraph (a) by adding ", for the purpose of combating drug trafficking" after "Corruption";

(b) by deleting paragraph (b) and substituting -

"(b) by any authorized officer to the authorities or persons responsible for investigating or preventing drug trafficking, or handling the disclosure of knowledge or suspicion on property relating to drug trafficking, of any place outside Hong Kong which the authorized officer thinks fit, for the purpose of combating drug trafficking.".

Schedule,
section 2

In the proposed section 25A(9) -

(a) in paragraph (a) by adding ", for the purpose of combating crime" after "Corruption";

ClauseAmendment Proposed

(b) by deleting paragraph (b) and substituting -

"(b) by any authorized officer to the authorities or persons responsible for investigating or preventing crime, or handling the disclosure of knowledge or suspicion on property relating to crime, of any place outside Hong Kong which the authorized officer thinks fit, for the purpose of combating crime.".