

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 5 January 2000

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

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

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE EDWARD HO SING-TIN, S.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE MICHAEL HO MUN-KA

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

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

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

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.

THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

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

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

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

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

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

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

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

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE LAU KONG-WAH

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

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

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

THE HONOURABLE CHOY SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE SZETO WAH

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

THE HONOURABLE LAW CHI-KWONG, J.P.

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

THE HONOURABLE FUNG CHI-KIN

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.
THE SECRETARY FOR JUSTICE

MR MICHAEL SUEN MING-YEUNG, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AFFAIRS

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR GORDON SIU KWING-CHUE, J.P.
SECRETARY FOR PLANNING AND LANDS

MR RAFAEL HUI SI-YAN, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES

MR JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MR KWONG KI-CHI, G.B.S., J.P.
SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

MR DAVID LAN HONG-TSUNG, J.P.
SECRETARY FOR HOME AFFAIRS

MRS LILY YAM KWAN PUI-YING, J.P.
SECRETARY FOR THE ENVIRONMENT AND FOOD

MRS REGINA IP LAU SUK-YEE, J.P.
SECRETARY FOR SECURITY

MR LEE SHING-SEE, J.P.
SECRETARY FOR WORKS

CLERKS IN ATTENDANCE:

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

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

| Subsidiary Legislation | <i>L.N. No.</i> |
|---|-----------------|
| Shipping and Port Control (Amendment) Ordinance 1999 (70 of 1999) (Commencement) Notice 1999 | 319/99 |
| Provision of Municipal Services (Reorganization) Ordinance (78 of 1999) (Commencement) Notice 1999 | 320/99 |
| Specification of Public Office | 324/99 |
| Overseas Lawyers (Qualification for Admission) (Amendment) Rules 1999 | 325/99 |
| Banking Ordinance (Amendment of Third Schedule) Notice 1999 | 326/99 |
| Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Ordinance 1997 (46 of 1997) (Commencement) Notice 1999 | 327/99 |
| Antiquities and Monuments (Declaration of Historical Building) Notice 1999..... | 328/99 |
| Antiquities and Monuments (Declaration of Historical Building) (No. 2) Notice 1999..... | 329/99 |
| Declaration of Change of Titles (Planning, Environment and Lands Bureau and Secretary for Planning, Environment and Lands) Notice 1999..... | 330/99 |

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| Declaration of Change of Titles (Agriculture and Fisheries Department, Director of Agriculture and Fisheries, Deputy Director of Agriculture and Fisheries and Assistant Director of Agriculture and Fisheries) Notice 1999 | 331/99 |
| Tax Reserve Certificates (Rate of Interest) (No. 9) Notice 1999 | 332/99 |

Other Papers

Report of the Bills Committee on Arbitration (Amendment) Bill 1999

Report of the Bills Committee on Electronic Transactions Bill

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): May I wish Members good health and a prosperous new year.

Questions. First question.

Promotion of Cross-border Investment

1. **MR JAMES TIEN** (in Cantonese): *Madam President, in view of China's imminent accession to the World Trade Organization (WTO) and the increasingly frequent commercial and trading activities between the Mainland and Hong Kong, will the Government inform this Council:*

- (a) *whether it will consider setting up a one-stop information centre in Hong Kong dedicated to collecting, analysing and publicizing information about the legislation, policies and stipulations related to operating businesses in the Mainland, as well as information on the commercial and trading activities in various provinces and cities, in order to facilitate local businessmen in grasping the business opportunities arising from the opening up of the mainland market; if it will, of the details of it; if not, the reasons for that; and*

- (b) *of the specific achievements of the first meeting of the Mainland and the Hong Kong Special Administrative Region (HKSAR) Joint Commission on Commerce and Trade held in November 1999, in regard to the promotion of cross-border investment?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President,

- (a) To keep Hong Kong businessmen abreast of the latest developments of the mainland market and business opportunities so emerged, the Trade Development Council (TDC) is seeking to provide one-stop information services meeting the different needs of our businessmen by collecting, analysing and publicizing information on the Mainland's commercial policies, laws and regulations, as well as information on investment and commercial activities in various major provinces and cities in the Mainland. Details are as follows:
- (i) The TDC Business InfoCentre contains a large amount of reference materials on China trade, including company directories, periodicals, newspaper clippings and information on investment projects classified on a provincial and municipal basis. Also included is the *Business Alert — China* newsletter published regularly by the TDC. This newsletter provides updates on mainland commercial policies and regulations, and articles analysing implications of newly promulgated policies and policy changes. Hong Kong businessmen can update themselves on trade and investment situations in the Mainland, and on projects with investment potential in various provinces and cities simply by visiting the Centre. The economists of the TDC's Research Department can also provide free advice on matters relating to China trade, investment and retail services to Hong Kong businessmen interested in expanding their businesses into the Mainland.
- (ii) The popularity of the Internet has enabled the TDC to provide one-stop services with even greater flexibility. For example, noting that the reform of state-owned enterprises has now become the focus of prevailing economic reform in the

Mainland, the TDC has set up a "State-owned Enterprises Database" in the Internet to update Hong Kong businessmen on the latest details, thus helping them identify opportunities for business co-operation. In early 2000, the TDC will also launch the "Trade Portal", a new website of a larger scale, to provide first-hand information on mainland commerce and trade. The information provided will include (1) laws promulgated by the National People's Congress; (2) laws and legislation on commerce and trade promulgated by the State Council; (3) provincial rules on commerce and trade in Guangdong, and other provinces and cities; and (4) commerce and trade news about the Mainland and Hong Kong.

- (iii) Hong Kong businessmen operating in the Mainland can also make use of the 10 TDC offices in the Mainland if they encounter problems and need information, and liaison and referral services.

In addition, the Information Centre of the Trade Department (TD) also provides economic and trade information, including commercial information circulars, relating to the Mainland. These circulars contain updates on mainland laws, regulations and administrative measures, as well as macro-economic and trade developments in the Mainland. They are available on the website of the TD for public access. The websites of the TDC and TD are connected by hyperlinks.

- (b) In view of the increasingly frequent cross-border economic and trade activities, a Working Group on Investment has been set up under the Mainland and the HKSAR Joint Commission on Commerce and Trade. At its first meeting in Beijing in early November 1999, the Working Group discussed extensively ways to promote investment and strengthen co-operation/exchanges between the two places. In particular, the following points were agreed by both sides on the promotion of cross-border investment:
 - (i) The Ministry of Foreign Trade and Economic Co-operation (MOFTEC) and the TDC would strengthen their co-operation, organize investment and trade seminars and policy symposia

to promote investment. The TDC would also organize study missions to visit mainland investment locations and projects of interest to Hong Kong businessmen.

- (ii) The TDC would display in its Business InfoCentre information about mainland investment projects available to foreign businessmen and investors as well as mainland policies seeking to attract foreign investment. Such information would also be made available in its "Trade Portal" for easy reference of investors.
- (iii) Co-operation between the MOFTEC and the Industry Department of the SAR would be enhanced by exchanging experience gained from successful cases and good practices in investment promotion.
- (iv) Exchange of information between both sides would be enhanced. The MOFTEC would also keep the relevant department(s) of the SAR informed, in a timely manner, of mainland policies on foreign investments, and listen to the views of Hong Kong investors.

The Investment Working Group will convene its second meeting in the first half of 2000 to take stock of the implementation of the actions agreed at the first meeting, and to discuss the content and focus of future work.

MR JAMES TIEN (in Cantonese): *Madam President, I wish to thank the Secretary for his reply. The TDC is purely responsible for matters concerning the setting up of companies. After China's accession to the WTO, there may be a need to lay down many legal provisions, such as those regarding manpower policies. May I ask when laws and policies on these are promulgated by Beijing, can Hong Kong businessmen obtain information on these through the TDC or the 10 TDC offices in the Mainland as mentioned in paragraph (iii) of part (a) of the main reply and, should it become necessary, cite the information when confronted with the provincial and municipal governments in the Mainland? Will the information be in any way an effective recourse during such confrontations?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, as a matter of fact, the TD and the TDC have always kept a close watch on the developments and directions of mainland policies on trade and investment. If any measures are launched by the Mainland which may have far-reaching trade and economic impact on our businessmen, such as those mentioned by Mr James TIEN just now, the TD and the TDC will certainly get in touch with the mainland authorities and obtain first-hand information. The information will be loaded onto our websites and stored in the information centres of the TDC and the TD for easy reference of Hong Kong businessmen. As to the question of whether the information would have any legal effect when Hong Kong businessmen are engaging in trade negotiations or talks with the mainland authorities, that will have to depend on whether or not the information is disseminated through documents which by themselves are imbued with legal effect and in the final analysis, this will have to be traced back to the relevant laws or regulations in the first instance. However, the access to such information will facilitate any search into the legal sources.

MR KENNETH TING (in Cantonese): *Madam President, about the Joint Commission on Commerce and Trade mentioned in part (b) of the main question, we have just now been informed of the details of its first meeting. However, may I know if the Government will make the agenda and minutes of the future Commission meetings available to the public and the chambers of commerce for their perusal?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, as a matter of fact, we have not only disclosed the abstracts of the first meeting of the Commission for reference of Honourable Members. We also arranged for a press conference in Beijing as soon as the meeting had been concluded. Any interested member of the public or businessman can have access to the related documents. We will stick to this practice so that the meetings of the Commission will have a greater transparency. As to agendas, I will get into contact with our mainland counterparts and inquire into the possibility of making public the agenda beforehand, or if agendas can only be made public after the abstracts of the meeting have been released afterwards.

About listening to the views of the commercial and industrial sectors, I said when I was briefing the Members on the conclusions reached in that meeting of the Commission on a meeting of the Legislative Council Panel on Trade and Industry, that both parties had agreed that with regard to the four working groups under the Commission, including those on investment and trade, the Hong Kong side could invite representatives from the business and industrial sectors to attend the meetings of the Commission should there be a need for it. That will enable mainland officials to listen to their views directly and likewise, the mainland side may also invite representatives from the mainland business and industrial sectors to attend the Commission meetings.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, according to newspaper reports, the TDC will be publicizing its assessment of the impact of China's accession to the WTO on the economy of Hong Kong by the middle of this month. Will the Government inform this Council of the progress and whether an interim report is available?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, if Mr HUI was inquiring after the report being prepared by the TDC, I am sorry to say that I do not have it at hand. But if Mr HUI was inquiring after the assessment made by the Government, then I can say that the Legislative Council Panel on Trade and Industry will hold a meeting either next Monday or Tuesday, and one of the agenda items will be the impact of China's accession to the WTO on Hong Kong. The papers for that meeting will include an assessment paper prepared by the Government Economist.

MR SIN CHUNG-KAI (in Cantonese): *Madam President, about the question of mainland laws and regulations and other information, the websites of the Chinese Government do have a lot of useful information. I think the problem may lie in the habit of local businessmen who are used to browsing the TDC website. Will the Trade and Industry Bureau inform this Council whether or not it will ask the TDC to make a review of its web pages and do some "website harvesting" work, that is, to get more information from the websites in China in order to make our web pages better, so as to provide more information to our businessmen?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I have just now referred to the new website which will be launched by the TDC early this year. It is called the "Trade Portal". Apart from providing first-hand information on mainland commerce and trade compiled by the TDC, it will also contain information from other Internet service providers on laws of China and legislation on commerce promulgated by the State Council, the provinces and municipalities, and related policies and regulations, as well as a daily news update on mainland business and trade. The Trade Portal contains a search engine and an Internet directory which contains 10 000 websites which can be accessed free of charge. These websites include mainland government organizations and enterprises. Therefore, in our opinion, the setting up of the Trade Portal can definitely enhance the ability of the TDC in providing marketing, trade partnership and market information services on the Internet, thereby helping Hong Kong become a business centre in Asia.

MR EDWARD HO (in Cantonese): *Madam President, could the Secretary tell us whether information on professional services is included in the information on China trade and investment made available by the TDC, for example, the engineering projects which Hong Kong businessmen can take part?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, the scope of work of the TDC in recent years has included the promotion of service industries in Hong Kong. Therefore, I believe if such information is available, it will definitely be found in the Trade Portal. I will contact my colleagues in the TDC after the meeting to ensure that such information is available on the Internet.

DR RAYMOND HO (in Cantonese): *Madam President, if in case the 10 TDC offices in the Mainland and the information available do not have anything on a certain field of business or a geographical region, for example, information on trade in the developing midwest region is scanty, should Hong Kong businessmen approach the TDC or the TD for assistance?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I think they can approach either one. If there is a request, the TDC will certainly look for information in this respect. If the TD receives such an inquiry, it will contact the MOFTEC through its representatives in Hong Kong or through the Office of the Government of the HKSAR in Beijing in order to obtain such information.

MR HOWARD YOUNG: *Madam President, since those who decide to trade with China after its accession to the WTO would include foreign companies with branches in Hong Kong, and also since we hope that multinational corporations will use Hong Kong as a base to trade with China, I would thus like to know whether the Business InfoCentre and the websites, referred to by the Secretary in items (i) and (ii) of part (a) of the main reply, would include information in non-Chinese languages as well, as I believe that the Chinese Government sometimes does publish trade information in English and also in French?*

SECRETARY FOR TRADE AND INDUSTRY: Madam President, I am sure that where possible, the two websites will include information in English. But when it comes to regulations and laws written in the Chinese language, I am not so sure what the situation would be. I will make inquiries and give Mr YOUNG a written reply in due course. (Annex I)

Implementation of School Improvement Programme

2. **MR SZETO WAH** (in Cantonese): *Madam President, the Education Commission Report No. 5 published in June 1992 recommended the School Improvement Programme (SIP) under which alteration or extension works would be carried out by phases in schools built to old planning standards. The Report was endorsed by the Executive Council in February 1993 and it was stated in the 1997 policy address that the SIP was expected to be completed by 2004. In this connection, will the Government inform this Council:*

- (a) *of the implementation timetables set for phases 4 to 8 of the SIP, and whether it has assessed if the whole SIP could be completed on schedule; if the result of the assessment is in the negative, of the reasons for that;*

- (b) *among the schools included in the feasibility study conducted for phase 4 of the SIP, of the names and respective numbers of schools that it has decided so far to include and not to include in that phase of the SIP, and the specific criteria used for making such decisions; and*
- (c) *whether it will honour its undertaking to ensure that all school improvement works will be completed as soon as possible?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President,

- (a) The SIP aims at progressively upgrading the teaching and learning environment of schools to provide additional space and facilities for teaching, out-of-class activities and supporting services for teachers and students. Our target is to complete improvement works by 2004 for all public sector schools which are feasible for the SIP. The SIP involves over 900 school premises and is carried out in eight phases. As at 1 December 1999, improvement works have been completed in 294 school premises under phases 1 to 3, including 165 primary school premises and 129 secondary school premises. Improvement works in another 86 school premises (comprising 41 primary school premises and 45 secondary school premises) are progressing. As for phase 4, feasibility studies for 114 school premises have been completed. There is also a phase 2A which comprises 42 school premises. These premises originally belonged to phases 1 and 2 but have subsequently been taken out of the two phases when their scope for improvement is found to be limited. Feasibility studies for these premises have also been completed.

The cost of SIP has been increasing in the last few years. The average cost per school premise in phase 1 is \$11 million. This has increased to \$18 million and \$28 million in phases 2 and 3 respectively. According to the feasibility studies, the average improvement cost per school premise in phases 2A and 4 is

estimated to be \$36 million. There are over 50 school premises which exceed this average cost, with the highest improvement cost estimated to be \$82.5 million. Part of the reason for the increases over the years is that we have expanded the scope of works to provide more improvement items. For example, starting from phase 2, access for disabled persons is provided, wherever feasible, in compliance with the provisions of the Disability Discrimination Ordinance. Beginning from phase 4, the scope of works has been further expanded so that the standards of existing schools can be upgraded to fall in line with the latest schedule of accommodation for new schools to be completed from the year 2000. However, we cannot rule out the possibility that some of the increases are related to other factors. In view of this, the Government has resolved that it is necessary to review the present steps and procedures of implementing the SIP to assess whether there are more cost-effective ways of carrying out the SIP to ensure that public money is properly spent. We have already commissioned a consultant to undertake the review and the consultant is asked to submit a report by April 2000. The Government will, on the basis of the findings of the review, examine the need to revise the methodology and the timetable for delivering the SIP.

- (b) During the above-mentioned review to be conducted by the consultant, improvement works which have already commenced under phases 1 to 3 will continue and will not be affected. As regards the 156 school premises in phases 2A and 4, improvement works in 47 school premises will not be affected. In selecting these 47 school premises, our basic yardstick is that the number of improvement items to be provided in a school premise should not be too few, and that the estimated cost for the improvement works should not exceed one third of the construction cost of a new school, that is, the improvement works should cost no more than about \$32 million for a primary school and about \$36 million for a secondary school. There are 19 school premises which meet this criterion, as listed at Appendix A. As for the other 28 school premises, the estimated cost of their improvement works will exceed the cost threshold. Nevertheless, priority has to be given to carrying out

these works because according to the Education Department's assessment, improved facilities are needed quickly to implement such education initiatives as curriculum reform, abolition of floating classes, whole-day primary schooling and so on. We will also proceed with improvement works for these school premises but will discuss with the schools concerned some adjustments to the scope of works. A preliminary list of these 28 schools is at Appendix B. We will seek funding support from the Finance Committee shortly to proceed with improvement works for the 47 school premises.

As regards the remaining 109 school premises under phases 2A and 4, we will continue to liaise with the schools and, if individual schools request for certain pressing and small scale improvement items, we will consider the feasibility of undertaking short-term improvement measures, having regard to the conditions of the schools concerned and the financial resources required. As for longer-term improvements, we will have to await the consultant's report before coming to a decision on whether these school premises should go through the SIP or adopt other improvement options, including discussing with the schools concerned the feasibility of in-situ redevelopment or reprovisioning. It has to be pointed out that some school premises cannot be thoroughly improved through the SIP primarily because of the conditions of the school premises. For example, the school site may be too small for building an annex and the construction of a roof-top extension is structurally non-feasible. Alternatively, the school building may be too old and repair and maintenance costs are too high. In these circumstances, we will explore other improvement options, including in-situ redevelopment or reprovisioning.

- (c) At the moment, we maintain our original target of completing the entire SIP by 2004. We will, on the basis of the findings of the consultancy review, examine whether there is a need to review the timetable of the SIP. As for school premises which cannot be thoroughly improved through the SIP, we will make every effort to put in place as soon as possible other long-term improvement measures, including in-situ redevelopment or reprovisioning.

Appendix A

List of schools with project cost not exceeding 1/3 of the construction cost of a new school (19 schools)

Secondary Schools (9 schools)

Lingnan Dr Chung Wing Kwong Memorial Sec School
Yu Chun Keung Memorial College
HK Chinese Women's Club College
Canossa College
Carmel Secondary School
PLK Vicwood KT Chong Sixth Form College
Pooi Tun Secondary School
TWGHs Lee Ching Dea Memorial College
Sing Yin Secondary School

Primary Schools (10 schools)

FDBWA Yan Kow School
Precious Blood Primary School (Wah Fu)
Sin To School
Mong Wong Far Yok Memorial Primary School
TWGHs Lo Yu Chik Primary School
Li Cheng Uk Government Primary School
Sir Eills Kadoorie Primary School
SKH Chu Yan Primary School
Wong Tai Sin Catholic Primary School
Castle Peak Catholic Primary School

Appendix B

List of schools recommended for reduced scope of works and pending consent from schools (28 schools)

Secondary Schools (19 schools)

MFC Prevocational School (Chai Wan)
Caritas St Paul Prevocational School
Valtorta College
PLK 1984 College
Tsung Tsin College
TWGHs Kwok Yat Wai Prevocational School
Wong Shiu Chi Secondary School
YCH Tung Chi Ying Memorial Secondary School
Christian Alliance College
Chiu Lut Sau Memorial Secondary School
Clementi Secondary School
Helen Liang Memorial Secondary School-Sha Tin
Kwun Tong Government Secondary School
Shatin Government Secondary School
Shau Kei Wan Government School
Sir Ellis Kadoorie Secondary School-Sha Tin
South Tuen Mun Secondary School
Tseung Kwan O Government Secondary School
Tsuen Wan Government Secondary School

Primary Schools (9 schools)

St. Joseph's Primary School
Building Contractors' Association School
St Rose of Lima's Primary School
Apleichau St Peter's Catholic Primary School
Cheung Chau Church Kam Kong Primary School
Lee Chi Tat Memorial School
Shan Tsui Public School
STFA Ho Yat Tung Primary School
Yuen Kong School

MR SZETO WAH (in Cantonese): *Madam President, the SIP is divided into a total of eight phases but the Government only mentioned phases 1 to 4 in the main reply just now. What is the case with the 390 schools under phases 5 to 8? Will the programme covering these 390 schools continue to progress and whether the improvement works at these schools will be completed by 2004 as stated in the report of the Education Commission? If improvement works will be carried out as scheduled, when will the progress of these works be released?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): *Madam President, in the main reply I already said that the SIP consists of eight phases, that is, from phase 1 to 8. I only mentioned phases 1 to 4 in the main reply because we noticed a substantial increase in the cost of phase 4, so we hope to conduct a review. The 390 schools originally grouped under phases 5 to 8 remain part of the SIP. As I said in part (c) of the main reply, we maintain our original target of completing by 2004 the entire SIP, which includes the 390 schools under phases 5 to 8.*

However, as for the detailed timetable and whether there will be changes in the procedures or mode for implementing the SIP, we hope to conduct a comprehensive review, on the basis of the consultant's report due late April, before coming to a decision. By then, we will be able to explain in detail the timetable for phases 5 to 8.

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, in part (c) of the main reply, the Government said that it would maintain the original target of completing the SIP by 2004, but it further said that it would, on the basis of the findings of the consultancy review, examine whether there would be a need to review the timetable of SIP. I think this is contradictory. Will the Government inform the Council whether it will ignore the decision previously made by the Education Commission and the Executive Council and revise the progress of the programme unilaterally if the consultancy review suggested that the timetable for the programme should be extended? Let me remind the Government that at present, there are more than 500 schools to which improvement works have never been carried out. They do not have any student activity centre, library, computer room, language room or conference room. If the programme is to be deferred again and again and held in abeyance indefinitely, will it not be fair to the students of these schools?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, there have been no changes in the scope of the SIP. The 900 school premises, as I pointed out in the main reply, are still within the scope of the SIP. In part (c) of the main reply, I also said that we would maintain our original target. In fact, as we have yet obtained the findings of the consultancy review, we cannot come to a decision as to whether there is a genuine need to revise the timetable of the programme. For this reason, we must await the findings of the consultancy review before considering the need to revise the timetable of the SIP. It is our hope that based on the findings of the consultancy review, we can come up with ways to carry out the SIP more properly and thoroughly, and in a more cost-effective manner. We have no intention whatsoever to remove some schools from the scope of the SIP and refuse to carry out improvement works for them on the basis of the consultancy review.

At the same time, as I mentioned in the main reply, we may have to study more actively the options of in-situ redevelopment and reprovisioning on a larger scale. A number of schools are currently doing this. According to the initial estimation of the Government, in-situ redevelopment or reprovisioning may be considered as the improvement option for more schools in future given the exorbitant costs of improvement works. In this connection, the Government certainly needs to further negotiate and discuss with the schools concerned. I can assure Members that once the findings of the consultancy review are available, we will be happy to discuss the matter with Members at meetings of the Legislative Council Panel on Education before a decision is reached on the next step to be taken to deal with the SIP.

MR LEE WING-TAT (in Cantonese): *Madam President, in the second paragraph of part (b) of the main reply, the Secretary said that the Government would consider the feasibility of undertaking short-term measures, having regard to the conditions of the schools concerned and the financial resources required. As the Honourable CHEUNG Man-kwong mentioned just now, there are many schools which do not even have a student activity centre, library and computer room. May I ask the Secretary, upon receipt of requests from schools for these facilities, what criteria the Education and Manpower Bureau will employ to provide funding for schools to procure facilities that they are not currently available? Moreover, for the short-term measures mentioned by the Secretary,*

do they refer to some very minor improvement works, but not providing schools with additional activity approach classrooms, computer rooms and other facilities as mentioned in the main reply?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President, certainly, the short-term improvement works that I referred to cannot possibly include the construction of a new school premise next to the old one. But the Government will discuss with the schools concerned to ascertain the feasibility of providing them with such pressing facilities as classrooms, computer-assisted learning rooms, staff rooms, additional classrooms for student counselling service or meeting rooms, which are also considered by many schools to be very pressing. The Government hopes that some short-term or interim measures can be identified after discussion with the schools. In the short term, we will carry out pressing improvement works at schools where space can be vacated without having to build additional structures. In the medium to long term, we will study ways to improve the overall school environment more thoroughly, including the provision of more open space for out-of-class activities for students.

DR YEUNG SUM (in Cantonese): *Madam President, I am more concerned about those school premises which are dilapidated, built on small sites, or where extension works are structurally non-feasible, as mentioned in the main reply. Can the Government inform this Council whether it will draw up a timetable for the improvement works required to effect redevelopment or reprovisioning of these schools by 2004?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President, in fact, I am also very concerned about these schools. In this connection, the Government will examine the situation of all schools across-the-board after the report of the consultancy review is available. At the same time, as I mentioned just now, we may consider carrying out in-situ redevelopment or reprovisioning works on a larger scale as our next step. This will not only involve resources, but also the availability of land. I believe that we will certainly have the opportunity to discuss this matter with Members in future.

MISS EMILY LAU (in Cantonese): *Madam President, in reply to the supplementary questions, the Secretary said time and again that one of the objectives of the SIP is to provide more space for students. In response to another question earlier, the Secretary said that the open space for each primary school student is 2 sq m without mentioning the case for secondary school students. May I ask whether the objective of providing students with more space refers to the provision of open space measuring 2 sq m for each primary school student? How does this standard compare with the space provided for students in international schools in Hong Kong or schools in the neighbouring Asian countries?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, obviously, the ideal target of the SIP is to carry out the necessary improvement works to enable each student to be provided with an area of open space comparable to that provided for students of new schools to be completed in 2000. However, difficulties will very often arise in reality given the limited area of the original school site, or where extension works are not feasible, as I mentioned in the main reply. Therefore, what can be done practically may fall short of the ideal.

On Miss LAU's question about the area of open space for each secondary school student under the existing programme, as well as its comparison with international schools, I do not have the information at hand so I will provide a supplementary reply in writing. (Annex II)

MISS EMILY LAU (in Cantonese): *Madam President, I would also like to know the statistics relating to the open space provided for each student in the neighbouring regions.*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, if the relevant information is available, I will certainly provide it to Miss LAU. (Annex III)

Non-payment of Wages by Contractors of Public Works

3. **MR CHAN KWOK-KEUNG** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *of the number of known cases since January last year in which contractors or sub-contractors of public works projects defaulted on the payment of wages to construction workers; among them, the number of cases mediated by the Labour Department, and the results of the mediation; and*
- (b) *whether it has adopted measures to prevent contractors or sub-contractors from defaulting on the payment of wages to workers when it awards construction projects; if it has, of the details; if not, the reasons for that, and if it will consider formulating measures to prevent such situation occurring?*

SECRETARY FOR WORKS (in Cantonese): Madam President,

- (a) The Labour Department has not categorized the statistical data of labour disputes into public works project and non-public works project. In 1999, the Labour Department handled a total of 1 219 disputes involving non-payment of wages by contractors or sub-contractors of the construction industry. Among them, 105 cases involve more than 20 employees. The remaining 1 114 cases involve claims by less than 20 employees.

Of the 1 219 cases, 655 have been resolved through mediation by the Labour Department. The remaining cases concern disputes in the amount of defaulted payment, or the identity as to whether the claimant worker is an employee or a sub-contractor, or the inability of the employer to pay the money. Accordingly, these cases have been referred to the Minor Employment Claims Adjudication Board, the Labour Tribunal or the Legal Aid Department.

Since January last year, the works departments under the Works Bureau have received a total of four cases whereby the contractor or sub-contractor under the public works projects is alleged to have

defaulted on payment of wages to his workers. The cases are all related to non-payment of wages by the sub-contractors. In two of these cases, the sub-contractors subsequently paid to the workers the overdue payment after the disputes were resolved through mediation by the Labour Department and the main contractors. As regards the remaining two cases, one is being investigated and the other one was referred to the Labour Tribunal. The investigation process of the Labour Tribunal is still under way and the next hearing is scheduled in February 2000.

- (b) Under the General Conditions of Contract for public works projects, there is a provision whereby the Government may exercise his discretionary power to make direct payment to the contractor's workers in the event of defaulted payment of the wages of any person employed by the contractor. To succeed a claim for outstanding wages, the aggrieved worker must file a claim in the office of the Labour Department and furnish proof to the satisfaction of the Commissioner for Labour.

The proof should include, where the claim is disputed by the contractor or it is found necessary by the Commissioner for Labour, proof of final determination of the claim by an award or order of the Labour Tribunal or as the case may be the Minor Employment Claims Adjudication Board or a judgment of the District Court or, where the matter is subsequently further disputed by way of appeal, by a judgment of the Court of First Instance or the Court of Appeal.

The prerequisites for invoking this provision when the claim is disputed by the contractor are a decision of the court and that there is sufficient money recoverable by the Government from the contractor under the contract. For the sub-contractor's workers, there is no similar contractual provision as the Government has no contractual relationship with the sub-contractor and hence is not in possession of any money due to the sub-contractor. The Government is therefore not entitled to make any offset for direct payment to the sub-contractor's workers.

The sub-contractor's workers may, however, rely on the protection offered by law, and the provision of the public works contracts must

comply with the law and must not be used as a pretext to evade liabilities. Under the Employment Ordinance (Cap. 57), the principal contractors, superior sub-contractors and superior nominated sub-contractors (if any) engaged in building and construction works are liable for the first two month's unpaid wages of an employee who is employed by the subordinate sub-contractor.

If an employee employed by a sub-contractor is owed wages, he must serve a written notice to the principal contractor within 60 days after the wages become due. The written notice should comply with certain formalities required under the Ordinance. The principal contractor, the superior sub-contractor and the superior nominated sub-contractor should pay wages to the employee within 30 days after receiving the notice. They may also request every superior sub-contractor to the employee's employer to share out the liability.

The wages paid by the principal contractor, the superior sub-contractor and the superior nominated sub-contractor shall be a debt by the employer of the employee to them. The debt may be recovered through civil claims proceedings.

The statutory provisions under the Employment Ordinance have struck a balance between the workers and the principal contractors. They offer extra protection to the construction worker by way of a claim to the principal contractor who is not his employer. Together with the contractual provision under the public works contract, the statutory protection would facilitate the payment of outstanding wages to the building and construction workers.

MR CHAN KWOK-KEUNG (in Cantonese): *Madam President, with regard to the 1 219 disputes involving non-payment of wages last year, has the Labour Department reported the names of the contractors and sub-contractors involved in these disputes to the Works Bureau, Highways Department, Housing Department as well as other government departments which frequently engage in public works projects? If not, will the Government consider doing so?*

PRESIDENT (in Cantonese): Which Secretary is to give a reply? Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the available information, we do not make such reports. But since the Honourable Member has made this suggestion, I will discuss it with colleagues of the Labour Department and the Works Bureau at a later stage to see if it helps.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, in the main reply the Secretary said that an employee employed by the sub-contractor must serve a written notice to the principal contractor within 60 days in order to recover the outstanding wages from the principal contractor. May I ask the Secretary on what basis this 60-day period is determined and whether it is necessary for this period to be limited to just 60 days? Given that there is no provision in other labour legislation stipulating that wages in arrears must be recovered within a period as short as 60 days, will the Secretary consider reviewing this requirement and extending the 60-day period?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, firstly, the 60-day period is determined on the basis of the Employment Ordinance. Secondly, on the question of whether 60 days are too short a period, it depends on what information the notice requires. In fact, the particulars required are not too complicated. They only include the name and address of the employee, the name and address of the employer, the place of employment, details of the job duties performed by the employee in return for his wages, the amount of wages to which the employee is entitled, the duration of employment and so on. Such information is not too complicated, so I do not consider the 60-day period unreasonable. Moreover, let us not forget that if the sub-contractor is unable to pay for his employees' wages, the employees can only recover two months' wages from the principal contractor. Given this limitation, that is, the employees can recover two months' wages at most, it will be meaningless to extend the period.

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

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary said that it would be meaningless to extend the period. But I was actually asking whether this would be reviewed because very often, especially under the present circumstances, it is not surprising that an employee has been owed wages for two or three months. In that case, when the employee comes to realize that actions should be initiated to recover the wages in arrears, the prescribed period may have lapsed already. As a matter of fact, many employees were unable to recover the wages in arrears for this reason. Therefore, will the Secretary conduct a review in this connection?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I wish to add one point. In fact, this 60-day period is not a hard and fast rule for it may be extended to 90 days with the approval of the Commissioner for Labour. On the question of whether it is necessary to further extend the period beyond 90 days, I hope Mr LEUNG can provide more information so that we can further discuss this issue on other appropriate occasions, say, at meetings of the Panel on Manpower.

MR CHAN WING-CHAN (in Cantonese): *Madam President, in the last paragraph of part (b) of the main reply, the Secretary said, "The statutory provisions under the Employment Ordinance have struck a balance between the workers and the principal contractors. Together with the contractual provision under the public works contract, the statutory protection would facilitate the payment of outstanding wages to the building and construction workers." May I ask why there were still 1 219 disputes involving non-payment of wages in the construction sector last year? What measures will the Administration take to improve this situation?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the over 1 000 disputes involving non-payment of wages in 1999 reflect, to a certain extent, the economic climate at the time. They also reflect the inability of some employers, including those in the construction sector, to pay wages to their employees for various reasons.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, from the Secretary's main reply, I discovered two instruments which can protect the employees. The first one, which I have never heard of, is the stipulation in the General Conditions of Contract for public works projects that the Government may exercise its discretionary power to make direct payment of wages to employees. While I have engaged in this field for years, this is something that I have never heard of. May I ask the Secretary if the Government has ever exercised this discretionary power to make direct payment of wages to employees? The second instrument is the Employment Ordinance. Among those 600-odd cases of disputes which have not been resolved, how many of them failed because the 60-day period had expired? Does the Government have such statistics?*

PRESIDENT (in Cantonese): Which Secretary is to give a reply? Secretary for Works.

SECRETARY FOR WORKS (in Cantonese): Madam President, perhaps let me tackle the first part of the question and my colleague will then answer the second part of it. Under the public works contract, we do have the discretion to make direct payment of unpaid wages to the employees of the contractor. But firstly, the employees must be employed by the contractor. Secondly, the Government will set aside a certain amount of money to be payable to the contractor for each project, and the Government will actually pay the wages to the employees from this sum of money payable to the contractor. But as far as we understand it, a great majority of these disputes actually involve the sub-contractor, rather than the principal contractor. Therefore, we have not exercised this discretionary power before.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the information that I have got here, of the 1 000-odd cases involving unpaid wages in 1999 (including the 500-odd cases which were referred to the Minor Employment Claims Adjudication Board and the Labour Tribunal), none of them involves claims lodged by an employee after the expiry of the prescribed period.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, from the Government's reply to the supplementary question of the Honourable CHAN Kwok-keung, it appears that the Secretary considers the existing system basically proper and sound. Just now the Honourable CHAN Wing-chan also queried why there were still over 1 000 cases of this sort. May I ask the Secretary (whichever Secretary as appropriate) that in view of the many problems of the existing multi-layered sub-contracting practice for both public works projects and non-public works projects in the construction sector, will the Government consider introducing a contract system? The reason is that at present, many of the disputes are, to put it figuratively, "contentions between one's mouth and nose". Will the Government consider introducing a contract system having regard for the many labour disputes that spring from the multi-layered subcontracting practice in the construction industry?*

PRESIDENT (in Cantonese): Which Secretary is to give a reply? Secretary for Education and Manpower.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, perhaps I should give a reply first and if necessary, the Secretary for Works may then provide supplementary information. First, we must understand that the increase in the cases of non-payment of wages in a particular industry, say, the construction industry, and our protection for the affected workers are actually two separate issues because the increase in these cases reflects the economic conditions. As to whether the increase in disputes involving unpaid wages is attributed to the multi-layered sub-contracting practice in the construction industry, we have, in fact, provided construction workers with a certain degree of additional protection. We must understand that if we simply look at it from the angle of employment relations, the employees only have this relation with the sub-contractor. They do not have such a relation with the principal contractor. Notwithstanding this, the Employment Ordinance provides that if the sub-contractor fails to pay for his employees' wages, the principal contractor is liable to pay to the employees outstanding wages for the first two months. This can be considered as an additional protection for construction workers, and this is not applicable to employees in other industries. On the need to revise the multi-layered sub-contracting practice for improvement, perhaps I should defer to the Secretary for Works to answer this.

SECRETARY FOR WORKS (in Cantonese): Madam President, in fact, multi-layered sub-contracting is a long-established practice in the construction sector. It has all along been the practice of the industry since I started out in this field decades ago. On the point that non-payment of wages to workers is attributed to multi-layered sub-contracting, I think this may not be the case. Instead, I think it may be due to economic factors, as the Secretary for Education and Manpower said just now, rather than the practice itself. As to whether the sub-contracting practice can be improved, this is a separate issue and a review is underway. We are currently studying ways to improve the arrangements for sub-contracting, and also in areas of management and control.

Venue Rental Charges of Hong Kong Convention and Exhibition Centre

4. **DR LUI MING-WAH** (in Cantonese): *Madam President, at present, the Hong Kong Convention and Exhibition Centre (HKCEC) is managed by a profit-making private operator. In this connection, will the Government inform this Council whether:*

- (a) *it knows how the venue rental charges of the HKCEC compare with those of comparable venues in Singapore, Taipei, Bangkok and Melbourne, and whether the Hong Kong Trade Development Council (TDC) has assessed the potential rate of reduction in the venue rental charges of the HKCEC if it is directly managed by the TDC;*
- (b) *it has assessed if it is appropriate to draw a comparison between the rental charges for venues in the HKCEC and those for ballrooms of first-class hotels in Hong Kong; if such a comparison is assessed as being appropriate, of the rationale for that; and*
- (c) *it knows if the TDC takes part in setting the rental charges for the use of the venues in the HKCEC; if the TDC is involved in the process, whether it will review with the TDC the basis for determining the venue charges of the HKCEC?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President,

- (a) Based on the information provided by the TDC, we have set out in detail in the written reply sent to Members a comparison of the venue rental charges of the HKCEC with those of comparable venues in Singapore, Taipei, Bangkok and Melbourne. As the information is set out in the form of a table and I do not know how to read out the data in a complicated table, I hope that Madam President will understand this. I am not going to read out the data in the table and I would like to ask Members to refer to the Schedule.

The TDC points out that the rental charges of the above mentioned facilities are subject to different circumstances and factors, for example, the standard of living of the city concerned, location of the venue, transport and other ancillary facilities, standard of services rendered, turnover of the users of the venue, and the availability of subsidies from local governments. Hence the rental charges are different.

As far as the HKCEC is concerned, neither the Government nor the TDC provides subsidy to meet its daily operating costs. Its management company has to run the HKCEC on a self-financing basis. Based on prudent commercial principles, the management company, having taken into account the operating costs for maintaining the HKCEC as an international first-class venue in terms of its appearance, facilities and services, as well as the demand for such venues in the international market, will set the venue charges at a competitive level. The TDC believes that the above factors would have to be taken into account when determining such rental charges, regardless of whether the HKCEC is managed by a private management company or the TDC. The TDC has not

attempted any assessment of the venue rental charges of the HKCEC if it was to be put under the direct management of the TDC. This is because under the terms of the contract made between the TDC and the management company, the latter is responsible for determining the rental charges of the HKCEC as well as its daily operation.

- (b) The HKCEC ranks among the best in the world in terms of its appearance, facilities and services, which are comparable to those of the ballrooms in first-class hotels in Hong Kong. In ensuring that the rental charges are set at a competitive level, the management company therefore also draws reference to the level of charges applicable to facilities of comparable grading (including ballrooms in first-class hotels) in Hong Kong. We do not consider such comparison inappropriate. In fact, according to the information provided by the TDC, the rental charges for convention facilities of the HKCEC are lower than those charged by most first-class hotels in Hong Kong for their ballrooms.
- (c) According to the terms of the contract signed between the TDC and the management company, the level of the venue charges of the HKCEC is to be determined by the management company on the basis of commercial principles. The TDC is not directly involved in the process. However, the management company will seek TDC's advice for reference in determining future venue charges. Since the determination of venue charges is a commercial decision and this has been clearly stipulated in the contract between the TDC and the management company, the Government has no intention to take part in the determination process or influence the outcome.

Schedule

| <i>Venue</i> | <i>Estimated rental charges per m² per day in 2000 (HK\$)</i> | |
|--|--|----------------------------------|
| | <i>Exhibition facilities</i> | <i>Convention facilities</i> |
| Hong Kong Convention and Exhibition Centre (January, March to June and September to November) | 45.7 | 33.3 |
| (February, July, August and December) | 27.4 | 20.0 |
| Singapore International Convention and Exhibition Centre | 25.6 | 50.4 |
| Singapore World Trade Centre | 20.2 | 11.6 |
| Taipei World Trade Centre | 48.9 | 29.2 |
| Bangkok International Trade and Exhibition Centre | 30.1 | Data not available |
| Melbourne Convention and Exhibition Centre | 10.2 | 16.7 |

(Note)

Note: rental charges of these facilities are based on their published rates.

DR LUI MING-WAH (in Cantonese): *Madam President, the Secretary has not replied to the first point of the main question, that is, the potential rate of reduction in the venue rental charges if the HKCEC is directly managed by the TDC. When the Government answered my question on 6 December, it said that the management company paid the TDC over \$20 million every year which accounted for only 6% of the gross profits. In other words, the annual income of the exhibition company is over \$300 million. After the extension has been*

completed, the management company only pays the TDC some \$40 million every year which accounts for 8% of the gross profits, that is, its income reaches some \$500 million. When the Secretary for Trade and Industry answered the Honourable Miss CHOY So-yuk's question on 16 June last year, he said that there was 160 000 sq m exhibition venue in 1999 and local companies used 120 000 sq m. We can easily calculate on this basis that if the TDC manages the HKCEC, the rental charges will at least be reduced by \$300 million to \$400 million.

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I have actually explained in my main reply why the TDC has not made such an assessment. In the absence of such an assessment by the TDC, we cannot give Dr the Honourable LUI Ming-wah any information. I can add that if the TDC has made such an assessment, it will only be academic. As there is a fairly long time before the expiration of the contract made between the TDC and the management company, it is impossible for the TDC to assume management of the HKCEC before the expiration of the contract.

PRESIDENT (in Cantonese): Dr LUI Ming-wah, has any part of your supplementary not been answered? Or do you want to wait for a second turn?

DR LUI MING-WAH (in Cantonese): *We are not discussing about anything academic.*

PRESIDENT (in Cantonese): Dr LUI, this question time is not for debates, and you can only ask a follow-up question on the part of your supplementary that has not been answered.

DR LUI MING-WAH (in Cantonese): *An assessment has actually been made because venues are rented out and charges collected.*

PRESIDENT (in Cantonese): Well, Dr LUI, please take your seat.

MR BERNARD CHAN (in Cantonese): *Madam President, the Secretary has said in part (b) of his main reply that the rental charges for convention facilities of the HKCEC are lower than those charged by most first-class hotels in Hong Kong for their ballrooms. Would the Secretary tell us if the rental charges for convention facilities only mean the rental charges for the venues or do they include other things such as beverages? As one of the users, I think that the charges for beverages of the HKCEC — as the rental charges for most places include drinks — are more expensive than those charged by all first-class hotels. Is the Secretary merely referring to the venue rental charges or the rental charges inclusive of charges for beverages?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I believe the information is only related to the venue rental charges exclusive of charges for beverages.

MISS CHOY SO-YUK (in Cantonese): *Madam President, the information set out in the Schedule of the main reply has indeed failed to reflect the actual situation. Although the rental charges for the facilities of the HKCEC, on the basis of the figures, are higher than those charged by other venues by two to over four times, these charges do not include the charges collected very often by the HKCEC in respect of overtime, venues not used and other facilities and services of the HKCEC users are forced to use.*

PRESIDENT (in Cantonese): Miss CHOY, please come to your supplementary direct.

MISS CHOY SO-YUK (in Cantonese): *Madam President, my supplementary is that the HKCEC is owned by the Government and is a government facility, and the only venue in Hong Kong for holding conventions and exhibitions, but the Government has let a private enterprise manage the venue and determine the charges on its own, without profit restrictions. What reasons can the Government give?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I would like to state a fact first. At present, the HKCEC is not the only venue for holding conventions and exhibitions. There is a large-scale International Trademart on the other side of the harbour, near the old airport and this is a fact. I believe I have to take longer time to answer Miss CHOY's supplementary because I have to trace the historical reasons.

Madam President, in fact, the TDC invited tenders in an open and impartial manner in 1984, and all tenders were subjected to careful vetting by the Steering Committee chaired by the then President of the TDC and of which the then Secretary for Trade and Industry was a member. The proposal of the successful tenderer included the operation and management of the HKCEC and it had to pay the TDC certain annual fees. Later in December 1985, the TDC executed an operation and management contract with the wholly-owned subsidiary company of the successful tenderer — the existing management company. The term specified in the contract was 40 years starting from November 1988. The management company should attain the service targets specified in the contract, otherwise, the TDC might terminate the contract after giving a notice.

Why was the term of 40 years? Actually, when tenders were invited, the Government offered a piece of land, the TDC invited tenders for construction by commercial organizations. At that time, there was less market demands for venues for offices, hotels and exhibitions. As a result of the Sino-British negotiations, many people were not optimistic about the future of Hong Kong. In addition, the exhibition and convention business in Hong Kong was not prosperous at that time and the development of large-scale convention and exhibition facilities involved enormously great risks. Apart from tremendous construction expenses, the successful tenderer should ensure that the construction project and the materials used comply with the highest international standards. It should also equip the HKCEC with facilities that reach international standards as well as engage a management company of international standards to manage and operate the HKCEC. In view of the above background and harsh conditions, the TDC found it acceptable at that time for the successful tenderer to ask for a contract for the operation and management of the HKCEC with a longer term.

As regards the management contract of the HKCEC extension, on the basis of the management contract executed between the TDC and the management company in 1985 for the original HKCEC — the contract I just mentioned, the TDC cannot develop or assist in developing, or subsidize or agree or otherwise take part in all local exhibition facility projects within the validity period of the contract. Actually, this condition is also applicable vice versa, that is, the successful tenderer cannot do the same thing within the 40 years. When the TDC considered the HKCEC extension, the legal advice it sought was that the scope of facility projects covered by the above condition should include the HKCEC extension to be built in future. If the TDC granted the management right of the extension to another company, it would breach the conditions of the relevant contract and the management company would take legal actions against it. Furthermore, the TDC and the Government thought that, in respect of operation or financial matters, after the HKCEC extension had been completed, the original HKCEC and the extension must operate as a whole in order to attain the best results. When we applied to the Finance Committee of the Legislative Council for funding approval for the construction of the HKCEC extension in 1994, we stated the above in detail in the paper submitted to the Finance Committee. Many Members at that time are still present today, and they knew the situation well, yet, some Members opposed the application. At that time, the Democratic Party voted against the application at the end. Yet, we fortunately gained the support of a majority of Members and the application was approved. Therefore, we unfolded all the facts then with full transparency. As Dr LUI and Miss CHOY were new Legislative Council Members, I have taken some more time to elaborate this background.

On the basis of the above considerations, the TDC decided and the Government agreed then that the extension should be managed by the original management company. But the conditions of the contract were not as "harsh", and it only had a term of 20 years, starting from June 1997. At a meeting of the Finance Committee of the Legislative Council on 25 February 1994, I had explained to Members in detail the demerits and actual difficulties involved if two different companies manage the HKCEC and the extension respectively and if the TDC granted the management right of the HKCEC to another company, it might lead to legal proceedings. Later, as requested by Members, the TDC invited the management company to review that contents of the original contract but the management company declined the request.

MR NG LEUNG-SING (in Cantonese): *Thank you, Madam President. I would also like to thank the Secretary for the history lesson. On the basis of the above history, has the Government made an assessment on basis of the essential factors for consideration such as appearance, equipment and services and summed up the responses of members of the community who have used the HKCEC? What is the outcome?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, the Government had not made such an assessment. However, according to the management contract, the management company must reach international standards in terms of operation and management, and the contract has specified that if the performance of the management company fails to meet stringent requirements in respect of operation and management, the TDC has the right to terminate the contract after giving a 90 days' notice. Yet, since the opening of the HKCEC at the end of 1988 and after the extension has been built, on the basis of this condition, the TDC has closely monitored the performance of the management company and the TDC finds that the performance of the company has been satisfactory. Therefore, the TDC and the Government do not have any lawful reasons to terminate the contract of the management company early.

PRESIDENT (in Cantonese): Last supplementary.

MR HOWARD YOUNG (in Cantonese): *Madam President, I find that the Secretary has set out the rental charges of various venues in the Schedule, and Miss CHOY has just said that the charges of some facilities in Hong Kong are more expensive than those in other places. I am not worried about the situation in Melbourne, it cannot be compared with Hong Kong because of its location at the southern end of the Southern Hemisphere. But what worries me more is another figure about the convention facilities in Singapore. The rental charges of the convention facilities of the Singapore World Trade Centre are really cheaper than ours and even cheaper than those charged at low season here. I would like to ask if this is one of the factors for the determination of charges when we compare the TDC or the management company with other cities in the world that compete with them for such business, or have they not considered this factor at all?*

SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, when the Legislative Council takes part in the management company's consideration about the determination of rental charges, it has certainly considered the levels of charges of convention facilities in other regions directly competing with Hong Kong. However, I am told by the TDC that during our peak season in January, March to June and September to November, although rental charges for the exhibition facilities, for example, are higher than those in Singapore, the usage rate is still saturated and supply even falls short of demand sometimes. This proves that during the peak season, it is not necessary to reduce rental charges to attract more exhibitions or conventions because there is still such a large demand without reducing the rental charges. Thus a reduction in rental charges does not comply with prudent business principles. However, the management has heeded the advice of the TDC and substantially reduced rental charges during the low season. For example, when the management company determined the 1999 levels of charges in 1997, it took 1998 as the basis and added 3% on this basis. Yet, with the emergence of the financial turmoil later, the management company found that the business environment had changed and it decided in March 1999 that the number of low season months should be increased from two, that is, July and August in the past, to February, July, August and December from 2000 onwards while the discount rate should be increased from 30% to 40%. Moreover, it would give 10% to 30% special discounts to attract sponsors that are interested in holding exhibitions in Hong Kong for quite some time. Furthermore, the TDC requests the management company — and the management company has agreed — to freeze rental charges in 2000. Subsequently, the management company decided in December 1999 to continue to freeze rental charges in 2001. Evidently, the management company and the TDC are paying close attention to competition in the surrounding areas, and they will make suitable responses.

Work of the Special Advisor to the Chief Executive

5. **MR LAU CHIN-SHEK** (in Cantonese): *Madam President, will the Government inform this Council:*

- (a) *whether the Special Advisor to the Chief Executive is a public officer and what his specific duties are;*

- (b) *whether the Special Advisor enjoys any privileges and has the right to make use of government resources in discharging his duties; and of the different kinds of assistance rendered to the Special Advisor by various Policy Bureaux and government departments since the reunification; and*
- (c) *of the work carried out by the Special Advisor for the Government since the reunification, as well as the effectiveness of such work?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the Special Advisor is not a civil servant. His duty is to provide advice to the Chief Executive when necessary.

The Special Advisor does not enjoy any privileges. He does not belong to the establishment of the Office of the Chief Executive, nor does he receive any salary or allowance from the Government of the Hong Kong Special Administrative Region (SAR). He provides advice to the Chief Executive direct, and the use of government resource does not arise in the process. The Special Advisor does not maintain any formal working relationship with the Policy Bureaux of the SAR Government and other government departments.

Since the reunification, the Special Advisor has provided advice to the Chief Executive on various issues, including those relating to policy research and the handling of Taiwan matters. Such advice has been very useful to the Chief Executive.

MR LAU CHIN-SHEK (in Cantonese): *Madam President, the political advisor of the former Hong Kong Government belonged to the establishment of the Government and played a role in dealing with the relationship between Beijing and Hong Kong. The role now played by Mr Paul YIP is neither official nor civilian in nature. He enjoys power but lacks transparency. Will the Secretary inform this Council of the policies, particularly those related to Taiwan affairs, on which Mr YIP has advised the Chief Executive or the Government; and of the advice which has subsequently turned into a policy?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as already suggested by his title, the Special Advisor will provide advice to the Chief Executive when necessary. We cannot assume that the Chief Executive will always seek his advice. As I said earlier, the Special Advisor is directly responsible to the Chief Executive. Therefore, he will not formulate policies. Instead, he will only advise the Chief Executive upon request. Certainly, I have no idea as to whether the Chief Executive will take his advice. Nevertheless, as I said earlier on, Mr YIP does not maintain any formal working relationship with various Policy Bureaux and other government departments. In this respect, his advice will not translate into or become a certain part of our policies. In other words, we will only find his involvement in the course of formulating policies. As for the role he plays in dealing with affairs Taiwan, he will, when necessary, conduct informal discussion with the relevant people from Taiwan on issues of mutual concern upon the request of the Chief Executive.

MISS CYD HO (in Cantonese): *Madam President, in making appointment, the Chief Executive should be aware that the Special Advisor does not belong to the civil service establishment. In other words, he needs not declare his interests like civil servants are required to do. Has the Chief Executive considered this point? Is there any mechanism available for monitoring any conflict of interests in relation to the Special Advisor? If so, should it be made public? If no such consideration was made or no such a mechanism has been set up, does it imply that the decision made then was incomprehensive or irresponsible?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the issue raised by Miss Cyd HO in respect of conflict of interest is quite broad. Of course, the Chief Executive has given careful consideration to this point in the course of seeking advice. Generally speaking, we are referring to interests in money terms. As to the question of whether or not the Special Advisor to the Chief Executive is regulated by the Prevention of Bribery Ordinance, I can reply as follows: Like members of the public, the Special Advisor to the Chief Executive is regulated by the relevant provisions of the Prevention of Bribery Ordinance. However, certain provisions of the Ordinance are particularly applicable to government officers or public officers. As the Special Advisor is not a government officer, he is excluded from these particular provisions which are now applicable to government officers or public

officers only. This issue has been noted and the Government is now reviewing it. The Government will inform the Panel on Constitutional Affairs the findings of the review and take follow-up action.

MR JAMES TO (in Cantonese): *Madam President, the Secretary mentioned that a review of the entire system will be conducted. In the course of conducting the review, will consideration be given from the angle of the influence exerted by the Special Advisor on members of the public, the Government or the Chief Executive? The Secretary mentioned in the main reply that the Special Advisor had provided advice to the Chief Executive on issues relating to the handling of Taiwan matters. But as far as the public understands, the Special Advisor is not simply playing the role of an advisor. They consider him fundamentally a liaison officer or messenger. Even Mr CHENG An-kuo admitted this before resigning from his post. For these reasons, can the Secretary confirm that the Special Advisor has actually played an executive role of accessing and dealing with work in this area and has gone beyond the role played by a so-called one-man advisory committee of purely providing advice to the SAR Government? Or should we say we cannot compare the role he plays with that of an advisor?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as far as I understand it, the Special Advisor to the Chief Executive is not required to attend to a lot of Taiwan affairs. Actually, he needs not to deal with work in this area on a regular basis. He only needs to deal with certain unique items. In the absence of a proper channel, the Special Advisor has to attend to certain matters upon the request of the Chief Executive.

MR JAMES TO (in Cantonese): *The Secretary has not answered whether the Government will conduct a review from the angle of the influence exerted by the Special Advisor on members of the public, the SAR Government or the Chief Executive, regardless of the amount of workload the Special Advisor has to deal with.*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, the only point I want to add is that the nature of the matters which need to be dealt with has nothing to do with the Chief Executive or the Special Advisor to the Chief Executive himself. In other words, it is totally unrelated to them personally.

MR ANDREW WONG (in Cantonese): *Madam President, part of my supplementary question has already been raised by Mr James TO, except that there is a small difference in the angles we take. Will the Secretary inform this Council whether we can use a non-statutory, special advisory committee of one person as the title of the Special Advisor, Mr Paul YIP? Is this title more appropriate for him?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, this is not my personal understanding. As far as I understand it, I cannot make such formulation.

MR ALBERT HO (in Cantonese): *Madam President, according to the general impression or understanding of outsiders, one of the relatively special tasks of the Special Advisor, Mr Paul YIP, is to give advice to the Chief Executive and examine how to retain or maintain an unofficial relationship with Taiwan, or even carry out some liaison work where necessary. These are the specially important tasks since the reunification. Can the Secretary tell me in unequivocal terms whether the above understanding is correct or not? It seems that the relationship between Hong Kong and Taiwan is getting increasingly apart. The recent outbreak of an incident in connection with the broadcast of the "two states theory" by the Radio Television Hong Kong has not only led to the departure of Ms M Y CHEUNG, but also problems encountered by Mr CHENG An-kuo in obtaining a visa, giving play to the speculation that he was forced to leave Hong Kong. Has the Chief Executive consulted Mr Paul YIP on this issue? Is it because the Chief Executive has made the decision himself or he has listened to some unwise advice that has made Hong Kong and Taiwan increasingly apart?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, as I said earlier, matters that needed to be dealt with by Mr Paul YIP as Special Advisor include Taiwan affairs. I can confirm this point. As regards whether Mr Paul YIP has dealt with other individual cases or issues, I am afraid I cannot discuss this in public or comment on the various issues raised by Mr HO just now for the Government does not discuss or comment on individual incidents in public.

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, the Secretary mentioned in the main reply that the Special Advisor does not maintain any formal working relationship with the Policy Bureaux of the SAR Government and other government departments. However, we are aware that the Special Advisor enjoys an aloof and extraordinary status. We are even more worried if he has no formal working relationship with the Government. What is this informal relationship like? Will the Secretary inform this Council whether he has, on past occasions, carried out his duties by virtue of this informal relationship; and, if so, of the frequency; and the number of informal contacts with government departments, including the Chief Executive, in the course of dealing with Taiwan matters? Lastly, has the Government, including the Chief Executive, Policy Bureaux and other government departments, taken on board the advice given by him? If the answer is affirmative, what was the advice?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I can tell the Honourable Member in unequivocal terms that he does not need to worry what he implied exists. Members should be aware that Mr Paul YIP is acquainted with many officials of the SAR Government at a personal level. The so-called informal participation actually refers to his participation in activities organized by government departments. For instance, Mr YIP has, on past occasions, acted as a main speaker in training courses organized by the Civil Service Training and Development Institute to introduce the situation in various areas, such as what he knows about China or Taiwan. The informal work I referred to is actually work of this nature.

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

MR LEUNG YIU-CHUNG (in Cantonese): *Madam President, I hope the Secretary can explain to us in detail what the informal relationship really means. The Secretary has only cited an example just now. Will the Secretary inform this Council whether that was the only contact between the Special Advisor and the Government so far; and of the advice on the relationship with Taiwan which has been accepted by the Government, including the Chief Executive, Policy Bureaux and government departments?*

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

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I said so because I know the Special Advisor did participate in one of the courses. Of course, in addition to that course, he has participated in a number of other courses too. As far as I know, he has taken part in numerous courses, not only one. As for the nature of Mr YIP's work, I have explained it clearly in the main reply. He is only responsible to the Chief Executive. He does not need to brief us or be accountable to us. Therefore, there should not be any problems in this area.

MISS EMILY LAU (in Cantonese): *Madam President, does the Secretary know the reason why the Chief Executive created such a post which is neither fish nor foul at the very beginning? Will this Council consider in today's review inviting Mr Paul YIP to come to this Council to answer questions in future, just like what the Secretary does?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I am sorry that I do not have information on hand to answer the first part of the supplementary question raised by the Honourable Member. I have no idea what considerations were made by the Chief Executive at that time. As regards the review, like what I said earlier, our review will mainly focus on whether the provisions applicable to government officers or public officers under the Prevention of Bribery Ordinance should apply to the Special Advisor to the Chief Executive as well. As the scope of this review is quite narrow, we will not consider whether the Special Advisor should come to this Council to answer questions or other issues.

MISS EMILY LAU (in Cantonese): *Madam President, if the Secretary cannot answer the first part of my supplementary question, can I ask the Chief Executive to give us a written reply?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I can forward this request to the Chief Executive, but I cannot make any undertaking for it. (Annex IV)

MR CHEUNG MAN-KWONG (in Cantonese): *Madam President, we can see from the reply that the Special Advisor can actually be called a mysterious advisor with privileges. This is because it is stated in the reply that he advises the Chief Executive direct. In other words, he can influence government policies behind the scene. However, as he is not a civil servant, he does not need to make public his views, bear political responsibilities and declare his interests. Will the Government inform this Council whether consideration will be given to amending the law to require the Special Advisor to declare his interests in public and treat him as a public officer so that he will be subject to regulation under the Prevention of Bribery Ordinance?*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I have indicated clearly that, generally speaking, the Special Advisor is, just like each one of us, subject to the Prevention of Bribery Ordinance. We will soon review whether further provisions applicable to civil servants should apply to Mr YIP too.

PRESIDENT (in Cantonese): This Council has spent more than 16 minutes on this question. This is going to be the last supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the original objective of raising this question is to enhance the transparency of the Special Advisor. But the more the Secretary talks about him, the more mysterious he becomes. Eventually, even I have no idea of the relationship between government departments and the Special Advisor. Maybe it is like a relationship between comrades — a relationship between "comrades", not "gay*

lovers". A point contained in the main reply has given me an impression that the influence of the Special Advisor can be found everywhere. What I refer to is the point that the advice he provides includes advice on policy research. How should this be interpreted? What sort of policy research is it? Does it mean that the Chief Executive asks the Hong Kong Policy Research Institute Limited of Mr Paul YIP to conduct policy research for him and does such a relationship exist? Or will Mr Paul YIP propose to the Chief Executive what policy research the Government should conduct and the relevant Policy Bureaux will then be asked to conduct the relevant research? How should the part relating to "policy research" be interpreted?

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I think it has been stated clearly literally. I have nothing to add. In fact, the Chief Executive works with a number of advisors, in addition to Mr Paul YIP. It is only that Mr YIP is specially assigned to deal with work related to Taiwan as well, thus giving prominence to his responsibility in this area. Members of the Executive Council are also advisors to the Chief Executive. They advise the Chief Executive in various areas too. Therefore, this is not a unique situation.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, which part of your supplementary question has not been unanswered?

MR LEE CHEUK-YAN (in Cantonese): *Madam President, the Secretary has not answered my supplementary answer as the thrust of my question is on policy research. The answer given by the Secretary is totally unrelated to my question. I clearly asked: Did the Special Advisor play the role of advising the Government to conduct policy research or conducting policy research for the Government? Madam President, I did ask a very specific question.*

SECRETARY FOR CONSTITUTIONAL AFFAIRS (in Cantonese): Madam President, I began my main reply by saying that the main duty of the Special Advisor is to provide advice to the Chief Executive. This illustrates that whenever the Chief Executive makes this request, the Special Advisor will give his advice. However, the Special Advisor will not take the initiative to give the Chief Executive a lot of different opinions. He will only tender his advice upon the Chief Executive's request.

Promoting Long-term Employment of Workers in Construction Industry

6. **MISS CHOY SO-YUK** (in Cantonese): *Madam President, on 1 February 1999, representatives of employers and employees in the construction industry, government officials and some Members of the Executive Council and Legislative Council jointly signed a Pledge to improve construction safety and quality through the promotion of the long-term employment scheme in the construction industry. In this connection, will the Government inform this Council of:*

- (a) the progress of the implementation of the long-term employment scheme; and*
- (b) the specific plans in place to facilitate the construction industry in employing workers on a long-term basis as far as practicable?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):
Madam President,

- (a) Let me first brief Honourable Members on the background of the Pledge which was signed in February last year. The Pledge was drawn up by the "Working Group on Promotion of Construction Safety and Quality through Long-term Employment for Construction Workers". The Working Group was set up jointly by the Real Estate Developers Association of Hong Kong, the Hong Kong Construction Association and the Construction Industry Training Authority (CITA). Its present convenor is the Chairman of the Hong Kong Construction Association.

The main objective of the Pledge is to promote long-term employment of construction workers, with a view to providing workers with a stable employment environment and thereby improving site safety as well as project quality. The Pledge received wide support from the industry and was signed by trade associations, union representatives, Executive Council Members, Legislative Council Members, as well as relevant Policy Bureaux and departments.

For the purpose of setting an example, the Working Group has suggested contractors taking the lead in signing proper apprenticeship contracts with some of the workers and employing them on monthly-paid basis. Accordingly, the "Employers Subsidy Scheme" was launched by the CITA to encourage the industry to employ workers on monthly-paid basis. Under the Scheme, employers who employ graduates of the CITA's basic craft courses or other short courses on monthly-paid basis and sign with them properly registered apprenticeship contracts will receive a monthly subsidy of \$2,000 for each graduate thus employed. The amount is to subsidize the salary paid to the apprentices. The CITA originally planned to offer 500 places under the scheme for application by contractors. So far, 73 applications have been received, involving the employment of 668 CITA graduates. 244 apprenticeship contracts have been signed so far and some of the remaining applications are still being processed. The CITA will review the quota in due course.

- (b) The Government supports in principle the implementation of the long-term employment scheme by the construction industry as a means to improve site safety and management. In the free labour market of Hong Kong, the conditions of employment in specific trades are basically matters to be agreed between employers and employees. Therefore, the successful implementation of the long-term employment scheme in the construction industry needs to be led and supported by the industry. The Administration will adopt appropriate measures to facilitate the implementation of the scheme. For example, the Housing Authority (HA) is considering requiring contractors of public rental housing construction projects to employ a certain proportion of the construction workers in certain important trades on contract terms. The HA will discuss the details of the proposal with the industry shortly.

MISS CHOY SO-YUK (in Cantonese): *Madam President, according to part (b) of the main reply, the HA is still considering the relevant proposal. May I ask the Secretary what the HA is worrying about and how much longer does it want to wait before implementing the long-term employment scheme? In addition, could the Secretary inform this Council whether any government departments other than the HA are also studying the long-term employment scheme?*

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the HA study is now at its drafting stage and is expected to be ready for consultation with the industry and the public. Members will learn of the specific details then. As regards the question of whether other government departments are also considering similar proposals, I should like to defer to the Secretary for Works.

SECRETARY FOR WORKS (in Cantonese): Madam President, the Works Bureau is basically in support of the long-term employment scheme, albeit as an objective. The objective of the long-term employment scheme is a good one; still, its implementation will not be without difficulty. At the moment, the Bureau is conducting research work on two aspects of the issue, and the research results will be announced in due course.

MR ANDREW CHENG (in Cantonese): *Madam President, I am very much disappointed with the Government's main reply. To begin with, specific data is lacking in its reply to part (a) of the main question, which asked about the progress of the implementation of the scheme. Actually, the Secretary has only touched upon the issue lightly by referring to a few points of the apprenticeship scheme. Secondly, with regard to part (b) of the main question which asked about the specific plans to implement the long-term employment scheme, the Government has only indicated in part (b) of its main reply that it supported the implementation of the scheme in principle while the HA was still considering the proposal. It just seems to me that the work to promote long-term employment of construction workers is still progressing at snail's pace even though the Pledge has been signed for almost a year.*

PRESIDENT (in Cantonese): Mr Andrew CHENG, please come to your supplementary direct.

MR ANDREW CHENG (in Cantonese): *Could the Secretary inform this Council whether the Government has in place any specific plans to expeditiously implement the long-term employment scheme in the construction industry, with a view to resolving the existing problem of unstable construction quality resulting from the multi-layered sub-contracting practice?*

SECRETARY FOR WORKS (in Cantonese): Madam President, as I pointed out just now, the objective of the scheme is a good one, only that its feasibility still warrants careful study. We do support the implementation of the long-term employment scheme to enable construction workers to work in more stable working conditions and environments. The better employment protection offered could help prevent manpower wastage, as workers will be attracted to remain in the industry; besides, workers could also concentrate better on safety training and training in other skills, thereby contributing towards improvement in construction quality and site safety. However, the problem remains that there are a good many kinds of construction projects involving many specialized trades. Given that the working cycle of each process is very limited in time span, it would not be cost-effective for contractors to employ a certain number of long-term workers. This is because the services provided by many construction workers, such as demolition workers, bamboo scaffolding workers, marble masons and glaziers, are required only at certain stages of the construction project. Having completed their respective jobs, they will be required again only when the constructor has similar jobs for them in other construction projects. As such, it would cause wastage of manpower and wages if they should be waiting idle for some time. That is why I say we on the one hand support the objective of the scheme but are aware of the practical difficulties on the other. For this reason, we must discuss carefully with the industry the feasibility of the scheme before putting it into practice.

MR HO SAI CHU (in Cantonese): *Actually, Madam President, the construction industry does support in principle the long-term employment scheme. Nevertheless, we are also aware of the many difficulties in this connection. As I can remember, it has already been set out in certain works contracts that a certain proportion of site levellers, monthly-rate workers and semi-professionals must be employed, or that a small proportion of the workers must be employed on a long-term basis. Could the Secretary inform this Council whether the Government is aware of this situation?*

SECRETARY FOR WORKS (in Cantonese): Madam President, the long-term employee specified in public works contracts are mainly site foremen; there are no requirements regarding other workers. The Honourable HO Sai-chu was right, the long-term employment scheme is applicable to such workers as site levellers, masons and odd job workers whose services are needed at construction sites on a constant basis. As for others, such as the demolition workers, bamboo scaffolding workers, marble masons and glaziers mentioned by me just now, their work process may only last a very short period of time and so the long-term scheme may not necessarily be suitable to them.

DR RAYMOND HO (in Cantonese): *Madam President, the Pledge has been signed for almost a year, but so far no apparent progress has been made. Given that construction projects usually last a few years, could the Secretary inform this Council whether it is feasible to require contractors to offer long-term employment contracts to a proportion of the essential workers first?*

SECRETARY FOR WORKS (in Cantonese): Madam President, we all support this objective, only that we have problems achieving it. As pointed out by some Members just now, it is very difficult to implement the plan, we need to discuss it further with the industry to look further into the feasibility of the scheme. For example, Dr HO's suggestion could be one solution.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, it has almost been a year since the Pledge was put into effect in February last year. At that time, we all knew that there were problems with the implementation of the scheme, but we still decided that the scheme should be put into practice. I remember the Director of Housing, Mr J A MILLER, also signed the Pledge. But the problem is: Why is the Government still conducting research instead of taking the lead in implementing the long-term employment scheme for job types required for a longer period in the entire works process? I consider this critical and I request the Secretary for Works to give us an answer.*

SECRETARY FOR WORKS (in Cantonese): Madam President, as pointed out by the Secretary for Education and Manpower in the main reply, the successful implementation of the scheme hinges on an agreement between employers and employees at the initiative of the industry. On the Government's part, including the Housing Department (HD) and the Works Bureau, we would of course make our best effort to put in matching efforts to facilitate the successful implementation of the scheme.

MISS CHAN YUEN-HAN (in Cantonese): *Madam President, I am afraid the Secretary has not answered my supplementary, which was asking why the Government had not taken the lead in implementing the scheme. Actually, it was quite meaningless for the Secretary to shift the responsibility onto contractors. May I ask the Government why had it not taken the lead in implementing the scheme even though it has almost been a year since the Pledge was signed?*

SECRETARY FOR WORKS (in Cantonese): Madam President, actually I have already answered the supplementary just now. In addition to the Works Bureau and the HD which are still in the process of considering the scheme, the main reply provided by the Secretary for Education and Manpower has also pointed out that while the HA is considering requiring contractors of public rental housing construction projects to employ a certain proportion of the construction workers in certain important trades on contract terms, the Works Bureau is also discussing the details of the proposal with the industry. So, work has always been in progress.

MR LEE CHEUK-YAN (in Cantonese): *Madam President, I support very much the long-term employment scheme. With regard to the implementation of the scheme, may I ask the Government whether it has any basic information or statistics indicating how many of the 70 000-odd construction workers are employed on a long-term basis? Supposing 5% of them are long-term employees, the Government could then put that on record for reference. May I ask the Secretary whether the Government would consider setting up such a database, with a view to understanding better the development of the industry as a whole?*

SECRETARY FOR WORKS (in Cantonese): This is exactly where the crux of the problem lies. We have the overall figures in respect of the construction workforce but not the itemized details of each different trade. The Hong Kong Construction Association and the relevant trade unions have basically agreed to set up a registration system to collect information on the number of workers and their numbers in each trade. Upon receipt of the information concerned, it would be easier to implement the scheme. However, I must emphasize that we still need to discuss with the industry the feasibility of the scheme.

MR HUI CHEUNG-CHING (in Cantonese): *Madam President, it has been mentioned in part (b) of the main reply that the Government supports in principle the implementation of the long-term employment scheme. In this connection, could the Secretary inform this Council whether the Government has deliberated on the trades to which the long-term employment scheme could first be applied?*

SECRETARY FOR WORKS (in Cantonese): Madam President, according to the assessment made by us, the long-term employment scheme could be best applied to workers whose services are constantly required at construction sites, such as site levellers, plasterers and odd job workers. Nevertheless, we will continue to discuss with the industry to see if more on-site trades could also be included in the scheme.

PRESIDENT (in Cantonese): Last supplementary.

MISS CHOY SO-YUK (in Cantonese): *Madam President, actually my supplementary is quite similar to the one raised by an Honourable Member just now. Since the Secretary has referred to site levellers, plasterers and odd job workers as suitable for the implementation of the scheme, could he inform this Council why did the Government not take any action at all; and also of the reason why no actions have ever been taken even though studies have been conducted for a year?*

SECRETARY FOR WORKS (in Cantonese): Madam President, the temporary employment system has been in operation in the industry for years. Actually, the Real Estate Developers Association of Hong Kong, the Hong Kong Construction Association and the CITA have been actively looking into the feasibility of the scheme. Moreover, the Works Bureau and the HD are also making matching efforts. We are not unwilling to implement the scheme, but the difficulty involved is so immense that we have to wait until the scheme is proven to be feasible to implement it.

PRESIDENT (in Cantonese): Miss CHOY So-yuk, which part of your supplementary has not been answered?

MISS CHOY SO-YUK (in Cantonese): *Madam President, earlier on the Secretary had identified some suitable trades, yet just now he was talking about a lot of difficulties and the need for further study into the feasibility. Given that there are suitable trades, why should the Government not take the lead in implementing the scheme in the trades concerned?*

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

SECRETARY FOR WORKS (in Cantonese): Madam President, actually I do not have anything to add. I believe our interpretation of the term "feasibility" varies dramatically. Just now I said the scheme should be applicable to a number of trades, but whether or not the scheme is applicable to the trades concerned in all construction sites is something we need to discuss with the industry and reach an agreement before any action could be taken.

PRESIDENT (in Cantonese): Question time shall end here.

WRITTEN ANSWERS TO QUESTIONS

Bureaucracy in Government Departments

7. **MR HO SAI-CHU** (in Chinese): *Madam President, it was reported that, according to a worldwide opinion poll, about half of the respondents in Hong Kong considered the departments of the Hong Kong Special Administrative Region Government to be bureaucratic, and this percentage is higher than the average percentage for other countries or territories in the world. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the extent of the bureaucracy in government departments; and*
- (b) *of the measures in place to reduce the bureaucracy in government departments?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): Madam President, in the opinion survey referred to by the Honourable HO Sai-chu, 49% of the polled Hong Kong respondents perceived the Government as "bureaucratic". This compares with the world average of 37%. The corresponding rates in the United States and United Kingdom are 39% and 44% respectively. However, in response to the same question, 32% of the same Hong Kong respondents also described the Government as "responds to the will of the people". This

compares very favourably with the world average of 12%, and the respective rates in the United States and United Kingdom of 5% and 14%. Specifically, Hong Kong is believed to have one of the least corrupt governments of the world: just 7% believe the Government to be corrupt, while over 40% of the respondents worldwide said this of their governments.

Having put the statistics in context, my replies to the questions are as follows:

(a) and (b)

The Government is always mindful of the need to enhance the quality of its service. Though there is no objective criteria to measure the extent of "bureaucracy" in the Government, the Performance Pledges programme has been launched for some years to benchmark the delivery of our public services. It has worked well and made our service standards transparent. We have also set up the Business Services Promotion Unit to streamline procedures and to make our services more friendly to business operations. Departments have also been taking measures to improve their customer service. These include the provision of one-stop service, the establishment of work improvement teams, and the provision of training courses for front-line staff. We will continue to be vigilant in improving our service delivery.

Implementation of the Labour Relations (Public Service) Convention 1978

8. **MR LEE CHEUK-YAN:** *Madam President, the Labour Relations (Public Service) Convention 1978 (International Labour Organization Convention No. 151) (the Convention) has been applied to Hong Kong without modification since 1981. In this connection, will the Government inform this Council of the laws, regulations and policies that have been made in order to implement each of the following provisions of the Convention:*

(a) *protection against acts of anti-union discrimination, as stipulated in Article 4;*

- (b) *protection for public employees' organizations against any acts of interference by a public authority, as stipulated in Article 5;*
- (c) *facilities to be afforded to public employees' organizations in order to enable them to carry out their functions promptly and efficiently, as stipulated in Article 6;*
- (d) *participation of public employees' organizations in determining the terms and conditions of employment, as stipulated in Article 7; and*
- (e) *procedure for settling disputes arising in connection with the determination of terms and conditions of employment, as stipulated in Article 8?*

SECRETARY FOR THE CIVIL SERVICE: Madam President, the Convention applies to all persons employed by public authorities. The following are laws, regulations and policies that are in force to implement each of the quoted provisions of the Convention:

- (a) *"Protection against acts of anti-union discrimination" — Article 4*
 - (i) Article 27 of the Basic Law provides that Hong Kong resident (of which civil servants are one group) shall have freedom of association; and the right and freedom to form and join trade unions.
 - (ii) Apart from members of the Police Force, a civil servant is allowed to join any organizations for the purpose of promoting the well-being of civil servants. Such organizations may be registered as legal bodies under either the Trade Union Ordinance (Cap. 332) or the Societies Ordinance (Cap. 151).

Members of the Police Force are prohibited by section 8 of the Police Force Ordinance (Cap. 232) from joining any trade unions. This restriction does not contravene the provisions which guarantee the right to freedom of association under Article 18 in the Hong Kong Bill of Rights Ordinance

(Cap. 383) (the Ordinance) and Article 22 of the International Convention on Civil and Political Rights (ICCPR). Article 18(2) in the Ordinance and Article 22(2) of the ICCPR specify that these Articles shall not prevent the imposition of lawful restrictions on members of the Police Force in their exercise of the right of freedom of association. This freedom includes, under Article 18 (1) in the Ordinance and Article 22(1) of the ICCPR, the right to form and join trade unions. Nevertheless, the Commissioner of Police has recognized staff associations composed only of police officers. The Commissioner has also sought the advice of these associations on matters related to the welfare and conditions of service of police officers.

- (iii) Sections 21B and 21C of the Employment Ordinance (Cap. 57) protect workers against anti-union discrimination. Though the Government is not bound by the Employment Ordinance, the principles of the two sections of the Employment Ordinance have been adopted in protecting civil servants against anti-union discrimination.

- (b) *"Protection for public employees' organizations against any acts of interference by a public authority" — Article 5*

It is the Government's policy not to interfere with the establishment, functioning or administration of civil servant associations or unions. They have autonomy in running their own affairs.

- (c) *"Facilities to be afforded to public employees' organizations in order to enable them to carry out their functions promptly and efficiently" — Article 6*

- (i) Staff side representatives of various civil service central consultative councils and government departmental consultative committees are released from their normal duties to attend meetings of these councils and committees. Office bearers of staff associations are also permitted to attend a reasonable amount of association activities during office hours.

- (ii) Office bearers of civil service staff associations are given a set amount of authorized absence to attend labour education related conferences, seminars and training courses.
- (iii) It is the Government's policy to allow civil service staff associations and unions to use, subject to availability, office premises for the purpose of meetings and other activities.
- (d) *"Participation of public employees' organizations in determining the terms and conditions of employment" — Article 7*

There is a well-established consultative machinery within the Civil Service, comprising the Central Staff Consultative Councils and the Departmental Consultative Committees. It is the Government's policy to consult the Staff Sides of the four Central Councils on any significant change to the terms and conditions of service which affects a substantial part of the Civil Service as a whole.

- (e) *"Procedures for settling disputes arising in connection with the determination of terms and conditions of employment" — Article 8*
 - (i) It is the Government's policy to settle disputes through consultation and continued dialogue.
 - (ii) Where disputes on proposals about significant change in conditions of service affecting a substantial part of the Civil Service cannot be resolved, and after exhausting proper consultation and other existing administrative channels, the matter may be referred to an independent Committee of Inquiry formed under the 1968 Agreement made between the Government and the three staff associations of the Senior Civil Service Council, namely, the Hong Kong Chinese Civil Servants' Association, the Senior Non-expatriate officers' Association and the Association of Expatriate Civil Servants of Hong Kong.

Consultancy Studies on Agricultural and Fishing Industries

9. **MR WONG YUNG-KAN** (in Chinese): *Madam President, will the Government inform this Council of the number of studies pertaining to the agricultural and fishing industries it commissioned private consultancy firms to undertake in the past three years, and of the subject and scope, the current progress and consultancy fee of each of the studies?*

SECRETARY FOR THE ENVIRONMENT AND FOOD (in Chinese): Madam President, over the past three years, the Government commissioned private consultancy firms/experts to conduct five studies pertaining to the agriculture and fishing industries. The subject, scope, progress and fee of each of the consultancy studies are summarized below according to the order of commencement:

(a) *Consultancy Study on Fisheries Resources and Fishing Operations in Hong Kong Waters*

The scope of this study included assessment and comparison of the past and the latest positions of fisheries resources, capture fishing activities and fish catches in Hong Kong, analysis of the causes of changes and formulation of a fisheries resources protection strategy. The consultancy fee was about \$15 million. The study report was completed in 1998. The Government conducted a public consultation exercise in the same year and the majority of the views received were supportive of the fisheries management measures. In mid-1999, the then Agriculture and Fisheries Department, AFD (now known as the Agriculture, Fisheries and Conservation Department, AFCD) set up a Working Group on Fisheries Management, comprising representatives from the fishing industry, the green groups and academics, to advise the Government on issues relating to the implementation of the fisheries management strategy.

(b) *Artificial Reef Deployment Study*

The scope of this study included selection of sites outside marine parks for deployment of artificial reefs and formulation of management plans for artificial reef areas to improve marine

ecology and enhance fisheries resources. The consultancy fee was about \$4 million. The study report was completed in 1998. The Government conducted public consultation in 1999. The AFCD would continue to consider the views of fishermen and other organizations and, after the completion of the necessary preparatory work, deploy artificial reefs at Outer Port Shelter and Outer Long Harbour/East Tap Mun in 2001, which have the support of most of the fishermen.

(c) *Consultancy Study on Arrangements for Supporting the Development of Agriculture in Hong Kong*

The study reviewed existing arrangements for supporting the agriculture industry in Hong Kong and recommended measures to facilitate its future development. The scope of the study included agricultural land use, technological development, management of wholesale food markets and the role of the AFD. The consultancy fee was about \$3.1 million. The study report was completed in late 1998. The AFCD has consulted the industry on the recommendations of the study. It would consider the way forward for agricultural development and feasible options in the light of public opinions.

(d) *Consultancy Study on Red Tide Monitoring and Management in Hong Kong*

The scope of this study included analysis of red tide monitoring and management strategies used worldwide, assessment of their effectiveness and feasibility if applied in Hong Kong, and formulation of strategies and action plans to improve monitoring, early warning and capability of Hong Kong in dealing with red tide contingencies. The consultancy fee was about \$3.5 million. The study report was completed in May 1999. The Government has decided to implement enhanced measures recommended by the consultants. For example, the AFCD has strengthened its red tide monitoring measures and information dissemination network, and is prepared to conduct pilot tests on some proposed mitigation measures. These and other measures would be refined and further strengthened as appropriate from time to time.

- (e) *Consultancy Study on Fisheries and Marine Ecological Criteria for Impact Assessment*

The scope of this study included tests on the impacts of changes in essential water quality parameters on local marine lives to help produce more accurate assessment for fisheries and marine ecological impact assessment studies. The consultancy fee was about \$4.5 million. The study started in January 1999 and is expected to be completed by early 2001.

Occupational Accidents within Premises of Eateries

10. **MR NG LEUNG-SING** (in Chinese): *Madam President, it was reported that the number of occupational accidents which occurred at large Chinese restaurants, causing casualties to workers, had been on the high side. In this connection, will the Government inform this Council:*

- (a) *of the number of occupational accidents causing casualties to workers within the premises of eateries and the percentage of such accidents of the total number of occupational accidents in the past three years;*
- (b) *among them, of the number of such accidents resulting also in injuries to patrons of the eateries; and*
- (c) *of the main causes of such accidents, as well as the measures it has adopted to reduce the number of such accidents?*

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President,

- (a) The number of occupational injuries which occurred in the catering industry and their percentage share in all occupational injuries for the past three years are as follows:

| <i>Year</i> | <i>1996</i> | <i>1997</i> | <i>1998</i> |
|---|-------------|-------------|-------------|
| Number of occupational injuries in catering industry | 12 789 | 13 380 | 13 197 |
| Percentage in total number of occupational injuries | 21.5 % | 21.3 % | 20.8 % |

- (b) As the safety and health legislation enforced by the Labour Department aims to protect employees at work, the Department does not possess statistics relating to injuries sustained by patrons in catering establishments.
- (c) The accident analysis by the Labour Department shows that the most common causes of occupational accidents in the catering industry are (i) contact with hot surface or substance, (ii) injured by hand tool, (iii) striking against fixed or stationary object, (iv) injured whilst lifting or carrying, and (v) slip, trip or fall on same level.

In view of the large number of occupational injuries in the catering industry, the Labour Department has adopted a special strategy to help the industry improve its work safety. It involves a combination of promotion and education programmes, assistance to management of establishments with most accidents, and enforcement actions, including:

- (i) the Labour Department has published, in the past two years, 12 guide books and leaflets which are directly relevant to safety and health in the catering industry. It has also published two safety newsletters specifically for the industry. In addition, the Occupational Safety and Health Council (OSHC) has produced and distributed 10 000 "Catering Trade Safety and Health Do-It-Yourself Kit" to catering establishments. It also organized in the past three years two safety competitions for kitchens and 12 seminars and workshops on safety and health in the catering industry;
- (ii) the Labour Department, in conjunction with the OSHC, workers' unions and the industry, organized a "Safety Award

Scheme on Good Housekeeping for the Catering Industry" between July and October in 1999. Also in conjunction with the OSHC, the Labour Department organized a safety seminar for the catering industry in early December 1999 with sessions on the requirements of the law, compliance standards and risk assessments for manual handling operation and so on. Both the Safety Award Scheme and the safety seminar received favourable response from the industry. A similar safety seminar will be held on 13 January 2000;

- (iii) as from mid-1999, the Labour Department has approached the management of establishments with poor safety records to provide assistance through risk assessment and advise on precautionary measures. The response from the management of these establishments has been generally positive; and
- (iv) on the enforcement side, occupational safety and health officers of the Labour Department have made 7 946 inspections to catering establishments from 1998 to November 1999. During these visits, 192 improvement notices were issued to require the duty holders to take immediate actions to rectify offences discovered. The Department also took out 151 summonses in 1998 and 99 in 1999 (January to November) against those establishments which failed to comply with the requirements of the safety law. The Department will continue such enforcement actions to ensure a safe working environment in the catering establishments.

Hawker Control in Public Rental Housing Estates Sold under TPS

11. **DR TANG SIU-TONG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *of the public rental housing estates sold under the Tenants Purchase Scheme (TPS estates), which are or will soon be managed by private property management companies (PMCs); and*

- (b) *of the institutions responsible for enforcing against hawkers trading within the TPS estates and the ordinances which authorize these institutions to enforce hawker control; and, if PMCs are responsible for hawker control,*
 - (i) *whether it is stipulated that prior approval from the Housing Department must be obtained before PMCs take enforcement action against hawkers; if so, of the approval procedure involved, the details of and the reasons for the stipulation; and*
 - (ii) *of the government department from which assistance can be sought when PMCs encounter difficulties in enforcing against hawkers?*

SECRETARY FOR HOUSING (in Chinese): Madam President, 12 estates have been sold under the Tenants Purchase Scheme (TPS) and they are all managed by the Housing Authority. None of them will soon be managed by private PMCs.

Since TPS estates are private properties, like other private developments, they are managed in accordance with the Deeds of Mutual Covenant (DMC) which empower their manager (the Housing Authority for the existing 12 estates) to enforce hawker control in the estates.

According to section 18 of the Building Management Ordinance (Cap. 344), an owners' corporation (OC) has the duty to maintain the common parts of the building in a state of good and serviceable repair and clean condition, and shall do all things reasonably necessary for the enforcement of obligations contained in the DMC for the control, management and administration of the building. The Housing Authority will be responsible to the OCs when formed, and will act according to the DMCs of the estates. The same will apply to private property management companies if they are engaged by the owners in future to manage the estates. There is no need to obtain prior approval from the Housing Department before these companies take enforcement action against hawkers.

If these companies encounter difficulties in enforcing the DMCs in the aspect of hawker control, they may seek assistance from the Food and Environmental Hygiene Department or, if necessary, the police.

Using Radio Broadcast as a Means of Instruction for Continuing Education

12. **MR TAM YIU-CHUNG** (in Chinese): *Madam President, as many people have complained about the poor reception of audio programmes transmitted through amplitude modulation (AM) broadcasting, and for this reason they have no alternative but to give up listening to such informative and educational programmes as the "Programme for the Elderly" on Radio 5 of Radio Television Hong Kong (RTHK), will the Government inform this Council whether:*

- (a) *the RTHK will switch its radio channels which mainly provide informative and educational programmes to frequency modulation (FM) broadcasting for better reception of such programmes; if it will not, of the improvement measures the RTHK will take in this respect; and*
- (b) *it has plans to encourage and facilitate co-operation among various radio stations and educational institutions in offering a variety of continuing education courses using radio broadcasting as the major means of instruction, in order to motivate the public to pursue continuing education and to foster the culture of learning for life; if not, the reasons for that?*

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Chinese): Madam President,

- (a) Currently, radio frequencies available for FM broadcasting in Hong Kong can technically support up to seven territory-wide channels only. Of these seven channels, three have been allocated to the RTHK and the remaining four to the two commercial radio broadcasters.

At present, the RTHK operates three territory-wide FM channels, namely Radio 1, Radio 2 and Radio 4. Radio 1 (FM 92.6-94.4

MHz) provides mainly news, information and family education programmes. Radio (FM 94.8-96.9 MHz) provides youth programmes including civic education programmes for teenagers. Radio 4 (FM 97.8-98.9 MHz) provides classical music and cultural programmes in both Chinese and English.

Radio 5 is an AM channel providing programmes on elderly services, cultural education and Chinese opera, and so on. In terms of reception quality, FM broadcasting does perform better than AM broadcasting. However, radio frequencies currently available for territory-wide FM broadcasting have all been allocated. There is no spare spectrum left for allocation to Radio 5 for the broadcast of a territory-wide FM service.

To enhance the reception quality of Radio 5, the RTHK has been providing localized FM service (FM 106.8 MHz) in addition to the existing AM service in Tuen Mun and Yuen Long districts. Besides, the RTHK is examining with the Office of the Telecommunications Authority the feasibility of establishing localized FM service for Radio 5 in areas where greater reception difficulties are encountered, such as Happy Valley, New Territories North, Tseung Kwan O and Hong Kong Island South.

- (b) It has been the Government's policy to encourage and support life-long learning. Educational institutions are encouraged to provide courses through different forms of media so that students can continue their education through different channels and modes. At present, many continuing education courses are delivered via various media such as the Internet and television. Radio stations also play a part by providing information and education programmes. For example, the RTHK, in co-operation with local tertiary institutions, provides education programmes every year, such as "Culture Beyond Contemporary (文化超現代)" jointly produced with the City University of Hong Kong and "One Minute's Chinese (中文一分鐘)" with the Hong Kong Baptist University. The Education and Cultural Unit of the RTHK is organizing with the Chinese University of Hong Kong a programme entitled "General Education (通識廣場)", which is scheduled for broadcast in early 2000. Moreover, Radio 5, in co-operation with social services

agencies and tertiary institutions, will be launching a radio programme for the elderly. The programme, which will focus on cultural, education and medical information, aims to provide a systematic and practical continuing education course for the elderly.

West Kowloon Drainage Improvement Project

13. **DR RAYMOND HO** (in Chinese): *Madam President, regarding the implementation arrangements for Stage 2 of the West Kowloon Drainage Improvement Project, will the Government inform this Council of the measures it will take to minimize the inconvenience caused to the business operators in the areas concerned as well as the vehicles and pedestrians passing through these areas during the works period?*

SECRETARY FOR WORKS (in Chinese): Madam President, to minimize inconvenience to the public arising from implementation of this essential drainage improvement scheme, we plan to construct a large stormwater storage tank underneath the Tai Hang Tung Playground and a tunnel to divert stormwater to the Kai Tak Nullah. As a result of these measures, we are able to avoid the construction of some 7 km of huge box culverts along the busiest streets in West Kowloon, viz. Waterloo Road - Boundary Street - Nullah Road - Fa Yuen Street - Sai Yee Street - Mong Kok Road - Shanghai Street - Argyle street.

For pipe laying works which have to be carried out along roads, every effort will be made during construction stage to minimize the inconvenience to shop operators, vehicles and pedestrians. We have discussed and obtained in-principle agreements with the Hong Kong Police Force and the Transport Department on the temporary traffic arrangements required for the execution of the works. These arrangements will include carrying out the works in short sections and in non-peak hours for busy areas, as well as implementation of associated temporary traffic diversions and management schemes. We have already consulted the relevant District Councils and obtained their in-principle support to the entire works and the temporary traffic arrangements. Before commencement of the works in any particular area, we will seek the approval of the Traffic Management Liaison Group with members from relevant government departments, public transport operators and utility companies on the details of the temporary traffic arrangements.

We will also implement effective measures to minimize and control emission of noise, dust and site run-off during construction, and ensure that the works will be carried out in a well-organized, tidy and safe manner.

Disputes on Village Boundaries in the New Territories

14. **MR LEUNG YIU-CHUNG** (in Chinese): *Madam President, will the Government inform this Council:*

- (a) *whether it has drawn up boundary maps for villages in the New Territories; if not, of the reasons for it; and*
- (b) *of the number of disputes among New Territories residents relating to village boundaries in the past three years, and how the authorities handled such disputes?*

SECRETARY FOR PLANNING AND LANDS (in Chinese): Madam President,

- (a) The Lands Department has drawn up boundary maps for most of the villages in the New Territories. These boundary maps delineate the area relating to the village (that is, the village environs) for eligible villagers to apply for the building of village houses.
- (b) In the past three years, the Lands Department has received six cases of disputes among recognized villages over the boundaries of their village environs. When such disputes arise, the District Lands Officers concerned will work with the District Officers to resolve the matter. Usually, Rural Committees chairmen and the affected village representatives will be invited to participate in the mediating process. During mediation, the District Lands Officers will provide historical information such as land ownership history, land tenure pattern and previous small house grants in the villages concerned. Where appropriate, the views and assistance of the Heung Yee Kuk will also be sought.

Business Trips to Hong Kong Made by Mainland Businessmen

15. **MR JAMES TIEN** (in Chinese): *Madam President, in view of the increasingly frequent commercial and trading activities between China and Hong Kong, will the Government inform this Council:*

- (a) *of the number of visits by mainland residents who made business trips to Hong Kong in the past three years on the Exit-entry Permit for Travelling to Hong Kong and Macau (EEP) and the business visit endorsement issued by the mainland Public Security Bureau offices responsible for exit and entry administration;*
- (b) *whether it has estimated the total amount of spending by these mainland residents during their stay in Hong Kong; and*
- (c) *whether it knows the time normally required for mainland residents to obtain approval for their applications to make business trips to Hong Kong, and how it compares with that required for their applications to visit Singapore, Malaysia and Indonesia on business trips; and whether it has plans to discuss with the relevant authorities in the Mainland the shortening of the time required for vetting and approving the relevant applications?*

SECRETARY FOR SECURITY (in Chinese): Madam President,

- (a) Mainland residents who wish to make business visits to Hong Kong have to apply, under a Business Visit Scheme operated by the Bureau of Exit-entry Administration (BEEA) of the Public Security Ministry, for an EEP and a business visit endorsement. There is no need for the BEEA to make prior reference to the Immigration Department in issuing the EEP and the endorsement. Holders of them will be admitted to Hong Kong for business visits.

The Business Visit Scheme started on 30 March 1998. Prior to that, mainland business visitors entered Hong Kong under different arrangements viz., they either held a Multiple Chinese Exit Permit or an ordinary Chinese passport. The arrival statistics of EEP holders over the past two years are as follows:

| <i>Year</i> | <i>Arrival statistics*</i> | |
|----------------------------|----------------------------|----------|
| 1998 (April to December) | 57 704 | (6 412) |
| 1999 (January to November) | 231 543 | (21 049) |

* Bracketed figures denote monthly average.

- (b) We do not keep statistics on the total amount spent by the EEP holders referred to in (a) above during their stay in Hong Kong. But the quarterly surveys conducted by the Hong Kong Tourist Association (HKTA) at our control points on visitors on departure may help shed light on the spending of these EEP holders. Findings of the HKTA's surveys show that the estimated total spending by all mainland residents who reported themselves to be making business visits to Hong Kong regardless of the types of travel documents were \$3,954 million, \$3,484 million and \$2,343 million in 1997, 1998 and 1999 (January to September) respectively.
- (c) We understand from the BEEA that they normally require 15 working days to process an application for an EEP and/or a business visit endorsement under the Business Visit Scheme. This processing time is the same as that for processing an exit application for mainland residents making business trips to Singapore, Malaysia or Indonesia.

The Immigration Department maintains close liaison with the BEEA over the operation of the Business Visit Scheme. The Department has reflected to the BEEA the concerns of the business community about the processing time for an EEP and a business visit endorsement, and will continue to raise them with the BEEA.

Property Development Projects along MTR Lines

16. **MR CHEUNG MAN-KWONG** (in Chinese): *Madam President, regarding the property development projects along the Mass Transit Railway lines which were launched or completed in the past five years by the Mass Transit Railway Corporation (MTRC), will the Government inform this Council whether it knows:*

- (a) *the name of each development project;*
- (b) *the amount of investment involved in each project, and the respective portions provided by the MTRC and the real estate developers;*
- (c) *the profits or expected profits from each project, the respective proportions and amounts of such profits apportioned to the MTRC and the real estate developers; and*
- (d) *the number of developments in which the MTRC, upon completion of the tendering procedure for selecting its partners, rejected all the proposals for co-operation submitted by the real estate developers; and the reasons for the rejection and whether this related to the apportionment of profits?*

SECRETARY FOR TRANSPORT (in Chinese): Madam President,

- (a) The MTRC undertook the following property developments in the past five years:
 - Telford Gardens Redevelopment
 - Hong Kong Station Development
 - Kowloon Station Development
 - Olympic Station Development
 - Tsing Yi Station Development
 - Tung Chung Station Development
- (b) According to the information provided by the MTRC, total investment of the above six developments to be borne by the developers and the MTRC is estimated to be in the region of \$183 billion. The breakdown is as follows:

\$ Billion

| | |
|--------------------------------|-----|
| Telford Gardens Redevelopment | 3 |
| Hong Kong Station Development | 30 |
| Kowloon Station Development | 60 |
| Olympic Station Development | 32 |
| Tsing Yi Station Development | 11 |
| Tung Chung Station Development | 47 |
| Total | 183 |

The MTRC is not in a position to disclose information on the split of investment borne by the Corporation and the real estate developers as it is commercially sensitive information.

- (c) Similarly, the MTRC does not disclose information on profits and profit sharing details between the MTRC and the real estate developers on individual project basis as such information is considered commercially sensitive. The MTRC, however, has reported in its annual reports the property development profits made each year. The property development profits/(loss) reported in the past five years are as follows:

\$ Million

| | |
|------|-------|
| 1998 | 1,419 |
| 1997 | 276 |
| 1996 | 2 |
| 1995 | (1) |
| 1994 | 6 |

It should be noted that the booking of the property development profit depends on the completion of the projects in question and therefore can fluctuate significantly from year to year.

- (d) The MTRC is required under the Mass Transit Railway Corporation Ordinance (Cap. 270) to operate in accordance with prudent commercial principles. According to the information provided by the MTRC, the Corporation only withdrew one tender in the past

five years, that is, the Kowloon Station Package 3. The Corporation decided to withdraw the above tender because the Corporation considered that it would not be in its best commercial interest to proceed with the tender.

Social and Environmental Implications on Hong Kong by China's Accession to WTO

17. **MISS CHRISTINE LOH:** *Madam President, will the Government inform this Council whether it has commissioned a detailed study on the social and environmental implications on Hong Kong brought about by China's accession to the World Trade Organization (WTO) and opening up of its markets; if so, of the results of the study; if not, whether it has plans to do so and the details of the plans, as well as the expected date of completion of its study?*

SECRETARY FOR TRADE AND INDUSTRY: Madam President, although China has concluded a bilateral agreement with the United States on the terms of China's accession to the WTO, the contents of that agreement have not yet been made public. Furthermore, China has yet to conclude bilateral agreements with 20 other members of the WTO, including especially the European Union, which is one of China's major trading partners.

Any detailed study on the social and environmental implications for Hong Kong is not possible until the contents of all of China's bilateral agreements are available.

Where the environment is concerned, it is not anticipated that there would be any direct, adverse environmental implications for Hong Kong as a result of the accession of China to the WTO. Nonetheless, it is acknowledged that if WTO accession leads to a growth in the volume of trade between China (especially Guangdong Province) and other WTO members, then there may be environmental implications for Hong Kong. There is a possibility that increased economic and trading activity in Guangdong will lead to increased air and water emissions that would affect Hong Kong. We have already established a mechanism for Hong Kong and Guangdong to co-operate in six areas of environmental protection, including air pollution and water quality in the Pearl River Delta Region. This mechanism will be able to respond to any increased

pressures that may arise on account of WTO accession. As far as individual cross-boundary infrastructure projects, such as road, rail or bridges, are concerned, all would be subject to environmental impact assessment studies.

With regard to social implications, concerns have been expressed in some quarters that there might be an unfavourable impact on employment in Hong Kong. However, a detailed study on the possible impact on employment is not possible at this stage because of the absence of details of the terms under which China will be acceding to the WTO.

When such details are available, the Government will consider whether a meaningful assessment on any possible impact on the employment situation in Hong Kong can be conducted.

Since there are uncertainties regarding the timing of the conclusion of China's other bilateral agreements and of China's accession to the WTO, the Government is at present unable to indicate an expected timing for conducting such a study.

Meetings of the Chief Executive with the Chief Justice of CFA

18. **MISS EMILY LAU** (in Chinese): *Madam President, will the executive authorities inform this Council:*

- (a) *whether the Chief Executive makes arrangements for meeting the Chief Justice of the Court of Final Appeal on a regular basis; and*
- (b) *of the number of such meetings in the past 12 months, and the purpose of each meeting as well as the occasion on which each meeting took place?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): Madam President, the Administration's reply to the question raised by the Honourable Member is as follows:

The Chief Executive and the Chief Justice meet several times a year. This continues a practice before July 1997. In the last 12 months, they met four times to consider the following matters:

- (a) matters relating to the resourcing of the Judiciary, including Judges' remuneration and conditions of service;
- (b) legislative proposals which impact on the Judiciary such as increasing the jurisdictional limits of the District Court; and
- (c) matters of mutual concern to the Judiciary and the community, such as the level of legal costs, access to justice and the use of Chinese in the courts.

On these occasions, the Chief Justice also briefed the Chief Executive on recommendations which had been made by the Judicial Officers Recommendations Committee to the Chief Executive.

These meetings are spread over the year and usually take place over lunch.

Safety of Children Riding Motorcycles

19. **MR LAU KONG-WAH** (in Chinese): *Madam President, on 13 December last year, a seven-year-old boy died in an accident that happened when he was riding a cross-country motorcycle in a motocross course. In this connection, will the Government inform this Council whether:*

- (a) *it knows if similar accidents are common in other territories;*
- (b) *it will consider introducing legislation or drawing up guidelines to govern the design of motocross courses open to child riders and the safety facilities required; if not, of the reasons for that; and*
- (c) *it will, in view of the risks inherent in children's participation in such activities, consider making it a statutory requirement that children must receive proper training and pass a test before they are allowed to take part in such activities?*

SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my reply to the question raised by the Honourable Member is as follows:

- (a) We do not have information about whether accidents in cross-country motorcycling activities are common in other territories.
- (b) We will review the current position and consider avenues to improve the safety of the motorcross courses of these clubs, with special regard to the child riders; and
- (c) there are inherent risks for participants of various types of sports activities. Individuals should exercise due care at all time and in the case of children, the parents should be encouraged to pay special attention to the safety aspects before allowing their children to participate in such activities. Legislative action may not necessarily offer the best solution but we will examine whether advisory, administrative or statutory measures should be introduced to help ensure that children taking part in motorcycling activities do so in a safe manner.

Installation of Retrofitting Screen Doors on MTR Platforms

20. **MR LAU CHIN-SHEK** (in Chinese): *Madam President, in its reply to a question in this Council in March last year, the Government advised that the Mass Transit Railway (MTR) Corporation's studies on the installation of retrofitting screen doors on platforms of MTR stations would be completed in the third quarter of last year. In this connection, will the Government inform this Council if it knows:*

- (a) *the stations at which the MTR Corporation has now planned to install platform screen doors based on the findings of the studies, and the timeframe of the installation programme; and whether it has assessed the possibility of the Corporation speeding up the installation programme; and*
- (b) *whether the Corporation still maintains its decision not to install retrofitting screen doors on platforms of MTR stations at ground level; if so, whether it has assessed if the problems involved in*

installing retrofitting screen doors in stations at ground level are insurmountable, and of the measures the Corporation adopts to safeguard the safety of passengers on the platforms of such stations?

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the MTR Corporation announced on 6 May 1999 to retrofit platform screen doors at 30 underground stations by a phased programme. It is estimated that all 30 underground stations would be fitted with platform screen doors by 2006. The first phase involves six stations covering the busy Nathan Road Corridor and major interchange stations, namely, Admiralty, Tsim Sha Tsui, Jordan, Yau Ma Tei, Mong Kok and Prince Edward. The target completion date for the first phase is mid-2003.

The MTR Corporation is the first railway in the world to undertake such a complex programme of retrofitting platform screen doors to stations already in operation. The technical challenges are significant and unprecedented. The works involve major alterations to the station and tunnel ventilation, air-conditioning and smoke extract systems to meet the revised operation requirements. To ensure that normal train operation is maintained, the retrofitting work can only be carried out in the non-operation hours at night between 2 am and 5 am. All these constraints make it difficult for the Corporation to shorten the construction programme.

The Corporation has no plans to retrofit platform screen doors at above ground stations as it would require major structural changes to these stations which do not have the air-conditioning or ventilation systems needed to make the fitting of screen doors feasible. To put screen doors in would involve work akin to rebuilding the entire station.

The Corporation attaches great importance to passenger safety. CCTV cameras are installed by the MTR Corporation at every station platform to facilitate effective monitoring and management of platforms. Station Control Room and Platform Supervision Booths are equipped with sufficient communication and control facilities to prevent untoward incidents. Emergency Train Stop Buttons are available along platforms on the pillars or wall panels. Station management programmes including crowd control measures are in place to ensure passenger safety. Station broadcasting is also used to remind passengers to stand behind the yellow lines at platforms. The

Corporation also regularly organizes platform safety campaigns. Public education pamphlets are distributed to educate passengers on the safe and proper use of railway systems and how they should act in cases of emergency, including if they inadvertently fall onto the tracks.

BILLS

First Reading of Bill

PRESIDENT (in Cantonese): Bill: First Reading.

SECURITIES (AMENDMENT) BILL 1999

CLERK (in Cantonese): Securities (Amendment) Bill 1999.

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

Second Reading of Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

SECURITIES (AMENDMENT) BILL 1999

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move the Second Reading of the Securities (Amendment) Bill 1999.

Short selling is a common practice in many major overseas stock markets and an integral part of a well-developed stock market. Short selling helps enhance the liquidity of the market and balance the impact of price rises brought about by securities and financial activities. However, without proper supervision, short selling might be used as a tool to manipulate the market, impacting negatively on the market itself. For these reasons, there should be sufficient surveillance measures to ensure the fairness and transparency of such activities and the market efficiency they provide.

Under existing legislation, naked short selling is a criminal offence. Pursuant to section 80 of the Securities Ordinance, a person shall not sell securities at or through the Stock Exchange of Hong Kong (SEHK) unless, at the time he sells them, he has or his principal has, or reasonably and honestly believes that he has or his principal has a presently exercisable and unconditional right to vest the securities in the purchaser of such securities. Contravention of the provision constitutes an offence liable on conviction to a fine of \$10,000 and to imprisonment for six months. Nevertheless, there is no specific reporting or disclosure requirement for short selling under the existing law. Members of the SEHK are bound by the requirements under the Rules of the SEHK to report and disclose a short selling order and ascertain that his short selling client has a presently exercisable and unconditional right in respect of the securities to which the short selling order relates. However, the SEHK Rules do not have the force of law and breaches could only be subject to disciplinary action by the SEHK. On the other hand, as there is no specific reporting and information storage requirement for legal short selling under the law, there exists definite difficulties in identifying and investigating illegal short selling activities, particularly transactions involving the acquisition of stocks for settlement through overseas stocks borrowing. At present, the Securities and Futures Commission (SFC) is not given any statutory power to obtain information on borrowing, except for working in collaboration with overseas regulatory bodies. Although the SFC has issued guidelines to regulate legal short selling carried out by registered persons, the guidelines are not applicable to general investors or non-registered persons. These elements have a substantial impact on the conduct of investigation and law enforcement work by the SFC. Therefore, in order to maintain effective regulation, uphold market discipline and boost the efficiency of the SFC in enforcing its rules, the Bill shall specify that a person selling as a principal is obliged to inform his agent if the sale order is a short selling order and provide to the agent an assurance that he has a presently exercisable and unconditional right in respect of the relevant securities. If he obtains such a right by virtue of entering into a securities borrowing and lending agreement or other similar agreements, he must also provide an assurance that all relevant parties to the agreement will provide the securities to which the short selling order relates.

The Bill will also strengthen the deterrent effect against naked short selling by increasing penalties. Furthermore, the Bill proposes to extend the rule

making power of the SFC to enable it to make rules to require short sellers to disclose to the brokers when they close out their outstanding short positions by purchases at or through the SEHK. Moreover, the SFC can, by virtue of its newly acquired power, make rules to provide for the record keeping by a securities lender.

Madam President, although markets in various places exercise different degrees of regulation on short selling activities, in the extremely open securities market in Hong Kong which is smaller in scale than its counterparts in Europe and the United States, such activities as short selling which are easily exploited by malicious speculators to cause destructive market fluctuations must be properly regulated. But at the same time, I want to reiterate that it has been the Government's long-standing position to recognize the positive impact of short selling on the market. We have no intention to prohibit investors or speculators from engaging in legal short selling in the local market. I believe the proposal will further strengthen effective regulation on short selling and take additional measures preventing manipulators from manipulating the market through short selling, thereby reducing the potential system risks imposed on the market as a result of short selling. For these reasons, I would urge Members to support the Bill.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Securities (Amendment) Bill 1999 be read the Second time.

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

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): This Council now resumes the Second Reading debate on the Arbitration (Amendment) Bill 1999.

ARBITRATION (AMENDMENT) BILL 1999**Resumption of debate on Second Reading which was moved on 7 July 1999**

PRESIDENT (in Cantonese): In accordance with the Rules of Procedure, I have permitted Miss Margaret NG, Chairman of the Bills Committee on Arbitration (Amendment) Bill 1999, to address the Council on the Committee's Report.

MISS MARGARET NG: Madam President, in my capacity as Chairman of the Bills Committee on the Arbitration (Amendment) Bill 1999, I would like to give a brief report on the deliberations of the Bills Committee.

The Arbitration (Amendment) Bill 1999 seeks to amend the Arbitration Ordinance to give effect to the agreed Arrangement on the reciprocal enforcement of arbitral awards between the Mainland and the Hong Kong Special Administrative Region (the Arrangement). The Arrangement sets out in detail the procedural requirements for enforcement and the grounds for refusal of enforcement. It generally reflects the practice before 1 July 1997 under and the spirit of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (known as the "New York Convention").

The Bills Committee has considered the application of the Bill. Some members have pointed out that under the principle of presumption of exclusion in section 66 of the Interpretation and General Clauses Ordinance (Cap. 1), the "State" including the Government of the Hong Kong Special Administrative Region (SAR) is not bound by statute save by express provisions. As clause 9 of the Bill proposes to substitute section 47 of the Arbitration Ordinance with a new section that does not expressly provide that State organs in Hong Kong and the Government are bound by the Ordinance, they are presumed not to be bound by the operation of section 66 of Cap. 1. Members have doubts that the present formulation in the Bill can reflect the policy intent that the SAR Government and State organs in Hong Kong are bound by the Ordinance, and requested the Administration to reconsider the drafting of clause 9.

The Administration confirms that clause 9 is drafted with the policy intention in mind that the Ordinance, as amended by the Bill, would apply to any individual or organ including the SAR Government or any office set up in the SAR by the Central People's Government, as and when the party enters into or in

any way becomes involved in an arbitration agreement that is subject to Hong Kong law. However, the Administration agrees that there may be better ways to reflect this policy intention. In the light of members' views and having regard to the expectation of the arbitration community that the Bill should be enacted as soon as possible, the Administration has proposed to retain the existing scope of application, that is by specifying in clause 9 that the Ordinance binds the Government. The Arbitration Ordinance will continue to work upon this formulation until the Administration has come up with an appropriate formula to extend the application of the Ordinance as mentioned above. The Bills Committee accepts the proposed arrangement. Madam President, I hope that the solution will come at an early date, or the international community will be bound to wonder where the difficulty lies.

Members have also raised queries about the commencement date of the Bill, which, according to clause 2(1), shall be a date appointed by the Secretary for Justice. The Administration has explained that, in accordance with the Memorandum of Understanding on the Arrangement signed on 21 June 1999, it will inform the mainland authorities in advance of the date of resumption of the Second Reading debate on the Bill and give an indication of the commencement date of the Bill. The Supreme People's Court will within two weeks promulgate the requisite judicial interpretation. After the completion of action by both parties, the Secretary for Justice will appoint the agreed date as the commencement date of the Ordinance.

Under the new Arrangement, awards made on the Mainland in accordance with the Arbitration Law of the People's Republic of China by mainland arbitral authorities recognized by the State Council of the People's Republic of China will be enforceable in the SAR. As advised by the Administration, the list of recognized arbitral bodies on the Mainland will be provided from time to time to the SAR Government by the Legislative Affairs Office of the State Council through the Hong Kong and Macao Affairs Office. The Bills Committee considers that the list of recognized mainland arbitral authorities should be officially published in Hong Kong. Having regard to this view, the Administration has agreed to publish the list and any subsequent updated lists in the form of a General Notice in the Gazette. Accordingly, it will propose to amend clause 5 of the Bill by adding a new section to provide for this arrangement.

Regarding evidence that needs to be produced for enforcement of a mainland award, the Bills Committee has sought clarification on why "notarization and authentication materials" as specified in Article 4(3) of the Arrangement are not specified under the proposed section 40D of the Arbitration Ordinance. On this point, the Administration has advised that Article 4(3) of the Arrangement relates to an application made by a foreign legal entity or any other foreign organization, while the proposed section 40D relates to an arbitral award and arbitration agreement. Article 6 of the Arrangement specifies that, on application for enforcement, the relevant court shall handle the application and enforce the award according to the legal procedure of the place of enforcement. The requirement of submitting the relevant notarization materials is not specifically provided for in the Bill. It would be up to the court, by virtue of Order 73, Rule 10 of the Rules of High Court, to order additional information including notarization materials as specified in the Arrangement. Furthermore, unlike the Civil Procedure Law of the People's Republic of China, SAR laws do not differentiate between local and foreign legal entities. Therefore, the question of requiring additional notarization and authentication materials for foreign legal entities does not arise. The Administration has further explained that the Hong Kong courts have all along accepted different practices for the purpose of a "duly authenticated original award". The operation of the proposed section 40D will follow such practices which should be familiar to legal practitioners.

The Bills Committee notes that under the proposed section 40E(2)(c) in clause 5, enforcement of a mainland award may be refused if the person against whom it is invoked proves that he was not given proper notice of the appointment of the arbitrator or was otherwise unable to present his case. The Bills Committee shares the view of legal practitioners that the words "or of the arbitration proceedings" should be added after "the appointment of the arbitrator" to cover the situation where no proper notice of the arbitration proceedings has been given. To address the concern, the Administration has agreed to amend the proposed section 40E(2)(c) as suggested by the Bills Committee.

A submission made to the Bills Committee from the legal profession has referred to a court case ruling given by Judge FINDLAY in 1998. According to the ruling, section 2GG of the Ordinance which provides for summary enforcement (that is, by originating summons) applies only to awards made in Hong Kong. This is contrary to the view all along held by practitioners that

section 2GG should have the same effect as its predecessor, that is section 2H, that the summary enforcement procedures apply to awards made either in or outside Hong Kong. The Bills Committee supports the proposal of practitioners that section 2GG should be amended to provide that arbitration awards made both in or outside Hong Kong are summarily enforceable in Hong Kong.

In considering this proposal, the Administration holds the view that the effects of the proposed amendment have to be carefully assessed. It advises that the decision of the Court of Final Appeal (CFA) on a recent appeal case concerning the enforcement in Hong Kong of a bankruptcy order made by a Taiwanese court could have a bearing on how Taiwanese arbitral awards are to be enforced in Hong Kong. The Administration considers it desirable to defer making any amendment to section 2GG until it has the opportunity to study the CFA's judgment. It proposes to take the matter forward at a later stage outside the context of the present Bill.

Noting that the Administration will be reviewing the issue, the Bills Committee considers that matters relating to section 2GG should be followed up by the Panel on Administration of Justice and Legal Services at an appropriate time.

Finally, the Bills Committee has sought clarification as to how arbitral awards between Hong Kong and Macau would be mutually enforced following resumption of sovereignty of Macau by China on 20 December 1999. The Administration has explained that enforcement of arbitral awards between the two jurisdictions is currently done through normal civil debt claims procedures in the local courts. In the meantime, the existing arrangement will prevail. The Bills Committee agrees that the issues relating to this subject should be followed up by the Panel on Security and the Panel on Administration of Justice and Legal Services, as appropriate, in due course.

Madam President, with these remarks, and subject to the amendments to be moved by the Administration at the Committee stage, the Bills Committee supports the resumption of the Second Reading debate on the Bill.

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

MR HO SAI-CHU (in Cantonese): Madam President, I am not sure if I have to declare my interest for I am an arbitrator of the China International Economic and Trade Arbitration Commission, as well as a Council Member of the Hong Kong International Arbitration Centre. Obviously, I fully support the early passage of this Bill because the operation of the Hong Kong International Arbitration Centre has been affected in the past two years indeed as the Bill was not ready for enactment. I do hope that the Bill can be passed as early as possible. Thanks to the diligence of the Bills Committee, I am happy to see that the Bill can be expeditiously tabled for the resumption of the Second and Third Readings now. I hope that Members can support its passage. Thank you.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Justice, do you wish to reply?

SECRETARY FOR JUSTICE: Madam President, on 7 July 1999, I introduced the Arbitration (Amendment) Bill 1999 into the Legislative Council. The main purpose of the Bill is to implement the Arrangement on the reciprocal enforcement of arbitral awards between the Mainland and the Hong Kong Special Administrative Region (the Arrangement).

I am grateful to the Honourable Miss Margaret NG, Chairman of the Bills Committee, and to members of the Committee, for their thorough consideration of the Bill in such an expeditious manner. We have carefully considered the views of the Committee and have incorporated their helpful suggestions into the Committee stage amendments which I shall move later this afternoon.

During its scrutiny of the Bill, the Bills Committee raised a drafting point concerning the proposed new section 40E(2)(c), which sets out the situations in which the enforcement of a mainland award may be refused. The Committee pointed out that it was not clear whether enforcement may be refused where there had been a failure to give proper notice of the arbitration proceedings to the other

party. In view of the members' concern, and for the sake of clarity, we propose to amend the proposed section under clause 5 to make it clear that the enforcement may be refused in such circumstances.

The Arrangement specified that only awards made by the recognized arbitral authorities in the Mainland would be enforceable in the Hong Kong Special Administrative Region (SAR). The list of the recognized arbitral authorities is to be provided from time to time by the Legislative Affairs Office of the State Council through the Hong Kong and Macao Affairs Office. The Bills Committee considered it desirable that these lists should be formally published, in order to notify the public. We agree with this suggestion and propose to add a new provision under clause 5 of the Bill to spell out this arrangement.

It is our policy intention that the application of the Arbitration Ordinance should be extended to cover all persons and organs, including the SAR Government and the offices set up by the Central Peoples' Government in Hong Kong. The Bill proposed a new application section to replace section 47 of the Arbitration Ordinance, so that the Ordinance would be applicable to any individual or organ as and when it enters into or becomes in any way involved in an arbitration agreement that is subject to Hong Kong law. However, we agree with the Bills Committee's view that the drafting of the proposed new section might not be perfect, and that there may be better ways to reflect the policy intention. Practitioners in the arbitral field have also suggested that we reconsider the proposed amendment and retain the existing binding effect provision for the time being. Taking into account these views, we propose to retain the Ordinance's existing scope of application and only propose a minor technical amendment to section 47 of the Ordinance. That is to say the Ordinance will continue to apply to the SAR Government. The proposed minor technical amendment is consequential upon the proposed repeal of Part III of the Ordinance, that is, Enforcement of Certain Foreign Awards, pursuant to clause 4 of the Bill. We will continue to work on an appropriate formula to carry out our policy intention and extend the application of the Ordinance, and introduce an appropriate formula as soon as possible.

Madam President, subject to the amendments that I shall move, I commend this Bill to Honourable Members for passage into law. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Arbitration (Amendment) Bill 1999 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): Arbitration (Amendment) Bill 1999.

Council went into Committee.

Committee Stage

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

ARBITRATION (AMENDMENT) BILL 1999

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Arbitration (Amendment) Bill 1999.

CLERK (in Cantonese): Clauses 1 to 4, 6, 7, 8 and 10 to 15.

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 5 and 9.

SECRETARY FOR JUSTICE (in Cantonese): Madam Chairman, on the basis of the reasons mentioned by me earlier, I move that clauses 5 and 9 be amended, as set out under my name in the paper circularized to Members.

I move that new section 40E(2)(c) proposed under clause 5 be amended by adding the words "or of the arbitration proceedings" after "arbitrator"; and that a new provision be added to clause 5, stipulating that the list of recognized mainland arbitral authorities shall be published in Gazette from time to time.

I also move that the substitution of section 47 of the Arbitration Ordinance proposed under clause 9 of the Bill be deleted, and be replaced by the repeal of the reference to "III and" in "Part III and IV" in section 47.

Thank you, Madam Chairman.

Proposed amendments

Clause 5 (see Annex V)

Clause 9 (see Annex V)

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 Justice 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 motion passed.

CLERK (in Cantonese): Clauses 5 and 9 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Third Reading.

ARBITRATION (AMENDMENT) BILL 1999

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

Arbitration (Amendment) Bill 1999

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Arbitration (Amendment) Bill 1999 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 your 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): Arbitration (Amendment) Bill 1999.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): Council now resumes its Second Reading debate on the Arbitration (Amendment) Bill 1999.

ADAPTATION OF LAWS (NO. 7) BILL 1998**Resumption of debate on Second Reading which was moved on 18 November 1998**

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 7) Bill 1998 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): Adaptation of Laws (No. 7) Bill 1998.

Council went into Committee.

Committee Stage

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

ADAPTATION OF LAWS (NO. 7) BILL 1998

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 7) Bill 1998.

CLERK (in Cantonese): Clauses 1, 2 and 3.

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): Schedules 3, 4, 6 and 7.

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): Schedules 1, 2 and 5.

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam Chairman, I move the amendments to Schedules 1, 2 and 5, in order to change the reference to "Governor" to "Chief Executive", instead of "Chief Executive in Council". Article 56 para 2 of the Basic Law stipulates that the Chief Executive shall consult the Executive Council before making subordinate legislation. In view of this provision of the Basic Law, the Government initially proposed that in all references to the making of subsidiary legislation by the Governor under any provision of the principal legislation, any reference to "Governor" should be substituted by a reference to "Chief Executive in Council".

However, in view of the fact that it might be difficult to determine whether certain instruments are subsidiary legislation, the above amendments might give rise to some irresolvable controversies. Thus, the Government proposes that all references to "Governor" shall be changed to "Chief Executive", irrespective of whether or not the making of subsidiary legislation is involved. However, when the Chief Executive exercises his power to make subsidiary legislation, the heading of the subsidiary legislation should state that the legislation is made by the Chief Executive after consultation with the Executive Council in accordance with Article 56 para 2 of the Basic Law. The Bills Committees on Adaptation of Laws Bill 1998 and Adaptation of Laws (No. 2) Bill 1998 have agreed to adopt this method. Since this Bill was submitted to the Legislative Council before the adoption of this method, it is necessary now to make the above amendments. Madam Chairman, I beg to move.

Proposed amendments

Schedule 1 (see Annex VI)

Schedule 2 (see Annex VI)

Schedule 5 (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 Planning and Lands 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 motion passed.

CLERK (in Cantonese): Schedules 1, 2 and 5 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

ADAPTATION OF LAWS (NO. 7) BILL 1998

SECRETARY FOR PLANNING AND LANDS (in Cantonese): Madam President, the

Adaptation of Laws (No. 7) Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 7) Bill 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): Adaptation of Laws (No. 7) Bill 1998.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): Council now resumes the Second Reading debate on the Electronic Transactions Bill.

ELECTRONIC TRANSACTIONS BILL

Resumption of debate on Second Reading which was moved on 14 July 1999

PRESIDENT (in Cantonese): I have given consent to Mr SIN Chung-kai, the Chairman of the Bills Committee on Electronic Transactions Bill, to speak on the report of the Bills Committee.

MR SIN CHUNG-KAI (in Cantonese): Madam President, I hereby submit the report of the Bills Committee on Electronic Transactions Bill in my capacity as the Chairman of the Bills Committee. As the details of the deliberations of the Bills Committee have been included in the report, I will speak on the highlights only.

The Bills Committee welcomes the introduction of the Bill by the Government which aims to promote the development of electronic commerce in Hong Kong. The passage of the Bill will give electronic records and digital signatures used in electronic transactions the same legal status as that of their paper-based counterparts. The Bill also establishes a framework to promote and facilitate the operation of certification authorities (CAs) so as to ensure trust and security in electronic transactions.

The Bills Committee is well aware of the importance of the Bill in the regulation of electronic transactions in Hong Kong and notes the concerns expressed by various organizations on the Bill. Therefore, the Bills Committee

has invited submissions from the public on the Bill. The Bills Committee has received written submissions from 11 organizations and three individuals and met representatives from six of the organizations.

In brief, the Bills Committee has undertaken in-depth discussions in the following seven aspects: (1) the legal recognition of electronic and digital signatures; (2) a list of documents in Schedule 1 excluded from the application of clauses 5, 6, 7, 8 and 16 of the Bill; (3) voluntary recognition scheme which includes the voluntary application from CAs for recognition and matters concerning the issue of recognized and unrecognized certificates by recognized CAs; (4) the protection of public interest; (5) appeal mechanism; (6) the Postmaster General as recognized CA; and (7) an advisory mechanism on code of practice for recognized CAs.

Now I would like to talk about the results of the discussions held by the Bills Committee on these seven aspects *seriatim*.

First, on the issue of the legal recognition of electronic and digital signatures. The Bills Committee notes that many organizations think that the Bill should ensure all electronic signatures are afforded the same legal recognition. They consider that the proposed legislation should not be restricted solely to the recognition of digital signatures, which are only one form of electronic signatures. Whilst appreciating the concern of the organizations, the Bills Committee notes that different jurisdictions have adopted different models in enacting their legislation on electronic transactions. The legislation on electronic transactions in some countries does not make any specific references to either digital signatures or electronic signatures. Some countries give legal recognition to digital signatures while some give legal recognition to electronic signatures.

In the technical aspects, the Bills Committee is aware that digital signatures are currently the only technically mature technology that provides a safe and secure service. It satisfies the need for user authentication, ensuring the integrity and confidentiality of data and providing safeguard against repudiation of electronic transactions. The Administration considers that to give legal recognition to other forms of electronic signature at this stage may cause uncertainty and operational problems, and will impede the adoption of electronic transactions. In view of the technical constraints, the Bills Committee has no objection that as a start, legal recognition be given only to

digital signatures. However, the Bills Committee has urged the Administration to review the legislation regularly to take account of technological developments and make amendments where appropriate. The Administration has undertaken to do so.

Second, the Bills Committee notes that some types of documents such as wills and powers of attorney are excluded from the application of clauses 5, 6, 7, 8 and 16 of the Bill. It appears to the Bills Committee that this provision contradicts the Administration's policy objective to promote the wider adoption of electronic transactions. Nevertheless, the Administration has explained that as legal recognition of electronic records and digital signatures is a fairly recent development both locally and globally, it considers that certain types of transactions would preferably be conducted through conventional means for the time being. Having regard to the Administration's view, the Bills Committee accepts that a step-by-step approach in this regard be taken. In consideration of the request of the Bills Committee, the Administration has undertaken to review this list of documents regularly.

Third, on the proposed voluntary recognition scheme for CAs. Some of the organizations are concerned that the public may not be able to distinguish between a recognized CA and one which has not applied for recognition. These organizations consider that a mandatory licensing scheme for CAs should be set up. The Bills Committee notes the Administration's view that this proposal would be unduly restrictive and difficult to operate. The Administration is of the view that the proposed voluntary recognition scheme, coupled with adequate publicity and public education efforts, should provide sufficient protection to consumers. In this connection, the Bills Committee has urged the Administration to keep the scheme under review in light of operational experience.

In addition, the Bills Committee is concerned that since recognized CAs may issue recognized and unrecognized certificates, consumers may not be able to differentiate between the two. The Administration has agreed to keep the situation under review in light of operational experience.

Fourth, in order that public interest can be protected, the Bills Committee thinks that the public should have access to the latest information on recognized CAs. To this end, the Government agrees to move Committee stage amendments to add new clauses 27C and 27D. These provide that the Director

must maintain for each recognized CA an on-line and publicly accessible CA disclosure record which contains information regarding that CA relevant for the purposes of the Bill, and that the Director must immediately give notice to the public in the CA disclosure record on the revocation, suspension or non-renewal of recognition of CAs.

To further protect the interest of the public, the Bills Committee considers that the public should have access to real-time information on whether a certificate is valid at the time of transaction. In this connection, the Administration has agreed to add new clause 38A to provide that a recognized CA must maintain an on-line and publicly accessible repository for storing and retrieving recognized certificates and other information relevant to the recognized certificates it has issued.

Fifth, the Bills Committee notes that under clause 27, a CA who is aggrieved by the Director's decision on refusing its application for recognition or renewal of recognition, or on revoking or suspending a recognition may appeal to the Secretary for Information Technology and Broadcasting against the decision. Some members of the Bills Committee share the view of some organizations that it is more appropriate for the appeal to be handled by an independent committee. The Administration maintains that it is common in existing legislation that an appeal against the decision of an executive body of the Government over a certain matter is made to the Policy Secretary responsible for that matter. Since the Secretary's decision is subject to judicial review, the Administration does not consider it necessary to set up an independent committee to handle appeals.

Since it is existing practice for an appeal to be made to the relevant Policy Secretary, the Bills Committee accepts that the same mechanism be adopted for appeals made under clause 27. However, the Bills Committee considers it necessary to ensure a fair and transparent appeal process and to keep the appeal mechanism under review. To address the Bill's Committee's concern, the Administration has agreed to move a Committee stage amendment to clause 27 to provide that the Secretary must give reasons in writing to the appellant for his decision on the appeal, and to include the appeal procedures in the Code of Practice for recognized CAs. The Administration has agreed to review the appeal mechanism 18 months after the enactment of the Bill.

Sixth, clause 28 of the Bill provides that the Postmaster General is a recognized CA and that Part VII of the Bill on "Recognition of Certification Authorities and Certificates by the Director" does not apply to him. The Bills Committee, however, expresses concern whether the Post Office may still enjoy the exemption upon privatization. The Administration has confirmed that currently, it has no plan on the privatization of the Post Office. If Hongkong Post were to be privatized, it would have to comply with all the provisions in the Bill which are applicable to a CA, including Part VII of the Bill.

The Bills Committee is concerned that the Post Office, in order to maintain its competitiveness as a CA, may subsidize the cost of issuing certificates by operational revenue from the postal services. The Administration has expressly confirmed that the certification services provided by the the Post Office are intended to be self-financing. To address the Bills Committee's concern, the Administration has agreed that the Post Office will single out its operation as a CA in its overall Post Office Trading Fund Account, and also in the certified statements in respect of the Post Office Trading Fund to be tabled in the Legislative Council annually.

Seventh, the Bills Committee shares the concern expressed by most of the organizations about the Code of Practice for CAs to be issued by the Director under the Bill. In the light of the comments received during the consultation period, including those from the Bills Committee, the Administration has revised the draft Code and substantially expanded its contents. The Administration has also agreed to set up an advisory committee to oversee the implementation of the Code and to consider appropriate amendments to be made in light of operational experience. The Administration has also agreed to review the consultative mechanism for the Code 18 months after the enactment of the Bill.

In order to keep pace with new technological developments, the Bills Committee has urged the Administration to keep the legislation under review. The Administration has undertaken to conduct a review of the legislation 18 months after its enactment and to indicate this commitment upon the resumption of the Second Reading debate on the Bill.

Lastly, the Bills Committee supports the Second Reading of the Bill and the Committee stage amendments proposed by the Administration.

Madam President, I so submit.

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

DR RAYMOND HO: Madam President, the introduction of this Electronic Transactions Bill is very timely and is welcomed. Its success will have considerable bearing on the future development of Hong Kong and on the quality of life of the community.

However, the success of the new Bill will heavily rely on the technical integrity and satisfactory implementation of the proposed system. It follows that the Code of Practice as proposed in paragraph 39 must specify all the basic requirements to internationally recognized standards.

In particular, I would like to point out the importance of the Certification Authorities. In order to include all the professionals in the appropriate disciplines, I would propose that the Code of Practice should specify that Registered Professional Engineers in the information technology discipline, which is under the Engineers Registration Ordinance, should be one of the criteria and should suffice to be recognized as auditors for the purpose of the proposed Bill.

I further propose that the draft Code of Practice should be circulated to the Engineers Registration Board and the Institution of Engineers for full consultation.

Thank you, Madam President.

MR ERIC LI (in Cantonese): Madam President, I welcome the introduction of the Electronic Transactions Bill by the Government to the Legislative Council, for it can enhance the overall competitiveness of Hong Kong and help give full play to the potentials of electronic commerce. I hope that this Bill will address public concerns about the security and certainty of electronic transactions and whether the bases for these can be made clear to the public. We also hope that the year 2000 will be a good start and the launching of the Electronic Service Delivery Scheme a success.

However, the scope of this Bill is very extensive and the terminologies used in the draft also include some which are too general. This has aroused grave concern in the accounting profession and other professional bodies such as the Hong Kong Society of Accountants (HKSA), the Hong Kong Bar Association and the Hong Kong Institution of Engineers.

The HKSA, for example, made two submissions on different occasions and sent representatives, other than me, to brief the Bills Committee on its views. In the opinion of the HKSA, there were certain provisions in the Bill which failed to state the specific details and might readily lead to legal disputes. There were certain terms in the Bill which ought to be clarified, such as "audit", "auditor", "trustworthy system", "generally accepted security system", "whether the information has remained complete and unaltered", and "designated an information system" and so on. All these are new concepts and they may even be something which we do not understand when we are to work on them, so they should be clearly defined in the legislation.

As to the contents of the Bill, there are places where stipulations have not been laid down thoroughly. For example, no provision is made for electronic signatures in general and there are only provisions on "digital signatures". Second, there are no clear stipulations on the responsibilities for the revocation or temporary suspension of certificates of CAs.

The HKSA has put forward many views to address these areas of concern. I am very pleased to see that the Government has made active responses to these views by making many amendments to the original Bill. Later on, Honourable Members will see a series of amendments which requires almost an hour's discussion time. These amendments are made to address the concerns expressed by the HKSA. They include: clause 2, the newly added clause 14A, clauses 18, 19(3)(b)(i), 19(4) and (5), 37, 41(2)(a) and so on. I would not go into them in detail.

The Administration proposes to include what is called "security arrangements" in particular as one of the recognition criteria and states under what circumstances the Director of Information Technology Services may invoke clause 19(4) to waive the requirements for making an application for recognition. The HKSA considers these specific amendments very useful and helpful to dispelling our worries. As far as I know, even up to the last couple of days, the technical personnel of the Information Technology Services Department and the

HKSA are still working on the Code of Practice. Their discussions have been going on non-stop throughout these few months. I hope that the Hong Kong Institution of Engineers will likewise take part in the work. The relevant work done in these two or three months has made me feel that though the Bill cannot be said to be perfect at this stage, it can still inspire a lot of confidence in me. I believe the Government will listen to views from all sectors in society and will be able to make specific and positive amendments to satisfy the users that the Bill is in keeping with the present market situation.

Having said all of these, I would like to add one more point, and that is, as I said just now, many members of the HKSA have taken an active part in the improvement of this piece of legislation. We have really done our best. I have the feeling that in this brave new world of technologies, as legislators we are somewhat like feeling our way like the blind in enacting legislation on information technology. Even in the most advanced countries in the world, there are very few pieces of legislation in this area, and there are not many precedents for reference. Countries such as the United States, Britain, Australia and Japan are still experimenting with legislation in this area. We need to admit our inadequacies before this piece of legislation and in the face of future technological advancement, we must appreciate what we are doing now is only the first step. We have asked the Government to make a review 18 months after the enactment of the Bill. The Government has acceded to this request. I think that is most important. We must keep a close watch on the technological advancements and this legislation must keep pace with the new developments, including the changes in our business environment brought about by the application of technology. We may need to undertake some in-depth study and review, or we may even need to make frequent amendments. All these are inevitable.

I hope we can understand that despite all the hard work that we have put into this piece of legislation, there may be no way in which we may avoid all the legal disputes which arise when the legislation comes into operation. But at that time we may set up some precedents to make the legislation concrete and specific. Despite all these, we need not be overly worried because as legislators we should have the courage to face all these possibilities. The most important point is that both the Government and the legislators can take on the new challenges with a humble and open mind. I trust that if we can do so, we can surge ahead in face of fierce competitions and overtake our competitors.

I appreciate the proactive responses made by the Government, the bold attempt in moving this Bill and the willingness to meet so many professional bodies in such a short span of time to draft what can be said to be the best available piece of legislation in electronic transactions. I urge Honourable Members to support this Bill.

MR SIN CHUNG-KAI (in Cantonese): Madam President, just now I spoke in my capacity as Chairman of the Bills Committee, now I will speak both as a representative of the information technology sector and for myself.

First of all, the Bill has been formulated in a rush. We held the first meeting on 22 October, and up to 30 November we have had a total of 10 meetings. Some members of the Bills Committee criticized us for rushing through the Bill. However, we are aware then that the information technology sector has ardent hopes and expectations for the Bill. It is hoped that the Bill will be passed expeditiously to promote the early launch of electronic commerce. The fact that we are doing this fast does not mean that we are being rash. The Government can see that we have proposed many amendments, and I share the views expressed by the Honourable Eric LI just now.

I wish to raise three points in particular. The first is about the question of neutrality in technology. Given the way it is done at this stage and the form which the Bill will take on after it is passed, I can still support it. But I would like to emphasize that, in the final analysis, a technology-neutral legislative basis should be chosen. A review of this legislation will be undertaken by the Government 18 months later. When this is done, we may consider changing the verification position of digital signatures or electronic signatures to verification by digital signatures to electronic signatures. The way to do it can be the same as it is being done now. The existing arrangement is to find some professionals or experts to assess or vet the soundness of CAs applying for recognition, or to see whether their technology is sound enough or has gained any recognition. In future this approach can be used in new technologies. I believe the Information Technology Services Department should spend more resources to make assessment or to admit reports in this respect. The reason is that different kinds of technology will be considered. We shall have to see how things will develop over the next 18 months. However, I believe the Government must have a long-term vision and try its best to make the legislation technologically neutral.

The second point is about the appeal mechanism. I am aware of the issues involved in appeals. If a CA applies to the Director for recognition but is refused and if that CA objects to that decision, it will be given a written statement on the reasons of refusal. If that CA is still not satisfied, it can lodge an appeal with the Policy Secretary. During the consultation period, I have received quite a number of submissions on this. Some of these think that the appeal channel from the Director to the Secretary is not an ideal mechanism for appeal. However, we need to understand that in the operation of the Government, the Policy Bureau is only a policy-making body. Certain technical support matters are done by the Department. Can this be regarded as an entirely independent appeal mechanism? That is not a satisfactory arrangement, I must admit. However, if we seek to set up an appeal mechanism which better meet our expectations at this stage, the Bill may have to be further deferred for another three months or more. We also understand that this recognition scheme is entirely voluntary. When this statutory framework is set up, organizations will tend to make applications and seek recognition. Therefore, in the long run, the review should focus on how to perfect the appeal mechanism. I would imagine that there may not be many such appeal cases in future. I do not oppose making the mechanism better, I do not mean that at all. I think in the next review, I would raise the point that an independent committee should be set up under the appeal mechanism or that there should be an independent committee headed by the Secretary with some members from outside the Government. The committee should be charged with the duty of investigating into the appeal cases.

Lastly, during the course of deliberations, the Government did agree to the setting up of an advisory committee on code of practice. I hope that this committee will be appointed as soon as the Bill is passed. I must stress that this committee should include members from different sectors and I hope that it can start to function as soon as possible. I hope that these points can be taken by the Government. Thank you, Madam President.

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

(No Member responded)

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese):

Madam President, the Electronic Transactions Bill aims at setting up a well-defined legal framework to give electronic records and digital signatures the same legal status as that of their paper-based counterparts and encourage the establishment and operation of CAs to ensure security and certainty of electronic transactions. The rapid development of electronic commerce on a global basis has made it necessary for us to formulate legislation relevant to electronic transactions expeditiously to facilitate the development of electronic commerce in Hong Kong and enable Hong Kong to maintain its competitive edge to become the number one digital city in the 21st century when the whole world is linked up by networks.

To start with, I would like to thank Mr SIN Chung-kai, Chairman of the Bills Committee, and its members. To facilitate the early passage and implementation of the Bill, members of the Bills Committee held a total of 10 meetings within just a few weeks from 22 October to 10 December and carefully deliberated on the Bill. In the course of deliberations, Members have put forward a number of constructive views. We have also received submissions from a number of organizations and individuals. After detailed examination, the Government has taken on board a number of proposals and reached a consensus with the Bills Committee in drafting nearly 40 Committee stage amendments to enable the Bill to operate in a better manner. I will introduce the proposed amendments at the Committee stage. At this point, I hope to respond to the views put forward by the Bills Committee with reference to several major issues in respect of the Bill.

First, on electronic and digital signatures. One item which was given more discussion at the Bills Committee stage is whether or not all forms of electronic signature should be given legal recognition at this stage. The Government proposes in the Bill that legal recognition should for the time being be given to digital signatures only. This is because this form of signature, produced on a public key technical basis, is currently the only technically mature form of electronic signature. Through digital signatures, we can verify the identities of the persons involved in electronic transactions, ensure the integrity of information contained in electronic documents and provide safeguard against repudiation of electronic transactions. As the main objective of the Bill is to provide a specific and trustworthy environment for electronic transactions conducted in public networks, we are of the view that legal recognition should for the time being be given to digital signatures only. Other forms of

technically immature electronic signature are still unable to fulfil the need of a trustworthy and reliable electronic transaction environment. Under such circumstances, if we rashly give these forms of electronic signature legal recognition, we will create uncertainties which will impede the development of electronic commerce in Hong Kong. We are glad that the Bills Committee accepts the progressive approach recommended by the Government by giving legal recognition only to digital signatures at this stage. We will pay close attention to technological developments of electronic signature in light of the views of the Bills Committee. If other forms of electronic signature become technically mature and are widely used in the market, we will propose appropriate amendments to the Ordinance to enable our legal framework relevant to electronic transactions to keep pace with technological developments.

Second, provision of adequate and timely information for the public with respect to the services provided by CAs. Another point of concern to the Bills Committee is when the Director of Information Technology Services (the Director), as an recognized authority for CAs, decides to temporarily suspend or revoke a recognition for a certain CA or certificates issued by a recognized CA, he should inform the public of the relevant information as early as possible to let them decide whether or not to use or continue to use the services provided by that particular CA. We support the abovementioned proposal and will propose Committee stage amendment to safeguard the public interests.

Third, as a recognized CA, the Post Office should provide as early as possible in Hong Kong public key infrastructure to provide a trustworthy and reliable environment for electronic transactions. The Bill proposes that the Post Office should play the role of a recognized CA to provide certification services for the public. I would like to stress that, as a recognized CA, the Post Office should, like other CAs, observe the Code of Practice to be issued by the Director with respect to CAs. As a trading fund department, the Post Office should provide certification services in a self-financing manner. To this end, the Post Office will single out its operation as a CA in its overall Post Office Trading Fund (POTF) Account, and also in the certified statements in respect of POTF to be tabled in this Council annually to report to Members the relevant details. To facilitate the early provision of certification services by the Post Office, the Government will propose a resolution to amend the POTF to this Council on 12 January, subject to the passage of this Bill by this Council today, to allow for the provision of certificate services by the POTF. The relevant amendments have been accepted by the Bills Committee. I hope Members can give their support.

As for the Code of Practice to be observed by CAs, the Director will be responsible for issuing the Code of Practice to CAs in accordance with the relevant provisions of the Bill. The Director has conducted extensive public consultations, including consultations with relevant professional bodies such as the Hong Kong Institution of Engineers, the Hong Kong Society of Accountants, the Hong Kong Computer Society and so on with respect to the draft Code of Practice. Here, I would like to thank Dr Raymond HO, Mr Eric LI and Mr Ronald ARCULLI in particular for their suggestions on the draft Code of Practice for CAs. After in-depth discussions on the draft at the Bills Committee stage, the Director decided to adopt a number of views put forward by the Bills Committee and other relevant bodies. The Code of Practice will be formally promulgated upon the passage of the Bill.

Moreover, in accordance with the views of the Bills Committee, we will set up an advisory committee comprising representatives from the Government, the industry, relevant professional bodies and other relevant institutions. In the light of practical operational experiences, technology and developments in relevant areas, we will consider whether there is a need to make any amendments to the Code of Practice to perfect the proposed voluntary recognition system for CAs.

As for the review of legislation, I fully share with Mr Eric LI and Mr SIN Chung-kai that electronic transactions are a new sphere and technology is also developing rapidly. For these reasons, although it is our hope that the Bill can be passed in this Council today, we will undertake to constantly review the operation of this piece of legislation. We are very pleased to accept the recommendation of the Bills Committee, that is, to conduct a review 18 months after the passage of the Bill. We will conduct a review with a view to improving the operation of the relevant ordinance in the light of the experiences gained in connection with the operation of the ordinance and in consideration of developments in technology and other related areas. In conducting the review, we will pay particular attention to the following areas:

- (1) whether or not legal recognition should be given to other forms of electronic signature;
- (2) in Schedule 1 to the Bill, excluding documents and acts related to the scope of application by electronic means from the Bill;

- (3) to set up a voluntary recognition system for CAs, including arrangements for allowing the issue of approval or non-approval certificates by recognized CAs;
- (4) to set up a mechanism enabling CAs to lodge appeals with the Secretary for Information Technology and Broadcasting against a decision made by the Director;
- (5) consultation arrangements in respect of amendments to the Code of Practice for CAs; and
- (6) provision on obligation of secrecy as contained in the Bill.

Madam President, the development of electronic commerce has become a worldwide trend. To ensure Hong Kong to maintain its competitive edge in the information era, we must encourage the local business sector and the public to make extensive use of the new electronic transaction mode for the exploration of new business opportunities on a global basis in this world linked up by networks. It is for these reasons that I hope Members can support the passage of the Bill to provide electronic commerce with a well-defined legal framework and create a specific, trustworthy and reliable environment to facilitate the development of electronic commerce in Hong Kong. Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Electronic Transactions Bill be read the second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Electronic Transactions Bill.

Council went into Committee.

Committee Stage

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

ELECTRONIC TRANSACTIONS BILL

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Electronic Transactions Bill.

CLERK (in Cantonese): Clauses 9, 10, 13, 14, 17, 28, 31, 33, 35 and 38.

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.

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam Chairman, since the Rules of Procedure stipulate that any proposed new clause shall be considered after the clauses of a bill have been disposed of, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be

suspended in order that this Committee may consider new clauses 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A ahead of the remaining clauses of the Bill.

CHAIRMAN (in Cantonese): Secretary for Information Technology and Broadcasting, as only the President may give consent for a motion to be moved, without notice, to suspend the Rules of Procedure, I order that Council do now resume.

Council then resumed.

PRESIDENT (in Cantonese): Secretary for Information Technology and Broadcasting, you have my consent.

SECRETARY FOR INFORMATION TECHNOLOGY (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider my proposed new clauses 14A, 27A, 27B, heading before new clause 27C, and new clauses 27C, 27D, 27E and 38A ahead of the remaining clauses of the Bill.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider the Secretary for Information Technology and Broadcasting's proposed new clauses 14A, 27A, 27B, heading before new clause 27C, and new clauses 27C, 27D, 27E and 38A ahead of the remaining clauses of the Bill.

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.

Council went into Committee.

Committee Stage

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

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| CLERK (in Cantonese): New clause 14A | When sections 5, 6 and 7 apply to transactions between persons who are not government entities |
| New clause 27A | How Director may give notices under this Part |
| New clause 27B | Director to specify particulars and documents by notice in the Gazette |
| Heading before new clause 27C | PART VIIA CERTIFICATION AUTHORITY DISCLOSURE RECORDS AND CODE OF PRACTICE |
| New clause 27C | Director to maintain certification authority disclosure record |

| | |
|----------------|---|
| New clause 27D | Director to notify revocations, suspensions and non-renewals of recognition, etc. |
| New clause 27E | Director may issue code of practice |
| New clause 38A | Recognized certification authority to maintain repository. |

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam Chairman, I move that new clauses 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A, as set out in the paper circularized to Members, be read the Second time.

New clause 14A gives flexibility to transactions between persons who are not government entities, so that when the law requires a person to give information or present documents requiring signatures to another, they can agree on whether to accept electronic records or digital signatures themselves. New clause 27A specifies how the Director of Information Technology Services (the Director) may give a notice or other document to a certification authority (CA). New clause 27B stipulates that the Director must specify by notice in the Gazette any particulars and documents to be furnished by an applicant for recognition as a recognized CA or for the renewal of such recognition, or for the recognition of certificates or the renewal of such recognition. New clause 27C stipulates that the Director must maintain for each recognized CA an on-line and publicly accessible CA disclosure record and publish in the record information regarding that CA relevant for the purposes of this Ordinance, in order to protect the public interest. New clause 27D stipulates that the Director must give notice in the relevant CA disclosure record about the revocation, suspension and non-renewal of the recognition of the recognized CA, so that the public will have access to such information as soon as possible in order to protect their interest. New clause 27E, that is, clause 39 in the original Bill, provides that the Director may issue a code of practice specifying standards and procedures for carrying out the functions of recognized CAs. New clause 38A substitutes clause 40 proposed to be deleted and stipulates that a recognized CA must maintain an on-line and publicly accessible repository so that members of the public can look up information on the relevant CA.

The amendments seeking to add new clauses are proposed after thorough discussions between the Government and the Bills Committee, and about which a consensus has been reached. I hope that Members will support their passage. Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A be read the Second time.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you 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 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A.

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam Chairman, I move that new clauses 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A be added to the Bill.

Proposed additions

New clause 14A (see Annex VII)

New clause 27A (see Annex VII)

New clause 27B (see Annex VII)

Heading before new clause 27C (see Annex VII)

New clause 27C (see Annex VII)

New clause 27D (see Annex VII)

New clause 27E (see Annex VII)

New clause 38A (see Annex VII)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clauses 14A, 27A, 27B, heading before new clause 27C, new clauses 27C, 27D, 27E and 38A be added to the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1 to 8, 11, 12, 15, 16, 18 to 27, 29, 30, 32, 34, 36, 37, heading of Part X before clause 39, clauses 39 to 46.

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam Chairman, I move the amendments to clauses 1 to 8, 11, 12, 15, 16, 18 to 27, 29, 30, 32, 34, 36, 37 and 41 to 46 and deletion of the heading of Part X before clause 39 and clauses 39 and 40, as set out in the paper circularized to Members.

I will now give a brief account on the various proposed amendments. We propose to amend clause 1 providing for the commencement date of the Bill, so that those provisions the operation of which does not have to rely on subsidiary legislation shall come into operation with immediate effect from the day on which the Bill is passed and published in the Gazette. That way, the benefits to be brought about by the provisions concerned could be realized as early as possible. Such benefits include enhancing certainty in the use of electronic records in contract formation, clarifying matters relating to the attribution of sending and receiving electronic records and enabling the provision of certification services by the Post Office. As regards the remaining provisions the operation of which requires subsidiary legislation, they shall come into operation at a later date. We will submit the relevant subsidiary legislation to this Council for scrutiny shortly after the passage and gazettal of the Bill.

To address the views submitted by the Bills Committee and other concern groups, we have proposed to amend the definitions of certain terms set out under clause 2. These terms include: "accept a certificate", "certification authority disclosure record", "code of practice", "information system", "issue", "recognized certificate", "recognized certification authority", "rule of law" and "trustworthy system".

As regards clause 4, in order to reflect the legislative intent of the Bill, we propose to amend the clause to specify that the Electronic Transactions Ordinance shall bind the Government upon passage.

To protect the common law principle, we also propose to amend clause 16 to provide that the offeror may specify the means of communicating acceptance of an offer in contract formation, as well as to provide flexibility for the parties concerned to enter into contract with the use of electronic records.

As regards clause 20, the amendment we have proposed seeks mainly to improve the clarity of the recognition criteria employed by the Director of Information Technology Services (the Director) in considering applications for recognition, and to provide that the Director must give reasons to the applicant concerned for refusing an application for recognition.

The amendment to clause 21 seeks to provide that the Director must give reasons to the applicant for refusing an application for recognition.

With regard to clause 22, the proposed amendment seeks mainly to provide that if the Director decides to revoke a recognition, the Director must immediately give the Certification Authority (CA) notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made; and to provide that the revocation concerned shall take effect upon the expiry of seven days from the date on which the decision to revoke the recognition was made.

The amendment to clause 23 seeks mainly to provide that if the Director decides to suspend the recognition, the Director must immediately give the CA concerned notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made; and to provide that a suspension shall take effect upon the expiry of seven days from the date on which the decision to suspend the recognition was made.

We appreciate the Bills Committee's concern regarding the appeal mechanism. To ensure a fair and transparent appeal mechanism whereby the CA concerned could appeal against the Director's decision, we propose to amend clause 27 to provide that the Secretary for Information Technology and Broadcasting must give reasons to the appellant for his decision on the appeal, so that the appellant may consider whether or not to petition the court for a judicial review.

To address the views submitted by the Bills Committee and other concern groups, we have proposed to amend clause 37 to give greater clarity to the arrangements for a recognized CA to prepare for submission to the Director an assessment report on whether it has complied with the provisions of the Electronic Transactions Ordinance applicable and the Code of Practice.

As to clause 41, on the advice of the Bills Committee, we have proposed an amendment to tighten the provision on obligation of secrecy set out under the Bill.

Regarding the other amendments proposed to the aforementioned clauses as well as to clauses 3, 5 to 8, 11, 12, 15, 18, 19, 24, 25, 26, 29, 30, 32, 34, 36, and 42 to 46, they are either technical in nature or amendments proposed to make minor drafting changes, with a view to further improving the clarity and preciseness of the provisions concerned. In addition, we have also proposed to replace clauses 39 and 40 by new clauses 27E and 38A respectively.

All these proposed amendments are made upon the consensus arrived at between the Government and the Bills Committee after detailed discussions. I hereby recommend them to Members for passage. Thank you, Madam Chairman.

Proposed amendments

Clause 1 (see Annex VII)

Clause 2 (see Annex VII)

Clause 3 (see Annex VII)

Clause 4 (see Annex VII)

Clause 5 (see Annex VII)

Clause 6 (see Annex VII)

Clause 7 (see Annex VII)

Clause 8 (see Annex VII)

Clause 11 (see Annex VII)

Clause 12 (see Annex VII)

Clause 15 (see Annex VII)

Clause 16 (see Annex VII)

Clause 18 (see Annex VII)

Clause 19 (see Annex VII)

Clause 20 (see Annex VII)

Clause 21 (see Annex VII)

Clause 22 (see Annex VII)

Clause 23 (see Annex VII)

Clause 24 (see Annex VII)

Clause 25 (see Annex VII)

Clause 26 (see Annex VII)

Clause 27 (see Annex VII)

Clause 29 (see Annex VII)

Clause 30 (see Annex VII)

Clause 32 (see Annex VII)

Clause 34 (see Annex VII)

Clause 36 (see Annex VII)

Clause 37 (see Annex VII)

Heading before clause 39 (see Annex VII)

Clause 39 (see Annex VII)

Clause 40 (see Annex VII)

Clause 41 (see Annex VII)

Clause 42 (see Annex VII)

Clause 43 (see Annex VII)

Clause 44 (see Annex VII)

Clause 45 (see Annex VII)

Clause 46 (see Annex VII)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the amendment moved by the Secretary for Information Technology and Broadcasting 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 motion passed.

CHAIRMAN (in Cantonese): As the motion has been passed, the heading of Part X before clause 39, clauses 39 and 40 are therefore deleted from the Bill.

CLERK (in Cantonese): Clauses 1 to 8, 11, 12, 15, 16, 18 to 27, 29, 30, 32, 34, 36, 37 and 41 to 46 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): Schedule 2.

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): Schedule 1.

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam Chairman, I move the amendments to Schedule 1, as set out in the paper circularized to Members. Considering the views put forward by the Bills Committee and other organizations, we propose the amendments to the documents and acts exempted in Schedule 1 of the Bill for inclusion into the scope applicable under clauses 5, 6, 7, 8 and 16. We also propose amendments to the drafting of the provisions of the Bill. We undertake that we will review from time to time the documents and acts in Schedule 1 to ensure that the Schedule can keep pace with new technological developments. Thank you, Madam Chairman.

Proposed amendment

Schedule 1 (see Annex VII)

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 Information Technology and Broadcasting 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 motion passed.

CLERK (in Cantonese): Schedule 1 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

ELECTRONIC TRANSACTIONS BILL

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING (in Cantonese): Madam President, the

Electronic Transactions Bill

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Electronic Transactions Bill 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): Electronic Transactions Bill.

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Adaptation of Laws (No. 30) Bill 1999.

ADAPTATION OF LAWS (NO. 30) BILL 1999

Resumption of debate on Second Reading which was moved on 14 July 1999

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Adaptation of Laws (No. 30) Bill 1999 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): Adaptation of Laws (No. 30) Bill 1999.

Council went into Committee.

Committee Stage

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

ADAPTATION OF LAWS (NO. 30) BILL 1999

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Adaptation of Laws (No. 30) Bill 1999.

CLERK (in Cantonese): Clauses 1, 2 and 3.

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): Schedules 1 to 4, 6 to 11 and 13 to 24.

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): Schedules 5 and 12.

SECRETARY FOR HOME AFFAIRS (in Cantonese): Madam Chairman, I move the amendments to Schedules 5 and 12 as set out in the paper circularized to Members.

I propose the amendment to clause 3(c) of Schedule 5 by repealing "立法局" and substituting "立法會". This change in terminology is in line with the principles of adaptation of laws to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China. In addition, I propose the amendment of the heading and section 1 of Schedule 12 by adding "會" after "基督教". The

object of this technical amendment is to render the inclusion of the Chinese short title of the Hong Kong Council of the Church of Christ in China Incorporation Ordinance as listed in the Bill correct.

Proposed amendments

Schedule 5 (see Annex VIII)

Schedule 12 (see Annex VIII)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 5 and 12 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.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

ADAPTATION OF LAWS (NO. 30) BILL 1999

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

Adaptation of Laws (No. 30) Bill 1999

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

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Adaptation of Laws (No. 30) Bill 1999 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): Adaptation of Laws (No. 30) Bill 1999.

MOTION

PRESIDENT (in Cantonese): Motion. Proposed Resolution under the Interpretation and General Clauses Ordinance

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the Immigration (Amendment) Regulation 1999 be amended as set out on the Agenda.

The Immigration (Amendment) Regulation 1999 (Amendment Regulation) was tabled before the Legislative Council on 17 November last year, seeking to amend the Immigration Regulation. Under section 2AD(1) or (2) of the Immigration Ordinance, any person who is aggrieved by the decision of the Director of Immigration not to issue Certificates of Entitlement or certified duplicates thereof can lodge an appeal with the Immigration Tribunal. The Amendment Regulation seeks to provide for the practice and procedure to be employed by the Tribunal. A Subcommittee under the Legislative Council was set up to scrutinize the Amendment Regulation. I am very grateful to Subcommittee Chairman Miss Margaret NG, Deputy-Chairman Mr Ronald ARCULLI and members of the Subcommittee for their valuable comments on the Amendment Regulation. The amendments now moved by the Government are based on the consensus which it has reached with the Subcommittee.

The first and second amendments are of a technical nature, and they aim to remove any confusion by specifying in Regulations 9(A)2 and 9(B)2 that appeals lodged under section 53A shall be regulated by Schedule 3, and that appeals lodged under section 2AD shall be regulated by Schedule 4. The heading of Regulation 9A shall also be amended accordingly.

The third amendment seeks to repeal the definition of "appellant" in paragraph 1 of the new Schedule 4. The meaning of "appellant" as found in Schedule 4 can be inferred from sections 2AB, 2AC and 2AD of the principal Ordinance. So, in order to avoid any different interpretations of this term in the same Schedule, it is now proposed to delete it.

The fourth amendment seeks to repeal "Unless an appeal is to be heard in the absence of the appellant under paragraph 14, the" in paragraph 11 of Schedule 4. The Immigration Tribunal will, under all circumstances, issue notices to the relevant parties of each appeal case, specifying the dates and time of hearings.

The fifth amendment seeks to specify the circumstances mentioned in paragraph 14(1) of Schedule 4 on the conduct of a hearing in the absence of the appellant. The amendment is mainly about the circumstances under which an appellant is unable to attend a hearing for reasons of being away from Hong Kong or so on. The Amendment Regulation provides that the Immigration Tribunal may hear an appeal in the absence of the appellant if it is satisfied that the appellant will not appear, and if having made due inquiry as is practicable, it is satisfied that it would be proper in all the circumstances to proceed in the absence of the appellant. Such an arrangement can ensure that the operation of the Immigration Tribunal will not be hindered by the absence of any appellant. This can tie in with the Certificate of Entitlement Scheme, which requires that people claiming to be eligible for the right of abode should apply outside Hong Kong. And, this will also not violate the principle of natural justice.

The above amendments can increase the clarity of the Immigration (Amendment) Regulation 1999. I hope that Members can support them. With these remarks, I beg to move.

The Secretary for Security moved the following motion:

"That the Immigration (Amendment) Regulation 1999, published as Legal Notice No. 273 of 1999 and laid on the table of the Legislative Council on 17 November 1999, be amended -

- (a) by repealing section 1 and substituting -

"1. Regulation substituted

Regulation 9A of the Immigration Regulations (Cap. 115 sub. leg.) is repealed and the following substituted -

**"9A. Practice and procedure on
appeals to the Tribunal
under section 53A of
the Ordinance**

(1) The practice and procedure on an appeal to the Tribunal under section 53A of the Ordinance shall, subject to paragraph (2), be such as the chief adjudicator may determine.

(2) Schedule 3 shall have effect for the purpose of regulating appeals to the Tribunal under section 53A of the Ordinance.".";

- (b) in section 2, in the new regulation 9B(2), by adding "under section 2AD of the Ordinance" after "Tribunal";
- (c) in section 3, in the new Schedule 4 -
- (i) in paragraph 1, by repealing the definition of "appellant";

- (ii) in paragraph 11, by repealing "Unless an appeal is to be heard in the absence of the appellant under paragraph 14, the" and substituting "The";
- (iii) by repealing paragraph 14(1) and substituting -

"(1) The Tribunal may hear an appeal in the absence of the appellant -

- (a) if the appellant refuses or declines to appear when given the opportunity to do so;
- (b) if the appellant fails to appear and the Tribunal is satisfied that he will not appear; or
- (c) if the Tribunal is satisfied that -
 - (i) by reason of illness or injury the appellant cannot attend the hearing; or
 - (ii) if the appellant did attend the hearing he would present a threat to the health or safety of other persons at the hearing,

and having made due enquiry as is practicable, the Tribunal is satisfied that it would be proper in all the circumstances to proceed in the absence of the appellant."."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Security, as set out on the Agenda, be passed.

MISS MARGARET NG: Madam President, as Chairman of the Subcommittee on the Immigration (Amendment) Regulation 1999, I rise to speak on the motion as moved by the Secretary for Security. The Subcommittee has examined in detail the Amendment Regulation which seeks to provide for the practice and procedure to be followed in appeals to the Immigration Tribunal under section 2AD(1) or (2) of the Immigration Ordinance (Cap. 115) against the decision of the Director of Immigration not to issue Certificates of Entitlement or certified duplicates thereof.

The amendments are consequential upon the introduction of the Certificate of Entitlement Scheme by the enactment of the Immigration (Amendment) (No. 3) Ordinance 1997. Under section 2AD(3) of the Immigration Ordinance, no appeal against the decision of the Director of Immigration not to issue a Certificate of Entitlement or a certified duplicate thereof shall be lodged at any time while the appellant is in Hong Kong.

The Subcommittee has sought clarifications on the meaning of "lodging an appeal". The Administration has advised that the meaning of "no appeal shall be lodged" in section 2AD(3) refers to the action of the applicant taken under section 2AD(1) or (2). Specifically, it refers to the submission of a notice of appeal to the chief adjudicator of the Tribunal. It does not include the subsequent appeal procedure and hearing of the appeal on whether an applicant would be allowed to be in Hong Kong after an appeal is lodged. The Administration's position is that an appeal under section 2AD should be lodged when the applicant is outside Hong Kong, which is required under section 2AD(3).

Once an appeal is lodged, there is nothing to prevent the applicant from entering and remaining in Hong Kong lawfully, provided that the normal immigration criteria are met. The lodging of an appeal does not give the applicant the right of abode or right to land or remain in Hong Kong pending the decision of the Tribunal on appeal. Overstayers and those who enter illegally will be liable to prosecution and removal of the Director of Immigration. Where the applicant is in Hong Kong and is able to appear in person before the

Tribunal, the Tribunal could exercise its discretion to allow him to appear in person if the Tribunal considers that it would not be proper in all the circumstances to proceed in the absence of the applicant.

Madam President, the Subcommittee is concerned about how natural justice could be safeguarded in an appeal hearing where an applicant is absent, especially the applicant may have to give detailed evidence or be cross-examined by the Tribunal. The Administration has responded that paragraph 14(1)(a), (b) and (c) of Schedule 4 provides for the only circumstance that the Tribunal may hear an appeal in the absence of the appellant, that is, if the appellant is unable to appear for reason of section 2AD(3) of the Ordinance, he refuses to appear, or he is unable to appear due to illness, or he would present a threat to other people in the hearing. The Administration does not consider that they would violate the rules of natural justice or the right to be heard. The Tribunal also needs to observe the safeguard provided for paragraph 14(1), that is, it could only exercise this power if "it would be proper in all the circumstances to proceed in the absence of the appellant".

Moreover, the appellant may appoint a representative under paragraph 9 of Schedule 4 to appear on his behalf. That representative could either be a lawyer or his relative who is able to give detailed evidence to the Tribunal, and if necessary, to apply for an adjournment until the appellant could appear in person to give evidence himself.

Regarding the provision in paragraph 14(1)(a) of Schedule 4, the Subcommittee considers that it is not necessary, since it is mandatory that no appeal shall be lodged at any time at which the appellant is in Hong Kong. The Subcommittee suggests that provision should be made to cater for the situation where the appellant, including a person making an application on behalf of another person, is not in Hong Kong or otherwise fails to appear and the Tribunal is satisfied that he will not appear, the Tribunal may hear an appeal in the absence of the appellant. The Administration agrees with that and the relevant amendments will be made.

Madam President, the motion to amend the Amendment Regulation moved by the Secretary for Security has the support of the Subcommittee.

Madam President, now I would like to state my personal views. This Regulation form part of the Certificate of Entitlement Scheme. This Scheme purports to provide for mainland residents who qualify as Hong Kong permanent residents under Article 24 para 2 (3) of the Basic Law to establish their status, but in reality was calculated to make it as difficult as possible for these persons to enjoy the right of abode which has been conferred upon them by the Basic Law.

In the Scheme set up under the Immigration (Amendment) (No. 2) and (No. 3) Ordinances of 1997, a person with genuine Hong Kong permanent residence status is treated as having no rights, and indeed as an illegal immigrant and a criminal, if he does not have a Certificate of Entitlement affixed to a one-way permit.

This Scheme allows him only one method of verification of status, and that one method is linked to a whole mainland system which has nothing to do with the verification of status, but is in fact directed at restricting exit and entry by quota. By this means, a person who has the right of abode is subject to immigration control, and his exercise of that right without government approval exposes him to treatment as an "illegal immigrant" and a criminal.

To make doubly sure that the door is tightly closed, those who crafted this Scheme have provided in section 2AD(3) of the amended Ordinance that, when a person is refused a Certificate of Entitlement, his rights to appeal from the refusal is subject to the limitation that no appeal can be lodged while he is in Hong Kong. The natural consequence is that in most cases, the appeal will be heard in his absence.

Madam President, nowhere in the world is a person with a constitutional right of abode treated so harshly and with so much hostility. The No. 3 Ordinance is modelled on the United Kingdom Immigration Act of 1971, itself an iniquitous act whereby Britain shamelessly shut out British subjects in its colonies. This Act began the process which was completed by the British Nationality Act of 1981 in turning people who are entitled to the right of abode into aliens. We have indeed learned from our former colonial masters. We are treating our own Chinese nationals even more ruthlessly than the British have treated their colonial subjects. This community will pay heavily for the hostilities shown today for a long time to come.

The right of abode is a "core right". To be refused a Certificate of Entitlement under the No. 3 Ordinance is to deprive a person of all the practical benefits that flow from that right. This being so, should that person not be entitled to the full right of appeal from that administrative decision, with the fullest consideration of natural justice? Any civil servant about to be deprived of his job or pension would be entitled to the full protection of natural justice in the relevant disciplinary proceedings against him. A person charged with an offence and liable even to a small fine is entitled to natural justice — of being heard, of defending himself. Even an applicant for a liquor license, to which he has no right, is entitled to natural justice.

Yet a person who has been refused his core right is told to go away first, even if this means that his appeal will be heard in his absence. This is what section 2AD(3) says, and what the Regulation before this Council now give effect to.

An appeal against refusal is an appeal on the facts. That is, the applicant tries to convince the Immigration Tribunal that he is a permanent residence on the evidence that he brings forward. His own oral testimony may be crucial, because the Tribunal may believe what he says, even though the Director of Immigration did not. Yet he is prevented from putting this crucial evidence before the Tribunal because the Ordinance obliges him to go back to the Mainland before he can lodge his appeal.

Madam President, on 29 January 1999, an independent Court of Final Appeal (CFA) had ruled that the right of abode, being a core right conferred by the Basic Law, is incapable of being qualified or restricted by the one-way permit system of the Mainland. And it is therefore unconstitutional to link the Certificate of Entitlement to that system. The CFA's ruling, that it is not unconstitutional to provide for the Certificate of Entitlement as the only means of verification of status, was in that context, and in the context of the reasonable and fair operation of the administration of the Scheme to facilitate verification. The CFA then did not expressly deal with section 2AD(3), but I have no doubt that, had the issue been addressed before the CFA then, section 2AD(3) will not be allowed to be given any effect which is incompatible with the underlying core right.

We all know that things have changed drastically since. On 26 June 1999, the Standing Committee of the National People's Congress gave its interpretation of Article 22 para 4 and Article 24 para 2(3). On 3 December 1999, in its judgment in the LAU Kong-yung case, the CFA obeyed and, reversing itself, ruled as constitutional the linkage between the Certificate of Entitlement and the one-way permit, and so also as permissible that the "core right", once sacrosanct, be subject to administrative control against mainland residents.

Madam President, it may be that the CFA has to obey the Standing Committee's interpretation, no matter how iniquitous. Certainly, to us in Hong Kong, what the court has declared to be law is law, no matter how unjust and repulsive a law. But if a court of law can be made to uphold such an interpretation and such a scheme, it can be made to uphold anything provided the Standing Committee so wished. The desecration of the rule of law has begun.

And so, section 2AD(3) may remain intact, and the Regulation before us today, giving effect to that provision, may be inevitable. It may have become lawful in Hong Kong to deny or restrict natural justice to someone who has a core right to protect, and lawful to tell him "you are no better than an illegal immigrant".

The amendment of section 2AD(3) is outside the ambit of the motion today and the task of the Subcommittee. Perhaps, the legal grounds on which section 2AD(3) can be challenged have now been cut from beneath the feet of those affected.

Madam President, I have considered it right to join and then to chair the Subcommittee on this Regulation because of its importance. I believe that, given the primary legislation, the amendments proposed today make the Regulation clearer and are, for that reason, an improvement. However, I will abstain from taking part in voting, because any act of approval of any part of this Scheme is morally repugnant to me.

Thank you, Madam President.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Security, do you wish to give a reply?

SECRETARY FOR SECURITY (in Cantonese): Madam President, let me once again thank Miss Margaret NG and other members of the Subcommittee for their detailed scrutiny of this resolution, and I also wish to thank Miss Margaret NG for her comments. I wish only to respond briefly to the personal opinions of Miss Margaret NG.

According to Miss Margaret NG, the core right of some Hong Kong people are taken away by the Immigration Regulation, because they are prevented from enjoying this right immediately. I must point out that following all the court proceedings over the past two years, the courts at different levels have invariably pointed out that the claim of entitlement to this core right and the actual exercise of this right are two different matters. And, the courts at different levels have also accepted the practice that people who claim to be eligible can only exercise this right after verification. That is why it is absolutely necessary to implement the system of Certificate of Entitlement.

Miss Margaret NG said that she was worried, because judging from the appeals regulations prescribed by us, our attitude towards those mainland citizens who claimed to be eligible for the right of abode seemed to be marked by hostility and a strong determination to prevent them from coming. But I must point out that since the implementation of the system of Certificate of Entitlement in July 1997, as many as more than 50 000 mainland citizens born to Hong Kong residents have come to Hong Kong. At present, the Public Security Bureau is granting permission for this type of mainland citizens to come to Hong Kong at a rate of more than 60 people a day. The system of Certificate of Entitlement has played a very significant role in effecting the orderly arrival of mainland citizens born to Hong Kong residents.

As for Miss Margaret NG's saying that some provisions of the appeals regulations may be in breach of natural justice, I must say that natural justice is also our concern. Under our regulations, the appellant is no doubt not allowed to stay in Hong Kong while the appeal is underway, but similar immigration appeal regulations are also found in other countries. In some cases, the lodging of a complaint does not necessarily mean that the appellant can stay in Hong Kong to take part in the process, because under the arrangements stipulated in

our immigration appeal regulations, although the appellant is not physically present in Hong Kong, his lawyers or relatives can still act on his behalf. And, for the verification of some particular facts, such as the information about the appellant's date of birth and his relatives, the appellant may well be unable to provide it himself.

Madam President, let me reiterate that the Government views that the appeals procedure under the Regulation is in compliance with natural justice. And, we also think that this can provide a channel of appeal to mainland citizens who claim that they are entitled to the right of abode. On the whole, the system of Certificate of Entitlement can facilitate the orderly arrival of mainland citizens born to Hong Kong residents.

Madam President, I hope that Members can support this motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Security, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Proposed resolution under the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR RONALD ARCULLI: Madam President, I move the motion standing in my name on the Agenda.

The Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation sets out the procedure to be followed for having the name, an abbreviation of the name or an emblem of an organization or an emblem of a natural person printed on a ballot paper for use in an election, except an Election Committee subsector election, to elect a Member of the Legislative Council.

The Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999 amends the principal Regulation to tie in with the revised arrangements and time-table for the 2000 Legislative Council Election as set out in the Legislative Council (Amendment) Ordinance 1999, and to introduce measures to improve and streamline the registration procedures.

The Subcommittee considers that in order to allow adequate time for members to consider the subsidiary legislation, it is necessary to extend the scrutiny period to the meeting of 19 January 2000.

Madam President, I urge Members to support this motion.

Mr Ronald ARCULLI moved the following motion:

"That in relation to the:

- (a) Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation, published as Legal Notice No. 306 of 1999; and
- (b) Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999, published as Legal Notice No. 307 of 1999,

and laid on the table of the Legislative Council on 15 December 1999, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 19 January 2000."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Ronald ARCULLI, as set out on the Agenda, be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Ronald ARCULLI, as set out on the Agenda, 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): Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. The movers of the motions will each have up to 15 minutes for their speeches including their replies, and another five minutes to speak on the amendments. The movers of the amendments will each have up to 10 minutes to speak. Other Members will each have up to seven minutes for their speeches.

First motion: Assisting Hong Kong's workforce in meeting the economic challenges of the new millennium.

ASSISTING HONG KONG'S WORKFORCE IN MEETING THE ECONOMIC CHALLENGES OF THE NEW MILLENNIUM

MR DAVID CHU (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

The Hong Kong Progressive Alliance (HKPA) and myself are honoured to participate in the first motion debate of the new millennium. As any first time event of the new millennium will have particular significance, we have spent a lot of time to thinking of an issue of great concern to and worth the attention of members of the public in the 21st century. As regards what kind of a century would the 21st century be like, we may have different views and expectations, but I believe that everyone agree that a knowledge-based 21st century driven by high technology will bring about tremendous changes, including economic transformation, to Hong Kong.

The motion debate today is about the Government and the Legislative Council showing concern for the situation of grass-roots workers, and helping them to adapt to the changes of the 21st century to raise their quality of living. By doing so, we are not offering them charity or social welfare; but simply letting them have their due, doing what a civilized society should do.

Later on, other Members of the HKPA will be making various specific proposals on this subject, and I believe that Honourable colleagues, particularly those representing the labour sector, would put forward more detailed and better

proposals. I hope that the Government will pay attention to today's debate, and support the conclusion reached, for grass-roots workers provide the foundation for Hong Kong's prosperity and stability.

At present, Hong Kong faces economic challenges from three main sources.

First, the economic development of Hong Kong no longer relies on the expansion of assets values, and should be driven by technology and knowledge instead.

Second, with the rapid development of information technology such as the Internet and electronic commerce, every trade and profession should make corresponding adaptations.

Third, the role of Hong Kong will change with the accession of China to the World Trade Organization (WTO), and we would have to compete directly with foreign countries for the mainland China market.

In face of such challenges, Hong Kong needs a set of long-term policies on education, training, migrants, labour and finance, in order to enhance the skill level of local workers, and to develop a highly adaptable workforce.

Of course, the Government has already done a great deal in these areas, especially in education and training. However, we are now in need of a general integrated long-term policy, such as one which includes providing assistance for the small and medium enterprises (SMEs). SMEs account for 98% of the total number of Hong Kong enterprises, employing 70% of our workforce; the wealth created by SMEs in various important trades contribute about 45% to 90% of our Gross Domestic Product (GDP) values. If the Government could offer positive assistance to the SMEs, our current unemployment problem could certainly be ameliorated.

I hope we can give the Government a loud and clear message, and that is, grass-roots workers of Hong Kong provide the foundation for Hong Kong's prosperity, and their success is Hong Kong's success.

Madam President, I so submit.

Mr David CHU moved the following motion: (Translation)

"That, as the restructuring of Hong Kong's economy towards the high value-added, high-technology and knowledge based directions and China's impending accession to the World Trade Organization will affect the local workforce severely, this Council urges the Government to actively formulate a set of stable and long-term policies on education, training, migrants, labour and finance etc., with a view to reducing the rate of unemployment, upgrading the capability and adaptability of the workforce and, in particular, assisting the less skilled and less educated in better equipping themselves, so as to meet the economic challenges of the new millennium."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr David CHU, as set out on the Agenda, be passed.

Mr Andrew CHENG, Miss CHAN Yuen-han and Mr LEE Cheuk-yan will move amendments to this motion respectively. Their amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion and the three amendments will now be debated together in a joint debate.

In accordance with the Rules of Procedure, I will call upon Mr Andrew CHENG to speak first, to be followed by Miss CHAN Yuen-han and Mr LEE Cheuk-yan; but no amendments are to be moved at this stage.

MR ANDREW CHENG (in Cantonese): Madam President, this is the first Legislative Council meeting in the new millennium, and I am very pleased that our first debate topic is related to employment and manpower. I hope that today's debate can succeed in urging the Government to formulate a greater number of practical measures to solve the unemployment problem of Hong Kong and to enhance the competitiveness of local workers.

The economic structure of Hong Kong is undergoing rapid changes which see the continuous shrinkage of labour-intensive industries like manufacturing and booming of information technology and telecommunication industries. Our economy is now moving in the direction of high value-added, innovative and high-technology industries. China's accession to the WTO will bring about a

lot of business opportunities, but at the same time, our local labour market will to be inevitably affected a certain extent. The Government of the Hong Kong Special Administrative Region (SAR) should make preparations to meet these challenges and safeguard the job opportunities of local workers.

Madam President, the employment policy of the Government has been marked by a "piecemeal" approach, under which it addresses problems only when they occur without trying to draw up a long-term policy. That was why the Government introduced nothing but fragmentary remedial measures which could not solve the problem of unemployment even when local workers were greatly disturbed by pay-cuts and layoffs after the financial turmoil. According to the findings of an opinion poll conducted by the University of Hong Kong at the end of 1999, members of the public are most unhappy about the SAR Government's failure to maintain the prosperity of Hong Kong, and the year-average popularity rating of the Chief Executive, Mr TUNG Chee-hwa, has even dropped to 55.9%, an all-time low since his assumption of office. The alarm of public dissatisfaction with the Government has already sounded. The Government should not turn a blind eye to this, and it must try to identify ways of resolving the unemployment problem.

Training is an important aspect of manpower planning. And, accurate forecasts of manpower supply and demand coupled with corresponding training programmes are the only way to ensure that our manpower resources can cope with our economic development. The Cyberport project announced by the Financial Secretary last year, the environmental protection policy set down by the Chief Executive, Mr TUNG Chee-hwa, in his policy address and the finalization of the construction of the Disney theme park will certainly lead to a drastic increase in the manpower demand of hi-tech, environmental and construction industries in the coming year. The Administration should grasp this opportunity, take active steps to train up local workers, enhance their competitiveness and assist those who are rendered jobless by economic restructuring in getting jobs in other trades.

As regards talents in high technology, there has always been a shortage of such manpower in Hong Kong. Last year, the Chief Executive announced the Admission of Talents Scheme in his policy address. The Democratic Party is of the view that if the Scheme can help promote the development of innovation and high technology in Hong Kong and attract talents to come here for exchanges, it can well be accepted. However, there must be a definite timeframe for the

Scheme and an objective salary standard to ensure that workers from outside Hong Kong will not become cheap labour.

In the long run, the Government should train up local high-tech talents in order to avoid an over-reliance on "overseas help". Therefore, one of the objects of my amendment today is to highlight this problem. According to government statistics, for the year 1999-2000 alone, our local tertiary institutions spent a total of \$4.2 billion on offering 18 300 places in courses related to computer, information technology and engineering. However, according to government statistics again, in 1997, only 35% of our science graduates took up occupations relevant to their fields of studies. And, for engineering and technology graduates, 74% joined the related industries. From these statistics, we can see that there is still a large pool of potentials among our college and university graduates in developing hi-tech and high value-added industries. The Government should make the best use of these graduates, train up high-tech talents with adequate experience and attract them to join the related industries.

Madam President, on the issue of environmental protection, the Democratic Party thinks that green industries have tremendous potentials in creating more job opportunities. The Democratic Party proposes that service units should be set up in public housing estates and residential developments for recovering and sorting wastes, so as to create more job opportunities for lower-skilled workers. Furthermore, transportation networks and transportation teams should also be set up to collect the sorted wastes and send them to recycling plants. According to conservative estimates, the collection, delivery and recycling of waste could create over 1 000 jobs.

One of the important issues relating to our workforce is the employment problem faced by lower-skilled workers. Last year, the Secretary for Education and Manpower, Mr Joseph WONG said that in Hong Kong, there were over 700 000 workers aged 40 or above with an educational level of junior secondary school or below. These grass-roots workers will be subjected to huge impact in the process of the economic restructuring, and it is time for the Government to conduct a comprehensive review on our manpower training policy, so as to help workers to equip themselves and adjust to the changes in the labour market.

The Vocational Training Council (VTC) and the Employees Retraining Board (ERB) are the two largest training bodies in Hong Kong, and every year, they spend hundreds of millions of dollars on training local youngsters and workers. The Government should set down a performance target for these two training bodies, so to monitor its cost-effectiveness and avoid any waste of public funds.

One of the functions of the VTC is to provide alternative learning opportunities and vocational training for students who have difficulties with the curriculums of traditional grammar schools. The Democratic Party hopes that apart from offering post-secondary five education, the VTC can also place equal emphasis on vocational training. Some time ago, the Legislative Council Panel on Manpower held a discussion on the VTC's proposal to abolish the apprenticeship programme, and we hope that the VTC will not ignore this type of practical training programmes, for there are still demands for such skills training in the community.

As for the courses of the VTC, I must say that young people are highly receptive to information technology and can acquire such skills easily. Although the VTC has conducted more information technology courses in recent years, the number of places offered is still very limited. The VTC should actively expand its information technology education and greatly increase the number of places offered, so as to train up more technicians for information technology industries.

Madam President, some time ago, the Audit Commission pointed out in its report that there were maladministration and waste of public funds in the VTC. This reflects the ambiguous division of responsibilities between the VTC and the Government and ineffective monitoring of the Council of the VTC. The Government and the VTC should clarify the functions and financial arrangements of the VTC, and enhance the monitoring.

Madam President, as a result of economic restructuring, the ERB will also be facing great challenges. In face of the future changes, the Democratic Party thinks that in the coming year the ERB should focus on a few existing training programmes, so as to help those who are presently unemployed to join trades which have a great demand for labour. For example, the ERB should offer basic information technology courses, so that in addition to word processing, basic level workers can be given basic training on the use of the Internet. The

ERB may also organize courses which are related to environmental protection, so that grass-roots workers may take up jobs like recovering wastes in environmental protection industries.

Furthermore, following the finalization of the Disney theme park project, the Construction Industry Training Authority should also set up a task force to provide training on work types which may experience a shortage of labour.

Madam President, all in all, I am moving this amendment mainly in the hope that the Government would actively train up professionals for innovative and hi-tech industries and conduct a comprehensive review on the functions and effectiveness of the VTC and the ERB, so as to prepare for the future development of the local labour market. This objective is shared by Mr David CHU in his original motion, and by Miss CHAN Yuen-han and Mr LEE Cheuk-yan in their respective amendments. The Democratic Party supports the original motion and all the amendments. My amendment and the original motion and other amendments are different only in the sense that emphases are slightly different, but our target is the same, and that is, that we all wish to resolve the unemployment problem and help local workers to find jobs. I hope that Members will also support the Democratic Party's amendment.

Madam President, I so submit.

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

MISS CHAN YUEN-HAN (in Cantonese): Mr Deputy, as we look back to the few decades past from the year 2000 we are now in, we can see that there have been very drastic changes in our society. In the seventies there was an economic take-off, and the eighties and nineties saw the shrivelling of the manufacturing industries and a lot of workers in these industries were forced out of their jobs. At that time, the property and the stock markets were booming, creating an illusion of economic prosperity. The problem of unemployment was not taken seriously by the Government and there was no proactive, specific and effective measures to upgrade the skills of the workers.

Today we are moving in the direction of a knowledge-intensive society. More and more of the job vacancies are related to information technology, such

as programmers, CAD specialists and so on. Even some service industries also involve the application of computers. For example, sales personnel needs to use computers for stock checking and cashier work. Waiters use computers to take orders and settle bills. Moreover, the use of computers often involves the use of English so that it is really very hard for the middle-age unemployed to land such jobs.

With the globalization of world economy and China's imminent accession to the WTO, the impact on our labour market will be quite hard to predict. In the past we used to act as an intermediary in China's trade with the world and we had gained quite a lot of business opportunities as a result of the role we played. Now some scholars are predicting that after China's accession to the WTO, our role as a middleman would gradually be fading out, for with China's accession, its trade and investment systems will be more transparent and institutionalized and there will be no need to rely on our intermediary role. That means we are losing our previous edge. It is believed that there will be a great cut in the availability of related jobs. Those affected will not be clerical staff at the junior levels alone, but also middle management and even proprietors.

There have been suggestions that workers should go to the Mainland to look for jobs. But due to differences in salaries and other reasons, it is difficult for them to find jobs commensurate with their former jobs in Hong Kong. Moreover, with the rapid development of the Mainland, there is a great supply of talents there and so it is difficult for Hong Kong people to compete with their mainland counterparts. Even if we are willing to go to the Mainland, it will be difficult for us to find jobs there. With China's accession to the WTO, there will be a great surge in unemployment in Hong Kong and it is one which we will find hard to bear.

Moreover, with the establishment of the SAR, there has been a closer tie with the Mainland and transportation between the two places is becoming more convenient. There will be more and more people going to the Mainland and so consumption there will rise. And the pattern of consumption of Hong Kong people in the Mainland has changed from that of recreation and dining to home purchase. With improvements in transport links, the trend will certainly rise. This trend has caused a lowering of demand for food, entertainment and housing here, and in turn a lower supply. A fall in supply will naturally reduce the number of jobs available.

Mr Deputy, according to information from the Census and Statistics Department, the number of people employed in the wholesale, retail and import and export trades is the greatest among the working population. There were a total of more than 900 000 people in 1998. From the above analysis it can be seen that these trades will be the hardest hit in the year 2000. And so those among the workforce who will be affected will be the greatest in number. So what the new millennium brings to the workforce is, I am afraid, endless worries instead of boundless hopes.

The Hong Kong Federation of Trade Unions (FTU) advocates the provision of assistance to those labour-intensive industries, such as personal and community services and also the environmental protection industry, as a way to create job opportunities and to attract more of the lower-skilled and less well-educated workers. The environmental protection industry, for example, is a labour-intensive industry, requiring a lower level of skills. It is certainly an ideal industry to absorb those workers who have been forced out of their jobs as a result of the economic transformation. It will also lead to a growth in clerical and management positions. Two months ago, the FTU organized a mass rally in which thousands of people took to the streets. It was hoped that the message of creating employment through the environmental protection industry would get across to the Government which should then be instilled with a sufficient sense of urgency to take proactive measures to turn the aspirations of the people into a reality. I would not dwell on this point as my Honourable colleague, Mr CHAN Kwok-keung, will move a motion debate on this on 19 January. By then Mr CHAN will present his proposals in detail.

Mr Deputy, we are worried about those who have lost their jobs and those who stand a high risk of losing their jobs. And more so, we are worried about our next generation. Will they be able to take on the challenges of the new century by virtue of the education they have received and the knowledge they have mastered? Our education system and the training institutions have always been under fire for being incompetent. While the education system is being reviewed, the various training institutions are still minding their own business without wholesale co-ordination among them. We cannot find a consistent policy on training. There is an overlapping of courses offered in these institutions. Resources are being wasted and there is an absence of channels for aspiring students to move up the academic ladder. Such uncertainties in the future have caused parents and students to see skills training courses as only second-rate options.

As early as in 1996, in a sitting of the Legislative Council, the FTU asked the Government to reorganize the vocational training organization. We think that is very important. For example, the VTC should concentrate its resources on the training of technicians and craftsmen, the Hong Kong Productivity Council (HKPC) should concentrate on quality training for the tertiary industries, and the ERB should concentrate on upgrading the skills of workers at the grass-roots. Courses offered by the ERB should be lengthened and fit in with those offered by the VTC so that workers at the grass-roots will be able to grasp the necessary skills and to improve their adaptability through their studies. But sad to say, apart from a consultancy report, the Government has practically done nothing since the discussions in 1996. Things remain as they were. All our vocational training organizations have turned a blind eye on what has already happened around us, that is, our human resources are incapable of coping with what is happening in society. They have been short of corresponding adaptations.

The FTU proposed at that time to set up a statutory body called Task Force on Employment to take charge of co-ordinating, making adjustments and overseeing these human resources training organizations. It should also study into the effects of the trend in economic development on the supply and demand of local human resources. It should also train the talents required by the new century and to prevent workers from being displaced in the process of economic restructuring due to their failure to adapt to the new challenges.

Mr Deputy, the three Members of the Council from the FTU have put forward a lot of views on this issue since 1995. It is most unfortunate that none of our proposals have been taken seriously by the Government, and in the meantime the problem has been worsening. As regards the motion proposed by Mr David CHU, we think that certain questions need to be clarified. For example, how are we going to better equip those workers with a lower level of education? We therefore have proposed an amendment. More efforts can be made by the Government. First, it can assist those labour-intensive industries and create job opportunities for those workers at the grass-roots. It is because training is difficult for these people. We need to offer some training courses specific to the trades suitable for them, for example, the environmental protection industry and the community services industry. Both are well-sought after by the community. Why should these not be considered by the Government? Secondly, more should be done by the Government on the training of workers. As I have just said, there are quite a number of people

with a certain level of education, like those fresh graduates of Secondary Three and Secondary Five, and they need the provision of training from the Government specific to the market developments. However, no review of this situation is made and there is nothing specific on this devised. As Mr David CHU's motion has not touched on this, we think there is a need to propose an amendment to this effect.

Mr Deputy, I wish to point out that if the Government cannot address the problem and find solutions for it, such as putting in more efforts on training in certain areas and reorganizing certain trades, we are worried that when the new century comes, unemployment will rise to new heights.

I would like to make use of the small amount of time available to say more on this. Recently, some vocational training organizations have launched some reforms. What are the effects? They have transferred the resources for Secondary Five graduates to Secondary Seven graduates, while resources originally earmarked for Secondary Three graduates were allocated to Secondary Five graduates. The Education and Manpower Bureau has made no response to such changes.

I very much hope that the new generation will not go in the footsteps of the workers of this generation and repeat their mistakes. We hope that the SAR Government may shower some blessing onto our workers and let them celebrate the new century with jobs for everyone.

DEPUTY PRESIDENT (in Cantonese): Miss CHAN, your time is up. Please sit down.

MISS CHAN YUEN-HAN (in Cantonese): Thank you, Mr Deputy. I so submit.

MR LEE CHEUK-YAN (in Cantonese): Mr Deputy, the Third Industrial Revolution has arrived, the world has entered an information network era and the world economy has globalized. Comparing the Third Industrial Revolution with the two former industrial revolutions of mankind, that is, the industrial revolutions brought about by the invention of the steam engine and generator, the

impact brought about by information technology is far more rapid, deeper and more extensive. In the new century, with intense competition, the world will observe the law of the jungle, the weak are the prey of the strong, and a few super multinational enterprises will dictate the world economy. These extremely wealthy super enterprises will then control the governments of various countries in order to bring these enterprises the greatest political and economic benefits. As a result, democracy will decline in the 21st century and it will finally die in the hands of super enterprises rather than the communists. Some commentators have suggested that we should monitor these super enterprises through all the governments in the world, but the actual situation is that the power of the governments of various countries is weakening. Another result of this situation is that the world is driven into an era of extreme disparity between the rich and the poor. While the network business of the LI Ka Shing family makes \$100 billion in profit daily, a part-time casual worker of McDonald's is paid only \$10 on the hour and unemployed workers have no income at all.

Mr Deputy, people in Hong Kong must know that remarks about economic recovery are meaningless in an era of network competition, and the saying that "the minority will benefit from flourishing business while the majority will suffer from dwindling business" will best describe economic growth and unemployment in the long run.

The disparity between the rich and the poor just mentioned by me is caused by the unprecedented impact effected by the network competition era to the labour market. While this impact is worldwide, Hong Kong workers will be struck even more rapidly with China's accession to the WTO. Recently, many people have expressed worries about the employment prospects of 700 000 workers aged over 40 with below Secondary Three academic level, and the Hong Kong Confederation of Trade Unions shares their views. But the problem is that not only the 700 000 people are affected. In fact, the network revolution has two implications: firstly, it smashes intermediate technical posts; secondly, it breaks the career ladder. As a result, 70% of our working population, that is, 2 million workers are eliminated as they have lost their fixed posts and their skills are incompatible with current needs. They have become the high-risk class threatened by abject poverty. This is no alarmist talk for the point about 70% is not only made in Hong Kong, but also in the United States where people generally have higher educational level than Hong Kong people. We can make reference to a book newly published by the Massachusetts Polytechnic which states that two thirds of workers are in the high-risk class. In the next 10 years, we can predict that the following changes will take place in the labour market:

Firstly, a lot of intermediate posts will be lost as a result of the information technology impact. The United States Government, as the information technology leader, has recently published a report on the manpower demand in 2008. According to the report:

- In the coming 10 years, there will be 20 fastest growing work types, of which nine are low-skill work types such as salesmen, cashiers, personal care workers, classroom assistants, domestic helpers, nursing staff, waiters, security guards and workers in food establishments, and they will account for 43% of the new posts. There are six knowledge-type work types and three work types directly related to information technology, namely system analysts, computer support professionals and computer engineers, and the remaining three work types are senior executives, registered nurses and secondary school teachers, and they account for 33% of the new posts;
- among the 20 non-agricultural work types with the most serious loss, there are intermediate civilian posts and eight posts in the manufacturing industry. The civilian work types with the most serious loss are typists, bookkeepers, computer operators, bank tellers, operators, wage slip clerks, computer peripheral operators, purchasing clerks and social welfare investigators. Most lost posts in the manufacturing industry are found in the apparel and textile industry and printing industry;

These figures refute the misunderstandings of some people that the knowledge-based economy will make low-skill work types disappear. But the experience of the United States proves that the work types lost are mainly intermediate posts and new posts will be created at both ends.

Secondly, the reason why lower-skilled workers are hardest hit is not the disappearance of low-skill posts, but the fact that these posts are needed after all. The impact on them comes from the downward movement of intermediate skill workers, as a result

DEPUTY PRESIDENT (in Cantonese): Mr LEE, you seem to have forgotten to put on the microphone.

MR LEE CHEUK-YAN (in Cantonese): I am sorry, Mr Deputy, and I would also like to apologize to the interpreters.

The impact on them comes from the downward movement of intermediate skilled workers, as a result, they are eliminated and caught in the plight of long-term unemployment.

Thirdly, many of the new posts will be high academic level, highly innovative and high-tech posts, and only workers of intensive knowledge will have stable jobs.

Fourthly, in a competitive era, it is popular to streamline enterprises, regardless of whether the enterprises are making profits or not. Today, workers have out-dated skills and enterprises have moved to regions asking lower costs. Workers no longer have a career ladder, and middle-aged workers do not know which way to go.

Fifthly, workers who are lucky enough to land jobs have to accept low wages and unstable posts without a promotion ladder, bouncing between being unemployed and working low-paid jobs.

The network era has struck a serious and urgent blow on employment. That Mr David CHU has moved this motion debate at the first Legislative Council meeting in this millennium merits our support. However, it seems that the wordings of the motion have put all the problems and responsibilities on the shoulders of workers, asking them to adapt to the new situation. Let us imagine this, it takes at least 16 years to get a degree and at least 20 years to get a doctoral degree. Would it not be unfair for us to ask a worker with low academic level to adapt to a knowledge-based economy within a short period of time?

The crucial problem we have to address is how we can establish an economic system and environment that can take care of and look after the interests of employers and employees in different classes so that the employers

and employees can share the risks and fruits together. One of the important suggestions of my amendment is to establish a tripartite committee comprising representatives of employees, employers and the Government to formulate strategies.

To formulate such strategies, the first thing we should do is to carry out a detailed and comprehensive manpower demand evaluation, especially in respect of information and innovative technology, the globalization of world economy as well as the effect of China's accession to the WTO to the local manpower demand. How can we meet the future challenges without the benefit of a reliable evaluation? How can we strategically provide training? Although the Government made an evaluation in 1990, it has not done so again. We think that the second task is to reorganize the work procedures.

The European Union has set up a tripartite specialist team since 1990 to examine how the work procedures can be reorganized to address such questions as:

- how to integrate the information technology application schemes with employee training;
- how to take care of employees with a lower level of skills in computer programming, application interfaces and work procedure division; and
- how to let technology improve the working conditions of workers so as to shorten their working hours and retain more job opportunities.

I think that the second important measure is vocational training. The Government has discussed a lot about this but it has not taken action in many areas. I have said earlier that the impact of the network era on 700 000 lower-skilled workers come from the downward movement of intermediate skilled workers, therefore, the whole training strategy should mainly be directed at intermediate skilled workers so that they will not compete for posts with grass-roots workers as a result of the loss of jobs. At present, the VTC offers 30 000-odd part-time evening courses annually. Let us imagine this: there are at least 1 million-odd intermediate employees. The Government definitely needs to conduct a review on the VTC to satisfy such needs. The policies of the

universities for the admission of adult students are still very conservative (almost one third to a half of the students of major universities in the United States are adult students while adult students account for less than 10% of the students of universities in Hong Kong). This means that there are insufficient channels for working people who are properly qualified to upgrade themselves.

The Administration emphasizes "lifelong learning" but if a person works from nine to nine every day, spends some time on travelling and having meals, paying attention to politics, giving his children guidance, keeping fit and cutting medical expenses, how much time can he spare for learning? How can he take up lifelong learning? I would like to say that the Government and employers have put too heavy responsibilities on workers. Workers are fed up with the situation. Without matching policies, "lifelong learning" is only an empty slogan.

Therefore, I believe private organizations should play a more important role in the lifelong learning of employees. It is most practical for employers to provide employees with major on-the-job training. The Government should also encourage them to do so by means of such policies as tax concessions and technical support. Furthermore, the Government should consider taking policy measures to safeguard the rights of employees to take leave for training or to shorten their working hours.

All the points made above are directed at supply in the labour market. We also need to consider the demand side and one of the key points is to facilitate the development of the local manufacturing, environmental protection and community service industries. I would not discuss these in detail because I have little time left. I really hope that the Government can provide the working class in Hong Kong with labour-intensive job opportunities.

Mr Deputy, the millennium represents "instability" in the sense that we are faced with developments more rapid, deeper and more extensive than that in the last century. I really hope that the community can establish a partnership spirit and reach a consensus, otherwise, crises will break out at any time. Thank you, Mr Deputy.

DEPUTY PRESIDENT (in Cantonese): We shall now proceed to a debate.

MR HUI CHEUNG-CHING (in Cantonese): Mr Deputy, employment prospects and changes in the manpower market may most probably be the major concerns of the people of Hong Kong in the new millennium. At present, the employed population is close to 3.3 million, while the unemployed and the underemployed stand respectively at 230 000 and 110 000. All of these people certainly want to have a stable job. Those who have yet to join the labour market, including 240 000 secondary students and 100 000 tertiary students, would not want to find themselves jobless upon graduation.

Employers, who are not worried about finding jobs, are equally concerned about employment. They would like to find suitable workers without having to spend a fortune on them so that they can remain competitive. An important point to note is that employment and business operation are closely related. A high unemployment rate means a poor environment for starting or expanding businesses, which then implies an environment not conducive to job creation. As we enter the new millennium, the ability or otherwise of the Government to formulate policies and measures that fit the demands of employers, employees and those of the future workforce will certainly be a major index used by the public in evaluating the performance of the Government.

Some people believe that the economy of Hong Kong has turned the corner and will get into a full swing in the new millennium. Overall employment prospects will steadily improve. But the question remains that while economic growth may increase job opportunities, it does not mean the unemployment rate will necessarily shrink. Between 1992 and 1997, there was an average annual growth rate of 5% in our GDP and an overall increase of 19% in the labour force, representing an increase from nearly 2.8 million to 3.3 million. But the unemployment rate for the same period grew from 2% to 2.5%, representing an increase of 25%. This shows that even in times of an economic boom, the rate at which new jobs are created in Hong Kong still lags behind the growth rate of the unemployed population. So, the situation can only be worse at present, given that the economy is still weak! This somehow shows that the present unemployment problem in Hong Kong is not just a matter of mismatch between the skills offered by people and the skills needed to fill some jobs. Rather, it is a matter of over-supply in labour. In other words, if the Government should fail to formulate a set of long-term, stable and comprehensive policies to upgrade the quality of the workforce as a whole, the good old days of near full employment would never come back even if the economy of Hong Kong could really take off again in the future.

In fact, the present Hong Kong economy finds itself not in an economic cycle but in a restructuring. Hong Kong's service industry is changing from one that is mainly mechanical, skill-oriented and labour-intensive to one that is mainly dependent on technology, information and knowledge. Traditional service industries, including import/export, transportation, retail/wholesale, would need to make more use of computer technology and the application of new knowledge from the Internet to reduce reliance on manual labour. Take import/export as an example. When trade declarations are lodged by electronic means, there will be far less opportunities for manual workers to moonlight by queuing to lodge trade declaration forms for other people. In addition, after China's accession to the WTO, Hong Kong would need to compete directly with the rest of the world in the China market. When the competition becomes keen, employers would naturally need to save on labour costs and upgrade the quality of human resources.

If the Government wants to sharpen the competitive edge of the Hong Kong workforce as a whole, it should really reflect on these questions: Why does the unemployment rate of young people in Hong Kong stand above 20% despite the fact that one fifth of the annual budget has been allocated to education? Has the Government placed too much emphasis on training for the short term, for low-level skills and low-level knowledge so that it loses sight of on-the-job training for the long term and for high-level skills? I personally think that the Government should introduce more professional examinations suitable for people with fundamental educational levels to train up more people at non-degree and high-skill level to meet the needs of developments in high value-added and innovation technologies.

As Mr David CHU said, SMEs are the pillars of the prosperity and the stability of Hong Kong as well as a major source of jobs. At present, the number of SMEs has gone down to 250 000 from 290 000 in 1997. So, if the Government can be more active in giving assistance to some SMEs, it will certainly be a great help to the large number of unemployed.

With these remarks, Mr Deputy, I support the original motion.

MR CHAN KAM-LAM (in Cantonese): Mr Deputy, the amendments proposed by my colleague Miss CHAN Yuen-han has put forward a clear objective of urging the Government to establish a policy on manpower development aiming at "creating jobs and upgrading capability" for the less skilled and less educated, to restructure the vocational training framework and to strengthen continuing education. The proposal obviously helps upgrade the skills and adaptability of the local workforce, a direction that cannot be completely spelt out in the original motion or the amendment by Mr Andrew CHENG.

The Democratic Alliance for the Betterment of Hong Kong (DAB) thinks that the Government should strive to improve job opportunities so that the local labour force, especially workers with less skill and education, can find a better outlook in the job market. Hence the Government should lay down a comprehensive policy for training to enable the local workforce to meet the various challenges in economic restructuring when faced with an economy that is developing in the high value-added, high-technology and knowledge-based directions. For example, the Government can work towards upgrading the skills of local labour, providing vocational training for them and enhancing the development of continuing education. It can also promote the development of industries that are capable of absorbing a large number of less educated workers, such as personal and community services, so that more job opportunities could be created for manual workers, thereby providing the less-skilled workers with better employment prospects.

The arrival of the new millennium signals a change of the times in the Hong Kong economy. With China's imminent accession to the WTO, it will open up further its trade market. We can certainly develop more business opportunities for that. But at the same time our role as an economic middle-man, which we have been playing for some time, will inevitably be diminish to a certain extent.

Hong Kong people doing business in the Mainland will face more competition. Some industries, such as the manufacturing industry, the entrepot trade, and the transportation industry will be subject to some external pressure. Therefore we hold that manufacturers or investors must raise their standards in product design, product quality, production processes, human resources management, development strategy and inventory control, with a view to achieving better cost effectiveness and sharpening the competitive edge.

Unfortunately, the quality of the local workforce, especially the less educated labour force, is not yet ready for the new challenge. They face greater difficulties. At present, over 180 000 of the unemployed population are educated to the secondary or lower level. Overall, there are over 700 000 workers aged over 40 and with junior secondary education level or below. The DAB must inform this Council about a worry that it has. If China is admitted to the WTO, overseas countries can do more business with China directly without any need to go through Hong Kong. Then the local job market will be subjected to greater pressure. How will the local labour face this change?

Thus the DAB would urge the Government to start a study of the situation as soon as possible. For example, the Financial Secretary's WTO Research Group and the Mainland-HKSAR Joint Commission on Trade and Commerce headed by the Financial Secretary should start to study the possible effects on the trade situation in Hong Kong and China once China is admitted to the WTO and report their findings to the business sector in Hong Kong, discuss with them, and find out ways to improve the overall economic development, the adaptability and competitiveness of the labour force.

In developing its high technology based economy, the Government should also assess the effect of economic restructuring on less-skilled labour, with a view to devising a comprehensive strategy to assist workers to obtain training and employment, to help the low level labour to find jobs. Certainly, less-skilled workers should also accept the idea of life-long learning and promptly sign up for training to upgrade their skills. So, the Government can consider providing direct and indirect assistance such as the use of training coupons, or encouragement for manufacturers and investors to provide training for their employees. It should also encourage workers with financial difficulties to further their studies after office hours.

With these remarks, Mr Deputy, I support Miss CHAN Yuen-han's amendment.

MISS CHOY SO-YUK (in Cantonese): Mr Deputy, first of all, I would like to thank Mr David CHU for putting forward such a meaningful topic for discussion at the first meeting of the Legislative Council in the new millennium. The manpower issue can be the tallest challenge for Hong Kong as it moves into the new millennium because despite the various signs indicating that the economy of

Hong Kong has passed the most difficult time, the unemployment rate still stands high against economic recovery. It is particularly worrying when officials and scholars forecast incidentally that the unemployment rate will remain at a certain high level in spite of the economic recovery of Hong Kong.

As the other members of the HKPA have said, in order to solve the structural unemployment problem, not only is the Government required to further improve the business environment and to create more job opportunities, but it must also provide a system of manpower training and employment which is long-term, specific and effective over a long period. At present, various organizations such as the VTC and the ERB are actively providing training services, yet it seems that the abundant resources invested by the Government have failed to produce relatively satisfactory results. Is it necessary for the Government to review the current utilization of training resources? In fact, there are quite a few examples indicating that the existing training organizations and departments responsible for assisting employment have all along lacked a series of properly co-ordinated measures to achieve the best utilization of resources. One of the examples is the Youth Pre-employment Training Programme which assists in youth employment. Although the relevant programme is designed to tackle the youth unemployment problem, it is a pity that it so far lacks other matching follow-up facilities to provide comprehensive counselling and employment services for youngsters. What worries us is that the programme is very limited in its ability to help solve the youth unemployment problem.

In addition, the Government must also pay attention to matching the training programme with the market trend, especially training courses on information technology. Information technology develops in leaps and bounds. What seems very important today is likely to be replaced by new standards tomorrow and become obsolete. For example, the Chinese input method used to use "Changjie" as its standard, but there are now many alternatives which are simpler and easier to learn than "Changjie". The Government must suit the policies to the times insofar as the provision of skills training is concerned, so that students can apply what they have learned. In particular, as regards those middle-aged unemployed people with low level of skills and education, their mastery of new technology and skills is generally not on the high side. The Government must fully understand their abilities and demands before providing proper and suitable training to assist them in rejoining the workforce.

Mr Deputy, in an era when every sector is penetrated with technology and information, radical changes have occurred in society, and knowledge has become the most crucial factor in social life and economic activities. The time of "following the beaten track" has passed and the era of lifelong learning has come. The situation of "someone engaging in an occupation not related to his training" is increasingly common among graduates today. There is no positive connection between what is studied and what is applied in work. This does not follow that "professionalism" is no longer important, but it is a change that is bound to occur in human resources development under the new social and economic circumstances. In other words, to cope with the trend of social development, the human resources development in Hong Kong has no choice other than learning, continuing learning and lifelong learning.

It is a pity that the culture of studying and learning in Hong Kong has all along been inferior to advanced countries in the West, not even comparable to the Mainland and countries in the Asian region. Admittedly, it has something to do with the affluent material life in Hong Kong, but there is also some connection with the education system and the overall social make-up of Hong Kong. Fortunately, the Government is now determined to reform education with "lifelong learning" as a general direction of reform. This deserves our approval. I do not intend to discuss the subject matter here, but I hope the Government will be doubly careful in its timing of reforms to avoid missing the boat.

With regard to society as a whole, the Government is duty-bound in particular. The Government must make more effort to change the public conceptions and enhance the local studying and learning culture. In fact, a number of Asian countries are committed to nurturing a national studying culture, which is a good example for Hong Kong to follow. For instance, Singapore is determined to reform the operation of national libraries. It has introduced many new initiatives like the fully automatic system for borrowing and returning books, which saves people's time spent on borrowing and returning books. Besides, restaurants are established within the premises of libraries and youngsters are even allowed to dance in libraries so as to attract them to do reading in libraries. Coming back to Hong Kong, our libraries look the same as 10 years ago without any interaction and lack sufficient appeal. Another example is Taiwan where information technology is advocated nationwide. The mode of people learning to use computers on their own is prevalent, and the setting up of personal

websites is also very common. In an average Taiwanese network, there are hundreds of thousands of personal websites. Hong Kong really needs to rise and try to catch up in this respect.

In this connection, the newly established government department in charge of recreation, sports and culture must make more effort. Only through enhancing the culture of lifelong learning in Hong Kong can we embody the essence of lifelong learning in such a way as to enhance the quality of local human resources and assist Hong Kong in rising to the new challenges of the new millennium.

With these remarks, Mr Deputy, I support Mr David CHU's original motion.

DR RAYMOND HO (in Cantonese): Mr Deputy, seeing off the old and welcoming the new, all of us expect the millennium to bring Hong Kong new opportunities and development. The globalization of world economy and the development of high technologies have definitely become the mainstay of economic development in this century. To maintain our edge in the world economy, we must change our economic structure and develop towards a knowledge-based economy. The SAR Government has said that we must develop hi-tech and high value-added industries and make this a direction for our future development. It appears Spring has come late, but we should understand that the colonial government used to pursue a policy of positive non-intervention policy, putting little emphasis on industrial development, let alone a policy on such.

Now that there is a direction and there are a series of good news such as China's accession to the WTO, the decision to construct a Disney theme park as well as the projection that the economic situation last year would be better than expected, the community really finds these heartening. However, for some unemployed people, these new developments will not necessarily give them hope. On the contrary, as they may fail to adapt, they may be eliminated by the new economic system. Although our economic performance has recently improved, there is still a high unemployment rate. With the economic transformation, we must take steps to help the unemployed switch to new industries, and we may then have a lower unemployment rate. Hong Kong had a similar experience in the past. From the mid-1980s to mid-1990s, as a result of the northward

movement of our manufacturing industries, many manufacturing workers were displaced. Fortunately, the service industry was expanding at that time and absorbed many displaced workers, as a result, the problem of serious unemployment did not emerge. With this second transformation of our economy, it will be very hard for workers with lower knowledge and skill levels to find other jobs. Even though our economy may transform smoothly and fully recover, they may not be benefitted.

The Government has not formulated any long-term policies so far to assist the people concerned in solving the problem of possible unemployment over the long run. I wonder if the Government thinks that if Hong Kong can successfully undergo transformation, these unemployed people will be absorbed by the labour market in a growing economy just like the case with the last economic transformation. Yet, Hong Kong is going to develop high-tech industries now, and we are not creating a large number of job opportunities for workers having lower knowledge and skill levels. Therefore, even if our economy picks up growth again, they will still encounter serious difficulties in their search for employment.

Actually, the pressure of unemployment is not only suffered by grass-roots workers. Advances in technology drive the reorganization of work procedures and emphasize professionalism. Intense competition also forces commercial organizations to control costs and reduces intermediate and civilian jobs. As a result, these people are threatened by unemployment. Even though some are fortunate enough to land new jobs, they have to accept lower wages.

On the contrary, in a knowledge-based economy, there will be a great demand for the management staff in charge of the direction of development and technical personnel well versed in high technology, and they are given considerable remuneration. However, the middle and lower classes will have to face the reality of unemployment and low pay. If this phenomenon persists, there will be a greater disparity between the rich and the poor in Hong Kong. In fact, the data of the Census and Statistics Department shows that the 400 000 impoverished households having the lowest household income in Hong Kong this year make 20% less income than nine years ago, while the income of the 400 000 households having the highest income has increased by nearly 30% within 10 years. If this situation deteriorates, it will surely affect social stability.

At present, the Government is actively developing a high value-added, hi-tech and knowledge-based economy, and its direction is correct. To cope with such development, the Government has actively injected resources to nurture talents. However, it only has short-term measures for the assistance of the grass roots in employment such as providing unemployed people with limited training courses.

Mr Deputy, the Government cannot evade this problem any more, and it must formulate some long-term policies and measures as soon as possible to help enhance the competitiveness of the local workforce, overcome the challenges brought by the new economic model and promote the development of industries that can create job opportunities so that all Hong Kong people can share the fruits of economic development. To achieve this, the Government must be determined and farsighted, and this is the role that a wise government should play. I so submit. Thank you, Mr Deputy.

MR CHAN WING-CHAN (in Cantonese): Mr Deputy, we have just entered the 21st century and Hong Kong is undergoing the third economic transformation. The labour at large are facing the challenges of the economic transformation in the millennium. The newly developed industries are mainly knowledge intensive with a low labour content, and there are less jobs suitable for the grass-roots labour. However, almost one third of our working population, that is 1 million-odd people, has an education level below Secondary Three. Besides, most people who newly arrive from the Mainland every day have lower academic levels. While we expect that there will be less job vacancies and that the working population will keep increasing, how can the Government address and solve this severe problem? No wonder some academics think that the unemployment rate will maintain at the existing level. Even the Commissioner for Labour admits that our unemployment rate can hardly revert to the 3% level.

At the beginning of the millennium, the SAR Government should indeed formulate measures to assist labour in meeting the new challenges in the future. In the face of the hi-tech trend, it is not exaggerating to say that lower-skilled workers will encounter unemployment. Yesterday, there was a newspaper headline that read "Fired computer-illiterate waiter imprisoned for robbery". It was reported that the person arrived in Hong Kong from the Mainland two years

ago and worked as a restaurant waiter, as he was computer-illiterate, he failed to adapt to the new measure of "computerized order input" of the restaurant and was thus fired.

The incident revealed the problem that if the Government only emphasizes the development of hi-tech industries and overlooks industries requiring a lower level of education and skill, especially training for workers, the situation of the said worker will emerge, and such workers will not even be qualified for a waiter's job. The Government should enhance retraining, especially on-the-job retraining, to enhance workers' technical knowledge and adaptability. But the SAR Government has not looked squarely at the crisis yet.

Furthermore, some policies will take away the job opportunities of local workers of job opportunities. For example, the Government originally promised the labour sector that it would comprehensively prohibit foreign domestic helpers to work as drivers. But in mid-December, the Executive Council decided to permit foreign domestic helpers to drive for their employers under certain circumstances and repudiated the above decision. That the Government has gone back on its words has really made the labour sector startled and extremely furious because they have snatched the jobs of some local drivers.

The driver "work type" is one of the few industries that cannot move away from Hong Kong. As high skills are not required, these posts are precisely needed by the community. The above act of the SAR Government has deprived local workers of job opportunities and gone against the "policy of giving priority to local workers in employment".

Apart from drivers, the construction industry also employs foreign workers and it has the intention of importing a large number of workers. According to the constructors, local workers are unwilling to join or work in the industry. However, one of the actual reasons is that the construction industry offers harder work, but the workers do not get high pay. Relatively speaking, foreign workers get lower wages but when they exchange their wages for their own currencies, they can buy big houses and get married. But the wages of local workers are so low that they cannot meet their domestic expenses. In particular, given the lack of job security and the constant worry about the next

meal all the time, it will certainly be hard to attract workers to the industry. As the sub-contracting practice is popular in the construction industry which runs to as many as seven to eight layers, workers will be paid even less. What measures do the SAR Government and the relevant departments have to improve the corrupt customs and employment situation of the construction industry?

Applications for the Scheme for the Entry of Mainland Professionals can now be made but to date, the Government has not allowed even one representative of the labour sector to join the assessment committee. While the SAR Government protects the interests of the business sector, what protective measures does it have for local workers and professionals?

To create job opportunities for lower-skilled workers, the Hong Kong Federation of Trade Unions (FTU) suggests supporting the recovery and recycling industries. As the resources on earth are depleting, it is pressing to reduce resources wastage. As the environmental protection industry is a labour-intensive industry, it can provide more jobs.

Mr Deputy, while we welcome the arrival of the millennium, our manpower market is facing an enormous blow. The SAR Government should formulate measures to assist local workers in employment. If it still adopts the attitude of positive non-intervention, it is in effect asking local workers with low skills and literacy to wait for their demise.

With these remarks, Mr Deputy, I support Miss CHAN Yuen-han's amendment.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, the Democratic Party and I support Mr Andrew CHENG's amendment because the motion, if amended, can better match the direction of development of Hong Kong towards an information era and enlarge the demands for innovative, hi-tech and high value-added industries.

According to a recent survey, European and American countries will have around 2 million information technology (IT) vacancies to be filled by 2002.

In Europe, 90% of the IT companies think that there is a lack of IT talents. One third of the IT companies suffer delays in work as a result of manpower shortage. Therefore, there has been a delay of more than a year for one fourth of their work.

According to the information recently published by the Department of Labor of the United States, from now until 2008, the demands for talents in the computer and information processing industries will be the greatest among all industries, and it is estimated that there will be a 117% growth in manpower and there will also be more hi-tech technical personnel at various levels, for instance:

- 108% more computer engineers
- 102% more technical support staff
- 94% more system analysts
- 77% more information administrators
- 73% more desktop publishers

The IT manpower surveys of many European and American countries point out that the major reason for a lack of IT talents is a lack in continued staff training. To lead our society towards a hi-tech information era and maintain competitiveness, besides actively educating and cultivating people, we cannot overlook the serving staff. With the rapid development of IT, the pace of economic transformation is far faster than our projection and imagination. Five years ago, nobody knew that the Internet would become the economic artery of the millennium. Competition is undoubtedly hard, and to stand out in the digital economy, the entire working population should adapt to the new IT era.

India is famous for having many IT talents, and we should not belittle India as it has trained up many software engineers. Therefore, India spares no efforts in promoting the software and IT industries, and it has formulated very long-term and practical policies for training up a large number of IT talents at all levels.

In 1990, India set up a Software Technology Park to promote and support the software export industry of India. India has also set up many high quality organizations for training IT talents, for instance, the National Center for Software Technology, the Advanced Computer Training School and the Centre for Electronics Design and Technology of India. The software export figure of India has doubled and redoubled.

It is projected that by 2008 the total software export value of India will reach US\$80 billion, IT service export will reach US\$10 billion while that of the local IT industry will reach US\$6.5 billion. To develop such a large IT industry, the Minister of Information Technology of India has said that 2 million IT talents are needed.

India has many policies to encourage the training of IT talents, for instance:

- banking and monetary service organizations can issue education bonds to raise funds for investments in technology education and training.
- The Government will allocate funds in the annual budget for IT education and talent training with the aim that every high school graduate will have 100% IT literacy.
- The Government runs courses jointly with universities for training IT talents.
- The Government encourages private companies to allocate resources for IT talent training.
- Private companies can apply with banks for a special finance package including risk and venture capital for establishing IT training and education facilities.

The same applies to Hong Kong. I have discussed the issue with many people in the IT sector and they told me that there is a shortage in IT manpower. For Hong Kong to develop towards a knowledge-based economy, and develop innovative, hi-tech and high value-added industries, we must look squarely at this issue.

At the end of last month, the Government put forward an IT training scheme for unemployed youth which is worth encouraging. The unemployment rate of the youth has reached 29%. Given that the youth are highly creative and adaptable, we can train them up to use or even develop IT. We have to provide staff of various age and at different levels with continued training. I am referring to training for tens of thousands of employed and unemployed people, so that the entire working population and every working employee in Hong Kong can maintain competitiveness in a knowledge-based economy.

In the era of knowledge-based economy, the concept of education and training is different from the past. In the past, education was understood to mean learning for the youth, and once they started working, they would stop learning. But the present situation is that the skills learnt 15 to 20 years ago are outdated and we must emphasize non-stop learning.

The Democratic Party has made a lot of suggestions in this connection, including a training reform in Hong Kong, setting up a technical training coupon system and an interest-free loan scheme to allow young people to continue to pursue further studies, encourage on-the-job training and provide tax concessions. The Government and training organizations such as the ERB should enhance communication with the information technology industry to ensure that the courses meet market needs and help train people who need to receive retraining. I hope the Government will consider establishing institutions similar to the Software Technology Institute or information technology institutes of India with the resources allocated to the VTC for the training of 3 000 to 4 000 more IT talents annually to meet the needs of the industry and create more jobs.

Lastly, I would like Members to look at a CD ROM called "Doraemon Monopoly". This is a game my son always plays and a fairly healthy game written by a 27-year-old in Hong Kong and produced in Hong Kong. But this is not a pirated disc. Actually, Hong Kong has the conditions to create wealth in this field and create an environment for this newly developed industry. This is a type of industry because industry does not necessarily involve manual labour, and software is a type of industry. I hope colleagues will support the development of this type of industry. Thank you.

MR NG LEUNG-SING (in Cantonese): Mr Deputy, at the beginning of the new millennium, this Council should sum up past experience and look forward to the future by discussing the many new development opportunities for Hong Kong, as well as forecasting and considering the various new challenges. Objectively speaking, there are certainly many opportunities and challenges in future. The first one is a most realistic challenge, that is, with the new economic development and restructuring, the demand and supply situation in Hong Kong's labour market will also change. The latest economic figures show signs of such changes. According to the latest figures, the GDP for the third quarter last year rose by 4.5% compared to the same period in the preceding year, indicating that our economic recovery is well under way. However, the unemployment rate remains at the high level of 6% for the 10th consecutive month. Some economic forecasts also point out that while the Hong Kong economy will continue to perform well and there may be growth of more than 5% this year, the unemployment rate will still remain at a high level. Some people are even of the view that with the further restructuring of the economy, the unemployment rate will not fall back to the former low level, even if the economy fully recovers. This is certainly worrying and warrants our attention.

The present restructuring of the Hong Kong economy is driven by technological and innovative industries. The recent premature rebound of the Hong Kong stock market is a very good indication. Some are of the view that it is merely a new wave of speculation and a technology bubble. However, from another point of view, while they are both bubbles, the situation of the stock market this time is somewhat different from the economic bubble before the financial turmoil. The earlier boom in the stock market was built on the real estate sector. It was restricted to one industry and detached from the overall economy. However, the current IT trend affects various aspects of all industries. Some are of the view that high technology can promote the

development potential of the whole economy. With the development of IT business, there is the prospect of attracting investors and the long-term input of sizable capital. As we all know, there are also many technology concept companies in the United States which do not have any record of profit, yet their stock prices still keep rising. The fluctuations in the stock market today show that from a certain point of view, investors tend to pin their hopes on high technology during a certain period. Recently, there is a similar mania for technology stocks in Hong Kong. In terms of investment in industries, it reflects a change in the local investment culture and attitude. Not only enterprises, but also a large number of shareholders have accepted and embrace innovation and the technology concept.

Mr Deputy, the recent turnover of enterprise stocks reflects the active investment climate due to the influx of capital. However, there is no sign of improvement in the labour market. Although unemployment has not further aggravated, nor has it seen a visible drop. In my view, the economic restructuring will continue for some time. Thus, an imbalance in the demand and supply situation in the labour market is unavoidable. Hong Kong must adapt its human resources policy in order to tie in with the economic development and maintain competitiveness. As I said earlier, we must take further steps now to suitably import outstanding technical talents from the Mainland and overseas and labour required by certain industries where there is a lack of local supply. Moreover, in order to reduce the burden on public expenditure and maintain social stability, Hong Kong must increase the number of specialized training and retraining places for the employed, based on the future directions of economic development, so that they can meet the new demands of the labour market under the economic restructuring. After a clear direction has been set for Hong Kong's development, the Government should create job opportunities and establish a long-term and stable foundation for Hong Kong's development in the new century through investment in infrastructural facilities for hi-tech industries and international tourism.

The economic restructuring brings challenges as well as opportunities. The development of IT industries not only creates jobs in these industries themselves, but also generates new jobs in many traditional industries. For instance, on-line marketing is merely a new mode of traditional retailing. Not only does it require technical and specialized talents, it also requires good customer service personnel. Some on-line marketing companies in the United States also employ customer service staff to solve problems for customers before

and after the sale of goods. These jobs only require basic computer application skills. I am sure that as long as the Government has a suitable manpower policy and retraining schemes, it can help many people re-entering the employment market to acquire the relevant skills, so that they can continue to contribute to the various industries under the new economic development. It will also create more business opportunities for the SAR entering the new millennium.

Mr Deputy, I so submit.

MR CHAN KWOK-KEUNG (in Cantonese): Mr Deputy, since the 1970s, Hong Kong's labour market has experienced three economic transformations. As we enter the new millennium, the Hong Kong economy has changed from labour-intensive to knowledge-intensive, with the development of IT and globalization of world economy. To meet the changing demands for labour, many people with vision in our society have proposed the concepts of "continuing education" and "lifelong learning", while vocational education which has always been neglected is now given increasing attention. However, without concrete measures, the relevant concepts proposed are just empty talk.

Vocational education and continuing education not only help people to adapt to changes in the labour market, they also offer the underprivileged among us a chance to rise in social status and have a better living. For Secondary Three or Secondary Five graduates, they provide an alternative to mainstream education. For the average wage earner, such education safeguards employment. For employers, the most effective and direct way to add value to human resources is to let their employees receive further education.

The present vocational education programme has been a subject of constant criticism. Its problems can be summarized into the following six points. First, the content of courses is outdated. Second, the duration of some courses is too long. Third, the course timetable lacks flexibility. Fourth, the courses lack recognition. Fifth, the question of fees and sixth, the small number of places versus the large number of applicants. The recent rumours about the VTC have made us even more worried about vocational education.

Actually, only those who have several years of relevant working experience and professional qualifications will be recruited as front-line vocational education workers. Since we have a team of good trainers, the

problems summarized just now are obviously a result of the loopholes in the vocational education or retraining system.

The resources for vocational education in Hong Kong are mostly concentrated in the VTC. Last year alone, the Government allocated \$2.2 billion to the VTC. Thus, the VTC can be said to be the bridgehead of vocational education in Hong Kong. However, under the present mechanism, it is difficult for the Government to monitor the operation of the VTC, while there is a lack of communication and consultation between its front-line staff and their superiors. Although we have professional educators, their hands are tied by the system. As a result, the series of reforms implemented by the VTC have misfired.

Although retraining courses are subvented so that the retrainees may get a full reimbursement of the course fees, this measure applies only to institutes offering retraining courses. If people enrol in other courses such as those offered by the schools of continuing studies of the universities, they can only obtain tax deductions for the relevant fees. But tax deductions are of no help to the low-income groups. The loan scheme proposed by the Chief Executive in the policy address is also of little help to these people.

As for those who have to work long hours or shifts, continuing education is simply beyond their reach. That is why we need to make course arrangements more flexible, such as a modular curriculum or a transferable credit system which merits our careful consideration and study. If the effectiveness of further study can be made to match the cost, we could encourage more people to undertake further study to enhance their competitiveness.

For people to really pursue "lifelong learning", I urge the Government to conduct a comprehensive review of the present vocational education framework, strengthen monitoring and introduce competition. It should also establish a common curriculum and modular system, as well as providing further study allowances to those in need, so that everyone will be capable of meeting the economic and manpower challenges that Hong Kong has to face in future.

Mr Deputy, I so submit.

MR MICHAEL HO (in Cantonese): Mr Deputy, in an era of a knowledge-based economy, the concept of education and training bears no resemblance to what it was in the past. Formerly, education means schooling and learning while one is young and then one goes to work in society. There would be no need for further education afterwards. That obviously represents an outdated concept. In a knowledge-based community, knowledge becomes outdated every few years. Learning over and over again becomes a very important concept, and it has become a lifelong pursuit.

Therefore, the Democratic Party suggests the Government should actively promote continuing education as a long-term policy on education and finance. Continuing education can enhance the competitive power of local employees. At present, assistance to retraining includes personal allowance for tax, assistance from funds, and subvention on courses. Young graduates, however, may not be able to benefit from these. The Democratic Party suggests using retraining coupons at a maximum of \$5,000 to encourage young people who have not completed Form Five or graduates of Form Five to Form Seven to enrol for further studies. Retraining coupons are different from course subventions. The present subvention for ERB courses mainly operates in a manner whereby courses are selected by the Government for subvention. Such courses may not meet the needs of the market due to limitations of the relevant organizations. But if coupons are used, their holders may choose courses that best suit them. Thus, private organizations may also be induced to run courses with more creativity and practicability.

In 1998, the Government extended the Non-Means Tested Loan Scheme to part-time tertiary students and students of the Open University of Hong Kong. The Democratic Party suggests that in addition to training coupons for skills training for these students, an interest-free loan scheme should be set up to encourage young people to study. The maximum loan may be \$10,000.

On the other hand, to enhance its competitiveness, Hong Kong must employ innovation as a driving force. The entrepreneurship spirit should be maintained in devising our economic policy. Hong Kong should instil in its people a sense of innovation. Innovation is different from high technology. Innovation may find its way into all trades. As a cosmopolitan city, Hong Kong has a need to be innovative. For example, it has to improve its commercial

infrastructure and overhaul its technological development in commercial procedures, create a new *modus operandi* for its stocks trading, write new software for its businesses, manage better its financial systems and develop brokerage on the Internet. The Government should encourage investment in technological research and strengthen support for services to business starters.

In early 1999, the Hong Kong Management Centre under the VTC set up a Business Start-Up Centre under the auspices of the Services Support Fund and the VTC. The Centre's objective is to provide consultation service and facilities for aspiring business starters. Facilities include computers, consultation service, books, courses, fixed and mobile offices at low costs. Users may use the services and facilities of the Centre for three months, renewable for another three months, subject to availability. The Democratic Party thinks the setting up of the Centre is a step in the right direction as it encourages the start up of a business. The Government should further improve the facilities of the Centre and bring its functions into fuller play. For example, it can extend the rental period to six months. The Government should also consider setting up similar centres at tertiary institutions to help students start their own business.

Today, the Democratic Party's amendment is not just meant for solving the employment problem of middle and upper employees. We care even more for the lower end of the labour force with less education and skill. We care about their job opportunities. Many people from the lower end of the labour force have been hit by the economic restructuring and forced to lose their jobs. They feel there is little they can do. They see no future and do not know when they can land a suitable job again. Hence, the Democratic Party would propose a full review of the functions and effectiveness of the VTC and the ERB. We hope our retraining policy may suit better the needs of the local market and thus assist workers hit by the economic restructuring to change their jobs. This category of workers amount to thousands in Hong Kong and represent a vast group in the local labour force. They are our human resources that must be suitably trained. We should not abandon them when they lose their jobs.

I so submit.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy, at the start of this new century, we should make good planning for our future economic development to meet various challenges. In last year's policy address, the Chief Executive pointed out that "Hong Kong needs to develop a knowledge-based economy in the long run". Hong Kong's rapid development in high technology and high value-added industries over the last year has precisely shown that this direction has gained recognition and support from various sectors in the community. China's impending accession to the WTO will also bring Hong Kong more business opportunities. As far as Hong Kong's future is concerned, I believe it will head for a better tomorrow. Nevertheless, a report carried in a newspaper earlier with the headline "A million Hong Kong people will loss their jobs as a result of China's accession to the WTO" has punched some ripples. Although the headline is a bit exaggerated, it is true that more and more workers will be rejected and marginalized by the employment market in this rapidly changing economic environment.

In pursuing economic development, the community should also ask these questions: Who will encounter difficulties as a result of economic changes? How can the community reduce these negative impacts? Under the new wave of economic restructuring, the less educated will unavoidably face bigger difficulties in finding jobs. Therefore, a key issue the entire community must overcome is how to expand job opportunities. Therefore, we should work in the direction of "creating jobs and upgrading capability" in working towards the formulation of employment policies for the millennium.

As far as job creation is concerned, the Government should first of all consider giving support for the development of the personal and community service sectors. At present, Hong Kong's personal and community service sectors account for only 20% of all industries in Hong Kong. Compared to 35% as enjoyed by Britain and the United States, we still have sufficient room for development. Should we follow the example of New York in formulating industry policies, 350 000 extra posts can be created in the personal and community service sectors. In fact, existing services provided in the area of home help and elderly and child care are still inadequate. Expanding these trades can not only provide a great number of job opportunities, but also improve the living standard of the general public, particularly the elderly. Other job-creating measures should also include giving support for the development of

environmentally-friendly industries such as the waste paper recycling industry, encouraging the setting up of businesses, launching supportive schemes for SMEs, exercising strict surveillance on foreign domestic helpers and so on.

As regards skills upgrading, the Government should create a more liberal and open learning environment for members of the public and encourage them to continue with their studies and take initiatives in learning. Specific measures should include organizing vocational skills upgrading courses, adopting more flexible subsidization policies such as issuing training vouchers, increasing allowances for study purposes, expanding the scope of loans granted for study purposes, setting up learning resources service centres and so on. More importantly, the Government must formulate training policies for lower-skilled workers and enhance the practicality and diversity of retraining programmes with a view to helping the less skilled and less educated workers to upgrade their skills and qualifications so as to sharpen their competitive edge.

The ERB used to play an important role in training the skills of workers. I understand some Members have asked for a full review of the functions, framework and effectiveness of the ERB. I want to point out that a consultancy was commissioned by the Government in 1996 and 1998 respectively to conduct a full review of the ERB and set targets for the overall supervisory framework and curriculum for the ERB. Over the past few years, there has been a constant increase in the number of services provided by the ERB. From 1993 to end-October 1999, the ERB provided retraining courses for more than 344 000 people, with the average employment rate of the participants reaching 75%. In 1999-2000, the retraining quota will rise by 23% over the previous year to 95 000. Moreover, the percentage of full-time courses out of the total number of courses will rise from 30% to 50%. Nevertheless, the administrative cost of the ERB has been able to maintain at a low level of 7% to 8%. Therefore, the effectiveness of the ERB is evident. Based on the recommendations made by the consultancy, the Government is now holding the view that the major duty of the ERB should be to provide training to help those who are 30 years old or over to find jobs, while courses for skills upgrading should be taken charge of by the VTC. But it is a pity that the VTC has, for various reasons, failed to meet the requirements of the relevant people. As a result, a lot of participants have been unable to find further chances for retraining or skills upgrading after completing the retraining courses. To cope with the rapidly changing economy, employees need to make constant efforts to keep abreast of new skills and knowledge and

equip themselves. Therefore, it is imperative for the Government to organize skills upgrading courses. This should be considered a major task for the Government in its formulation of employee retraining policies.

We must pinpoint the problems and administer the right medicine before the unemployment threat to the less educated people can be ameliorated. People in the community can only live harmoniously if each of us can share the fruits of economic development.

With these remarks, Mr Deputy, I support Miss CHAN Yuen-han's amendment.

MR LAW CHI-KWONG (in Cantonese): Mr Deputy, with the globalization of world economy and China's imminent accession to the WTO, the whole world will march towards the so-called knowledge-based economic development. For local labour, this is indeed an enormous challenge. However, China's accession to the WTO may represent bad news for tens of thousands of manufacturing workers in Hong Kong. This is because a number of service industries which do not have a high demand for skill and education levels may move northward. This will deal a severe blow to local workers. Although we have a high liquidity of capital, the mobility of our labour force is comparatively poor in terms of geography, knowledge and skill. If we lack measures to cope with this, the local market will be unable to provide an adequate labour force of high skill. On the other hand, some workers will suffer from long-term unemployment. The imbalance between supply and demand in the labour market will also further widen the gap in salary levels, thus aggravating the disparity between the rich and the poor. This will constitute an unstable element as far as Hong Kong's politics, economy and society are concerned. Many Honourable colleagues have talked about the employment problems faced by the less skilled and less educated today. I do not want to make too much repetition here. I only want to focus my discussion on the employment problems faced by the underprivileged which have often been neglected. These people include the elderly, Comprehensive Social Security Assistance (CSSA) recipients, single parents, new immigrants and disabled people.

In Hong Kong, people are now enjoying a longer life expectancy. On average, men may live 20-odd years after reaching the age of 60. For women, their life expectancy is even longer. On average, they will live more than 24

years after reaching 60. Many of these people still wish to remain in production lines and their productivity is something we must not underestimate. Nevertheless, over the past two decades, the labour participation rate of workers between the age of 60 and 64 has kept on declining, from 64% in 1980 to less than 50% at present. This phenomenon can be attributed partly to the fact that some of these people can retire when they want to stop working for their financial situation allows them to do so. But very often, many of them have left the labour market involuntarily. There is even a tendency that younger people are even affected. Nowadays, many people between the age of 40 and 50 have already lost their jobs. They can only collect CSSA for the elderly when they reach the age of 60. Therefore, it will be best if we can provide training to those senior to help them acquire the knowledge and skills needed for coping with the times so that they will be able to adapt to advancing technology and requirements of new jobs. This is extremely important to them. The problems encountered by elderly people as I mentioned just now are not restricted to those who are over the age of 60. Nowadays, many of those who are between the age of 40 and 50 face the same problems too.

At present, there are less than 30 000 CSSA cases resulted from unemployment. Of course, the number of people who are really jobless is more than 30 000. The so-called Support for Self-reliance Scheme provided by the Social Welfare Department (SWD) for CSSA recipients is, in concrete terms, only a measure to force people to find jobs. It cannot really offer effective help to recipients in finding jobs. The SWD should indeed consider offering help through non-governmental organizations to CSSA recipients who have working abilities by providing them with supportive employment counselling, retraining and job-seeking services.

Insofar as the situation in single-parent families is concerned, many single parents need to rejoin the labour market on the one hand and take up the responsibility of taking care of children on the other. Their needs for child care services are definitely enormous. Nevertheless, this is not the question for today's discussion. For a person who has been working at home over a protracted period of time — sometimes we even call such a person a long-term family manager — to join the open labour market, it is more important if he can gain access to supportive employment counselling, training and job-seeking services.

Members have devoted quite a lot of time to the issue of new immigrants. Since 1990, at least 2 000 of the mainlanders who arrive Hong Kong every year are of university or tertiary education standards. However, as mainland academic qualifications are generally not accepted in Hong Kong, these professionals are often forced to give up their original professions and engage in non-skilled work. This will in fact lead to certain loss in human resources. I have mentioned this point in a motion debate on new immigrant policies in this Council in 1996. But to date, the situation remains unchanged.

In today's Hong Kong, there is still a very long way to go before disabled persons can attain their ideal of enjoying equality in job opportunities. Faced with the globalization of world economy and the adverse impact of China's impending accession to the WTO on the local labour market, disabled people will be subject to even greater inconvenience. In addition to developing obstacle-free transport systems, it is also essential for the community to provide access to link up buildings and provide an environment which fits disabled persons in various aspects. In particular, the Government should provide physically-handicapped people with basic, essential conditions to enable them to take part in work fully as well as conducting a comprehensive review of the ways to help them and provide them with job opportunities for they have a greater need in this area. With these remarks, I support the motion and all the amendments.

MR YEUNG YIU-CHUNG (in Cantonese): Mr Deputy, two incidents catching the world's attention took place at the end of last year: The first one concerned China's impending accession to the WTO and the second one concerned the breaking out of disturbances when WTO meetings were held in Seattle, United States. What relation do these two incidents bear with the debate we have today?

As we are all aware, China's accession to the WTO will bring Hong Kong enormous business opportunities, particularly in such industries as telecommunications and tourism. However, our colleague, the Honourable TAM Yiu-chung, who is also Chairman of the Employees Retraining Board, forecast that 1 million less skilled and less educated manual workers in Hong Kong might become "high-risk persons" to join the unemployment army after China's accession to the WTO. We can definitely not ignore this forecast. Otherwise, with the widening gap between the rich and the poor, it is highly probable that the Seattle-style street disturbances will reappear in Hong Kong.

Since the '70s, the Hong Kong economy has experienced restructuring three times. The worst one was the third one, striking when the second restructuring was not yet completely over and we were still trying very hard to come up with good solutions to solve problems pertaining to unemployment, underemployment, downward adjustment of salaries as a result of the relocation of factories to the north and. It hit us all of a sudden with even greater intensity than the previous two. It is generally estimated that, even if our future economy gradually recovers, the employment rate will still be unable to come down to the previous low level of 2% or 3% for the labour market finds it difficult to absorb the labour force completely. At a time when we are marching towards building a high value-added, hi-tech and knowledge-based society, disparity in IT knowledge will directly lead to an economic gap.

Last month, the DAB interviewed 800 members of the public on the unemployment problem through telephone. According to the findings, members of the public remain pessimistic about the future. Moreover, nearly 50% of "jobless" respondents have been out of a job for over one year. Although it is indicated by a lot of data that the Hong Kong economy has started to revive, only around 20% of the "jobless" respondents consider that the labour market has seen an improvement. Most people describe the current state of their minds as "letting nature take its course", while 20% describe it as "helpless".

Mr Deputy, this is a dangerous sign because the survey has reflected that although the overall unemployment rate has stabilized, a large number of unemployed people in society are still unable to re-enter the labour market and most of them are elderly and less educated people. We must watch out for the fact that the longer these people stay jobless, the more passive and pessimistic they will become. Eventually, they will go to the extreme by avoiding seeking jobs and this will inevitably lead to a wastage of social manpower, put pressure on social resources and impede the healthy development of society.

The global IT race has already begun. In the middle of the economic systems of the West which are based on high technology and the low-cost and labour-intensive economic regimes of our neighboring countries, Hong Kong has only one way out, and that is, to speed up development towards a hi-tech and knowledge-based society. From now on, there will be less and less low-skilled jobs. A cashier formerly needed to know how to read and write and do simple calculation only. From now on, with the growing popularity of shops to

manage their accounts and work flow by means of computer, shopkeepers and cashiers must know how to use computer. Those who fail to upgrade their survival skills will be eliminated alongside the IT flood.

We are aware that the SAR Government is gravely concerned with the employment problem of the youth. In addition to the Youth Pre-employment Training Programme, elementary information technician courses were also organized. This is of course worth commending. However, whether the Youth Pre-employment Training Programme can really help young people to find jobs or just delay their unemployment period by six months is our greatest concern.

In fact, of the current labour force of 3.4 million people, more than 700 000 people are aged 40 and above with junior secondary education standard only. Unlike fresh graduates, these people are of comparatively low education standard and their ability to learn new things is comparatively low too. Yet, most of them have a family to feed. Not only do they need to raise their wives and children, they need to bear the heavy burdens of life as well. It is really regrettable that these people, who are in the prime of their life, are forced to live idly and stay at home doing nothing.

The most urgent task we need to do for the unemployed, be they young or middle-aged, is to help the lower-skilled manual workers to equip themselves and upgrade their skills. I hope the Government can, in addition to "hastening" Hong Kong to be "the number one digital city of the 21st century", adopt the following five proposals:

- (1) to set up an employment database to actively collect information on the labour market and keep abreast of the changes in the market;
- (2) to set up a re-employment support scheme to provide the unemployed with temporary financial support;
- (3) to explain to the public the employment opportunities and trends under the influence of the economic restructuring and IT development as well as boosting public confidence in the future;

- (4) to formulate training policies for lower-skilled workers to help them upgrade their skills; and
- (5) to enhance the practicality and diversity of retraining schemes, particularly with reference to the impact of China's accession to the WTO on Hong Kong, and launch retraining programmes which meet the market needs and tie in with the development of the time.

With these remarks, Mr Deputy, I support Miss CHAN Yuen-han's amendment.

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

MR LEUNG YIU-CHUNG (in Cantonese): Mr Deputy, the Honourable YEUNG Yiu-chung said we were facing a rather momentous change, which included the imminent accession of China to the WTO and that would bring certain effects to Hong Kong. Another point mentioned by Mr YEUNG is that one of the Honourable Members had already warned us against a possible surge in unemployment in the order of a million among Hong Kong workers if China was admitted to the WTO. I am not sure if that view represents alarmist talk or whether it reflects the Government's failure to respond to the problem. Up to now the Government still cannot tell us what effect the accession of China to the WTO will have on Hong Kong. Today we are already faced with problems in human resources and unemployment, but the Government is still silent about the matter. It does not give us any concrete figures. Nor will it tell us whether the impact is going to be positive or negative. Now someone gives us a number and we begin to wonder whether or not that is true. But the problem is worrying.

In fact all this shows the Government has not had any overall planning for the labour market. Nor has it any foresight. The Government has not been able to tell us what future development is going to be like. And even up to now it can only tell us the economy is recovering, there is an economic growth of 7%, and the unemployment rate is expected to drop to 5%. But the admission of a falling unemployment rate by the Government does not mean the problem is solved. Even if the unemployment rate actually drops to 5%, the Government still fails to come up with any concrete plans to tackle the remaining numbers among the unemployed. At present, the Government provides a Youth Pre-

employment Training Programme for young people, and a retraining programme for lower-skilled workers. But what will happen to trainees after retraining? They may still find themselves out of a job. Without a job, workers go for retraining and the vicious cycle repeats. That is a problem confronting us. Many people are saying to us that retraining is useless because there are just no jobs available. It is not that they do not want to upgrade their skills. There are simply no job vacancies out there in the market. Mr Deputy, the Government announced today there are 220 000 unemployed. However, information from the Census and Statistics Department shows there were only 27 800 job vacancies in September, which means even if all the 27 800 job vacancies are filled, the number of unemployed still remains at 200 000. So, the problem is not just about training for skills which we are discussing, but about a lack of vacancies.

The Government tells us many vacancies are up-coming. For example, when the Disney theme park is finished five years later, several tens of thousand vacancies will then be available. But that is a matter of five years from now. How about now and the present? We can see from among the present unemployed those who are non-skilled and aged find themselves in the worst situation. Which group is among the highest in terms of unemployment rate according to figures provided by the Government? One will note that the rate for people with secondary education is 6.9%; for people with primary education, 7.5%; for people without primary education, 8.8%; and for people with tertiary education, 4.6%. That is to say, a higher rate is recorded for people with lower education level. And a higher unemployment rate is found in sales or service industry employees and among craftsmen, each category having an unemployment rate of 7.8% and 11.4% respectively. The unemployment rate for administrative managers is 2.2%, and for professionals, 1.4%. Hence, the unemployment rate is highest among unskilled and less educated people. Regrettably, jobs provided by the Government's retraining programmes only cover categories like property attendants and domestic helpers. But how many vacancies can these two provide? How many vacancies are there in the market? These are numbers we can easily figure out. Therefore, we would not be able to solve the problem in any way at all if we do not develop new markets for labour.

In the past we always said the environmental protection industry represented a promising future. The recycling process in particular could provide job opportunities for non-skilled or aged workers. Regrettably, what

the Government had in mind when it talked about environmental protection industries were only those belonging to the hi-tech category. Even if we are to develop these hi-tech environmental protection industries, there has been a lot of noise but no concrete action to date. How can we tackle this? The Government says it will expedite the present projects to generate more posts, but will that benefit local workers? From past experience, we learn that very often many construction projects failed to benefit local workers. In fact, among the jobs generated, some were highly technical, making it impossible to benefit local workers, especially the lower-skilled ones. So, we cannot solve the problem even if we focus on retraining. The crux of the problem lies in how we can generate more job vacancies.

Mr Deputy, I think our discussion today would be futile if the Government fails to provide a direction for economic development or planning for the long term in concrete terms. The unemployment problem we are facing today will remain, and so will the imbalance between supply and demand in the labour market. On the other hand, those who have been out of their jobs for some time will need to endure more pressure psychologically, and they will need to deal with more pressure in their livelihood. As some Honourable colleagues have put it, internal conflicts in the community will be aggravated and social problems generated. So, as we talk about developments in the labour market today, we hope the Government can concentrate its efforts on studying the issue of direction.

Thank you, Mr Deputy.

MR FUNG CHI-KIN (in Cantonese): Mr Deputy, three amendments have been proposed to the first motion moved by Mr David CHU in the new millennium; this is proof positive that Mr CHU's motion has hit the one of the major concerns of the community and thus aroused much attention. Given that the question of unemployment has also been mentioned in the motion, it should not come as a surprise that the three proposed amendments are all put forward by Honourable Members representing respectively the interests of the grass roots and the labour sector.

Judging from the respective wordings of the amendments proposed by them, while Mr Andrew CHENG has suggested conducting a comprehensive review on the functions, structures and effectiveness of the VTC and the ERB;

nevertheless, it has taken into consideration only the lower-skilled workers. Similarly, the amendment proposed by Miss CHAN Yuen-han, which advocates promoting the development of industries such as personal and community services and tourism, is also focused solely on the workforce at the grass-roots level. As regards the amendment proposed by Mr LEE Cheuk-yan, although some of the proposals put forward in it may not be considered inappropriate, they are biased towards the employment restructuring needs of labourers. Moreover, I have also found the tone of Mr LEE's amendment rather pessimistic, and that the proposal to enable employers and employees to share the risks as well as the fruits of economic restructuring would serve to provoke labour-management conflicts.

It is an undeniable fact that our workforce is largely made up of basic level workers, who are the cornerstone on which the stability and prosperity of Hong Kong build. Naturally, their interests should be taken into consideration and catered for. Mr David CHU has also referred to that for many times. Nevertheless, the employment problems of these workers, in my opinion, constitute only a part of the workforce issue raised in the motion today.

As a matter of fact, the major concern of the original motion is the fact that the restructuring of the Hong Kong economy in the hi-tech and knowledge-based directions will impact on our workforce as a whole. In other words, people will be affected irrespective of the social sectors to which they belong, their age, gender, areas of study and so on. In the United States in the '80s, for example, as the American economy was restructuring in the hi-tech and high value-added directions, many professionals and managers with good academic qualification were forced to sell hamburgers at MacDonald's or to work as cleaners for the Disneyland. Certainly, the situation of the professionals in Hong Kong is not that bad, but it is not uncommon that many of them are unable to gear their studies to practical use; besides, the unemployment rate has also been on the increase. All these are issues that the Government must address squarely.

With regard to the three proposed amendments, Mr Andrew CHENG has specifically referred to the need for enhanced retraining programmes. In my opinion, Mr CHENG is only concerned with training professionals for the high value-added, innovative and hi-tech industries in the territory. However, providing training for local professionals is a consensus reached by Members of this Council since a long time ago, and a proposition advocated by the HKPA all along. This is by no means a disputable issue. Nevertheless, since its wording

has specifically referred to the provision of training for local professionals, the proposed amendment of Mr CHENG's might be interpreted as an attempt to indicate that the scheme implemented by the Government to admit talents from the Mainland does not merit support at all. But to me, the admission of talents is also one form of workforce-related policy.

With regard to the financial services sector I represent, the local regulatory authorities have for many years been relying heavily on expatriates on the account that local professionals are not competent enough. We certainly do not agree with this view. I have all along been urging the Government to make an effort to promote and speed up efforts to train up local financial professionals who have a long-term commitment for Hong Kong. Apart from that, I have also urged local tertiary institutions and the well-established Hong Kong Securities Institute to play an active role in training local talents. Yet at the same time, I have also supported the Government's initiative to step up publicity programmes to attract more talented people coming to Hong Kong from overseas or the Mainland, with a view to enhancing competition between talented professionals. The United States is a very good example in this connection: With the number of talented people being on the increase, the country's economy is performing better and better, naturally more employment opportunities will be available.

Hence, the crux of the problem is not whether the Talents Admission Scheme will impact on the employment opportunity of local talents. The most important point here is whether Hong Kong, as a world-class commercial centre and China's premiere commercial city, could attract the best talents from overseas and the Mainland to come to Hong Kong; and whether we have in place any mechanism whereby the skills and knowledge of the incoming talents could be transferred to their local counterparts. Certainly, the Government must work in close liaison with the industry to carefully identify the most needed talents in the local markets, and to issue guidelines to employers reminding them that the remuneration and benefits of inbound talents must be commensurate with that of the local talents. This is to ensure that the talented people from the Mainland will not be treated as cheap labour in Hong Kong, thereby impacting on the employment opportunity of local professionals.

Mr Deputy, what I have said just now was only meant to remind every one of us in this Chamber that discussing the various manpower policies as a whole, we must not overlook the fact that we have a need for a diversity of talents. Having listened to a number of speeches on this motion, I noted that Members have mostly focused their attention on labour issues and issues relating to training and retraining. However, as we seek to resolve the high unemployment rate problem, we seem to have forgotten the policy on migrants that Mr David CHU has referred to in his motion, albeit we have heard people complaining that the quality of the population in Hong Kong as a whole is dropping. On the other hand, although there has been a view that the people of Hong Kong are losing their vitality, we still have not spoken on any policies that costing public funds, such as infrastructural policies and social welfare policies. For all these reasons, I have found the original motion, which urges the Government to formulate a set of stable and long-term policies on a variety of issues relating to the local workforce, more comprehensive than the three amendments proposed to it. Actually, I must admit that I have reservations about the three proposed amendments.

MR JAMES TIEN (in Cantonese): Mr Deputy, the restructuring of our economy and the measures whereby Hong Kong's workforce could meet the economic challenges of the year 2000 have been referred to in both the motion today and the amendments proposed to it. As a matter of fact, we could plainly see that the impact of the current economic transformation is the greatest we have ever had. The development of Hong Kong's industries could be traced back to the '60s, during which the so-called industries we had were mainly labour-intensive in nature, such as clothing industry, plastics industry, toy manufacturing industry and so on. Workers engaged in these industries were neither highly skilled nor highly paid, and there were not many labour benefits either. On the other hand, the premium for industrial land was also rather low then. Generally speaking, the majority of the workers at that time were not well-educated, yet they could still get employed even though they were not highly-skilled. Then, economic restructuring took place and service industries were developed. Many of the various service industries then developed, such as the hotel sector and the financial services sector, had absorbed a lot of the workers who had formerly been engaged in the manufacturing industries. It was quite easy for these workers to shift to the services sector, and they could all perform competently in their new trades after being trained for some time.

However, the economic restructuring we have this time around is a cause of concern to the Liberal Party. Given that the economic restructuring in other places of the world are all heading in the hi-tech, high value-added and knowledge-based directions, IT will become more and more important while less and less people will be employed. Under the circumstances, the economies that could complete the restructuring process faster would be able to enjoy a better competitive edge, but many people would lose their jobs as a result. In the past, the majority of the unemployed population were mainly composed of grass-roots workers or the lower-skilled workers. But eventually, people holding more senior posts are also being laid off as well. What is more alarming is that the recovery of the economy so far is particularly limited to the hi-tech sector or a certain category of stocks and securities. The public at large and the industrial and commercial sectors could hardly see any sign of the economy recovering or turning the corner. While the amendments proposed by Honourable Members to this motion today have mainly urged the Government to provide retraining for workers and to admit professionals into Hong Kong, I believe there is still one more point we should take into account, which is the survival of the SMEs in the midst of an economic restructuring process. At present, most of the employers in Hong Kong are SMEs, and if any of them should fail to keep pace with this economic restructuring and have difficulty remaining in business, they would inevitably close down, thereby causing more people to become unemployed. This is an important issue that the Government needs to address. Certainly, this issue has nothing to do with the Policy Bureau responsible for manpower-related matters. As regards the ERB, it is responsible for training workers new skills so that they could shift to other trades. However, it seems to me that the Government has not required the Trade and Industry Bureau to offer any training courses to enable SMEs as well as manufacturers to make the best of the high technologies and information technologies to enhance their production.

If Hong Kong should fail to keep pace and advance with the world trend, we would inevitably be lagging behind our Southeast Asian neighbours as well as other Western countries. We must therefore work harder to achieve better results. Unfortunately, however, so doing would cause more people to become unemployed. Hence, as far as retraining is concerned, I just wonder whether it is feasible to take into consideration only the high technology sector as suggested in the three proposed amendments. Actually, we may perhaps consider enabling the existing old industries to remain in operation for a longer period.

For example, we may consider enabling the service industries and other existing manufacturing industries to remain in operation for five to 10 years' time to offer more employment opportunities to the currently unemployed members of our workforce. That way, these people, who are in their forties and fifties, could work five to 10 years more until they are 60 years old, which is very close to the retiring age. May I know whether the Government will consider making some extra efforts in this respect? If the Government could work in collaboration with the industrial and commercial sectors as well as the SMEs, we should be able to enable the existing manufacturing industries or service industries to remain in operation on the one hand, and still proceed with our plans to develop high value-added and hi-tech industries on the other.

Mr Deputy, the Liberal Party will support the original motion. As regards the amendments moved, we share the views expressed by the Honourable FUNG Chi-kin in relation to the amendments proposed respectively by Miss CHAN Yuen-han and Mr LEE Cheuk-yan; hence, we cannot render our support to these two amendments. In particular, Mr LEE Cheuk-yan has put forward in his amendment the proposal to enable both the employers and the employees to share the fruits of economic restructuring, the Liberal Party believes this proposal will serve to polarize the employers and the employees and should therefore not be supported. On the other hand, Mr Andrew CHENG's amendment is developed from Mr David CHU's original motion and the suggestions put forward in it are rather equivocal, we just cannot find any reason not to give it our support. Moreover, we are also concerned that if the three proposed amendments should all be negated, the original motion might eventually be negated as well. As such, the Liberal Party will support the original motion and the amendment proposed to it by Mr Andrew CHENG.

Thank you, Mr Deputy.

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

(No Member responded)

DEPUTY PRESIDENT (in Cantonese): Mr CHU, you may now speak on the three amendment. You have up to five minutes to speak.

MR DAVID CHU (in Cantonese): Mr Deputy, today I am glad to have heard the submissions of 18 Members who have offered many valuable suggestions. For example, Mr SIN Chung-Kai gave an example of a 27-year-old Hong Kong resident. It was said that he had invented a video game known as "Doraemon Monopoly" by virtue of his own intelligence and effort, bringing himself and society fortune and employment opportunities. This serves to prove that Hong Kong people are capable of rising up to new challenges and turning crises into opportunities. Hong Kong people only need the support of the Government in terms of policies and resources.

Today, the main points of the three amendments are basically compatible with my original motion. They demand the Government to alleviate the employment difficulties of workers expeditiously, which deserve our attention as a matter of fact. Nevertheless, what I am more concerned about are the long-term competitiveness of the entire workforce of Hong Kong and how we can cope with the tremendous changes mentioned by Mr LEE Cheuk-yan. Mr LEE Cheuk-yan quoted the report of the Massachusetts Institute of Technology as saying that polarization of the rich and the poor will occur in every country in the future and the middle-level employees are likely to face unemployment. These issues have aroused our attention. The restructuring of the employment market not only concerns the vital interests of labour, but it is also related to the operating costs of professionals and employers and even the overall long-term competitiveness of Hong Kong. Therefore, the Government must proceed from the needs of the overall development of Hong Kong before it can formulate policies on human resources best suit the economic restructuring and social changes.

The HKPA believes that what the public demands most from the Government is not something like those measures of "treating symptoms but not the disease" as mentioned by Mr Andrew CHENG, nor is it the number of successful cases of employment arranged by the Labour Department for job-seekers. Neither is it concerned with how many employment opportunities the infrastructure projects which will soon commence can offer. What Hong Kong needs is a set of policies with a definite goal and which are stable and effective over the long term.

Mr Deputy, human resources are the driving force for creating wealth and stabilizing society, but they can also become a hotbed of social unrest. I hope Honourable colleagues can unite to express a clear consensus to the Government, which is to request the Government to actively assist the local workforce to meet the economic challenges of the new millennium. I so submit.

THE PRESIDENT resumed the Chair.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I am very pleased that we have the opportunity to discuss this very important issue of manpower resources in Hong Kong at this first Legislative Council meeting in the year 2000. Manpower is certainly an important asset of Hong Kong. But if we are to enhance our competitive edge in this respect in the new millenium, we must seek to further upgrade the knowledge, skills and adaptability of our workforce. That is why I am very grateful to those Members who have given us so many valuable opinions about this matter. I wish therefore to take this opportunity to assure Members that the Government will never overlook the significance of this topic. We have actually launched a series of initiatives to meet the unprecedented challenge ahead of us.

On the entry of China into the WTO, the SAR Government has actually been following the situation closely, so as to assess the resultant opportunities and challenges in stock for Hong Kong. And, under the leadership of the Financial Secretary, a study group has been set up to find out what economic opportunities and impacts will be brought to Hong Kong by China's admission to the WTO and its subsequent market liberalization. My view is that given our excellent infrastructure facilities, first-class commercial and financial services, sound rule of the law, rich experience in doing business in the Mainland and extensive connections there, the market liberalization of China will certainly produce a positive bearing on our economic development and create new employment opportunities for us, particularly in some specialized trades and industries such as telecommunication, tourism, IT, accounting and financial management. On the other hand, though, we must also pay attention to the impact sustained by lower-skilled workers in the process. But we should not be too pessimistic anyway, and I shall talk about the employment of these grass-roots workers a minute later.

The SAR Government is deeply concerned about the high unemployment rate during the current economic adjustment. In June 1998, a Task Force on Employment comprising representatives from the commercial sector, labour sector, academic sector, training organizations and the Government was set up under the personal leadership of the Financial Secretary. The objective of the Task Force is to work out measures to deal with the problem of unemployment. Over the one year or so since its inception, the Task Force has put in place some 30 measures in a total of five different areas. Some examples of such measures are the accelerated launching of public works projects, enhanced employment counselling, enhanced vocational training and employees' retraining, the clamping down on illegal workers and so on. It is hoped that through all these multi-faceted and multi-level measures, we can increase the job opportunities for local workers and ease the unemployment problem.

All these measures have started to yield initial success. Following the improvements to our economy, conditions in the labour market have stabilized in recent months, and so has the rate of unemployment. Looking into the future, we expect to see the creation of an extra 65 000 posts by the end of this year, thanks to the policies, measures and infrastructure/public works projects implemented by the Government since October last year. In addition, the initiatives announced in the policy address last year, particularly those on environmental protection and the construction of the Cyberport and the Disney theme park, will also create hundreds and thousands of new jobs, thus further stimulating our economy and labour market.

The most fundamental policy underlying the development of manpower resources in Hong Kong should be a reform of our existing education system. To meet the demands of a new, knowledge-based economy in the new millennium, we must conduct a large-scale overhaul of our existing education system. Since the beginning of last year, the Education Commission (EC) has been conducting a comprehensive review which focuses on examining the overall structure of our university, secondary and primary education, their curriculums, the mechanisms of educational assessment and so on. The aim is to establish a sound education system under which each and every student can take delight in learning and be equipped with the skills and life-long learning attitude necessary for their survival in a rapidly changing society marked by technological advances. The review is now in full swing. It is expected that after the completion of two rounds of public consultation, the EC can announce its concrete reform proposals around April this year.

Education reform aside, if we are to solve the problem of structural unemployment once and for all, we must provide sufficient training and retraining opportunities for grass-roots workers, so that they can equip themselves with new skills and upgrade their efficiency continuously to meet the rapidly changing demands of society. I shall now give a concise account of the Government's training and retraining measures and its key areas of work in the coming year.

The VTC has been playing a very significant role in the provision of industrial education and training. In this academic year alone, the total number of training places provided by the VTC is already larger than 100 000. Of these, 3 000 training places are for fresh school-leavers seeking full-time pre-vocational training, and there are also close to 20 000 full-time places on industrial education programmes. The rest of the 80 000 places are meant for in-service workers seeking part-time training opportunities. The classes of some of these part-time courses are held in the evening, and are thus very suitable for people in full-time employment wishing to further their studies after work.

The VTC has been keeping a close eye on the manpower demands in various trades and industries. There are 18 training boards and five general committees under the Council of the VTC, and through the participation of people from the relevant industries, these training boards and general committees offer advice to the VTC on the manpower and training demands of various trades and industries. Besides, the VTC also conducts regular surveys on the manpower and training demands of the major trades and industries in Hong Kong. In its attempt to tie in with our economic restructuring and the development of the services industries, the VTC has set up training and development centres for both the IT industry and the financial services industry. And, in addition to offering basic training courses, the VTC is also working positively to organize courses and talks designed to meet the needs of SMEs.

In the coming year, the VTC will establish a Chinese Cuisine Training Institute, with the objective of providing systematic professional training and skills assessment for the Chinese cuisine industry. It is hoped that in the long run, the Institute can develop into a regional centre of excellence in Chinese cuisine training. And, in order to ensure an adequate supply of technicians and craftsmen in the market, the VTC also plans to increase the number of training places for different trades and occupations such as tourism services and electrical and mechanical repairs. Moreover, it also plans to offer associate degree programmes on IT, hotel and tourism and child care.

Mr SIN Chung-kai urged the VTC to establish a software training centre. I will certainly request the VTC to study such a proposal, but I also hope that Mr SIN Chung-kai and the IT industry can render their support. The reason is that as far as IT training is concerned, resources are not the biggest problem. Rather, the biggest problem is the shortage of instructors. So, we must need the support of the industry, because the best instructors are in-service professionals.

The ERB plays a very important role in the provision of training and retraining for older workers with low skills. In the current financial year, the ERB has increased its number of places by 23%, and 95 000 people can thus be admitted to retraining courses. Retraining courses are market-oriented; to make sure that its retraining courses can suit the needs of the market, the ERB will increase the number of places offered under the training programmes tailor-made to suit the needs of employers. And, it will also offer new courses on occupations in great demand in society, such as security and guarding services, property management services, domestic helpers and health helpers and so on. The ERB will also take positive steps to develop new types of courses, such as those for IT assistants, Chinese medicine dispensers and so on. Another major focus of work of the ERB this year is increasing the proportion of full-time courses in the total number of training places, from 30% to 50%, so as to cater for the needs of the unemployed.

Some Members are of the view that the development of occupations relating to community services is very important to the employment opportunities for grass-roots workers. I agree. In this connection, I can tell Members that quite a number of the major types of full-time courses now offered by the ERB are actually connected with occupations relating to community services, some examples being security and guarding services, management services, domestic helpers and health helpers and so on. And, the employment rate of the retrainees is as high as 70% or above. This is a good reflection that the training received by the retrainees and their standards are well accepted by employers in general.

As for Mr TAM's opinions about the provision of skills upgrading courses, I will hold discussions with the ERB to explore the feasibility of actual implementation. Some Members have also proposed to conduct a comprehensive review on the functions, structures and cost-efficiency of the

VTC and the ERB. In response, I wish to say that given their unique functions and roles, the merging of these two training organizations may not necessarily increase the cost-efficiency of their training courses. Besides, the current practice of the ERB to contract out its training courses to approved training bodies can actually offer a lot of flexibility. Actually, in 1996, we already conducted a comprehensive review on the respective roles of the VTC and the ERB, and a series of improvement measures have since been put in place. That is why we do have some reservations about any proposals to conduct any such comprehensive review again. But I agree that we must make sure that the ERB and the VTC can function in a complementary partnership marked by close communication and the active co-ordination of the Education and Manpower Bureau. Moreover, I also agree that we must pay extra attention to the cost-effectiveness of the training courses offered by the VTC and the ERB.

Next, let me say a few words about three topics of particular concern to the Government during the current economic downturn. The first one is the employment problem facing older grass-roots workers with relatively low skills. The second one is the employment problem facing young people. The third one concerns the manpower demand brought about by the development of IT.

Currently, about 750 000 workers in Hong Kong are above the age of 40, and they are all lower-skilled workers educated only up to junior secondary level or below. In an economy which is getting increasingly knowledge-based, how are we going to "increase their value", so as to enhance their employability? This is really the greatest challenge before us. And, this is not only a challenge for Hong Kong, because other advanced countries also need to face the problem of "knowledge gap" brought about by their knowledge-based economies.

The Education and Manpower Bureau has started to gather information about middle-age workers with low levels of education, and an in-depth analysis will be conducted. I hope that we can reach some conclusions in the coming year, and we intend to use these conclusions as the basis of the Government's long-term strategy. As revealed by our tentative analysis, although lower-skilled workers aged 40 or above with only junior secondary education or below have occupied a more or less unchanged proportion, about 22%, in our total workforce over the past 10 years, their actual number as at the second quarter of 1999 was still as large as 750 000, an increase of 150 000 over the figure of 10 years ago. And, in the third quarter of 1999, more than 700 000 of these

grass-roots workers were under employment, thus giving an employment rate of 93%. These workers are mainly engaged in wholesale or retail businesses, import/export trade, the catering industry, the hotel industry and community, social and personal services. What I wish to point out is that although these workers are not highly educated, they have actually accumulated a lot of valuable experience and practical skills over their long years of work. That is why we should not jump to the conclusion that they are bound to be phased out in the very short run. The fact is that although this type of workers have a slightly higher unemployment rate compared to the rest of our workforce, their employment situation still showed steady improvements in the first three quarters of last year, with the unemployment rate dropping from 7.8% in the first quarter to 7% in the third. I believe that as our economy gradually recovers, the job opportunities for these grass-roots workers in the above-mentioned trades and industries will gradually increase.

Although the increasing dominance of the knowledge-based economy may well reduce the market demands for lower-skilled workers, I still believe that some trades and industries, such as the tourism industry, the catering industry, the security and guarding services industry and the cleaning services industry, will still need a considerable number of these workers. The United States survey quoted by Mr LEE Cheuk-yan can prove precisely that even in a country as technologically advanced as the United States, there will still be demands for this type of grass-roots workers in the next 10 years. Coming back to Hong Kong, let me cite the tourism industry as an example. As I mentioned a moment ago, following the completion of the Disney theme park, the number of tourists visiting Hong Kong will certainly increase drastically, and this will certainly create hundreds and thousands of jobs for these grass-roots workers.

While the Government is doing the best it can to improve the employment prospects of these grass-roots workers, it is also aware of the persistently low wages offered to them. Our statistics show that in the second quarter of 1999, some 118 000, or 15.5%, of these workers, mostly women, were each earning less than \$5,000 a month. In view of this, in the future, besides assisting these workers in seeking employment, we will also make every effort to provide them with training and retraining, so that they may enhance their skills and productivity, increase their own value and earn higher wages.

The Government attaches very great importance to the provision of appropriate training to these workers, hoping to assist them in meeting the challenges faced by them in the next five or 10 years as a result of economic restructuring. For those workers engaged in declining trades and occupations, I am especially concerned about how they are going to learn the new skills necessary for their employment in new, emerging trades and occupations. In this connection, the Education and Manpower Bureau has already started to hold discussions with the academic sector, and a topical research project relating to the formulation of a training policy for workers aged 40 or above will be conducted to explore different feasible policies. The research project will explore the most suitable contents and forms of training from the perspectives of both employers and employees, and it will also explore which organizations should be given the responsibility of providing training. It is hoped that a long-term strategy can be set down to provide the most practical type of training. In the interim, I hope that the ERB can continue to offer part-time training courses to upgrade the knowledge and skills of in-service grass-roots workers.

In the area of assisting young people in securing employment, we launched the Youth Pre-employment Training Programme in September last year. This Programme provides a series of employment-related practical training courses for young school-leavers aged between 15 and 19, with the aim of upgrading their employability. Under this Programme, opportunities of practical work training are provided to young people to help them acquire practical working experience. The Programme is progressing smoothly and has received very good responses. More than 50 organizations are now offering some 25 000 training places, and more than 12 000 practical training places are also offered by nearly 600 private-sector employers, social services bodies and government departments. Young people have responded enthusiastically to the Programme, and the number of applicants has exceeded 18 000. The participants are in general very positive in attitude; many of them say that the training course and practical training have been very useful.

Following the completion of the Programme in March this year, we will examine its effectiveness and determine whether it should be continued. We will also explore the most effective ways of providing youth pre-employment training. Our aim is to set down both medium-term and long-term strategies on the provision of more education and pre-employment training opportunities for young people, in the hope that they can meet the increasing demands of our knowledge-based society.

As for the manpower training demand brought about by the development of IT, we have launched a five-year strategy on IT education in all our secondary and primary schools. The aim is to equip our students with the basic skills of applied IT and to enable them to learn effectively and happily with the aid of IT.

Concerning the assessment of the manpower demand brought about by IT, we have just completed an assessment for the next five years. The findings reveal that we will need large numbers of people with different expertise, such as those well-versed in basic computer skills, maintenance, programming, software design, homepage development and creation of Internet commercial opportunities. We therefore have an urgent need to train up more people with these types of expertise, and I will shortly give an account of the new training courses we have launched. In the area of higher education, IT is one of the three "Areas of Excellence" which has recently been granted subsidy by the University Grants Committee (UGC). This project has a funding of \$51 million, and is jointly implemented by the University of Hong Kong, the Chinese University of Hong Kong and the Hong Kong University of Science and Technology. The aim is to conduct relevant research and train up the talents required in the future.

We have actually been providing many training courses on IT. For example, of all the students enrolled in our institutions of higher education, some 19 000, or 23%, are taking courses related to IT. Besides, nearly 20 000 people in full-time employment are also taking the continuing education courses on IT offered by our institutions of higher education. What is more, the VTC also offers some 7 000 IT course places, and the IT Training and Development Centre under the VTC also offers nearly 10 000 short course places every year.

We have recently announced that the VTC and the ERB will launch a pilot course in February, with the aim of training up young school-leavers and unemployed people as junior assistants in the IT industry. We have decided to run this course because through our contacts with the IT industry, we have come to know that the industry is in great need of manpower. In particular, because of the increasing popularity of e-commerce, many companies, whether they are IT companies or not, need to employ junior IT assistants to do the work of repairing and updating homepages, handling e-commerce documents and office databases and so on. I wish to mention the point that this pilot course is

designed on the basis of the advice given by the IT industry; its contents are therefore focused on the kind of practical knowledge and training required by the industry. Upon the completion of the course in May this year, we will conduct a review on its effectiveness. If its effects are found to be satisfactory, we will consider the possibility of increasing the number of places to benefit more people.

On lifelong learning, I wish to point out first of all that we have always supported this idea. In recent years, we have put in place a whole series of relevant measures, some examples being tax concessions, a student loans scheme and grants to the Open University. We estimate that about 230 000 people are currently taking the tertiary-level continuing education courses offered by the Open University and the UGC-funded institutions. In order to encourage people to further their studies, the Government now provides various kinds of tax concessions. First, for salaries tax, we now allow all salaries taxpayers (including those paying at the flat rate of 15%) to deduct from their taxable income the expenditure on their own education. In the 1997-98 tax year, some 137 400 taxpayers were permitted to deduct such expenditure from their taxable income, totalling at some \$140 million. Besides, for profits tax, the Government also allows employers to deduct the full amounts spent on job-related training for their employees in the computation of their taxable profits. This is meant to reduce their actual amounts of profits tax payable. The objective is to encourage employers to increase their investments in staff training, thus raising the productivity and efficiency of the relevant enterprises or even the entire workforce.

We have allocated a total of \$600 million to the Open University at different times, and in 1994, we even allocated another \$50 million to the Open University for the purpose of establishing a student loans scheme to give financial assistance to those of its students having financial difficulties. This year, we will allocate another \$50 million to the Open University for the setting up of a district learning centre, where its students are provided with more convenient and advanced learning facilities. Moreover, starting from the next academic year, we also plan to further extend the non-means-tested student loans scheme to students pursuing self-financing programmes in publicly-funded institutions as well as publicly-funded post-secondary five programmes offered by the Hong Kong Institute of Vocational Education. We expect that an extra 79 000 students will be benefited, and the total loan amount will be \$61 million.

Here, I wish to say that the Government is prepared to consider the possibility of increasing the assistance in respect of lifelong learning, particularly for grass-roots people. We will consider the views of Members and hope that we can come up with more new measures in the future to further encourage people under employment to further their studies.

The Admission of Talents Scheme recently launched by the Government aims to attract to Hong Kong a group of talented people who can contribute to our efforts of making Hong Kong a centre of high value-added and high-tech activities. The talented people so admitted will also help promote the development of IT in Hong Kong. I also believe that the Scheme will create other types of jobs for local employees.

Madam President, I now wish to discuss the issue of drawing up a full-scale mechanism of qualifications assessment and recognition. Currently, apart from the VTC and the ERB, many other training institutions in Hong Kong also offer similar types of training courses. We agree that there is a need for the Government to put in place a full-scale mechanism of qualifications assessment and recognition. In this connection, we are now taking forward two initiatives. First, the Government is right now gathering information about the continuing education courses in Hong Kong and the institutions which run these courses. The aim is to set up a database for the reference of those who wish to further their studies. We hope that the work can be completed within this year, and we will further consider the possibility of setting up a special website, where such information is to collated and stored, and where advice on further studies and "value-added" courses is also given. Second, we have started to hold discussions with the VTC and the ERB on assessing the relevant courses run by them and linking them up in a co-ordinated system. For example, a person who has completed an elementary computer course in the ERB can be allowed to read for a diploma in computer studies offered by the VTC. This can provide a basis for the reference of other institutions, and will further promote a full-scale qualifications recognition mechanism.

On the tripartite co-operation among employees, employers and the Government, the Government agrees in principle that the three sides should join hands to work out policies relating to labour issues and manpower training. Although we have already set up some time-tested mechanisms, such as the Task Force on Employment and the Labour Advisory Board, I still think that such tripartite co-operation should be further enhanced in respect of upgrading the

skills of grass-roots workers. We will consider how best to induce both employers and employees to take part in the relevant discussions. However, I must say that we do have some reservations about the establishment of a new statutory tripartite body, because this may give rise to many unnecessary arguments and require longer time for the passage of the relevant bills. And, we must also consider very carefully how we can possibly avoid any overlapping functions between this proposed tripartite body and its existing counterparts.

Madam President, whether we look at the motion of Mr David CHU or the amendments proposed respectively by Mr Andrew CHENG, Miss CHAN Yuen-han and Mr LEE Cheuk-yan, we will see that they all call upon the Government to upgrade the skills and adaptability of our workforce in preparation for the challenges in the new century. In general, the Government supports such a broad direction. I agree that as the whole world moves in the direction of becoming a globalized, knowledge-based society in the new century, all individuals and enterprises (including SMEs) must try incessantly to increase their own "value". Over the past few decades, the economy of Hong Kong has experienced several economic transformations and adjustments. Each time, new opportunities were created in the labour market, but of course, some did at the same time encounter difficulties in adjustment.

This time around, we are faced with some unprecedented challenges, but I can assure Members that the Government will absolutely not take all these challenges lightly. Once again, I wish to thank Members for making the many valuable suggestions. I must say that they will be of immense use to the Government when it formulates new policies and measures in the future. I hope that we can continue to join hands with Members and conduct in-depth discussions on this very important topic in the future. That way, we will be able to help Hong Kong meet the challenges in the new century and grasp the opportunities it offers.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now call upon Mr Andrew CHENG to move his amendment to the motion.

MR ANDREW CHENG (in Cantonese): Madam President, I move that Mr David CHU's motion be amended, as set out on the Agenda.

Mr Andrew CHENG moved the following amendment: (Translation)

"To add "innovative," after "high value-added,"; to delete ", with a view to reducing the rate of unemployment," and substitute with "and to train professionals for the high value-added, innovative and high-technology industries in the territory, as well as conducting a comprehensive review on the functions, structures and effectiveness of the Vocational Training Council and the Employees Retraining Board, with a view to"; to delete "the workforce" and substitute with "local workers, reducing the unemployment rate"; to delete "economic" after "so as to meet the" and substitute with "restructuring and"; and to delete "new millennium" and substitute with "employment market in the new century"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Andrew CHENG to Mr David CHU's motion, be passed.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

PRESIDENT (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Mr Michael HO, Mrs Selina CHOW, Mr CHEUNG Man-kwong, Mr Bernard CHAN, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr Howard YOUNG and Mr LAW Chi-kwong voted for the amendment.

Dr Raymond HO, Dr LUI Ming-wah, Mr HUI Cheung-ching, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr LEONG Che-hung and Mr WONG Yung-kan abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Mr LAU Chin-shek, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah and Mr HO Sai-chu voted for the amendment.

Mr David CHU and Mr Ambrose LAU voted against the amendment.

Miss CHAN Yuen-han, Mr Gary CHENG, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr YEUNG Yiu-chung abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 11 were in favour of the amendment, six against it and four abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 14 were in favour of the amendment, two against it and nine abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was carried.

DR LEONG CHE-HUNG (in Cantonese): Madam President, given that three amendments have been proposed to the motion, I believe further divisions will be claimed by Honourable colleagues in respect of the amendments. Since it is very late now, may I have your permission to move under Rule 49(4) of the Rules of Procedure that in the event of further divisions being claimed at this meeting in respect of the motion "Assisting Hong Kong's workforce in meeting the economic challenges of the new millennium" or any amendments thereto, Members of this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That in the event of further divisions being claimed at this meeting in respect of the motion "Assisting Hong Kong's workforce in meeting the economic challenges of the new millennium" or any amendments thereto, Members of this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute. Does any Member wish to speak?

(No Member responded)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed. Henceforth, in the event of further divisions being claimed in respect of the motion or any amendments thereto, Members of this Council shall proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, as Mr Andrew CHENG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 4 January. In accordance with the House Committee's recommendation which I have also accepted, when you move your revised amendment, you have up to three minutes to explain the revised wording in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, my amendment was issued to Members yesterday. With Mr David CHU's motion having been amended by Mr Andrew CHENG's amendment, I myself have made a comparison between Mr Andrew CHENG's amendment and mine as to the greatest difference. The amendment by Mr Andrew CHENG was made to request the Government to conduct a comprehensive review on the functions, structures and effectiveness of the VTC and the ERB with a view to upgrading the skills and adaptability of local workers, thus reducing the unemployment rate. We have differences over this point. My amendment points out that the Government should reconsider restructuring the vocational training provision framework and enhance the development of continuing education. This is another difference between my amendment and that of Mr CHENG. For the above reasons, I have added the above-mentioned to my further amendment, that is, the amendment made by Mr Andrew CHENG.

Madam President, why is my amendment different from his? Just as the Secretary has said, in 1995 when we joined the then Legislative Council, it was proposed that as workers in the manufacturing industry had undergone the restructuring, the Government was required to provide some training. We therefore proposed a motion in 1996, requesting the Government to restructure the existing vocational training framework, including the VTC, the ERB and the Hong Kong Productivity Council. I have explained the reason for that in my speech. Actually, the Government subsequently compiled a consultancy report. As the Secretary has said, the consultancy report in respect of the VTC and the ERB was also finished in 1996. At that time, a number of issues were submitted to the then Legislative Council for discussion, and many colleagues in the Council expressed many opinions in connection with the suggestions offered by the consultants to the Government in that year. We think that if we are going to work out a thorough solution to the training of human resources, it is necessary to restructure the old and present frameworks. It is a pity that the Government has not taken any action so far. So, frankly speaking, regarding the content of the amendment made by Mr Andrew CHENG today, we are on the same route, except that I do not think it is necessary to conduct a review because a review was already carried out in 1996 and subject to extensive discussion by the general public and the then Legislative Council.

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, let me remind you, the amendment made by Mr Andrew CHENG has been passed. I hope you can respect the decision made by this Council.

MISS CHAN YUEN-HAN (in Cantonese): Thank you, Madam President. I have to explain and show Mr Andrew CHENG why I seek to add that paragraph. I hope the other colleagues will support me because that is where Mr Andrew CHENG's amendment and mine differ, so I have to add the wording "the Government should also consider restructuring the vocational training provision framework and enhancing the development of continuing education" to my further amendment.

Madam President, I move that Mr David CHU's motion, as amended by Mr Andrew CHENG, be further amended in accordance with my revised amendment, (*laughter*) as set out in the paper circularized to Members on 4 January. Thank you, Madam President.

Miss CHAN Yuen-han moved the following amendment to the motion as amended by Mr Andrew CHENG: (Translation)

"To add "; and establish a policy on manpower development aiming at "creating jobs and upgrading capability", promote the development of industries such as personal and community services and tourism etc. in order to create job opportunities for the less skilled and less educated labour force; the Government should also consider restructuring the vocational training provision framework and enhancing the development of continuing education" after "so as to meet the restructuring and challenges of the employment market in the new century"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss CHAN Yuen-han to Mr David CHU's motion as amended by Mr Andrew CHENG, be passed.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHAN Wing-chan rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Wing-chan has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Dr LUI Ming-wah abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung and Mr YEUNG Yiu-chung voted for the amendment.

Mr David CHU, Mr HO Sai-chu and Mr Ambrose LAU voted against the amendment.

Mr NG Leung-sing, Prof NG Ching-fai and Mr MA Fung-kwok abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, seven were in favour of the amendment, 13 against it and one abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 19 were in favour of the amendment, three against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, as Mr Andrew CHENG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members on 4 January. In accordance with the House Committee's recommendation which I have also accepted, when you move your revised amendment, you have up to three minutes to explain the revised wording in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MR LEE CHEUK-YAN (in Cantonese): Madam President, I move that Mr David CHU's motion, as amended by Mr Andrew CHENG, be further amended by my revised amendment, as set out in the paper which has been circularized to Members on 4 January.

In order to win Honourable Members' support, I prefer not to give any speech. Thank you, Madam President. (*Laughter*)

Mr LEE Cheuk-yan moved the following amendment to the motion as amended by Mr Andrew CHENG: (Translation)

"To delete "actively" after "this Council urges the Government to" and substitute with "establish a tripartite committee comprising representatives of employees, employers and the Government to"; to delete "stable and" after "formulate a set of"; to delete "reducing the rate of unemployment, upgrading the capability and adaptability of the workforce and, in particular, assisting the less skilled and less educated in better equipping themselves, so as to meet" and substitute with "assisting employers and workers of different strata in meeting"; and to add ", so that both employees and employers can share the risks as well as the fruit of

economic restructuring. The policies should include: (a) assessing the impact of information and innovative technology, globalization of the world economy and China's accession to the World Trade Organization on the local manpower demand; (b) exploring feasible options of industrial process restructuring, thereby enabling workers with different levels of education and skills to share the job opportunities brought about by economic restructuring; (c) formulating a comprehensive "training programme for the employed" to upgrade the overall basic skills of local workers by, *inter alia*, increasing the number of retraining places, upgrading the training of low-skilled workers, and enhancing the Vocational Training Council's skills-upgrading courses for workers with intermediate level of skills, so as to prevent them from competing for jobs with basic-level workers due to the deletion of middle-level posts; and encouraging the private sector to provide on-the-job training to their staff by offering tax concessions and technical support; and (d) promoting the development of the local manufacturing industry, environmental protection industry and community services, in order to create job opportunities for basic-level workers" after "the new millennium".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr LEE Cheuk-yan's amendment to Mr David CHU's motion as amended by Mr Andrew CHENG, be passed.

I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The bell will ring for one minute.

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

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

Functional Constituencies:

Mr Michael HO, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr Timothy FOK, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Chin-shek, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung and Mr YEUNG Yiu-chung voted for the amendment.

Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr Ambrose LAU voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, seven were in favour of the amendment and 14 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 26 were present, 19 were in favour of the amendment and six 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 amendment was negatived.

PRESIDENT (in Cantonese): Mr David CHU, you may now reply and you have up to 10 minutes 10 seconds to speak.

MR DAVID CHU (in Cantonese): Madam President, Members need not worry, for my speech will not last for more than a minute. *(Laughter)*

Madam President, the motion moved by me today could perhaps be considered as conducive to rainstorms. So, if Hong Kong should be suffering from shortage of potable water supply in the future, I would be ready to move another motion. *(Laughter)*

The motion debate today is a very constructive one; besides, we have also learned about the various efforts made by the Government in relation to Hong Kong's workforce. Having listened to the views expressed by Members, I believe we all share one principle and one direction. Would Honourable colleagues please nod their heads if they do agree with me and shake their heads if they do not?

The principle we share is that the local workforce is the cornerstone on which the prosperity and stability of Hong Kong builds. *(Laughter)*

And the direction is that the Government should formulate an effective and long-term comprehensive policy in this respect, with a view to sharpening the competitive edge of Hong Kong's workforce.

I just hope we do not need to hold any debates on this subject in the future, and that the Government would take actions in support of the result of our motion debate today. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr David CHU, as amended by Mr Andrew CHENG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

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: Establishing a labelling system for genetically-modified foods.

ESTABLISHING A LABELLING SYSTEM FOR GENETICALLY-MODIFIED FOODS

DR TANG SIU-TONG (in Cantonese): Madam President, I move the motion as set out under my name on the Agenda.

Today's meeting is our first Council meeting in the new century. Let me first wish Members a Happy New Year and Good Health. In order to have good health, food safety is vital. Besides food safety, we should also have the right to information and to choose. The Government should think twice about opposing this motion.

Genetically modified (GM) organisms are the products of modern biotechnology. Unlike traditional methods of breeding and slipping, GM technology can eliminate and modify the genes of an organism. Unconstrained by limitations in sexual compatibility and species barriers, GM technology can insert particular genes of any foreign organism into a recipient organism, including the genes of bacteria, insects, plants, animals and even human beings, to create a new organism. If these new organisms are used as food, it would mean that we would be eating something that has never been eaten before. If these foods are not labelled, we have no means of telling whether the food we are eating is genetically modified. The effect of GM foods (GMF) on human beings or the environment is still uncertain. From the consumers' point of view, even though GMF need not be banned, they should be attached with a statutory label in order to protect consumers' right to information and their right to choose, so that they can make a sensible choice. The reasons for this are three-fold and they have to do with food safety, the ecology and personal diet.

First, in terms of food safety, while GM technology can reduce or eliminate known toxic substances or allergens, it can also insert known or unknown toxic substances and allergens into food that consumers consider safe. A number of incidents overseas have shown that this risk is real.

In 1989, a kind of food supplement called L-tryptophan was on sale in the United States. Due to a toxic substance methyl glyoxal produced in the course of genetic modification, 5 000 people suffered from an illness called Eosinophilia Myalgia Syndrome. The tragic outcome was that 1 500 people suffered permanent damages and 37 died. Since the GM L-tryptophan was not labelled and was mixed with non-GM products, the government's investigation was slowed down. It also took the authorities a few months to retrieve the problem products from the market.

In the latter half of the '90s, producers injected a GM hormone called rBST into dairy cows, which stimulated the production of insulin-like growth factors (IGF-1) in their blood. Some reports point out that excessive consumption of IGF-1 will increase the risk of prostate cancer, colorectal cancer and postclimacteric breast cancer in women. The injection of the relevant product into cows will also seriously affect their health.

Although producers and the United States Food and Drug Administration (FDA) stressed that rBST had been subject to repeated tests and was not harmful to humans, the Canadian Government's scientists were of the view that this was not yet proved since the product had not undergone normal, long-term toxicity tests. Finally, in 1999, Canada and the European Union rejected the application for the marketing of rBST on the grounds that it was detrimental to cow welfare.

Apart from food poisoning, GMF may also cause allergy. In order to increase the protein content and yield of soya beans, producers used GM technology to transplant a gene of brazilian nuts to soya beans, but the process also carried a known allergen. Later, the products were tested by researchers of the University of Nebraska of the United States. The blood tests showed that consumption of the relevant soya beans would lead to different degrees of allergic reactions, which might be fatal. The products were finally recalled from the market.

For known toxic substances or allergens in food, we can still take proper precaution or control. But what about the "unknown" substances? GM techniques can insert any foreign gene into food considered safe by some consumers, including genes of organisms that have never been used as food. Due to the lack of long-term safety tests, researchers cannot ascertain if all the new substances produced from gene insertion or during the GM process are not harmful to humans. In addition, the effect of some toxic substances or allergens on human beings becomes apparent only after a longer period of time. However, if GMF are labelled, consumers allergic to food or doubtful about the safety of products can choose and avoid eating the relevant products through the labels, which serve as the last line of defence. Besides, if the products really turn out to be unsafe, the labelling system can provide the authorities with a means to trace the origin of the problem, so that the problem foods can be speedily recalled if necessary.

In terms of the ecology, at present, the GM techniques applied to plants insert insect-resistant, virus-resistant and herbicide-resistant genes into the targets. In certain GM processes, researchers will also insert a kind of marker gene for antibiotic resistance. Although the said gene is not directly harmful to humans according to the present research, some studies have already indicated that these GM techniques or products pose potential threats to our health, to the ecology and environment and might provoke unforeseeable crises.

In respect of the use of marker genes, researchers found that certain marker genes are resistant to antibiotics used on humans and animals. For instance, one marker gene in tomatoes is resistant to kanamycin, while a GM maize contains a marker gene that is resistant to ampicillin. When these genes which are inserted into crops enter the food chain, they might stimulate harmful bacteria to evolve more rapidly to become "super bacteria" resistant to antibiotics, or combine with other bacteria harmful to humans and animals to form new kinds of bacteria. If the speed of evolution of bacteria catalyzed by the marker genes exceeds the speed of the development of new medicine by mankind, the consequences would be unimaginable.

Besides, GM crops often produce an endotoxin which is insect-resistant, virus-resistant and herbicide-resistant. As with the marker genes, the wide application of such endotoxin will catalyze the evolution of insects and bacteria and produce antibiotic "super bacteria" and "super weeds".

Some environmentalists are also concerned because GM crops, fish and livestock are "new species". Their "sudden" appearance might endanger other organisms. Besides, the expected higher yield of GM species and their insect-resistant and virus-resistant properties will easily induce farmers to convert to using them. Crop, fish and livestock species would thus become increasingly uniform, resulting in the extinction of certain traditional species. Both the "sudden" appearance of new species and the "rapid" disappearance of traditional ones would affect diversification and cause disruption to the ecological balance.

Some consumers choose foods based on the criterion of environmental protection. They might not want to buy certain GM products since they think that the relevant GM techniques have an adverse effect on the ecology and the environment. For environmentally conscious consumers, their demand for the right to information cannot be satisfied even if food safety is ensured.

In terms of personal diet, traditional foods which are genetically modified are not the same as the traditional products. For the producers, altering the genes of traditional foods is just a means to increase yield. However, for certain consumers, it becomes a crucial question. For instance, the insertion of animal genes into plants is unacceptable to vegetarians. Judaists or Moslems might break their religious precept if they consume food containing pig genes. The addition of human genes to food would raise the serious ethical question of "cannibalism". For the above consumers, eating such foods might cause even

greater harm than eating toxic substances. Thus, even if GMF can pass stringent safety and ecological tests, consumers have a right to know whether the foods they are buying are different from traditional foods, so that they can choose according to their individual concern.

Lastly, I wish to talk about Mr Howard YOUNG's amendment. I am very glad that Mr YOUNG agrees with the premise of my motion, that is, "the effect of genetically-modified foods on human beings and the environment is still uncertain" and that there is a need to "protect consumers' right to information as well as their right to choose". The fundamental difference between the motion and the amendment lies merely in how to achieve the aim of protecting "consumers' right to information as well as their right to choose". I propose to legislate for a statutory labelling system, backed up by monitoring by the authorities, to ensure the accuracy of the labels. From the wording of Mr YOUNG's amendment, I infer that he proposes that the Government should formulate guidelines to encourage the industry to attach labels "voluntarily". I believe that under the voluntary labelling system proposed by Mr YOUNG, there is also no need for the Government to monitor the gene labels to see if they are accurate and clear. However, in my view, the voluntary labelling system cannot protect consumers' right to information, or enable them to obtain more information, not to mention protect their right to choose.

First, the most essential feature of the voluntary labelling system is that manufacturers have complete discretion over the attachment of labels. This means that gene labels are optional and might be attached or not. Unless Mr YOUNG can come up with excellent incentives to encourage manufacturers so that the voluntary system can achieve the effect of a statutory one, that is, GMF will automatically be labelled, there is only a probability that consumers can obtain the relevant information. When information can only be obtained passively or by chance, there is no protection or right to speak of. Therefore, the voluntary system will at best increase consumers' chance to obtain information on foods. Besides, without statutory specifications, the form and content of labels might vary greatly, such as in terms of their detailedness. Consumers will also have no confidence in the labels and feel confused without the Government's monitoring and guarantee. If their right to information is not protected and the information is confusing, how can consumers make a real choice?

Second, a number of multinational food retailers and manufacturers, including Britain's Marks & Spencer and Nestle, have announced that they had abandoned the use of GM products. The world's largest manufacturer of potato chips, McCain, even declared that it had decided to stop using GM potatoes because of consumers' complaints. Park'n Shop in Hong Kong also said that it would avoid using GM ingredients as far as possible to manufacture its own-brand products, while ad Marketing Limited and Marks & Spencer in Hong Kong declared that they would not sell GMF. This shows while gene labels are important for consumers' right to information, they have a negative effect on the marketing of products. I believe that no businessman would be willing to attach a negative label to a product at the risk of poor sales. As a result, consumers will not have access to more information.

Third, the majority of European countries have legislated for a labelling system, while other countries such as Russia, Australia and New Zealand will be legislating for a labelling system. Japan and South Korea will do the same in 2001. Even Canada, which implements a voluntary labelling system, will be debating whether to continue this system, since no food retailer or manufacturer is willing to provide labels on the content of GMF under the voluntary system. Why are we still discussing some ineffective and outdated regulatory measures at the beginning of the new century?

Fourth, without statutory labelling regulations, the authorities will not be able to collect full and accurate information on foods. In the event of GMF incidents, the authorities will have difficulty in tracing the source of the problem and recalling the precise problem products. It will also not be able to issue a clear warning to the public. This is extremely unfavourable for the monitoring of food and the protection of public safety.

Fifth, while many countries already have a labelling system, Hong Kong is still hesitant and wasting time on discussion. This is most unfortunate. Recently, many foods which cannot be sold in other countries, such as Nestle's GM chocolates, are being sold in Hong Kong. As a result, Hong Kong people have fallen victim to them. In terms of drugs, the United States might dump their drugs in Southeast Asia. In this respect, the people's right to choose and their right to information are not protected at all. In order to protect the people's right to information and their right to choose, so that they will not be deceived into eating foods that are literally "cursed", I urge Members to oppose the amendment.

Madam President, as GMF represent a new group of products of biotechnology, there is still no conclusion whether they are safe for human beings and the environment. However, it is true that some GM techniques and foods are harmful to human health and pose potential health hazards to humans and animals as well as the ecology. Last year, when the new Environment and Food Bureau was set up after the scrapping of the Municipal Councils, the Government undertook to enhance the monitoring of food safety. However, there is not even a basic statutory labelling system for GMF. With no information, records or tests and carrying on as before, the new Bureau will not be able to monitor the safety of the relevant foods. Thus, in order to protect consumers' right to information and respect their right to choose, the Administration should draw on the experience of the European Union and borrow from the mode of thinking of Japan and South Korea, and legislate for an elementary labelling system for GMF. This will enable consumers to make an intelligent choice based on information according to their individual concerns.

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

Dr TANG Siu-Tong moved the following motion: (Translation)

"That, as genetically-modified foods represent a new group of products and their effect on human beings and the environment is still uncertain, in order to alleviate consumers' worries and protect their right to information as well as their right to choose, this Council urges the Government to draw on the experience of most member states of the European Union and expeditiously legislate for a labelling system for genetically-modified foods, conduct strict examinations and tests on the genetically-modified foods on sale locally and enhance consumers' knowledge of these foods."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr TANG Siu-tong, as set out on the Agenda, be passed.

Mr Howard YOUNG will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Howard YOUNG to speak and to move his amendment.

MR HOWARD YOUNG (in Cantonese): Madam President, I move that Dr the Honourable TANG Siu-tong's motion be amended as set out on the Agenda.

Madam President, I remember that in the Council's last discussion of this problem, the Secretary for Health and Welfare expressed the Government's way of handling GMF, which seemed to be that of "three noes": no legislation, no policy, and no supervision. The Liberal Party believes that in the long run there has to be legislation. The only issue now is whether it should be implemented right away or after clear investigation.

Like the general public of Hong Kong, the Liberal Party is very much concerned about the safety of GMF. However, we must understand that the genetic modification technique itself is of tremendous practical value: It prevents crops from damage by pests and reduces the effects of pesticides, thereby increasing the food production and improving the nutritional quality of foods. Genetic modification technology is no doubt a workable solution to global food shortage, as recognized by the United Nations and World Health Organization (WHO). We should, therefore, not hold prejudice against GMF, as if they were scourges or witchcrafts.

Besides, we must understand that so far there is no final conclusion on the safety of GMF. Although supporters of GMF cannot provide proof of 100% safety, objectors cannot bring forth sufficient evidence either to demonstrate that GMF are certainly dangerous. It was raised in the 1996 joint hearing held by the United Nations Food and Agricultural Organization (FAO) and WHO that there is no difference in the safety problem faced by GMF and foods grown by conventional methods. The assembly suggested that comparisons be made between similar foods genetically modified and those conventionally grown, and to conduct tests, one by one, on new kinds of GMF to determine their safety. Since there is no general conclusion on the safety of all GMF, we should therefore not make the assumption that GMF are unsafe and impose harsh and unreasonable limitations on their production and sale without cause.

The original motion tabled by Dr TANG Siu-tong today mentions the protection of consumers' right to information and their right to choose, and enhancement of their knowledge of GMF, which the Liberal Party completely agrees with. However, the Liberal Party has strong reservations about hasty legislation to establish a labelling system for GMF, or strict examinations and tests of these foods in the market. The Liberal Party thinks that prematurely forced legislation now will not only cause confusion and difficulty to food merchants but also be of no help to better protect the consumer.

We must understand that internationally there are not yet universally accepted requirements on the safety of GMF. The European Union (EU) standard suggested by Dr TANG for Hong Kong's reference basically only defines any food, with any ingredient 1% of which contains modified genes, as GMF. Hence, the EU standard is only a working definition on GMF, not a safety standard for modified genetic content. Excess of 1% modified genes does not mean the food is certainly unsafe; and conversely, being less than 1% does not mean the food is certainly safe. Even if Hong Kong adopts the EU standard, it does not mean the safety of food is guaranteed.

Secondly, the EU 1% criterion is not only harsh. The requirement on food manufacturers to carefully analyse every kind of food ingredient is not easily workable, and under certain circumstances it is almost impossible, because genetic modification tests are not as easy as imagined. For example, with the present level of science, it is not easy to test modified genes with oil content. Besides, as many farmers do not separate soya beans and grains genetically modified from those not genetically modified, it is almost impossible to guarantee a food production line to be completely devoid of genetically modified ingredients, especially if the source is from an overseas country which itself has no legislation stipulating separate handling.

Thirdly, when objective conditions are not ripe and yet we force legislation to implement a labelling system, I am afraid the result will be greater confusion still in market information, and consumers being at a loss as to what to do. In the United Kingdom, for example, different food manufacturers make different labels for similar products for lack of appropriate guidelines, thus making consumers feeling more confused. On the other hand, certain food manufacturers, retailers and food establishments have rushed to change their food formulae in order to avoid loss in business. But different companies have different definitions for shedding modified genes. Some only concentrate on abandoning the use of soya beans and grains like corn, but do not take full care of other food ingredients. Thus it is questionable if the new formulae can guarantee the foods completely free of modified genes.

The Liberal Party thinks that we should adopt an open attitude towards GMF and refrain from overreacting. The Liberal Party thinks what should be done at the present stage is to urge the Government to establish a task force to follow closely the development of GMF in different parts of the world, including research on their legislative work and testing skills concerning GMF, as well as

various relevant measures including the actual application of the labelling system in the EU. I hear that many places have passed legislation, but many governments have not been able to enforce it practically. Besides, the Government and relevant organizations should build up the technology to effectively test genetic modification as soon as possible. In this process, the Government should also formulate a guideline for the reference of food manufacturers, so that they may know the categories and names of foods having gone through genetic modification in different parts of the world. It should also guide them to conduct tests on GMF and provide assessments on their effect on human health. It should also encourage them to attach standardized labels and explanations to the relevant products for the consumer's information.

Madam President, in the last 99 years, 47% of the soya beans and 37% of the corn grown in the United States have undergone genetic modification, but the United States has hitherto been unable to hurriedly pass a labelling system specially aimed at GMF. The FDA is arranging public hearings on the question of labelling. The Liberal Party sincerely hopes we can all learn from the American prudence, amplify our research and discussion, and find an appropriate and comprehensive strategy for GMF before we consider legislation.

With these remarks, I beg to move the amendment.

Mr Howard YOUNG moved the following amendment: (Translation)

"To add "no final conclusion has been reached on the effects of" after "That, as"; to delete "represent a new group of products and their effect"; to delete "is still uncertain"; to delete "draw on the experience of most member states of the European Union and"; to delete "legislate for a labelling system for genetically-modified foods, conduct strict examinations and tests on the" and substitute with "formulate guidelines to encourage food manufacturers to attach labels to"; and to delete "on sale locally and" and substitute with ", and to". "

DR LEONG CHE-HUNG: Madam President, I rise in support of the need for legislation on the labelling of GM foods. Perhaps with your permission, it is timely to welcome the new Secretary for the Environment and Food.

Madam President, when I was a little boy many, many years ago, like all children, I was attracted to fables and children's stories. In particular, I was fascinated by the story of "Jack and the Beanstalk", in which the plant grows to tree-size that Jack can climb up and down on it. It was then an obvious fantasy. This fantasy of yesteryear could become the reality of today, through the process of GM products.

Science has shown that by altering the genetic materials through the insertion of genes from one organism to another, we could have crops that would have higher yield, fruits that could delay their rotting process and plants that could improve growth. Madam President, whether we like it or not, GM products are here and I can predict that they will stay, if not prosper.

In fact, with the ever-increasing world population, GM foodstuffs may be the only way to feed the population of the future. Even today, many people face serious difficulties in obtaining and securing affordable food. It has been argued by politicians and scientists that this problem is in part due to inadequacy in crop type: crops that can resist heat, drought or other adverse conditions, or crops having a limited ability to obtain nutrients from the soil. It has been argued, too, that GM products might offer a better source of sustainable food for starving people. Some believe, too, that genetic engineering might improve the nutritional value of food. In short, there are suggestions that genetic engineering could have economic benefits.

But, alas, Madam President, like all fantasies, like all scientific innovations, genetic engineering could have its downside. Could these GM foods affect health, for example? To wit, as my Honourable friend, Dr TANG, mentioned, soya beans containing genetic material from Brazilian nuts causes reactions in individuals who are allergic to nuts. Experiments on rats have shown that GM potatoes did damage certain organs and depress their immune system. Transgenic plants may contain antibiotic resistant marker genes. These, when ingested by animals and human beings, could be transferred to bacteria, making these bacteria resistant to antibiotics. In short, you like it or not, problems will invariably arise. Yes, risk may be low, yet low risk is not no risk.

It is obvious, therefore, at this stage of development and application of genetic modification, that it is not possible to provide any guarantee against, nor assurance for, mistakes. And that where there is uncertainty, the precautionary principle should always be applied.

What can we do? Looking at it from a drastic way, we can ban GM foods. Yet while many potential benefits do exist and that it could be a way forward to feed the world given further and proper scientific research, should we suffocate such important scientific development at this early stage?

A less drastic approach should be to look at GM foods in four directions: firstly, promote and enhance proper regulated scientific research; secondly, proper regulation of GM food production; thirdly, proper public education on the benefits and problems of GM foods; and finally, allow the public to have a genuine choice on consumption of GM foods.

Madam President, unless all GM foods or foods containing GM materials are made known through proper mandatory labelling, anything less, such as voluntary labelling, is only a farce.

Madam President, Dr TANG has mentioned that many countries around the world, in particular the European Union, have imposed laws to require labelling of some GM foods, and the list is ever enlarging. I shall not be repeating this, suffice it to add that even Canada, that has been keen on voluntary labelling, is now having second thoughts.

Let me stress, Madam President, that mandatory labelling is not an indication of safety. It is the provision of proper choice. It may be argued that compulsory labelling will put excess pressure on retailers, in particular when the genetic engineering was not identified at source. This may well be, for example, the case especially for food from the United States where food producers are unwilling to separate GM soya beans, for example, from non-GM type.

Madam President, in supporting mandatory labelling, I would like to stress that control and regulation on GM foods and ingredients must be taken at governmental level and not just on companies of a country. It must be the prerogative of any responsible government to ensure, however difficult for their producers, that consumers have the right to expect that all foods are labelled as to whether or not they contain GM substance derived products.

With these remarks, I support the original motion.

MR MICHAEL HO (in Cantonese): Madam President, whether we like it or not, accept it or not, GMF have landed in Hong Kong. They are by no means anything new to our community. As indicated in the information provided by the FDA, five companies have successfully produced eight different types of GMF in as early as 1994.

Many agriculturalists have all along been using a variety of methods like stem grafting and cross-breeding to improve the quality and yield of crops. We have been eating new foodstuffs produced in this traditional way for a few decades, such as mandarin-orange, apple-mango and so on. As regards the production of GMF, however, it is the application of the latest biotechnology to improve both the yield and the quality of agricultural produces. Moreover, in order to reduce wastage, instead of using insecticides, antiseptic genes are inserted into crops to enhance their resistance to diseases. So, what we have eaten may not be insecticide residue but some antiseptic genes the effect of which on human health is still unknown.

As a matter of fact, so far nobody knows what effect would GMF have on human health, nor does anybody know whether GMF are safe for consumption. Many food products containing GM substances are available for sale to consumers in our markets, but so far people are still debating vigorously the safety of GMF and conclusion has yet to be reached. What is most worrying is that nobody knows whether the consumption of GMF would impact on human health or not. As a member of the medical and health sector, I can appreciate very much the concerns of the public regarding the safety of GMF. For this reason, I think it is time for the Government to shoulder its responsibility and take actions.

In its answer to a question seeking a written reply raised by an Honourable Member in May last year, the Health and Welfare Bureau said it was not sure whether GMF were available for sale in Hong Kong. In this connection, while the Bureau has not indicated in its reply that it would conduct any tests on the GMF available for sale in Hong Kong, the Government likewise has not taken any sampling initiatives. It was not until October when a non-governmental environmental protection organization published its research results that the public became aware of the availability of GMF in Hong Kong. Actually, the environmental protection organization has only tested 10 food products bought from local supermarkets. I believe there are far more types of GMF available for sale in Hong Kong than that in reality.

Madam President, the responsibility for GMF and food safety-related matters has been taken over by the newly established Environment and Food Bureau. As I can remember, before "scrapping" the two Municipal Councils the Government made a lot of promises, including discharging more efficiently the duties in this connection and enhancing the co-ordination among government departments. This motion debate on GMF has provided a good opportunity to see whether the Government could really honour its promises, and whether the new Policy Bureau could discharge the duties better.

At present, the people of Hong Kong are mainly concerned about the safety of GMF. Actually, many allergens are also found in natural food products, and that is why some people are allergic to peanuts, some to eggs, while others are allergic to prawns and crabs. Generally speaking, people could avoid the allergens concerned by refraining from eating certain kinds of foods. As regards GMF, since their appearance may not differ very much from that before genetic modification, people could hardly tell the difference by the naked eye. In the event that the GM substances contained in some foodstuffs may cause allergy in certain people, if the GMF concerned were not required to be labelled, these people might have unknowingly taken in the allergens, thereby impairing their health or even endangering their lives. This is an issue the Government cannot afford to overlook.

In order to safeguard consumers' right to information and right to choose, and to pay regard to people's concern for the safety of GMF, the Democratic Party is in support of legislating for the setting up of a labelling system for GMF. We urge the Government to draw on the experience of other countries and expeditiously submit to this Council specific GM labelling policies, specifying requirements such as when and how GMF should be labelled, what should be included in the labels and so on.

As to the amendment proposed by Mr Howard YOUNG, after careful consideration the Democratic Party considers that we cannot render it our support. Although the effect of GMF on human beings and the environment has yet to be ascertained, it does not follow that there is no need for legislation on the labelling of GMF. While the amendment has focused solely on encouraging food manufacturers to label their GM food products, we are afraid that encouragement alone would not have any effect if there should be no legal liability on the part of the food manufacturers.

One point I must emphasize is that it is based on the need to safeguard the health of the public, the need to enable consumers to exercise their right to information and their right to choose, as well as the principle of sustainable development that the Democratic Party has expressed concern for GMF. For this reason, we urge the Government to expeditiously carry out research and formulate legislation on the labelling of GMF.

I so submit.

MR LAU KONG-WAH (in Cantonese): Madam President, compared with topics about the economy, unemployment and pollution, GMF may appear irrelevant. But I think it is an issue that needs to be dealt with quickly. It can only be more and more difficult, for the simple reason that it will interact with other issues such as economic issues, unemployment and the environment. All of these together will affect our daily lives and our foods.

When we heard that the CLINTON scandal and the gene identification process needed after interpretation of the Basic Law by the National People's Congress involved genetic engineering in evidencing we can tell how important and how close it is to us! The natural evolution process of human beings may be erupted or advanced in a matter of decades!

Hong Kong people may not know much about goats and they may not have a long history in consuming mutton. But we should recall three years ago, a pup named Dolly was duplicated from a goat and it was shown to the world on the television screen. To keep it company, another pup called Polly was likewise duplicated! Other duplicates called Gary, Emily, Lily or Rita may be seen running around soon, thanks to genetic engineering. *(Laughter)* The creature representing Remy Martin or the sphinx may not just be a trademark or a sculpture. The concept of man as made by God may not hold true any more. Men created through genetic engineering may come true soon.

This Council has set up a Bills Committee on Human Reproductive Technology Bill. Miss CHAN Yuen-han from the DAB is our representative in the Committee. She has been telling us how to stop the idea of commercial surrogate mothers. But times have moved. When giving birth to a baby can be done without surrogate mothers, I think members of the Committee may feel somewhat pressurized in their work!

The "Digital" thing that dominated the last century and the "DNA" thing that may dominate this can merge to change things in such a quick pace that we may lose our sense of direction. The value of life and the meaning of life may have to be recast.

The transfer of genes from plants began early. In fact, plant-to-plant and animal-to-animal transfers are possible. Plant-to-animal transfer can also be done. So, in future, we may not be able to tell plants from animals. Madam President, while a marriage between two persons can be terminated through a divorce if they do not like each other any more, the marriage of genes stays for good. A wrong match may not be reversible. Can vegetarians tell whether the food they eat contain animal genes or not? What changes in sparrows will take place when they eat GM plants? Do health foods consumed by Hong Kong people contain GM elements? Are pills said to be made from deep sea sharks manufactured by inserting genes from sharks that do not live in deep-seas? Will it be more difficult for patients to follow the advice of doctors to stay on diet because gene-transfers are done secretly? Does it mean much to say some foods contain no additives? Therefore the safety net for our food should be enlarged. The newly set up Environment and Food Bureau should take up the responsibility of food safety in this respect. When we were confronted with the avian flu, we knew we needed a new policy bureau to co-ordinate our work. Developments in genetic engineering should make the new Bureau think in broader terms. If it refuses to advance itself it will only repeat the blunder during the last avian flu. Statutory control should come soon.

We certainly should not exaggerate the negative aspects of GMF. I will not call it food that is cursed. But we should not underestimate its influence either. The crux lies in the uncertainty about the future. When how one is born can be fundamentally changed, traditional knowledge about life is changed. The famous Longging tea from Hangzhou, ginseng from Jilin, glossy ganoderma from Guizhou, all in Greater China, may be manufactured in Fotan at Sha Tin, Hong Kong. Hence traditional knowledge about what agriculture and animal husbandry is also changed. Developments in genetic engineering and the spread of GMF will quicken due to globalization. We suffered from large-scale money flow before. We should not repeat our suffering due to large-scale gene flow. We must not allow people to play Russian roulette in the biological context!

Madam President, GMF may bring immense hope but they may also bring harm. It may not be easy to distinguish what is harmful from what is not, or what is blessing from what is not. The future is going to be fascinating, but it is going to be disorderly as well! But one thing is sure: our right to choose must be upheld. And the only way to guarantee that right is legislation. Therefore, the DAB's choice is the original motion. Thank you, Madam President.

PROF NG CHING-FAI (in Cantonese): Madam President, as we enter this millennium, human history also enters a new era. In the past century, technology mastered by mankind advanced by leaps and bounds, continuously making innovations. The GMF under discussion today means artificially transplanting genes of a certain organism to another organism so that the latter will replicate characteristics of the former organism. As to whether this new biotechnology is bringing blessings or disasters to humankind, we do not yet have any final conclusions.

I am sure the mad cow disease scare in the United Kingdom in 1996 is still fresh in our memory. The British ground sheep bones into powder and used it to feed their cattle. Since some of the sheep had contracted the mutated protein PrPSc; so mad cow disease broke out. To date, some countries or areas including Hong Kong still forbid people who had resided or stayed in the United Kingdom during the mad cow epidemic to donate blood, so as to avoid or reduce the sequelae brought by mad cow disease.

Madam President, should we discuss new technologies just because of this incident? I think the development of human society is based on creativity and enterprising spirit. History has demonstrated that when the level of technology reaches a certain stage, it often brings a new turning point to the further development of human society; but there is no denying either that certain technology, if applied inappropriately, can also bring disasters to mankind. From the development of gunpowder to nuclear technology today are common examples. Hence, as to the question of whether we should accept some new technologies, we can get different answers from different angles and points of view. However, I think we should face new technology with a prudent and open attitude.

GMF have aroused a wave of discussion internationally. Some experts point out that GMF technology mainly applies genetic alteration technique to introduce genes of particular economic value into plants to get high yield, excellent quality, new crops resistant to harms of disease and pest, and new breeds. At present, there are three kinds of GMF. The first kind involves genetic addition. For example, an anti-pest gene is added into corn to make the corn immune to the harm of corn insects. The second kind involves genetic reduction. For example, controlling the hormones of tomatoes delays their ripening to meet the requirement of a longer marketing time. The third kind involves changing the biochemical constitution of the GMF. For example, in order to enhance the carotin of a certain food, we simply enhance the carotin gene in the food itself to achieve the purpose.

Today, the number of GM plants entering the farming industry of the world has exceeded 500 kinds. Among animal meats, we already have GM pork, lamp, beef and fish. Scientists are now even experimenting with GM animals carrying human genes to provide mankind with transplantable organs.

On the other hand, scientists are not few in number who cite various examples to show that GMF seriously endanger and harm our health and the environment. Take the example of implanting certain crops with genes of pesticide toxin and herbicide, and so on. If humans eat these foods containing genes resistant to antibiotics, eventually the antibiotics will lose their healing effect, or produce allergens leading to allergy; or because of the implantation of genes of other organisms, new and unknown genetic combinations may be produced. Besides, GMF may lead to ecological imbalance, causing irreparable harm.

To sum up, genetic engineering technology is a new technology. We have not yet fully grasped or reached consensus on its influence. Some of the daily consumed processed foods have already added in GMF as ingredients. Consumers should have the right to information about this and thereby exercise their choice. United Nations Food and Agriculture Organization (UNFAO), Organization of Economic Co-operation and Development (OECD) and World Trade Organization (WTO) are holding discussions on GMF. The Government of the Hong Kong Special Administrative Region (SAR) should pay attention to this, follow up on the newest development in GM technology, understand

international control and examination and testing of GMF, and thereby formulate a labelling system on GMF. However, I must point out that to achieve this goal, the difficulties involved are not few. This is because processed foods contain substances of complex ingredients. A reasonable and workable labelling system requires more academic research and support. First of all, we have to establish a complete genenorm databank. We also have to conduct hazards tests and experiments and risk assessments on GMF. For this reason, I suggest that the Government should expeditiously establish a task force, including academics of relevant fields in Hong Kong, and formulate a feasibility plan on how to establish a labelling system for GMF, thereby paving the path for legislation.

Madam President, I so submit in support of the original motion.

MR CHAN WING-CHAN (in Cantonese): Madam President, the introduction of GMF into the produce market in recent years has become a new trend. Undeniably, scientists' original conception hoped to enhance the quality and quantity of agricultural produces through genetic modification as a solution to the food shortage crisis. Despite the tremendous breakthrough in genetic engineering technology in the last few years and scientists' further understanding of genes and their application, there is in fact still a long way to go before we can fully understand all aspects of genes.

Many countries in the West have begun research on GMF, but there is no definite answer yet as to how GMF actually affect the human body and natural ecology. Hence it is still an unknown whether genetic modification is truly a blessing or hazard to mankind.

Most European countries have already put in place labelling systems for GMF. Whether they are doing this for prevention or rather for economic purposes, we cannot tell. However, there is one thing that we can be sure of. With a labelling system, citizens can know the products better and thereby make informed choices. From the consumer's point of view, this is certainly a good thing.

Madam President, Hong Kong people in recent years are paying more and more attention to their health. Natural foods, vegetarianism and the like have become the trend. But actually how many consumers at present know whether

the natural foods they eat are "entirely natural", or have undergone artificial modification? If natural foods are not natural, and eating vegetarian may take in pig, cow, lamb, or fish genes, this must be a very big mockery on people advocating a new food culture.

The DAB and the Hong Kong Federation of Trade Unions (FTU) will not regard GMF as scourges, nor do they intend to list them as unhealthy or second rate foods. However, we see it from the citizen's point of view, whose concern for the ingredients and constitution of foods is natural and reasonable. The citizens have the right to know, and the right to choose. Their reasons for their choice may be health, may be taste, and may also be a question of religion. This may sound a bit strange, but come to think carefully about this. If we eat a bowl of jellied bean curd, only to discover afterwards the soy beans contain certain meat genes, how do we feel? How do some people who abstain from meat or religious followers who abstain from certain meats feel?

The DAB supports introducing legislation to establish a labelling system for GMF. At the same time, coming back to the situation in Hong Kong, the DAB has criticized more than once the existing loopholes in the present food labelling regulations and their lax enforcement. We have conducted several surveys concerning the sale of expired foods in supermarkets, the result of which shows that the Government is not keen on enforcing the food labelling law. Furthermore, laboratory testing work on food is still very backward in Hong Kong. The incident of dairy products imported from three European countries which were contaminated with dioxin exposed in particular the fact that Hong Kong actually does not do such tests. Obviously, Hong Kong's work on food safety in the past years has not been satisfactory. The DAB thinks that while it is important to establish a labelling system for GMF, this is only one ring of the chain in the whole system of food safety management. What is more important is how we examine the deficiencies in our present food labelling and laboratory testing work on food, or even the operation of the entire control mechanism for food safety.

Madam President, the Health and Welfare Bureau in charge of the work for food safety in the past often used expressions like "no evidence to prove" and "the present mechanism is fine" to defend the inadequacy of the current food labelling policy, whereas unfortunately different events caused by foods happened one after another in Hong Kong. Today a new Policy Bureau under the leadership of Secretary YAM KWAN Pui-ying enters the stage, "bearing a

proper standard" in the supervision and control of food safety. We hope the Secretary will earnestly and vigorously bring about a little result for the citizens. At least there should be research and testing examinations conducted on GMF to show what effects GMF have on human health, and the establishment of a labelling system for such foods.

Finally, the FTU and the DAB support the original motion. The practice proposed by Mr Howard YOUNG for the Government to provide guidelines to encourage food manufacturers to voluntarily label GMF, and his deletion at the same time of the wording demanding the Government to strictly supervise and test GM foods locally on sale, and so on, do not in the opinion of the DAB and the FTU provide real protection to consumers; hence we oppose the proposed amendment.

Madam President, I so submit.

MISS CHRISTINE LOH: Madam President, I am distraught to find out from the news that Nestle Crunch, as a chocolate, has genetically-modified (GM) content. It happens to be my favourite brand of chocolates. I had always assumed that it should not have GM content because Nestle is a European company and in Europe, they do not use GM content in their chocolate crunch. But now, I find out from one of the green groups here which have tested it and, unfortunately, I will no longer be able to buy Nestle Crunch in Hong Kong to consume. Madam President, I am sorry to share some of my unusual eating habits with you, but I think that it does reflect consumer choice.

I am an avid reader of labels because there are certain foods that I cannot eat. It is not because those foods are unhealthy or they have been found to cause harm to human health, but there are certain foods that my body cannot tolerate. So I always read labels when labels are available. I prefer to buy foods where labels are available, to see whether they have any dairy milk content. If they do, I tend not to buy them because I do not have the lactase to digest dairy products. For some reasons, I also cannot eat oranges, so again I try to look at labels to see whether those foods contain oranges. Now, none of these products are bad for human health, and some would even say that they are very good for human health, but I would like to know, as a consumer, whether I should eat them or not.

As I read a lot of labels, I find that actually Hong Kong has a third-world food labelling system. We almost do not have one. In some cases, like in eating and cooking salts, the information that we have on the salt is less than what is demanded on the Mainland.

Thus, my main point to the new Secretary, who joins us for the first time today, is that I hope that in the foreseeable future, she really will take a good look at the whole food labelling system. We cannot be a world-class city, which is Hong Kong's vision, if we have a third-world food safety and food labelling system. People are going to continue to demand higher and higher standards, so we cannot overlook something that is so fundamental to us: food. By the way, since I have the opportunity, I would also say water. We are going to drink a lot of bottled water, especially since our drinking water is rather suspect. We should know exactly what kind of minerals and chemicals may be in it. But we do not know. We just buy mineral water.

Now, coming to GM foods, like my desire to know whether there is dairy content or whether there is orange content, I would like to know whether there is GM content. It is up to me to decide whether I want to take the precaution by not consuming those products for now. Maybe in some years to come, when I feel comfortable that indeed GM content will cause no long-term health effects, I might be very happy to eat it. But I want to know as soon as possible. I think I have a right to know, and I think the Government can help, which is why I will not support the amendment.

I find it also rather strange that the Honourable Howard YOUNG, when he first started to speak, said that the Liberal Party acknowledged that in the years to come, we probably will have a legislated system. Why can we not say that the aim is for a legislated system? Madam President, every Member of this Council knows how long it will take to even prepare the legislation. Therefore, I prefer the original motion that makes it clear to ask the Government to expedite to have such a system.

It does not mean that we are going to draft a lousy legislation that has lots of loopholes. It simply means that the message is loud and clear that we are going for a legislated system. It is going to take time to do more research, to draft the legislation and to do public consultation with the draft, which is what we are doing every day with every other piece of legislation. And then of course, we need to have a supervision system that goes with the legislation.

Even if the Government were to stand up today and say, "That is what we are going for", you and I know, and every Member in this Council knows, that this could be something two or three years down the road. And again, if we look at experience, in other countries in Asia that have passed legislation — the Koreans, the Singaporeans, the Japanese — look what they have done, they have set out a timetable. They take a decision to say "we are going for a legislated system" and then they have a timetable. Usually, it is three to four years away. I do not see why Hong Kong cannot do that. And therefore, I see no reason at all to support the amendment.

We are not arguing really about whether we need to know more about testing and so on. If the Liberal Party accepts that in the years to come we are going to have a legislated system, let us start now. And let us not say that all these other people are making unwarranted legislation. I think that the Japanese have thought about it, and the Singaporeans have thought about it. If we say, "Well, the system right now is not as comprehensive as it could be. People are still arguing about some details", frankly, there is enough information for Hong Kong to have at least an initial system. And it would be quite credible by international standards. In fact, what is less credible is for Hong Kong to continue to deny having such a system.

Hence, what I would urge Members to do, since the Liberal Party is for legislation in the years to come, is not to vote for the amendment. Let us just go for the original motion because it is simple, it is clear and I really do think that we should get on with it sooner rather than later.

MR HUI CHEUNG-CHING (in Cantonese): Madam President, when we are still not clear what GMF are and what effects they have on human beings and the environment, many GMF regularly consumed by consumers like soya bean milk, jellied bean curd and ice-cream have already landed in Hong Kong and "found their way into homes and places". According to a survey conducted by an environmental protection organization, among foods sold in Hong Kong that are related to soya beans and corn, one tenth to three tenths of them belong to GMF. Even though there is a trend of increase in the sale of GMF in Hong Kong, the Government has not been quite enthusiastic so far to legislate on a relevant labelling system, mainly because there is no final conclusion yet on whether or

not GMF are harmful to human beings and the environment. The Government also states that GMF on international markets have gone through strict safety assessments by the local food industry and the control authority of the place of production, so there is no urgent need for legislation on a labelling system.

I am afraid the Government has misunderstood the purpose of the labelling system. The HKPA's proposal on legislation to enforce a labelling system has nothing to do with whether GMF are harmful, and we have no intention to ban the sale of GMF. The HKPA only hopes a labelling system can provide some more information to consumers, to give them one more choice. This should help allay consumers' worries so that they need not rack their brains to distinguish which are GMF. It also helps wholesalers and retailers regain the confidence of consumers in certain food items. This is why both big supermarket groups Park'n Shop and Wellcome hope the Government will implement a labelling system as quickly as possible. Besides, if the Government can do it before GMF are marketed generally, it will cost less and avoid disturbing the people as best possible.

In fact, it is rather questionable whether the assessments done by the control authority of the place of production are strict on GMF before sale. At present, most GMF and raw material come from the United States, and the principle applied by the United States in assessing whether the GMF are safe or not is that of "roughly similar". If the manufacturer can give evidence that the GMF is "roughly similar" to the corresponding conventional food, then the GMF are assumed to be of similar degree of safety and require no further tests. The problem is the relevant assessment criteria are vague and have been subject to criticisms by scientific organizations, environmental protection groups and international consumer organizations. Moreover, the "roughly similar" assessment criteria are only applicable as to whether the foods concerned are harmful to the human body; it does not touch upon problems not directly related to human health, like social morals, animal rights, ecology and the environment. As there exist in GMF many unknowns of variable implications, legislating on a labelling system should help coerce manufacturers to intensify their research in order to clarify the relation between GMF and humans and the environment.

Madam President, 15 EU countries have already made legislation on the implementation of labelling systems for GMF. In early 1999, the Indian high court also announced a temporary ban on field experiments of GMF. In recent

years, many environmental protection standards of the Hong Kong Government have followed those of the EU, which shows that the practical experience of the EU standards are worthy of our Government's serious attention. The Government should also agree that there is a lot to learn from the EU in formulating and establishing a labelling system on GMF.

Madam President, I so submit to support the original motion.

DR RAYMOND HO (in Cantonese): Madam President, I learned from the newspapers a few days ago that a certain brand of chocolate crunch contains emulsifier produced from GM soya beans. Though I seldom eat such snacks, my great favourite soya bean milk has been found to contain GM ingredients. This is why I am also very much concerned about news on this matter. The question of whether GMF will affect human health, the environment and ecology has led to great controversy in different parts of the world, and caused worries among some consumers. Of course Hong Kong citizens are also much concerned about the development in this area. If recent reports in the newspapers are true, then Hong Kong citizens have possibly eaten unknowingly foods containing GM ingredients.

The effects of GMF on human beings aside, I think that consumers do have the basic right to information and the right to choose. This is especially so when we are making our choice in the purchase of foods, when we want to know from the packaging labels whether the ingredients meet our needs before we decide to buy them or not. On the same principle, foods containing GM ingredients should be labelled on their package to facilitate consumer decision.

To protect our citizens' health, it is also necessary to implement a labelling system on foods of GM ingredients. GMF may carry poisonous or allergen substances. Without proper labelling, some uninformed people allergic to certain foods may find their health or even life threatened because of having eaten allergens. Though there have not been such cases to date we must adopt effective measures to prevent such incidents from happening before they do occur, and a labelling system is one of the desirable methods.

To implement a labelling system on GMF, I think the most effective means is legislation, so that the scope of the food labelling law can be extended to cover GMF, and not to rely merely on encouraging food manufacturers to attach labels

to such foods. Only through legislation can we effectively make food retailers and manufacturers list in labels the GM ingredient content of foods. However, if we were to rely on the concerned companies' self-discipline to attach labels, we might not be able to have the co-operation of all the companies, failing sufficient protection for the general public.

Madam President, the Department of Health stated earlier on that in considering any new control measures or labelling stipulations the Government must refer to opinions of international authoritative organizations, like the WHO and the Food Code Committee under the UNFAO. This we can understand. However, when the world has not yet decided on a unified standard on GMF, GMF are expected to continue to pour into Hong Kong and there will be no protection at all for our citizens' health. Therefore, the Government cannot sit with folded arms; it must adopt appropriate measures to protect our citizens' rights and health.

Madam President, I so submit.

MR BERNARD CHAN: Madam President, advanced technology has brought us a completely new way of life. Thanks to the scientists, we are now able to live in a convenient and comfortable way. However, this ever-ongoing, progressive, or even to say, aggressive advancement of scientific discoveries have us worried. How far would it go? What consequences, what unpredictable impact would we have to bear in the end? Many questions still remain unanswered.

The fact is that all this is beyond what we have known so far. We have not evaluated what impact GM foods are going to bring, what side-effects they will have.

It is absurd to imagine that customers in an information era of today are not told what they actually purchase. Consumers should have every right to be informed of what they consume. It is the basic right of consumers. At present, there is still insufficient evidence to prove the safety of GM foods, even in many other advanced nations. What we are concerned most obviously is an urgent health issue.

In genetic engineering, genes are transferred from one organism to another. This gene transfer results in production of new proteins. If a new protein happens to be one that causes an allergic reaction, food that was previously safe for a person could become dangerous for him or her to eat. In some extreme cases, the allergic reaction could be fatal.

In Britain, GM products in the pharmaceutical field are of great potential therapeutic benefit. They are licensed and controlled under the Medicines Act. They are, therefore, subject to separate and rigorous tests, including extensive toxicological testing and comprehensive risk assessment. But in Hong Kong, so far, there has been no legislation to cover this new concept and production of GM foods. Neither is there a law that controls GM materials used for medical purposes. At present, our law only covers the general safety of medicines.

It is not only a matter of food safety. Transferring one or more genes from one species into the hereditary blueprint of another species poses an ethical problem. As some environmentalists have concluded, one day we will never know what exactly we are eating because of inter-inserting of genes from one to another, and between plants and animals. Scientists can now produce frost-resistant crops by selecting and inserting a gene with anti-freezing properties, such as from an Arctic fish. So, a vegetarian may end up eating a potato salad with fish genes. This is something we would never know if the foodstuffs that we purchase were not labelled.

Madam President, it is against nature to insert animal genes into plants or *vice versa*. The technology of genetic engineering radically recreates and redesigns the original hereditary blueprint of a creature. The ecological balance is being destroyed. This is morally unacceptable to certain religious groups. We can make a fish no more fishy, but is it still a fish? Would you accept planting genes of a human being into a monkey to make it more clever? I can hardly imagine what kind of creatures we will become one day if this gene-planting technique were widely adopted.

I urge the Government to formulate a law to regulate the importation of GM materials, including crops, foodstuffs and medicines. As genetic manipulation is a vast experiment with unknown risks, and since most of the food sold in Hong Kong is imported, the introduction of a labelling system is a must.

Madam President, I support the original motion. In addition to that, I would also like to add a point to echo on the comments made by my Honourable colleague, Miss Christine LOH, on our current labelling system. As many of you know, I am a health freak and I do share the concern with Miss LOH when I do my grocery shopping. I do look at labels but they are often quite misleading. There are different brands of orange juice for sale in the supermarket and they all say that the juice is fresh. But how much of it is exactly fresh and how much of it is genetically fresh, I do not know. In the United States, you can see a clear labelling which tells you exactly how much sugar content and what else. But in Hong Kong, you do not get that. We want so much to control the GM products, but I think we have a long way to go, and we may have to start from some simple, basic products being available in the market.

Thank you, Madam President.

MR LAW CHI-KWONG (in Cantonese): Madam President, with the emergence of GMF, we have to consider the relevant questions at three levels. Firstly, before we can ascertain whether GMF affect the human body, should we allow these foods to be sold in the market? Secondly, if we allow GMF to be sold in the market, how do we protect consumers' right to know, to allow them to make sensible choices? Thirdly, is genetic engineering consistent with the principle of sustainable development?

Madam President, with regard to the first question, we have considered the views of different countries and organizations. Environmental protection organizations like Green Peace and Friends of the Earth International all object to the sale of GMF in the market before there is evidence to support that they are 100% safe, whereas scientists in support of GMF think that in the past 10 years we have found no evidence strong enough to show GMF are more dangerous than conventional foods, so before any evidence is found, we should allow their sale in the market to continue. This is "trying to go south by driving the chariot north": two completely different points of view. We have made reference to measures adopted by other countries and found that at least 23 countries are presently enforcing different degrees of labelling, including among Southeast Asian countries Japan and North Korea, which import the most plants and foods from the United States. Some of the countries, in addition to formulating labelling law, also establish mechanisms stipulating foods before sale must go through strict safety assessments conducted by the food industry and control

authority of the place of production, to minimize the effect brought by GM foods and plants. Even the most vehement opponent, the United Kingdom, only formulates labelling law on GMF and strengthen their supervision work, to protect consumers' rights and interests, without prohibiting the sale of such foods.

Let us look at the distribution of GMF. According to 1998 figures, more than 20% of the corn and soya beans produced by the United States are genetically modified. And the United States is the major exporting country of corn and soya beans. Every year, at least more than US\$1.5 billion worth of raw produces of the United States are exported to Southeast Asia. There are also innumerable processed foods that have GM ingredients unwittingly added into them. If we were to prohibit the sale of GMF, it would be downright impracticable and a nuisance to the people. Hence, on this question, prohibiting the sale of GMF is basically not a good method. However, I think we must let consumers have enough information to make their choice. In this connection, the Government is duly responsible. It has to take up the responsibility of research, public education and supervision. The Canadian task force for GMF labelling have given consideration to making consumers better informed about GMF: It has employed various means such as the establishment of a national centralized databank on GM plants and foods, amendments to legislation governing advertisements and enhanced propaganda via the media and the Internet. The Democratic Party thinks all the above plans are worth consideration. Nevertheless, the most direct way is to label on GMF.

The labelling system to be designed must be able to perform two functions. First is the protection of consumers' right to information. Second is its ability to discern possible potential effects. I believe it is most suitable for the Environment and Food Bureau to be responsible for the formulation and enforcement of the labelling system, and the key lies in how best can the said functions be ensured to be brought fully into play. We can look at the practice in Canada and the United States. If they think a certain food has gone through strict pre-sale safety tests by the control authority of the place of production, it should be regarded as safe. Hence, unless there is a great difference between that food and its conventional counterpart, there is no need to label it. However, some European countries and the International Consumers Federation think this practice cannot protect consumers' right to information. EU countries demand compulsory identification labels on foods with even one ingredient 1% of which is genetically modified, and strict safety tests before sale.

Japan is a major importer of United States soya beans and corn. In the last century, that is, in August last year, it drafted a labelling system to be implemented full-scale in April next year, stipulating all GMF must first pass safety assessments and all foods produced from GM soya beans, corn and potatoes must be labelled; even GMF that cannot be tested for technical reasons must carry labels reading "May contain genetically modified ingredients".

The South Korean Government also announced in July last year having passed a law on GMF. Opponents think the all-out labelling drive is meaningless and reduces the alertness in people actually affected. According to them, the implementation of labelling legislation reflects each country's scientific, economic, and value orientations and their cultural characteristics, and the measures they take and the thinking they have about the matter in various aspects.

Finally, the Democratic Party hopes that the Government, before discussing with the people whether GMF development agrees with the principle of sustainable development, can help the public understand several questions with a neutral attitude: first, the quantities, categories and places of origin of foods with GM content in the Hong Kong market; second, the potential good and effect of GMF on human health and ecology; third, the trend of development of genetic modification techniques; fourth, results of tests and experiments on GMF in different parts of the world. So far, the Government has not had a clear standpoint towards the establishment of (control over) GMF, and has delayed action time and again on recommendations made by the Consumer Council. The Democratic Party is disappointed with the Government's attitude. We urge the Government to submit to the Legislative Council within the year a work programme and timetable for the matter to account for itself to the public.

I so submit.

MISS CYD HO (in Cantonese): Madam President, in fact, the motion today is not asking too much for we are only asking for the attachment of labels. We have not asked for the prohibition of the sales and production of GMF, but only the attachment of labels to uphold consumers' right to information. This is actually our standard consumption behaviour. When we buy paper, we will gladly buy paper labelled as recycled paper. Knowing that it is an act to support environmental protection, we will buy such paper even though we have to pay a

bit more. Sometimes, when we buy vegetables in supermarkets, if we know from the labels that the vegetables on the shelves are organic agricultural products, we will gladly buy them although we have to pay more. When we buy clothes, we will know how to handle and wash the clothes by reading the composition label. This has become a very common everyday habit of we consumers. I do not know why it is so difficult for us to ask for the attachment of labels to some GMF. The consequences can actually be very serious although we fail to prove the effects of these food on mankind and our environment. Nobody knows these now. Today, we are simply asking for the protection of consumers' right to information and to choose. There are some really bold people who have plenty of adventurous cells and they can play "bungee (clumsy pig) jump". However, I am rather timid and I dare not play "bungy jump", and I am not willing to be blind-folded and regarded as a jumping "clumsy pig". Therefore, I hope that the labelling system can be implemented as soon as possible so that we will know what we are buying or eating.

Many colleagues have just explained why we are so concerned about GMF. The most important reason is that we do not know the consequences yet. Genetic modification is only a food processing process, but also a process that changes the natural ecology. We do not know what effects it will have on human health and the environmental ecology at the end, but the effects may run out of control and it may be too late for us to take precautions or deal with the aftermath by that time. Certainly, the rapid development of biotechnology can improve the production of food and bring about revolutionary progress, but it will also affect the public's health. At present, mankind has grasped very little information about this. We have only made a humble and modest request for the attachment of labels to such foods. What is the merit of labelling? At least, every consumer will share the responsibility for risk evaluation as we consumers have to be responsible for our acts. Moreover, the public will know the development of GMF, and more importantly, they will know both the pros and cons. We can establish a database and if something happens in future, there will not be a lack of monitoring, data, information and policy as Members have said, and we will not be at a loss. We are really worried about this.

I would also like to talk about the testing of GMF. Friends in the Green Peace told us that the Faculty of Biology of the Chinese University of Hong Kong is carrying out tests — it is fine to carry out tests because scientists have to conduct researches in order to positively improve the daily lives of mankind, and this is a good thing — but it is worrying that they are carrying out such tests

outdoors. What is the difference between carrying out tests indoors and outdoors? When tests are carried out outdoors, birds can eat those plants and seeds while wind and rain can carry them away. Scientists have actually infiltrated these GM items into the natural ecology before obtaining our consent. Do scientists have the right? Does it mean that scientific researches can be made to change our environmental ecology without obtaining our consent? The Government must look squarely at this.

I also hope that scientists will adopt a responsible attitude towards scientific researches. The pursuit of knowledge seduces and everybody wants to find out how he can make a rash advance and attain a breakthrough so that he can compete against God and play the role of God. Yet, what will be the consequences? In my opinion, a person in pursuit of knowledge and breakthrough should make a moral choice carefully.

In the United States, a producer of GMF sues a neighbouring organic farm because the seeds of the producer have been blown into the organic farm, and the producer claims that the organic farm has usurped the patent for the GMF. In fact, the organic farm has suffered greater losses because its selling point is organic natural food, but its business has been ruined. I do not want anybody to carry out experiments with unknown results and uncontrollable consequences that may unwittingly affect our environmental ecology.

Madam President, in the past 1 000 years, especially in this century, there was rapid technological advancement and it was so rapid that mankind could hardly grasp and accept it, and it had surpassed our moral standards. In 1962, Rachel CARSON published a book entitled *Silent Spring*. I have playfully interpreted "silent" as "deadly". With our abuse of pesticide, we have not only killed many vermins but also many birds. There were no singing birds in Spring that year, it seemed a fairly simple matter but the ecology was destroyed. As there are no birds to eat the vermins, there will be more and more of them, and stronger agricultural pesticide has to be used. As a result, the vicious cycle of ecological balance begins. Technology originally helps to make the lives of mankind easier and cope with Nature, but if we abuse technology, it will most probably become the greatest threat to the survival of mankind. Today, we are only asking for the attachment of labels by way of legislation.

Madam President, I support the original motion, and I hope that legislation will be made as soon as possible. Thank you.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, I agree with what Miss Cyd HO said. We should set up a labelling system for GMF. This is a simple but fundamental request indeed. We make the request to meet the aspirations of the people for being given the rights to choose and to be informed. As Miss Cyd HO said, we are not asking that GMF be banned. The processes in genetic engineering may have latent possibilities for numerous changes to human health and the environment. If we do not let people enjoy the right to information, the right to be informed and even the right to choose, I am afraid we will be acting in a very irresponsible manner. Although research by scientists and biologists is still inconclusive, according to an opinion poll commissioned by an environmental protection organization, Green Peace, which was carried out by the Hong Kong Institute of Asia-Pacific Studies, 80% of the interviewees supported the setting up of a labelling system for GMF. More importantly, 63% of the interviewees indicated they would not take GMF. In other words, the situation showed indeed many people did not want GMF. If they are not allowed to choose so that they take GMF without knowing it, that is a grave problem. It would not have been a problem whether people know the foods are GMF or not if they eat them at their own will. But since they have indicated they do not want GMF and they are apparently forced to do something they would not want to do, which is of some significance in the sense that the act will affect their health. So, the right to information is important.

Mr Howard YOUNG's amendment suggests formulating guidelines to encourage labelling. But past experience tells us this is useless, just like the guidelines for pay cuts regarding the Employment Ordinance. The guidelines were just useless. Since a huge amount of time is needed to formulate the guidelines, I think the Government would fare better by doing what is effective, that is, by passing laws to enforce labelling, rather than making cosmetic changes.

The Government often says there is no concrete proof yet regarding whether GMF are harmful to consumers and so no regulation is needed. I think this is an irresponsible attitude. Since we still do not know much about the matter and there is a hot debate on the pros and cons, why do we not act in a careful manner? Our focus is carefulness especially when the issue is about health. If the Government does not act carefully on this issue, what kind of Government is this Government? Many biologists may say: "It would be anti-science, anti-civilization to be careful about these matters." But I very much doubt the truth in the statement. Are we being anti-technology, anti-science

when we are careful? In fact, when we say we need to be careful we do not say research in these matters must be stopped or should not be developed further. Nor do we say more findings should not be obtained. Our point is that when we cannot understand the matter fully we should be careful, do more research and tests to see if the effect brought about by genetic engineering is positive or negative. This is the kind of attitude we advocate.

So, today we are actually talking about solutions. Some biologists say GMF are the solution to food shortages. This may be a solution, but this is not the only one. What are the possible causes to food shortages, Madam President? Could it be an uneven distribution of resources? We may well have solved the problem by thinking in terms of the distribution of resources by political power. Therefore, people should not use alarmist talk like: "We have a population explosion now. There will be food shortages." Such intimidating comments should not be condoned. I think the important thing is we need to look at the food shortages closely to see if they are really food shortages. In fact, we witness some countries pouring tons and tons of food into the sea. Why? They want to maintain the prices. Actually we are not running out of food. We must not distort the issue. We need to look at the matter squarely. When we say we want to develop science, we must first understand the relationship between science, people's life and ecology. This is the most important issue.

It is a pity to see that the Government has been ambiguous in its attitude towards GMF. It says it will wait till the results of a review by the WHO are published two years later before considering legislating for control. In fact many colleagues have said that 15 European Union countries have set up a labelling system and enforced it. What are we waiting for? Why can we not follow suit? Can the Government study the positive and negative aspects of the labelling system and produce a report to tell us its findings? At present, the Government is completely silent. It does not provide any results or any information for our reference. But in Japan and South Korea, legislation is already in place. Even our motherland, the Chinese Government, is actively trying to include provisions in food safety laws to make it possible for China to refuse importation of GMF. Thus even China, our motherland, is taking action. Why should the SAR Government try to dodge the problem? How would the SAR Government deal with the problem? I really find it difficult to understand.

Indeed, many environmental protection organizations have pointed out that a labelling system is tantamount to the right to information. But regrettably, the Government is saying up to this day a labelling system is too complex and too costly. I think the Government should be more careful with its position. No matter how costly it is, we must understand what problem we are dealing with. If it is related to the health of the people we should pay for the cost. We should act under any circumstances because our health is at stake and it matters much. So, the Government should not try to scare people with alarmist talk. The attitude of the Government is crucial. It all depends on whether the Government is concerned about the health of the people and the environment, or whether it is more concerned about the investments and costs to be incurred by capitalists. Madam President, I so submit.

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

(No Member responded)

PRESIDENT (in Cantonese): Dr TANG, you may now speak on Mr Howard YOUNG's amendment. You have up to five minutes to speak.

DR TANG SIU-TONG (in Cantonese): Madam President, I would like to thank the 13 Members who have spoken. With the exception of Mr Howard YOUNG, all of them supported my motion. I was particularly glad to learn that Dr LEONG Che-hung from the medical sector and Mr Michael HO from the medical care sector supported me. Even though the three of us cannot claim to represent everyone in the medical sector, we trust we have some weight in what we are saying. I have to thank Mr Bernard CHAN from the insurance sector and Members who represent the welfare sector and other sectors for their support for the motion.

First, I need to point out that we are not discriminating against GMF or the sale of such foods. We do not mind the foods going on sale in the market. Our request is simple. We just want to label the GMF. As a member of the general public, we hope to enjoy the right to information and the right to choose. Many major capitalists think these rights are not important and I feel sorry for this. I hope to see some improvement in people's thinking. We should acknowledge the above rights as part of basic human rights.

In fact, the request is not just a request of this Council. Mr LEUNG Yiu-chung rightly pointed out that a survey commissioned by the Chinese University of Hong Kong had shown more than 80% of the people wanted to have labels for GM products. 22% of them wanted labelling to be done as a matter of urgency. A moment ago many Members mentioned the experience of overseas countries such as the European Union, Japan, South Korea and New Zealand. Even countries which do not have a labelling system at present are considering to set up the same by law later. If they cannot implement it this year, they want to do it the next. Why then does Hong Kong not do so?

Mr Howard YOUNG is trying to procrastinate by saying that more observation is needed before making any decisions. While observation is a good thing, procrastination is not. No action today may cause problems tomorrow.

Just now I spoke about curses, which are often deemed to be a vicious thing in films. Not necessarily so, but curses represent a potential danger. If the person cursed encounter no problems and may even live happily thereafter, the curse is not necessarily bad. Hence, it can be a good thing sometimes.

Our demand today is a very simple one. We just want to set up a labelling system for GMF so that people's rights to choose and to information are protected. Whether the system can go ahead depends on the deliberations of the new Secretary for the Environment and Food, Mrs Lily YAM, regarding our suggestions. It is up to her.

SECRETARY FOR ENVIRONMENT AND FOOD (in Cantonese): Madam President, first of all, I would like to thank Honourable Members for expressing their views on many aspects of the motion debate. The subject of GMF is a new one which is gaining public attention. It is also controversial. I hope this debate will generate a more in-depth study and discussion on GMF in our community.

Before discussing the problem of GMF, I would like to briefly outline the principles of the current food safety policy and its implementation:

First, the objective of the policy is to ensure that foods available on the market for human consumption are wholesome. Section 54 of the Public Health

and Municipal Services Ordinance provides that food manufacturers or sellers have the legal obligation to ensure that all kinds of foods prepared or sold are fit for human consumption. To ensure that the Ordinance is complied with, the Department of Health has all along been sampling and testing different foods (especially high-risk items) when they are imported or introduced into the market. With the establishment of the new structure, this work has been taken over by the Food and Environmental Hygiene Department (FEHD). However, whether or not a food item is safe, especially whether or not it causes allergy, depends very much on the individual. At present, there is no scientific method to prove that any particular food is "absolutely safe" and "absolutely harmless". We assess whether a certain food is fit for human consumption on the basis of our accumulated experience. Unless we find that a food product contains an ingredient which may harm human health, we will regard it as safe.

Second, in terms of implementation, the FEHD and the Agriculture, Fisheries and Conservation Department are stepping up food surveillance at various points of the food chain (including food manufacturing, importing, slaughtering, transportation, wholesaling, retailing and cooking). The FEHD also encourages the food business to adopt the "Hazard Analysis Critical Control Point" system and carry out focused surveillance of food manufacturing as a preventive measure. The FEHD also provides the public with more information on food safety.

As for the current food labelling system, according to the Food and Drugs (Composition and Labelling) Regulations under the Public Health and Municipal Services Ordinance, pre-packaged food for sale should be labelled in accordance with the provisions of the Regulations. The ingredients, durability, names and addresses of manufacturers or packers, as well as special conditions for storage or instructions for use should be listed. The FEHD ensures that food labelling is in compliance with the provisions of the Regulations through publicity, giving advice to the food business and sampling and testing food items available on the market.

GMF, the subject of today's motion debate, has aroused public attention only in recent months. In fact, human beings have for centuries been altering the genetic make-up of crops by methods such as cross-breeding, to increase the yield, to enhance the resistance of crops to diseases or to improve product quality. With the development of biotechnology in recent years, human beings have mastered more sophisticated technology to extract specific genes from some

living organisms and then copy and transplant them into crops so as to alter certain characteristics of the crops; or even alter the characteristics of some foods, by increasing or improving certain substances in the foods to enhance their nutritional value.

The subject of GMF has generated considerable disputes in foreign countries and in Hong Kong recently. Some organizations are worried that GMF may have adverse effects on the environment and the ecology in the long run. Some organizations and individuals even query the safety of GMF. Several Members have just reflected the views of these organizations. I have to stress that there has so far been no scientific or medical evidence that foods produced with genetic modification technology are inherently hazardous or pose any threats to the health of human beings. As far as we know, GMF available on the international market today have all undergone stringent pre-market safety assessments by the regulatory authorities of their places of origin. These precautionary measures are endorsed by the Food and Agriculture Organization (FAO), World Health Organization (WHO) and the Organization for Economic Co-operation and Development (OECD) of the United Nations.

Just now Dr TANG has cited some examples regarding the safety of GMF. To avoid arousing public panic, I would like to make some clarifications concerning these individual incidents with the information obtained by the experts and medical professionals of the FEHD who have looked closely into these incidents.

First, let me address the incident concerning contaminated L-tryptophan. Investigation after the incident has indicated that the toxicity of the L-tryptophan was caused by contamination by other by-products in the course of production. It has no direct relationship with genetic modification. Second, there is no scientific evidence to indicate that the use of rBST growth hormone to stimulate milk production of cows poses any threats to the health of human beings. The use of rBST is prohibited in the European Union and Canada not because of its impact on the health of human beings, but because of concern for animal welfare. Third, the problem regarding the detection of allergenic substances when Brazil nut genes were transplanted into soya beans was identified in the course of experimentation. The experiment was discontinued accordingly and the product has not been introduced into the market. This incident shows exactly that the stringent requirements adopted in the process of experimentation can indeed reduce the risks of GMF. Finally, there is so far no medical and

laboratory evidence to suggest that antibiotic-resistant marker genes may produce germs that are resistant to antibiotics and foreign countries are gradually moving towards using other marker genes in place of antibiotic-resistant marker genes.

Nevertheless, in view of the short history of GMF production by means of biotechnology, the long-term effects of these foods are not entirely known yet. Genetic modification may also pass on allergenic substances, which may affect a small number of individuals who are allergic to certain foods. In view of these, the Administration has all along been paying close attention to the development of GMF.

As for GMF labelling, different foreign countries have different approaches. Some countries are of the view that consumers have the right to know, and a labelling system will enable them to decide whether to buy foods containing GM substances. Yet, there are variations in the implementation of labelling systems in different countries. The European Union imposed a comprehensive mandatory GMF labelling system in September 1998. Recently, consideration has been given to setting a de minimis threshold and exempting foods containing less than 1% of GM material from GM labelling. However, some regard this approach as too lenient. In Australia and New Zealand, it has been decided that a comprehensive GMF labelling system should be established, but the actual implementation plans are yet to be drawn up.

On the other hand, some countries are of the view that GMF should be regarded as safe if they have already passed the pre-market safety assessments by the regulatory authorities of their places of origin. Besides, there is no scientific evidence to support that GMF are inherently harmful. Thus labelling will only be required for GMF that differ substantially from their conventional counterparts in terms of composition, nutrition or use. This is the view of the United States and Canada.

Due to the different views, the issue of GMF labelling is still under deliberation by international organizations (such as the FAO, WHO and OECD). A consensus is yet to be reached.

In the case of Asian countries and territories, only Japan and South Korea have decided to go for GMF labelling. For Japan, labelling of 28 food items (which include mainly corn and soya bean products) will be required from April

2001. Edible oils and sauces will be exempted because the GM substances cannot be detected. Labelling will also be required for GMF which are substantially different from conventional products. South Korea will require the labelling of GM corn, soya bean and bean sprout from March 2001. Other Asian countries and territories are still considering the issue and have yet to decide whether a labelling system should be implemented.

I have to point out that in considering whether a GMF labelling system should be set up in Hong Kong, we should take into account different international opinions, practices and experiences as well as study in depth the practical issues including the scope and standard of such a system, how to test GM compositions, how to set up a sampling and enforcement mechanism, the resources required, costs to be borne by the trade in complying with the labelling requirement, and whether the costs will be passed onto consumers.

Concerning these practical issues, I would like to give a brief account of the factors that we have to consider. The first factor to consider is how to define the scope and standard for regulating GMF. As I have mentioned earlier, at present, different countries have different regulations and standards. The Codex Alimentarius Commission is in the process of formulating an internationally recognized standard, but it is unlikely to be in force before 2003.

The second factor is also very important and that is how to effectively detect the presence of GM ingredients in foods. The existing testing methods cannot identify all food items produced with genetic modification technology. For example, we cannot identify whether highly refined food products like edible oils, sugars and sauces have been produced from GM raw materials. Hong Kong relies on imports for most of its food products and ingredients for food manufacturing. As most countries have not yet implemented a comprehensive GMF labelling system, in most circumstances, the importers cannot count on any documentation issued by the suppliers or the regulatory authorities of the places of origin to ascertain whether the imported food items or ingredients contain GM substances. If food traders are required by law to conduct tests on their own, there will not only be a problem regarding the accuracy of the test results, but also an increase in operating costs for the trade, which may eventually be reflected in the prices of the products.

Although I understand that Members have great expectations of the new Bureau, I must not try to win Members' applause by pledging to immediately

legislate for the setting up of a labelling system. Legislating is undoubtedly the simple part, but enforcement will be very difficult. If we introduce legislation to set up a labelling system without being sure about how to enforce it, the system will be meaningless.

Generally speaking, pre-packaged food items have to undergo many processing procedures and they consist of numerous ingredients. Some of the more common GM agricultural products, such as soya beans, corn and tomatoes, can be used to make different kinds of food items, ingredients and food additives. According to our rough estimate, there are over 6 000 kinds of food items on the market that contain soya beans, corn or tomatoes. If comprehensive and stringent tests have to be conducted to ascertain whether these food items contain GM substances, the FEHD will require a large amount of extra manpower and resources. At present, the new Department is engaged in other pressing issues, such as stepping up surveillance on high-risk food items. It is a great challenge to deploy resources effectively so that due attention is paid to all our tasks.

Madam President, today is the third working day since the establishment of the Environment and Food Bureau. One of the important tasks of the new Bureau is to review the existing food safety policy, and to see how improvements can be made. The issue of GMF labelling has been the subject of growing public concern. Although there is no scientific or medical evidence to prove that GMF are harmful to the human body, I agree that we do have to actively consider how to provide consumers with more information regarding GMF so that they can make an informed choice. The Administration will therefore study in depth the feasibility of setting up a GMF labelling system in a rational, pragmatic and prudent manner.

At present, we are studying in detail and analysing the practices of other countries, as well as their effectiveness and difficulties encountered during implementation. Later on, we will consult the Advisory Council on Food and Environmental Hygiene which will soon be set up on the issues involved. Members of the Council will include academics and experts in the medical and food research fields, representatives from the food business and members of the public. We will also keep the relevant Legislative Council Panels informed of the progress of the study.

While we are studying the feasibility of introducing legislation to set up a labelling system, the Honourable Howard YOUNG's suggestion that food

manufacturers be encouraged to label GMF items also appears to be a possible approach. At present, there are still considerable misconceptions in the community about GMF. I agree that we have to increase the public's knowledge about GMF. The FEHD will include GMF as a topic in their public education efforts so that the public will not blindly accept erroneous information about GMF.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Howard YOUNG to Dr TANG Siu-tong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr TANG Siu-tong rose to claim a division.

PRESIDENT (in Cantonese): Dr TANG Siu-tong has claimed a division. The division bell will ring for three minutes.

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

PRESIDENT (in Cantonese): Will Members please check their votes.

PRESIDENT (in Cantonese): Have all Members who are present pressed the "Present" button before their seats? All Members who are present must press this button to indicate their presence. They may decide not to vote, but they must press the "Present" button. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Kenneth TING, Mr James TIEN, Mrs Selina CHOW, Mrs Sophie LEUNG and Mr Howard YOUNG voted for the amendment.

Mr Michael HO, Dr Raymond HO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Dr LUI Ming-wah and Mr Bernard CHAN abstained.

Geographical Constituencies and Election Committee:

Mr HO Sai-chu voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Prof NG Ching-fai, Mr MA Fung-kwok, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted against the amendment.

Mr NG Leung-sing abstained

THE PRESIDENT, Mrs Rita FAN, and Mr Andrew WONG did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, five were in favour of the amendment, 13 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, one was in favour of the amendment, 23 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Dr TANG Siu-tong, you may now reply and you have 31 seconds.

DR TANG SIU-TONG (in Cantonese): Madam President, I am very disappointed with the speech of Mrs YAM. We were not saying GMF poses a danger; we were just saying we were doubtful. If the newly established Environment and Food Bureau does not take active steps to deal with the problem and causes delays, the scrapping of the two Municipal Councils would be a wasted step. I want the Administration to understand that inaction today may backfire tomorrow. If the Bureau does nothing, it will regret in future.

About legislation. If other countries can do it why can we not? Therefore, finally I must stress we should respect the consumer's rights to information and to choose.

Thank you.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr TANG Siu-tong, as printed on the Agenda, 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)

Mr James TIEN rose to claim a division.

PRESIDENT (in Cantonese): Mr James TIEN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Michael HO, Dr Raymond HO, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mr CHAN Wing-chan, Dr LEONG Che-hung, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Timothy FOK, Dr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Kenneth TING, Mr James TIEN, Dr LUI Ming-wah, Mrs Selina CHOW, Mrs Sophie LEUNG and Mr Howard YOUNG abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Miss Christine LOH, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Andrew WONG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr TAM Yiu-chung, Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Mr HO Sai-chu abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 14 were in favour of the motion and six abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 27 were present, 25 were in favour of the motion and one abstained. Since the question was agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was carried.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the meeting until 2.30 pm on Wednesday, 12 January 2000.

Adjourned accordingly at twenty minutes past Eleven o'clock.

Annex I**WRITTEN ANSWER****Written answer by the Secretary for Trade and Industry to Mr Howard YOUNG's supplementary question to Question 1**

The reply from the Trade Development Council (TDC) is as follows:

- (a) The TDC's Business InfoCentre provides information in respect of the Mainland not only in Chinese, but also in English where available.
- (b) Most of the TDC's research publications, including the newsletter *Business Alert — China* 中國商情快訊, are bilingual.
- (c) The content of the TDC's existing homepage and the new Internet Trade Portal, which will soon be launched, is mainly presented in English. However, depending on the information source, certain information in respect of the Mainland is provided in Chinese only. The latter would cover mainly Chinese laws and regulations. Because of resource constraints, the TDC is not able to translate such materials into English at present. However, for important newly promulgated laws or regulations that affect Hong Kong companies, the TDC provides summary reports of their key features and implications in both English and Chinese. The TDC is trying to seek more English information in respect of the Mainland, including official publications, for display on its trade portal.

Annexes II and III**WRITTEN ANSWER****Translation of written answer by the Secretary for Education and Manpower to Miss Emily LAU's supplementary question to Question 2**

From 1997 onwards, secondary school premises have been so designed that each student will be provided with 2 sq m of open space. In the meantime, school premises will also have grounds for different kinds of activities, for example, student activity centre, covered playground, hall and so on. For schools completed from 2000 onwards, there will also be multi-purpose grounds for students to have recreational activities. As for the existing school premises, the Education Department (ED) will provide additional facilities for them through the School Improvement Programme, so as to upgrade the standard of all facilities to meet the most updated schedule of accommodation as far as possible. However, the kinds of additional facilities each school can have will depend on the circumstances of individual schools.

Just as the case for local aided schools, the areas of existing international schools are also different. In recent years, when considering the area of land to be granted to international schools for constructing their school premises, the ED will make reference to the site area for a standard school premises, that is, 6 200 sq m for a standard primary school with 30 classrooms, and 6 950 sq m for a standard secondary school with 30 classrooms. For example, the Australian International School with 25 secondary and primary classrooms takes up a total of 5 780 sq m; the Canadian International School with 48 secondary and primary classrooms takes up a total of 10 300 sq m. This shows that students of international schools and local schools have occupied more or less the same amount of open space.

We do not have information at hand regarding the areas of schools in the neighbouring regions. Based on my experience from visiting schools overseas, schools in Japan and on the Mainland, for example, have in general bigger overall areas than those in Hong Kong. However, even for such places, schools in the cities are very much different from those in the rural areas. As Hong Kong is only a small place which has a large population, and ranks among the places with the highest population density in the world, it is difficult to place Hong Kong on a par with the other regions.

Annex IV**WRITTEN ANSWER****Written answer by the Secretary for Constitutional Affairs to Miss Emily LAU's supplementary question to Question 5**

The purpose for the Chief Executive in appointing the Special Advisor is for the latter, where necessary, to provide him with advice, having regard to his extensive experience in areas such as policy studies and in the handling of Taiwan affairs.

Annex V**ARBITRATION (AMENDMENT) BILL 1999****COMMITTEE STAGE**Amendments to be moved by the Secretary for Justice

| <u>Clause</u> | <u>Amendment Proposed</u> |
|---------------|--|
| 5 | <p>(a) In the proposed section 40E(2)(c), by adding "or of the arbitration proceedings" after "arbitrator".</p> <p>(b) By adding -</p> <p style="text-align: center;">"40EA. Publication of list of recognized Mainland arbitral authorities</p> <p style="text-align: center;">(1) The Secretary for Justice shall from time to time publish in the Gazette a list of the recognized Mainland arbitral authorities.</p> <p style="text-align: center;">(2) A list published under subsection (1) is not subsidiary legislation."</p> |
| 9 | <p>By deleting the clause and substituting -</p> <p style="text-align: center;">"9. Government to be bound</p> <p style="text-align: center;">Section 47 is amended by repealing "Parts III and" and substituting "Part".</p> |

Annex VI**ADAPTATION OF LAWS (NO. 7) BILL 1998****COMMITTEE STAGE**Amendments to be moved by the Secretary for Planning and Lands

| <u>Clause</u> | <u>Amendment Proposed</u> |
|--------------------------|---------------------------|
| Schedule 1, section 1 | By deleting "in Council". |
| Schedule 2, section 1 | By deleting "in Council". |
| Schedule 5, section 1 | By deleting "in Council". |

Annex VII**ELECTRONIC TRANSACTIONS BILL****COMMITTEE STAGE**Amendments to be moved by the Secretary for
Information Technology and BroadcastingClauseAmendment Proposed

1

By deleting subclause (2) and substituting -

"(2) Part I, sections 4 and 9, Part V (other than in relation to the matters referred to in Schedule 1) and Part VI, sections 27C and 27E and Parts VIII, IX, XI and XII shall come into operation at the beginning of the day on which this Ordinance is published in the Gazette.

(3) Sections 3, 5, 6, 7, 8 and 10, Part IV, Part V (in relation to the matters referred to in Schedule 1) and Part VII, section 27D and Schedules 1 and 2 shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette."

2(1)

(a) In the definition of "accept a certificate" -

(i) in paragraph (a) by deleting "or" at the end;

(ii) by adding -

"(aa) uses the certificate; or".

(b) By deleting the definition of "certification authority disclosure record" and substituting -

"certification authority disclosure record" (核證機關披露紀錄), in relation to a recognized

ClauseAmendment Proposed

certification authority, means the record maintained under section 27C for that certification authority;".

- (c) In the definition of "code of practice" -
 - (i) by deleting "a" and substituting "the";
 - (ii) by deleting "39" and substituting "27E".
- (d) In the definition of "information system" by deleting "automatically" wherever it appears.
- (e) In the definition of "issue" by deleting "of its" and substituting "its".
- (f) In the definition of "recognized certificate" -
 - (i) in paragraph (b) by adding "or" at the end;
 - (ii) in paragraph (c) by adding "designated as a recognized certificate" after "certificate".
- (g) In the definition of "recognized certification authority" by deleting "or a" and substituting "or the".
- (h) In the definition of "rule of law" -
 - (i) in paragraph (a) by deleting "or";
 - (ii) in paragraph (b) -
 - (A) by adding "a rule of" before "equity";
 - (B) by adding "or" at the end;

ClauseAmendment Proposed

(iii) by adding -

"(c) customary law;".

(i) In the definition of "trustworthy system" in paragraph (d) by deleting "procedures" and substituting "principles".

3 (a) In paragraph (a) by deleting "to give or present information" and substituting "for information to be or given".

(b) In paragraph (d) by deleting "documents, records or".

4 By deleting the clause and substituting -

"4. Ordinance to bind Government

This Ordinance binds the Government."

5 (a) In subclause (1) -

(i) by deleting "in writing, given or presented" and substituting "or given";

(ii) by deleting "that rule of law" and substituting "the requirement".

(b) In subclause (2) by deleting everything from "given" where it first appears to "record" where it first appears and substituting "or given in writing, an electronic record satisfies that rule of law".

6(1) By deleting "that rule of law" and substituting "the requirement".

ClauseAmendment Proposed

- 7(1) (a) By deleting "that rule of law" and substituting "the requirement".
- (b) In paragraph (a) by deleting "as an electronic record".
- 8(1) (a) By deleting "documents, records or".
- (b) By deleting "that rule of law" and substituting "the requirement".
- (c) In paragraph (a) -
- (i) by deleting "the information or";
- (ii) by deleting "document or" and substituting "electronic".
- (d) In paragraph (b) by deleting "form" where it twice appears and substituting "format".
- 11 (a) In subclause (1) by deleting "a rule of law" wherever it appears and substituting "an Ordinance".
- (b) In subclause (2) -
- (i) by deleting "any rule of law" where it first appears and substituting "an Ordinance";
- (ii) in paragraph (a) -
- (A) by deleting "any rule of law" and substituting "that Ordinance";

ClauseAmendment Proposed

- (B) by deleting "a rule of law" where it twice appears and substituting "that Ordinance".
- (c) In subclause (3) by adding "or cases" after "persons".
- 12 (a) By deleting "any rule of law" and substituting "an Ordinance".
- (b) By deleting "executed" and substituting "made".
- (c) By deleting "the rule of law" and substituting "that Ordinance".
- (d) By deleting "that rule of law" and substituting "that Ordinance".

New

By adding -

"14A. When sections 5, 6 and 7 apply to transactions between persons who are not government entities

(1) If an Ordinance requires information to be given by a person to another and neither person is or is acting on behalf of a government entity, section 5(1) applies only if the person to whom the information is to be given consents to it being given in the form of an electronic record.

(2) If an Ordinance permits information to be given by a person to another and neither person is or is acting on behalf of a government entity, section 5(2) applies only if the person to whom the information is to be given consents to it being given in the form of an electronic record.

ClauseAmendment Proposed

(3) If an Ordinance requires the signature of a person ("the signer") and neither the signer nor the person to whom the signature is to be given ("the second mentioned person") is or is acting on behalf of a government entity, section 6 applies only if the second mentioned person consents to the signer's digital signature being given.

(4) If an Ordinance requires information to be presented in its original form and neither the person presenting it nor the person to whom it is to be presented ("the second mentioned person") is or is acting on behalf of a government entity, section 7(1) applies only if the second mentioned person consents to it being presented in the form of an electronic record.

(5) In this section -

"consent" (同意) includes consent that can be reasonably inferred from the conduct of the person concerned;

"government entity" (政府單位) means a public officer or a public body."

15

(a) In subclause (1) -

- (i) by deleting "a rule of law" and substituting "a requirement or permission in an Ordinance for information to be or given in writing ("requirement for writing)";
- (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
- (iii) by deleting "related rule of law" and substituting "related Ordinance";

ClauseAmendment Proposed

- (iv) by deleting "requirement or permission to give or present information in writing" and substituting "requirement for writing";
- (v) by deleting "to that rule of law" and substituting "to the requirement for writing".

(b) In subclause (2) -

- (i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for the signature of a person";
- (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
- (iii) by deleting "related rule of law" and substituting "related Ordinance";
- (iv) by deleting "to that rule of law" and substituting "to the requirement for the signature of a person".

(c) In subclause (3) -

- (i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for information to be presented or retained in its original form ("requirement for original form")";
- (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
- (iii) by deleting "related rule of law" and substituting "related Ordinance";

ClauseAmendment Proposed

(iv) by deleting "information to be presented or retained in its";

(v) by deleting "to that rule of law" and substituting "to the requirement for original form".

(d) In subclause (4) -

(i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for information to be retained ("requirement for retention)";

(ii) by deleting "in that rule of law" and substituting "in that Ordinance";

(iii) by deleting "related rule of law" and substituting "related Ordinance";

(iv) by deleting "documents, records or information to be retained" and substituting "retention";

(v) by deleting "to that rule of law" and substituting "to the requirement for retention".

16

(a) In subclause (1) by adding "in whole or in part" before "expressed".

(b) By adding -

"(3) For the avoidance of doubt, it is stated that this section does not affect any rule of common law to the effect that the offeror may prescribe the method of communicating acceptance.".

ClauseAmendment Proposed

18(2)(a)(ii) By deleting "attention" and substituting "knowledge".
and (b)

19 (a) In subclause (2) by deleting everything before "須就" and substituting -

"(2) 除第(4)款及第 20(2)條另有規定外，第(1)款所指的申請必須以訂明方式並以署長指明的格式提出，申請人並".

(b) In subclause (3) -

(i) by deleting paragraph (a) and substituting -

"(a) the relevant particulars and documents specified under section 27B; and";

(ii) in paragraph (b)(i) -

(A) by deleting "certifies that" and substituting "contains an assessment as to whether";

(B) by deleting "any" and substituting "the".

(c) In subclause (4) by deleting "if the Director considers it appropriate to do so" and substituting "in the circumstances specified in subsection (5)".

(d) By adding -

"(5) The Director may waive the requirements referred to in subsection (4) only if -

(a) the applicant is a certification authority with a status in a place

ClauseAmendment Proposed

outside Hong Kong comparable to that of a recognized certification authority ("comparable status"); and

- (b) the competent authority of that place accords to a recognized certification authority a comparable status on the basis of it being a recognized certification authority."

20

- (a) By adding -

"(1A) The Director must give reasons in writing to the applicant for refusing an application under subsection (1)(b).".

- (b) In subclause (3) -

- (i) by deleting paragraph (a) and substituting -

"(a) whether the applicant has the appropriate financial status for operating as a recognized certification authority in accordance with this Ordinance and the code of practice;"

- (ii) in paragraph (c) by deleting "and standard" and substituting ", security arrangements and standards".

- (c) In subclause (4) -

- (i) by adding "shall" after "Director" where it first appears;

ClauseAmendment Proposed

(ii) by deleting ", shall" and substituting a comma.

21

(a) By adding -

"(1A) An applicant under subsection (1) must make the application in the prescribed manner and in a form specified by the Director and furnish to the Director the relevant particulars and documents specified under section 27B."

(b) By adding -

"(5A) The Director must give reasons in writing to the applicant for refusing an application under subsection (5)."

(c) In subclause (8) by deleting "(2), (3), (4), (5)" and substituting "(1A), (2), (3), (4), (5), (5A)".

22

(a) By deleting the heading and substituting "**Director may revoke recognition**".

(b) In subclause (2) by deleting "notice in writing of the intention to do so and" and substituting "a notice of intention to revoke the recognition specifying".

(c) By deleting subclause (4) and substituting -

"(4) If the Director decides to revoke a recognition, the Director must immediately give the certification authority notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made."

ClauseAmendment Proposed

- (d) In subclause (6) by deleting everything after "which" and substituting "the decision to revoke the recognition is made.".
- (e) By deleting subclauses (8) and (9).
- 23 (a) In subclause (1) by deleting everything after "days" and substituting a full stop.
- (b) By adding -
- "(1A) If the Director decides to suspend a recognition, the Director must immediately give the certification authority notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made.".
- (c) In subclause (2) by deleting "就證書而暫時吊銷" and substituting "暫時吊銷證書的".
- (d) By deleting subclause (4) and substituting -
- "(2A) Subject to subsection (3), a suspension takes effect on the expiry of 7 days from the date on which the decision to suspend the recognition is made.".
- (e) By deleting subclauses (6) and (7).
- 24 By deleting paragraph (c) and substituting -
- "(c) the relevant report furnished under section 37.".
- 25 (a) In subclause (1) by deleting "effect" and substituting "effect or the period of validity of a recognition specified under section 20(5)(b) has expired".

ClauseAmendment Proposed

- (b) In subclause (2) by deleting "recognized certificates" and substituting "a recognized certificate".
- (c) By deleting subclause (3).
- (d) By deleting subclause (5) and substituting -

"(5) The revocation or suspension of the recognition of a certification authority does not affect the valid use of a recognized certificate issued by that certification authority before the revocation or suspension took effect or after the reinstatement of the recognition.

(6) The revocation or suspension of the recognition of a certificate does not affect the valid use of the certificate concerned before the revocation or suspension took effect or after the reinstatement of the recognition.

(7) The expiry of the period of validity of the recognition of a certificate specified under section 21(6) or the expiry of the period of validity of a recognized certificate does not affect the valid use of the certificate concerned before the expiry of the period of validity of the recognition or the certificate, as the case may be.

(8) The expiry of the period of validity of the recognition of a certification authority specified under section 20(5)(b) does not affect the valid use of a recognized certificate issued by that certification authority during the period of validity of its recognition."

ClauseAmendment Proposed

26

(a) In subclause (1) -

- (i) by adding "to the Director" after "apply";
- (ii) by deleting everything after "recognition" where it first appears and substituting a full stop.

(b) By adding -

"(1A) An application for renewal must be made at least 30 days before but not earlier than 60 days before the expiry of the period of validity of the recognition.

(1B) An application for renewal must be sent to the Director as an electronic record or delivered by hand to the Director or left at the office of the Director during the ordinary business hours of that office."

(c) In subclause (2) -

- (i) by deleting "subsection (4)" and substituting "subsections (1A), (1B) and (4)";
- (ii) by deleting "prescribed particulars and documents, if any" and substituting "relevant particulars and documents specified under section 27B".

(d) In subclause (4) by adding ", in the circumstances specified in section 19(5)," after "may" where it first appears.

(e) By deleting subclause (5).

(f) In subclause (6) by adding "and (5)" after "20(3)".

ClauseAmendment Proposed

27

(a) In subclause (1) -

- (i) in paragraph (b) by adding "or" at the end;
- (ii) by deleting everything after "days" and substituting "from the date on which the relevant decision is made."

(b) By adding -

"(1A) An appeal under subsection (1) must be commenced by sending a notice of appeal to the Secretary as an electronic record or delivering the notice by hand to the Secretary or leaving the notice at the office of the Secretary during the ordinary business hours of that office.

(1B) A certification authority who appeals to the Secretary under this section must also give notice of the appeal to the Director as soon as practicable."

(c) In subclause (2) by adding "under subsection (1)" after "appeal".

(d) By adding -

"(3) The Secretary must give the appellant notice of the decision on appeal, together with reasons -

- (a) by sending it to the appellant as an electronic record; or
- (b) by sending it by post or registered post to the last known address of the appellant.

ClauseAmendment Proposed

(4) If in a particular case it is not reasonably practicable to give the notice of the decision on appeal by either of the means specified in subsection (3), the notice is taken to have been given if the Secretary publishes it in the certification authority disclosure record maintained under section 27C for the appellant."

New By adding in Part VII -

"27A. How Director may give notices under this Part

(1) A notice or other document the Director is required to give to a certification authority under this Part is taken to have been given if it is -

- (a) sent to the certification authority as an electronic record; or
- (b) sent by post or registered post to the last known address of the certification authority.

(2) If in a particular case it is not reasonably practicable to give a notice or other document under this Part by either of the means specified in subsection (1), the notice or document is taken to have been given if the Director publishes it in the relevant certification authority disclosure record.

27B. Director to specify particulars and documents by notice in the Gazette

(1) The Director must specify by notice published in the Gazette any particulars and documents to be furnished under sections 19(3)(a), 21(1A) and (8) and 26(2).

ClauseAmendment Proposed

(2) A notice under subsection (1) is not subsidiary legislation."

New By adding -

"PART VIIA

CERTIFICATION AUTHORITY DISCLOSURE
RECORDS AND CODE OF PRACTICE

**27C. Director to maintain certification
authority disclosure record**

(1) The Director must maintain for each recognized certification authority an on-line and publicly accessible record.

(2) The Director must publish in the certification authority disclosure record information regarding that certification authority relevant for the purposes of this Ordinance (in addition to the information required to be given in it under other provisions of this Ordinance).

**27D. Director to notify revocations,
suspensions and non-renewals
of recognition, etc.**

(1) The Director must give notice in the relevant certification authority disclosure record, immediately

-

(a) when the Director makes a decision to revoke a recognition under section 22(4);

ClauseAmendment Proposed

- (b) when a revocation has taken effect under section 22(6) or (7);
- (c) when the Director makes a decision to suspend a recognition under section 23(1A);
- (d) when a suspension has taken effect under section 23(2A) or (3);
- (e) when the recognition of a suspended recognition is reinstated;
- (f) when the Director receives a notice of appeal under section 27(1B); or
- (g) on becoming aware that the Secretary has confirmed, varied or reversed the decision of the Director to revoke or suspend a recognition.

(2) Where the revocation or suspension of a recognition has taken effect, the Director must, as soon as practicable, give notice of the revocation or suspension for at least 3 consecutive days in one English language daily newspaper and one Chinese language daily newspaper in circulation in Hong Kong.

(3) If a recognized certification authority does not apply for renewal before the end of the period during which an application for renewal can be made under section 26(1A), the Director must, at least 21 days before the expiry of the period of validity of the recognition, give notice -

- (a) for at least 3 consecutive days in one English language daily newspaper and one Chinese language daily

ClauseAmendment Proposed

newspaper in circulation in Hong Kong; and

- (b) in the certification authority disclosure record maintained for the certification authority,

of the date of the expiry of the validity and that the certification authority has not applied for renewal.

27E. Director may issue code of practice

The Director may issue a code of practice specifying standards and procedures for carrying out the functions of recognized certification authorities."

- 29(1) (a) By deleting "through" and substituting "by".
- (b) In paragraph (a) by deleting "or" where it first appears and substituting "and".
- 30 (a) In subclause (1) by deleting "recognized repository" and substituting "repository".
- (b) In subclause (2) by deleting everything after "it" where it first appears and substituting a full stop.
- 32 By deleting "recognized repository" and substituting "repository".
- 34 By deleting "to the repository in which the certificate is published and".

ClauseAmendment Proposed

- 36(2) (a) In paragraph (b) by deleting "recognized repository" and substituting "repository".
- (b) By adding "認可" after "某".

37 By deleting the clause and substituting -

**"37. Recognized certification authority
to furnish report on compliance
with Ordinance and code of practice**

(1) At least once in every 12 months, a recognized certification authority must furnish to the Director a report containing an assessment as to whether the recognized certification authority has complied with the provisions of this Ordinance applicable to a recognized certification authority and the code of practice during the report period.

(2) A report under subsection (1) must be prepared, at the expense of the certification authority, by a person approved by the Director as being qualified to make such a report.

(3) The Director must publish in the certification authority disclosure record for the certification authority the date of the report and the material information in the report.

(4) In subsection (1) "report period" (所涵蓋的期間), in relation to a report ("current report"), means the period beginning on -

- (a) the date on which recognition is granted under section 20 or section 28 comes into operation; or

ClauseAmendment Proposed

- (b) the day following the last day of the period for which the last report under that subsection was furnished,

as the case may require, and ending on the last day of the period for which the current report is furnished."

New By adding in Part IX -

**"38A. Recognized certification authority
to maintain repository**

(1) A recognized certification authority must maintain or cause to be maintained an on-line and publicly accessible repository.

(2) The Director must publish in the Gazette a list of the repositories maintained under subsection (1)."

Part X By deleting the Part.

41 (a) In subclause (1) by adding "or permit or suffer to be disclosed" after "disclose".

(b) In subclause (2) -

(i) in paragraph (a) by deleting "for the purposes of" where it first appears and substituting "which is necessary for";

(ii) in paragraph (b) by deleting everything after "Hong Kong" and substituting a semicolon;

ClauseAmendment Proposed

(iii) by adding -

"(ba) for the purpose of complying with a requirement made under a rule of law with a view to instituting a criminal proceeding in Hong Kong; or".

42 By deleting "後果".

43 By deleting "or an organization".

44 (a) In paragraph (a) -

(i) by adding "or for recognition or renewal of recognition of certificates" after "authority";

(ii) by deleting ", the particulars and documents to be supplied by an applicant".

(b) In paragraph (b) by deleting "respect of" and substituting "respect of applications for the".

(c) In paragraph (c) by deleting everything after "statements" and substituting a semicolon.

45 By adding "published in the Gazette" after "order".

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46 By deleting the clause and substituting -

"46. Protection of public officers

(1) No liability is incurred by the Government or a public officer by reason only of the fact that a recognition is granted, renewed, revoked, suspended or reinstated under Part VII.

(2) Without prejudice to subsection (1), no civil liability is incurred by a public officer in respect of anything done or omitted to be done by the public officer in good faith in the performance or purported performance of any function under a Part other than Part VII.

(3) The protection conferred under subsection (2) does not in any way affect the liability, if any, of the Government for the act or omission of the public officer in the performance or purported performance of the relevant function."

- Schedule 1 (a) In the heading by deleting "AND 8" and substituting ", 8 AND 16".
- (b) In section 2 by adding "(other than resulting, implied or constructive trusts)" after "trust".
- (c) In section 6 by deleting "約、轉易契、其他書面形式的" and substituting "據、轉易契、其他書面形式的文件或".
- (d) In section 7 by deleting everything after "他" and substituting "關乎不動產或不動產權益的處置的合約，或任何其他達成該等處置的合約。".

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- (e) By deleting section 8 and substituting -

"8. A document effecting a floating charge referred to in section 2A of the Land Registration Ordinance (Cap. 128).".

- (f) By deleting sections 12 and 13 and substituting -

"12. A warrant issued by a court or a magistrate.

13. Negotiable instruments.".

Annex VIII

ADAPTATION OF LAWS (NO. 30) BILL 1999

COMMITTEE STAGEAmendments to be moved by the Secretary for Home AffairsClauseAmendment Proposed

Schedule 5, By adding -
section 3(c)

"(ia) in subparagraph (2)(c), by repealing "立法局" and substituting "立法會";".

Schedule 12, By adding "會" after "基督教".
heading and
section 1