

# OFFICIAL RECORD OF PROCEEDINGS

Friday, 12 July 2002

The Council met at half-past Nine o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

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

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

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

THE HONOURABLE NG LEUNG-SING, J.P.

THE HONOURABLE MARGARET NG

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN, J.P.

THE HONOURABLE BERNARD CHAN, J.P.

THE HONOURABLE CHAN KAM-LAM, J.P.

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

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE SIN CHUNG-KAI

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, G.B.S., J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

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

THE HONOURABLE LAU KONG-WAH

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

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

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

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

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

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

THE HONOURABLE LI FUNG-YING, J.P.

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

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

THE HONOURABLE MICHAEL MAK KWOK-FUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

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

DR THE HONOURABLE LO WING-LOK

THE HONOURABLE WONG SING-CHI

THE HONOURABLE FREDERICK FUNG KIN-KEE

THE HONOURABLE IP KWOK-HIM, J.P.

THE HONOURABLE LAU PING-CHEUNG

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

THE HONOURABLE MA FUNG-KWOK, J.P.

**MEMBERS ABSENT:**

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

THE HONOURABLE HUI CHEUNG-CHING, J.P.

THE HONOURABLE LAU CHIN-SHEK, J.P.

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.  
SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY

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

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

THE HONOURABLE STEPHEN IP SHU-KWAN, G.B.S., J.P.  
SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR

THE HONOURABLE FREDERICK MA SI-HANG  
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

**CLERKS IN ATTENDANCE:**

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

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL

**BILLS****Committee Stage****UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL**

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, are we going to deal with clause 13?

**CHAIRMAN** (in Cantonese): Secretary for Security, you may now move your amendment to clause 13(5).

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that clause 13(5) be amended, as set out in the paper circularized to Members. The amendment to clause 13(5) is a consequential amendment to the amendments to clauses 17 and 18. I implore Members to support its passage.

*Proposed amendment***Clause 13 (see Annex IX)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 13 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): Clause 19.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move that clause 19 be amended, as set out in the paper circularized to Members.

Clause 19 as eventually amended provides that unless it is on the grounds of security, defence or external relations of Hong Kong, or in the interest of the administration of justice, proceedings inter partes in respect of applications shall be held in open court to ensure that the persons affected can take part in the hearings in an open and fair setting. The amendment has been discussed and endorsed by the Bills Committee. I implore Members to support its passage.

*Proposed amendment*

**Clause 19 (see Annex IX)**

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

**MISS MARGARET NG** (in Cantonese): Madam Chairman, are we dealing with clause 19?

**CHAIRMAN** (in Cantonese): Yes, we are.

**MISS MARGARET NG** (in Cantonese): Madam Chairman, clause 19 deals the procedure for the Court to hold hearings in open court — Madam Chairman, sorry, I was studying some relevant information — In the Blue Bill, this clause is poorly drafted. It provides that the Court can make rules on or decide whether future proceedings under this Ordinance will be held in camera. This is not up to standard because it should not be the Court to decide whether a hearing be held in open court or in camera. Open justice is a basic right. Any amendment to a basic right is material, which is unrelated to court procedure. It is absolutely against the principle to decide by court procedure under what circumstances a hearing should be held in open court or in camera.

The amendment proposed by the Government now introduces a change to the manner which is right. The amendment states that all proceedings shall be held in open court, subject to subsection (2). It means that the Court can accept applications for proceedings to be held in camera under certain circumstances. Although there have always been provisions stipulating that proceedings can be held in camera subject to grounds specified in the legislation, in this case, the grounds on which proceedings can be held in camera include security, defence and external relations. Madam Chairman, there are provisions stipulating that proceedings can be held in camera upon application on grounds of security. As regards applications on grounds of defence, I do not know whether there are relevant provisions but I think it is probably security-related as well. However, applications for proceedings to be held in camera on grounds of external relations is unheard of. Members did not discuss this issue until the last meeting of the Bills Committee. However, I was absent from that meeting because I was out of town. Before the meeting, we had asked the Legal Adviser to study and collect information on the question of whether, under the existing legislation, applications could be made for proceedings to be held in camera on grounds of external relations. The Legal Adviser informed us that there was no such

provision. In our laws, "external relations" only appears in the Personal Data (Privacy) Ordinance in a different context. It has nothing to do with proceedings held in open court or in camera. Under that Ordinance, "external relations" is one of the reasons for any organization to refuse to comply with personal data access request of an individual. It is totally unrelated to court proceedings held in open court or in camera. Since open justice is a basic right, I consider it is problematic to include this ground in the provision. Moreover, we can find no precedent. It is certainly wrong for the Blue Bill to use the term "international relations". If the Bill intends to cover the Mainland, it is inappropriate to use the word "international".

Madam Chairman, I am deeply concerned that the amendment proposed by the Government imposes such a new restriction on the Court to conduct proceedings in open court. I am fairly reluctant to accept this amendment. Thank you, Madam Chairman.

**MS AUDREY EU** (in Cantonese): Madam Chairman, in fact, the Bills Committee really did not have enough time to discuss clause 19. A total of 15 meetings were held. But even at the 14th meeting, consensus on this clause was yet to be reached. Unfortunately, I could not attend the 15th meeting because of another commitment. Afterwards, I found out that in the process of examining this clause, the Legal Adviser had to give verbal presentation while government officials and members had to busily jot down the points. The clause was then subject to repeated revision. Therefore, we cannot say that this provision has gone through proper discussion.

Madam Chairman, incidentally, I wish to bring up one point. During the debate, we mentioned that Members have tried hard to attend meetings; government officials have also tried hard to attend meetings and provided us with a lot of information expeditiously. However, we forgot to thank our Legal Adviser. Madam Chairman, this Bill covers a wide range of issues and the Legal Adviser has all along assisted us in scrutinizing the Bill at the meetings. At the 15th and that is, the last meeting held on Wednesday, we received the Government's amendments as late as 6 pm and we had to submit our amendments before 12 o'clock midnight. Our Legal Adviser was then in great hurry and bustle. I knew that he and his secretary had to work until very late. In the end, we proposed numerous amendments to this Bill. Madam Chairman, therefore, I would like to express my gratitude to the Legal Adviser of the



Legislative Council for his hard work. Nevertheless, as pointed out by Miss Margaret NG, we, in fact, did not go through many details thoroughly. Thank you, Madam Chairman.

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

**MISS CYD HO** (in Cantonese): Madam Chairman, why do Members object to so many provisions? Why did Members voice so many opinions not until the Second Reading debate of the Bill? Why did Members not express all their views in the Bill Committee, and cancel the last meeting already scheduled? In fact, the schedule of meetings was very tight. We had to attend five meetings every week. And the meetings started at half-past eight in the morning. We became members of the "early-bird" club, not the Breakfast Group. Meetings continued at half-past two o'clock after lunch. The biggest problem was that the end of the Session was drawing near and there was a mounting workload awaiting our attention. I also understand that some Members had long-standing commitments and even had to be out of town. Therefore, they could not manage to attend all the meetings. The last two meetings were originally scheduled to start at half-past two and finish at half-past four on Tuesday. Eventually, the penultimate meeting finished at six o'clock. We decided to hold the last meeting on Wednesday morning. However, a lot of Members could not make it and they did not have a chance to express their views. It is a great pity that they had to wait till today to voice their opinions.

Madam Chairman, I understand that Members of the Legislative Council are soft-hearted most of the time. As pointed out by Mrs Selina CHOW, the Chairman of the House Committee, we would rush for the Government many a time. However, our rush results in such a Bill. Not only do we have to vote for it, we have to fulfil our international obligation. Under these circumstances, the Bill will be passed despite the fact that the scrutiny it has gone through is far from satisfactory. I think it is unethical to rule such a large number of people in Hong Kong with a piece of legislation thus formulated.

**MISS EMILY LAU** (in Cantonese): Madam Chairman, I would also like to talk about this clause because we had very little time to go through it in the Bills Committee. We have focused our discussion on clause 19(2)(b), which is related to the interests of witness. Mr Howard YOUNG thought that it was in

the interests of the witness if proceedings were held in camera. After discussion, the clause was amended to read as "the administration of justice". I think this is more acceptable. Clause 19(2) provides that proceedings shall be held in camera if it is reasonably necessary in the interests stated in paragraphs (a) and (b). I hope the Secretary will explain the implication of this provision later.

Madam Chairman, a lot of issues were not thoroughly discussed in the Bills Committee. They had to be examined at the second stage. An example is the question of whether "external relations" is reasonably necessary. Some Members may attach little importance to external relations and think that proceedings that can be held in open court should thus be so held. I hope the Secretary will clearly explain the provision. However, the Secretary may also agree that the clause has not been discussed thorough. She may hope that the whole Bill can be examined and further amended in future when we come to the second stage.

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

**MISS MARGARET NG** (in Cantonese): Madam Chairman, I would like to refer to section 57 of the Personal Data (Privacy) Ordinance, which is related to security, and so on, in respect of Hong Kong. Subsection (1) stipulates that "personal data held by or on behalf of the Government for the purposes of safeguarding security, defence or international relations in respect of Hong Kong are exempt from the provisions of data protection principle 6 and section 18(1)(b) where the application of those provisions to the data would be likely to prejudice any of the matters referred to in this subsection." This is the only provision in our laws in which "international relations" is specified as a ground for exemption. As far as I can recall, many years ago, in a case related to film censorship, the Film Section exercised its function of censorship on grounds of international relations or external relations. Eventually, an enormous controversy was aroused, resulting in the amendment of the relevant legislation. Therefore, to add such grounds in the Bill under discussion is obscure, especially when the Bill originally states that it is in the interests of the security, defence or international relations of the Hong Kong Special Administrative Region, or any witnesses giving evidence in the proceedings.

The Government understands that under certain circumstances, an application can be made for proceedings to be held in camera. What is uncertain is that on what grounds can such an application be made. Under these circumstances, I think it is against the principle if we pass a specious provision which is picked up conveniently. Therefore, Madam Chairman, I am more and more convinced that it is imperative that we object to this amendment. Thank you.

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

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, Miss Margaret NG and several Members have raised an interesting question, that is, why the Court may decide whether to hold proceedings in camera on the grounds of external relations. Miss Margaret NG even cited the Personal Data (Privacy) Ordinance as an example and said that this is the only legislation in which international relations are mentioned and that she is not aware of other legislation which provides for exemptions on grounds of international relations. However, in fact there are. Apart from the provision under the Film Censorship Ordinance, which, as pointed out by Miss Margaret NG, had been repealed, in the past the Immigration Ordinance also specified the reasons for deportation. One of them was that the Governor of Hong Kong could do so on the grounds that the relation between Her Majesty's Government and another country, that is, the relation between the sovereign state and another country, was affected. This is also about external relations. In other words, if Hong Kong did not deport a certain person, this would cause embarrassment to our sovereign state, Britain. This person may be someone wanted by one of Britain's allies, whom Britain was obliged to deport in the interest of diplomatic relations. This provision allowed the Governor of Hong Kong to deal with a problem in the light of the external relations of the sovereign state. This provision was proven, however, the Government under British rule repealed it before the reunification. This is probably because the Hong Kong Government under British rule did not want to let the Government of the Hong Kong Special Administrative Region (SAR) do what it could. Therefore, the SAR Government does not have such a power at its disposal.

Moreover, there is also the Official Secrets Ordinance, which has a provision on the unlawful disclosure of information, stipulating that authorized persons, that is, those who have access to confidential information, may have broken the law even though they have not disclosed any information. For example, before the Government announced the particulars of the accountability system for principal officials, outsiders had already learnt about the reshuffle of the officials concerned. The Chief Executive asked me if someone had broken the law, I replied in the negative because the information was not protected and the interest of Hong Kong had not been damaged. The worst result was embarrassment to the Hong Kong Government. Sorry, I do not mean that those who hear what I have said should continue to leak information. *(Laughter)* This piece of legislation states that it is against the law to leak protected information, including that information on defence, criminal investigation and international relations, as this may jeopardize the interest of Hong Kong.

I want to point out that apart from the Personal Data (Privacy) Ordinance, there are also some other ordinances that provide special protection to information on international relations. Why is "international relations" mentioned in them? This is because these provisions were all formulated in the past, when Hong Kong was still under British rule, therefore consideration must be given to Britain's international relations. I would like to know if there is any dependent territory which would not consider the international relations of its sovereign state. However, I believe it would be out of touch with the times if reference is made to only international relations, for this does not cover our relations with the Central Government, Taiwan or Macao, which are not international relations. Hong Kong is a special administrative region, not an independent state, so its relations with another country cannot be considered as international relations. Therefore, the reference to international relations in all existing provisions will be revised to "external relations" to cover Hong Kong's relations with other territories, including those with the Central Government, Taiwan, Macao and other countries, regions or organizations. This is our principle and the addition of this provision to the Bill is fully justified. Madam Chairman, I hope my remarks have answered Members' questions.

**MISS MARGARET NG** (in Cantonese): Madam Chairman, the remarks made by the Secretary just now are irrelevant to my point, which concerns proceedings held in open court. Open justice is the most important principle for the rule of

law. In our laws, there is no provision stipulating that proceedings can be held in camera on grounds of external relations. This is my point. As regards the content of external relations in the other legislation, for example, the Official Secrets Ordinance, this is a separate issue. Moreover, the example quoted by the Secretary does not involve basic rights. In the case of deportation, people with right of abode cannot be deported. Only people without basic rights in Hong Kong will be deported. Therefore, the external relations and international relations mentioned by the Secretary are irrelevant to my point.

When the Secretary talked about external relations earlier, she mentioned situations causing embarrassment. This is exactly our main concern. If proceedings are held in camera in order to avoid causing embarrassment, this principle is unacceptable. If it is on grounds of security, there is already such provision in our laws, then we can accept this principle. We are deeply concerned about this issue. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Miss Cyd HO, did you raise your hand earlier to indicate your wish to speak?

**MISS CYD HO** (in Cantonese): Madam Chairman, once again, we have demonstrated how Bills Committee meetings were conducted. In fact, the information cited by the Secretary earlier was never disclosed to the Bills Committee. I hope at the second stage of scrutiny, we can first consult the relevant minutes of meetings like papers submitted by the Bureau before discussion.

Madam Chairman, the Government always says it acts according to the law. It governs society, citizens and itself on legal and reasonable grounds in order to obtain statutory powers. I do not want to talk about the "principle of law" because I think there actually is no principle at all. What we are doing now is giving away powers through the legal system. At yesterday's and today's meetings, we learnt again and again that a lot of provisions had not been discussed before this meeting. I am not particularly smart. I hope Members present today will immediately understand what is going on and know how to vote after hearing the debate between the Secretary and Miss Margaret NG just now. However, at present, how many people are there in the Chamber? In fact, a lot of Members will vote in a moment without hearing clearly the relevant

arguments. Numerous criminal liabilities would be formulated by this Council in such a manner and process of scrutiny.

Madam Chairman, if the Bill is passed, in future, the Government will act according to this law. However, what kind of a law are we making in this manner? If the Government forces the legislature to legislate in such a manner and at such speed, it obviously violates the principles in the rule of law that require the executive be subject to reasonable constraint and legislation be serious.

**MR JAMES TO** (in Cantonese): Madam Chairman, the Democratic Party will vote against this amendment proposed by the Government. We have done some deliberation and concluded that if this amendment is negated, in concept, the original clause 19 will become a bit unconnected. However, we decide to go for the lesser of two evils and we think the amendment proposed by the Government to clause 19 is not worthy of our support. Although the Bill has incorporated some of the views of the Bills Committee, that is, in principle, proceedings will be held in open court unless under some "reasonably necessary" circumstances, the example quoted by the Secretary pertains not to court but to the exercise of other powers, as mentioned by some Members. Lastly, the Secretary appeared to have discovered a new continent just now by pointing out the term "international relations" in the Bill should be amended to "external relations". Actually, when this Council examined the adaptation of the commercial shipping bill two years ago, I had already brought this point to the Government's attention, and the law draftsman had also introduced amendment subsequently.

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, I just want to lay out a fact. During the scrutiny of the Bill, the Bills Committee did, in fact, touch on these two parts. Actually, we have discussed them. In the first part, in particular, the original wordings in the provision were "international relations". After discussion, they were changed to "external relations". We have also discussed the second part which is related to the "administration of justice". If my memory has not failed me, some of the suggestions that raised by the Legal Adviser were agreed by the Government afterwards. Members were also of the view that the revised wordings would widen the scope and the right of witnesses and citizens would thus be safeguarded. Moreover, final decision would rest with the Court and we were prepared to place our trust in the

judgement of the Court. Therefore, the Democratic Alliance for Betterment of Hong Kong supports this amendment.

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

**MR JAMES TO** (in Cantonese): Madam Chairman, I would like to respond to what Mr LAU Kong-wah has just said. This is what council discussion is like. It is not going to help even if we place our trust in the Court. This is because if there is such a provision in the legislation, even if we trust the Court, it has to rule in accordance with the legislation. Unless there is no such provision, the Court may consider otherwise and develops a precedent from it. However, if there is such a provision in the legislation, the Court can only rule within the parameters of this particular provision.

**MR LAU KONG-WAH** (in Cantonese): Madam Chairman, if we do not trust the Government or the Court, then who can we trust? After all, whether proceedings should be held in camera is a very important issue. I think it is appropriate for us to leave it to the judgement of the Court.

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

**MR JAMES TO** (in Cantonese): Madam Chairman, it is not that I do not trust the Government or the Court. It is just that if there is such a provision in the legislation, the Court will then be restricted. It is just like after tying the hands of the Court and say, "I trust the Court. Let the Court uphold justice! But why can't the Court do anything? I place my trust in the Court!" This does not make sense. If Mr LAU Kong-wah believes that it is necessary to have this provision, he certainly can maintain his stance. However, he cannot argue that as long as we trust the Court, we should support this amendment.

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

(No Member responded)

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I would like to give a brief response only. Why is it necessary to hold proceedings in camera on grounds of security, defence or external relations? This is because in most cases, highly confidential information is involved. In particular, in cases relating to external relations, documents provided by other governments may be involved. The Government Counsel told us that if proceedings have to be held in court on cases involving national security and the Government requests that proceedings be held in camera on grounds of national security or external relations, so as to ensure that sensitive information would not be leaked, the Court normally will not object to it. In other words, although we have codified this situation, this in fact also reflects a basic principle under the common law system.

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

(No Member responded)

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

(Members raised their hands)

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

(Members raised their hands)

Miss Margaret NG rose to claim a division.

**CHAIRMAN** (in Cantonese): Miss Margaret NG has claimed a division. The division bell will ring for one minute.

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



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

Mr Kenneth TING, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Ms Miriam LAU, Mr Ambrose LAU, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted against the motion.

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

THE CHAIRMAN announced that there were 50 Members present, 32 were in favour of the motion and 17 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

**CLERK** (in Cantonese): Clause 19 as amended.

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

(Members raised their hands)



Compared with the new clause 14A proposed by us, the one proposed by Miss Margaret NG does not provide that the licence issued by the Secretary for Security can specify that the funds involved be used to meet the reasonable legal expenses of the person affected. The new clause 14A proposed by Mr Albert HO provides that the funds, apart from being used to meet the reasonable living expenses and reasonable legal expenses, can also be used as payments liable to be made under the Employment Ordinance, so as to protect the rights and interests of affected employees.

In fact, the operation of the clause 14A proposed by Miss NG or that proposed by Mr HO does not differ in essence from that proposed by us. We simply have not exhausted all circumstances under which the affected persons are allowed to make use of the funds in the clause 14A proposed by us. The two conditions I have mentioned involve two of the most common situations. Therefore, no matter whether legal expenses or expenses relating to the Employment Ordinance are specified in the provision, the Secretary for Security will still consider all relevant factors and circumstances in prescribing the conditions of the licence. The clause 14A proposed by us has in fact taken into account the concerns of Mr HO and Miss NG.

Madam Chairman, before the resumption of the meeting, we had a discussion with Mr HO and other Members on Mr HO's provision. Of course, we still think that his provision is stating the obvious. However, we also understand that his intention is to explicitly safeguard the expenses to be made under the Employment Ordinance. Therefore, the Government does not oppose the amendments proposed by the two Members and will leave it to Members to decide.

**CHAIRMAN** (in Cantonese): I will call upon Miss Margaret NG and then Mr Albert HO to speak on the Secretary for Security's amendment as well as their own amendments.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman.....

**CHAIRMAN** (in Cantonese): Sorry, Miss Margaret NG.

**SECRETARY FOR SECURITY** (in Cantonese): I wish to raise a point of order.

**CHAIRMAN** (in Cantonese): Yes, you may please explain.

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, a point of order. Since I have no objection to the amendments, I am willing to leave it to Members to vote on them. I would like to withdraw my amendment.

**CHAIRMAN** (in Cantonese): Fine. Miss Margaret NG, please move your amendment and speak on it.

**MISS MARGARET NG** (in Cantonese): Madam Chairman, I would also like to apply for leave to withdraw my amendment. When I drafted my amendment, I did not have the chance to see Mr Albert HO's amendment. Having seen his amendment, I believe his amendment is better. Madam Chairman, I hope you would grant me leave to withdraw my amendment.

**CHAIRMAN** (in Cantonese): Fine. Mr Albert HO, you may move your amendment.

**MR ALBERT HO** (in Cantonese): Madam Chairman, I move that new clause 14A, as set out in the paper circularized to Members, be read the Second time.

This is the only amendment of mine that is likely to be passed today. After sitting in this Chamber for so long, I am pleased to see this is going to happen.

In fact, the Secretary is right in pointing out that the amendment does not necessarily have direct impact on the operation of clause 5. However, the Government must take some of the conditions listed in clause 14A into consideration.

We all know that the person affected has to face problems other than living expenses and other expenditure. What concerns us most is the payment for his employees. Ms Audrey EU mentioned a case yesterday where the employees had to work for months without any pay. They had to continue to work in order to render assistance to the people who had taken over the company. This is a situation that we really do not wish to see. I think all colleagues share the view that these employees should be paid. And the person affected should be granted a licence by the Secretary so that he can afford to release pay to his employees.

Listing this condition in my amendment aims at reminding the Administration that this is the most important factor. Therefore, I believe all colleagues will support my amendment. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Many Members have raised their hands to indicate their wish to speak.

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, I have drafted a speech to explain the reasons why I object to the amendment proposed by the Government and support the one proposed by Mr Albert HO. Since the Secretary has withdrawn her amendment, I no longer have to say so much.

By comparison, the original amendment proposed by the Government is also fine. Although the amendment proposed by Mr Albert HO is stating the obvious, as described by the Secretary, the issue of "employees" is much discussed, like the debate on civil service pay cut yesterday. Therefore, the livelihood of the "employees" and the right to compensation of the "employees" have become very hot topics.

Members of the Liberal Party think that among the amendments, the amendment proposed by Mr Albert HO not only is acceptable, it is the more readily acceptable one among the three. However, technically, if we do not vote against the amendment proposed by the Government, we cannot vote on the amendment proposed by Mr Albert HO. Since the Secretary has withdrawn her amendment, it seems there will not be much controversy. We will remain to support the amendment proposed by Mr Albert HO when it is put to the vote.

**MISS CYD HO** (in Cantonese): Madam Chairman, first of all, I would like to congratulate Mr Albert HO on his 100% success rate. He moves only one amendment today and it is going to be passed. As regards the protection of wages for the employees, even if it is stating the obvious, just as the Secretary has described, it is very important to do so today. Since the two amendments proposed to clause 9 were negatived yesterday, clause 9(1)(b) prohibits a person to become a member of, or serve in any capacity with, a person specified in a notice, and this includes his employees. As a clause bad as clause 9 has become part of the Bill, it is all the more important for Mr Albert HO to state the obvious in his amendment today.

**MRS SELINA CHOW** (in Cantonese): I originally intended to maintain a certain air of secrecy. However, as Mr Howard YOUNG has indicated that the Liberal Party will support the amendment, I will not keep it as a secret any more. Mr Albert HO was pretty that his amendment would be passed. Is it really going to be passed? Under the circumstances, it is most likely that it will be passed. Madam Chairman, however, I would like to talk about two points.

First, as regards stating the obvious, I think this is not the case. In fact, the amendment represents something extra, some protection. We hope it will give employees some protection. After studying them carefully, we find the Government's provision on reasonable living expenses and reasonable legal expenses are not clear enough. Instead, the amendment before us now clearly provides for protection of the employees. However, as regards the protection for the employees, the Liberal Party hopes the Government will undertake to ensure that there will be no loophole or error in enforcement so that the funds will actually go to the employees. Otherwise, it will fail to achieve our intended purpose and the funds will end up benefitting other people instead because of the existence of such an extra gap. Although the wordings of the amendment are very clear, we hope the Government will exercise care in enforcement.

Thank you, Madam Chairman.

**MS AUDREY EU** (in Cantonese): Madam Chairman, since many colleagues have talked about whether the amendment is stating the obvious, I would like to refer to a case I have handled, which was mentioned by Mr Albert HO earlier.

In fact, the case involved not just one person but a group of employees. Mrs Clarie LO present here should know which case I am referring to. The company for these particular those employees worked was taken over by the Government. For months, they had to render assistance to the liquidators. As there was a lot to do during the handover, they could not be dismissed, neither could they tender resignation because they feared that so doing would affect their rights to severance payment. Therefore, they could only continue to work there without any pay.

Madam Chairman, by writing this condition into the clause, we wish to remind the Government that this is our concern. The Government cannot say that it is impossible to help these employees because they are in such a dangling position, or even if they seek assistance, they will not get any from the Government. Therefore, I think it is very important to have such a provision so that the right of the employees will be recognized.

Thank you, Madam Chairman.

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

**MR MARTIN LEE** (in Cantonese): Madam Chairman, I commend the Secretary for Security on withdrawing her amendment. Miss Margaret NG has also withdrawn her amendment so that we can now pass an amendment which is in our view the best. I hope this will happen more frequently in the next Session and not just on the last day of this Session. It also proves that the Secretary does not wear a pair of "tinted glasses", but a pair of "prized glasses".

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

(No Member responded)

**CHAIRMAN** (in Cantonese): Secretary for Security, do you see a need to speak?

(The Secretary for Security indicated that she did not wish to speak)

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 14A be read the Second time.

**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 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.

**CLERK** (in Cantonese): New clause 14A.

**MR ALBERT HO** (in Cantonese): Madam Chairman, I move that new clause 14A be added to the Bill.

*Proposed addition*

**New clause 14A (see Annex IX)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 14A 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 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.

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

**SECRETARY FOR SECURITY** (in Cantonese): Madam Chairman, I move an amendment to Schedule 1 and deletion of Schedules 2 and 3, as set out in the paper circularized to Members.

Schedules 2 and 3 respectively specify the powers of authorized law enforcement officers to collect evidence and information and to seize and detain property suspected to be terrorist property.

As I have mentioned earlier, the Bills Committee considers the relevant powers to be excessive and is concerned that the law enforcement agencies would conduct unreasonable searches and cause disruptions to the life of the public and the normal operation of companies and organizations in the name of cracking down on terrorists.

We appreciate the concern of the Bills Committee and accept its good advice, therefore we propose the deletion of Schedules 2 and 3.

The amendment has been discussed and endorsed by the Bills Committee. I implore Members to support its passage.

*Proposed amendments*

**Schedule 1 (see Annex IX)**

**Schedule 2 (see Annex IX)**

**Schedule 3 (see Annex IX)**

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): As the amendments to Schedules 2 and 3, which deal with deletion, have been passed, Schedules 2 and 3 are deleted from the Bill.

**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.

### **UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL**

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

United Nations (Anti-Terrorism Measures) Bill

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

**PRESIDENT** (in Cantonese): Dr YEUNG Sum, let me first propose the question. You need not hurry.

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

**DR YEUNG SUM** (in Cantonese): Madam President, I simply want to say that the scrutiny work has been far from being satisfactory. I have worked in this Council for a considerable length of time. From my experience, albeit limited, I seldom saw a bill that was processed in the way it is today, that is, at this very stage before this Council, the debate on the Bill is very much like proceedings at a Bills Committee meeting in which members discuss clause by clause and word for word, with some colleagues expressing agreement with some others and asking the Secretary to explain.

We understand that Hong Kong, as a member of the international community, has its share of duty in combating terrorism. But the rights and freedom of Hong Kong people must be given sufficient protection. I believe the Secretary will succeed in persuading Members so that sufficient votes can be canvassed in support of the Bill. However, the Democratic Party will still oppose it. We hope that more time will be allocated for discussion in the second stage to enable us to fulfil our international responsibility as well as cater to the human rights and freedom of Hong Kong people and enable our legal system to provide sufficient protection. Thank you, Madam President.

**MISS MARGARET NG** (in Cantonese): Madam President, I wish to state several points briefly. Firstly, the Bill is very important, otherwise I will not be rising to speak at Third Reading. Since this is a very important Bill, I had to say during the Second Reading that even if my amendments were all passed, I still felt that the defects of the Bill could only be reduced by a small number. It is nevertheless a very immature Bill. Moreover, I think the amendment process is far from satisfactory. Though what has to be amended has been amended, unamended clauses like clause 9 cannot reduce the problems with the Bill at all.

Secondly, Madam President, I note that in this debate, even Members from the Democratic Party have repeatedly said there should be a "second wave" for this Bill. This has never happened before.

Madam President, often time we would pass a Bill and leave some issues in respect of subsidiary legislation to discussion in future. However, it has never the case that we would, in full knowledge of many defects with the Bill, pass the Bill in the time being, hoping that improvements can be made to its provisions in the next few months. This creates a big problem to our legislative process. I think this is a very bad precedent.

In fact, even if we cannot pass the Bill today, we may still continue to scrutinize and amend it. When the Legislative Session resumes, we will certainly be able to table a complete Bill that can help us fulfil our international obligations. The reasons are: firstly, I do not think there is a need to pass the Bill today; secondly, I do not think the Bill, judging from the manner in which it is passed today, and despite the many amendments, merits support. Hence, Madam President, I oppose the Bill.

**PRESIDENT** (in Cantonese): I think a Member has earlier raised his hand to indicate he wish to speak.

**MR ALBERT HO** (in Cantonese): Madam President, during the course of scrutiny, I repeatedly stated to the Government loud and clear that a most important principle for the Bill is that there must be a reasonable compensation mechanism when we confer such an immense power to the Government to combat terrorism swiftly and forcefully.

However, very unfortunately, the Government still fails at the end of the day to put forward a compensation mechanism deemed to be a fair and reasonable, as a result the innocent may not be compensated. I do not think it is right. The whole community should bear the responsibility.

For this reason, the Democratic Party will not support the Bill. I do not wish to speak at length on the rest of our reasons. We will have no choice but to object to the second or third part, if any, of the Bill in future.

**MR MARTIN LEE** (in Cantonese): Madam President, after so many comments by so many Members, I think the Bill should indeed be called "A Haphazard Bill for the United Nations", but I am not proposing an amendment.

**MS AUDREY EU** (in Cantonese): Madam President, I have voiced my opinions at the resumed Second Reading debate and during the clause-by-clause debate. I have also explained why I would be voting against the Bill. Hence, I am not going to repeat my points here.

I fact, I am not saying I do not support anti-terrorism. Nor am I saying I do not appreciate the efforts of the Government made during these few weeks and its acceptance of many of the suggestions made by Members.

However, Madam President, the Secretary has been saying: "We have gone so far, why do we not finish the rest of the journey?" Madam President, the Secretary said yesterday: "The devil is in the details." Indeed, legislation is a very solemn matter. What happened yesterday and today, that is, the passing of a law as some sort of homework or to deal with someone perfunctorily, should not have happened at all. The Bill should not be just a policy in our minds, it must be reflected in the provisions.

In the law, words in each clause should be drafted only after detailed consideration and after careful scrutiny by the Legal Adviser and by Members. This process, however, was not followed this time. As Dr YEUNG Sum said, in his long service in this Council, the Bill might be a record. I do not have an experience as long as his, but, Madam President, this Bill has only a dozen clauses but we have spent more than 10 hours discussing it. I believe, on average, the time spent on each clause is a record for this Council.

Madam President, I hope we have learned a lesson from this case. Very often, haste makes waste. Yesterday, we had to adjourn the meeting twice. In fact, the adjournment more or less reflects that scrutiny only began at this stage and then the Bill was passed. This is grossly a farce.

The Secretary said a number of times that we had our share of international responsibility to shoulder. However, if we have not tried our best in doing our part, Madam President, the international responsibility would become an international joke.

I am very much worried about the way in which the Bill passes this Council. In particular, I heard some Members say, in passing the Bill, "we knew the Bill was not complete, but let us make it better next time." If such words found ears among the public, this debate would become an international joke. Thank you, Madam President.

**MISS CYD HO** (in Cantonese): Madam President, I will still vote against the Bill. From about 1 pm yesterday, we have had a discussion of 11 hours. That means the Bills Committee should have in fact convened six more meetings.

Thus, the difference now is that we have to stand now to speak in scrutinizing the Bill, not sitting to do so as in an ordinary meeting. Moreover, the occasion is not good enough for the exchange of ideas and discussion about issues that should be discussed. Madam President, I wish to point out that amendments by Members must be discussed at a Bills Committee meeting, not at the present stage. Though I am very much grateful to the two Members and the Government for their amendments and for the passage of Mr Albert HO's amendment, which is a very good thing indeed, Mr HO's amendment in fact came across his mind at 7.30 pm on that day when we were sitting in the Ante-Chamber. He had not had the opportunity to explain to every member of the Bills Committee. Therefore, as we saw just a short while ago during the scrutiny of the Bill that Miss Margaret NG suddenly proposed her amendment because she thought hers was a better version. Nevertheless, would such instances have been avoided if the amendments had been raised at meetings of the Bills Committee? We are not afraid of becoming a laughing stock .....

**PRESIDENT** (in Cantonese): Miss HO, I am sorry I have to tell you that you have repeated that remark many times. You said it every time you rose to speak. I hope you could express your opinions in another way.

**MISS CYD HO** (in Cantonese): Madam President, I hope in future the Bills Committee can give everyone more time to discuss.....

**PRESIDENT** (in Cantonese): Miss HO, that was exactly the remark I referred to.

**MISS CYD HO** (in Cantonese): .....every amendment. The Secretary also said: "The lack of one basketful of earth spoils the entire effort to build a nine 'ren' mountain." But we have to see what kind of mountain it is. If the mountain has a bad influence on us, is it worthwhile to build? The lack of one basketful may actually produce a favourable outcome because we should not have dumped the earth and we will have a better mechanism to monitor anti-terrorism work and protect the people.

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

**MR LAU KONG-WAH** (in Cantonese): Madam President, as Chairman of the Bills Committee, I cannot accept Mr Martin LEE's comment that we have worked in a slapdash manner. The comment would mean that the efforts of his party members such as those of Dr YEUNG Sum, Mr Albert HO and Mr James TO are ignored. I learn Members' remarks that we all know there is an international responsibility to honour, which is our common goal. At this stage, if we oppose the Bill or if we do not let it pass, can we honour that responsibility? My personal view is that we have worked carefully in respect of the drafting and scrutiny of the Bill, and so we will support the Third Reading of the Bill. Is the Bill perfect? As I said during the Second Reading debate, the entire international scene may change half a year later. Some people may discover something then if a so-called perfect law is compared with anti-terrorism laws in other countries. Laws vary from country to country. They can never be perfect. Some Members spoke about human rights. I think we need to crack down on the bad elements and protect the human rights of good people, particularly the human rights of the entire Hong Kong population and even of the international community.

**MR MARTIN LEE** (in Cantonese): Madam President, .....

**PRESIDENT** (in Cantonese): Mr LEE, I am sorry, this is not Committee stage but a Third Reading debate.

**MISS EMILY LAU** (in Cantonese): I will be opposing the Third Reading of the Bill. I think that, given sufficient time, the Legislative Council should be able to find a compromise and arrive at a more acceptable Bill. However, the message that the Administration has sent is that in order to duly honour the duty of Hong Kong to the United Nations, the Bill has to be drafted. Nevertheless, many Members, particularly those returned by a one-person-one-vote system, feel the Bill is unacceptable because many of the issues have not been thoroughly discussed and there has not been any public consultation.

Yesterday, I asked the Secretary how many countries had already made laws in this respect, as she indicated this was an urgent matter that had to be completed expeditiously. In fact, our fingers suffice in counting these countries. She then said my question was meaningless and what we needed to do was to



model on the best countries. Well, it has long been said we should model on the best countries on such issues as democracy, human rights, freedom and the rule of law. Many of the commissions in the United Nations have asked us to model on them, but we have not done so. Why are we acting selectively? Madam President, I asked the Secretary about the number of countries that had passed laws in this regard, since she said Hong Kong had to perform its obligations. At that moment, it would seem she would say there were over a hundred of them and so we must follow suit, but, in fact, there were only around 10. I do not oppose making legislation for this, but I think we do have time. Is it necessary at all to hastily legislate without having thoroughly discussed many of the issues, just to honour our obligations to the United Nations? In the entire process, I had the feeling that, as a Member of the Legislative Council, I have not performed my duty as a legislator. So, I feel sorry that we have to pass the Bill in such a hasty manner today. I oppose its Third Reading.

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

**MR JAMES TO** (in Cantonese): Madam President, I wish to respond to the views of Mr LAU Kong-wah. I do not wish to repeat the wording of Mr Martin LEE. In fact, I have already said a lot, but I have been trying to be tactful. However, Mr LEE is a straightforward person. At any rate, let me explain why we agreed to the resumption of Second Reading debate.

We think that after the September 11 incident, we had to respond to the international community in terms of our duties and obligations to the United Nations. That is our decision and reason for agreeing to resume the Second Reading debate. But we still hope the Secretary will understand that in the entire process she has to use her ability, judgement and reasoning to work with the Legislative Council to make a bill that is by and large acceptable. On the other hand, she must make good use of the time available to arrive at a complete and detailed bill.

In this regard, we must consider many factors, not just factors in a certain area. However, on certain issues, such as compensation, we could not reach a consensus up to the last moment. This is most regrettable. If we could make efforts to come to a consensus on that, the situation would be very different. I only hope that after the scrutiny work this time, the Secretary will by all means conduct a full-scale review as soon as possible on the outstanding issues.

**PRESIDENT** (in Cantonese): Does any other Member wish to speak? If not, I now call upon the Secretary to reply. This debate will come to a close after the Secretary has given her reply.

**SECRETARY FOR SECURITY** (in Cantonese): Madam President, I only wish to make a brief reply. Several Members have expressed dissatisfaction with the deliberations of the Bills Committee and considered the time to be too short to allow them to scrutinize every detail carefully. In fact, 10 more meetings should have been held or deliberations should continue for another half of a year.

From the viewpoint of the Government, I would also say that we are also somewhat dissatisfied with the process of scrutinizing the Bill, not with the fact that there was not enough time, but with the fact that we could only hear a few voices all the time, that is, those speaking for human rights, freedom or the legal sector and not those from Members of other sectors. Miss Cyd HO may ask why I have not said this earlier. In fact, I am quite happy to wait until now to say this because more people will hear this here. As we all know, many a time a quorum was not present at some of the meetings of the Bills Committee. When some of the important meetings were held, there were simply not enough Members present. Some Members who had signed up could not attend because of other engagements or they did not have the chance to speak after attending the meetings for a short while. To the Government, this was rather frustrating since we could only hear a few voices all the time. I noted that Miss Emily LAU seemed to think Members returned by direct elections of "one person, one vote" are somehow superior. However, this is not the way the Council is constituted at present and other Members are returned by functional constituencies and the Election Committee. In scrutinizing a bill, the Government would of course like to hear the views of as many people as possible. Therefore, I think it is desirable to be able to hear many other Members speak and to find that many Members who did not speak were listening patiently to this thoroughgoing debate which has gone on for more than 10 hours.

I also appeal to Members to sign up for Bills Committees when the Security Bureau introduces important bills which involve the protection of national security and affect human rights and personal freedoms in the future, and to take part in discussions actively from beginning to end, so that we can hear different views. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the United Nations (Anti-Terrorism Measures) Bill be read the third time and do pass. 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 YEUNG Sum rose to claim a division.

**PRESIDENT** (in Cantonese): Dr YEUNG Sum 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.

Mr Kenneth TING, Dr David CHU, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr NG Leung-sing, Mrs Selina CHOW, Miss CHAN Yuen-han, Mr Bernard CHAN, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Mr Andrew WONG, Dr Philip WONG, Mr WONG Yung-kan, Mr Jasper TSANG, Mr Howard YOUNG, Mr YEUNG Yiu-chung, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Ambrose LAU, Mr TAM Yiu-chung, Dr TANG Siu-tong, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him, Mr LAU Ping-cheung and Mr MA Fung-kwok voted for the motion.

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Dr David LI, Miss Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr SIN

Chung-kai, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr LAW Chi-kwong, Mr Michael MAK, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted against the motion.

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

THE PRESIDENT announced that there were 51 Members present, 32 were in favour of the motion and 18 against it. Since the question was agreed by a majority of the Members present, she therefore declared that the motion was carried.

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

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

**PRESIDENT** (in Cantonese): We will resume the Second Reading debate on the Supplementary Appropriation (2001-2002) Bill 2002.

### **SUPPLEMENTARY APPROPRIATION (2001-2002) BILL 2002**

#### **Resumption of debate on Second Reading which was moved on 19 June 2002**

**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 Supplementary Appropriation (2001-2002) Bill 2002 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): Supplementary Appropriation (2001-2002) Bill 2002.

Council went into Committee.

### **Committee Stage**

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

### **SUPPLEMENTARY APPROPRIATION (2001-2002) BILL 2002**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Supplementary Appropriation (2001-2002) Bill 2002.

**CLERK** (in Cantonese): Clauses 1 and 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.

**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.

### **SUPPLEMENTARY APPROPRIATION (2001-2002) BILL 2002**

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

Supplementary Appropriation (2001-2002) Bill 2002

has passed through Committee without amendment. 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 Supplementary Appropriation (2001-2002) Bill 2002 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): Supplementary Appropriation (2001-2002) Bill 2002.

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

**PRESIDENT** (in Cantonese): Council will now resume the Second Reading debate on the Mandatory Provident Fund Schemes (Amendment) Bill 2002.

### **MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2002**

### **Resumption of debate on Second Reading which was moved on 24 April 2002**

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

**MR AMBROSE LAU** (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2002, I now report on the deliberations of the Bills Committee.

The Mandatory Provident Fund Schemes (Amendment) Bill 2002 seeks to revise the minimum level of relevant income for mandatory provident fund (MPF) schemes contributions and to introduce a number of amendments to the Mandatory Provident Fund Schemes Ordinance (MPFSO) and its subsidiary legislation to enhance the efficiency and effectiveness of the MPF System.

The current minimum and maximum levels of relevant income were set in 1995 when the MPFSO was enacted. To establish a mechanism for future adjustment, the Bill proposes to provide that the Mandatory Provident Fund Schemes Authority (MPFA) must conduct a review of the minimum and maximum levels of relevant income not less than once in every period of four years. Moreover, the Bill also proposes to revise the minimum level of relevant income from \$4,000 to \$5,000 per month. As regards the maximum level of relevant income, having considered the prevailing economic conditions, the Administration proposes to retain the existing level of \$20,000 per month.

In the course of deliberations, the majority of members did not express any strong views on the proposed minimum level of relevant income as contained in the Bill. However, some members considered that in order to help relieve low-income earners of the burden of making contributions and to enable them to have more disposable income to improve their livelihood, the Administration should revise the minimum level of relevant income to \$6,000 per month. The Administration explained that a balance should be struck between relieving the burden of low-income earners in making contributions and providing for their future retirement needs, and considered it a reasonable arrangement to adopt \$5,000 per month as the minimum level of relevant income. As regards the economic implications effected by raising the minimum level of relevant income from \$4,000 per month to \$5,000 or \$6,000, the Bills Committee has exchanged views with the Administration. The Administration has furnished further information in response to members' request.

On the maximum level of relevant income, most members of the Bills Committee have not raised any objection to the Administration's proposal. Nonetheless, a member considered that in handling the maximum level of



relevant income, the Administration has adopted double standards in not making adjustment in accordance with the findings of the General Household Survey conducted by the Census and Statistics Department, as in the case of the minimum level of relevant income.

In this regard, the Bills Committee also noted that Mr Andrew CHENG is prepared to propose Committee stage amendments to amend the proposed minimum and maximum levels of relevant income as contained in the Bill.

Furthermore, some members expressed great concern about the transparency of the reviews on the minimum and maximum levels of relevant income conducted by the MPFA. In response, the Administration expressed that reports would be made to the Legislative Council Panel on Financial Affairs on each review conducted by the MPFA in future and the results concerned. The Administration also agreed to give an undertaking to this effect during the Second Reading debate on the Bill. As regards whether an interval of four years for the review was sufficient, the Administration explained that the proposed arrangements are appropriate as it would not be desirable to require service providers to adjust their computer systems at too frequent intervals.

In respect of enhancing protection for MPF scheme members, the Bill proposes to make it a "continuing offence" for non-enrolment in MPF schemes, and confers on the Court the power to impose a daily fine of \$500 upon the second or subsequent conviction of the employer for each day the offence is continued in order to strengthen deterrence. Moreover, the Bill also proposes to amend the prosecution time-bar for non-enrolment in MPF schemes and non-payment of MPF contributions from six months after the occurrence of the offence to six months after the discovery of the offence by, or coming to the notice of, the MPFA.

The Bill has also made a number of proposals to amend the principal legislation and the relevant subsidiary regulation so as to improve the administration and regulation of the MPF System and to relax certain restrictions relating to MPF investments. While the Bills Committee did not dispute the need for the Administration to improve and streamline various arrangements in the light of operational experience, members all stressed the need for the Administration to ensure that protection for scheme members would not be thus compromised and that the dual need for flexibility and prudence would be taken into regard. As regards amendments relating to technicalities, for example, the

calculation of contributions, members urged the Administration to step up publicity on the new arrangements to facilitate understanding by the public.

The Bills Committee noted that the Administration will move several Committee stage amendments mainly to reflect more precisely the original intent of the amendments and to improve the drafting.

Finally, although the Bills Committee noted that in preparing the Bill, the Administration has consulted employers and employees via a number of committees related to the MPF schemes, some members however considered that as the MPF System affects a significant portion of the workforce and is of great concern to both employers and employees, it was suggested that the Labour Advisory Board should also be consulted if changes are contemplated to the System in future. The Administration has said that it would consider the above suggestion.

Madam President, I so submit.

**MR ANDREW CHENG** (in Cantonese): Madam President, in respect of this Mandatory Provident Fund Schemes (Amendment) Bill 2002 of which the debate on Second Reading is resumed, the Democratic Party supports the Government's proposal to provide that the MPFA must conduct a review of the minimum and maximum levels of relevant income not less than once in every period of four years. However, with the continued economic downturn and no improvement to the situation of employees being subject to wage cuts and benefits cuts, taking the prevalent median income of \$10,000 as the indicator, the Democratic Party considers that the minimum level of relevant income should be set at not less than 60% of the median income, replacing the Government's proposal of 50% of the median income. In other words, it should be raised from the Government's proposed \$5,000 to \$6,000. According to the latest information provided by the Government, the number of people now making a monthly income of below \$5,000 and below \$6,000, who will be exempted, stands at 66 800 and 130 600 respectively.

As the abovementioned change will affect the future living of many employees, the Democratic Party conducted a telephone interactive survey from the 6th to the 8th of this month to understand their views on the adjustment to the minimum level.

With regard to the lifting of the MPF employee contribution threshold from \$4,000 to \$6,000 as proposed by the Democratic Party, 38.2% of the respondents considered that the \$200 to \$300 thus saved per month would be very useful to low-income families; 36.7% considered that amount useful; 16.7% considered the amount of not much use; 8.4% considered it totally useless. Madam President, we have to emphasize that, to the low-income earners, \$200 or \$300 is timely assistance to them. If we still have to "rob" them of their "wallets", requiring them to take 5% out of their meagre income as MPF contributions, we will only be making their poor life even poorer. At present, the Government has adopted \$5,000 as the minimum level for MPF contributions. After making their contributions, the real income for this group of people is less than half of the median income. They will therefore fall below the poverty line and become a member of the impoverished population. Thus, the minimum level for contributions should be lifted to \$6,000 so that contributors can still have a respectable living after making contributions.

Madam President, the MPF schemes have been in force for one and a half year. Among the 526 people we have interviewed, the following areas are those which they considered requiring improvements urgently, together with the respective percentage: 43% for excluding more low-income earners from making MPF contributions; 24.3% for severely punishing those non-compliant employers; 21.7% for enhancing people's knowledge of MPF; 11% for expediting the handling of complaints from the public.

The minimum level proposal of the Democratic Party will benefit an additional 130 600 people making a monthly income of below \$6,000. This proposal should help alleviate the burden of low-income earners in respect of MPF contributions, enabling them to retain a net disposable income of \$250 to \$300 per month. Another reason for proposing our amendment relates to driving and boosting consumption. With regard to the study on the relationship between the exemption of MPF contributions and the consumption expenditure thus driven, information provided by the Government shows that, using the 2001 figures, if the minimum level of relevant income is lifted from \$4,000 to \$5,000, the estimated private consumption expenditure and the Gross Domestic Product (GDP) thus driven will stand at \$29.6 million and \$12.6 million respectively. If the Government adopts the proposal of the Democratic Party, lifting the minimum level of relevant income from \$4,000 to \$6,000, the estimated private consumption expenditure and the GDP so driven will then be \$96.1 million and \$63.1 million, representing respective increases of up to around 3.24 and five

times. From this we can see that, sparing the amount originally used for contributions by 197 400 people will stimulate private consumption expenditure by \$96.1 million. This should have a positive effect on the ailing consumer market. Just as the Government said, it was in view of the weak economic conditions that the amendments were proposed. When the median income rises in future, signifying an improvement in the economy and livelihood, people will then be willing to make MPF contributions.

Madam President, the above findings of the telephone interactive survey conducted by the Democratic Party show that since the implementation of the MPF schemes, the public is of the opinion that the enforcement of MPF legislation is still ineffective. Penalties for the non-compliant employers who have failed to make MPF payments for their employees are not heavy enough, thus falling short of achieving a deterrent effect. In the meantime, the Democratic Party has every now and then received complaints from the public saying that the MPFA's mechanism for handling complaints in fact cannot do them justice, as it cannot help them successfully recover from their employers the contributions due to them. Therefore, the Democratic Party supports the resumption of the Second Reading of this Bill which proposes amendments to the effect of imposing heavier penalties on employers for non-enrolment in MPF schemes. The amendments confer on the Court the power to impose a daily fine of \$500 upon the second or subsequent conviction of the employer for each day the offence is continued. Furthermore, the Democratic Party also considers that the Government's move to amend the prosecution time-bar for non-enrolment in MPF schemes and non-payment of MPF contributions from six months after the occurrence of the offence to six months after the discovery of the offence by, or coming to the notice of, the MPFA can better protect employees who are recovering contributions due to them.

With these remarks, Madam President, I support the resumption of the Second Reading of the Bill.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, in formulating whatever kind of a system, a balance should be struck as far as possible between those to be affected and the interests of the community as a whole. The purpose of setting up the MPF schemes is to compel wage earners to save and invest while they are still young and energetic, with the ability to work and make an income. In this way, they can be assured of a minimal retirement protection when they grow old.

Whether the establishment of the MPF schemes is a success or not hinges on whether an appropriate balance could be struck between the affordability of the people and the efforts to help them make proper arrangements for their later years.

Another important element is the ageing of our population. If we can get more and more people into the MPF schemes, the Government will be able to take precautions and ease part of the pressure on its future financial burden. Otherwise, even though a group of people can get an extra \$250 per month to reduce the pressure of life now, they would certainly not thank the Government for this "grace" if the livelihood for their later years is not assured. Thus, setting the minimum level of relevant income for MPF contributions at a higher level will defeat the original intent of establishing the MPF. This is definitely not conducive to the long-term interest of the people.

If the respective minimum and maximum levels for contributions are narrowed, covering only 80% of Hong Kong's monthly employment earnings distribution and 60% of the median income, it will definitely violate the above principle. The Democratic Alliance for Betterment of Hong Kong (DAB) does not support this. If we insist that the minimum level for MPF contributions should be set at \$6,000, why then is it not set at \$7,000 or \$5,000? I believe we have to consider this matter with a more objective attitude. Is it really not objective enough to set the minimum level at 50% of the median income?

As regards the Government's proposal to maintain the maximum level at \$20,000, temporarily deviating from the standard of covering 90% of the employment earnings distribution, it is entirely because the Government has considered the fact that the prevailing economic conditions are not desirable. To alleviate the financial burden of employers and employees, the Government has thus come up with this expedient measure. This is yet again proof of the position taken by the Government in balancing the interests of all sides.

Thus, the DAB will support the Mandatory Provident Fund Schemes (Amendment) Bill 2002 presented by the Government instead of the amendment proposed by Mr Andrew CHENG. We also feel that we cannot extend our support, having heard some of the arguments advanced by Mr Andrew CHENG just now. Although the Democratic Party has conducted some surveys, we all

know that the prevailing economic environment is poor but under the MPF System, if there is a decrease in income, the amount of contributions will come down correspondingly; however, to some low-income earners, the protection is still there.

If we ask a man in the street whether he prefers to put his money in his pocket or in the MPF schemes, he will definitely say he prefers the former. So, the findings of any survey are just meaningless. If we do not make the people save up while they are having an income through the setting up of MPF schemes, the purpose of setting up MPF schemes will be defeated. When that wage earner reaches his retirement age but has little money in his pocket, his only reliance then will be the Comprehensive Social Security Assistance Scheme. This will become a burden to the whole society. Thank you, Madam President.

**MR LEUNG FU-WAH** (in Cantonese): Madam President, the Hong Kong Federation of Trade Unions (FTU) has, since as early as the '80s, spared no efforts in advocating the establishment of a central provident fund system because we believe that retirement protection for the wage earners should be linked to their jobs, and the mandatory contribution schemes should embody the participation of the three parties, that is, employers, employees and the Government. The present MPF schemes only involve the participation of employers and employees, and are thus definitely different from what the FTU advocated in the first place. However, as the first step in providing retirement protection schemes, the FTU extends its support to the MPF system and will continue to push ahead for improvements.

Madam President, since the implementation of the MPF schemes over a year ago, this is the second Amendment Bill presented to this Council for scrutiny. In February this year, this Council enacted an amendment ordinance to expand the authority of the MPFA, strengthening the MPFA's supervision of approved trustees and protecting the interests of scheme members. This Bill presented today has re-affirmed the MPFA's duty of conducting a review of the minimum and maximum levels of income for making contributions not less than once in every period of four years. This move is to introduce a standing adjustment mechanism to the schemes, allowing flexibility in responding to economic and social changes. The FTU welcomes this.

The Bill proposes to lift the minimum level of income for making contributions from the present \$4,000 to \$5,000. This amount is set at half of the median income of the workforce as applied under the existing MPF ordinance. As far as I can remember, when the Government came up with the standard in 1995, we went through repeated discussions, and the median income has never been the only basis for consideration. Other factors of reference for the authorities and trade unions include the consumer price index, the nominal wage index, the areas covered by the System and the estimated median income.

Madam President, allow me to explain briefly each and every factor mentioned above. The consumer price index is a simple, easy to understand and widely adopted economic indicator. However, this index can only reflect fluctuations in general prices instead of changes in the average wage level. In the long run, the general wage level usually sees a greater increase than the general price level. The nominal wage index reflects the average wage increase for the middle to low income group of the workforce of selected industries. It reflects the growth of the consumer price index and the changes in the real wage level. Nevertheless, as the nominal wage index only samples employees engaged in selected industries, it cannot precisely reflect the average wage level of employees in general when the economy undergoes substantial structural changes. As regards the other factor which uses the areas covered by the System as the basis for adjustment, although it appears to be reasonable superficially to set the minimum income level at the level excluding 20% or 25% of the lowest income employees for making contributions, the biggest shortcoming is that it lacks the objective criterion to decide the appropriate ratio of exemption. To the working population with the lowest income, their income is usually unstable and particularly vulnerable to short-term economic climate. Among them are a lot of part-time employees with fluctuating income. At times of economic recession, the new workers will push down the wages of the low-income employees while the general wage level will not be affected. As for the so-called estimated median income, the minimum level of relevant income is set at a certain percentage of the estimated average median income immediately following the review period. However, when the economy turns bad, the negative growth of the estimated average median income will on the contrary result in the MPF System covering more low-income employees.

The median income now adopted reflects the income of employees in the middle level. Not only does it serve to reflect the impact of changes in prices

but also the increase in wages as a whole. Compared with the nominal wage index, as the median income covers the whole workforce, it can thus better avoid problems generated by sampling employees of selected industries. Setting the minimum level of relevant income against the median income is not only easy to understand but also more objective as opposed to the other factors.

Madam President, in saying so much on the process and factors for consideration relating to the setting of the minimum level of relevant income then, I just want to tell Honourable Members that the FTU attaches great importance to the matter. We have over and again examined and made inferences of each factor, without ignoring the short-term effect and long-term impact. It can be said that our purpose is to arrive at an equilibrium which can cater to the short-term and long-term interests.

Madam President, the purpose of setting a minimum income level is to exempt low-income employees from making MPF contributions so as to reduce their financial burden. When the MPF ordinance was implemented last year, the Hong Kong economy was taking a turn for the worse and the labour market was in a serious imbalance. Not only did employers every now and then make demands for a halt in making MPF contributions but employees, who are the beneficiaries, also at times grumbled. We can only blame the MPF for "coming at a wrong time" but there is nothing wrong with the System itself. Retirement protection for employees must be put in place as soon as possible. This is consistent with the overall interests of the community.

At present, the standard for the minimum income level for employees is 50% of the median income. This figure is arrived at after repeated discussions and best suits the interests of the community and the employees. When the economy is poor, we surely hope to alleviate the burden of low-income earners by every possible means. Under the prevailing economic conditions, the monthly MPF contributions by employees are really a burden to some wage earners. If the exemption level can be lifted further, the disposable income of employees making a low income can be increased in the short term, but a reduction in contributions will generate an accumulative effect. In the long run, accrued retirement interests will also be reduced, but the low-income employees are exactly those who are mostly in need of retirement protection.



It has never been easy to take account of both short-term effect and long-term impact. Precisely because it is not easy, trade unions should all the more shoulder this responsibility to make long-term plans for the interests of employees.

Madam President, in fact, when discussing whether the exempted level for contributions is high or low, I think we should first have a clear concept of MPF schemes. We consider the schemes a retirement protection by way of mandatory savings, instead of some kind of tax or levy, with the ultimate beneficiary being the employees themselves. If we have a clear idea of this concept, we will then focus on the long-term interests. Trade unions will never do things to win a round of applause — applause which may be extremely sparse but which may be at the expense of the long-term benefits of those employees.

With these remarks, Madam President, I support the Government's motion.

**DR DAVID LI:** Madam President, may I first declare my interest as a non-executive director of the Management Board of the Mandatory Provident Fund Schemes Authority (MPFA). I am also a director of a bank which is licensed as an intermediary for both the Industry Scheme and the Master Trust Scheme under the Mandatory Provident Fund (MPF) System.

The MPF System was established to provide a retirement safety net for the majority of the working population of Hong Kong. The MPF System provides simple and universal access to professional investment management services to all who are enrolled in the scheme.

Low income earners are the major beneficiaries of the System. In general, low income earners are less likely to have access to professional investment management services outside an MPF scheme. They either fail to meet minimum investment criteria, or are put off by high initial charges for such services. In contrast, the MPF System does not discriminate. Everyone covered by the scheme enjoys the same level of service. An employee's savings are put to productive use, earning a higher rate of return over time than available from a bank savings account.

When saving for retirement, the earlier one starts, the better. I cannot emphasize this point more strongly. Ten dollars invested at a compound

interest rate of 7% per annum at the age of 20, would be worth \$210 at the time of retirement at age 65. In contrast, the same \$10 invested at age 45 would be worth only \$38.7 20 years later. That is why I believe that it is essential that we capture as many wage earners as possible in the MPF safety net from an early age, and that they be maintained within that net throughout their working lives.

The current legislation proposes to increase the minimum salary level at which a wage earner must contribute to an MPF scheme. The level was set at \$4,000 in 1995. It will be raised to \$5,000 under this Bill, reflecting the rising cost of living. In future, the level will be adjusted once every four years, in line with inflation and the prevailing circumstances. A proposal has been made to raise the minimum level for employee contributions to \$6,000.

We must remember that the MPF programme is most effective if contributions are made regularly over a period of many years. Persons currently earning between \$5,000 and \$6,000 are the very people who would benefit most from remaining within the scheme. They are the ones who are least likely to have access to an alternative investment that will provide a level of return the same or better than a registered MPF scheme.

The MPFA has estimated that raising the minimum level of contributions from \$5,000 to \$6,000 will exclude a further 130 600 persons from the MPF safety net. Crucially, it will exclude many young persons who are entering the workforce for the first time. With 40 or more years ahead of them to build their MPF savings, they have the most to gain, and they have the most to lose.

I urge Members not to support the Committee stage amendments proposed by the Honourable Andrew CHENG, in order to protect the retirement incomes of those 130 600 people.

Thank you.

**MR NG LEUNG-SING** (in Cantonese): Madam President, since the formal implementation of the MPF schemes, the Government has made several amendments to the relevant legislation. The Mandatory Provident Fund Schemes (Amendment) Bill 2002 has attracted relatively greater public attention, as it is directly related to the MPF, that is, the maximum and minimum income levels of employees for MPF contributions, and the relevant adjustment mechanism.

The Bill stipulates that not less than one review has to be conducted on the maximum and minimum levels of relevant income by the MPFA every four years, in order to ascertain if there are grounds to amend Schedule 2 or Schedule 3 of the Mandatory Provident Fund Schemes Ordinance. During the meeting of the MPF Schemes Advisory Board, members have considered the options of three, four and five years. As a member of that Board, I suggested that a period of four years was appropriate. The idea is that while this can reflect the cycle of changes in the economic conditions and the income level of employees, this can also cater for the practical administrative and operational needs on the part of MPF schemes service providers and employers. It can help minimize the costs and expenses in connection with MPF schemes on various kinds of operation. At the same time, and more importantly, if the result of the review indicates that Schedules 2 and 3 need to be amended, the approval of the Legislative Council must be sought. Thus, this four-year review cycle can ensure that the Legislative Council will have the opportunity to discuss and deliberate on this important issue which is related to the entire territory during each term of four years as specified in the Basic Law.

In determining the minimum income level of employees for MPF contributions, I reckon that we should strike a balance between the need for retirement protection and the need for meeting daily living expenses of employees. However, we cannot overlook one point, that the need of those employees with lower income for "retirement protection" is greater under the MPF schemes. Otherwise, they may have difficulties in solving the question of not having enough savings after retirement. Therefore, we have to be very cautious when proposing any changes. Of course, it is inevitably arbitrary when we set the minimum income level at any percentage of the median income. But considering the best intention of setting up the MPF schemes, and the actual income and consumption situations in Hong Kong, I agree that it is more reasonable to set the standard at 50% of the median income.

The amendment of Mr Andrew CHENG proposes to raise the minimum income level to 60% of the median income. If that is carried, in the short term, employees with monthly income between \$5,000 and \$6,000 can only save \$300 at the most from the contributions. However, these contributions are intended for long-term use. This amendment aims to alleviate certain employees' burden

of contributing to the MPF. But as it is said earlier, a related survey has been conducted. And I still find that with this level of income, the impact of that amount of contributions on the employees is not serious. I would rather think that to the lower income employees, with this amount as a starting point of savings and investment for their future, it is even more meaningful. Besides, if the minimum income level for MPF contributions is pushed up as far as possible, it is indeed unable to realize the original intent of the MPF schemes of providing a comprehensive retirement system and protection to as many members of the public as possible.

Moreover, the amendment of Mr CHENG has also reduced the flexibility of the MPFA, when reviewing the maximum and minimum income levels, in making final decisions in the light of the prevailing socio-economic conditions. Since the amendment says that the minimum income level can only be adjusted upwards, we can thus see that the idea behind the amendment does recognize the need to empower the MPFA to excise discretion according to the actual economic conditions. Nevertheless, the reality is that there can be both upward and downward movements. If the MPFA can act according to the actual situations, it is not possible that the minimum salary level can only be adjusted upwards but not downwards. This certainly is not a pragmatic approach. Besides, disputes may inevitably arise, similar to what happened in this Council two days ago. Thus, I do not agree with the amendment which has inherent contradictions. Moreover, from the letters provided by the Democratic Party, we can see the logic of Mr CHENG's amendment, that is, to determine the most appropriate maximum and minimum income levels under the current economic situation first, namely \$20,000 and \$6,000, and then work out a long-term percentage for the maximum and minimum levels from these two figures, that is, the 80th percentile of the monthly earnings distribution and 60% of the median income. But in the long run, I am afraid this method of consideration will be proved to be inappropriate and unable to stand the test of time.

THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair.

With these remarks, Mr Deputy, I support the Bill.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, we discuss the MPF today. Many colleagues said just now that the introduction of the MPF was untimely. Doubtless its introduction was really untimely. But the focus of our discussion today is not the timing of the introduction of the MPF, but under the untimely situation, its impact on low income workers, which then leads to the issue about the determination of the minimum income level.

When the original legislation was enacted in 1995, the minimum level was set at 50% of the median wage at \$4,000. At that time, \$4,000 was considered to be quite low. But to the labour sector, the situation then was different from the situation now. At that time, the unemployment rate was very low, at only 1% to 2%, which meant that a lot of people could still have a job. In other words, if only one person out of a family had a job while the income could meet the expenditure, the situation was considered to be very good. If the income from that person was not enough to make ends meet, then two persons from that family could go out to work. What is the biggest problem now? With an unemployment rate at 7.4% nowadays, if a family of four does not have two working members, the household income can hardly make ends meet, as the salary level is generally low. But is it that easy for two persons out of a family to find employment? The answer is no. As the unemployment rate is high while there are not many job vacancies, at the end, it is likely that only one person can have a job while the other one is unemployed. There is a new phenomenon now: in a family, the male member is unemployed while the female member works a low income job. When the household income is low while only one person has a job, what does that mean? Is an income of \$5,000 to \$6,000 enough support a family of three or four members? The situation now is very different from that in the past. Please remember that the unemployment rate is very high at the present moment, and it has created a large group of low-income families facing enormous difficulties.

Some colleagues said that their main reason for opposing the amendment of Mr Andrew CHENG is that we have to think of the future of workers, and we have to strike a balance between their present and future needs. This is a reason mentioned by a majority of Members, and this reason will also be mentioned by the Government later on. I know what the Secretary will say later without looking at his speech beforehand, as everybody says so. However, how do we strike a balance? Now that they cannot find a job and are in a difficult plight,

how does the Government ask them to plan well for their future retirement? Now that they are already suffering from malnutrition, how can they plan for their future? Now that they are already very poor, but the Government still requires them to contribute to the MPF, saying that it is for their future good. Mr CHAN Kam-lam mentioned not long ago that if they did not contribute at this time, they would have to rely on the Comprehensive Social Security Assistance (CSSA) in the future. But what problem does it have? They are low-income earners after all. We have to be clear about a situation. At present, their income cannot make ends meet. If they do not have to contribute to the MPF now, their children can have one more meal. One possibility thus created is that their children may have very good academic results and then a very bright future. As a result, they do not have to depend on the Government when they grow old. The other possibility is continuous poverty which is a great worry to me, meaning that they are poor now and will remain poor in the future. Even so, they are still eligible to apply for CSSA. CSSA is actually a safety net for those who have worked hard for their whole life contributing to the prosperity of Hong Kong, and should thus be provided to the elderly.

My stance has all along been advocating the introduction of old age pension. If the Government really cares about the future of the people, it should not implement the MPF System, but should only provide old age pension. Dr YEOH Eng-kiong always talks about three pillars, one of them is the pension from government. This pillar can be found everywhere in this world, except in Hong Kong which ridiculously takes old age allowance as that pillar. But this is not appropriate. However, we are not discussing this issue today. The major issue that I want to talk about is that it seems we are not caring about the workers, but are considering about the fiscal deficits in the future. We are afraid that there will be too much expenditure on CSSA in the future, and thus we have to force these workers to prepare for their future, especially the low-income workers. Since this group of people will easily fall into the CSSA net in the future, they are required to contribute to the MPF now. I reckon that this kind of logic cares more about the future fiscal deficits of the Government than the workers now. Nowadays, a lot of workers cannot find any jobs. It is unreasonable if we ask them to think about the future fiscal deficits of the Government or the future high expenditure on CSSA. We should deal properly with the immediate problems instead.

THE PRESIDENT resumed the Chair.

I know that later on, the Government will definitely say gloriously that it cares about the future of workers. To the Government, I can only use an adjective to describe it: hypocritical. I am not talking about the issue of old age pension, but only the MPF. Since 1995 when the relevant legislation concerned was enacted, I have been denouncing the Government as hypocritical. We should all know that the severance payment can be offset by the MPF contributions. The Government hypocritically says that it cares for the future retirement of our workers. But when the workers are laid off, the employers can offset the severance payment by the employers' share of contributions in the MPF. Well, this is not caring for the future of the employees. The system adopted by the PCCW is a provident fund system in which there has always been an offsetting element. But what I am referring now is the MPF introduced by the Government. When the mandatory contributions can be used for offsetting in the future, what consequence will it bring? The consequence is that the workers will have nothing in the fund when they retire. I always say that if a person has been laid off three to four times for his whole working life, when he gets old, the 5% contributions by the employers will have long been used up. We do not care about these questions, but only say that the low-income workers have to plan for their future and make contributions. I hope that the new Secretary can have some innovative ideas, and I also hope that he can share my views. The Government is really hypocritical. If it really cares about retirement protection, it should not allow the severance payment to offset the MPF contributions. If the Secretary says that the MPF contributions do not offset the severance payment, I will immediately oppose Mr Andrew CHENG's amendment. It is because only if the Secretary says so that I will find our thoughts common. Unfortunately, the Secretary will not say so, and that is why I think that we have no room for discussion. We should look at the present plight of those low-income households. If they do not have to make contributions to the MPF, though we are talking about a few hundred dollars, they can use that amount to meet the needs of their families.

Besides, I hope that after the Ordinance is amended this time, the Mandatory Provident Fund Schemes Authority (MPFA) can enhance its enforcement work. There is a very important part in this amendment exercise to address a loophole in the original legislation, which the Chairman of the Bills

Committee has mentioned earlier. It is against the law if an employer has not enrolled their employees in any MPF schemes. But after six months, the authorities cannot bring any prosecution against the employer. For instance, employers had to enrol their employees within two months starting from 1 December 2000, which meant that the deadline was 1 February 2001. But after 1 August 2001, even though an employer has failed to enrol his employees, he is free from any obligations and the authorities cannot bring any prosecution against him. For those employers who have taken that legal loophole, can they not sit back and relax now? Therefore, this amendment to the legislation is very important, as it tells those employers who have failed to enrol their employees in any MPF schemes that from now on, life cannot be that easy. We have received a lot of complaints. Some cases even involve more than 100 people, as many minor sub-contractors have failed to enrol their workers for more than one year. I believe that after this amendment is carried, the Government can start to take some effective enforcement actions against those employers who continuously fail to enrol in or contribute to the MPF schemes. I hope that a message can be sent to those unscrupulous employers who try to evade such an obligation that they cannot be so relaxed any more and have to enrol their employees immediately. Otherwise, once they are complained against, the MPFA can take enforcement actions. The penalty has also been increased, likely to be \$500 per worker per day. This level is rather deterrent. I hope that those unscrupulous employers can quickly enrol their employees in the MPF schemes. Thank you, Madam President.

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

**MR HOWARD YOUNG** (in Cantonese): Madam President, this Council has debated the MPF for many times. Hong Kong was lagging behind a lot of advanced countries when we started looking squarely at the issue in mid-1997. Perhaps because Hong Kong had an uncertain future and people were uncertain about what would happen to Hong Kong after 1997 that no consideration was given to long-term plans. As far as I can remember, many Members asked why the scheme was not implemented 20 years ago when we discussed the bill on the MPF. The Bill was successfully passed because employers who resisted and did not support the Bill had later switched to supporting it. When we discussed the establishment of a mechanism, we came to the problem of whether severance



payment would be offset as Mr LEE Cheuk-yan has just mentioned. The Bill was passed after Members had reached a compromise and consensus. The problem is that a system already exists. Now that we have established a system, we hope that the system would be maintained and sustained. Employers have expressed different views from time to time. I heard from Mr Tommy CHEUNG that his friends in the catering sector had asked on various occasions in the past two years if they could suspend making MPF contributions since the economy was in the doldrums and a lot of food establishments had closed down. The sector had strongly expressed that employers and employees should suspend making MPF contributions in order to save some money. Of course, various sectors had different views, but the sector had really said so at that time.

Under the mechanism proposed by the Government, the minimum level of relevant income for contributions, that is, \$4,000 per month, would be raised. In the short run, employees whose income is between \$4,000 and \$5,000 per month do not have to make contributions. The measure is meant not only as a relief, for the adjustment is made on the basis of the median wage under a certain mechanism. Since it would actually relieve the difficulties of some low-income employees, we think that the proposal is acceptable. Although the measure would not particularly benefit employers, it would be helpful to employees. Should the relevant level be raised further? Would it be more beneficial to employees if it is raised to \$6,000, \$7,000 or \$8,000? Members also know that, in the long run, savings under the MPF schemes would have returns. We will only know the true value of our contributions and whether we can really retire after making contributions for almost 20 years. At this stage, we think that a suitable adjustment should be made to the existing mechanism but we should not raise the relevant level just because we wish to further relieve the difficulties of low-income employees. Who can guarantee that the median wage level would not become lower? Nobody can make such a guarantee. Similar to the civil service pay we debated yesterday, it is easier to make an upward adjustment than a downward adjustment. Therefore, we must deal with the matter prudently.

Concerning the maximum level of contribution, at present, for employees whose income is more than \$20,000 per month, the employers and employees have to contribute \$1,000 per month at the most and even if the employees have higher income, they do not have to make a higher contribution. The Liberal Party is of the view that, although there is a mechanism for raising the maximum level of contribution, if the Government wishes to raise the maximum level, its

proposal must be considered by this Council. However, our views on raising the maximum level may not be the same as those on raising the minimum level. Nowadays, a monthly income of more than \$20,000 is regarded as middle income.

In my opinion, the community should not regard MPF as the only protection for their retirement life. Although working people in some Western countries who have paid taxes would have an allowance similar to the old age allowance when they are old, we cannot rely entirely on such an allowance after retirement, especially people with middle income or the so-called middle class. Even though they do not have money for investment, they can buy various products that would protect their retirement life in the future. We should advise Hong Kong people not to think that sole reliance on the MPF can solve all the problems of life after retirement. Therefore, we would not encourage the Government to arbitrarily raise the maximum level of contribution. If we do not wish to live on a low income after retirement, we should buy some suitable life insurance or funds when we have earning power for it would be a better way to secure protection for the future.

I hope the Government would honour its promise and continuously review the relevant scheme. And it should not uniformly adjust the maximum level after adjusting the minimum level. It should also consider that a simultaneous adjustment of the two figures would have different effects. We support the amendment proposed by the Government but we cannot support Mr Andrew CHENG's amendment though we do realize its merits. Many people have told me that if people whose income is less than \$6,000 per month do not have to make contributions, they may patron food establishments more frequently, thus helping to boost their business. Yet, it may only have short-term effects. What would happen if they have fewer returns when they retire? Should we encourage them to apply for Comprehensive Social Security Assistance then? Therefore, we should strike a balance between short-term and long-term effects.

Madam President, I so submit.

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

(No Member responded)

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, first of all, I wish to thank Members for their input. The Mandatory Provident Fund Schemes (Amendment) Bill 2002 seeks to implement the proposals made by the Mandatory Provident Fund (MPF) Schemes Operation Review Committee, enhance the protection for scheme members, improve the efficiency of the operation of the MPF System, and set up a mechanism to adjust the minimum and maximum levels for MPF contributions. I would like to thank all members of the Bills Committee chaired by the Honourable Ambrose LAU for their efforts in scrutinizing the provisions of the Bill carefully during the six meetings held in the last month or so, as well as their valuable comments on the content of the provisions. Thanks to their hard work, the Second Reading of the Bill can be resumed today to enable us to implement as early as practicable the various amendments, which affect over 2 millions employees and employers.

Having considered the comments of the Bills Committee, we propose to make several technical amendments to improve the provisions of the Bill. The proposed amendments have all been scrutinized by the Bills Committee. I will move and explain these amendments at the Committee stage later on.

During its deliberation, the Bills Committee expressed concern over the mechanism for adjusting the maximum and minimum levels of income as proposed in the Bill. The Bill proposes that the principles accepted by various parties since 1995 should continue to be adopted. That is, 50% of the monthly median income be adopted as the minimum level and 90th percentile of the monthly employment earnings distribution be adopted as the maximum level. Applying these principles, the Bill proposes that the minimum level of income be adjusted from \$4,000 to \$5,000 per month, but the maximum level be retained at \$20,000 per month. In proposing this adjustment mechanism and setting the relevant minimum and maximum levels, we have fully considered the views from various parties, including the important factors such as the current economic situation and the retirement protection for MPF scheme members. In particular, we note the need to maintain the maximum level at \$20,000, in the light of the current economic condition. This maximum level is set out in the law and the Government cannot change it lightly. Any changes would need to be endorsed by the Legislative Council.

Proposals put forward in the Bill were supported and endorsed by the MPF Schemes Operation Review Committee and the statutory MPF Schemes Advisory Committee. Members of the two Committees come from various

relevant sectors, including employers, employees and service providers. The Honourable Andrew CHENG will propose amendments to change this adjustment mechanism and the minimum level of income. We oppose these amendments because they do not only run contrary to the objectives of setting up the MPF, but will also reduce the retirement protection for the employed persons. Some 130 000 employed persons would be excluded from the MPF contribution net as a result. I will discuss later the amendments and explain in detail the rationale for our objection. I would like to call on Members to vote against the amendments proposed by Mr CHENG, for the sake of the retirement protection of the workforce.

Apart from that, as pointed out by Mr Ambrose LAU, the Bills Committee is particularly concerned over how the Government will publicize the outcome of the review on the maximum and minimum levels of income. I pledge that the Mandatory Provident Fund Schemes Authority (MPFA) will report to the Legislative Council Panel on Financial Affairs the outcome upon the completion of the review conducted every four years. I would also like to thank members of the Bill Committee for reminding us of the need to enhance the publicity for the various new arrangements under the Bill. The MPFA will maintain close contact with the various related parties, enhance the publicity programme and enable the public to prepare well in advance.

Madam President, since the implementation of MPF schemes in December 2000, 93% of the employers, 95% of the employees and 83% of the self-employed persons have participated in the schemes. The encouraging participation rates are due to the community's support for the goal of the MPF and that is, for the retirement protection of the workforce, we have to be forward looking and prepare well in advance. We will continue to work towards this widely accepted goal by enhancing the operation and efficiency of the MPF System and by better safeguarding the interests of scheme members. The MPF Schemes Operation Review Committee is working on the second phase of the review, and we will continue to listen to the views of the various parties during the process. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Mandatory Provident Fund Schemes (Amendment) Bill 2002 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): Mandatory Provident Fund Schemes (Amendment) Bill 2002.

Council went into Committee.

### **Committee Stage**

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

### **MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2002**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Mandatory Provident Fund Schemes (Amendment) Bill 2002.

**CLERK** (in Cantonese): Clauses 2, 3, 6 to 10, 13 and 14.

**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 1, 4 and 11.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move the amendments to clauses 1, 4 and 11 of the Bill, as set out in the paper circularized to Members.

We propose to amend the reference to "Secretary for Financial Services" in clause 1(3) of the Bill to "Secretary for Financial Services and the Treasury" for consistency with the new post title.

Clause 4(a) of the Bill is amended at the Bills Committee's request to simplify the Chinese text of the provision concerning employees' contribution holiday. This will make the provision clearer.

The amendment to clause 11 of the Bill seeks to prescribe more clearly the daily penalty to be imposed on employers who have failed to enrol their employees into MPF schemes. The penalty is applicable only to employers whose offence continues after conviction by the Court of failing to enrol their employees into the schemes.

The above amendments are solely technical in nature. They serve to make the relevant provisions clearer and have been endorsed by the Bills Committee. I hope Members will support the amendments.

Madam Chairman, I beg to move.

*Proposed amendments*

**Clause 1 (see Annex X)**

**Clause 4 (see Annex X)**

**Clause 11 (see Annex X)**

**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 Financial Services and the Treasury 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 1, 4 and 11 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): Clause 5.

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, I move that clause 5 of the Bill be amended, as set out in the paper circularized to Members.

Madam Chairman, you once said that Members had shown no improvement in their debates, as they always read from their scripts. Today, after I have finished reading out my script, I shall respond to some of the views expressed by Members on my amendment.

Madam Chairman, with respect to the Mandatory Provident Fund Schemes (Amendment) Bill 2002, I propose on behalf of the Democratic Party to change the minimum level of relevant income from 50% of the median income as proposed by the Government to 60% of the medium income. This means that people earning less than \$6,000 per month can be exempt from making Mandatory Provident Fund (MPF) contributions. In regard to the maximum level of relevant income, the Democratic Party proposes to change it from monthly earnings at 90th percentile of the monthly employment earnings distribution as proposed by the Government to monthly earnings at 80th percentile of the monthly earnings distribution. This amendment will not affect the existing maximum level of relevant income at \$20,000.

The Democratic Party understands that under the current economic downturn, the Government must strike a balance between lightening the burden of low-income people and catering for their post-retirement needs. The Government is of the view that if the minimum level of relevant income is set at 60% of the median income, more low-income workers will become unable to receive post-retirement protection. But, to families with both young and old dependants, and also to the families of the unemployed, their most pressing need is in fact how best to meet their daily expenses. If the Government can let them have more disposable money, the pressure they face will become lighter, and they will work more efficiently, thus providing security to their livelihood. What is more, the proposed downward adjustment of the minimum level of relevant income will only involve employees' contributions, and employers' contributions will remain unchanged. If the economy improves in the future and these employees can earn more income, I am sure that they will be very happy to resume making contributions again.

Since the Government has, in the light of the current economic condition, proposed to maintain the existing maximum level of relevant income at \$20,000, one can in fact easily see how bad the economy is. The situation as such, there is all the more reason for the Government to adjust the minimum level of



relevant income to 60% of the median income. Actually, even before the implementation of MPF schemes in late 2000, the Democratic Party had already advised the Chief Executive to raise the minimum level of relevant income from \$4,000 to \$6,000. However, the relevant private bill was eventually shelved.

Since the Mandatory Provident Fund Schemes Ordinance empowers the Mandatory Provident Fund Schemes Authority (MPFA) to exercise discretion in setting the minimum level of relevant income without having to conduct any reviews. The Democratic Party views that this will create uncertainties in the whole MPF contribution system. The market is unable to know when the MPFA will exercise this discretionary power, nor can it know under what system or mechanism the MPFA may exercise its discretion. Therefore, the Democratic Party thinks that the Government should amend the Ordinance, requiring the MPFA to base any adjustments on review findings, so as to reflect the realities. However, in the interest of maintaining flexibility, it is already fine enough to set down in the Ordinance a minimum level of relevant income at not less than 60% of the median income. This means that the level can be raised above the level of 60% in the light of changes in the economic conditions in future.

In regard to the statutory maximum level of relevant income, when the Ordinance was drafted in 1995, it was set at the monthly employment earnings at 90th percentile of the monthly employment earnings distribution, or \$20,000 as it is. The monthly employment earnings at 90th percentile of the monthly employment earnings distribution has by now risen to \$30,000. There is thus a difference of \$10,000. That is why the Government has to lower the level to 80th percentile, so that the maximum level in actual money terms can stay closer to the previously set down level of \$20,000. The amendment of the Democratic Party specifies that the MPFA may only set the maximum level of relevant income at not exceeding the 80th percentile. This again means that the Government will be able to take account of future changes in the economy and flexibly lower the percentile. The Democratic Party's amendment can set up a flexible mechanism for adjusting both the maximum and minimum levels. It can protect labour rights and interests while bringing benefits to employers.

Madam Chairman, I now wish to respond to the remarks delivered by some Members during the Second Reading debate of the Bill. To begin, I must say something about the remarks of Mr CHAN Kam-lam from the DAB and those of Mr LEUNG Fu-wah from the FTU. It seems that Mr CHAN Kam-lam

simply regarded the survey findings I quoted in my first speech as the only criteria underlying my amendment. I must stress once again that the Democratic Party's amendment today is based on two major principles. I totally agree with Members who spoke just now that there must be a balance. Many Members think that the burden of low-income people must be reduced. But then, many of them, especially those who oppose my amendment, also say that retirement protection for these people is equally important. Where should be the balance be struck?

Madam Chairman, there is no such thing as a poverty line in Hong Kong. But this is found in many other advanced countries and places, and the line is drawn mostly at half of the median income. This means that if the Government sets the minimum level of relevant income at 50% of the median income, then those people earning \$5000 a month will probably fall below the poverty line — assuming there is one in Hong Kong — after making contributions. I hope that Mr CHAN Kam-lam and Mr LEUNG Fu-wah of the FTU can speak again, so that we can debate the matter further. In the past, I was deeply impressed by their concern about the livelihood, dignity and protection of low-income people.

A year or so ago, when I put forward a private Members' Bill, Miss CHAN Yuen-han of the DAB said, admitted, agreed and even confirmed of her own accord that the then minimum level of relevant income at \$4,000 was not adequate. If I remember it correctly, she even said publicly that the level should be raised to \$6,000. Miss CHAN has not spoken in this debate today, and I do not know whether she will vote later. I hope that Miss CHAN can return to this Chamber.

The median income a year or so ago was more or less the same as that now. At that time, on behalf of the Democratic party, I moved a private bill, proposing to set the minimum level of relevant income at \$6,000, so that even after the deduction of 5% from their income as contributions, they could still survive more comfortably. But a moment ago, Members belonging to the DAB and FTU all seemed to think that low-income people should be obligated to make contributions in exchange for the very meagre, so-called retirement protections decades later. That reminds me of a saying: "Distant water cannot help quench the fire before us". Roughly 20 000 low-income people will get some breathing space, some relief, amidst their plight and misery due to my amendment. I must ask Members belonging to the DAB and FTU: "Why still oppose my amendment?" Why are their views so different now?

Mr LEUNG Fu-wah says they are not out for momentary applause. Was Miss CHAN Yuen-han then also out for momentary applause outside the Legislative Council. Why is she not here now? Why does she not vote? They may say in a very high profile that they do care about the low-income people. But why do they choose to be absent when it comes to the vote? I wish to call upon Miss CHAN Yuen-han, through the Chairman, to return to Chamber to speak and to vote. Mr LEUNG Fu-wah of the FTU opposes my amendment today. This should be put down on record.

Mr NG Leung-sing and Mr Howard YOUNG have also spoken on my amendment. Mr NG Leung-sing comments that I seem all the time to be talking about increases instead of reductions. I find his comment very odd and even illogical. Our basis now is the median income, which may go up or down. The median income is not determined by the Democratic Party. Instead, it is actually a line drawn by the Government following a statistical analysis of market adjustments. Our present amendment has been moved in response to the amendments put forward by the Government. I mean, in response, we propose to set the minimum level of relevant income at 60% of the median income and the maximum level of relevant income at 80%. This is quite unlike the wage increases and decreases debated yesterday. The adjustments can never be determined by my amendment.

The Secretary has described my amendment as "contrary" to the intended objective. I am really puzzled. How can this be? All of us agree that the minimum level of relevant income must be reviewed. The Secretary, the Breakfast Group, the "royalist" party or the so-called ruling coalition have all said today that there is a need to review the income level for contribution exemption. The only thing is that our criteria of review seem to be different. We all think that a line should be drawn. But where should it be drawn? Members may have different opinions about this. Nevertheless, we do not differ on the motion that the present livelihood and future retirement of the low-income people must be protected. Therefore, I hope that the Government can stop describing my amendment as running "contrary" to the intended objective. I also hope that Mr NG Leung-sing can realize that there is absolutely no contradictions in the mechanism proposed by me. I hope Members can understand that adjustments can never be determined by my amendment.

Madam Chairman, in fact, I still wish that Members could pay attention to one more point about my amendment today — the point on discretionary power which I mentioned a moment ago. Members may note that clause 10A(2) of the

Government's Blue Bill reads "Without limiting the factors which the Authority make take into account for the purposes of conducting —". In other words, the MPFA may well disregard such factors, or it may consider them and then make corrections through administrative measures, just like the case now. The maximum level of relevant income is set at 90th percentile. In terms of the standards now, the amount should be \$30,000. But the Government thinks that it must help the middle-class people. It thinks that it is something very difficult for one earning \$30,000 to make any contributions. So, it simply proposes to lower their contributions and maintain the level at \$20,000, disregarding this reference parameter.

I always worry that this may lead to uncertainties in the market. When will the MPFA exercise its discretion? How are the Government and the MPFA going to inform the market, employees and employers what discretionary mechanism will be put in place in respect of this reference parameter? My amendment will clarify the uncertainties. In this connection, the Democratic Party wishes to make reference to two points — 60% and 80% of the median income. Just these two reference points, and Members need not look at any others. If the MPFA has other opinions, it should put them down clearly in the legislation. If not, I will think that the market will become very confused.

Madam Chairman, I can vaguely remember that when I moved my private bill, before the implementation of MPF schemes, the median income at that time indicated that the minimum level of relevant income should be set at \$5,000. But I said it should be \$6,000. The Government and many colleagues said that it was not necessary and that the level at \$4,000 was suitable. They used precisely the same reasons they use today to justify that my private bill should not be supported. But then, when the Government proposes to change the minimum level of relevant income to \$5,000, they all say that the Government's proposal is reasonable. That makes me feel that these Members actually think that the Government is always correct, and the amendments of the Democratic Party are always wrong. Madam Chairman, I can remember that you have criticized or advised us that when we debate any policy issue, we should focus on the contents of the policy and its implications, instead of just taking sides, instead of just supporting the Government. Thank you, Madam Chairman.

*Proposed amendment*

**Clause 5 (see Annex X)**

**MR HOWARD YOUNG** (in Cantonese): Madam Chairman, we cannot say that amendments proposed by the Democratic Party are always wrong. In the preceding debate on another Bill, the first speaker who spoke in support of Mr Albert HO's proposed amendment was apparently a member of the Liberal Party. Am I right?

I would like to speak on the question that whether the level of relevant income could only go up, not down. The substantive change in the amendment proposed by the Government is to adjust the level of relevant income from \$4,000 to \$5,000, so that people now earning below that level need not make contributions. This is "up" as I have just said. Mr Andrew CHENG has proposed to adjust it to \$6,000, and he has also proposed to adjust the percentage of the monthly median income. Considering the monthly median income may go down in future and as he is proposing a one-time adjustment from 50% to 60%, the increase is so acute that I believe it would be very difficult to reduce it to 55% or 50% in future.

However, I have to emphasize that we really appreciated a certain part of his amendment, that is, the part concerning the reduction of the monthly employment earnings distribution from 90% to 80%. Our concern is not the relevant percentage. In fact, we could see that after the percentage is adjusted, the effect in substance is that the existing maximum level would be fixed at the \$20,000 level. We are not arguing whether or not the computation of 90% or 80% is correct, we just want to discuss if we should adopt the 90% threshold, because we have doubts about it. Just now I have mentioned that the middle income group (the high income group is out of the question) should not completely rely on the MPF schemes, they should not put all the eggs in the MPF basket alone and hope that they can live on the MPF after retirement. In this respect, they should think about all sorts of savings or investment vehicles which may help to protect their retirement. In fact, if the threshold can be set at \$20,000, the Liberal Party wishes that it should be adopted as the ceiling regardless of future changes in the median income. I think people under this category should make other plans for themselves. I encourage them to make some investments and I also encourage them to buy some savings tools or products, so that their retirement would be more productive, fruitful and happy.

However, if the mechanism allows a certain discretionary power or an adjustable formula, then it may stifle or undermine existing products on the

market because people in the market would have no idea of who are in the market. These people may think that since the ceiling may go up later in addition to the fact that they are already making the contributions to MPF, it is unnecessary for them to think of investing in other products which may help them to improve the quality of life after retirement. Although we are unable to support the proposal of reducing the upper limit from 90% to 80%, we still think that it will help to lock it at the existing \$20,000 level, and it is the point that we can agree. For this reason, I wish the Government would consider it again. Although the Government is maintaining the stability of the existing \$20,000 level by means of using its discretionary power, is it necessary to set the percentage at such a high level and is there any fundamental problem with the 90% proposal? Furthermore, should it be linked to the minimum level and the median income? I think the Government should consider it carefully.

**MR LEUNG FU-WAH** (in Cantonese): Madam Chairman, since my name has been mentioned, I have to answer that anyway. I am not that kind of person who will argue for anything regardless whether or not they are matters of principle. I do not wish to give the people an impression that we can argue about anything in the Legislative Council regardless of the topic.

I think today's focus should be the determination of the minimum level of income, that is, whether it should stay at the \$5,000 level or the \$6,000 level. We should not assume that all the employees are living from hand to mouth. We have to look at the reality. Therefore, during the scrutiny process of the Bill, we asked the Government about the number of employees who were making a monthly income between \$5,000 and \$6,000. From the data we obtained at that time, there were about 130 000 people. How many people in this group will face financial difficulty after \$250 to \$299 is deducted from their disposable income? This should be the crux of our concern, and we agree that this issue could be further studied. In fact, the Government was unable to provide solid data for us to study. This is one of the points.

Secondly, I have to make it clear that as a result of the present proposal, the MPF Schemes Operation Committee (the Operation Committee) under the Mandatory Provident Fund Schemes Authority was established. The Operation Committee comprises representatives from the Hong Kong Federation of Trade Unions (FTU), the Hong Kong Confederation of Trade Unions (CTU),

employers and business associations. After discussing the issue (although we did not have a very formal voting system), a general consensus was reached. We considered that, given a mechanism was already in place, the maximum and minimum levels of relevant income could be debated and reviewed on a regular basis. It was the agreement among all representatives.

Therefore I made it clear in my earlier speech that our idea was crystal clear. We considered that after all the data are thoroughly discussed and studied, we should determine a standard, for we should not say anything arbitrarily without any standard. Frankly speaking, we will not propose amendment to everything, and it is not necessary for us to make a clear-cut political stand on every occasion. Therefore, I hope we can discuss the matter with rationality, scopes and grounds, and we should not randomly set the level at \$5,000 or \$6,000. Being a labour union, we should have justifications to support our analysis between a good option and a bad one. Insofar as the present case is concerned, we consider the \$5,000 level reasonable and the level at 50% of the median income acceptable. Therefore, we support the original intent of the Government, but it does not necessarily mean that we think the Government is always right. Sometimes, we will vote against motions proposed by the Government, and similarly, we will support amendments proposed by the Democratic Party sometimes. Therefore, we are not judging from the perspective of who proposes the motion. Thank you, Madam Chairman.

**MR CHAN KAM-LAM** (in Cantonese): Madam Chairman, I think the stance of the Democratic Alliance for Betterment of Hong Kong (DAB) on the MPF System is very clear. It is because we have been fighting for the best protection under the MPF since the mid-1990s. In fact, we have proposed a two-tiered protection system at that time. However, we considered it acceptable as the Government was willing to take the first step of establishing the MPF System. That is to say, we have to do something in the first place, then we can identify the number of people who have financial difficulties after retirement and provide them relief through the retirement protection network, the Comprehensive Social Security Assistance (CSSA) Scheme.

In fact, the MPF System has been implemented for only a short time, just been a year or two, therefore there are problems pending improvement. For instance, we have discussed the contribution ratio at the beginning, and we have

reached fundamental consensus on 50% of the median income. The level of minimum relevant income was \$4,000 as the median income at that time was \$8,000. Everybody knows that there are ups and downs as far as economic condition is concerned. Today, amid the economic doldrums, everybody hopes that the low-income group can make less MPF contribution, so that they can have more cash at hand. Nevertheless, there must be a standard for determination of the level. Without a set standard, the system will be very unstable, which is not satisfactory at all.

We agree that we will be better off and feel less pressure during economic downturns if we have more cash in our pockets or our hands, but will it be like what Mr Andrew CHENG has said, that is, people would spend the money they have thus saved, therefore the money will go back to the market? We do not think it is necessary at all, as they may find some other ways to save up the money. Therefore, if Honourable Members think the mechanism should be set a ratio of 50%, 60% or 70%, they must have their unique method of calculation. It is irrational to criticize one's own proposal as worthless and, as one will always insist how good and ideal his proposal is. However, Members should understand that under the scheme, the contributor should make the contribution only if he has income. If the contributor has no income, contribution is basically not required. Therefore, it will not affect the contributor or add to his burden of contribution during economic doldrums, because the burden on his family is fundamentally unchanged, and he should make contribution only if he has income. As a result, I think a consensus should be reached on this.

Just as Mr LEUNG Fu-wah has said, in the meetings of the Labour Advisory Board (LAB), all relevant parties considered that fixing the minimum level of relevant income at 50% of the median income was reasonable and acceptable. Therefore, I think we should not argue about it again. Mr Andrew CHENG has proposed to adjust it to 60%, but his rationale was not at all scientific. I hope that he would refrain from using the term "in dire straits" repeatedly in order to draw the support of the low-income group. In fact, the entire issue has been distorted to the extent that if we do not support his proposal, people would consider that we are turning a blind eye to those low-income people. Are the low-income people really in dire straits? Of course, some people are really earning so little that they cannot live on the meagre income. We will think of ways to help them, such as urging the Government to increase employment opportunities and to improve the economic condition, with a view to helping them out. However, we should not make a fuss about the amount of



MPF contribution. It seems that raising the minimum level of relevant income by 10% is a big help to these people since they may save up some \$200 from their contributions, I really do not understand why the Democratic Party has proposed this amendment, which is so polarized, political and extreme. I think it is unnecessary at all.

Whenever we talk about criteria, we should talk about balance as well. If we have reasonable and objective criteria, we should not use the term "in dire straits". Will these people be unable to cope with life if they have to make MPF contributions and save \$250 less? Is it the real situation? It is not the reality. Therefore I think that when we discuss this issue, we should earnestly seek a consensus which may help to strike the right balance in society.

I think there are many problems with the MPF System, and I hope the Government will conduct constant reviews in future and refer to the MPF schemes of other countries, in order to see how they make use of the employees' contributions which have been built up over the years in a flexible way, because they can be utilized in areas other than making sheer fund investments. A lot of advanced countries are making these kind of investments, such as purchasing medical insurance, realty or using them in other applications. In fact, the MPF System will keep on evolving in the course of operation, so I really hope that the Government can conduct constant reviews in the entire course. If we have brilliant ideas, we may put them forward, such as the proposal on the extremely complicated employer-based account, waiting to be addressed. Therefore, as far as the entire operation of the MPF System is concerned, reviews in various aspects are necessary. We should not think that everything can be settled by putting forward a single proposal, and we should not treat those Members who do not support the proposal look as if they are turning a blind eye to the people in dire straits. I hope Honourable Members can deal with this issue sensibly. Thank you, Madam Chairman.

**MR NG LEUNG-SING** (in Cantonese): Madam Chairman, since Mr Andrew CHENG has mentioned my name, I therefore have to respond, lest Members will feel that they have lost the interest of discussing the issue. This script, I have to read, but I just wish to read that line, that is: the idea of the amendment can be seen from its content. This is what Mr Andrew CHENG said. I can see that it will only go up, not down. The idea behind it is that the amendment intends to

raise the minimum level of relevant income from \$5,000 to \$6,000, and a person should only make MPF contributions if his income reaches the \$6,000 level. It is obvious that the level will only go up, it will not go down, and more people will be exempted from making MPF contributions. The implication is, if we take this amendment as a basis for future revision of the relevant income level, then it will be natural for people to recall that it was raised in the past. Can the level be reduced next time or some time later? I truly believe that the chances are rather slim. As more Members will be returned by direct elections, it will be more difficult to achieve that objective.

Secondly, will people live in greater dignity if they are exempted from making the \$250 to \$300 contributions? I believe it is hard to come up with a conclusion. But obviously, in the entire discussion of the MPF System, many people, including colleagues from the Democratic Party, agree and believe that the existing contribution level is inadequate as retirement protection, then why should we take away the \$300 contributions? I feel we should think it over, and if we can foresee we are unable to live on the MPF after retirement, then think about what we can depend on tomorrow and what we can depend on in future.

I am not shining the boots of the Secretary. As to the expression "run contrary to", I share the view. If our purpose to ask the people to store up grains against famine is in the interest of their future, then why should we allow more people not to store up grains against famine? I can hardly agree that these few hundred dollars can determine whether they can live in enhanced dignity. Under this circumstance, I can only respond to Mr CHENG with the words below: "To spend more money today means no dignity after retirement". Thank you, Madam Chairman.

**MR ALBERT HO** (in Cantonese): Madam Chairman, first of all, I wish to discuss the comment by Mr LEUNG Fu-wah. He said we made him declare his political stance. As we all know, the motion requires no declaration of political stance. However, the FTU has always been talking about protection of the interest of workers, the livelihood and dignity of the grassroots, and so on. Therefore, on such issues, Mr LEUNG should seize the opportunity to say a few words. Mr LEUNG should have stood up without being named. He should not say others force him to declare his political stance because these should be issues of enormous concern to him.

Secondly, we have asked a question repeatedly in this Council. If some issues have been discussed in consultative committees and a consensus has been reached, should the Legislative Council respect it and accept it without reservations? We have said this many times before and Mr LEUNG should remember it clearly. Of course, we may consider further the consensus reached and we should listen to the arguments advanced. The question is that each Member in the Legislative Council has his or her identity as a representative and so we should think independently in reaching a final decision. Otherwise, in all future legislative procedures, Members will only act as a rubber-stamp, just as they did the last time legislation was made to effect a salary reduction. In that event, the Government said everything was done according to a so-called mechanism, and it asked: "Why do people say it is not fair?" So, Members only had to stamp. This should not be the case. We need to monitor the process. If we lose our ability to monitor, we cannot say we are performing the duties of a Member of the Legislative Council.

Thirdly, Mr LEUNG said he was not sure how many people would be affected by the amendment and whether it was useful to save two to three hundred dollars. It is of course very difficult to find objective and scientific data on the number of people affected. However, we can all tell how difficult people's livelihood is when many are earning \$6,000-odd under the present economic conditions, despite being haunted by deflation. I was very much surprised to hear what was said by some Members coming from the grassroots, including Mr CHAN Kam-lam and Mr LEUNG representing the FTU. How could they say two to three hundred dollars is not important?

In many districts, we find that many people have an income of only \$6,000 or \$7,000. Both of the said Members can tell that these people have to support their families and that their children have to receive education and so a lot of expenses are incurred. We do not want them to use up all their income each month and then say that they have sufficient money to spend; nor should we say the surplus of two to three hundred dollars is not needed. The truth is not like that. Children in these families, like our children, have to have some activities. They may have to learn to draw, to play the piano, and so on, and thus the two to three hundred dollars will decide whether they can have such activities.

In fact, we can see that raising the minimum level of relevant income from \$5,000 to \$6,000 just means we are sympathetic to those earning that level of income. Should we relax the income level? People working in such districts

will be able to tell that under the present economic conditions employees may be very much upset by the need to contribute to the MPF schemes. We find that many employers use every means to avoid contributing to the MPF for their employees. If employers are reluctant to contribute or feel they cannot afford to contribute, what do we say to those earning \$5,000-odd a month? Should we say they can afford the contribution because it is only an extra two to three hundred dollars? Should we say that? We really need to go to the various districts to find out how people live, under what conditions they are living and how they feel now.

We have been discussing many issues including income limits for public housing applicants, and so on. We also have many meetings about limits. We often estimate the minimum monthly income for a general household. We repeatedly say we should not expect people to use every cent each month and ask: "Can we spare some savings for them, say 10%?" Mr CHAN Kam-lam said they might keep the money without spending it. This is another issue. They may save the money for rainy days. They may use it for paying a visit to a private doctor when they fall sick and they do not want to queue at a government clinic. Can they do so? I just do not think it is right to require the grassroots to use all of their money. I am saying this because I do not think Members should disagree or have the reason to object. However, I know some Members will be objecting because they have to object to Mr Andrew CHENG's amendment. We do not often use the phrase "dire straits" to describe the conditions of some people, but Miss CHAN Yuen-han does. Unfortunately, she is not in this Chamber. If she were here, she might find some ideas of Members unbearable and may even be more vehement than us in rebutting these ideas.

In a nutshell, if we were to relieve people from their hardship today, two to three hundred dollars is important to a person that earns only \$5,000-odd a month. It is important to his family members and his children. It would be very good if the two to three hundred dollars is kept in their pockets to give them a greater sense of security. Mr NG Leung-sing said we should ask employees to save more money so that they may live with more dignity after retirement. If one knows for sure that he or she will not be living in dignity between now and 20 or 30 years later, what good is it to talk about life after 20 or 30 years? We are just requesting that more allowance be given to those people earning \$5,000-odd a month, that more dignity be given them, that the only two to three hundred dollars be kept in their pockets, whether they spend it or save it up. At

least that will make them feel they have some money in their pockets for emergency or for their family members or for their children to have more entertainment or activities, just like us.

This is why the Democratic Party has proposed the amendment. There is no politicizing. The livelihood of the people that Members care about is just the kind of relief for the people often mentioned by the Chief Executive. Thus, I hope Members may consider my views. I am not attacking anyone, but I just hope Members may consider my views again.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, on behalf of the Hong Kong Confederation of Trade Unions (CTU), I rise to speak against parts (a) and (c) but for part (b) of clause 5 of the amendment.

First, I need to explain my reasons of opposition. Part (c), as Mr Howard YOUNG said, lowers the monthly employment earnings from the 90th percentile or \$30,000 to the 80th or \$20,000. The Mandatory Provident Fund Schemes Authority (MPFA) may consider raising the upper limit to \$30,000. However, the situation as we can see is that the \$20,000 level may still be retained. Mr Andrew CHENG's amendment to a certain extent fixes the upper limit at \$20,000 or the 80th percentile. If that level is not fixed, assuming the situation after four years is the same as the situation now, the MPFA may consider raising the upper limit to \$30,000, just to let the middle-income group have more retirement protection. I think the upper limit may be decided by the Administration after it has reviewed the overall position and it need not be fixed now. If the upper limit is fixed at \$20,000 as a result of the passing of part (c) of the amendment, it may not be adjusted to the 90th percentile or the \$30,000 level in future. So, we oppose this part of the amendment.

We oppose part (c) of the amendment and the reason is related to part (a). The reason is that part (a) is about "60" per cent of the monthly median income and about the monthly employment earnings distribution at a percentile not exceeding 80th. I think the MPFA should be given some flexibility, such as fixing the minimum level of income at 60% of the monthly median income for the low-income group and a flexible percentage for the high-income group. We are against part (a) of the amendment put forward by Mr Andrew CHENG because we think the MPFA should be given some flexibility and allowed to reassess the situation in the light of the prevailing economic conditions then. Regarding the upper limit of the relevant income, we think the level should be

raised to \$30,000 or \$25,000 after several years, or again to an amount appropriate to the situation then. If the level were fixed now, it would be very difficult to adjust in future. Thus, I will oppose to parts (a) and (c) of the amendment.

I would now like to clarify Mr LEUNG Fu-wah's comment about the fact that there was a representative of the CTU in the Review Committee. Our stance in the Review Committee was very clear. We supported the proposal for the figure of 60%. We were even of the view that if the Government truly cared about the low-income group, it should make contributions for them. This is of course another completely different issue. In the Review Committee, we never agreed to the figure of 50%. Mr LEUNG Fu-wah asked the Government a while ago for the number of people among the 130 000 people who would find it difficult to contribute \$250 to \$299 monthly, but the Government could not provide a figure; nor indeed can any one of us. The matter is in fact very simple. If the Government could provide some data, we would then have a clear picture of what the situation is like. How many among the 130 000 people are workers coming from three-person households? Calculating on the basis of a three-person household, expenses including rent would round up to approximately \$7,000 to \$8,000. This means a difference of \$1,000-odd from \$6,000. With only one person working in a three-person household and with this person earning just \$5,000-odd, the household would find itself in a financially difficult situation. But how many such households are there? The Government cannot provide a figure for that because its data do not give a detailed breakdown. Nevertheless, Members should be able to tell there are many such households. In a four-person household or a three-person household, if one member loses a job leaving another with a job, the family would find itself in the difficult situation mentioned. At the moment, low-skilled workers such as workers doing cleansing or security work only earn \$5,000 to \$6,000 per month each. Thus, I think there must be people with financial difficulties. How many such people are there among the 130 000 people? I cannot tell, nor can anyone. I only hope Members will understand that the money is very important to this group of people.

Moreover, Mr Albert HO and Mr Andrew CHENG respectively requested that Miss CHAN Yuen-han should rise in response, as if they were trying to pressurize her. This is because her colleague, Mr LEUNG Fu-wah belongs to the FTU and her partner during her election campaign was Mr CHAN Kam-lam. Thus, both Mr HO and Mr CHENG made the right choice by picking Miss

CHAN, who is related to the two Members, for a clarification. Miss CHAN should be out of this Chamber now; otherwise she must have responded. In my view, the essential element of any political party or trade union is consistency. A Member may represent a certain class of people or trade and that is not a problem, but the Member should act consistently. He or she should not take a certain stance and then shift to another all of a sudden, on the same issue. I think if Members have a consistent stance, discussions will be greatly facilitated. Thank you, Madam Chairman.

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

**MR LEUNG FU-WAH** (in Cantonese): Madam Chairman, I wish to clarify one point. Just now, Mr Albert HO mentioned me in his speech. However, I have to clarify that I have not said that the two to three hundreds dollars are not important to such families. The remarks made by Mr LEE Cheuk-yan just now are the fairest. My question posed to the Government is that among that 130 000 people, how many have found themselves in difficulties. I can also confirm that the CTU representatives on the committee have stated their views, hoping the Government can make contributions for workers. However, this is not the consensus of the committee.

I remember criticizing Mr LEE Cheuk-yan as "Four Tael LEE" on 20 December 2000. In fact, I would like to nickname Mr Andrew CHENG as "A Thousand more CHENG", as I believe that should the Government propose to set the minimum level at \$6,000, he will move an amendment to raise it to \$7,000. What actually involve is the rationale behind, and the question of where to draw the line. Furthermore, can this really alleviate people's hardship? We agree entirely that it is a matter of alleviating people's hardship.

In his remarks earlier, Mr Albert HO has failed to respond to one point. He has only made reference to the present situation. However, we are talking about striking a balance between the prevailing situation and the future. Problems identified now should certainly be addressed, but it is hardly justifiable to ignore the balance and benefits in the future. After considering the various factors, we formed the view that the level should be pitched at \$5,000 which is a more objective figure. Thus, we support setting the level at \$5,000. Thank you, Madam Chairman.

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

**MR CHAN KAM-LAM** (in Cantonese): Madam Chairman, since Mr Albert HO said that people earning \$6,000 to \$7,000 per month are living in great hardship, so it would appear that I am being indifferent and apathetic if I do not respond. Given the expensive cost of living nowadays, I totally agree that families with a household income around \$6,000 to \$7,000 are bearing a heavy burden. This is particularly the case with low-income families, which are encountering numerous problems as employment difficulties, salary reduction and benefit cuts. Those families have to overcome lots of difficulties, and that \$6,000 to \$7,000 is not a comprehensive solution to those issues.

Under the present MPF schemes, contribution is "mandatory" irrespective of the monthly saving one can make. We consider that there should be a balance, irrespective of the percentage share. Are those people earning \$7,000 per month leading a good life? They certainly have to face lots of difficulties. However, the middle-income group earning \$10,000 to \$20,000 a month may be even worse, because they may be owners of negative equity assets. Therefore, on assessing their state of hardship, the level of income is not the only consideration. In respect of MPF, we have to consider the long-term objective of the scheme, which is to encourage savings in the younger days to prepare for the old age. If the group with lower income is given a contribution holiday now, their accrued savings when they become old will have reduced correspondingly. We have to strike a reasonable balance in this.

If the Government proposes to set the level at \$4,000, Members will suggest to raise it to \$5,000; if the Government's proposal is \$5,000, Members will request to lift it to \$7,000; if the Government proposes \$6,000, Members will again ask for \$7,000. Members' arguments are nothing more than that. According to Mr Andrew CHENG, we should allow people to reduce their contribution during an economic slump, and to increase on an economic upturn. But this is no system at all. Besides, how can the low-income group increase their contribution when the economy is good? They simply cannot cope after all. If we only aim to enhance slightly the livelihood of a certain group under the present circumstances, it is entirely meaningless. No matter the level is set at \$5,000 or \$6,000, those making an income above this line will have to contribute, but the amount of contribution needs not be increased. Therefore, if the argument on figures go so far as to alluding to "dire straits" and "economic



difficulties", then it is meaningless. We will have a debate concerning negative equity assets later, and this is precisely the greatest problem confronting the middle class, who are earning \$20,000 to \$30,000 monthly, are facing. The spending power of those people living in public rental housing, earning \$7,000 to \$10,000 monthly, may be even greater than that of the middle class. We need not divide the various strata in the community, but we must have regard for the realistic circumstances. Thank you.

**MR LEE CHEUK-YAN** (in Cantonese): Madam Chairman, I really find it hard to understand Mr CHAN Kam-lam. Is there a need for us to compare who is in greater "dire straits"? Is it true that the plight of low-income people is less serious than that of those who own negative assets? He said we should not divide various strata of the community, but what he said earlier about various strata of the community comparing who is in greater dire straits is actually dividing the community. In order to rationalize his stance, Mr CHAN has described low-income people as being in a less serious plight than those who own negative assets. But his argument really does not stand. I urge him not to speak any more, otherwise the more he says the more mistakes he will make. Thank you, Madam Chairman.

**MR ALBERT CHAN** (in Cantonese): Madam Chairman, after two days of debate, I have become more and more sympathetic to Members of the "ruling coalition". I think deep down in their hearts, they may not very much agree or even do not quite agree with the party line on how they should vote. So, very often, they have to find some specious and very contradictory excuses to satisfy themselves or to let themselves think that their intuitive knowledge and conscience have not been stifled and discoloured.

The more I listened to the earlier speeches of Members, the more puzzled I became. One moment, Members said \$200 to \$300 is not at all significant, another moment, they said they have great sympathy for the grassroots, but the next they said they have more sympathy for negative assets owners than for the grassroots. Mr Andrew CHENG has clearly explained why the \$200 to \$300 is so important, for he is not thinking about this in terms of the rich, the middle-class or those who own negative assets, but in terms of people who are on the poverty line. Is there a need to make this group of people live below the poverty line by asking them to make monthly contributions of \$200 to \$300?

This is our basic principle, stance and viewpoint. If Members could not even understand this point, then they have not completely grasped the problem. If Members feel that it is fine for those people to live below the poverty line, or if Members agree with Mr NG Leung-sing that workers should keep working late into the night or living below the poverty line for the next 20 to 30 years from now so that they could live in dignity after two to three decades, or if Members think there is a need to make such sacrifices, then please vote against Mr Andrew CHENG's amendment. Is it necessary for us to continue to force this group of people to live below the poverty line in the coming decades? This is actually the crux of our whole argument. Can Members confirm that if this group of people is forced to contribute \$200 to \$300 monthly, then they will not live below the poverty line in the future? Please give us some justifications. The thrust of the whole debate is how to strike a balance. The principle in question is by striking a balance, this group of people will not be pushed to live below the poverty line. This is one of the important factors in laying down the criteria for and setting the poverty line.

Madam Chairman, every time Mr CHAN Kam-lam speaks my nerves will be stimulated. (*Laughter*) Therefore, I am looking forward to hearing him speak for his speech will invariably make my thoughts more active and more militant. Mr CHAN said the issue of \$200 to \$300 should not be politicized. I do not know whether he still recalls that a five-cent increase in the fares of the Star Ferry did trigger off a social riot. Therefore, we should not overlook the impact of \$200 to \$300 on the community. I often tell both serving and new government officials that they should exercise caution for the Hong Kong community is now very unstable. It is like a bomb that will go off at any time, but we do not know where the explosion will take place. Perhaps, it will be set off by transport problems such as by a 50 cents increase in bus fares, by an increase in the fares of the Mass Transit Railway, an industrial action or the issue of negative assets. What we have to do at the moment is to provide relief measures in all areas of possible explosion, to relieve the public of their frustrations and grievances so that people who are in dire straits could be given a chance to catch some breath. I think this should be the main concern of the whole Government and the Legislative Council. The figure of the existing monthly income of the public, be it \$5,000 to \$6,000, \$100,000, \$10,000 or even \$2,000 is not important to me. What is most important is that we can help some people, so that they will not be forced to live below the poverty line, and to reduce their grievances and frustrations, so that they could live in greater comfort. This will only help the Chief Executive but not the Democratic Party

or Mr Andrew CHENG. I hope when we look at this issue, we will not take a narrow view and assume that Mr Andrew CHENG is trying to make political gains by moving this amendment and lose sight of the problem, crisis and need in the whole community.

I urge Members again that in dealing with a lot of issues, they should take a clear look at the prevailing social conditions instead of placing the focus on Mr Andrew CHENG, thus losing sight of the whole picture and perspective.

**MR SIN CHUNG-KAI** (in Cantonese): Madam Chairman, as regards the issue of whether it is sufficient if the minimum level of relevant income for contributions is set at \$5,000, the Democratic Party has debated this issue and I have also struggled for a long time. Certainly, I agree absolutely to the argument of Mr NG Leung-sing, that if anyone could save an extra \$300 when they are young, they could lead a better life in old age. However, we have to look at the value of that \$300. To a couple, or to a couple with children, an extra \$300 has a greater significance when they have to raise a family. Everyone certainly hopes to lead a better retirement life, but the value of the \$300 is far greater to us when we are young and not so well off than in the future, in terms of supporting our families.

I would like to stress that the \$300 can give many families that are sizzling on the poverty line a little room to catch breath. I stress it is only "a little". As regards whether it is politicized, frankly speaking, Miss CHAN Yuen-han was the first one to advocate this idea, but today, she has disappeared. If Miss CHAN Yuen-han moves this motion, I believe that all 12 Members of the Democratic Party will be present and I guarantee that the 12 of us will vote in favour of the motion. Since Miss CHAN Yuen-han has advocated this idea many times in the past and the Democratic Party also does not think that such a long time should be spent on this debate, we should have hit it off readily. However, I do not understand why when the time comes for us to vote, somebody will "play a disappearance game".

Madam Chairman, frankly speaking, the MPF System or should we say, the retirement protection scheme or the retirement savings plan has been introduced quite belatedly. Even if the proposal on requiring people with a

monthly income of \$5,000 to make contributions of \$300 is retained, I still think that it is insufficient in today's circumstances. We know that Mr Andrew CHENG's amendment will not be passed, but if these people are required to save an extra \$300, then could they really lead a very good retirement life just as Mr NG Leung-sing has said? I do not think so. In view of the existing average life expectancy of Hong Kong people, that is, 79 years and 84 years for men and women respectively, frankly speaking, the accrued savings of these people by the time they reach the retirement age of 60 or over 60 will certainly be insufficient to last them for the whole life. Some people say that at present the average life expectancy is 79 years and 84 years, but after a number of years, by the time the youngsters of today reach the retirement age, the average life expectancy may go up to 90 years. Will the several hundred dollars these people now required to save each month be sufficient to last them for 30 years after retirement? This is a problem that the Hong Kong community as a whole has to deal with.

I think that this is a case of "distant water cannot put out a nearby fire". Our present task is to see how such distant water could be made to put out a nearby fire. I think the DAB and the FTU should not describe problems that are actually related to people's livelihood as being politicized. Frankly speaking, the Democratic Party is not alone in making such a proposal. I remember that when we discussed whether the minimum level of relevant income for contribution should be set at \$4,000, \$5,000 or \$6,000 more than a year ago, it was like having a game of "show hand" to see who had the greatest hand. At first, someone proposed \$4,000, then someone else proposed \$5,000 and \$6,000 or even \$8,000. We certainly did not propose \$8,000. We only said 60%. Why did someone propose such a large amount at that time and has now flinched? Who has politicized this issue? Please do not put words in our mouth.

Madam Chairman, today we should discuss this problem in a more rational manner. To set the amount at \$5,000 to \$6,000 is only to allow people who now live in difficulties, in particular younger families, to have some room to catch some breath.

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

(No Member responded)

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I have listened very carefully to the discussion earlier in which I have been enlightened by many views. First, I wish to thank Honourable Members for their input. As I pointed out in moving the resumption of the Second Reading of the Mandatory Provident Fund Schemes (Amendment) Bill 2002, the Government is opposed to the amendments proposed by Mr Andrew CHENG. The Bill prescribes that in conducting review of the maximum and minimum levels of relevant income, the Mandatory Provident Fund Schemes Authority (MPFA) must take into account the 50% of the monthly median employment earnings and the 90th percentile of the monthly employment earnings distribution. The Bill, however, also provides for flexibility by allowing the MPFA to take into account other factors in the course of the review. For instance, in the current review, after taking into consideration the present economic situation, we decided to retain the maximum level of relevant income at \$20,000. The amendment moved by Mr Andrew CHENG will remove this flexibility, and render the adoption of the two figures compulsory. Is such a rigid approach appropriate? Has it been fully discussed and is it generally accepted?

I would like to stress one point: The Government will fully consider the economic situation before making the decision. As the Mandatory Provident Fund (MPF) System affects 2 million employed persons and employers, we consider it necessary to allow room for the MPFA to take into account other relevant factors in the process of reviewing the minimum and maximum income levels. In considering these factors, the MPFA will listen to the views of the public, and I will also report to the MPFA the discussion of Members today.

The amendment to clause 5 of the Bill moved by Mr Andrew CHENG concerns the proposed section 10A(2)(a) in the Bill. It stipulates that the MPFA must take into account not less than 60% of the monthly median income prevailing at the time when reviewing the minimum level of income. We oppose this amendment. The MPF is a mandatory saving scheme supported by all sectors of the community after years of thorough discussion. It aims at preparing the workforce for their retirement protection well in advance. The participation rates that I mentioned earlier reflect the recognition and support given by the community to the MPF objective. To achieve this objective, it is necessary to secure a wide coverage of the schemes by including as many employed persons as possible into the contribution net and to ensure that a sizable amount of MPF benefits can be accrued by scheme members upon retirement.

Certainly, we, as the Government, also acknowledge the need to lessen the burden of MPF contributions on lower-income workers. As Members have said earlier, it is essential to strike a balance between these needs. But how can a balance be struck? The 60% figure proposed by Mr Andrew CHENG will, in effect, raise the minimum level to \$6,000 or above. This will further exclude 130 000 employed persons from the MPF contribution net. It should be noted that the lower-income workers are often in greater need of preparing early for their retirement. Should we be so shortsighted as to ignore their retirement protection? This should be a key point for discussion. Furthermore, if the minimum level of income is raised, the MPF accrued benefits for scheme members upon retirement will be reduced. As the population of Hong Kong is ageing, we consider that the amendment moved by Mr Andrew CHENG will not only undermine the retirement protection of the workforce, but will also increase the burden on the community in the long term.

Being the Government, we, of course, understand that we have to be flexible in applying the relevant principles in the review of the minimum and maximum income levels. In this regard, we must adopt an open attitude, and we will take into account the economic situation, as well as the expectations of the public and the concerned sectors, in considering whether these two principles continue to meet people's need. I can assure Members of this.

Mr Andrew CHENG just mentioned that further lifting the minimum income level to \$6,000 would increase the disposal income of lower-paid workers. As I have explained earlier, we need to strike a balance. I would like to point out that, based on 2001 statistics, it is estimated that increasing the minimum level from \$5,000 to \$6,000 would increase private consumption expenditure by a mere 0.009%. The proposed increase would have insignificant impact on private consumption expenditure. Of course, as mentioned by Mr Albert HO, the public can retain more money in their pockets. However, the Government has already done a lot to protect the livelihood of the public. Therefore, I consider that lifting the minimum level from \$4,000 to \$5,000 has already taken into account the prevailing public aspiration and economic situation.

It is proposed in the Government's Bill that the MPFA should consider the 90th percentile of the monthly employment earnings distribution prevailing at the time when reviewing the maximum level of income. In brief, the objective of

this principle is to extend as far as possible the coverage of the MPF System. This would result in the coverage of the entire earnings of 90% of the employed population by the MPF contributions net. Today, we are going to incorporate this principle into the provisions of the law. However, we propose that the maximum level of income be retained at \$20,000 in view of the current economic situation. This shows that the Government is aware of the current economic situation, and has considered thoroughly the adversity encountered by the public.

The amendment proposed by Mr Andrew CHENG will reduce the 90th percentile to a percentile not exceeding the 80th percentile of the monthly employment earnings distribution. It runs against the objective which I have just mentioned before, that is, to extend as far as possible the coverage of the MPF System. It will also reduce the retirement protection for the workforce under the MPF System. I know that Mr Andrew CHENG does not like the description of his amendment as "running contrary to the objective". This is the last time that I use this description and I will not say this again.

Madam Chairman, since 1995, the community has accepted the principle that monthly earnings at 90th percentile of the monthly employment earnings distribution be adopted as the basis to adjust the maximum level of income. From operational experiences over the past two years, no objections have been raised by the employers and the employees. There are really no good reasons to change this well-accepted principle arbitrarily today. I wish to reiterate that we will adopt an open attitude in considering the relevant principles, with a view to ensuring that they meet the need of different sectors of the community.

Madam Chairman, the enactment of the Mandatory Provident Fund Schemes Ordinance, the operation of the MPF System and the encouraging participation rates all carry an important message and that is, the public has recognized the need to look forward and be well prepared for retirement needs, because all of us will be retired someday. We consider that the amendments proposed by Mr Andrew CHENG is contrary to the objective of the MPF and will affect the retirement protection for the workforce. I, therefore, urge Members to vote against the amendments.

**CHAIRMAN** (in Cantonese): Mr Andrew CHENG, do you wish to reply?

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, many Members have already reiterated their position during the earlier debate. But, as I hope to put our positions on record before we vote, I would like to talk about some misunderstandings or some viewpoints again.

Mr LEUNG Fu-wah opposed our amendment on the basis of two viewpoints. One of the viewpoints is he hopes that the Government can provide more data, but the Government said such data were not available, so it seems that it is very hard for him to support the amendment. Secondly, he said we should not casually propose \$6,000. As regards what Mr LEUNG Fu-wah said about "casually proposed", I hope he understands that a couple of years ago, Miss CHAN Yuen-han also casually proposed \$6,000 but she did not introduce any amendment or Members' Bill while I introduced a Members' Bill on behalf of the Democratic Party. So, the expression "casually proposed" seems to have overlooked our intensive study on this issue and the two major principles that I have repeatedly mentioned earlier, that is, to help low-income people and their family and provide an opportunity to enhance their desire for consumption. Unfortunately, Mr LEUNG Fu-wah and Mr CHAN Kam-lam did not discuss these two major principles, but said instead that they did not wish to see such issues being politicized. They did not want us to force them to state their positions politically. I always think that this is a labour problem and a problem of people's livelihood. I hope Mr LEUNG Fu-wah and Mr CHAN Kam-lam would consider this. Politics refers to the discussion of human issues. If we really want to solve problems on people's livelihood and discuss human issues, then what is wrong if such issues are politicized?

Mr LEUNG Fu-wah named me "A Thousand more CHENG" ("鄭一千"). This is not a bad name for it is very similar to ZHANG Daqian ("張大千") (the famous painter) since the Chinese character "千" is common in both names. Luckily he did not name me "CHENG Lao-chin" (CHENG the swindler). However, while naming me "A Thousand more CHENG", I hope Mr LEUNG Fu-wah can refresh his memory. More than a year ago, I moved a Members' Bill and at that time the Government has not yet implemented the MPF System. Back then, the Democratic Party had already said there was a problem about the \$4,000 minimum level of relevant income for contributions because at that time the median wage was \$10,000 and half of that amount was \$5,000. There would be problems if the Government continued to set the minimum level at \$4,000, so back then we had already proposed that it should be raised to \$6,000. Therefore, if Mr LEUNG Fu-wah wants to change my name, I think he should



call me "Two Thousand more CHENG", instead of "A Thousand more CHENG". Mr CHAN Kam-lam and Mr LEUNG Fu-wah have wrongly accused me of asking for \$6,000 when the Government wants to set the minimum level at \$5,000; and we will ask for \$7,000 when the Government wants to set it at \$6,000. This is definitely not true. Since we are all Members of the Legislative Council, I hope they can accord us a little respect and consider the principle we have always upheld. I also hope they will not name people casually. Since they have given me a name, I must return one for courtesy's sake. Mr LEUNG Fu-wah's speech made me feel that only tycoons have such good prospects and visions, so I will change Mr LEUNG Fu-wah's name into "LEUNG Fu-ho" (LEUNG, the tycoon) and hope he can really fight for the rights and interests of grass-roots workers.

I do not quite understand why Miss CHAN Yuen-han has disappeared today. It is really puzzling that she is absent from the meeting at a time when we are about to vote on this issue. Though Mr LAU Chin-shek is also absent, Mr LEE Cheuk-yan can represent the Hong Kong Confederation of Trade Unions (CTU) to state their position. I am very surprised that both leaders of the two major labour unions are absent from today's meeting on the discussion about this issue. It is surprising that Miss CHAN Yuen-han is not here to refute the arguments of Mr LEUNG Fu-wah of the FTU. I understand that in the past, the work of the CTU was shared between Mr LAU Chin-shek and Mr LEE Cheuk-yan, so I just assume that Mr LEE Cheuk-yan represents the views of the CTU. He does not support two of the three points in my amendment, but I understand that this is because of differences in ideologies and principles. However, he fully supports my proposal on setting the minimum level of relevant income at \$6,000. At least, this has made me feel that the CTU has stuck to its previous principles on labour rights. Therefore, I hope that if Miss CHAN Yuen-han is in the room on the second floor and hears my appeal, she will come down and speak or even state her position on whether she supports my amendment or whether she supports Mr LEUNG Fu-wah who opposes my amendment on behalf of the FTU. If she supports Mr LEUNG Fu-wah, then I think that her position today is very much against the views expressed by her more than a year ago.

Mr CHAN Kam-lam said the money thus saved might not necessarily be spent in the consumer market. I did not say that the \$200 to \$300 saved by low-income people would certainly be invested or spent in the consumer market. Such information is provided by the Government, so does it mean that we should

not respect government information? Such information was given to us on a voluntary basis. The Government said if the minimum level of relevant income were raised from the existing \$4,000 to \$5,000, then private expenditure would be increased by \$29.6 million. On the basis of this argument, I asked the Government what happen if the amount were raised to \$6,000. It said that it would be increased to \$96.1 million. Madam Chairman, the figure is close to \$100 million! This figure was provided by Mr TANG Kwong-yiu, the Government Economist. I trust he will not make calculations or assessments lightly. To the existing weak consumer market, an increase of nearly \$100 million in spending will certainly be helpful; even if the increase in expenditure is only half the amount, it will still be nearly \$50 million. Therefore, if Members of the DAB or the FTU thinks that we should not talk about the issue of expenditure lightly, I hope they would say it to Mr TANG Kwong-yiu, the Government Economist, not us.

As regards the comment that our standards are not scientific, I will continue to talk about our two major principles. Of course, we are not conducting experiments in the laboratory when we deal with issues of the people's livelihood, and there cannot be any scientific standards. However, if it were said that we are not being scientific and data are not available, then why did Miss CHAN Yuen-han propose \$6,000 back then, when there were also FTU representatives on the Bills Committee? Is she the one who had made a casual proposal or we are the ones who did so? Moreover, I did not say that the DAB and the FTU have no regard for low-income people, only that they have taken the condemnation personally. What I said in my first speech was: Does it mean that the DAB and the FTU are willing to see 200 000-odd low-income people living in dire straits? Madam Chairman, I only asked a question at that time and I did not say that they have actually done so for they have not given us this impression. Miss CHAN Yuen-han always speaks with great assertion and emotional gestures. She said the Government does not care about the low-income people and this issue is a time bomb. But where is she today? As regards this issue, I very much hope that the DAB and FTU will not take the condemnation personally for they have given us and the public the impression that they are persistent in protecting the interests of the grassroots. I hope that their votes and speeches today will continue to be along such lines.

Finally, I rarely respond to Members' remarks, but I also have to point out that what Mr Albert CHAN said in his speech earlier proved that the Democratic Party is not anti-TUNG. He said Members would be helping Mr TUNG by

supporting my amendment. What I said is "would be helping" ("幫到") and not anti ("幫倒") for the word ("到") does not have the radical "人" by its side. Mr Albert CHAN also said earlier that the five cents increase in the fares of the Star Ferry gave rise to many problems, not to mention now that Hong Kong people are really in dire straits — though the FTU and DAB do not like to hear the phrase "in dire straits", just like I do not like to hear the Secretary say "running contrary to". However, this is a fact that is especially true to low-income people. I very much hope that this few hundred dollars could give these people a chance to recuperate. By doing so, the community can remain stable and the Chief Executive can have a sounder base to govern Hong Kong. This is the inspiration I got from Mr Albert CHAN. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment to subsection (2) of the proposed section 10A in clause 5 moved by Mr Andrew CHENG 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 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.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment to subsection (2)(a) of the proposed section 10A in clause 5 moved by Mr Andrew CHENG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew CHENG rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Andrew CHENG has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Miss LI Fung-ying and Mr LEUNG Fu-wah abstained.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

Mr TAM Yiu-chung abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, five were in favour of the motion, 17 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 14 were in favour of the motion, nine 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 motion was negatived.

**MR FRED LI** (in Cantonese): Madam Chairman, in accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed in respect of each of the other clauses or amendments to the Mandatory Provident Fund Schemes (Amendment) Bill 2002, this Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Fred LI be passed.

**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 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.

I order that in the event of further divisions being claimed in respect of each of the other clauses or amendments to the Mandatory Provident Fund Schemes (Amendment) Bill 2002, this Committee do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment to subsection (2)(b) of the proposed section 10A in clause 5 moved by Mr Andrew CHENG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW chi-kwong voted for the motion.

Mr Kenneth TING, Dr Raymond HO, Mr Eric LI, Dr David LI, Dr LUI ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Mr Michael MAK, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Miss LI Fung-ying and Mr LEUNG Fu-wah abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Mr Frederick FUNG voted for the motion.

Miss Cyd HO, Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss Emily LAU, Dr TANG Siu-tong, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

Mr TAM Yiu-chung abstained.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion, 18 against it and two abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 25 were present, 10 were in favour of the motion, 13 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 motion was negatived.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 5 stand part of the Bill.

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

(Members raised their hands)

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

(Members raised their hands)

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

**CLERK** (in Cantonese): Clause 12.

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(7) of the Rules of Procedure be suspended in order that this Committee may consider Schedule together with clause 12.

**CHAIRMAN** (in Cantonese): As only the President may give consent for a motion to be moved to suspend the Rules of Procedure, I order that Council do now resume.

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

Council then resumed.



**PRESIDENT** (in Cantonese): Mr Andrew CHENG, you have my consent.

**MR ANDREW CHENG** (in Cantonese): Madam President, I move that Rule 58(7) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider Schedule together with clause 12.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Rule 58(7) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider Schedule together with clause 12.

**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.

Council went into Committee.

### **Committee Stage**

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

**CLERK** (in Cantonese): Schedule.

**MR ANDREW CHENG** (in Cantonese): Madam Chairman, I move that clause 12 and Schedule be amended, as set out in the paper circularized to Members.

Madam Chairman, I do not intend to express my views again in detail because this marathon meeting has already run into its third day and it is now time for lunch. Furthermore, the monthly and daily wages proposed in this Schedule is calculated on the basis of the Democratic Party's \$6,000 proposal. Since the earlier voting results showed that my amendments have already been negated, I will not request to speak again and will not claim a division. Therefore, if Members wish to have lunch, they do not have to hurry back to vote in one minute. Madam Chairman, it will not be appropriate of me to say anything else, though I certainly hope that Members will support me. However, if Members do not support me, they can have their lunch in peace. Thank you.

*Proposed amendments*

**Clause 12 (see Annex X)**

**Schedule (see Annex X)**

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

(No Member indicated a wish to speak)

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, earlier on, I already explained clearly the reasons why the Government is opposed to the amendments. I do not wish to take up any more of Members' time for lunch (*laughter*). Therefore, I am not going to repeat the reasons here. I urge Members to vote against Mr Andrew CHENG's amendments. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): Mr Andrew CHENG, do you wish to speak again?

(Mr Andrew CHENG indicated that he did not wish to speak)

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

(Members raised their hands)

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

(Members raised their hands)

**CHAIRMAN** (in Cantonese): I think the question is not 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 negatived.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 12 stand part of the Bill.

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

(Members raised their hands)

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

(Members raised their hands)

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

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move amendments to the Schedule to the Bill, as set out in the paper circularized to Members.

The provisions of the Schedule to the Bill propose amendments to the subsidiary legislation of the Mandatory Provident Fund Schemes Ordinance. The amendments I move now seek to improve some of the provisions of the Schedule to the Bill. We propose to amend sections 13 and 14 of the Schedule. These provisions allow the employer to submit the notification of the cessation of employment to the approved trustees together with the remittance statements. We consider that it is necessary to further clarify in the legislation that "the remittance statements" refer to those lodged with regard to the first contribution period which ends after the employee's cessation of employment. Section 16 of the Schedule to the Bill sets out that if a new employer satisfies certain conditions (such as accepting the liability of the former employer in respect of the severance payments or long service payments for the employee), he may elect to have the employee's accrued benefits transferred to an MPF scheme in which he participates. We now propose to add a time limit in section 16, stipulating that the new employer must elect to have the employee's accrued benefits be transferred within the permitted period, that is, 60 days after commencement of the new employment. It is also proposed that section 20 of the Schedule be amended to expressly provide that "index-tracking collective investment schemes" refer to the index-tracking collective investment schemes approved by the Mandatory Provident Fund Schemes Authority. Other amendments are technical in nature. I invite Members to support these amendments, which have been endorsed by the Bills Committee.

Madam Chairman, I beg to move. Thank you.

*Proposed amendment*

**Schedule (see Annex X)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services and the Treasury 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 as amended.

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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): New clause 12A                      Decisions which may be the subject of an appeal.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move that new clause 12A, as set out in the paper circularized to Members, be read the Second time.

The new clause is consequential upon the amendments proposed in clause 9 of the Bill. Clause 9 proposes that the existing provisions on merger and division of schemes be replaced by provisions on the restructuring of schemes. As Schedule 6 to the existing Ordinance contains references to merger and division of schemes, it is necessary to make consequential amendments to Schedule 6 to replace the references to merger and division of schemes by "restructuring of schemes".

I urge Members to support the new clause. Madam Chairman, I move that the above new clause be read the Second time. Thank you, Madam Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 12A 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 clause 12A.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam Chairman, I move that new clause 12A be added to the Bill.

*Proposed addition*

**New clause 12A (see Annex X)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That new clause 12A 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.

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

Council then resumed.

**Third Reading of Bill**

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

**MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2002**

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

Mandatory Provident Fund Schemes (Amendment) Bill 2002

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 Mandatory Provident Fund Schemes (Amendment) Bill 2002 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): Mandatory Provident Fund Schemes (Amendment) Bill 2002.

**MOTIONS**

**PRESIDENT** (in Cantonese): As the public officer who should move the motion is not in the Chamber, I now declare that the meeting is suspended.



1.20 pm

Meeting suspended.

1.53 pm

Council then resumed.

**PRESIDENT** (in Cantonese): Motion. Proposed resolution under the Copyright (Suspension of Amendments) Ordinance 2001 to approve the Copyright (Suspension of Amendments) Ordinance 2001 (Amendment) Notice 2002.

**PROPOSED RESOLUTION UNDER THE COPYRIGHT (SUSPENSION OF AMENDMENTS) ORDINANCE 2001**

**SECRETARY FOR COMMERCE, INDUSTRY AND TECHNOLOGY** (in Cantonese): Madam President, as the meeting had to be suspended due to my absence from the Chamber earlier, I must offer my heart-felt apology to you, Madam President, and Honourable Members. I am very sorry about that.

I move that the motion as printed on the Agenda be passed. The motion approves the Copyright (Suspension of Amendments) Ordinance 2001 (Amendment) Notice 2002 made by the Secretary for Commerce and Industry. The commencement of the criminal provisions for possessing pirated articles in the course of business in April 2001 had aroused public concerns that the new law impaired the dissemination of information in enterprises and teaching in schools. The Copyright (Suspension of Amendments) Ordinance 2001 (the Suspension Ordinance) was passed in June 2001 to suspend the new law except as it applied to computer programmes, movies, television dramas and musical recordings. The relevant provisions on the suspension will expire on 31 July 2002. According to section 3 of the Suspension Ordinance, the Secretary for Commerce and Industry may by notice published in the Gazette before the expiry date amend that date. Such a notice is subject to the approval of the Legislative Council. After wide consultation, we proposed in February this year to make

the suspension arrangement permanent. This proposal was supported by the Legislative Council Panel on Commerce and Industry. We are carefully drafting the amendment bill with a view to introducing it into the Legislative Council as soon as possible. To ensure that the Legislative Council will have sufficient time to scrutinize the bill, the Government proposes to extend the validity period of the suspension arrangements by 12 months till 31 July 2003. Thank you, Madam President.

**The Secretary for Commerce, Industry and Technology moved the following motion:**

"That the Copyright (Suspension of Amendments) Ordinance 2001 (Amendment) Notice 2002, made by the Secretary for Commerce and Industry on 18 June 2002, be approved."

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

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

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, I do not intend to repeat the Secretary's remarks earlier, but as the authorities are now working on the long-term amendments, I would like to point out that time is actually not sufficient. This motion proposes an extension period of 12 months in the hope that the Legislative Council will have sufficient time to scrutinize the Bill in the interim. I hope that the Bureau can seize the time available, otherwise, it may have to seek an extension for another few months again next year. I personally support this motion, but I also hope that the Government can keep a firm grasp on the time. It would be best if it could introduce the long-term amendments to the Legislative Council in early October so that the Council could have sufficient time to scrutinize the Bill and consult various stakeholders. Since copyright is a very complex matter, some organizations may only realize the impact of the Bill after it is introduced into the Legislative Council, so a longer scrutiny period may be required. I only wish to draw the Administration's attention to this point.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Secretary for Commerce, Industry and Technology, do you wish to speak?

(The Secretary for Commerce, Industry and Technology indicated that he did not wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2002 and the Poisons List (Amendment) (No. 3) Regulation 2002.

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

**SECRETARY FOR HEALTH, WELFARE AND FOOD** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed. This motion seeks to amend the Poisons List Regulations and the Pharmacy and

Poisons Regulations. Currently, we regulate the sale and supply of pharmaceutical products through a registration and inspection system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records. For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, a registered dentist or a registered veterinary surgeon.

The Amendment Regulations now before Members seek to amend the Poisons List in the Poisons List Regulations and the Schedules to the Pharmacy and Poisons Regulations, for the purpose of imposing control on two new medicines and modifying the control on another two existing medicines. The Pharmacy and Poisons Board proposes to add two new medicines to Part I of the Poisons List, and the First and Third Schedules to the Pharmacy and Poisons Regulations so that pharmaceutical products containing any of them must be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

In addition, the Pharmacy and Poisons Board proposes to relax the control of Clobetasone butyrate when contained in preparations intended for external application only at not more than 0.05% so that its sale does not require the support of a prescription but still has to be sold by authorized sellers of poisons under the direct supervision of registered pharmacists. Having regard to the experience related to the use of this drug, the Board is satisfied that this drug is sufficiently safe to be made available without prescription. Moreover, the Board proposes to exempt Desloratadine from the statutory labelling requirement stated in item 8 of the Fifth Schedule to the Pharmacy and Poisons Regulations so that the container of these substances is not required to carry a warning that this drug may cause drowsiness. The proposed relaxation on the labelling requirement is based on the ground that Desloratadine is itself low-sedating.

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

Madam President, I beg to move.

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

"That -

(a) the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2002;  
and

(b) the Poisons List (Amendment) (No. 3) Regulation 2002,

made by the Pharmacy and Poisons Board on 17 June 2002, be approved."

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

## **MEMBERS' BILL**

### **Second Reading of Members' Bill**

#### **Resumption of Second Reading Debate on Members' Bill**

**PRESIDENT** (in Cantonese): Members' Bill. We will resume the Second Reading debate on the CITIC Ka Wah Bank Limited (Merger) Bill.

## **CITIC KA WAH BANK LIMITED (MERGER) BILL**

### **Resumption of debate on Second Reading which was moved on 29 May 2002**

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

**MR JAMES TO** (in Cantonese): Madam President, perhaps let me first speak on the circumstances surrounding the Bill. After the Bill was referred to the House Committee, Mr SIN Chung-kai and I had requested for many times to defer a few weeks to decide whether or not a Bills Committee should be set up. Our main reason was that having read the report prepared by the Legal Adviser and studied very carefully the content of the Bill, we discovered some problems and considered it necessary to discuss with the parties concerned to deliberate on the details. For this reason, I believe I have to raise my concerns here and suggest ways to resolve the problems ultimately.

To begin with, the Bill provides for the banking business of CITIC Ka Wah Bank (CITIC Ka Wah) to merge with that of the Hong Kong Chinese Bank (HKCB), and that upon the merger with the HKCB, CITIC Ka Wah will become a holding company. The second paragraph of the Legislative Council Brief presented by Dr David LI has also referred to this point on the merger of CITIC Ka Wah's banking business with that of the HKCB.

After careful examination, we have noticed that part of CITIC Ka Wah's banking business might not have been merged with that of the HKCB. Upon looking into the matter, we then learnt that those were — using the exact legal terms — excluded property and liabilities. Now, how does this mechanism work? The board of directors of CITIC Ka Wah will determine by way of resolution what property or liabilities will be excluded from the merger with the HKCB, and this is the mechanism employed to determine the kinds of banking business to be merged with the HKCB in practice. My concern in this regard is that if we do not have a clear idea of the so-called property and liabilities to be merged or excluded, the Legislative Council may end up giving the board of directors of CITIC Ka Wah a blank cheque to determine the property and liabilities to be merged with that of the HKCB. This may give rise to problems of unfairness to other third parties, shareholders or even any other people concerned. All I can say is that I may not be able to foretell all the possible situations.

We therefore held a meeting with the legal representatives and senior executives of CITIC Ka Wah and the HKCB. Apart from the things we learnt at the meeting, Dr David LI will also make two undertakings in this Second Reading debate later on. Firstly, Dr LI will further explain the specific situation at this stage and specify the property and liabilities to be merged or excluded. He will also provide this Council with detailed explanations as far as possible. Insofar as the relevant banking business is concerned, I do appreciate that developments can still be made at this stage and the banking business will not remain unchanged during the run up to the effective date of the merger. So, all we know is that even if CITIC Ka Wah could not list all of its property and liabilities to be merged with the HKCB, Dr LI would still try his best to elaborate on the detailed description of the situation as far as possible. Secondly, I understand that Dr David LI will also make an undertaking on behalf of CITIC Ka Wah and the HKCB later on that matters related to the transfer, merging and exclusion of property and liabilities will certainly be clarified before the banking licence of any of these two banks is revoked. Since CITIC Ka Wah already has a banking licence, the Hong Kong Monetary Authority (HKMA) will not revoke the other banking licence before it is satisfied that all the relevant procedures have been completed. Dr David LI will also undertake on behalf of the parties concerned that the Panel on Financial Affairs and all Honourable Members would be informed of the list of property and liabilities to be merged or excluded made by the relevant board of directors subject to the satisfaction of the HKMA.

Therefore, after taking into account the two aforementioned situations, I personally feel that even though the present drafting of the provisions seems to have conferred a kind of power on the board of directors of CITIC Ka Wah to make some further decisions by way of resolution, I am still generally satisfied that this manner of merger is in the interests of the public. For this reason, the Democratic Party and I will accept the Second Reading of the Bill.

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

(No Member responded)

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, the Government welcomes the CITIC Ka Wah Bank Limited (Merger) Bill introduced by Dr David LI. It is our policy to support the continued consolidation of the banking sector in Hong Kong, in order to improve its competitiveness, promote the stability of the banking system and ensure an appropriate degree of protection for depositor interests. We consider that the merger proposed in the Bill is consistent with the said policy and conducive to maintaining Hong Kong's status as an international financial centre. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Dr David LI to reply. This debate will come to a close after Dr David LI has replied.

**DR DAVID LI**: Madam President, I would like to begin by thanking all Members of the Legislative Council for their assistance and time with regard to this Bill. I believe that the consolidation effected by the Bill is another pace on the road to strengthening Hong Kong's banking sector. Both CITIC Ka Wah Bank and Hongkong Chinese Bank have also requested that I express their gratitude to this Council for all its help.

This Bill includes a provision permitting the exclusion of certain property by agreement between the two banks. The list of excluded property will be subject to the approval of the Hong Kong Monetary Authority (HKMA). I am aware that certain Members, notably the Honourable James TO and the



Honourable SIN Chung-kai, at the House Committee stage, requested that CITIC Ka Wah Bank and Hongkong Chinese Bank inform the Panel on Financial Affairs of the final list of excluded property and liabilities once the HKMA has given its consent to this list. I can confirm, for the record, that CITIC Ka Wah Bank and Hongkong Chinese Bank have agreed to do this, and to the proposal that the list be copied to all Members of this Council.

In addition, CITIC Ka Wah Bank and Hongkong Chinese Bank have asked me to elaborate on my earlier description of the likely property and liabilities which they intend to exclude. As mentioned, this will be subject to the HKMA's approval and will essentially be non-banking business of CITIC Ka Wah Bank, namely:

- CITIC Ka Wah Bank's shareholdings in its various non-banking related subsidiaries;
- Certain real estate property held in the United States;
- CITIC Ka Wah Bank's share option scheme;
- Agreements and documentation relating to CITIC Ka Wah Bank's listed status on the Hong Kong Stock Exchange; and
- Around 45 employment contracts of CITIC Ka Wah Bank staff not directly involved in banking, who will remain with the holding company after the merger.

In addition to the foregoing, certain non-performing loan agreements and related sub-participation agreements of CITIC Ka Wah Bank will also be excluded. Although part of CITIC Ka Wah Bank's banking business, these non-performing loans have already been sub-participated, in effect transferred, to an asset management company within the CITIC Ka Wah Bank group.

I should mention that, although not technically "banking business" in the legal sense, I understand that two of the properties referred to are buildings in New York at which CITIC Ka Wah Bank has branches, from where it conducts banking business in the United States. CITIC Ka Wah Bank has assured me that the reason these properties will not be transferred is for the United States regulatory and tax reasons. The HKMA is, I am told, satisfied on this point.

Members will appreciate that this list may change, subject to the due diligence exercise being undertaken prior to the merger and the approval of the HKMA. However, the foregoing represents the firm and present intention of the two banks.

If any Member has a further question on the proposed excluded property, I should be happy to address this.

Once again, I would like to restate my gratitude and that of CITIC Ka Wah Bank and Hongkong Chinese Bank for Members' understanding and patience with the Bill. I am confident that this merger will help two of Hong Kong's financial institutions confront the challenges that lie ahead in these difficult economic times.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the CITIC Ka Wah Bank Limited (Merger) 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 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.

**CLERK** (in Cantonese): CITIC Ka Wah Bank Limited (Merger) Bill.

Council went into Committee.

**Committee Stage**

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

**CITIC KA WAH BANK LIMITED (MERGER) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the CITIC Ka Wah Bank Limited (Merger) Bill.

**CLERK** (in Cantonese): Clauses 1 to 19.

**CHAIRMAN** (in Cantonese): Mr James TO, you may now speak.

**MR JAMES TO** (in Cantonese): Madam Chairman, I just wish to briefly supplement a point mentioned by Dr David LI just now. It is indeed confirmed this time that part of CITIC Ka Wah Bank's business is excluded from the Bank's merger with the Hong Kong Chinese Bank, including non-performing loans. I therefore wish to put that on record. Strictly speaking, the approach this time is inconsistent with the Legislative Council Brief we are furnished with. But then, with this case on record, when preparing for mergers in future, banks may make reference to this approach as well as take into account the drafting of the Bill. Besides, consideration may also be given to ways to make the relevant draft legislation more explicit, with a view to enabling the Legislative Council or other people to get an even better understanding of the entire matter by making reference to the record concerned. That way, people can have a clearer picture of the merger. So, this is the simple point I wish to make.

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

(No Member responded)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 to 19 stand part of the CITIC Ka Wah Bank Limited (Merger) Bill.

**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 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.

**CLERK** (in Cantonese): Preamble.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That this be the preamble to the Bill.

**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 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.

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

Council then resumed.

### **Third Reading of Members' Bill**

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

### **CITIC KA WAH BANK LIMITED (MERGER) BILL**

**DR DAVID LI:** Madam President, the

CITIC Ka Wah Bank Limited (Merger) Bill

has passed through Committee without amendment. 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 CITIC Ka Wah Bank Limited (Merger) 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 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.

**CLERK** (in Cantonese): CITIC Ka Wah Bank Limited (Merger) Bill.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. Two motions with no legislative effect. The speaking time limits are in accordance with the recommendations of the House Committee. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Alleviating the hardship of negative-equity property owners.

## **ALLEVIATING THE HARDSHIP OF NEGATIVE-EQUITY PROPERTY OWNERS**

**MR ALBERT CHAN** (in Cantonese): Madam President, I move that the motion, as printed on the Agenda, be passed.

As the team of officials set up by TUNG Chee-hwa for his new term of office has already assumed duty, the people of Hong Kong have to tolerate the governance by Mr TUNG Chee-hwa in the next five years. I hope that Mr TUNG and his new team of principal officials will really be accountable to the public and improve the administration to enable the general public to have some better days in the five years to come. Looking back on the performance of Mr TUNG over the past five years, however, I am afraid I really cannot be optimistic about our future.

Comparing with the economic data five years ago, it should be justifiable to say that there has been a continual retrogression in Hong Kong over the past five years. In these five years, the per capita income in Hong Kong has dropped 8% while consumer prices and property prices have dropped 10% and 60% respectively; besides, stock prices have also dropped 8%. On the other hand, the total number of bankruptcy cases in a year has increased from 800 to

13 000 while that of attempted suicide cases has increased from 600 to 988. On top of that, the number of property owners having negative equity (negative-equity property owners) has also increased more than 100 000. In just five years, not only has the total income of the people of Hong Kong decreased by \$60 billion, our overall asset value has even dropped more than \$1,000 billion.

In recent years, many people like to compare Hong Kong with Shanghai. Indeed, the gap between Shanghai and Hong Kong has been narrowing. This is because Shanghai is steadily developing towards a middle-class society while the people of Hong Kong are becoming increasingly impoverished.

Madam President, the negative impact of the problem of negative equity on the economy as a whole are uncalled for and should not be overlooked. What is more, the resulting effect will cause immensely grave damages to the local economy, as the domino effect of the negative equity problem on the economy will deal a fatal blow to Hong Kong. A couple of years ago, due to the direct impact of the financial turmoil, many negative-equity property owners suffering heavy financial losses went bankrupt one after another. These negative-equity property owners were the first level dominoes.

Recently, the second and third levels of dominoes have also fallen down and induced a series of knock-on effect, resulting in tens of thousands of new bankruptcy cases every year.

When the first level of dominoes fell down two to three years ago, many negative-equity property owners still refused to yield to the financial difficulty facing them. Instead, they demonstrated the perseverance typical of the people of Hong Kong and made their best efforts to try reversing the tide and resume their normal lives again. In the face of financial hardships, many negative-equity property owners would borrow money from their friends and relatives to make ends meet while waiting for their fate to change for the better. The friends and relatives of these negative-equity property owners have exhausted their savings or even resorted to credit card cash advances to lend them a hand, trying to support them as long as possible while waiting for property prices to stabilize promptly upon the recovery of the economy. However, property prices just continued to fall and assistance measures from the Government were nowhere to be found. Recently, these friends and relatives of negative-equity property owners have also run into trouble or even huge trouble, as they are also

deeply in debt and on the verge of going bankrupt. They are the second and third levels of dominoes about to fall down as well.

Some of the guarantors were financially stable originally, they are just being affected by the property owners in negative equity for whom they act as guarantors. Since those property owners still owe the relevant banks a large amount of loan repayment, they are affected as guarantors and have to sell their properties to repay the loans or even go bankrupt eventually.

Bankruptcy cases were not so common several years ago, but such cases have been increasing recently. What is more, there are signs that the trend is expanding at a more rapid pace. Under the domino effect, the financial problem facing a property owner in negative equity would cause his friends and relatives to go bankrupt subsequently. If the Government should still refuse to offer a helping hand to the negative-equity property owners, I am afraid the fourth and fifth levels of dominoes would soon fall down one after another. In that eventuality, the economy as a whole might be unable to withstand the effects and collapse in the end. By then, it would be too late for the Government to take measures to resolve the problem.

With regard to the negative equity problem, I believe three parties should be reprimanded and they are, namely, the Government, property developers and banks.

In 1998, I demanded the Government to seriously address the negative equity problem and urged it to help the negative-equity property owners to get out of their difficult position; but the Government flatly rejected my requests. At that time I did not ask the Government to use public money to help the negative-equity property owners, I just hoped that the Government would at least introduce some relief measures to help the negative-equity property owners to tide over their difficulties. Recently, the Hong Kong Monetary Authority (HKMA) has relaxed the re-mortgage cap and the Hong Kong Mortgage Corporation Limited has also introduced measures like the Home Owner Mortgage Enhancement Programme, and so on. But then, four years have passed before such responses to my requests are made. The Government is indeed very slow in response. As a result of the Government's passive and indifferent attitude, the problem of negative equity has deteriorated continually over the past years, thereby injuring gravely the economy of Hong Kong and leaving tens of thousands or even hundreds of thousands of households in the midst of financial hardships, knowing nowhere to turn to for help.



Worse still, the Government has introduced a number of measures over the past five years to continuously encourage members of the public to purchase newly completed flats. Despite the high-sounding purpose of stabilizing the property market, the Government has actually been helping the large property developers to sell more new flats and thereby stabilizing their income. This is not proper. On the one hand, the Government has lowered the income ceiling of Home Ownership Scheme (HOS) flat applicants, reduced substantially the provision of HOS flats and increased the number of places under the Home Purchase Loan Scheme, so as to force the public to purchase new flats. On the other hand, the property developers have been continuously applying for land exchange and regrant premium, and putting up newly completed flats for sale. In pushing more members of the public to purchase new flats, they have in fact created more negative-equity property owners. Over the past five years, the amount of regrant premium paid has gradually risen from \$800 million recorded for the period between September 1997 and June 1998 to \$4.2 billion recorded in June last year. As regards the total floor area of newly completed flats, the figure has risen continuously from 410 000 sq m in the year 1997 to 560 000 sq m between September last year and June this year.

Given that the Government only helps the large property developers sell their new flats, the secondary property market has only a surplus supply but not any demand for flats. That way, the property prices just cannot be stabilized. If the Government's policy objective is to stabilize property prices, it should give the secondary property market a boost because the stability of the secondary property market is a very crucial factor. With the situation of secondary property market deteriorating continuously, the negative-equity property owners just cannot find any buyers for their flats. As such, many negative-equity property owners are forced to default on their mortgage repayments and go bankrupt. After their flats are forfeited by the banks, the secondary property market will be filled with repossessed flats. How can the property market be stabilized with property prices and the number of people who are able or willing to purchase flats dropping incessantly while the number of negative-equity property owners is rising? If the Government is to resolve the problem, it must help the negative-equity property owners to tide over their difficulties as well as stabilize the secondary property market.

Madam President, over the past years, even though many embittered homebuyers were unable to mortgage their flats, a number of property developers and the Housing Society have not added to the misfortunes of these

people by pressing them to cover the price difference. I am grateful to them for their ethical decision and social responsibility. Among them, the Housing Society is most commendable.

But then, Madam President, there are still some property developers who pay completely no regard to the plights of the poor owners of uncompleted flats but keep sending them legal letters over the past four years. What is more, these property developers even take the cases to court to press the owners of uncompleted flats to cover the price difference. There are still some unscrupulous developers doing such things these days and adding gravely to the difficulties facing the negative-equity property owners concerned. Among the negative-equity property owners I have contacted, some of them felt so stressed under the pressure from the relevant property developers that they had indeed thought about committing suicide themselves or even together with their family members. Those property developers are merciful on the surface but unscrupulous under the skin. I hold that they must be reprimanded.

As regards the banks, they have all along refused to reduce the interest rates for the negative-equity property owners who had mortgaged their flats two to three years ago when interest rates were high, thereby forcing the relevant negative-equity property owners to go bankrupt. Even though the situation has improved slightly over the past few months, some banks are still unwilling to help the negative-equity property owners to recharge their flats or restructure their debts. Rather, these banks just keep charging the negative-equity property owners concerned a mortgage rate equivalent to prime rate (P) plus 2%. According to the HKMA's latest survey, 17 000 flats are still mortgaged at an interest rate of P plus 2%, representing almost 30% of the total amount of mortgage loans. It is regrettable that these banks only care about their own interests and strive to reap every penny of profits.

Apart from that, some of the banks are also very harsh. Actually, even if the relevant flat owners should default on their loan repayments occasionally, the banks would not incur very heavy losses. Nevertheless, these banks would still issue legal letters to the relevant flat owners immediately. To the negative-equity property owners, such letters are no different from the calls from Hades, as they are not given any chance to catch some breath. As the banks are paying no regard for the hardships of the negative-equity property owners, many flats have become repossessed flats. Like a person suffering from a common cold, if he is not given any chance to rest, the common cold will eventually develop into meningitis.

Mr TUNG Chee-hwa keeps talking about riding out the storm with the people. He has mentioned that several times a year since assuming the office. In the face of the economic recession, for example, he has appealed to the public to ride out the difficult time together. When labour disputes emerged in large-scale companies, he asked the workers to help the employers to tide over the difficulties; when civil servants opposed the legislative approach to reducing civil service pay, he also appealed to the Civil Service to ride over the hard times with the Government. In the wake of the September 11 incident in the United States, he urged the public to ride out the hard times together; when running for re-election, he again urged the various sectors of society to ride out the present hard time together. We can see that Mr TUNG Chee-hwa has indeed been continuously appealing to the people to ride out the hard times together. But then, over the past five years, property developers have just kept on reaping profits for themselves without paying any regard to the hardships of the negative-equity property owners or helping them to tide over their difficulties. Despite making annual profits of some several hundred millions to tens of billion dollars over the past five years, the large and small banks in Hong Kong still refuse to help the negative-equity property owners to alleviate their financial burden. Just how can we say such banks are riding out the hard times with the public?

Finally, I have to warn those people with power, influence and ability that they should not focus solely on their own interests or strive to reap the most profits for themselves. If the domino effect of the negative equity problem should accelerate and deteriorate, the economy of Hong Kong would incur catastrophic losses. By that time, the economic foundation of Hong Kong will be damaged seriously, so much so that "one country, two systems" and the stability and prosperity of Hong Kong would be resigned to history.

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

**Mr Albert CHAN moved the following motion: (Translation)**

"That, whereas Hong Kong's economy has continued to be in the doldrums since the onset of the Asian financial turmoil, with the unemployment rate rising continuously, suicide cases occurring repeatedly, and many negative-equity property owners under severe pressure, the Government has not been doing its best to assist such persons, this Council urges the Government to expeditiously formulate effective measures to

help negative-equity property owners tide over their difficulties, and to call on the banking sector, real estate developers and social service organizations to actively assist these people in relieving their pressure; this Council also hopes that negative-equity property owners will bravely face up to the adversity and cherish their precious lives."

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

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam and Mr Howard YOUNG will move amendments to this motion. The motion and the two amendments will now be debated together in a joint debate.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, the problem of negative equity has been haunting Hong Kong since the 1997 financial turmoil. While this problem cannot be resolved overnight, thanks to the repeated appeals made by Legislative Council Members and other members of society, the Government and quasi-government organizations have been continuously introducing measures over the last couple of years to help flat owners with negative equity (negative-equity property owners) to tide over their difficulties.

In my view, one issue must be clarified in any discussion about the problem of negative equity, and that is, property ownership. In addition to addressing people's accommodation needs, property ownership can also be regarded as an investment. With regard to the many property owners, they can largely be divided into two categories according to the two aforementioned purposes. As such, whenever we talk about negative equity, there will always be divergent views in society on the measures to help the negative-equity property owners to tide over their difficulties. Some people consider investments in property the same as investments in stocks and shares, and hence investors should shoulder the responsibility for investment blunders. However, the problem is in fact not so simple. Some of the flat owners invest in property ownership just to address their accommodation need, and the financial turmoil may have substantially undermined their financial position or even driven them into a most difficult plight. The Democratic Alliance for Betterment of Hong

Kong (DAB) therefore holds that the negative-equity property owners should not be simply regarded as failure investors.

As I said just now, the problem of negative equity cannot be resolved overnight. For this reason, some people may mistakenly think that the Government has done nothing and thus cannot resolve the problem. In reality, however, as we can see, the Government has indeed done a great deal of work on this in recent years. I believe that the measure that can most directly benefit the negative-equity property owners is to help them reduce their mortgage repayment burden, so as to prevent them from defaulting on repayments and thereby losing their flats. In the past, because banks would not consider reducing the mortgage rates for negative-equity property owners unless they had paid up the difference between the mortgage loan and the market price of their flats, so it was almost impossible for negative-equity property owners to have their mortgage rate reduced. Come to think about this. These embittered homebuyers have almost used up all their savings to make the down payment on their flats, just how can they find money to pay up the difference which is more than \$1 million in most cases?

However, the Hong Kong Mortgage Corporation Limited introduced a Home Owner Mortgage Enhancement Programme in June this year. Under this programme, borrowers do not have to draw down the loan to 100% of the loan-to-value ratio before refinancing. In other words, borrowers will be provided with mortgage insurance by the relevant banks to cover 90% to 140% of the current value of the relevant property at the time of refinancing. Besides, the borrowers will also be offered lower mortgage rates. It is expected that the loan repayment period can be extended to 30 years. I believe this programme should be able to alleviate the hardships of negative-equity property owners by reducing the amount of loan repayment they have to make monthly.

In our view, whatever the measure may be, the purpose is to encourage members of the public to refrain from giving up or defaulting on their mortgaged flats. But then, as the economy still remains in the doldrums and the latest quarterly unemployment rate stands at 7.4%, the people even have difficulty feeding themselves, just how can they manage to repay the mortgage loan on their flats? So, to certain negative-equity property owners, this is really a source of headache. It is all the more necessary for the Government of the Special Administrative Region (SAR) to take care of families in negative equity that are in dire straits, so that they can have a "shelter" to dwell under.

This "shelter" may well be described as the fruit of our vigorous efforts. In the past, applicants for public housing would not be eligible if they had owned any flats within two years immediately before submitting their applications. However, we do understand that if any members of society should be in financial straits, they would have difficulty meeting a day's expenses. As such, upon listening to our suggestions, the Housing Authority abandoned their standing practices and adopted a set of new measures in November last year to abolish the requirement that applicants are not allowed to own any flats within two years before submitting applications. In other words, any persons can apply for public housing so long as they can meet the eligibility requirements. Further still, if any negative-equity property owner should be in an extremely difficult situation, the Social Welfare Department would make compassionate rehousing arrangements to immediately allocate a public housing unit for him.

Nevertheless, the DAB holds that from a macro point of view, stabilizing the property market is an important measure to revive the economy and alleviate the hardships of negative-equity property owners. According to the data from the Rating and Valuation Department, the current prices of flats in the private market have dropped more than 50% during the four years between 1997 and 2001. This rate of decrease is indeed shocking. Fortunately, the rate has been gradually reduced to around 20% over the past three years. As indicated in the data from the Land Registry, the number of property transaction agreements increased by almost 10% last month, compared to the same period last year. From this we can see that the situation of the property market is becoming more stabilized gradually.

We believe that the improvement is attributable partly to the fact that the Government has straightened out its housing policies. In mid-2001, the Government decided to suspend the sale of Home Ownership Scheme (HOS) flats for 10 months. This year, the Government has also introduced a programme to reform the "complicated and overlapped" public housing structure and centralize the power to formulate housing policies, thereby giving a boost to the people's confidence in the property market.

The DAB believes that the uneven land supply in the past served to contribute to the crazy land prices before 1997. Hence, in order to stabilize property prices, it is necessary to ensure the flexibility of land supply and that the grant of land is approved prudently in the light of the market demand. Besides, the DAB also believes that the Application List system should be maintained.

In as early as December 2000, the DAB conducted a meeting with the senior executives of the Hong Kong Housing Society (HS) to put forward our proposal on setting up a secondary market for Sandwich Class Housing Scheme (SCHS) flats. The HS indicated at the meeting that it would seriously consider the proposal. In a meeting of the Legislative Council Panel on Housing in December last year, the Government also indicated that its attitude towards a secondary market for SCHS flats was open. We just hope the Government will actively look into the relevant details and feasibility of such a market.

The concept of operation of the secondary market for SCHS flats should be the same as that of the secondary market for HOS flats. It is difficult to understand why the Government is looking into the proposal for setting up a secondary market for SCHS flats at such a slow pace. If the Government agrees to the idea of setting up a secondary market for SCHS flats, the thing it has to do will be very simple. All it has to do is to make co-ordination with the existing secondary market for HOS flats and determine a market position for SCHS flats by specifying some application requirements, and so on. The DAB understands it very clearly that the secondary markets for HOS flats and SCHS flats are two different markets and hence the application requirements should not be identical. We just hope that upon assuming office, the new Secretary for Housing, Planning and Lands will expedite the pace of the relevant work.

As regards the refinancing pilot programme for properties in negative equity introduced by the Hong Kong Mortgage Corporation Limited, I hope the Corporation will keep a close watch on the effectiveness of the pilot programme to ensure that it can really help those people who are in need. According to my understanding, some of the refinancing programmes offered by certain participating banks do not consider applications made by self-employed applicants or applicants with unstable income, while some requires the applicants to have no previous records of default on loan repayment. As such, even though quite a large number of people have enquired about the refinancing programmes, not many people have really submitted applications and the number of successful applicants is even smaller.

The DAB hopes that banks can reduce the mortgage rates and eventually the amount of monthly loan repayment for the negative-equity property owners. According to the information from the HKMA, as at 31 March this year, the number of mortgage loans involving properties in negative equity is estimated at

over 67 000, with the mortgage rates for almost 40% of which being maintained at the Prime Rate (P) level or above. On the other hand, among the mortgage loans on flats newly approved by banks, the ratio of those charging a mortgage rate of P minus 2% has risen from the 89.7% recorded in April to 90.5% in May. Given the enormous difference between the mortgage rates for newly approved loans and the old ones, does it follow that the mortgage rates for previously approved loans should have room for downward adjustment?

Madam President, in the past, in order to curb property speculation, the HKMA tightened the mortgage cap from 90% of the value of the property to 70%. We hold that this measure is incompatible with the present needs. The DAB just hopes that the HKMA will consider further relaxing the mortgage cap.

All in all, I believe that negative-equity property owners, rather than expecting others to lend them a hand, should strive unceasingly to make every effort and try every means possible to resolve their problems; otherwise, they will just lose all their morale.

Madam President, I so submit.

**MR HOWARD YOUNG** (in Cantonese): Madam President, the Liberal Party has all along attached great importance to the problem of negative equity. After taking the initiative to stage a procession aiming at "protecting people's assets and invigorating their spirits" two years ago, we also moved a motion on "Negative Assets" at a Legislative Council meeting held in February last year to urge the Government to address the problem of negative equity squarely and actively help property owners having negative equity (negative-equity property owners) to tide over their difficulties.

As a matter of fact, thanks to the continuous pressure from the Liberal Party and other members of society, the Government's attitude towards the problem of negative equity has indeed changed. At the beginning, the Government was completely indifferent to the problem; later on, it strove to stabilize the property market indirectly by suspending temporarily the sale of HOS flats. Then, in October last year, the Government proposed in the policy address to raise the tax-deduction ceiling for housing loan interest from \$100,000 to \$150,000 per year.



The Liberal Party welcomes these measures, as they are in line with the ideas we have all along. It is not true that the Government has done nothing on this in recent years. Last year, the Government indirectly issued through the HKMA guidelines on refinancing arrangement to enable banks to make loans up to 100% of the value of properties in negative equity, thus reducing the difference payable by negative-equity property owners when securing refinancing. Even though this response from the Government is rather slow and most probably not forceful enough to completely resolve the problem, it is still better than doing nothing at all.

For this reason, on the occasion of Mr Albert CHAN is moving another motion relating to the negative equity problem today, I urge the Government to expeditiously formulate effective measures to help the negative-equity property owners, and to call on the banking sector, real estate developers and social service organizations to actively assist these people as set out in the original motion. However, the Liberal Party considers that in addition to the aforementioned parties, the HKMA, the Hong Kong Mortgage Corporation Limited and the Hong Kong Housing Society (HS) should put in more efforts to help those negative-equity property owners who cannot benefit from the measures mentioned just now. That is why I will move an amendment to the motion on behalf of the Liberal Party.

Indeed, since the HKMA relaxed the refinancing arrangements for negative-equity property owners towards the end of last year, many banks have been attracted, as part of a chain effect, to offer refinanced mortgage loans to negative-equity property owners with better terms that can benefit more flat owners. The Liberal Party hopes that in future, the HKMA will more actively encourage banks to adopt more lenient policies on negative-equity property owners.

Banks often times say that their policies on mortgage loans are subject to certain requirements laid down by the HKMA, such as the 70% mortgage cap mentioned by Mr CHAN Kam-lam just now. Furthermore, as far as I know, banks are also subject to the portfolio requirement, which require them to ensure that the amount of mortgage loans does not exceed 40% of the total amount of the loans approved, and so on. Banks will always make use of such requirements as an excuse for not offering sufficient mortgage loans to applicants, especially those having negative equity or secondary market flats.

Madam President, the Liberal Party welcomes the 140% mortgage insurance programme newly introduced by the Hong Kong Mortgage Corporation Limited for negative-equity property owners. We are also glad to see the active response from banks. But then, this programme is restricted to only self-occupied residential flats in the private market. Owners of HOS flats and Sandwich Class Housing Scheme (SCHS) flats in negative equity are not eligible for the programme and thus cannot be benefited. According to our understanding, many owners of HOS and SCHS flats bought their flats when the property market was at its peak, and many of them have now become negative-equity property owners. The Liberal Party therefore suggests the authorities concerned to extend the refinancing arrangement for properties in negative equity to such kinds of flats to benefit more negative-equity property owners.

Moreover, in addition to the difference between the market value of the property and the mortgage loan, negative-equity property owners also have to pay an upfront premium amounting to tens of thousand dollars at the time of refinancing. Besides, they also have to pay monthly premiums as well. Due to unemployment or pay reduction, many negative-equity property owners just cannot afford such additional payments. The Liberal Party hopes that where circumstances permit, the Hong Kong Mortgage Corporation Limited can actively participate in negotiating the premium agreements with the relevant banks, with a view to preventing the negative-equity property owners from having to bear all the premium liabilities.

Madam President, as I said just now, many SCHS flats have become negative assets. In this connection, the HS has recently introduced measures to assist those loan recipients of Home Starter Loan Scheme and Sandwich Class Housing Loan Scheme who have financial difficulties to suspend loan repayment for 12 months and to reschedule the repayment of outstanding loans. The Liberal Party considers these measures as "better than nothing" and not effective enough. Due to the excessively stringent application criteria, the majority of the sandwich class cannot benefit from such measures. Thus, we hope that the HS will consider relaxing the relevant application criteria. We also hope that banks can consider the measure of allowing borrowers to repay only the interests but not the principal temporarily. Actually, the banks in Hong Kong are now filled with ample cash. If the banks cannot loan out such cash but can only collect the principal of loans made out before, they are in effect doing less business. That being the case, why do the banks not consider allowing the flat

owners to make repayments for only the interest but not the principal of the loans? That way, both the banks and the flat owners will be benefited in such a win-win situation. Further still, in our view, it is quite unlikely for the economy to improve significantly in a year or two, and so suspending the repayment for only one year just may not be of real help to the negative-equity property owners. While we believe a period of two years may be more suitable, I certainly do not hope to see that the suspension period has to be extended to three years. I believe it is every person's wish that the economy will have improved after two years. We suggest the HS extend the loan repayment suspension period to two years and consider, at the same time, reducing the mortgage rate for refinanced loans from Prime Rate (P) to a level close to the average market mortgage rate at around P minus 2% or P minus 2.5%. Certainly, I am not saying that the mortgage rates have to be uniform, but I do hope to see a smaller gap.

Apart from that, I believe Honourable Members are also aware of the different mortgage rates charged by banks on flats in new and old buildings. As mentioned by Mr Albert CHAN earlier, banks are somewhat discriminating against old buildings in the secondary market, as they only "mechanically" calculate the loan repayment period on the basis of the age of the buildings concerned without paying any regard to the structure or exterior of the buildings. As a result, despite the fact that they have undergone renovation and are comparable to new buildings in terms of quality and exterior appearance, the secondary flats still cannot enjoy the lower interest rates and longer repayment period enjoyed by new flats. As I can recall, when speaking on the motion last year, I also mentioned that in other countries, and particularly the United Kingdom, the United States and other European countries, there is almost no difference between the mortgage rates and loan repayment periods of new and old flats. This is very much unlike the case in Hong Kong. In fact, if the secondary property market is not given any boost, the entire property market just cannot be revived, thereby affecting adversely transactions in the secondary market. That way, the pressure on the negative-equity property owners just cannot be alleviated. For this reason, we hold that banks should unify the mortgage rates and loan application arrangements for flats in new and old buildings, or at least narrow the gap as far as possible.

Madam President, the majority of negative-equity property owners are members of the middle class. These people may well be described as the pillars of society and the most important force in the consumer market. Therefore, if

we help these people, we are also helping the economy to revive expeditiously. In our view, the original motion today and the amendments to it are all worthy of our support.

I so submit.

**MR ABRAHAM SHEK:** Madam President, local negative-asset homeowners should feel more optimistic last week, following the announcement of a mortgage insurance programme that involves 14 major banks and aims to reduce the mortgage rate charged to borrowers in negative equity.

This is the latest government-initiated, I must stress, market-driven measure that aims to relieve the financial burden of the negative-asset holders. Some 68 000 in total, these homeowners and their financial problems have become a social problem in need of government help.

What sort of help should the Government offer to these homeowners? Up to the present moment, the Government has encouraged, and relied on, the private sector to assist these homeowners. So far, the Government has refrained from large-scale, direct intervention, such as providing direct subsidies or government loans to these homeowners. I must say that it is a right direction. And I urge the Government to stick to its principle for as long as the negative-equity problem would prevail.

Home buying is an individual investment decision. Obviously, the Government cannot, and should not, compensate losses incurred from personal property investments. Besides, such compensation would be too expensive for our budget-tightening Government.

The Government's role should be to alleviate the homeowners' burden through market-driven solutions. In the past two years, the Government has done its job by encouraging banks to provide refinancing or restructuring packages. It has also relaxed the existing 70% loan-to-value guideline for these refinancing loans. By joining these programmes, the borrowers in negative equity would be able to save interest payment and monthly repayment amount.

The above measures have provided a certain degree of relief to the victims of asset depreciation. Over the past one and a half years, there has been a

steady fall in both the number of negative-asset holders and the total value of outstanding mortgage loans. However, the fall is comparatively slight and overall, the problem of negative assets still prevails with considerable severity.

Firstly, only a limited number of these homeowners have benefited from the refinancing programmes. It is because banks have set a high threshold for applicants. Homeowners who are self-employed or have an unstable income are unlikely to pass the stringent approval criteria.

Secondly, the local economic prospect is full of uncertainties and unstable factors. It is still beyond any expert's capability to predict where the current economic restructuring will lead us. The chance of wage cut or being sacked in the not-too-distant future is always possible. An unexpected turn of events may further exacerbate the current unemployment problem, and prompt a surge in abrupt termination of mortgage repayment. This could be a disaster to banks and could threaten the soundness of the entire financial sector.

It has been suggested that the Government should reconsider relaxing the 70% loan-to-value ratio further for all mortgage loans. Banks should be given more flexibility in setting their own mortgage ratio. Depending on how much risk they are prepared to take, banks could offer loans at a higher loan-to-value ratio and, in turn, charge a higher mortgage rate over a longer period. I believe that the idea is worth considering. Such a relaxation will provide additional incentives for potential homebuyers. On the other hand, homeowners in negative equity will have greater chances of negotiating a refinancing loan with banks on better terms.

The ultimate answer to this social problem is to stabilize property prices. The negative-asset problem was a result of the property market slump which was triggered by the Government's over-ambitious housing target of 85 000 units and the Asian financial turmoil in 1997. Since then, property value has dropped as much as 60%. It is important to stabilize the property market. Only then will negative-equity holders be able to get out of the black hole of "negative equity".

It has been a great relief to the wobbling property market when the Government announced a succession of policy initiatives to clarify the confusion in its housing policies recently. The nine-month suspension of Home Ownership Scheme flat sales and the subsequent capping of the annual sales to less than 5 000 units proved to be crucial to the revival of public confidence in

the property market. Step by step, the Government has minimized its direct intervention in the private residential market. Again, the Government has taken the right steps and it should forge ahead along this direction with consistency.

Once the economy starts to revive, the property market will turn around and recover gradually. When this happens, the negative-equity problem could eventually be solved. What the Government should do now is to formulate a housing policy with clear objectives, thereby helping Hong Kong to tide over the current economic downturn.

I so submit. Thank you, Madam President.

**DR RAYMOND HO** (in Cantonese): Madam President, according to the survey findings released by the HKMA in March this year, it is estimated that as at the end of December last year, the number of residential mortgage loans in negative equity stood at 73 000, or 16% of the total number of mortgage loans. The figure released by the HKMA is in fact far smaller than the estimation of some people in the real estate industry. Even if we take this HKMA figure of 73 000 for some rough calculations on the assumption that there are three members in each household, we will still see that at least 210 000 people are affected by the problem of negative equity. If the number of negative-equity property owners is even as large as 170 000 as estimated by some, the total number of people affected by this problem may well reach 500 000.

Many negative-equity property owners are middle-class people. Many of them bought their properties for self-occupation during the property boom several years ago, putting down their hard-earned savings as down payment, and mortgaging their flats to banks. Unfortunately, under the impacts of both the Asia financial turmoil and the "85 000" housing policy of the Government, the local property market has since plummeted, plunging many homeowners into the dark abyss of negative equity. It will be most unfair to these homeowners if we simply look upon their plight as a result of common investment losses.

To such property owners, negative equity means a heavy financial burden. To individual banks, mortgage loans in negative equity affect the quality of their assets. To the banking system as a whole, negative equity is a factor that may upset its stability. For these reasons, negative equity is no longer a pure financial problem of the individual. If the situation deteriorates, more profound

impacts on society as a whole may result. Middle-class people have been the backbone of our society, playing the very significant role of maintaining stability. Therefore, even if they think only about the overall interests of society, the Government and relevant organizations should still see a good reason for extending a helping hand to negative-equity property owners.

However, the Government and the relevant organizations did not pay any positive attention to this problem in the past, and it was only until very recently that they started to take some slightly more concrete actions, including an increase in the tax deduction ceiling for home mortgage interests; the HKMA's relaxation of re-mortgage restrictions on negative-equity properties and its permission for banks to offer re-mortgage loans at 100% of the market values of negative-equity properties; and the mortgage insurance scheme for negative-equity properties announced by the Hong Kong Mortgage Corporation Limited last month. As for the adequacy of these measures, it is all a matter of opinion.

I think the Government can also take other steps such as encouraging other organizations to offer assistance to negative-equity property owners. One example is to encourage banks to permit such owners to extend their mortgage repayment terms, so as to lighten their burden.

More importantly, the Government should put in place some measures that are conducive to stabilizing the property market. It may, for instance, scale down the sale of HOS flats while constructing more public rental housing units, and it may also grant some premier sites for private development. Besides, the Government should also do its utmost to revitalize the economy by, for example, speeding up infrastructure construction to improve employment. That way, the property may be revitalized, thus delivering embittered homeowners from their plight as early as possible. To sum up, it is now time the Government showed more determination.

Madam President, I so submit. Thank you.

**MR ALBERT HO** (in Cantonese): Madam President, the problem of negative equity has been haunting Hong Kong ever since the outbreak of the Asia financial turmoil. The 100 000 or so families owning negative-equity properties have not only been subject to immense financial pressure, but also tortured by heavy mental stress. Since early as 1998, the Democratic Party has been asking the

Government and the banking sector to make joint efforts to offer assistance to negative-equity property owners, so as to relieve their pressure. We do not ask the Government to assist these owners in reducing their debts; instead, we hope that the Government and the banking sector can extend, in a tolerant and understanding manner, a helping hand to negative-equity property owners who are suffering so immensely, lest the problem of negative equity may worsen and give rise to knock-on effects on the economy.

The emergence of huge numbers of negative-equity property owners is undeniably related in one way or another, or even closely related, to the Government's policies in recent years, especially those on housing. Back in 1995-96, when signs of abnormality with the bubble economy, in particular the bubble property market, began to show, the Democratic Party repeatedly requested the Government to introduce measures to curb the serious speculative activities, so as to avoid the emergence of an over-heated economy and the continued expansion of the property bubble specifically. However, the Government flatly rejected our proposals. Then when the property market started to develop problems, the Government hastened to stabilize it, or even to jack it up. The Government offered huge amounts of loans at that time in an attempt to induce more people to buy their own homes, and it even helped many people to obtain 100% financing, to "get on board" without having to pay any down payment. It used several billion dollars for the purpose, bringing into existence hundreds and thousands of negative-equity property owners.

Unfortunately, the Government has so far failed to put in place any effective measures to help negative-equity property owners and worse still, some individual government officials have even denied all the responsibility, saying that the whole matter is just a personal investment problem, the consequences of which have to be borne by the individuals concerned. This is nothing but a neglect for the negative impacts of the negative equity problem on the economy as a whole, an attempt on the part of the Government to evade its responsibility, and a rubbing of salt into the wounds of negative-equity property owners!

As the whole society starts to gain a fuller understanding of the problem of negative equity, I am sure that people will become more concerned about the situation. Since people have now realized that the Government should be held responsible, and more and more of them have started to sympathize with negative-equity property owners; this has caused changes to the relevant policy of the Government.



Some banks used to be very firm with negative-equity property owners, refusing to consider lowering the mortgage interests for these owners at all, and saying that the problem must be considered from the commercial perspective. Many negative-equity property owners who are unable to continue with their repayments will certainly go bankrupt as a result, and the banks will in turn suffer immense losses. Besides, large numbers of repossessed flats will only deal a further blow to the already ailing property market. We think that, negative-equity property owners, banks and property developers are all in the same boat in a certain sense. We hope that the minority of banks and finance companies should follow the prevalent practice and introduce changes accordingly. In particular, they should follow the recommendation of the Hong Kong Association of Banks on lowering mortgage loan interest rates. But we must say that some property developers are still charging very high interests for second-mortgages.

I hope that the Secretary can conduct some investigation to ascertain whether any property developers are still charging a high interest rate of P+2% or P+2.5% for second-mortgages, and whether they hold a firm stance towards such cases, refusing to lower the interests. This is highly undesirable. We naturally realize that ours is a free economy, and we do respect the fact that bankers will have their own considerations. But we do hope that they can note the effects of this problem on the market as a whole. All of us know very well that if some kind of assistance can be offered to negative-equity property owners, the overall situation will improve, and so will the whole property market.

Therefore, I must call upon all those concerned to adopt a lenient attitude and lower the high interest rates for homeowners with second-mortgages as soon as possible. I also call upon the banking sector and finance companies to adopt the same attitude and lower their interest rates, instead of commissioning debt collection agencies to recover outstanding repayments.

The Government and the Hong Kong Association of Banks did not take any actions until very late in the course of all this, but fortunately, interest rates in recent years have started to follow the downward trend. Thanks are of course due to Alan GREENSPAN, because while trying to boost the American economy, he has also helped many Hong Kong people to enjoy lower mortgage interest rates.

However, in the foreseeable future, there will not be any dramatic rises in property prices in Hong Kong. So, the problem of negative equity will likely

stay with us for a long time to come. Moreover, given the high unemployment rate and downward adjustments of wages, we worry that once the interest rates start to rise again, the burden on negative-equity property owners will become even heavier. I hope that the Government will not be so easily satisfied, thinking that since it has taken measures to relieve the burden of negative-equity property owners, it can stop considering any new measures, or measures that can cope with the changing circumstances.

The Housing Authority has recently passed a number of measures, one of which is to relax the public housing eligibility for negative-equity property owners. All these are very good measures. I also call upon the Government to further raise the tax deduction ceiling for mortgage interests, so as to relieve the burden of negative-equity property owners. I hope that all of us can work with one heart to offer a helping hand to all those middle-class, negative-equity property owners who are most in need of help.

Thank you, Madam President.

**MR NG LEUNG-SING** (in Cantonese): Madam President, on the outset, we must realize that negative equity is actually a problem involving many complicated factors like investment, self-occupation of properties, business operation and even speculation. According to the latest survey findings of the HKMA, as at late March this year, there were roughly 67 500 residential mortgage loans in negative equity, representing 14% of all mortgages. The total value of residential mortgages in negative equity was \$115 billion, or 21% of all outstanding residential mortgage loans. This shows that despite the recent improvements, negative equity is still a problem frustrating Hong Kong, constituting a major obstacle to the recovery of the local consumption market and the overall economy.

As for the standpoint of banks, I know that they are also very concerned about negative equity, and in many cases, they do sympathize with negative-equity property owners. The current situation of the problem is that in the fourth quarter of 2001, re-mortgaging and rescheduling arrangements were made for 2 500 residential mortgages in negative equity, and the same arrangements were made for 2 300 mortgages in the first quarter of 2002. Of the bank loans for which rescheduling arrangements have been made, about 60% involved downward adjustments of interest rates. In Hong Kong, the interest rates for

58% of negative-equity property owners are lower than the Prime Rate (P), and this percentage is lower than the 56% recorded at the end of December 2001. The average interest rate for negative-equity property owners is currently P-0.60%, a reduction of three percentage points when compared with the average rate recorded by a survey in December 2001.

Naturally, owing to differences in risks, not all negative-equity property owners are able to reach an agreement on financial arrangements with their banks and achieve their desired results. Banks are after all commercial institutions, and as such, when they make a business decision, they must ensure that the decision is reasonable. If debt rescheduling can enable its customers to continue with their repayment, both sides will benefit, which is why no bank will wish to see its customers going bankrupt. However, banks must at the same time be accountable to their shareholders and depositors, and they must also comply with the requirements on prudent operation imposed by the various supervisory bodies. At present, there is still no sign of any improvement to the business environment of banks. In particular, bad debts resulting from bankruptcy will surely continue to affect the profits position of the banking industry. In the first five months of this year alone, the number of bankruptcy cases was already as large as 8 104, representing 88.6% of the total number of such cases last year. It is understandable that some people in the community will expect the banking sector to show commitment to the problem of negative equity. And, the banking industry is prepared to respond to this expectation. But such an expectation must be based on commercial realities.

Madam President, given the conditions of the economy as a whole, if we are to solve the problem of negative equity, the various sectors of society, including, of course, the banking sector, will have to offer assistance of different degrees. But, basically, much will have to depend on improvements to the overall economy in such areas as employment, consumption and the stable development of the property market. That is why it is imperative that the Government introduces some effective measures to boost the economy and improve employment. It must also set down and implement a sensible and sound housing policy with clear-cut objectives. I hope that instead of just questioning the Government whether it wants to reduce its commitment to helping people buy their own homes or just saying that policies like increasing the quota of home loans are meant to jack up the market, Members who have a genuine concern for negative-equity property owners can make joint efforts to urge the Government and other relevant bodies to formulate a reasonable policy

that can strike a balance between the supply of public housing and that of private housing, a policy under which the supply of HOS units can be handled prudently. Proper actions from all sides are the only way to foster the conditions necessary for the stable and development of the property market. And, this is in effect an ultimate solution to the plight of negative-equity property owners, a way to create better conditions for them.

Madam President, I so submit.

**MR FREDERICK FUNG** (in Cantonese): Madam President, ever since the outbreak of the financial turmoil, layoffs and wage cuts have never stopped. Some of those people who have bought their own homes but still have to repay their mortgage loans are thus rocked off balance. In some cases, their properties have even become negative-equity assets. The more fortunate of these people can still scrimp and save to support their families. The less fortunate ones, however, have failed not only to repay their mortgage loans, but also even to support their families. Under such circumstances, the Government should give a helping hand to them.

There is actually a unique story behind every case of negative equity. Some, for example, used their savings to purchase residential units which later turned into negative-equity assets. Others borrowed from the Housing Authority (HA) and the Housing Society (HS) and purchased residential units which later also became negative-equity assets. The third kind of people purchased HOS units from the HA or HOS flats from the secondary market, and their properties turned into negative-equity assets later on.

These three types of cases actually involve three different kinds of circumstances, all of which should require different assistance from the Government. The Secretary for Financial Services and the Treasury is here today, but I think the Secretary for Housing, Planning and Lands should also attend this meeting to listen to my comments. At least, HOS units, the HA and the HS should be matters of concern to them.

I wish to focus on the last two types of negative-equity property owners. That is to say, I wish to discuss how the Government should help those people who purchased properties with loans from the HA or HS and those who purchased HOS flats or HOS flats from the secondary market.

Over the past few months, I have received many requests for assistance. Many people said that after selling their properties, they wished to apply for the allocation of public rental housing units, but the Housing Department (HD) and the HA had rejected their applications on the ground that they were once beneficiaries of government subsidized housing, such as the HOS, the Sandwich Class Housing Loan Scheme and the government home purchase loan scheme. The argument of the HD is that one can enjoy such welfare benefits only once in life, and since these people have once enjoyed such benefits, they are no longer qualified to apply for public rental housing. But although these people were once the beneficiaries of public housing benefits, they have now lost their properties, sold their housing units and become practically homeless under the current economic sluggishness. Worse still, they even find it hard to even rent a private residential unit. They are actually qualified to apply for public housing now, but the Government says they are not, so one can easily imagine the plight of these negative-equity property owners. Since they cannot afford renting private residential units and are encountering so many hardships in life, the Hong Kong Association for Democracy and People's Livelihood (ADPL) and I maintain that the Government should give them some help.

The Panel on Housing this Session also discussed this problem, and, together with the people seeking assistance from me, I discussed with the Business Director (Allocation) of the HD. But in the end, the HD agreed to bring in just a bit of relaxation and exercise discretion for the following four categories of cases involving: (1) bankruptcy; (2) receipt of Comprehensive Social Security Assistance (CSSA); (3) family upheavals such as divorce and the passing away of the bread-winner; and (4) families with members suffering from medical or personal problems which are not eligible for compassionate rehousing. But some negative-equity property owners were still not permitted to apply for public housing after selling their properties because despite their plight, they still did not have to apply for CSSA and bankruptcy. The HD explained that a full-scale relaxation may lead to abuses, encouraging owners of HOS units to surrender their flats to the HA at the original prices in a bid to become qualified for public rental housing. But under our proposal, even after these owners had surrendered their flats to the HA, they must still meet the eligibility requirements and wait in the queue. So, there should be no abuses.

After a series of discussions, we made a compromise, proposing that these owners should be allowed to apply for public rental housing if they can meet the income and asset limits two years after selling their HOS units or flats bought

with home purchase loans, with the undertaking that within these two years, they will not sell their units back to the HA, which may refuse to buy them back. A motion on this was passed by the Panel on Housing. But the HD has so far refused to accept it. We think the Government should do a bit more. In particular, when negative-equity property owners face financial difficulties and housing problems, the Government can help them by offering public housing. We think as soon as the income of these people falls from the peak to the bottom, the Government should already give them some help if they can meet the eligibility requirements of public housing. That way, they will be able to get some government assistance under the current economic downturn.

Those facing financial adversities will certainly feel the need for government assistance. But now, people must be in the worst situation before they can get any help. Is the Government really so numb to their plight?

On the problem of negative equity, I hope the Government can do more thinking and relax some existing policies, so as to help negative-equity property owners tide over the current economic downturn.

Thank you, Madam President. I so submit.

**MR MICHAEL MAK** (in Cantonese): Madam President, the unemployment rate of Hong Kong has remained high. The Census and Statistics Department announced earlier that the unemployment rate from March to May this year was as high as 7.4%, meaning that as many as 253 000 people were unemployed. Battered by the economic downturn and the waves of layoffs and wage cuts, people are basically highly discontented. And, people will all frown at "negative-equity assets" and do their very best to avoid them. Unfortunately, those negative-equity property owners have to continue to face this plight and the realities.

As estimated by the Hong Kong Monetary Authority (HKMA), as at the first quarter of 2002, the number of residential mortgage loans in negative equity was 67 500, involving a total amount of \$115 billion. Thus it can be seen how serious the problem of negative equity is.

The Administration has an unshirkable responsibility to deal with this problem. The policy of "85 000 housing units" has added fuel to the fire, and

the Housing Bureau and Housing Department are caught in the problem of organizational overlap. All these problems cannot be solved simply by "thinking about them even in our dreams" (in the words of the Chief Executive). If the authorities wish to solve the problems, it must do something concrete to make up for the time already lost.

I hope the authorities can realize that besides the families of negative-equity property owners, their relatives and friends may also be affected in no small measure. The reason is that these relatives and friends may try to help negative-equity property owners to deal with their difficulties by lending them money or by acting as their guarantors. If the problem of negative equity remains unsolved, negative-equity property owners may become a financial burden to their relatives and friends. Once a vicious cycle emerges, it will be hard to estimate the number of people tortured by the problem and the emotional and mental stress they have to endure.

My professional experience tells me that if a person is frustrated by negative equity for long periods, the resultant pressure may lead to serious emotional and mental problems. According to statistics, in the past five years, the number of mental in-patients at public hospitals increased by 45%, from 9 407 in 1997 to 13 626 in 2001. This situation and the increasing number of suicide cases in the past few years are definitely related to negative equity in one way or another.

My constituents in the health care services sector are mostly middle-class people who were once very strong in consumption power. But many of them have been dragged into trouble by the financial turmoil, the housing policy of the Government and the Government's open advice on inducing people to buy properties. Their properties have become negative-equity assets. Some of them even say that negative equity has dragged them to the edge of bankruptcy. Many of them have sought advice from me, especially on their emotional and work problems. With the added crisis of unemployment, I am afraid that if the authorities still do not implement prompt relief measures and help negative-equity property owners, the Government may well plunge some professionals in Hong Kong into desperation, and some of them may even commit suicide on the spur of the moment. If the situation does not improve, how can one talk about revitalizing the economy by relying on the high consumption power of these people?

People purchase housing units because they want to have a shelter, a home. This is something we should basically encourage. But now that the problem of negative equity has emerged, why does the Government still refuse to formulate some effective relief measures? Do the authorities wish to see all these families apply for bankruptcy and become homeless?

One example of the measures that the Government may consider is an enhanced deduction for home loans on units used for self-occupation that will relieve people's financial pressure. The HKMA may also encourage banks to do re-mortgaging for negative equity property owners, or to set new interest rates at lower levels, so as to increase the liquidity of negative equity property owners.

The Government should also do something more in respect of employment, so that the pressure on these owners will not increase, so that they can be free from the fear of unemployment and continue to meet their mortgage obligations. Actually, if they cannot continue to make repayments and their flats become repossessed units, all will lose out in the end.

I also hope that following the merging of the Housing Bureau and the Housing Department, the new housing authorities can learn from the bitter experience and work out an effective policy on both private and public housing, so as to ameliorate the problem of negative equity. This can also encourage people who fear negative equity to purchase properties.

Madam President, I so submit.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, this is the last motion debate in this Legislative Session. I have always been obedient to the President. For years since I have joined the Legislative Council, since day one, I have tried to speak in this Chamber, with or without a script. I am a novice in the Council, so occasional mistakes have been unavoidable. My only hope is that I can make improvements every year.

The motion topic today, moved by Mr Albert CHAN, is not new to us. Mr Albert CHAN and I are entirely different, and I suppose he will certainly agree with me on this point. But still, we do share a small commonality. I am not sure whether Mr Albert CHAN is aware of this: we are both staunch



supporters of industries, though that again, our ways of showing support are entirely different. This does not matter, however, for what counts most should be the support at heart.

For the motion today, I again wish to quote the words of the Harvard Vice-President, a friend of mine whom I have mentioned several times before. He once asked me to this effect, "Why is it that you Hong Kong people have become so single-level in thinking?" His question has enlightened me a great deal, which is why I have since tried to look at things at the deeper levels. The motion topic today is about negative equity. One who is single-level in thinking may ask himself, "Properties have turned into negative-equity assets, what should we do?" But if we look at several levels more, we may get a different picture. I got that last night. Yes, we should look deeper into the issue, trying to figure out the causes of this problem. The cause is not attributable to property tycoons, nor the banking sector either. The cause is actually a combination of many factors, factors which can even be traced back to the 1970s and 1980s. We are of course not here today to catch the witch. But, allow me to say, if we really wish to solve the problem, we must be prepared to face the truth, for only then can we identify genuine solutions. If we do not do this, all solutions will at best be "piecemeal".

Ask anyone in the street today whether they think there will be another property boom, and I am sure it is very unlikely to get a confident "yes". That should lead us to ask why there was a boom years back. The answer is that our economy was prospering; the property boom was the effect of the economic boom. So, on this count, I wish to work with Mr Albert CHAN in the Session to identify ways of bringing in new economic activities, to bring in a new boom once again, though our ways of doing this may still be different.

As far as I can see, the whole property market will probably remain sluggish. How can we revitalize the market? There must be "new" money. If we rely solely on our existing economic resources and our "old" money, nothing much can be done. But how can we ameliorate the problem of negative equity? However hard and frequently we press the Hong Kong Monetary Authority (HKMA) to do something about it, there is in fact not too much it can do anyway. Even if we can force it to take some kind of measures, all will just be like squeezing toothpaste from its tube. And, do not forget that the tube has been put on the shelf for more than a decade. Can we expect to squeeze out any toothpaste then? No, no matter how hard we squeeze.

Therefore, we must really ask, "Where can we get new money?" Tourism is a source, but that again, our tourism industry is still unable to attract world-class tour groups. What can we do then? The real reason why tourists want to come is nothing but our economic prosperity. Hong Kong is a factory of miracles, so they all want to come and have a look. This means that our main concern should be how we are going to rebuild and restore this factory of miracles. I hope that in the new Legislative Session, all of us, the 60 Members, including the President, can do some real thinking together, to work with the new principal officials under the accountability system to boost our economy.

Incidentally, besides tourism, there is still another source of new money — the industries. We have done so many studies over the years, talking about innovation and high technology. But in fact, Hong Kong has still not come to that stage yet. I am not saying that Hong Kong is not capable of all this; I just mean that it is still not there yet. When will the time come then? To begin with, we must first build up a solid foundation, and it is only when there is new money coming in that we can achieve or sustain innovation and high technology. I very much hope that the sustaining of industries can become an important subject in the next Legislative Session. We should study how we can sustain our industries instead of talking about negative equity year in, year out.

We in the Liberal Party have always been more pragmatic. I am glad to read a long article in the *Hong Kong Economic Journal* today entitled "There is now also a Liberal Party in the media". I think we should all read this article. We should also learn from the development of the local media, trying to find out how we should focus pragmatically on Hong Kong, instead of arguing over things superficial, because it will not help boost our economy. I hope that in the new Legislative Session, all the 60 Members can work with one heart to urge the Government to move forward in the direction of boosting the economy. We should not dwell any more on a single-level topic. The topic of negative equity is a fine example. It is discussed year after year, but having discussed it for a dozen times, we still fail to achieve anything, still do not know what we should do. Thank you, Madam President.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now speak on the two amendments. You have up to five minutes.

**MR ALBERT CHAN** (in Cantonese): Madam President, the respective amendments of Mr Howard YOUNG and Mr CHAN Kam-lam do not look very different at first glance. Mr Howard YOUNG's amendment seeks to make a simple addition of three organizations to my original motion, thus bringing more substance to my demand and widening the participation of organizations. This is totally in line with the principle and spirit behind my motion. So I will support Mr Howard YOUNG's amendment.

Mr CHAN Kam-lam's amendment is quite similar to that of Mr Howard YOUNG, but despite the similarity, what is so bad with Mr CHAN's amendment is that it seeks to delete from my original motion the sentence on the Government's past failure to do its utmost to help negative-equity property owners. But this sentence is very important, and it conveys a most meaningful message. As for how the Government should deal with this problem in the future, Mr CHAN Kam-lam agrees that the Government, the banks and all other parties involved should do something more as much as possible and put in place some assistance measures. And, he even proposes some concrete measures. However, I really cannot understand why he wishes to delete even such a mild criticism on the Government's bad performance all along. It is precisely because we are not satisfied with the past performance of the Government that we now want it to do more. I have never expressed any regret or condemnation, and I only mention very briefly that the Government has not been doing its best to help negative-equity property owners. But Mr CHAN Kam-lam wants to delete even such a modest expression of dissatisfaction. His "royalist", "pro-TUNG", mentality is all too naked, all too apparent. Even the Liberal Party — which has two of its members on the Executive Council — supports the retention of this sentence, but the Democratic Alliance for Betterment of Hong Kong wants to remove it. That I really cannot accept at all. I suppose the Chief Executive should really award a Grand Bauhinia Medal to Mr CHAN Kam-lam next year. His mentality of protecting Mr TUNG, the "royalist" cause and the Government is making him intolerant to any criticisms; perhaps we should learn from him. Recently, some have said that there will be benefits for "small apologists" and well-paid government posts for "big apologists". Mr CHAN may well be a "super-apologist". Since Mr CHAN Kam-lam seeks to remove from my original motion the sentence on criticizing the Government, I cannot support his amendment. That is why I will oppose it and support Mr Howard YOUNG's amendment. Thank you, Madam President.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Madam President, I am very grateful to Mr Albert CHAN for moving this motion at the last meeting of the Legislative Council in the current Legislative Session, as it has given me the opportunity to summarize the measures taken by the Government in the past year to alleviate the hardship of negative-equity property owners. I will respond to Mr Albert CHAN's motion as well as the amendments proposed by Mr Howard YOUNG and Mr CHAN Kam-lam with reference to the policy area of financial services within my purview. I will also respond to the motion on behalf of the Housing, Planning and Lands Bureau and the Health, Welfare and Food Bureau in respect of areas within their responsibility.

I wish to thank Honourable Members for putting forward many opinions today. Although my two colleagues have not attended this meeting, I will reflect Members' views to them, and I have written down the relevant views.

Like Honourable Members and members of the public, I fully appreciate the pressure on negative-equity property owners, both financially and psychologically. When I took a taxi the other day, the taxi-driver told me that he owned a negative-equity property and we had discussed this issue for a long time. The Government is very sympathetic to their situation. As we all understand, Hong Kong is undergoing a very difficult and yet unavoidable period of economic adjustment. Faced with the problem of negative-equity property, the Government has not sat by with folded arms. Rather, we have actively coordinated the efforts made by all sides, and discussed with the relevant government departments, banks and commercial organizations the ways to alleviate the hardship of negative-equity property owners. Now, let me briefly explain what we have done.

With regard to banks, measures to assist negative-equity property owners include reduction of interest rate, extension of repayment period, repayment of interest first and principal later, re-scheduling of mortgage loans, and so on. Many banks have also set up dedicated departments or telephone hotlines to exclusively handle cases involving negative-equity property and provide one-stop advisory, refinancing or loans re-scheduling services.

With regard to the Hong Kong Monetary Authority (HKMA), the following measures have been taken to allow banks greater flexibility in

providing negative-equity property owners with assistance: (a) in last October, the HKMA relaxed the 70% loan-to-value restriction in refinancing residential mortgage loans in negative equity, allowing banks to refinance residential mortgage loans for homeowners in negative equity up to 100% of the current market value of the mortgaged property; (b) the HKMA wrote to the banking sector in last November, encouraging more banks to set up dedicated departments and telephone hotlines to handle cases involving negative-equity property owners; and (c) the HKMA has spared no effort in supporting the Hong Kong Mortgage Corporation Limited (HKMCL) or the private sector to co-operate with banks in refinancing residential mortgage loans for owners of negative-equity property at an amount up to 140% of the current value of the mortgaged property, and in helping those owners to secure a lower mortgage rate after their access to refinancing.

With regard to the HKMCL, it announced the introduction of the Home Owner Mortgage Enhancement (HOME) Programme on 14 June this year. This Programme provides insurance to cover a bank's credit exposure above 90% and up to 140% of the current value of the property at the time of refinancing. This will allow the bank to reduce the mortgage rate charged to the borrower whose monthly repayment amount will in turn be reduced. The borrower can enjoy the following benefits: He can derive interest savings totalling 6% to 18% of the outstanding principal balance, substantially reduce the monthly repayment amount by 30% to 39%, and does not have to top up the difference between the loan amount and the current value of his property.

In respect of the public housing policy, the Government has taken the following measures:

- (i) Owners of flats under the Home Ownership Scheme (HOS) can resell their flats to the Hong Kong Housing Authority (HA) at the original selling price in the first two years after purchase. This arrangement is a price guarantee for owners and so, owners of HOS flats do not have to worry about having to suffer losses when selling their property in the first two years after purchase;
- (ii) The HA decided in last November to lift the restriction that an applicant for public housing cannot own any residential property in the 24 months immediately preceding his application. This has

enabled negative-equity property owners to apply for public housing units, as long as they can meet the income and asset limits as well as other requirements. As Mr CHAN Kam-lam said earlier, this measure can benefit all owners of private property;

- (iii) For owners of HOS flats who have to sell their flats due to financial hardships, while they have previously received housing subsidies granted out of public money, the Housing Department may, at its discretion and as exceptional cases, allow their applications for public rental housing. Moreover, families with particular difficulties may, upon recommendation by the Social Welfare Department, be allocated with public rental flats on compassionate grounds;
- (iv) Since May this year, borrowers under the Home Starter Loan Scheme and Sandwich Class Housing Scheme (SCHS) who cannot repay government loans due to financial difficulties may apply for suspension of loan repayment for 12 months. If the borrower still cannot resolve his plights during the suspension period, and if he meets the relevant criteria, the suspension of his loan repayment can be extended from 12 months to 24 months, or the loan repayment term be extended from 13 years to 14 years;
- (v) For owners of flats under the SCHS, the Hong Kong Housing Society (HS) has provided guarantees to banks in case of default, a three-year subsidy on interest of the mortgage loan above the prime rate, and top-up loans totalling \$2.6 billion with a five-year interest-free repayment grace period. The HS has also considered rescheduling loan repayments for borrowers of its top-up loans; and
- (iv) The Government is looking into the feasibility and implementation details of setting up a secondary market for the SCHC, including the targets of this scheme, the impact on the secondary HOS market, the legal and administrative arrangements, and so on. The Government hopes to complete this study as soon as possible. I will convey the views of Mr CHAN Kam-lam to the Secretary for Housing, Planning and Lands, and the Legislative Council Panel on Housing will also be informed of the relevant development.

In respect of social services, we have adopted a three-pronged approach to strengthen the support for families, thereby indirectly assisting those in need to face up to financial hardships positively and providing a more effective buffer. First, efforts have been made to strengthen preventive work through large-scale public education and more focused family education and to facilitate early identification of families at risk through outreach efforts. Second, people in financial crisis (including negative-equity property owners) can seek assistance from the 65 Family Service Centres/Integrated Family Service Centres. The Social Welfare Department has set up 14 Family Support Networking Teams to provide outreach and networking services to vulnerable individuals and families for early identification of problems and timely assistance. Moreover, the Government has also set up a Family Crisis Support Centre providing round-the-clock services and a Suicidal Crisis Centre which has commenced its services recently. The Community Investment and Inclusion Fund is also set up to encourage mutual care and assistance amongst members of the public. This will indirectly help people in need, including negative-equity property owners, to face up to adversities positively, so that they can see hopes in life.

To sum up, the total number of cases of residential mortgage loans in negative equity in the first quarter of the year is down by 5 500 cases, compared with the fourth quarter of last year. The total amount of mortgage loans for negative-equity property in the first quarter of the year has also decreased by 8%, compared with last December. Moreover, more and more negative-equity property owners have, through negotiations with banks, arranged for refinancing or rescheduling of loan repayment for their mortgaged property and subsequently secured a better mortgage rate. We have also noted that the proportion of defaults has dropped significantly. All these are signs that the plights of negative-equity property owners have been eased as a result of the assistance provided by the authorities and offered in the market. This is also proof that banks are not saying one thing but doing another.

Madam President, I wish to reiterate that the Government, like all Honourable Members, is gravely concerned about the problem of negative-equity property, and is very sympathetic to those property owners in dire straits. From the various measures that I have just described, Members can see that the authorities have done their utmost to provide negative-equity property owners with assistance. We will continue to monitor closely the situation of negative-equity property and will actively take measures in response. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now call upon Mr CHAN Kam-lam to move his amendment to the motion.

**MR CHAN KAM-LAM** (in Cantonese): Madam President, I move that Mr Albert CHAN's motion be amended, as set out on the Agenda.

**Mr CHAN Kam-lam moved the following amendment: (Translation)**

"To delete "whereas" after "That,", and substitute with "as"; to delete "the Government has not been doing its best to assist such persons," after "and many negative-equity property owners under severe pressure,"; to add "with the Hong Kong Housing Society" after "this Council urges the Government to expeditiously formulate"; to add "such as setting up a secondary market for the Sandwich Class Housing Scheme and deferring the repayment period of the second mortgage loan under the Scheme," after "effective measures to help negative-equity property owners tide over their difficulties,"; to add ", the Hong Kong Mortgage Corporation Limited" after "and to call on the banking sector, real estate developers"; and to delete "these people" after "and social service organizations to actively assist", and substitute with "negative-equity property owners"."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr Albert CHAN's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.



**PRESIDENT** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

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

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

Functional Constituencies:

Mr Kenneth TING, Dr Raymond HO, Mr Eric LI, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the amendment.

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai, Mr LAW Chi-kwong and Mr Michael MAK voted against the amendment.

Geographical Constituencies and Election Committee:

Mr CHAN Kam-lam, Mr Jasper TSANG, Mr LAU Kong-wah, Miss CHOY So-yuk, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted against the amendment.

Mr Frederick FUNG abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, 17 were in favour of the amendment and five against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, eight were in favour of the amendment, 14 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): Mr Howard YOUNG, you may now move your amendment.

**MR HOWARD YOUNG** (in Cantonese): Madam President, I move that Mr Albert CHAN's motion be amended as set out on the Agenda.

**Mr Howard YOUNG moved the following amendment: (Translation)**

"To add "the Hong Kong Monetary Authority, the Hong Kong Mortgage Corporation Limited, the Hong Kong Housing Society," after "and to call on the banking sector,"."

**PRESIDENT** (in Cantonese): I now propose the following question to you and that is: That the amendment moved by Mr Howard YOUNG to Mr Albert CHAN's motion be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Howard YOUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Howard YOUNG 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, Miss Margaret NG, Mr CHEUNG Man-kwong, Mrs Sophie LEUNG, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr Howard YOUNG, Ms Miriam LAU, Mr LAW Chi-kwong, Miss LI Fung-ying, Mr Tommy CHEUNG, Mr Michael MAK and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mr Eric LI, Mr CHAN Kowk-keung, Mr Bernard CHAN, Dr Philip WONG, Mr Abraham SHEK, Mr Henry WU, Mr LEUNG Fu-wah and Mr LAU Ping-cheung voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Miss CHOY So-yuk, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN, Mr WONG Sing-chi, Mr Frederick FUNG, Ms Audrey EU, Dr David CHU, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the amendment.

Mr NG Leung-sing 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, 22 were present, 13 were in favour of the amendment and nine against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 24 were present, 22 were in favour of the amendment and one against it. 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.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, you may now speak in reply. You still have three minutes 18 seconds.

**MR ALBERT CHAN** (in Cantonese): Madam President, I would like to thank the nine Honourable Members who have spoken in support of this motion. Mrs Sophie LEUNG said earlier that she would like to work with me more to revive our economy. This is certainly the common goal of all Members of this Council. I hope very much that when we return in October, the various political parties can work together to solve the livelihood problems faced by the people of Hong Kong, and that we can come up with some concrete solutions to the problem of negative-equity property and that the Government, the developers and the banks can launch some improvement measures to address the problem.

Madam President, whenever the topic of negative-equity property is mentioned, I would be overwhelmed with mixed feelings. Four years ago when I raised this issue, I was attacked from all quarters and branded as only taking things to my advantage while rejecting things not to my advantage. Even in the Tsuen Wan district where I belong, quite a number of people criticized me. What I have seen in this Chamber today, however, are Members speaking in support of the idea that more should be done to help those owners of negative-equity properties. Besides, the Government has changed the stand it held four years ago. I recall clearly that four years ago the Government invoked the argument of the contractual spirit and said that public money should not be used to help these owners. But today, four years since, its stand is completely different. Apparently, this problem of negative equity is far-reaching and its

impact is felt deeply in the community. If no assistance is given to these negative-equity property owners, very grave consequences will be caused.

Madam President, now I would like to cite two examples to show that the problem of negative equity is still very serious. It is still posing a great threat to the people of Hong Kong and so the Government should never sit on its complacency and leave the problem as it is, thinking that a lot has been done to the problem. In the past, the Government did not have any sense of urgency about the problem and so the problem has been deteriorating over the past four years and it has shaken the foundation of our economy. The two examples I am going to cite are very simple, and the people in these cases approached me for help during the past few months and I have met them and their families.

The first example is about a mother who has difficulties in making mortgage repayments as she has financial problems. She has three daughters. One works in a bank and the other two are ordinary wage earners. The three daughters are all aged between 20 and 30. They used their savings to help the mother pay for the mortgage. However, since two of the daughters do not have a high income, they made credit card advances to help their mother service the mortgage. At first, the mother knew nothing about it, it was only when the banks tried to collect their outstanding balance that the mother became aware of the problem.

The second example is about a flat which has one owner. The flat was bought at a price of about \$2 million at the peak of the property market in 1997. There were two elderly people who used their lifetime savings to help the owner buy the flat that also included the money they saved for their funeral expenses. In the end, they spent all their money and there was nothing they could do. Moreover, the flat was bought on a mortgage loan guaranteed by a friend of the owner. This friend of the owner lives in a Home Ownership Scheme flat. If this person becomes bankrupt some day, the knock-on effect would affect a lot of people. So we should never think that the problem of negative equity is only a minor problem. It will be very devastating if the owners concerned also make the problem felt among other people. I hope that the Government will devise more measures to solve the problem.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Albert CHAN, as amended by Mr Howard YOUNG, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

**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: Giving priority to employment.

### **GIVING PRIORITY TO EMPLOYMENT**

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, I hope TUNG Chee-hwa is listening to this debate, hearing that the Democratic Party is offering some constructive suggestions on the problem of unemployment. I hope he will refrain from looking at the Democratic Party through tinted glasses. The problem of unemployment is the most acute contradiction in society, a blaze that can burn a prairie into ashes. The problem of unemployment is the first blaze which the second term TUNG Chee-hwa Administration must put out, and it is an indicator of its success or failure in administration for the next five years.

The reunification is the demarcation line between the boom and bust of the Hong Kong economy. It is also the point of divide of employment and unemployment. Ten years ago, Hong Kong was a place of over-employment with a jobless rate of only 2.4%. Now it is a place of high unemployment with an average jobless rate of 7.4%. The latest figure to be released next week is expected to climb to 7.7%. When added to the under-employed, the figure will rise beyond 10%. In every 10 people in Hong Kong, one is suffering from

unemployment or under-employment. The pain of it is felt everywhere and it is surely the biggest headache for the Hong Kong Special Administrative Region (SAR) after the reunification.

In each passing day during the five years after the reunification, the people of Hong Kong have hoped that the suffering will end, that the days of full employment will return. Unfortunately, their hopes are answered by even greater disappointments. If the people of Hong Kong had the right to vote, how could TUNG Chee-hwa be re-elected? When the people are denied the right to vote, they are also denied their rice bowls. What they can do is to watch TUNG Chee-hwa assume office again and some so-called accountable officials say heaps of rubbish but not concrete pledges. How then can the sufferings of the jobless be put to an end?

The Bureau Directors of TUNG Chee-hwa only keep on splashing cold water on the people, paving the way for their shirking of responsibilities. Henry TANG said, "The jobless rate will not return to 2.2% in 1997, for as long as I live." Stephen IP said, "It is unrealistic to set a target for the progress in reducing the unemployment rate." Antony LEUNG said, "Hong Kong is a mature economy and it is hard to have the same kind of low unemployment rate as other developing economies."

No one has the crystal ball to look into the future, and no one has the magic wand to drive away unemployment with a sweeping stroke. But as an accountable government, even if it is not one which is elected by the people, it should have set an employment target for itself, as well as the indicators for its fulfillment and the direction in which its efforts should go. In the past, the SAR Government did have such a target. Donald TSANG said in June 2000, "I hope that the jobless rate will improve gradually next year and go in the direction of full employment." So he was talking about full employment. Four months later, Donald TSANG further elucidated on this idea of full employment. He sounded like Antony LEUNG when he said, "For an economy like Hong Kong where the service industries are quite developed"; but later on he added, "our unemployment rate should be set at 2.5% to 3%." Apparently, the SAR Government had set a target and that was full employment. And the ideal unemployment rate should be 2.5% to 3%. Now that the economy is bad and the jobless rate stands high, the Government should not retreat and forget its past undertakings and goals, it should not abandon the goal of full employment.

Madam President, unemployment has become a community-wide panic, a nightmare for every family. A clerk who works in the transport sector fears that his company will relocate to the Mainland. A waiter in the catering industry fears that his restaurant will close down tomorrow. A university graduate professional fears that he will be laid off by his company for purposes of cutting expenditure and opening new sources of revenue. A civil servant who used to have an iron rice bowl fears that he will be forced to retire as a result of outsourcing. A young man who has yet found a job does not even have any chance to fear, for he does not have a job. People in such fears are reluctant to spend and a society drowned in fears is devoid of its vitality. Hong Kong becomes a hollow city. Even as the neon lights are still sparkling, the dying business and the gloomy future still engulf the city.

Madam President, in the past the Government did not have a comprehensive employment policy and it only believed in positive non-intervention, trusting the uninterrupted play of market forces will lead to full employment. The result is the high unemployment, sluggish economy, weak domestic demand and an imbalance of the industries that we see nowadays. In the last few years, the Government has spent enormous resources on retraining, in the hope that local employees can acquire new skills and adapt to the new conditions and hence improve their job opportunities. But there has been no obvious improvement to the situation. The employment problem which we are now facing is no longer that of jobs without people to fill them and people without jobs, nor is it simply a problem of a mismatch of the workforce. Our real problem is that there are simply not enough jobs available in the market, and no matter how much retraining we give and no matter how skills can be upgraded, those people who do not have any jobs will continue to be out of work.

Recently TUNG Chee-hwa has been talking about the "non-engaged youths" and they are the best example to show the predicament of the unemployed. As compared to the middle-aged people or those who have attained a low level of education, these "non-engaged youths" are younger and they know about information technology and other skills required in a modern society, but still they cannot find a job. It can thus be seen that even if the Government puts in more training resources, the problem of unemployment is still there to stay.

THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair.



The present high unemployment rate is closely related to the failure of the SAR Government during the past five years to improve the economy. Therefore, if the unemployment rate is to be solved, the economic structure must be improved and if the economy is to be made better, all government departments must pitch in their efforts. It is not the responsibility of one department or one single accountable Bureau Director alone, or that of Stephen IP. The whole TUNG Chee-hwa Administration, including all accountable Bureau Directors and members of the Executive Council, must be responsible for that. The Democratic Party thinks that the amendment proposed by the Liberal Party only makes full employment an "important objective" instead of an "important indicator" for determining whether the implementation of TUNG's policies is successful or not. The amendment only attributes the unemployment problem to the "relevant Policy Bureaux" and not the entire TUNG Chee-hwa Administration, so it is indeed taking the unemployment problem too lightly.

Mr Deputy, in order to achieve the goal of full employment, the Government should come up with new policy thinking and adopt a more pragmatic and open mentality regarding well-established policies, attach greater importance to solving the unemployment problem and accord priority to the creation of jobs. If the Government does not face the impact of the relocation of industries to the Mainland with enough seriousness, nor attach sufficient importance to our local economic foundations, while continuing to adhere to the non-intervention policy and let the market run its course, I am afraid all Hong Kong industries will sooner or later be relocated to the Mainland. In that eventuality, we will be left with a hollow city, bleak and lifeless. Our markets will lose its lustre and business activities will die away. The hopes of full employment will be dashed.

Mr Deputy, to develop the local industries does not mean to develop the local community economy as Antony LEUNG puts it. For local economy stresses domestic consumption, like rubbing water onto dried fish. But this will not make the fish come to life again.

The idea of giving priority to employment as suggested by the Democratic Party does not mean retraining nor developing tourism or the local community economy alone, nor expecting the Government to increase its expenditure. In the idea of giving priority to employment as proposed by the Democratic Party, the Government has to devise some new measures and make use of the leverage effect to boost the development of the economy as a whole. This will hopefully restore our economy to growth again as in the past, so that the people will once more be able to find a job if only they are prepared to work hard.

The idea of giving priority to employment as proposed by the Democratic Party involves the following major policy areas.

The first is industrial policy. The aim of such a policy is to attract companies to come here for long-term investment in order to achieve industrial diversification. The Government should make good use of the opportunity offered by China's accession to the World Trade Organization and forge closer trade and economic ties with the Mainland, make related arrangements and enter into agreements with the Mainland in order that the tariffs levied on Hong Kong goods can be reduced or abolished. That will attract some companies to come here to invest in high value-added processes or scientific research. The Government should also consider introducing tax concessions and measures like building more industrial estates and granting of sites at low rents for the industries. It should consider setting up export processing areas along the banks of the Shenzhen River at the boundaries, determine a ratio of local and mainland workers there and make good use of the advantages offered by the boundary areas to attract manufacturing industries to come to Hong Kong. Such tax and land grant concessions will admittedly make the Government collect less tax, but it will have a leverage effect on boosting the economy.

The second is financial policies. They should not seek to achieve a balanced budget alone. In times of economic hardship, the goals should be set at stabilizing and developing the economy. It is unnecessary for the Government to slash its expenditure in order to solve the deficit problem at a time when the economy has not yet recovered, for this will bring grave counter-productive effects. As a matter of fact, apart from the \$370 billion fiscal reserves, the Government still has a few hundred billion dollars of foreign exchange reserves to fall back on. Therefore, the Government should make good use of its resources at this time of an economic downturn to create employment.

The third is foreign trade policy. In the long run, the line between the Hong Kong and mainland economies will become more and more blurred and more industries will move northwards for development. We should promote an economic integration between the two places and to benefit more from co-operation when Hong Kong still enjoys an edge. Apart from promoting co-operation between the two places, the Government should take more proactive actions to attract direct investments from other Asian places. For example,

Taiwan has moved a lot of its industries to the Mainland in recent years, Hong Kong should promote the production mode of "a shop in the front and a factory in the backyard" to attract Taiwanese businessmen to make use of the competitive edge of our financial services and develop joint-ventures. In addition, the Government should study into how Chinese capital in Southeast Asia can be attracted to the territory so that Hong Kong can become a true financial hub of the Asia-Pacific Region, instead of just letting the market forces play freely in the hope that capital will come here of its own accord.

The fourth is immigration policy. The Government should make positive efforts to attract businessmen, professionals and academics from the Mainland. Specified trades and creation of employment should be made the criteria for admission of mainland businessmen for resettlement and the immigration control on these people should be relaxed.

The fifth is human resources policy. The growth of our economy in the long run still relies on the quality of our human resources. Therefore, the Government should increase its investment in education substantially, so as to raise the quality of our human resources. The Democratic Party thinks that giving priority to education should be the second most important policy goal of the Government. I think such a topic should be proposed for debate in the next Session.

In addition, the Democratic Party demands that government departments should consider the impact on employment in the course of policy formulation. The finance papers and policy papers which the Government will submit to the Legislative Council in future should carry an employment impact assessment, in much the same way as the current environmental impact assessment. This will enable analyses to be made on the impact of policies on the employment situation, so that the overall target of giving priority to employment can be achieved.

Mr Deputy, in the five years during TUNG Chee-hwa's previous term of office, the unemployment rate in Hong Kong rose from 2.2% to the current 7.4% and it is still going up. The increase over these five years is more than five percentage points. Full employment is a social consensus and the reason why the Democratic Party has proposed this motion is to urge the TUNG Chee-hwa Administration to be truly accountable to the people of Hong Kong, sense their urgency and think in the way they think. In next five years, the

Government should make a one percentage point reduction in the unemployment rate each year as its goal, with a view to achieving full employment that Hong Kong used to have in the past.

With these remarks. Mr Deputy, I beg to move.

**Mr CHEUNG Man-kwong moved the following motion: (Translation)**

"That, with the implementation of the accountability system, this Council requests TUNG Chee-hwa's Administration to accord priority, in the next five years, to tackling the serious problem of unemployment and lowering the unemployment rate, and to adopt "achieving full employment" as an important indicator for determining whether the implementation of his policies is successful or not."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Man-kwong, be passed.

**DEPUTY PRESIDENT** (in Cantonese): Mr Tommy CHEUNG will move an amendment to the motion as set out on the Agenda. The motion and the amendment will now be debated together in a joint debate.

I now call upon Mr Tommy CHEUNG to speak and move his amendment.

**MR TOMMY CHEUNG** (in Cantonese): Mr Deputy, I move that Mr CHEUNG Man-kwong's motion be amended, as printed on the Agenda.

Now the unemployment rate has reached 7.4%, the number of jobless people has been hitting record heights and the jobless population has surged past 250 000. The hardest hit sectors are the transport, retail, trading and the sector which I represent, that is, the catering industry. It appears the situation is going from bad to worse. The Chief Executive and his accountable Bureau Directors have repeatedly stated that solving the problem of unemployment should be given top priority. Not long ago when the Chief Executive attended the Question and Answer Session in this Council, he even pointed out that he had been thinking of

the employment problem as well as other economic problems. It can thus be seen that the problem of unemployment has reached a critical state.

The Liberal Party appreciates such a responsible attitude. It is because in the wake of the financial turmoil, the unemployment rate which dropped momentarily is making a come back. Apparently, the various initiatives taken by the Government to solve the problem should be subject to a fresh review, for at least speaking from the present conditions, they are almost tantamount to failures.

Take the measure mentioned in last year's policy address of creating 30 000 jobs as an example, the progress of its implementation is slow and it is not known even to date when the target can be achieved. In addition, many of these jobs promised are jobs that have been planned or of a temporary nature and it is doubtful how much they can be of practical help to easing the high unemployment rate. The Liberal Party is of course not in favour of creating jobs merely for the sake of it and to increase posts regardless of their cost-effectiveness. The above situation demonstrates aptly the problem of bureaucracy within the Government which badly needs improvement.

Mr Deputy, there are many reasons leading to the high unemployment rate, and to solve the problem, we must identify the causes at root before prescribing the medicine. The most fundamental reason is that the business environment in Hong Kong now is not conducive to economic development. The recent survey on business environment conducted by the *Economist* and Lucerne Institute of Management in Switzerland points out that other neighbouring places are catching up Hong Kong with respect to corporate strategies and competitiveness. Moreover, Hong Kong has become the most expensive city in the world in terms of its consumer price index, it can thus be seen that the high operating costs are forcing many small and medium enterprises (SMEs) to reduce their staff size in order to trim costs. This has in turn aggravated the problem of unemployment.

In fact, the Liberal Party conducted an opinion poll some time ago and it was found that 76% of the people interviewed thought that an improvement of the business environment would help ameliorate the employment situation. We are glad to note that the Chief Executive also agrees to this view.

Therefore, the Liberal Party urges the Government to put into practice policies which are favourable to the business environment and to further reduce

the licence fees and streamline the licensing procedures so as to reduce the burden on the SMEs.

Using the catering industry to which I belong as an example, there are various licences such as the licence for eating establishments, liquor licence, business registration fees, trade effluent surcharge, environmental permits, and so on. Recently, an ordinance regulating karaokes was enacted despite opposition from the trade. The ordinance stipulates that operators of karaoke establishments should obtain a licence and meet the licensing requirements. The complicated administrative procedures and charges are stifling the business environment. In addition, the Government would raise the proposal of imposing a total ban on smoking in eating establishments from time to time, and two days ago it raised the proposal to the Legislative Council Panel on Health Services. However, no substantive evidence has been put advanced to prove that a complete ban on smoking would be conducive to the operation of eating establishments, other than citing some overseas experience. The raising of these views and proposals every now and then will suffice to deter people from investing in the catering industry, and this will ultimately affect employment.

Some academics have pointed out that as we have no control over what kind of people from the Mainland can get a one-way permit to come here, so most of the more than 50 000 immigrants from the Mainland coming to Hong Kong each year are people who do not have high academic qualifications and skills. Such kind of immigrants is taking up an increasing large proportion of our population. As we are in the midst of an economic restructuring, these low-skilled workers are subject to the threat of unemployment as they are unable to keep pace with the development of knowledge-based economy, nor can they go to the Mainland for work.

To address this problem, the Liberal Party moved a motion debate in this Council last month in which we urged the Government to formulate an appropriate population policy to attract more professionals and qualified people from the Mainland to come here for investment and create more jobs here, with a view to ameliorating unemployment among the low-skilled workforce. We are very glad that the Chief Executive has made some very positive response to this and we hope that a population policy can be formulated within the next few months as the Chief Executive said, so that our economic development can be given an early boost.

Another very important point is, as the Liberal Party pointed out in the motion debate on "local community economy", traditional industries in Hong Kong do not receive any support from the Government in the form of any specific policies and all that the Government has done is adopting a *laissez-faire* policy under which the industrial base of Hong Kong is not preserved with any great effort. Factories are allowed to relocate to the Mainland freely. The result does not lie only in eroding our ability to make foreign exchange earnings, but that a lot of low-skilled workers have lost their jobs. Mr Kenneth TING will speak later on this issue.

Therefore, the Liberal Party agrees with the idea that the Government should formulate policies in the spirit of "giving priority to employment". However, we are of the opinion that some of the arguments advanced in the original motion moved by Mr CHEUNG Man-kwong are flawed and biased and they must be clarified.

The original motion makes full employment an indicator for the success or otherwise of policy implementation. The Liberal Party thinks that this idea is not appropriate. Apparently, this is to set an arbitrary indicator which smacks of either boom or bust for the Government of the Hong Kong Special Administrative Region (SAR). This stems from a mentality which is hostile to the Government and is not realistic, unnecessary and is simply unfair. Given that the Government has to attend to a vast number of policies, how can we draw a line on the success or failure of the Government just by looking at one policy alone?

Moreover, how should a target be set on the so-called full employment? Should the jobless rate of 2.2% when our economy was at its heyday be used? Or 3% or 3.5% as suggested by other people? Or 4% as that in the United States? For any mature economy, the pace of its growth will definitely not be able to return to its former days of sustained growth over a long period of time, nor can there be jobs for everyone. The Liberal Party thinks that we may as well set our target at achieving full employment. No matter how hard it will be, we should try our best to accomplish this.

As the Chief Executive said in this Council the other day, solving the unemployment problem is not the responsibility of a Bureau Director alone, but that of the 14 Secretaries of Departments and Bureau Directors, as well as that of the Chief Executive himself. Precisely because the issue of employment covers such areas as the business environment, the quality of the population, training

and job matching, and so on, we hope that co-ordination can be made among the relevant government departments so that initiatives can be made to devise strategies for the long, medium and short terms to solve or ameliorate the problem of unemployment. These will prevent the problem from further deteriorating.

As for the speech made by Mr CHEUNG Man-kwong earlier, there is one point to which I agree very much, and that is the idea of employment assessment. The idea is to require legislative proposals to carry an assessment of the impact on the employment situation. As a matter of fact, this is very much similar to the idea of an economic assessment proposed by the Liberal Party in that an assessment should be made on whether or not any proposed legislation will affect the business environment. Mr CHEUNG Man-kwong said that we did not attach enough importance to the idea of giving priority to employment. This we beg to differ. I think many Honourable colleagues from the Liberal Party have put their money into their businesses, and as for myself, there have been many occasions in which I have put in the money I saved for my last rites into my business in order to create jobs. That shows that we have not taken the issue of employment lightly. Rather, we will put in all the money that we have. That shows also that the Liberal Party supports employment. Conversely, I wish Honourable Members from other parties will take into account other factors when they deliberate on bills, such as their deliberation on the legislation on karaoke establishments, so that apart from considering things like safety coefficients, they should also look into how such legislation will affect the business environment or employment. If all political parties will likewise assess the impact of legislation on employment, I think there will be greater chances of Honourable Members reaching a consensus with the Liberal Party.

With these remarks, Mr Deputy, I oppose the original motion on behalf of the Liberal Party.

**Mr Tommy CHEUNG moved the following amendment: (Translation)**

"To delete "Tung Chee-hwa's Administration" after "That, with the implementation of the accountability system, this Council requests", and substitute with "the relevant Policy Bureaux of the Government"; to delete "indicator" after "and to adopt 'achieving full employment' as an important", and substitute with "objective"; to delete "determining whether" after "for"; to delete "his" after "the implementation of"; and to delete "is successful or not" after "policies"."



**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr Tommy CHEUNG to Mr CHEUNG Man-kwong's motion be passed.

**MR YEUNG YIU-CHUNG** (in Cantonese): Mr Deputy, at last the Democratic Party has discovered that the greatest concerns to the people are concrete issues related to their livelihood, such as economic issues and employment, instead of empty political slogans like "one person, one vote" and direct elections. As the Democratic Party notices that it is losing its popularity, it has to change its strategies.

Recently, the Democratic Party took great pains to organize a demonstration on the founding of the second term SAR Government on 1 July, shouting slogans of "giving priority to employment". Then today Mr CHEUNG Man-kwong moved a motion on "giving priority to employment". This is a good thing though the Hong Kong Federation of Trade Unions (FTU) already proposed the same idea way back in 1998, for the Democratic Party is taking up the same slogan now. For it would not matter if support is given to this idea of giving priority to employment early or late, and no one should have any monopoly over it. We should welcome the Democratic Party for expressing concern about the people's lot and we should not stop them from doing so. But is the Democrats really concerned about the livelihood of the people or is it pretending to be so and making a political show? If we look at the wording of the motion carefully, the motion moved by Mr CHEUNG Man-kwong has these words: "to adopt 'achieving full employment' as an important indicator for determining whether the implementation of policies is successful or not". So on the surface, this is elevating the idea of "giving priority to employment" to a supreme position. As Mr CHAN Kam-lam has criticized Mr CHEUNG Man-kwong for always making feints, he is apparently doing the same thing now, for under this disguise, the ulterior motive is to topple the TUNG Administration and he is playing a political trick and nothing else. I am saying this for five major reasons.

First, the making of full employment as an important indicator for the success or otherwise of the implementation of policies is something beyond the reach of an overwhelming majority of governments over the world, let alone the SAR Government. Mr CHEUNG Man-kwong has made this an important factor in his motion to determine the success or otherwise of the SAR Government. What exactly is his intention?

Second, there are many other indicators that can determine the success or failure of a government, and one cannot just pick one indicator alone, for this is only sweeping, unfair and not sensible. If Mr CHEUNG's logic is followed, then someone can propose a target as a policy objective and another person may propose yet another important policy objective, then what kind of criteria should be used to pass a fair judgement on a government?

Third, the unemployment rate of Hong Kong has hit the all-time high of 7.4% and the unemployed numbers more than 250 000, of which more than 90 000 are "non-engaged youths" aged between 15 and 19. The unemployment rate of these young people is as high as 29.1%. It is worrying to see 90 000 young people who are neither employed nor studying, and the situation is expected to worsen. Unless and until there is marked improvement in the local economy, the employment situation is not likely to fare any better. But the question of whether there can be any improvement to our economy is not something which the SAR Government can control, for there is great limitation by external factors. It would be obvious to someone who has any common sense in economics that it is unrealistic to adopt some factors which are beyond the control of a government as important indicators to determine its success or failure.

Fourth, the wording of the motion moved by Mr CHEUNG Man-kwong is to a certain extent a distorted interpretation of the Basic Law. I am not making any unfounded accusations against him, for the Basic Law provides that Hong Kong shall uphold the capitalist system and free economy. For this reason, there is very little the Government can do, unless we change it to a centralized government. Should we borrow the central planned economy model and get several persons to do a job? Or do we want to make the Government take up the responsibility and hire all unemployed workers? Is this the kind of full employment that we wish to see? Or is this the successful government that Mr CHEUNG Man-kwong has in mind?

Fifth, certainly the Government can do something to ease the unemployment problem, but having said that, I think we cannot pin all our hopes on the Government. Hong Kong is a capitalist society with a high degree of freedom and a market economy which also enjoys a high degree of freedom. It would not be right if we place the responsibility for market economy problem entirely on the Government. Therefore, we cannot support the motion moved

by Mr CHEUNG Man-kwong. Instead we will support the amendment moved by Mr Tommy CHEUNG.

Coming back to the issue of "giving priority to employment", the Democratic Alliance for Betterment of Hong Kong (DAB) has several views. First, we think that those industries with a low technology content should be given assistance so as to absorb those workers who cannot find work in the hi-tech and innovative sectors. The Government must try its best to upgrade and modernize those traditional industries which are still thriving, such as the tourist and logistics industries, so as to enhance their competitiveness, thereby creating more jobs. In addition, an industrial policy should be formulated. As the land prices, rents and labour costs in Hong Kong have all dropped over the past few years, when this is coupled with the excellent business environment here, it should be attractive to those industries which have relocated elsewhere. Some time ago, more than 30 companies commissioned a university to conduct a survey and it was found that 83% of the companies responded would relocate some of their production processes back to Hong Kong, on the condition that some preferential treatment can be offered by the Government. Since these small and medium-sized enterprises have indicated that they would like to come back, what they need now are only determination on the part of the Government and matching policies.

Second, in order to help the people adapt to the development towards knowledge-based economy, the Government should continue to enhance formal education and vocational training. The DAB suggests that the Government should devise a set of proactive strategies for the labour sector. These strategies encompass policies with foresight, policies that can keep tabs on the pulse of the local labour market so as to ensure that there are close ties and co-ordination among various education and training institutions and organizations providing employment assistance.

Third, a population policy should be formulated as soon as possible. Several days ago, an incisive analysis of the problem was made in the editorial of the *Hong Kong Economic Journal*. It was revealed that the unemployment rate in Hong Kong had kept rising, with the number of unemployed people growing from 68 000 in 1997 to 253 000 at present during the five-year period. At the same time, the size of the workforce grew from 3.18 million five years ago to 3.45 million nowadays. From this it can be seen that a major cause of the unemployment problem in Hong Kong is the influx of people from outside and

the fact that the increase in job opportunities has failed to catch up with this surge in population. So the DAB thinks that the Government should formulate a population policy as soon as possible and that discussions should be made with the Mainland on a regular basis on the question of the daily quota of single-entry permits, with a view to ensuring that the number of immigrants coming to Hong Kong is well within our ability to cope.

With these remarks, I support the amendment moved by Mr Tommy CHEUNG.

**MR LEE CHEUK-YAN** (in Cantonese): Mr Deputy, the Chief Executive said in the Question and Answer Session that he had always thought about employment and unemployment even in his dreams. He also said that he considered the problem from the perspective of a person out of work, with all the distress and anxiety. I have no idea as to what kind of dreams the Chief Executive had. But did the Secretary for Economic Development and Labour have dreams that he was tied up all over when he prepared for the debate today?

The Financial Secretary is the first person who ties the Secretary up. What does the Financial Secretary use to tie up the Secretary? The Financial Secretary says that fiscal deficits are more important than unemployment and that the Government must reduce the deficits in five years. And this is the rope he uses to tie up the hands of the Secretary. As we look around the countries of the world, we know that one of the major ways to solve the unemployment problem is to employ the fiscal policy. Even as a conservative leader as President BUSH, he also employs the fiscal policy and keeps on spending money. What else can he do? All the governments of the world are spending money, only that discussion can be made on how money should be spent. Other solutions are cutting taxes and increasing public expenditure. Of course, I would go for the latter, as Members know. In any case, the Government has to spend money. Even if tax cuts are used to give a boost to the economy, it is in a way using money to invigorate the economy. If the economy is not given such a boost, how can the problem of unemployment be solved? But while our Government is talking about unemployment, it also talks about reducing the deficits. It makes me wonder which one is really more important. The Secretary is lucky, for the Chief Executive says that all Bureau Directors have the responsibility. In other words, even the Financial Secretary shares that responsibility. When

we were having discussions on retraining, we asked the Government to increase the number of places in retraining programmes. I asked the Government whether it could spend more money on that and the reply was we had to think of ways to get more money ourselves. And later the idea of cutting the allowance was raised and that was a bad idea. Fortunately, the idea was not adopted but the Government did not want to spend more money. If the Government does not want to increase public expenditure, how can social services continue to grow and how can job opportunities increase? On the question of giving a boost to the economy, even if all the Government will say are helping the business sector and lending money to the small and medium enterprises, at least these are plans to stimulate the economy, but if no fiscal policy is used, how can there be an end to our economic woes and a solution to our unemployment problem?

The second person who ties up the Secretary is Mr Henry TANG, the Secretary for Commerce, Industry and Technology. Mr TANG was originally not supposed to be involved in this, but then he became a Bureau Director under the accountability system for principal officials. He is using two things to tie up the Secretary. The first is the World Trade Organization (WTO) agreement which imposes restrictions on the Government's policy on procurement of services. We all know that our public housing estates are built with prefabricated parts. I asked the Secretary the other day where these prefabricated parts were made. The answer was they were made in China. We spend a lot of money on infrastructure projects, building flyovers, and so on, but these are built from prefabricated parts made in China and subsequently shipped to Hong Kong. I asked the Secretary whether these could be made in Hong Kong and he said that it was not possible because there was a WTO agreement on purchases. Of the more than 100 countries and places in the world, only about 20, including Hong Kong, have signed this agreement. So we are putting a straitjacket on ourselves. The architects, engineering consultants, and so on, are all laying off their staff, for much of their work is relocated to China. What they do is to draw the plans in China and e-mail them back to Hong Kong. The money we spend on infrastructure projects should have created a lot of job opportunities, but now the companies are left free to choose the place of production and the result is that very few job opportunities are created in Hong Kong. Who is the culprit for this? It is Henry TANG. The other thing which he uses to tie up the Secretary is the tender document and I hope very much that Mr TANG would free the Secretary of this restraint. If working hours are specified in the tenders for the procurement of services, for

example, if working hours for private homes for the aged under the bought places scheme are limited to eight hours, this would certainly create more jobs. I have talked with the Housing Department on this and the matter is now settled. In addition, the Government Property Agency has agreed also in principle to this. I read the *Ming Pao* today and it seemed that the Government could further discuss the issue with the developers. I think there will be more job opportunities if the working hours are restricted. This is a very practical method that will bring immediate results. I hope the Government will not put any restrictions on the Secretary when it comes to tenders. However, Henry TANG has used the WTO agreement to tie up the Secretary and so he is unable to do anything.

Another person who ties the Secretary up is Mr James TIEN. He joins the Executive Council and so I regard him as the person from the business sector who ties up the Secretary. How has he done it? Very often when we talk about job opportunities, the big companies are laying off their staff all the time. So the Government has to come out and call upon the big companies to hold consultations with the workers. However, all these efforts are just words, for they are just appeals. If workers have the right to collective bargaining, then at least there is a mechanism to discuss other options to obviate layoffs. But the Government repealed the legislation on collective bargaining. I am not trying to dig up old grievances here, but this has the result of tying up the Government in that it is powerless when it sees that the big companies are laying off their staff. All the Government can do is to talk and appeal to the employers and employees to hold consultations. Will this suffice? After much talking, there will still be layoffs in any case. So the business sector has tied up the Secretary and prevents him from doing anything to stop the layoffs and improve the employment situation. There is no way to stop companies which are making substantial profits but is so short-sighted as to continue with layoffs. On the other hand, we often say that the business environment should be improved. There is really a need to improve the business environment, but the Government must intervene to ensure that after the business environment is improved, the job opportunities are increased correspondingly. Now the greatest problem is, after the business environment is improved, the money thus saved will not be retained in Hong Kong and job opportunities will not increase in Hong Kong as a result. So it will not help at all. The Government is duty-bound to intervene to ensure that while the local business environment is improved, job opportunities will not be affected.

So the Secretary is tied up by these three persons and today he even comes under fire from me. That is the whole story. I will open fire on the Secretary, but at the same time, a more important thing is that I will open fire on those people who have tied up the Secretary and prevented him from working with a free hand. Only by doing so are we doing justice to the Secretary.

**DR RAYMOND HO** (in Cantonese): Mr Deputy, the Hong Kong economy was booming in the 1990s up to the onset of the financial turmoil in 1997. During that period, the unemployment rate was not only far below that of many Asian countries but it was comparable to that of other advanced countries. However, as the saying goes, a flower does not bloom forever, there is never an economy in the world which will stay forever in its heyday. Even an economic giant like Japan, its economy has been declining for the last decade and the problem of unemployment has gone from bad to worse. Generally, there are quite a number of reasons for a high unemployment rate. For example, the global economic climate, government policies, inept business management and poor quality of the population, and so on. In the course of finding a solution to the problem of unemployment, though it is important to look for the root of the problem, I would think that while exploring the causes, we have to also look for the solution, set our targets and put our policies into practice in a systematic manner.

With the launch of the accountability system for senior officials, I would anticipate a new driving force in the Government working towards the revival of our economy. However, I would like to stress one point and that is, it takes a long time for any country to steer out of the economic doldrums. The United States, for example, became an economic giant only after many years. The Japanese economy has remained sluggish over the past decade, unable to restore its former glories even to date. So I would not harbour the extravagant hope of seeing our accountable Bureau Directors being able to bring our economy back to its past glories in just a couple of years, but still I would expect them to bring our unemployment rate down to a reasonable level after a reasonable period of time, ultimately achieving full employment.

Mr LEE Cheuk-yan mentioned earlier that during the Question and Answer Session on 8 July, the Chief Executive said that he was so concerned about the economy and the problem of unemployment that he had dreams about

them. I hope that he would continue to dream this dream and make it the goal of his work for the next five years. If he can really do that, I believe more and more people, including Honourable colleagues of this Council, would lend him their support. In my opinion, to resolve our economic woes and the problem of unemployment, there must be greater and more co-ordinated efforts from all quarters. The problem will not go away if we just have plans but no actions. In the past, the Government used to encourage the people to start their own business in a bid to give some relief to the problem of unemployment. That is a workable approach to take. However, it must be noted that many people may suffer setbacks because they do not know how to run a business. So in the end, the problem of unemployment is still there. I would think that providing job opportunities is a long-term solution to the problem of unemployment. A lot of jobs would be created if we speed up the pace of our infrastructure projects, repair and maintain the aged infrastructure and implement the works projects left over by the two former Municipal Councils. As we have an abundant supply of workers, if the proposals can be accepted, it would certainly be helpful to solving the unemployment problem while also be beneficial to the long-term development of our economy.

The unemployment problem is distressing and it is a problem that should receive great attention from the Government. I believe achieving full employment is a great challenge for the accountable Bureau Directors in future. I hope they can set reasonable targets to improve our economy in a systematic and flexible manner. In the course of formulating policies, they can also learn a lesson from the policy failures in the past as those in housing.

Mr Deputy, I so submit.

**MR ANDREW CHENG** (in Cantonese): Mr Deputy, the Democratic Party was criticized by Mr YEUNG Yiu-chung on the grounds that even other countries had found it hard to achieve full employment and impement relevant policies. It was also criticized for emphasizing politics in the past, and for being politically motivated to show concern for labour issues this time.

I believe the public is also tired of political disputes on labour issues. We very much hope we can exchange views frankly with Mr YEUNG Yiu-chung as well as other Members on the formulation of employment policies in other



countries in a practical manner. I hope the Democratic Alliance for Betterment of Hong Kong (DAB) can be more practical by doing some research, instead of merely criticizing the Democratic Party.

Mr Deputy, the Democratic Party has made reference to the measures taken by advanced countries in Europe to tackle the acute unemployment problems facing them. It was found that the European Union (EU) had passed a resolution in March 2000 to implement a full-employment policy and economic reforms, and to maintain social stability. Under the full employment policy, guidelines were formulated with respect to three indicators, namely the full employment rate, woman employment rate and employment rate of persons aged between 55 and 64. Except for the last indicator, the 15 EU members are required to achieve the remaining two, mid- and long-term, objectives in 2005 and 2010 respectively.

Mr Deputy, we would like to share with Members some of the EU objectives and the respective contents for our reference.

First, to reduce the number of unemployed youth and people who have become jobless for an extended period of time. The Democratic Party is of the view that priority should be given to young people who have lost their jobs for less than six months and persons aged over 25 who have become jobless for less than a year. The specific measures should include vocational counselling, discipline, retraining, practical training and short-term employment and initiatives in co-ordination with follow-up actions by the Labour Department. It is imperative for the authorities to provide comprehensive public employment services and impose deadlines for achievement of work objectives in order to monitor the effectiveness. At the same time, co-ordination between public employment service and private employment agencies should be strengthened.

Second, to review the social welfare and taxation systems. Under the employment policy formulated by the EU, every member state is required to review and reform its social welfare and tax systems for the purpose of narrowing the gap between the rich and the poor, encouraging the unemployed and people capable of working to keep on hunting for jobs, strengthening the employability of employees, and encouraging employers to create new posts. Enhanced training for the unemployed and people capable of working can help reduce job mismatch. As Members are aware, the unemployment insurance

systems in these advanced countries are already very sound and comprehensive. However, due to severe unemployment, the governments of these countries are endeavouring to enhance unemployment protection for employees. The attitude taken by the SAR Government towards the unemployment problem is, in contrast, far from positive and aggressive. The Legislative Council Panel on Manpower has in this Legislative Session renewed its appeal to the Government to examine the feasibility of establishing a mandatory unemployment insurance system. Yet the Administration responded that it had no intention to set up such a system for it would only give rise to moral risks. Such an argument is weak and out of keeping with the times. As a result, the unemployed cannot get any assistance from the Government. Moreover, this makes it impossible for a comprehensive employment policy to be implemented.

Third, to address the job opportunities of persons aged between 55 and 64. The EU has appealed to its members to carry out publicity and educate the public to address the age discrimination problems encountered at work. Giving people in this age group job opportunities can help achieve a fairer social welfare system and a more balanced budget. At the same time, the governments should also publicize the valuable working experience and quality of the people of this age group. A similar request has also been made by the Legislative Council Panel on Manpower to the Government to study the age discrimination problems encountered in recruitment. Nevertheless, the Government has only taken the matter lightly, saying there is no urgency for legislation. Actually, people aged over 40 do not stand a high chance of finding a job. It will be even worse if one is a low-skilled worker. Do the above examples not demonstrate once again the poor alertness of the SAR Government?

Fourth, to impose working hours and minimum wages. In this connection, a motion debate was conducted in this Council on working poverty, and such proposals as setting a poverty line and imposing minimum wages were raised by the Democratic Party in a bid to protect the low-income earners. However, all these proposals were vetoed by the Government and Honourable colleagues. In contrast, EU member states have not only established a system to calculate working hours per week, but also promoted the annualized working hour system, in order to reduce working hours and create more posts. To address unemployment, certain individual countries have even actively promoted a comprehensive part-time work system to allow several people to share one job, and made legislation to introduce such new thinking as allowing working people

to take a rest year. Despite our persistent appeals to limit weekly maximum working hours to 44 hours and work out a formula to calculate over-time pay, the Government responded that it saw no need to stipulate working hours. Even if the Government takes lifelong learning very seriously, how can lifelong learning be promoted if employees do not have the time to pursue studies?

The EU experience is indeed valuable reference for us. South Korea, another victim of the Asian financial turmoil, has managed to re-adjust its unemployment rate from 4% to 3% in its employment policy objective this year. Hong Kong people must be in great envy of the aggressiveness of South Korea. Just now, Mr YEUNG Yiu-chung stated that even other countries had found it hard to achieve the goal demanded by us. Our neighbour, South Korea, has indeed managed to do so. I really hope the DAB can seriously examine and make reference to the success of South Korea.

Four major objectives, similar to the policies formulated by the EU, have been set by South Korea: (1) to maintain the unemployment rate at a certain level; (2) to create more posts; (3) to strengthen training; and (4) to expand the safety net.

These four major objectives are in fact set by the South Korean Government for the purpose of actively rescuing its economy, which is still slipping as a result of the financial turmoil.

The Democratic Party hopes the Government can take the proposals raised in today's debate on "giving priority to employment" seriously. Furthermore, it should make reference to the employment policies formulated by governments all over the world, and then formulate a package of solutions to meet the needs of Hong Kong and ameliorate the unemployment problem.

With the implementation of the accountability system for principal officials, I hope TUNG Chee-hwa's Administration can accord priority, in the next five years, to tackling the serious problem of unemployment and lowering the unemployment rate, and to adopt "achieving full employment" as an important indicator for determining whether the implementation of his policies is successful or not.

I so submit. Thank you, Mr Deputy.

**MR KENNETH TING** (in Cantonese): Mr Deputy, hit by the sequela of the Asian financial turmoil and the economic restructuring, Hong Kong has seen its unemployment problem continue to worsen. The unemployment figure has constantly made new records too. All this has aroused concerns from various sectors of the community since a long time ago. Earlier in the debate, Mr Tommy CHEUNG expressed his views on behalf of the Liberal Party and the catering industry on the motion "Giving priority to employment". Now I would like to say a few words on how I view the matter from the angle of the industrial sector.

An economic campaign to "revive the local trade and industry" was recently launched by the local industrial and commercial sectors in the hope that the Government can implement appropriate industrial policies to encourage Hong Kong businessmen who have set up factories on the Mainland to relocate some of their high value-added processes back to the territory, in order to boost local job opportunities. I hope the Government can take these opinions seriously and introduce corresponding measures in administration.

As Members are all aware, the British Hong Kong Government had relied on the so-called active non-intervention policy, a *de facto laissez-faire* policy, while Hong Kong was under British rule. No industrial policy had ever been promoted. To maintain their competitive edge, members of the industry could only relocate their factories to the Mainland and work in partnership with the Pearl River Delta, using Hong Kong as the shop front and the hinterland for plants. As a result, industries in Hong Kong have become hollow. Following the rapid development on the Mainland in recent years, however, changes have emerged in this mode of partnership. Hong Kong businessmen have found it necessary to develop higher value-added industries. Our employment crisis has even intensified in recent years for even the local service industry has seen a general trend of relocation northward.

I therefore greatly welcomed the remarks made by the Chief Executive in February this year in a consultation forum held in connection with his re-election campaign. He made it clear that assistance would be given to traditional industries with a competitive edge such as textiles, garment, clocks and watches, printing, toys, and so on. I believe the newly appointed Secretary for Commerce, Industry and Technology can, by virtue of his past industrial experience, make an active effort to implement innovative measures to promote industrial development.

I also share with the Financial Secretary's suggestion that priority should be given to promoting high value-added economic activities through such measures as vigorously developing tourism, logistics, producer and professional services, and so on. I believe these measures can play a definite role in resolving the unemployment problem.

The logistics industry is closely related to industrial development. Owing to the rapid industrial development in the Pearl River Delta, the authorities should capitalize on Hong Kong's edge in sea and air transport, strengthen its ties with the Pearl River Delta through promoting the development of the logistics industry and strengthening the logistics infrastructure. Only by doing so can we encourage the Mainland to make greater use of our logistics facilities and infrastructure to export its goods. For instance, the Liberal Party and the industry have been advocating the construction of a bridge to link up Hong Kong, Zhuhai and Macao to further cope with the development of the western parts of the Pearl River. Since logistics is a labour-intensive industry, it can absorb a large labour force and, in turn, help lower the unemployment rate if it is developed vigorously.

When it comes to producer and professional services, I raised the point in a debate held in May on a relevant motion that the strength of the industries must be consolidated before developing the market. How can we expect producer and professional services, which are mainly small and medium enterprises, such as trading, insurance, market research and professional services, to be able to find extra resources for development? I therefore share the view that the authorities should improve the business environment first to boost industry development and create jobs.

Lastly, the Hong Kong Government must work in partnership and make concerted efforts with the industries and the public in resolving unemployment, formulating industrial policies, and promoting high value-added and hi-tech, innovative industries. Only through reviving the economy can we create more job opportunities and bring the unemployment rate down.

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

**MR FREDERICK FUNG** (in Cantonese): Mr Deputy, today is the last meeting of the current Legislative Session and it also coincides with the beginning of the second term of office of the Chief Executive which has started some time ago. The motion moved by Mr CHEUNG Man-kwong has given us an opportunity to review the employment policy of the Government over the past five years. The Hong Kong Association for Democracy and People's Livelihood (ADPL) and I think that during the first five years after the formation of the Hong Kong Special Administrative Region, two blunders in the area of employment have been made by the authorities.

First of all, in these past five years, in particular after the onset of the financial turmoil at the beginning of 1998, the unemployment rate in Hong Kong surged past the psychological barrier of 3% and in the four years thereafter, the unemployment rate has been constantly on the rise. The total number of unemployed people increased quarter after quarter. The latest jobless rate announced for March to May this year is as high as 7.4% and the number of unemployed people hits an all-time high of over 250 000. However, in the face of this dreary and bleak winter of massive unemployment, what the people of Hong Kong can see are only senior officials coming out time after time to say that the wage earners should seize every training opportunity to enhance their value and become more competitive in the job market. Both the ADPL and I think that the official response to this situation bears the universal truth of being a stereotyped reaction which displays a glaring ignorance of the plight of the more than 3 million wage earners in Hong Kong and is clearly a policy made in air-conditioned rooms and leather armchairs. The truth revealed is that there is no sound and feasible employment policy in the Government. We cannot help but ask these questions: Have the authorities carried out an in-depth and comprehensive study into the labour market in Hong Kong? Is the employment problem confronting us structural or cyclical? How much do the authorities know about the three groups of people who are the hardest hit under the current wave of unemployment, namely, the "non-engaged youths", the middle-aged people with a low level of skills and academic qualifications, and the middle-aged female workers? Has the Government drawn reference from overseas experience and policies on coping with the unemployment problem? So both the ADPL and I think that in order that sound solutions can be found to all the problems mentioned by me, the first and foremost task is to call a summit on employment. Frank exchanges should be encouraged between labour organizations, employers and the Government and forces should be harnessed

from the people and the academic circle so that a thorough analysis can be made on the changes in the job market. A full-scale study should be made into the causes of the employment problem in Hong Kong. A major direction to the employment policy should be identified and a subsequent consensus be sought to formulate a definite and practical employment policy. Some time ago the Government proposed to set up a manpower commission in a bid to solve the problem of a lack of co-ordination among training institutions and the programmes they offer. That in fact can be considered a first step made in some sense. But the reply given by the Education and Manpower Bureau to a question raised in this Council is that it is expected that this manpower commission will only be formed by end 2003 or even early 2004. This shows a lack of sincerity and determination on the part of the authorities in resolving the problem of unemployment. Both the ADPL and I think that, to find an effective solution to this problem, we must dig deep into the roots of it. It is premature or even not logical for the authorities to talk about the strategies for resolving the unemployment problem at this juncture.

Second, to the matter its fair deal, both the ADPL and I do not oppose the existing policy objective adopted by the authorities which is focused on training as a means to help people find jobs. However, we will not see the result of this kind of "value-added service" for the workforce for some time. As this is no immediate solution, it can only be regarded as an initiative to ease unemployment in the medium-to-long term. Moreover, under the circumstances of the irreversible trend of globalization, the life cycle of knowledge is becoming increasingly short. In other words, it is very likely that the knowledge and skills which people have acquired after a training programme would have already become outdated on the completion of the programme. So members of the workforce are forced to attend training programmes one after another. But while they have really become lifelong learning robots, the knowledge they will have acquired will find no application.

In view of this, both the ADPL and I think that a two-pronged approach should be adopted by the Government to tackle the problem of unemployment. On the one hand, the existing bias towards long-term training should be revised, while on the other, the creation of short-term posts should be stepped up and the pace for it be increased. Despite the pledge made by the Chief Executive to create more than 30 000 jobs in the policy address delivered by him last October, official figures show that only some 2 700 jobs were created as at end January

this year, which is less than 10% of the original target. Both the ADPL and I are not satisfied with this progress as this is only a trivial effort made in solving a problem of such magnitude. Moreover, it is believed that the remaining short-term jobs will be created only in phases starting from April this year to the year 2007. Given such a long span of five years, one just wonders how much these jobs will actually help.

All in all, the ADPL and I demand that priority be given over the next five years to addressing the worsening unemployment problem and that the Government should speed up the pace of creating jobs and make efforts to match the current training initiatives. Only by adopting this diversified and multi-layer approach that the Government can hope to really sense the urgent needs of the people and think in the way they think.

Thank you, Mr Deputy.

**MISS CHOY SO-YUK** (in Cantonese): Mr Deputy, in the face of the yet-to-revive local economy, constant layoffs and pay cuts, frequent closure of companies, and new heights for the unemployment rate, it is easy for us to imagine the worries and anxieties of the public. Yet, no channels are available for the community to vent its grievances. Members of the public will naturally blame the SAR Government for all the problems and demand that the authorities try every possible means to stop the unemployment rate from rising. The SAR Government has indeed been responding too slowly. The fact that it has not done its utmost to address the unemployment problem has further aggravated the public's suffering. In spite of this, can we act emotionally and simply adopt lowering the unemployment rate and guaranteeing full employment as an indicator in the coming five years for determining the success or failure of implementation of policies by TUNG Chee-hwa's Administration? If the unemployment rate remains high, can we conclude that the authorities have failed to perform their duties and responsible officials must therefore step down?

To start with, the Chief Executive is not oblivious of the unemployment problem. During the ceremony held on 1 July when Mr TUNG Chee-hwa sworn in as Chief Executive for the second term, he devoted much of his speech to the employment problem and made it clear that "..... recognize that the situation we face is full of challenges, that the responsibility is immense and that



worries are weighing on the hearts of Hong Kong people ..... going to be a long and arduous process". We can thus see that he has taken the severity of the prevailing problems seriously.

Of course, that a person has acknowledged the problems does not necessarily mean he knows how to face them, not to mention resolving them. When it comes to the new line-up of the SAR Government, Hong Kong people generally hold the cautious attitude of "judging it by its deeds, not by its words". The public will definitely form its own judgement if the Hong Kong economy does not improve, the situation remains unchanged, and the unemployment rate continues to stand high in the next five years. Like every citizen in Hong Kong, I am convinced that the SAR Government must accord priority to the "rice-bowl problem" facing Hong Kong people at present.

To give the matter its fair deal, even if every measure for promoting employment is impeccable, does it necessarily mean that the unemployment rate must go down? Hong Kong is an international commercial and financial centre. Owing to its small size, its economy is vulnerable to the influence of external factors. Subsequent to globalization and closer ties between various economies, it is hard to imagine that Hong Kong can fare better on its own. In the event that the United States experiences depression, or even recession, in the next five years, can Hong Kong, relying solely on the SAR Government, turn the tide and remain completely unaffected? If the unemployment rate continues to rise not fall, can we hold the SAR Government responsible? This logic is easily understandable. This is also the reason why we insist the unemployment rate should not be directly linked to the success of the implementation of government policies.

Mr Deputy, the SAR Government is definitely not making an attempt to deter the economic cycle from fluctuating. Rather, it is trying to rationalize its implementation of policies in keeping with the times and enhance our competitive edge. Once the economic environment improves, we can capitalize on the opportunity and give momentum to our economic development. In this connection, the Chief Executive undertook in his swearing-in speech that more job opportunities would be created in the coming five years through such means as revamping the government structure, promoting economic transformation, fostering a better business environment, capitalizing on the opportunities brought about by the rapid economic development on the Mainland, and so on. Most

importantly, the public and Honourable Members should, in evaluating whether the implementation of his policies is successful or not, examine clearly whether the accountability officials have fulfilled their commitments during their terms of office. They must not set an arbitrary indicator without taking into consideration relevant factors, and jump to the conclusion that the TUNG Chee-hwa Administration has acted perfunctorily whenever things go slightly different from what they have expected. This attitude of policy discussion is unfair as well as irresponsible.

If the SAR Government really makes the lowering of the unemployment rate a key to determining the success of its implementation of policies, as is proposed in the original motion, and ignores the realistic objective circumstances, it might resort to mobilizing the entire Government to achieve the goal at all costs. Actually, it is not impossible for the Government to resolve the unemployment problem within a short period of time, given its considerably huge reserves. If the leadership orders massive construction works to be commenced without giving consideration to cost-effectiveness, bridge repairs, road construction and infrastructure projects can surely be launched one after another. This will definitely exert pressure on the labour market, and the unemployment rate will naturally drop rapidly too. At the same time, however, we will be left with a bunch of cumbersome, white-elephant projects. This is definitely not the price the public would like to pay in order to ameliorate the employment problem.

The lowering of the unemployment rate should be made an important direction of administration by the SAR Government. However, it should not be made a rigid indicator. What is more, it is definitely not the sole indicator.

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

**MR ALBERT HO** (in Cantonese): Mr Deputy, as Honourable Members are aware, the past Government had succeeded in accomplishing an economic miracle in Hong Kong through adhering to the free market principles and the active non-intervention policy. However, the Asian financial crisis in 1998 saw the gradual decline of the local economy, with the number of unemployed people, regardless of age, academic qualification and profession, rising steadily. The principle of maintaining an absolutely free market is no longer the golden rule.

It is the belief of traditional rightist economists that, as long as wages in the labour market can freely adjust, employers will know they can hire more workers at low wages when unemployment strikes. Therefore, when wages reach a certain level, more job opportunities will arise automatically. On the other hand, less people will be willing to work when wages are on a downward trend. When these two factors take effect, the unemployed population will automatically shrink. According to some traditional rightist economists, unemployment will not, in theory, last long for the market will adjust rapidly. In other words, the so-called severe long-term structural unemployment problem will never appear.

Nevertheless, we can see massive unemployment in the '30s when the United States was hit by the Great Depression. This fully demonstrates that the thinking of the traditional rightist economists was flawed. John Maynard KEYNES, a renowned economist, argued that it was sometimes impossible for unemployment to be resolved merely through market adjustment. He even pointed out that, in times of severe economic depression, employers and investors would adopt a pessimistic outlook on the market. As a result, they would be unwilling to risk making longer-term investments. Even if wages and prices continued to drop, there would still be fears that reduced labour costs would not be able to make up for the loss incurred as a result of risks borne in investments. Consequently, even though wages continued to drop, new jobs could still not be created. On the one hand, the number of people without income continues to rise. On the other hand, we see wages decline steadily and spending in the community shrink. This will further affect the profits anticipated by employers and, in turn, lead to the emergence of a vicious circle, poor internal demand, economic shrinkage, and vicious, persistent deflation.

KEYNES was of the view that it was possible for irrational pessimistic sentiments to completely destroy the economy, even though the economic foundation of the United States was actually not too bad, and the depression might only be short-term. He believed the Government must play an active role to intervene by increasing public investment, create internal demand, rebuild the faith of the public, and bring the economy back to the right track and the full employment rate to normal.

Following his advice, the then United States President expended large sums of public money on a comprehensive, long-term social investment programme, including making investment in infrastructure, and drove the

recovery of the United States economy in the '30s. Obviously, the unemployment problem will remain if we continue to rely entirely on the non-intervention policy. The fact that the Government started to tighten its finance in recent years is because it was forced to cut down on expenditure after failing to broaden its revenue. I believe we are going to face an even worse vicious circle. We can see that the gradual year-on-year reduction in investment in education has affected the nurturing of local scientific research talents, thereby further making the problem of manpower mismatch even more prominent. More importantly, the Government's decision to tighten expenditure will give the market a negative message that even the Government has lost faith in the economy. So how can it ask the people to have faith? Not only will investors lose their faith, internal spending will shrink and people will be reluctant to spend as well. This precisely explains why we will be trapped in a vicious circle.

On the fifth anniversary of the founding of the SAR Government, the Chief Executive, alongside with the three Secretaries of Departments plus 11 ministers appointed under the accountability system, swore in. It is the hope of the general public that the new line-up will accord priority to dealing with the unemployment problem so that the problem can be ameliorated expeditiously. I feel very sorry that, even before taking office, the new minister (I am not referring to Mr IP) expressed grave pessimism and tremendous difficulty in finding solutions to the unemployment problem. Furthermore, the overall government policy has impressed us that the Government has no idea of what should be done in face of the unemployment problem. What thinking does the new line-up have? I am really looking forward to listening to the speech to be delivered by the Secretary later in the debate.

In the opinion of the Democratic Party, the Government must adopt a proactive and aggressive attitude. In this connection, we have submitted to the Government a detailed proposal in which we have outlined a number of concrete proposals, including what can be done to help middle-aged women to change jobs. We have also expressed our concern for marginalized workers. It is hoped that, through giving them assistance and proper training, they can switch to new job types. We also emphasize that there is a need to build "community business starter networks". With the help from the Government in the form of providing inexpensive housing estate shop premises, low-interest loans, business training, market research, and so on, it is hoped that they can help provide community services and help the above-mentioned people to resolve their

employment problem. Furthermore, we suggested the idea of promoting "green industries". It is hoped that we can, through recovery by type and recycling, create 7 000 job opportunities. We hope the Government can study our proposals in detail and not to look at us with tinted glasses, thinking that the Democratic Party only knows how to criticize and knows nothing about making suggestions. I hope the Secretary can examine our proposals carefully too. I so submit.

**MR ABRAHAM SHEK:** Mr Deputy, not surprisingly, the results of recent public surveys indicate that the economy and unemployment are the foremost concern of our community. Unemployment is the major worry as the unemployment rate in the Hong Kong Special Administrative Region has skyrocketed since 1997. There are widespread expectations that the Government will accord priority to tackling the serious problem of unemployment. Yet, levels of dissatisfaction are high over the Government's attempts to solve these economic worries.

Full employment is defined as all working population who seek a job in the market of his/her own will succeed in doing so. According to this definition, full employment is achieved when the unemployment rate is under 2.2%. In other words, Hong Kong had attained full employment in the pre-handover times. At the present time, Hong Kong is undergoing an economic restructuring towards a knowledge-based economy. Demand for low-skilled labour in the private sector is low. The general public should not hold a false hope that the 7.4% unemployment rate would drop to 2-plus percent (what we defined as full employment) of 1997. It is unfair and impractical to adopt "achieving full employment" as an indicator in determining whether the implementation of government policies is successful or not.

On this basis, despite the good intention of the Honourable CHEUNG Man-kwong in moving this motion, I cannot give him my support.

In fact, the current high unemployment rate in Hong Kong is not a simple problem caused by an imbalance of demand and supply of labour and jobs in the market. Instead, it is due to the mismatch of human resources, exacerbated by downsizing of private enterprises, investment outflow and slow pace of recovery in external economy. To ease the structural unemployment problem, the most important criterion is to help revive the present sluggish economy so that a

sufficient number of jobs are created in the market. As for the individuals, they should upgrade the skills required for employment. However, the quality of labour cannot be improved in the short term. Our low-skilled labour lose their competitiveness when they are compared with the low-waged labour in our neighbouring areas. It is, therefore, unlikely that the unemployment rate of our low-skilled labour will go down to the levels in the '80s and '90s. Indeed, many unemployed workers in Hong Kong are low-skilled labourers who were formerly employed in obsolete industries. Their market adaptability is low as they have low educational level. Vocation training and retraining will only help them a little.

I fully understand and sympathize with the majority of the unemployed. After some 30 years of rapid economic growth, it is difficult for the public to accept the current economic stagnation and rising unemployment rate. However, I have confidence that Hong Kong will succeed in restructuring its economy and reducing its unemployment rate. In the past, Hong Kong has succeeded in transforming from a manufacturing economy to a service economy. The current economic restructuring is different from our past experience as Hong Kong is moving to a knowledge-based and high value-added economy. Low skilled jobs will be permanently lost because of this upgrading.

Economic restructuring will be a long and arduous process and the unemployment rate will not drop within the foreseeable future. This, however, does not mean that our Government would ignore its responsibility to enhance employment. The Government needs to provide more vocational training and retraining to upgrade the skills of the unemployed. For those who genuinely fail to cope with economic restructuring, the Government's social safety net should take good care of their basic needs of life. In my view, the Government should not solely create jobs itself. Instead, it should increase jobs by formulating good policies to enhance employment and restore confidence. Relaxing the immigration policy to allow more mainland entrepreneurs to migrate to Hong Kong would be a way to create more jobs. Moreover, the Government should cut red tape to attract foreign investment and improve the business environment by simplifying bureaucratic procedures. This could encourage more people to start up their own businesses.

The Government acknowledges that Hong Kong lags behind developed countries in terms of average educational level. A shortfall of talents cannot fulfill the needs of a knowledge-based economy. In this regard, the

Government should formulate a comprehensive population policy to enhance the quality of migrants and speed up and widen the importation of talents, which would establish a firm foundation of a knowledge-based economy in bringing about future growth and prosperity.

All in all, it is unreasonable to put the blame on the Government for the high unemployment rate in Hong Kong. In my view, our Government is responsible for improving the business environment while the creation of job opportunities should rest mainly with the private sector. We should support the Government's commitment to preserving the principles of a free-market economy. Recently, the Government has announced its housing policy so as to stabilize the property market. Yet some people criticize the Government's act to stabilize the property market. Will the interests of ordinary people be protected if the property market price further slumps and the amount of negative-equity property increases? Solving the unemployment problem is not the exclusive prerogative of the Government, it requires the commitment of the community as a whole to embrace economic restructuring. I hope that we can work together and support the Government by providing constructive proposals. And we can also encourage enterprises to better communicate with their employees in order to build up a partnership of sincere co-operation to achieve mutual benefits.

The Honourable Albert HO told us about the ways how the United States tried to overcome the problem of unemployment in the great era of depression. During the recess, I suggested a book entitled *Franklin D. Roosevelt and the New Deal 1932-1940* to the Secretary, and I hope that he can derive some wisdom from it on how the United States overcame its economic problems during the 1930s.

**MR WONG SING-CHI** (in Cantonese): Mr Deputy, the speech I am going to deliver today is mainly concerned with the employment of young people, particularly those aged between 15 and 19. I guess the Secretary may feel bored for I speak on this topic again. I must do so for the problem is worsening. I hope the new Secretary can take some concrete follow-up actions so that we need not come back to this topic again and again.

In delivering a speech on his re-election on 1 July, the Chief Executive stated that helping non-engaged youths would be a key area of his work in future.

An in-depth discussion on the problem pertaining to non-engaged youths was conducted by this Council in February 2001. I urged the Government in a motion moved by me to expeditiously set up a task force to conduct a detailed study of the problem, formulate a comprehensive policy on the employment and training of young people, and to steer and co-ordinate the relevant work of various government departments. Last year, this motion was supported by Honourable colleagues present in the meeting.

Mrs Fanny LAW, the then Secretary for Education and Manpower, responded that she was confident that follow-up actions would be taken. She also indicated her willingness to steer the relevant work of government departments. On the other hand, the scope of work of the Task Force on Employment, set up by the Financial Secretary in mid-1998, also covers the employment of youths. However, setting up a permanent inter-departmental task force may not necessarily be the most effective solution to the problem.

When announcing the list of accountability officials on 1 July 2002, the Chief Executive made it very clear in his re-election speech that the Youth Commission would be responsible for addressing the youth unemployment problem. The Commission was also told to come up with a solution to the problem in six months.

The Commission is just one of the hundreds of advisory bodies set up by the Government. Its Chairman, Dr CHOI Yuen-wan, is not a Bureau Director appointed under the accountability system. Neither is he given any powers or responsibilities. I wonder which Bureau Director will be responsible, for the success or failure of resolving the problem of non-engaged youths. I would like to ask the Secretary, Mr Stephen IP, to tell this Council whether he is going to be responsible. I wonder which Secretary should be praised for tackling the problem properly, or step down for not handling it well. This is because the Youth Commission is responsible for the follow-up work. Perhaps we can only follow up the matter with the Chief Executive direct and ask him to "deliver". The amendment seeks to amend Mr CHEUNG Man-kwong's motion by deleting "TUNG Chee-hwa's Administration" and substitute with "the relevant Policy Bureaux of the Government". This is not appropriate insofar as the problem of youth unemployment is concerned, for to date it is still uncertain as to which bureau should follow up the work. It is therefore most preferable for TUNG Chee-hwa's Administration to be held responsible.



Now that the Chief Executive has made clear the role of the Youth Commission in addressing the problem of non-engaged youths, I hope the appointment can last longer. However, the Commission is just an advisory body. We hope it can be given solid powers to try its own methods to tackle the problem, and be allowed to steer the relevant work of various government departments. Otherwise, the problem of youth unemployment will only be shifted from one mechanism to another. This year, the Youth Commission is responsible for the issue. Yet it is uncertain who will come next. We can only see policies keep changing constantly. Furthermore, the persons in charge of different mechanisms might have totally different ideas. Given this, we really have no idea when the problem can be resolved.

In order to address the problem of non-engaged youths properly, I hope the Chief Executive, the Youth Commission, or any of the Bureau Directors, can be bold enough to formulate specific work objectives, and make it clear what can be done to improve the youth unemployment rate, or to lower the rate to a certain percentage.

If Dr CHOI considers the problem of youth unemployment a long-term issue, he should make it clear what improvement can be made in five years when formulating his objectives. He should also explain to us clearly which Bureau Directors would take part in the relevant work.

The problem facing non-engaged youths aged between 15 and 19 is not merely confined to their high unemployment rate. We need to address the problem of university graduates being thrown out of job temporarily, not to mention young people aged between 15 and 19 who have not received university education. Their academic performance has made it difficult for them to adapt to the existing education system. Problems will arise if they, being unemployed and unable to pursue further studies, act in defiance of social rules and laws. For the time being, we can still rely on social workers and a host of services and activities to ameliorate the problems as far as possible. Yet the greatest worry is that this problem will become more serious when they cannot break away from this situation of unemployment for a protracted period of time. With the gradual ageing of the population over the next three decades, however, the dependency ratio will rise from 382 in 2001 to 562. If this group of young people aged 15 to 19 remains unemployed for a prolonged period of time while we are short of means to help them, we can hardly count on them to shoulder the responsibility of taking care of the community when Honourable Members or members of the community grow old.

Anyhow, the Government must exert greater efforts in addressing the problem of youth unemployment. Certainly, this does not merely mean giving young people a job. What is more, the Government must formulate policies on nurturing young people through education, training and work, so as enable them to shoulder the responsibilities entrusted to them by the community in future. Therefore, no matter which Bureau Director, commission, or person is responsible for addressing the problem, we hope the Government can explain its work objectives to us clearly. Thank you, Mr Deputy.

**MR NG LEUNG-SING** (in Cantonese): Mr Deputy, Hong Kong has seen its unemployment rate risen from 7.1% in March to a new height of 7.4% in May, and the underemployment rate reaching 3.1%, with the construction, retailing, catering, import and export, and telecommunications sectors being the hardest hit. Meanwhile, the number of unemployed people has risen to more than 253 000. The employment situation in the near future is unlikely to offer an optimistic outlook. Hong Kong economy has remained in the doldrums since the Asian financial turmoil. Coupled with such factors as the volatility of the external market and restructuring of industries, our unemployment problem has continued to worsen, making it even more difficult for a solution to be found.

It has always been hard to identify solutions to the unemployment problem when the economy is hit by recession or when industries are undergoing transformation. This experience is indeed shared by many overseas countries. Let us look at what happened to the United States. During the period from 1973 to 1997, its unemployment rate stood at above 5%. Driven by the information technology industry, the United States economy began to prosper in recent years. In September 2000, its unemployment rate even dropped to the lowest in three decades — 3.9%. As its pace of economic development started to slow down, and coupled with the September 11 incident, the United States saw its unemployment rate rise again and reach 5.9% in June 2002. We have to bear in mind that the United States is a huge and competitive economy. Moreover, it can rely on internal demands as a main impetus to economic development. Therefore, we must keep our heads cool when evaluating the difficulty involved in addressing our own unemployment problem. We need to exercise more caution when devising figures or indicators in our attempts to address various economic problems. This is because Hong Kong is not a planned economy. Our economic development must not, and cannot, be led by the Government.

Notwithstanding this, I believe it is, to a certain extent, necessary for the Government to accord priority to ameliorating the unemployment problem, a matter of public concern. Most importantly, various sectors of the community and the Government must make concerted efforts to come up with practically effective, constructive measures to provide the best possible means to alleviate the unemployment problem fundamentally. Insofar as constructive ideas are concerned, I have always advocated the proposal of encouraging local low-skilled workers to work as domestic helpers. Even though the local unemployment rate remains high, Hong Kong is still providing jobs for more than 200 000 foreign domestic helpers. I really doubt whether this arrangement is in keeping with the times, and whether this is reasonable. It is indeed imperative for the Government to review its policy of importing foreign domestic helpers, so as to give interested local workers more opportunities and more reasonable choices. At the same time, the Government should adjust its strategies on training and retraining domestic helpers by diverting the relevant training resources direct to on-the-job training. This will encourage more employers to hire domestic helpers who are receiving on-the-job allowance, and also give incentive to more low-skilled workers to switch to this trade, which can absorb tens of thousands of workers. The internship allowance scheme recently launched by the Government for young people was mentioned earlier in the debate. The idea behind this scheme is consistent with the provision of on-the-job training for adult domestic helpers. There is simply no justification for us to favour one and discriminate against the other. In particular, we can see the huge potential of the domestic helper market and its potential of stimulating local spending. What is more, it has the characteristic of being suitable for low-skilled workers at a time when Hong Kong is undergoing economic restructuring. All of these merits will enable the Government to find a way out for a number of problems.

Meanwhile, I believe the Government has to formulate specific and feasible policies on ways to upgrade the overall effectiveness of vocational training and retraining and to further improve the business environment, as well as carrying out practical work. Even though we cannot manipulate economic changes, I believe it is still possible for us to bring marked improvement to the unemployment problem confronting us if we can make an all-out effort to promote the relevant work.

Mr Deputy, I so submit.

**MR HENRY WU** (in Cantonese): Mr Deputy, I very much agree that the Government must accord priority to tackling the persistent problem of high unemployment. However, the Chief Executive should not be made solely responsible for resolving the unemployment problem. It should be the common goal of the relevant Policy Bureaux. Unemployment can be attributed to a number of factors, one key factor being the economy. Influenced by the external economy, Hong Kong is in a passive position. Adopting "full employment" as an indicator for determining whether the implementation of government policies is successful or not is unfair. Therefore, I support the amendment. I cannot support the original motion for I have reservations about it.

In replying to one of the questions raised by me in the Question and Answer Session held on Monday, the Chief Executive remarked: "every principal official under the accountability system has his or her own duties to perform. They will do well in their own policy areas". Although the Chief Executive did not fully answer my question, he responded by quoting an analogy drawn by me in my question between accountability officials to a football team that each of the football players will, irrespective of the position assigned, play well. The 10 players in the soccer pitch will co-ordinate with one another in taking a united front, be accountable jointly, and give full play to their abilities.

Frankly speaking, unemployment is a complicated social problem. The policy areas involved are very wide too. We cannot rely on just one or two officials to resolve the problem satisfactorily. Various sectors of the community must actively co-operate, particularly in terms of policy co-ordination, to prevent the emergence of massive unemployment.

The past problems facing us before the implementation of the accountability system were caused mostly by the lack of understanding in respect of various policy portfolios. As a result, government departments might be seen as "hitting one's right hand with the left one", "having today's me hit by tomorrow's me", or "being self-contradictory". We might even find policies running counter to the policy objectives of the Chief Executive. In other words, some policy officials might allow policies likely to trigger off massive unemployment to be forcibly implemented while officials responsible for labour and economic matters were making persistent efforts to introduce measures to alleviate unemployment. One prominent example I would like to cite is the minimum brokerage commission system. Though this reasonable and well-

proven system has remained unchanged in the past two decades or so despite persistent high inflation, the relevant authorities have decided that it should be abolished.

It can be said that luck has brought Secretary Stephen IP and me together. This is because I would now like to turn to the problems facing the securities industry, as well as high unemployment. I believe Mr IP must have listened to similar speeches numerous times before when he was the Secretary for Financial Services. Now that the Secretary has been assigned to a new post. I hope he can look at the problem from the angle of alleviating unemployment.

Mr Deputy, the financial services industry warned at the end of last year that a number of securities firms would be forced to wind up and lay off staff as a result of the abolition of the minimum brokerage commission rule. Furthermore, the problem of high unemployment would worsen and give rise to serious social problems. Early this year, accepting the factual arguments put forward by the industry and taking into account the overall economic situation of Hong Kong and the unemployment problem, the Administration finally agreed to postpone its plan to abolish the rule for one year, or until April 2003. I would like to take this opportunity to thank Mr IP for liaising with the industry during the year in search of better solutions. Nevertheless, in comments made by the authorities in a strongly worded statement in the middle of this year, it was made clear that the minimum brokerage commission system would be abolished in April 2003. This has brought renewed worries to the industry about its prospects and resultant unemployment and social problems.

There is another factor contributing to the forced closure and layoff of securities brokerage firms. A number of banks, particularly the rich and powerful ones, have been taking advantage of the special status and room they are allowed to manipulate under the law, defy the minimum brokerage commission rule as prescribed in the rules. Some of them have even resorted to the practice of "hurting others by means of big capital" and cut-throat strategies to slash commission in order to scramble for clients. As a result, they have been stifling the vitality of small and medium securities brokerage firms. In addition, as a result of such external factors as uncertain economic prospects of the global economy and varied standards of listed companies, trading in the local stock market has become increasingly thin. The securities industry is indeed struggling very hard for survival.

Facing the plights of the securities industry, the Government and relevant authorities have failed to address the problem squarely and take active measures to help bring the market back to active trading to, in turn, stimulate the revival of the economy as a whole. On the contrary, they have turned a blind eye to the aspirations of the industry and allow the minimum brokerage commission system to be abolished in a forced manner. This is going to compress the operation vitality of the industry. Failing to sustain their business, small and medium brokerage firms will eventually choose to wind up or lay off staff. This will in turn trigger off massive unemployment that will further aggravate the persistent problem of high unemployment.

Mr Deputy, the Chief Executive has repeatedly stressed that he pays much attention to leading Hong Kong economy out of the plight and creating more job opportunities. The financial services industry has all along fully supported and co-operated with the SAR Government in maintaining the prosperity and stability of Hong Kong. Although maintaining the minimum brokerage commission system, established in accordance with a long-standing practice, will not render much assistance to the industry, it will at least not turn someone who previously had a job into a jobless person. On the contrary, an abolition of the system will not only deal a severe blow to the operation of the securities industry, but also give rise to social problems associated with massive unemployment. How can the prosperity and stability of Hong Kong be maintained if the overall economic development of the territory is impeded?

I very much hope that the Government can, following the implementation of the accountability system and under the leadership of the new line-up, introduce new thinking and new style to free itself from its old constraints, thoroughly implement the policy objective of giving priority to employment, and put an end to all policies that are likely to create massive unemployment. Insofar as the financial services industry is concerned, the industry and I have high hopes on Mr Frederick MA, the new Secretary for Financial Services and the Treasury. We believe the Secretary, by virtue of his experience in the industry, can better understand the hardships facing the industry. It is also hoped that he can refrain from talking like a bureaucrat and acting like the old bureaucrats who used to consider themselves as being superior to the people. We also hope that he can introduce wise policies in keeping with the realistic circumstances to enable the industry to continue with its struggle to revive the local economy, and make concerted efforts to realize the goal of achieving full employment.

Mr Deputy, I so submit.

**MR MICHAEL MAK** (in Cantonese): Mr Deputy, with the unemployment rate reaching 7.4% and more than 250 000 people being thrown out of job, people are losing faith in their prospects. On 27 June 2002, The Chinese University of Hong Kong published the findings of a survey on the public's evaluation of Hong Kong's present economic situation. It was shown that the economic indicator, the consumer confidence index and the consumer sentiment index dropped in June by 0.6, 4.5 and 3.2 respectively over the previous month. This reflects that public confidence in the economy is declining and the business environment is far from satisfactory.

On the other hand, the economic slump has exerted increasing pressure on the public coffers. According to the figures provided by the Social Welfare Department, the number of applications for Comprehensive Social Security Assistance (CSSA) in June rose to nearly 255 000, which is 2 000 more than that recorded in May. Of these applications, 35 000 were lodged on grounds of unemployment, representing an increase of 3.7%. It was earlier reported that a boy coming from a family receiving CSSA stole a lunch box from a supermarket, because he had no money to buy food. This is really disheartening.

Unemployment is not an exclusive problem for the poorly educated. When the economy plunges, even the highly educated and skilled workers face the threats of layoff and unemployment. Many of these people own assets in negative equity. The damage they suffer are likely to be greater too.

Let me cite my constituency as an example. The Hospital Authority has, on the one hand, taken the lead to follow the Government to slash the salaries of my fellow workers and, on the other, is poised to trim the size of its workforce. A number of nurses and health care professionals have complained to me that the market has been unable to absorb all university graduates because of the decision of public sector organizations to trim the number of new professional posts. Many professionals like pharmacists, radiographers and physiotherapists are forced to "take up jobs they are not trained for". For instance, some pharmacists are forced to work as insurance agents, some radiographers are unable to find a job, and some physiotherapists have been working as salespersons.

Mr Deputy, I can substantiate my remarks with data. According to the information provided to me by the University Grants Committee on 11 June, some graduates have failed to secure a job relevant to the subjects they studied

and some have even failed to find a job. Let me cite the figure of 2000-01 as an example. Nearly 10% of the 82 students graduated from the occupational therapy faculty are unable to find a relevant job.

I have come to know some students who are going to graduate in the coming school year. Many of them worry that they cannot find a job after graduation. I feel sorry that while the Government devotes substantial resources each year to training students to become professionals in various fields, the relevant authorities are unable to provide sufficient places for these students when they eventually graduate. Not only is taxpayers' money being spent unwisely, the valuable time of students is wasted as well. Furthermore, they cannot contribute their professional expertise to constantly upgrading the health care services.

As pointed out by a number of people, speeding up infrastructure projects can help alleviate unemployment. I proposed earlier to build a hospital on Lantau to cope with the demand of the people living there. However, no satisfactory progress has been made so far. According to the information provided by the Planning Department, the population of Lantau is around 115 000 in 2002, and is anticipated to rise to 180 000 by 2004. We can thus see that it is imperative for a hospital to be built there. I believe the construction of the hospital and its future operation can provide a certain number of job opportunities.

THE PRESIDENT resumed the Chair.

Madam President, no one can predict when the unemployment problem will be resolved. However, members of the public count on the Government to give them hope, to lead their way out of this predicament, very much like we need to count on the helmsman to steer a ship. The Government should set a clear goal and formulate a blueprint to ameliorate the unemployment problem in concrete terms. Otherwise, the public will hardly know which direction they should follow, nor can they have faith in the Government.

I feel sorry that Mr Henry TANG, the Secretary for Commerce, Industry and Technology, said earlier that he saw it impossible for the unemployment rate to drop to its previous low level before the reunification during his lifetime.



This particular remark of his certainly reflects that he has not tried his utmost to identify solutions to the unemployment problem. It is indeed improper for the Secretary to make such a demoralizing comment. How can the situation be improved if the Secretary is to take up the sole responsibility of resolving the unemployment problem? I was glad to note that the Chief Executive appealed to every one of us last week to help resolve the unemployment problem. I hope the remark made by the Secretary was just a slip of the tongue!

I think the amendment is intended to provide the Chief Executive with the stairs to back out, in case his administration fails. Should the amendment be passed, and should Mr TUNG fail to achieve anything in ameliorating the employment problem in future, Honourable Members will have no indicators to evaluate his performance objectively. Therefore, I cannot support the amendment.

Madam President, the unemployment problem is troubling every stratum of the community. It is most depressing to learn the frequent news reports on people committing suicide because of unemployment. Should the Government fail to prescribe the right remedy, many social problems such as broken families and marriages, crime, social harmony, and mental illnesses will further worsen and reappear like a vicious circle. I would like to appeal to Mr TUNG to fulfil his commitment by according priority to tackling the unemployment problem and, as is stated in the original motion, adopt "achieving full employment" as an important indicator for determining whether the implementation of his policies is successful or not. I so submit.

**MISS LI FUNG-YING** (in Cantonese): Madam President, Hong Kong has seen its unemployment rate rise from 2.2% in 1997 to 4.4% in 2000, to 6.1% in 2001, and beyond 7% this year. In the past two years, the entire community continued to be troubled by the unemployment problem. All of us, from "grass-roots wage earners" to "the privileged" from the middle and upper classes, are being affected, fearing our "rice bowls" will one day be broken. Resolving the unemployment problem has now become the biggest aspiration of the public.

In the motion moved by Mr CHEUNG Man-kwong today, it is proposed that "achieving full employment" be adopted as an important indicator for determining whether the Government has succeeded in implementing its policies. I trust every government will aspire to full employment, just like every national

leader will aspire to social prosperity. As a trade unionist, I definitely hope every salaried person has a job to do and receive reasonable return. However, the relevant Bureau Directors, including the Secretary for Commerce, Industry and Technology and the Secretary for Economic Development and Labour, have indicated, both explicitly and implicitly, that Hong Kong can hardly return to its glorious past of full employment. They have also, both intentionally and unintentionally, reminded the public not to pin too much hope on lowering the unemployment rate. This is indeed understandable.

According to a survey conducted by the Organization for Economic Co-operation and Development, the unemployment rate of its members, comprising 25 developed countries from North America and Europe, stood at 6.4% in 2000. Only Luxembourg, Switzerland and the Netherlands managed to achieve full employment, that is, an unemployment rate below 3%. North American countries such as Canada and the United States, European countries such as Germany, France, and Britain, Oceanian countries such as Australia and New Zealand, and our neighbours, Japan and Korea, have all failed to achieve full employment. Nevertheless, it does not necessarily imply that the responsible officials in these countries have failed to implement the policies of their respective governments, or they must step down as a result.

However, I must stress that I am not trying to absolve Hong Kong of the high unemployment rate by citing the unemployment rates recorded in countries elsewhere. The fact that I understand the remarks made by the Secretaries does not mean I can tolerate the Secretaries' failure to exert their utmost to improve the job market. Neither does it mean I can tolerate an attitude of adhering to their old practice after listening to suggestions on the part of the Government and the Bureau Directors. (I was told that the Bureau Directors had frequently met with various deputations after taking office. I really hope they can refrain from "adhering to their old practice after listening to suggestions".)

Madam President, wage earners are extremely worried by the possibility of losing their jobs, because they fear they cannot support themselves once they become jobless. Losing their jobs mean their livelihood is no longer secured. Their dignity in living will be lost too. Now that our Bureau Directors consider that Hong Kong can hardly achieve the goal of full employment, the Government must take immediate actions to examine what can be done to assure the living standard of the unemployed. It is also obliged to formulate comprehensive

employment policies. These policies should cover, among other things, the provision of financial and other forms of assistance to the unemployed. The Government must not shirk its responsibility by, like what it is doing at the moment, merely stressing that the unemployed may apply for Comprehensive Social Security Assistance if they are in financial hardships. Given that Hong Kong is often compared to those matured economies in Europe and the United States by the Bureau Directors who predict Hong Kong can hardly see its unemployment rate dropping substantially, we would like to urge them to follow the examples of those European countries and the United States when it comes to protecting the unemployed, for so doing is only sensible and reasonable.

Madam President, the ultimate aim of evaluating responsibilities is to resolve the problems facing us, not to decide which Bureau Director should assume office or step down. The demand for the relevant Bureau Directors to ameliorate the high unemployment rate can certainly be seen as an indicator adopted by the general community to evaluate whether the relevant accountable officials have succeeded in implementing the government policies. However, there is still much room between lowering the unemployment rate and achieving full employment. In my opinion, more should be done by accountable officials to resolve the difficulties facing the unemployed. This is far more important and practical than merely stressing the importance of adopting full employment as an indicator for evaluation.

I so submit. Thank you, Madam President.

**MR AMBROSE LAU** (in Cantonese): Madam President, during the Question and Answer Session on Monday, the Chief Executive indicated that he was very much concerned about the unemployment problem and he said that "I think about economic and employment problems even in my dreams". He also emphasized in his speech at the Swearing-in Ceremony on 1 July that the "SAR Government is as concerned as you all are about those among us who are unemployed. We take a serious view of the trend of rising unemployment." Certainly, the unemployment problem cannot be solved within a short period of time, but the Chief Executive's empathy with the feelings of the unemployed has at least shown that he is positive and sincere in resolving the problem. In respect of the unemployment problem, the new Bureau Directors should offer greater encouragement to the public and they should not run counter to what the Chief

Executive has said. It is even more inappropriate of them to dampen the spirits of the public.

So long as the Chief Executive and the new Bureau Directors think about economic and employment problems even in their dreams, they would after all be able to think of ways to alleviate the unemployment problem and create jobs. They must succeed but not fail in resolving the unemployment problem. Certainly, Hong Kong people would not like to see the Bureau Directors join the unemployed ranks and compete with the public for rice bowls.

Madam President, the comprehensive improvement to the employment environment embodies four aspects as follows:

First, the Government has to pace up the formulation of a new population policy. 93% of the future growth in population are immigrants, with 83% of them coming from the Mainland, and those born in Hong Kong accounting for 7%. According to the statistics of the Census and Statistics Department, only 25% of the new arrivals have managed to find jobs, far less than the 60% employment rate of Hong Kong. Hong Kong is a community of immigrants and there should not be discrimination against new arrivals. However, with an ever-rising unemployment rate, it is necessary to change the existing population policy as soon as possible.

Second, the Government has to try its best to stabilize property prices. Although the number of agreements for sale and purchase in the first five months of this year has increased by 9% as compared with that of the same period last year, the prices of private residential flats, offices and industrial buildings have still continued to drop, the assets of owners have further depreciated and the pressure on negative-equity property owners has become heavier. The incessant decline in property prices has made it difficult for small and medium enterprises to secure financing. Since their cash flow problems have become more serious, layoffs and closure have intensified. Therefore, the Government has to stabilize property prices to relieve the pressure of unemployment.

Third, the Government has to review the policy on the importation of foreign domestic helpers. At present, there are more than 200 000 foreign domestic helpers in Hong Kong while there are around 300 000 unemployed persons, many of them being middle-aged women. The Government should

immediately introduce a practicable proposal to encourage and assist unemployed women in Hong Kong to enter the domestic helper market in order to practically and partially solve the employment problem.

Fourth, the Government has to create conditions conducive to Hong Kong professionals going north to start businesses. At present, unemployment has already spread to the white collars and professionals. Starting business by the blue collars in the north is very difficult indeed, but there is plenty of room for ventures by local professionals in the north. The SAR Government should earnestly negotiate with the central authorities about establishing closer economic and trade links between Hong Kong and the Mainland to open up room for the employment of local professionals. Yet, it is a great pity that jobs have not yet been created though we have heard much noises on the staircase.

Madam President, apart from the above comprehensive measures for improving the employment environment, the Government should expeditiously create jobs to meet the pressing need. There is a story about "a crucian carp in a dried-up rut (涸轍之鮒)" in *Zhuang Zi*, which tells us that long-term relief measures are not helpful to the unemployed. Thus, the Government must take actions at once to resolve the problem radically. The Government can no longer be over-cautious and it should create jobs faster in two aspects. Firstly, it has to pace up the implementation of infrastructure projects and avoid making a wedding gown for another person. It must ensure that Hong Kong people can take up most of the jobs thus created by infrastructure projects. Secondly, the Government has to relieve the financial difficulties of small-capital operators and eliminate rules and regulations that stifle the business environment of small and medium enterprises, thereby opening up another way out for the employment of the unemployed.

Madam President, although nobody has a crystal ball or magic wand, in the face of the pressure of a rising unemployment rate, the Government has to take comprehensive relief measures and expeditiously create jobs to meet the urgent need. I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): Madam President, Mr YEUNG Yiu-chung has criticized that the Democratic Party is discussing politics when it discusses unemployment. I find this criticism most surprising. Is Mr TUNG Chee-hwa not discussing politics when he discusses unemployment?

In fact, just like employment, unemployment has always been a political issue. The toppling of many political regimes in foreign countries is also related to unemployment. I would not evade that unemployment is a political subject and we should frankly admit that the success or failure of a government is often related to unemployment.

Mr Tommy CHEUNG has asked what full employment is and his question is more or less an academic subject. Mr Donald TSANG has said that full employment means an unemployment rate of 2.5% to 3%, and some research institutions have said that the rate should be slightly over 2%. I think the point is not here or there, rather if the Government takes it as a target, it can negotiate with the academic sector on the definition of a full employment rate. Certainly, the Democratic Party would not say that the full employment rate is 0%. We think that the rate of full employment should range between a little over 2% to 3%. Thus, I do not think I have to debate with Mr Tommy CHEUNG about the percentage.

Presently, people are concerned about the unemployment rate, housing and education. Mr TUNG took the lead to create targets and he has set the target of housing at 85 000 and the target of education at a 60% participation rate of post-secondary education. However, Mr TUNG has declined to set a target for unemployment, which is the utmost concern of the public, because he knows that it is the hardest problem. Actually, the public really hope that he would be able to create job opportunities and reduce the unemployment rate within five years and succeed in helping tens of thousands of unemployed people and their families to break away from their predicament.

Today, Mr TUNG Chee-hwa's ruling coalition, an iron triangle composed of himself, the Liberal Party and the DAB, has turned down our proposal to make the unemployment rate the most important target of administration in the next five years. Of course, the Democratic Party is very disappointed because we think that it would be good for the honour or disgrace of the Government to be tied up with a political subject of the gravest concern to the public. From another perspective, if there were a democratic universal suffrage in February this year, I believe the hottest political subject for the opponents of Mr TUNG Chee-hwa, if any, must have been resolving the unemployment problem.

Today, the ruling coalition, the political iron triangle of Mr TUNG Chee-hwa, has turned down our proposal and refused to make full employment an indicator of success or failure. It precisely shows that Mr TUNG Chee-hwa lacks confidence and is afraid that the target may not be achieved.

On Monday, when I asked Mr TUNG Chee-hwa if he could set a target and reduce the unemployment rate so that full employment may be achieved in Hong Kong, he replied that the Democratic Party knows only criticizing but not singing praises, coming short of any suggestions. I wish to state clearly that the Democratic Party has made more than 70 submissions since 2000, with 10 of them being related to the employment problem and including a lot of constructive views. In fact, we proposed to the Chief Executive last year the subsidy scheme for the employment of youths and for the employed mentioned a while ago. The Chief Executive has accepted our proposal and would implement the scheme this year. Can the unemployment problem not be resolved? Do we have to fear that it would become an indicator of success or failure? I do not think so. Conversely, I think that a target should be set and various political parties should express their views.

I wish to cite another example. Taiwan held an election for the legislature in November and the Democratic Progressive Party painstakingly adopted the election strategy of hosting an economic summit and invited various political parties to participate. The Government recorded all the proposals made by various political parties including the opposition for resolving the economic problems, for follow-up and implementation by the Economic Development Advisory Conference. With this done, the opposition party could not make unemployment and economic problems subjects of contention in electioneering because the Government had agreed to solve these problems together.

In respect of resolving the unemployment problem, the Democratic Party does not want to be a political party that opposes for the sake of opposition, and we have never been a political party that opposes for the sake of opposition. I sincerely hope that Mr TUNG Chee-hwa would have the breath of mind and accommodation to take off his tinted glasses and invite various political parties to work out with him proposals for solving the unemployment problem and set the relevant targets.

With these remarks, I support the original motion.

**DR LUI MING-WAH** (in Cantonese): Madam President, the current unemployment rate of Hong Kong stands at a high 7.4% and the number of unemployed people reaches 250 000. According to official and unofficial estimates, the unemployment rate and the population of unemployed people are expected to continue to rise. Under such poor economic circumstances, I appreciate the good intentions of Mr CHEUNG Man-kwong to improve the employment situation in Hong Kong and his great expectations for the policy objectives of the Chief Executive in his second term of office. However, the following issues must be made clear in the first place. First, which should be given priority, employment and full employment, or developing our trade and industries? The results will be totally different if the end and the means are swapped. Second, should the goal of employment be made an indicator for the success or failure of implementation of policies by the Government?

The cause of structural unemployment, in the final analysis, can be attributed to the non-intervention economic policy of the British Hong Kong Government in the past. And after the reunification, the policy has been adopted by the SAR Government even to this date. Under the policy of positive non-intervention, the Government has ignored completely the manufacturing industries which are capable of bringing foreign exchange for Hong Kong, and so industries have relocated out of Hong Kong. For this reason, as many as 600 000 jobs in the manufacturing sector have been lost. In the wake of the financial turmoil, the industries laid off a lot of staff and companies in the commercial and other sectors continued to close down. It can thus be seen that the shrinking of commercial and industrial undertakings will certainly push up the unemployment rate. So we can address the problem only if we can distinguish between which issues are of primary and secondary importance. Just imagine, if giving priority to employment is made the objective of government policies, then this may lead to the following scenario: The Government will dump a lot of money into creating jobs just for the sake of it and this may lead to a waste of money. It will not solve the problem of unemployment at root and offer a long-term solution. Deficits may on the other hand continue to rise. Do we wish to see such things happening?

If we understand the relative importance of developing businesses and industries and the employment rate, as well as their causal relationship, we will realize that the key to resolving the unemployment problem lies in promoting the development of businesses and industries and hence creating jobs. Therefore,



the policy objective of the Chief Executive for the next five years should be directed towards promoting the development of businesses and industries. The development of manufacturing industries in particular should be made the major direction. The achievement of full employment or otherwise should not be made an important indicator for the success or failure of government policies. Lest, we would be putting the cart before the horse, and we can never pull our unemployed masses out of the quagmire. Nor can we ever make our employment rate continue to stay high. I hope both the Government and the public will see this point.

**MR LEUNG FU-WAH** (in Cantonese): Madam President, the unemployment rate and the number of unemployed people have recently risen to record highs and the problem is so serious that it has already become an emergency. Since the reunification, Hong Kong people have been haunted by the economic downturn, closing down of enterprises, layoffs and unemployment. Under the present circumstances of a high unemployment rate and the bleak business prospects of some enterprises, Hong Kong people are largely reluctant to make spending and they lack confidence in the prospects of Hong Kong. Therefore, the general public has great expectations of the leadership line-up of the second term of the SAR Government that has just sworn in. They hope that the new accountability officials with a new mode of thinking and style of work would really think in the way the people think and sense their urgency in the next five years and enable the expeditious recovery of our weak economy.

At present, people are thinking and anxious about the employment problem that is closely related to them. In recent years, in addition to influence by the global economic environment, the serious unemployment problem in Hong Kong is after all directly related to immigration control. The most serious factor is the large number of new arrivals from the Mainland.

Actually, there was an influx of immigrants from the Mainland half a century ago and these new workers were generally quickly absorbed by the labour market, especially in the 1960s and 1970s when the electronics and manufacturing industries were thriving. But since these industries only needed low-skilled workers, the inflow of a large number of immigrants did not push up the unemployment rate. Although a lot of wage earners had to work from morning to night, every worker had a job after all.

At the beginning of 1990s, the working population of Hong Kong saw rapid growth. The growth was not driven by the birth rate because the birth rate in Hong Kong had all along been fairly stable and even relatively low. Thus, the increased population mainly came from outside the territory, including returnees from foreign countries, immigrants from the Mainland and foreign domestic helpers. We have repeatedly asked for a freeze on the number of foreign domestic helpers at 230 000, and we fully agree with the views expressed by Mr NG Leung-sing and Mr Ambrose LAU. From the 1980s to early 1990s, Hong Kong enjoyed economic prosperity and had an earnest demand for workers. As the additional workers were absorbed by the rapidly developing consumer services industry, the unemployment rate was relatively low at that time.

In the middle of the 1990s, the Government increased the quota of one-way permit for new arrivals from 105 to 150 daily and the number of immigrants far exceeded the number of emigrants, resulting in a rapid growth in the workforce. With economic restructuring, the retail and services industry began to dwindle and failed to absorb surplus workers or alleviate the unemployment problem caused by the shrinking manufacturing sector. Therefore, the unemployment rate once surged to 3.5% at that time. Since an unemployment protection fund for the unemployed was not established in Hong Kong, the Hong Kong Federation of Trade Unions established in May 1995 a worker mutual-aid self-help fund (工人互助自救基金) to provide the unemployed in difficulty with interest-free loans and solicitude payments to assist them in getting out of difficulties.

Before the reunification in 1997, though, driven by the financial and real estate sectors, our economy rapidly took off again, the good times did not last long. After the reunification in 1997, under the influence of the Asian financial turmoil, the economic bubble blown by the real estate sector finally burst. As a result, an economic downturn began and the unemployment rate rose to a record high again and again and the weak domestic consumption led to incessant deflation. It seemed that the prosperity before the reunification had suddenly disappeared.

Today, there is still an influx of a large number of immigrants from the Mainland, but with the local economy transforming into the high value-added and hi-tech model, some low-skilled work types have been gradually eliminated and some processes in some industries are relocated to the Mainland. With the comprehensive structural imbalance of our economy, even local works are threatened by the prospects of unemployment, so new arrivals with lower

academic qualifications and skills can hardly enter the labour market. To solve the serious unemployment problem, we must therefore start with immigration control. We hope that the population policy to be launched by the Government later this year would match the changes in our economic structure and import professionals required by our economic development. To the extent of within the control of Hong Kong, we also hope that the inflow of new arrivals with lower skills and academic qualifications would be reduced as far as possible.

Besides immigration control, creating job opportunities is also a method to ameliorate the unemployment problem. When I spoke on the motion on local community economy at the Council meeting on 26 June this year, I suggested that the Government could consider developing cycling into a tourism item with local characteristics, thereby promoting the development of trades and commercial activities related to cycling and creating more job opportunities. The cycling track along Tolo Highway is the backbone of the project. The authorities may systematically link up the broken cycling tracks in Tai Po, Ma On Shan, Sha Tin, Tai Wai, and from Sai Kung to Tseung Kwan O. With suitable planning, lands adjacent to the cycling tracks can be earmarked for the construction of cycling hotels, multi-storeyed bicycle parking complexes, bicycle repairs centres, bicycle transport systems, open air cafes, fishing grounds and refreshment kiosks, thus developing the eastern coast of Hong Kong into a new tourist spot. Since the idea is based on the original cycling tracks along Tolo Highway, provided that officials do some hard thinking and make proper use of the existing resources, there is a chance for the development of cycling tourism that some have regarded as an Arabian Nights' tale.

Madam President, the unemployment rate is 7.4% now, a far cry from the full employment target of an unemployment rate at not more than 3% that Hong Kong used to enjoy. Undeniably, the most idealistic objective of administration in every place or country is achieving full employment. But I wish to point out that countries in the world do not have a uniform full employment target because there is a difference in the levels of economic development of advanced and backward countries, and the economic circumstances of different regions or countries are changing with the times. In other words, it is impossible for all regions or countries to have a consistent full employment target. Hence, under the present economic circumstances, it is open to discussion if the full employment target of Hong Kong should be maintained at an unemployment rate of not more than 3%.

Madam President, I so submit.

**DR YEUNG SUM** (in Cantonese): Madam President, Mr SIN Chung-kai was right in saying that the Chief Executive has set targets for various aspects of administration. After the implementation of the accountability system for Principal Officials by the Government, it seems only natural for the public and political parties to ask the Government to set a target for administration. As targets have been set for other policies such as the participation rate of tertiary education, housing policy and the implementation of full-day primary education, with which Mr Matthew CHEUNG should be very familiar, why has the Government not set a target for the most important social problem affecting the public, that is, the unemployment problem? It is inconceivable indeed. Thus, I hope the Chief Executive would announce a relevant target when he delivers the policy address. The target can be set at either a high or low level, but the most important point is that it must be practical, and the Democratic Party has made this proposal from a pragmatic point of view? After setting a target, the Government can aim at achieving it. Unless Secretary Stephen IP disagrees with us and thinks that unemployment is not the biggest social problem, but if he agrees, political parties and the Government should then make joint efforts to set a target. For instance, the Democratic Party has specifically suggested if the unemployment can be reduced by 1% per year. If we have tried our best, we would have answered our duties regardless of the result.

Madam President, several Members have expressed views on the logistics, financial and tourism industries, but I would just wish to discuss welfare reform, tax reliefs and revitalization of industries. Before making these points, I wish to tell Secretary Stephen IP that the Government should seriously consider giving up the positive non-intervention policy. However, it does not mean that the Government has to develop towards central planned economy. We have received Western education and understand that central planned economy will bring a lot of social problems. However, we can definitely not have blind faith in the market. Therefore, the Government should facilitate market operation. In the face of social problems brought by market failure, the Government should play a supplementary role instead of replacing the role of the market. If we merely depend on the operation of the market on its own, we would basically fail to solve many social problems. I believe I do not have to give Secretary Stephen IP a detailed explanation.

In respect of welfare, the Democratic Party has put forward the concept of "responsibility welfare". At present, the Government grants exemption to the first sum of income, approximately \$450, made by a recipient of Comprehensive Social Security Assistance (CSSA). But barely more than \$400 is not enough

for traffic, finding a job and meals. Therefore, the Democratic Party proposes increasing the exemption amount from \$450 to approximately \$900 to motivate CSSA recipients to find a job. It seems more realistic to increase the exemption amount from \$450 to \$900 and it would not have any influence on public expenditure. As we all know, if CSSA recipients have capacity for work, they may participate in the self-reliance scheme that the Government started implementing in 1998. If a person fails to find a job after one and a half years even though the Government has tried every means to help him, we suggest that the Government should offer him a job. Through employment, we hope that he would have a chance to boost his self-confidence and relationship with the community, get out of the CSSA net and repay society. The Democratic Party wishes to say that welfare is the basic need of people in difficulty, but we consider it acceptable for people to bear certain social responsibilities while they receive welfare. Therefore, we have put forward the concept of "responsibility welfare" and I hope that I would be able to further discuss this point in future. We agree that Hong Kong should have a safety net to assist people in need, but we should also encourage CSSA recipients to find a job and they should not be discriminated against. This is the concept of "responsibility welfare" put forward by us.

As regards tax reliefs, I wish to cite an example. The unemployment rate has been continuously rising in Taiwan and it is now around 5.2%, but the Government led by CHEN Shui-bian has set some targets. Taiwan has an elected government and Mr CHEN has told electors that the unemployment rate would be reduced to less than 4% within six years. In other words, if the Taiwanese Government fails to achieve the target, Mr CHEN should not be re-elected. The Taiwanese Government has also promised that the rate of economic growth would increase to more than 5% within six years. They have also put some policies in place, such as the proposed establishment of a government department to create job opportunities and investing \$65.5 billion to provide 270 000 people with job opportunities, vocational training and employment services. The Taiwanese Government has also promoted certain projects because it believes that these projects can create 44 000 job opportunities. I hope our Government would make reference to this comprehensive employment proposal.

On the industrial front, with the accession of China to the World Trade Organization (WTO), a lot of goods produced in Hong Kong can be sold in China, should we grasp the opportunity to sell our products in China through our taxation or land policy? Dr CHIANG Chen has recently said that if the

Government can offer some incentives, many factory owners would return to Hong Kong and make investments. Should the Government seize the opportunity of China's accession to the WTO and try all means to assist the development of some industries? The development of industries can also create a lot of job opportunities. The development of the tourism or financial industries can create job opportunities, but given that we can promote industrial development with a large market for domestic sales in the Mainland, why can we not seize the opportunity of China's accession to the WTO? On the whole, the Democratic Party sincerely hopes that Secretary Stephen IP would make more efforts in this respect. In fact, his assistants are well versed in labour affairs and I hope that the Secretary would propose some specific policies in this respect in the policy address.

**PRESIDENT** (in Cantonese): Dr YEUNG, your time is up.

**DR YEUNG SUM** (in Cantonese): Thank you, Madam President.

**MR CHAN KWOK-KEUNG** (in Cantonese): Madam President, I am convinced that the SAR Government is determined to create employment, but I have reservations about whether the Government would take corresponding actions quickly and highly efficiently. The simplest example is that the Government has continuously stressed in recent years its support for the environmental protection industry but we have not seen any results yet. When the Chief Executive was asked a relevant question on Monday, he disclosed that the Secretary for the Environment, Transport and Works was studying the scheme on a recovery park of 20 *mu* in area but everything is only under consideration and study at this stage.

I have proposed a motion to simplify the administrative procedures in this Session with the aim of promoting the Government to speed up various infrastructure projects to create jobs. I am most worried by the prospect that the Government would spend too much time studying and fail to take immediate actions in keeping with the times. If it takes remedial measures when everything is settled, it would be mending the fold after a sheep is lost, and the effects would be largely reduced. The SAR Government has failed to effectively solve the unemployment problem and it should grasp the time and

take actions immediately, and it must guard against having deliberations but not resolutions.

Recently, the Hong Kong Polytechnic University has interviewed 200 Hong Kong businessmen who have established factories in the Mainland, and 90% of them have indicated their willingness to return to Hong Kong. They have only asked for cheaper land and tax reliefs and hoped that the Government would provide supportive measures. We hope that the Government would create favourable conditions for small and medium factory owners in Hong Kong and attract them to establish factories here. In fact, many factory owners are willing to return to Hong Kong, why has the Government not taken immediate actions yet? The Chief Executive has explained that he has discussed with the industrial sector about the establishment of factories in Hong Kong for many times, but the relevant discussions have not progressed any further for a number of questions. He hopes that there would be a breakthrough and the problem would be solved through the Small and Medium Enterprises Committee. What are the problems that cannot be solved? We hope that the Government would adopt an open attitude and solve the problems together with people from various sectors.

The Hong Kong Federation of Trade Unions proposed in 1999 that Hong Kong should implement economic development strategies that gave priority to employment and suggested 13 economic development strategies that gave priority to employment. They include the development of community services such as home help services; supporting small and medium enterprises; promoting the construction industry by increasing the rate of participation of local enterprises in infrastructure projects; encouraging business ventures; enhancing training to upgrade the employability of workers; assisting enterprises in employing unemployed workers; supporting the environmental protection industry and improving the business environment.

However, the Government has not done much in the past two years, for instance, there is a regional mismatch of domestic helpers. At present, a total of 2 293 domestic helper vacancies have not been filled and there are more vacancies on Hong Kong Island and in Kowloon for most domestic helpers are now working in districts such as Tuen Mun and Tsuen Wan in the New Territories. Although the Employees Retraining Board (ERB) has implemented an Integrated Scheme for Local Domestic Helpers and tried its best to arrange several jobs for a trainee so that he can take up such jobs in the urban area in one trip, since there is a lack of coupling travelling arrangements, the situation cannot be improved at once.

The Government can provide the ERB with travelling allowances for the benefit of domestic helper trainees so that they do not have to worry about travelling expenses. In the past, the ERB considered providing such subsidy as an Octopus card with a face value of \$500, unfortunately, the proposal ended up with nothing definite because the ERB lacked funding. In this respect, the Education and Manpower Bureau should consider increasing the funding of the ERB to enhance its services.

The Chief Executive has indicated that the key area of his administration in the next five years will be solving the unemployment problem and he would deliver in the first policy address in this Session. Looking back at the policy addresses of the past few years, a certain number of short-term posts were created every year, but all of them were temporary posts. Some of them were even created by dividing the existing posts for more people to take up; thus, it was merely a game of figures. I hope the Government would not include the posts to be created for the Disney theme park that would start operating in 2005, the Science Park and the Cyberport because these projects had been launched long ago. We need new job opportunities. I hope the Chief Executive would get rid of the drawback in the first policy address for his second term of office.

I so submit.

**MRS SOPHIE LEUNG** (in Cantonese): Madam President, I wish to continue to follow your advice and just stand up to speak my mind. Today, we have two motion debates, one of them is related to negative-equity property owners and the other to employment. Both topics have been proposed because everybody is in an abyss of suffering. Under such circumstances, I very much sympathize with the new Secretary because we are going to urge him to set a target for employment. What target for employment can he set while various industries are on the verge of destruction? Fortunately, in the current term, the SAR Government has expressed the hope that all government departments can work as a whole rather than each of them working independently. Some Members of this Council are Executive Council Members and they will discuss with other Executive Council Members how to face up to the future of Hong Kong, the approaches to be adopted and how to cope with transformation. I hope that they would come up with something new.



As I have drawn an analogy to setting off fireworks. It is definitely good to set off fireworks continuously, but if the fireworks are wet or there are other obstructing factors, or the tips of the fireworks are clogged with rolls of paper, the fireworks cannot be lit or set off. At present, various industries have encountered obstructions. Have all these obstructions been caused by bureaucracy? I do not think so.

I have also said that, at the end of the 1980s, we actually had a lot of opportunities for transformation but the Government and the people overlooked the good opportunities for transformation. I would not talk about that any more and I only wish to give a very simple example. Nowadays, everybody says that we have to support industries and I only wish to discuss the garment industry. We have been smeared and discredited for more than a decade, dismissed as a sunset industry. And some even said that we were unscrupulous employers. But nowadays, we are still making a net profit of \$85 billion a year for Hong Kong. Without the protection of a quota after the year 2004-05, if we continue to actively discredit the industry, we have to say bye bye to this \$85 billion. At that time, the condition of negative equity and a low employment rate would be a few times more miserable than that today. Should the people bear responsibilities? Should Members who have been sitting in this Chamber since 1980 or have sat in this Chamber before and after the period bear responsibilities? They are equally responsible. Madam President, I am sorry, but I really think that they are equally responsible.

I have asked here if we should revitalize the industries. What special arrangements should we make in the face of competition in the world market? Although we are not asking the Government or the market to help, and we have made various proposals, all our proposals have met with cold walls despite the competition we have to face. I am not seeking to square the accounts. I only wish to say that they are the rolls of paper that clogged the tips of the fireworks. Though they are not stones but rolls of paper, the rolls of paper have done bad deeds out of good intentions.

I am very pleased that in the last couple of months, many colleagues have talked about the border industrial zone again. I hope that we would be able to negotiate among ourselves a good way to handle this matter in the next Legislative Session. However, we should not forget that we must focus our consideration on manpower, that is, the comprehensive arrangement for workers, in our discussions about the border industrial zone. Without the comprehensive

arrangement, even though Hong Kong people want employment, they would not be able to grasp the opportunity, needless to say the continuation of industries.

A motion debate in this Council over the matter would not be binding and we can only express our views. So long as we continue to repeatedly discuss the matter at our meetings year after year, I can tell Members that the so-called unscrupulous employers, rich and capable, would certainly develop elsewhere and their capital would not be bound in Hong Kong. If they do not have the necessary manpower, or if the manpower fails to enter Hong Kong, their capital would flow elsewhere, which is true. We cannot put the blame on the northward relocation of industries in the 1980s and 1990s. After the massive northward relocation, there are still a lot of industries in Hong Kong. The sector has made great efforts, but if we are really concerned about the negative-equity property owners in Hong Kong, people in an abyss of sufferings and job opportunities, and that everybody should work and live well in dignity, we have to consider matters from this angle indeed.

In respect of industries, we have to pay attention to the world market. Today, many colleagues have suggested that we may as well look north and get some advantages first. I also agree that it is one of the 10 ways, but not the only way. The world market is enormous and we should compete in the world market. If we do not take part in the competition in the world market today, then after China's accession to the World Trade Organization, we would be as competitive as the Mainland; but we would be far less competitive when we compete against the world. We would then say that we have lost another opportunity of paradigm shift. Whom can we complain tearfully to and scold then?

Madam President, I wish to make another point. We also need good labour relations rather than having employers and employees confronting each other. Whenever I raise this point, I hear and come across the same case just as when we discussed the civil service pay reduction two days ago. Actually, I wish to call upon the civil servants to set a good example of good labour relations and to make their requests frankly. Both the Government and civil servants have to face one another frankly and sincerely.

Thank you, Madam President.

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

**MISS EMILY LAU** (in Cantonese): Madam President, I would answer your call for not speaking from a prepared speech. In fact, I have been doing this since 1991 and I also hope that other Members, with the exception of the Secretaries certainly, would not speak from a speech drafted beforehand. It is because the Secretaries have to brief us on government policies.

I support Mr CHEUNG Man-kwong's motion on giving priority to resolving the unemployment problem. I hope the Government would not only give priority to resolving the unemployment problem but also respond to people's appeal, the appeal that they should elect their Government, and this matter should absolutely be given priority. Therefore, people who criticize that we only talk about people's livelihood but not democracy are insulting our wisdom, and it is not the position of the Frontier. Therefore, we think that priority should definitely be given to making people the masters of their own affairs. However, we are certainly concerned about such a high unemployment rate and the fact that more than 200 000 people are unemployed. Many colleagues have already expressed their views, and I agree with some of them but disagree with some others. Yet, I do not wish to repeat these points.

Dr YEUNG Sum has just referred to the experience of Taiwan and how Taiwan gathers together people from different political groups to discuss and study matters. The merit is that all political groups have participated unless the negotiations break down. But so long as discussions have been conducted, regardless of the outcome, people from different sectors, for instance, bosses like Mrs Sophie LEUNG who vented her grievances and Mr LEE Cheuk-yan and Mr CHAN Kwok-keung who took part in the labour movement would have debates or arguments in the process, and they would reach a consensus in the end. During the past few months, the eight parties have reached a consensus after such discussions. Although discussions about political affairs are difficult, we have jointly urged the Government on two occasions to expeditiously conduct consultations on the political system and we have also discussed economic affairs. During our discussions, we understood that we had to compromise on certain issues and the result would not be as described by the Chief Secretary for Administration who said that he did not declare certain matters in the Legislative Council because there would be adverse comments. Would there be adverse comments on the result if all of us came up with an idea and agreed on it? We would also market the result together. Secretary Joseph WONG said yesterday that though we felt sorry about reducing civil service pay, he would meet

political parties and Members within the next two months to discuss the matter. I also hope that Secretary Stephen IP would also meet the representatives of various bodies. However, he would only meet the representatives of various bodies one by one. Would the parties be able to compromise if they could gather together in a suitable environment and make some proposals? Would they be able to negotiate matters? I think we can take this into consideration.

Madam President, sometimes, we may object to certain matters but we have to do something at a certain stage when we became aware that many people are affected under adverse circumstances. Yesterday, a university published a survey report, indicating that more than 400 000 households in Hong Kong have a monthly income of barely more than \$3,000 and are living below the poverty line standard. We do not wish to see such factors that would lead to social instability. I would be so ashamed if people are so poor that they have to get up at 3 am to 4 am every morning to pay \$1 for a catty of vegetables for four meals. Hong Kong ranks high in terms of the Gross National Product but the wealth is mainly in the pockets of a small group of people. Yet, even the rich have to worry if society is unstable. Of course, I am not threatening and everybody and all governments should understand such a simple theory.

Actually, many people have made many proposals. So what we have to do now is to study how these proposals should be put together to produce results so that the Chief Secretary for Administration would no longer say that there would be an adverse response to whatever he says. If we have participated in the study and made compromises, why would the result not work?

Nevertheless, some have remarked that it would not be necessary to do so because there is a ruling coalition. However, can we rely on the ruling coalition when some of them had gone for a meal instead of voting? I do not wish to sow discord among anybody but, if possible, we hope that there would not be very divergent views on everything. In respect of ideology, especially in respect of economic affairs, some may propose spending \$1 billion while others propose spending \$200 million to \$300 million, why can we not take the middle course and adopt \$450 million? Thus, I feel we should get together for a study and act only after an outcome has been reached. For Mr TUNG Chee-hwa and the executive authorities, it is more important for all groups to reach a consensus and bear responsibilities together. Hence, we are going to test Secretary Stephen IP and see if he has the wisdom.

I would also like to make another point. Madam President, many colleagues think that I should discuss the Enhanced Productivity Programme (EPP). Over the meal just now, Mr Albert HO also asked me to discuss the EPP. Truly, I support the EPP and I agree that the Government should achieve internal savings, if possible. However, at this stage, I think we may have to be careful. A few days ago, I had a discussion with Secretary Stephen IP and I am saying it again now. At a meeting of the Panel on Information Technology and Broadcasting, we said that the Government's Electronic Services Delivery Scheme had achieved very good results and higher efficiency. How much can be saved every year? Madam President, it can save \$400 million and the notional savings exceed \$1 billion. Where did the savings come? It would certainly come from employees. How many posts would be deleted? Although I support the EPP and attaining higher efficiency, I think that we have to be careful at this stage. I think it is unacceptable to delete posts and increase the unemployment rate in order to save \$400 million. I am not making a U-turn, but we have to make a rational analysis of certain matters. The Government may be overstaffed and I hope that the Secretary and other Secretaries would tackle the matter. However, it is unsatisfactory for it to blindly go after saving \$400 million and achieving the objectives of electronic services delivery. Actually, people sometimes dislike calling up government departments only to find that their calls are answered by a communication system instructing them to press 1, 2, 3 and 4. I wish that this aspect would be taken into consideration, but it is most important for the Government to be sincere. Many people in the community wish to participate in discussions about how to fight our way out of difficulties.

Madam President, I so submit.

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

(No Member responded)

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong, you may now speak on Mr Tommy CHEUNG's amendment.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, this is the last motion debate in this Session and I hope that the Session would conclude in relatively peaceful discussions.

Mr Tommy CHEUNG of the Liberal Party has earlier indicated that he does not support the motion proposed by me. One of the very important reasons is that he thinks I wish to set a rigid unemployment target, a boom or bust target. This mentality is not good. Mr YEUNG Yiu-chung has also made the point that we actually wanted to "topple Mr TUNG's Administration" when we play politics in respect of the unemployment problem.

I wish to tell Honourable colleagues that the unemployment problem has always been related to the economic and political affairs. When an election is held for many elected governments, every political party that wishes to become the ruling party would show concern for the unemployment problem and lowering the unemployment rate. Is there any problem for Mr TUNG to make solving the unemployment problem an item on his political agenda in the face of a 7.4% or even higher unemployment rate?

The Democratic Party has put forward this political issue and requested the TUNG Chee-hwa Administration to set a target for reducing the unemployment rate and achieving full employment. Indeed, it is a political and economic issue. What is the point of evading? The government party, the ruling coalition, fears setting a specific target for full employment and that the TUNG Chee-hwa Administration would have to step down if it fails to achieve the target. It is another political issue, but I do not think there is any problem. The government party's role is defending the TUNG Chee-hwa Administration. Since it is a part of the ruling coalition, there is definitely no problem. The key lies in what the people think.

Mr TUNG Chee-hwa has said that he thinks about the unemployment problem even in his dreams. People have nightmares every night as a result of the unemployment problem. I hope Mr TUNG Chee-hwa would help them solve the problem so that they would get a job as long as they make efforts. It is most natural for the community to long for the realization of full employment. The Democratic Party has proposed this motion related to full employment today in order to realize the target of full employment. Mr Donald TSANG has mentioned 3%, but we may not necessarily agree with the rate he mentioned. I agree with Mr LEUNG Fu-wah that the figure is open to discussion. What should be the target of such a mature capitalistic society as Hong Kong? The target in Taiwan is 4%. Can we decide a rate through discussions? Can our political parties discuss the matter with the Government and set a target to be achieved by everybody making their best efforts? This is a virtuous interaction

between political parties and the Government that the public would like to see, which should not be feared or evaded.

Lastly, I would like to respond to a point made by Mr YEUNG Yiu-chung. He has said that the idea of giving priority to employment was actually proposed by the Hong Kong Federation of Trade Unions. The Democratic Party has picked up phrases from another person and passed them off as theirs in making the proposal again. However, does that really matter? I wish to tell a story. Two seriously short-sighted persons had a quarrel about whether "giving priority to employment" is written as "就業優先" or "優先就業" on a board on a distant building. When they almost started fighting because of the argument, a third person asked them why they had to argue because the board had not been hung yet. Since the board with "就業優先" or "優先就業" written on it has not yet been hung, it does not matter who has made the point first. Even if we have prophetic vision, we have to hang up this board in the end. The board would become the objective of the community's struggle, is it not good to set a target that is acceptable to all? Therefore, this Council should reflect the consensus of the public, make its best efforts to lower the unemployment rate and realize full employment. The target can be set at either 3% or 4%. Thank you, Madam President.

**SECRETARY FOR ECONOMIC DEVELOPMENT AND LABOUR** (in Cantonese): Madam President, I thank Honourable Members for their many valuable views on the issue of unemployment. Mr LEE Cheuk-yan is not in the Chamber now. He asked me earlier if I had dreams last night. The answer is no, because I did not sleep a wink last night.

Indeed, we are sincere about resolving the unemployment problem, and we have been making very active efforts to tackle the problem. Mr Albert HO said earlier that we were pessimistic. I thank him for giving me the opportunity to clarify that we are not in the least pessimistic. The fact is that we have been telling everyone not to be pessimistic. People who know me all understand that I am not a pessimist. Otherwise, I would not have accepted the challenge and taken up this position. I also thank Members for showing care and sympathy for my situation even though they had been giving me a lot of stick in the debate. Improving the employment situation is the first and foremost task of and an issue of the utmost concern to the Government of the Hong Kong Special Administrative Region (SAR). Just as the Chief Executive pointed out here in this Chamber a couple of days ago, it is the collective responsibility of the Chief

Executive, the three Secretaries of Departments and the 11 Bureau Directors to tackle unemployment. We will certainly work wholeheartedly and do the best that we can to tackle unemployment.

I trust that Mr Henry WU is very concerned about his sector. But he should feel relieved now, for financial services are no longer within my purview. Now that I have taken up this new position, and since I believe both of us are similarly concerned about employment, there should not be any conflict between us in the future.

Miss LI Fung-ying urged me not to only listen to opinions but keep on toeing the old line. I will have further discussions with Miss LI Fung-ying and the Federation of Hong Kong and Kowloon Labour Unions later. I think this is something that we need to really sit down and discuss together. As a matter of fact, I have already arranged meetings with various trade unions; and I think the press may have reported this. We have taken immediate follow-up actions and some of the work is already in progress. This has actually answered to the comments made by Miss Emily LAU earlier on. I certainly believe that discussion is warranted, and I absolutely agree that there should be more of it. In the past 10 days, I have met with many organizations and trade unions. Such meetings have been arranged for tonight too and will continue in the following week. I entirely agree that this problem cannot be resolved by one single person or one single Policy Bureau. We need to draw on collective wisdom and listen to more opinions. As I have often said, it requires tripartite discussions and consultations to resolve the unemployment problem. That is, the Government, the labour sector and employers — and political parties, of course — must really sit down and talk. I have made lots of efforts in this regard in the past and I hope that more can be done in the future. Honourable Members and all quarters of the community must give us more opinions. Members have also spoke of the European Union, employment targets, and so on, and I shall come to these points later.

Before I respond to Members' views, perhaps I should give a brief account on the present unemployment situation in Hong Kong. What we are facing now is mainly a structural unemployment problem. As the economy restructures, our economic activities have gradually become knowledge-based and developed in the direction of high value-addedness and high technology. People who have a comparatively low level of skills and education attainment will find it more difficult to adapt to these changes.



In the meantime, we also face the pressure of cyclical unemployment. The impact of the Asian financial turmoil, the "September 11 incident" in the United States and the external economic downturn have led to continual downsizing of local enterprises and as a result, the demand for labour has become sluggish, pushing up the unemployment rate further.

Moreover, the total workforce has continued to grow. This is precipitated not only by the natural growth of our population, but also the arrival of new immigrants in the territory every year. In last year alone, the total workforce already recorded a growth of 1%. From now on until the next couple of months, several tens of thousands of graduates and school-leavers will be joining the labour market. Given that the overall demand for labour remains sluggish, I believe Members can expect the unemployment figures to be subject to pressures of rising soon. I wish to make it clear that this has nothing to do with whether or not we are pessimistic.

Mr CHEUNG Man-kwong proposed that the Government should achieve full employment within the next five years and that this should be made an indicator for determining whether the implementation of policies by the SAR Government is successful or not. Mr CHEUNG Man-kwong does not have to worry even though he took a "political tart" days ago, for I have not expected him to speak any less in return. I just hope he can talk sense.

Hong Kong is now subject to the double impact of economic restructuring and economic downturn. Added to this is the continued growth of the workforce. I believe Members know only too well whether it is possible for the Government to achieve full employment within a period of five years. Can the external economic conditions be improved in any way simply by relying on the implementation of policies by the Government, particularly as all of us have nowadays begun to be more cautious about the economy of the United States? Well, I think it would do no harm even if I reveal this: A Member of the Democratic Party told me that after hearing the wording of this motion, he found it hilarious. This Member can rest assured, for I am not going to disclose his name.

On the definition of full employment, different economies have different interpretations. The standard of full employment in different places also varies, owing to different degrees of flexibility in the structure of individual economies and in their labour markets. Even at times when the economy is thriving, definitely there will still be a certain number of people out of job in society.

Both Mr Andrew CHENG and Miss LI Fung-ying spoke of the policy on full employment of the European Union (EU). Miss LI Fung-ying said that the indicator of the so-called full employment in some EU countries has been set at a very low level. From the findings of studies released by the Organization of Economic Co-operation and Development, the full employment rate is 15% in Spain, 10% in Italy and 9% in France. In fact, the unemployment rate in these countries is still on the high side. In Germany and France, the figure hovers around 9%. Certainly, we do not have to use these figures as the base to determine the rate of full employment in Hong Kong. Nor do we have to use them as a defence.

Members have said that there is no absolute or single indicator for full employment. Mr CHEUNG Man-kwong's motion calls on the Government to achieve full employment in five years and adopt this as an indicator for determining whether the implementation of policies is successful or not. I consider this an unreasonable demand. In fact, the unemployment rate is affected by a diversity of factors, such as the economic structure, inflation, flexibility in the labour market, and so on, and many economic and social factors are neither predictable nor controllable by the Government. This is particularly the case with Hong Kong, which is a highly externally-oriented and market-led economy whose overall economic performance and unemployment figures are very much subject to external economic conditions. If we completely neglect the prevailing economic conditions and the structure of the labour market, and obstinately insist that full employment be achieved by the Government within five years, it would be unrealistic and unreasonable. It is all the more unfair to judge that the implementation of policies by the SAR Government is unsuccessful simply because of its failure to achieve full employment. Many Members pointed out earlier that it is unreasonable and irresponsible to set such a rigid indicator.

Madam President, I wish to emphasize that although we are aware that it is very difficult to achieve full employment within five years, we will certainly do our utmost to address the unemployment problem with great sincerity, and this will be our prime policy objective. The Chief Executive has said time and again that it is the responsibility of the entire SAR Government to resolve unemployment. All Policy Bureaux will be dedicated to working as a team to complement each other's efforts, doing their best to tackle this problem. Promoting employment will also be their prime consideration when formulating policies. In fact, many policy areas are inextricably linked with employment.

For instance, the Financial Secretary pointed out earlier that the development of local community economy and the cultural and sports sectors would create employment opportunities. The Secretary for Security also stated days ago the need to have regard for employment in considering the settlement of new immigrants in Hong Kong. The Secretary for Commerce, Industry and Technology will spare no effort to improve the business environment, encourage investment and create employment opportunities. Obviously, manpower training and retraining are closely related to employment.

In terms of strategy, it is most important for us to improve the business environment, bolster the competitiveness of Hong Kong, enhance the commercial viability of enterprises, encourage investment and increase job opportunities. The Government is actively "breaking down walls and untying strings", playing the role of a facilitator and co-ordinator, streamlining the rules and procedures, and providing basic support facilities, with a view to creating a business-friendly environment.

In the long term, we hope to create more employment opportunities by means of promoting the development of the economy as a whole. In this year's budget, the Financial Secretary has explicitly pointed out four economic sectors of particular importance, namely, financial services, logistics, tourism, and producer and professional services. We will vigorously promote the development of these four economic sectors, with a view to creating more employment opportunities. In the meantime, we will strengthen our economic ties with the Mainland, particularly the Pearl River Delta, as suggested by Members earlier, in order to make the advantages of the two places complementary for reciprocal benefits and hence create more job opportunities.

Apart from developing high value-added economic activities, the Government will vigorously promote the development of local community economy in order to create more employment opportunities for various sectors of the community. The Home Affairs Bureau is currently working with District Councils and various quarters of the districts to see how the resources of different districts can be fully utilized for the promotion of local community economy.

On the other hand, to facilitate the economic restructuring of Hong Kong and avoid mismatch of human resources, the Government is heavily investing in

basic and tertiary education and actively promoting education reforms, so as to train talents required by the community. In respect of vocational education and training, the Government has decided to set up the Manpower Development Committee in the hope that vocational education and training efforts can be co-ordinated and monitored more effectively, so as to cope with the ever changing demand for human resources. The Chief Executive has also stated that a comprehensive population policy will be formulated this year to meet the needs of the social and economic development of Hong Kong in the long term while looking after the interests of all quarters of the community.

These are just a few examples to show that we need the concerted efforts of all Policy Bureaux to resolve the employment problem. All the Policy Bureaux concerned certainly have a lot to do. Members have also made many suggestions during the debate, such as providing support to industries or the green industries, and so on. The relevant Policy Bureaux will, of course, consider and follow up these suggestions to see how we can create more jobs. Certainly, the Chief Executive will explain the specific policies on tackling unemployment in the policy address.

While we cannot rely on one or two measures to completely resolve the unemployment problem in the short term, the various Policy Bureaux and departments of the Government will definitely work with Honourable Members, trade unions and employers' organizations wholeheartedly to resolve unemployment with new thinking. We will continue to widely consult the various sectors of the community to listen to their views. As I have just said, in the past week, Mr Matthew CHEUNG and I have visited many trade unions, and we will continue to arrange meetings with trade associations, employers' organizations and political parties, hoping to draw on collective wisdom and formulate all-round, multi-layered employment strategies.

Madam President, we will address the problem of unemployment in a pragmatic manner. In this connection, I hope that Honourable Members can adopt an open attitude towards the proposals, just as we do. Regarding the proposals made by trade unions and political parties on the creation of jobs, the various Policy Bureaux of the Government will actively study them and follow them up. We will consider these proposals from a new perspective and handle them with flexibility. We will not let slip each single opportunity to improve the employment situation.

Finally, I wish to respond to Mr Tommy CHEUNG's amendment. Let me stress again that all Policy Bureaux will definitely address the problem of unemployment as a priority task, making the promotion of employment and reduction of the unemployment rate their prime objectives. Like Honourable Members, we certainly hope that in the long run, full employment can be achieved in Hong Kong some day. But in view of the double impact of economic restructuring and economic downturn now faced by Hong Kong, I believe it is utterly difficult to achieve this objective in the next few years. Having said that, however, we need not be pessimistic, and we should endeavour to create employment opportunities with a positive and pragmatic attitude. Our objective is to create employment opportunities on all fronts; if one more person can land a job, then there is one more employed person. To reduce the unemployment rate, we must not lose sight of this: if there is one less jobless person, then there is one less person who is unemployed.

Madam President, Hong Kong has experienced many difficulties and challenges before, and we have been able to ride out the storm in concert every time with unrelenting perseverance and resilience and the spirit to adapt to changes flexibly. Today, although we are faced with a high unemployment rate, with the concerted efforts of the Government and the community, and as long as we join hands to weather the storm, I think we can certainly overcome all the difficulties again. Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr Tommy CHEUNG to Mr CHEUNG Man-kwong's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for 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, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr CHAN Kwok-keung, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Miss LI Fung-ying, Mr Henry WU, Mr Tommy CHEUNG, Mr LEUNG Fu-wah, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted for the amendment.

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr Michael MAK voted against the amendment.

Geographical Constituencies and Election Committee:

Mr CHAN Kam-lam, Mr Andrew WONG, Mr LAU Kong-wah, Miss CHOY So-yuk, Dr TANG Siu-tong, Ms Audrey EU, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah, Mr Albert CHAN and Mr WONG Sing-chi 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, 24 were present, 20 were in favour of the amendment and four against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 11 were in favour of the amendment and 11 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 CHEUNG Man-kwong, you may now reply and you have 51 seconds.

**MR CHEUNG MAN-KWONG** (in Cantonese): Madam President, there is no such thing as a free egg tart on earth. Since I have eaten Secretary Stephen IP's political egg tart, I must today "eat a politic dead cat"<sup>1</sup>. I can remember that Secretary Stephen IP told me very clearly last time that even someone in the democratic camp had mocked at our motion, and he even told me the name of that person — Miss Emily LAU. I do not know whether that is true. *(Laughter)* I once asked members of the Democratic Party, but no one admitted having said anything to this effect. Anyway, it does not matter, for this is nothing but "divide and rule".

Time is running out, so the only thing I can say is that the motion topic today is giving priority to employment, but many Members are already in holiday mood, giving priority to holidays. Anyway, before the summer break, let me advise the numerous unemployed people that in these times of difficulties, priority should always be given to optimism and hope. Thank you, Madam President.

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

(Members raised their hands)

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<sup>1</sup> "To eat a dead cat" as a Cantonese colloquialism means to be forced to admit a mistake and so on when one thinks that one should actually not be held responsible.

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

(Members raised their hands)

Mr CHEUNG Man-kwong rose to claim a division.

**PRESIDENT** (in Cantonese): Mr CHEUNG Man-kwong has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please to 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:

Miss Margaret NG, Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr Michael MAK voted for the motion.

Mr Kenneth TING, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mr Bernard CHAN, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr Howard YOUNG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Henry WU, Mr Tommy CHEUNG, Dr LO Wing-lok, Mr IP Kwok-him and Mr LAU Ping-cheung voted against the motion.

Mr CHAN Kwok-keung, Miss LI Fung-ying and Mr LEUNG Fu-wah abstained.

Geographical Constituencies and Election Committee:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Martin LEE, Mr Fred LI, Mr James TO, Dr YEUNG Sum, Miss Emily LAU, Mr Andrew CHENG, Mr SZETO Wah,



Mr Albert CHAN, Mr WONG Sing-chi and Ms Audrey EU voted for the motion.

Mr CHAN Kam-lam, Mr Andrew WONG, Mr LAU Kong-wah, Miss CHOY So-yuk, Dr TANG Siu-tong, Dr David CHU, Mr NG Leung-sing, Mr YEUNG Yiu-chung, Mr Ambrose LAU and Mr MA Fung-kwok voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, four were in favour of the motion, 17 against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 23 were present, 12 were in favour of the motion and 10 against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

## END OF SESSION

**PRESIDENT** (in Cantonese): Honourable Members, this long meeting spanning three days has finally come to an end. I must thank the several Members who passed a note to me, wishing me a happy vacation in the summer. I too would like to wish Members a happy vacation, but I know that you cannot really go on holiday now, as you still have a Finance Committee meeting next week. I must thank Members for their hard work during this Session. I hope you can all face the future with a light heart.

I now adjourn the Council. As for the date of resumption, if the Chief Executive publishes by virtue of the Legislative Council Ordinance a notice in the Gazette that the 2002-03 Legislative Council Session shall commence in October, the first meeting of the Session will be held at 2.30 pm on 9 October 2002.

(Members knocked on their tables in response)

*Adjourned accordingly at eleven minutes past Seven o'clock.*

## UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
2	<p>(a) In subclause (1) -</p> <p style="padding-left: 40px;">(i) by deleting the definition of "authorized officer";</p> <p style="padding-left: 40px;">(ii) in the definition of "funds", by deleting "Schedule 1" and substituting "the Schedule";</p> <p style="padding-left: 40px;">(iii) by deleting the definition of "property";</p> <p style="padding-left: 40px;">(iv) by deleting the definitions of "terrorist act" and "terrorist associate" and substituting -</p> <p style="padding-left: 80px;">""terrorist act" (恐怖主義行為) -</p> <p style="padding-left: 40px;">(a) subject to paragraph (b), means the use or threat of action where -</p> <p style="padding-left: 80px;">(i) the action (including, in the case of a threat, the action if carried out) -</p> <p style="padding-left: 120px;">(A) causes serious violence against a person;</p>

ClauseAmendment Proposed

- (B) causes serious damage to property;
- (C) endangers a person's life, other than that of the person committing the action;
- (D) creates a serious risk to the health or safety of the public or a section of the public;
- (E) is intended seriously to interfere with or seriously to disrupt an electronic system; or
- (F) is intended seriously to interfere with or seriously to disrupt an essential service, facility or system, whether public or private; and

ClauseAmendment Proposed

(ii) the use or threat is -

(A) intended to compel the Government or to intimidate the public or a section of the public; and

(B) made for the purpose of advancing a political, religious or ideological cause;

(b) in the case of paragraph (a)(i)(D), (E) or (F), does not include the use or threat of action in the course of any advocacy, protest, dissent or industrial action;

"terrorist associate" (與恐怖分子有聯繫者) means an entity owned or controlled, directly or indirectly, by a terrorist;"

(v) by deleting the definition of "weapons" and substituting -

"weapons" (武器) includes -

(a) chemical, biological, radiological or nuclear

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weapons and their precursors;

(b) any arms and related material (including ammunition, military vehicles, military equipment and paramilitary equipment); and

(c) any components of any arms and related material mentioned in paragraph (b).";

(vi) by adding -

""Committee" (聯合國委員會) means -

(a) the Committee of the United Nations Security Council established pursuant to the United Nations Security Council Resolution 1267 of 15 October 1999; or

(b) any other committee -

(i) of the United Nations;

(ii) established pursuant to a United Nations Security Council Resolution made, or a United Nations

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Convention which has entered into force, after 15 October 1999; and

- (iii) the function of which, in whole or in part, is to designate persons or property as terrorists, terrorist associates or terrorist property, as the case may be;

"items subject to legal privilege" (享有法律特權的品目) has the same meaning as in section 2(1) of the Organized and Serious Crimes Ordinance (Cap. 455);

"prescribed interest" (訂明權益), in relation to any property, means an interest in the property prescribed by rules of court as an interest for the purposes of this Ordinance;"

- (b) By adding -

"(4) For the purposes of this Ordinance, a person who has a prescribed interest in any property shall be deemed to be a person by, for or on behalf of whom the property is or was held.

- (5) Nothing in this Ordinance shall -

- (a) require the disclosure of any items subject to legal privilege;

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- (b) authorize the search or seizure of any items subject to legal privilege; or
- (c) restrict the privilege against self-incrimination.

(6) Without prejudice to the powers of the Court of First Instance under the Rules of the High Court (Cap. 4 sub. leg.), the Court of First Instance may of its own motion or on application order that any person who may be affected by an application -

- (a) under section 4A in the case of an application under section 4A(1) made inter partes; or
- (b) under section 13, 16 or 16A,

be joined as a party to the proceedings.

(7) For the avoidance of doubt, it is hereby declared -

- (a) that section 14 of the High Court Ordinance (Cap. 4) shall apply to any judgment or order of the Court of First Instance arising from proceedings -
  - (i) under section 4A in the case of an application under section 4A(1) made inter partes; or
  - (ii) under section 13, 16 or 16A;

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- (b) the provisions of this Ordinance shall be subject to the operation of Part XII of the Interpretation and General Clauses Ordinance (Cap. 1).".

4

By deleting the clause and substituting -

**"4. Specification by Chief Executive of persons and property as terrorists, terrorist associates or terrorist property**

(1) Where a person is designated by the Committee as a terrorist, the Chief Executive may publish a notice in the Gazette specifying the name or names of the person.

(2) Where a person is designated by the Committee as a terrorist associate, the Chief Executive may publish a notice in the Gazette specifying the name or names of the person.

(3) Where any property is designated by the Committee as terrorist property, the Chief Executive may publish a notice in the Gazette specifying the property.

(4) For the avoidance of doubt, it is hereby declared that a notice under subsection (1), (2) or (3) is not subsidiary legislation.

(5) For the purposes of this Ordinance, it shall be presumed, in the absence of evidence to the contrary, that

-



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- (a) a person specified in a notice under subsection (1) is a terrorist;
  - (b) a person specified in a notice under subsection (2) is a terrorist associate;
  - (c) property specified in a notice under subsection (3) is terrorist property.
- (6) Where -
- (a) a person or property is specified in a notice under subsection (1), (2) or (3), as the case may be; and
  - (b) the person or property ceases to be designated by the Committee as a terrorist, terrorist associate or terrorist property, as the case may be,
- then -
- (c) immediately upon the occurrence of that cesser, the notice shall be deemed to be revoked to the extent that it relates to the person or property, as the case may be; and
  - (d) the Chief Executive shall, as soon as is practicable and for information purposes, publish a notice in the Gazette stating that the first-mentioned notice has been revoked to the extent that it relates to the person or property, as the case may be (or words to the like effect).

ClauseAmendment Proposed**4A. Specification by Court of  
First Instance of persons  
and property as terrorists,  
terrorist associates or  
terrorist property**

(1) The Chief Executive may make an application to the Court of First Instance for an order to specify -

- (a) the person the subject of the application as a terrorist or terrorist associate; or
- (b) the property the subject of the application as terrorist property.

(2) Where an application is made under subsection (1), the Court of First Instance shall only make the order sought by the application if it is satisfied that the person or property the subject of the application is a terrorist, terrorist associate or terrorist property, as the case may be.

(3) The Chief Executive shall cause an order under subsection (2) to be published in the Gazette.

(4) Where an order under subsection (2) is published in the Gazette, then, subject to section 16(3)(a), for the purposes of this Ordinance, it shall be presumed, in the absence of evidence to the contrary, that -

- (a) a person specified in the order as a terrorist is a terrorist;
- (b) a person specified in the order as a terrorist associate is a terrorist associate;

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- (c) property specified in the order as terrorist property is terrorist property.

(5) Where -

- (a) a person or property is specified in an order under subsection (2) published in the Gazette; and
- (b) the Chief Executive receives information which causes him to have reasonable grounds to believe that the person or property is not, or is no longer, a terrorist, terrorist associate or terrorist property, as the case may be,

then the Chief Executive shall, as soon as is practicable, make an application to the Court of First Instance for the order to be revoked to the extent that it relates to the person or property, as the case may be.

(6) The Court of First Instance shall grant an application under subsection (5).

(7) Where -

- (a) a person or property is specified in an order under subsection (2) published in the Gazette; and
- (b) the Court of First Instance has granted an application -
  - (i) under subsection (6) which relates to the person or property, as the case may be; or

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- (ii) under section 16(3)(b) which relates to the person or property, as the case may be,

then the Chief Executive shall, as soon as is practicable, cause a notice to be published in the Gazette specifying that the order has been revoked to the extent that it relates to the person or property, as the case may be.

(8) An order under subsection (2) published in the Gazette which has not been revoked in its entirety by virtue of the granting of an application under subsection (6) or section 16(3)(b) shall expire on the 2nd anniversary of the date of its publication in the Gazette.

(9) For the avoidance of doubt, it is hereby declared that an application under subsection (1) shall be made inter partes except where the application falls within the circumstances specified in rules of court made for the purposes of this section."

- 5 (a) In subclause (1), by deleting "for the purposes of this section".
- (b) By deleting subclauses (3) and (4) and substituting -

"(3) Subject to subsection (3A), a notice under subsection (1) which has not been revoked under subsection (2) shall expire on the 2nd anniversary of the date on which it was signed by the Secretary.

(3A) Where an application under section 13 has been made to the Court of First Instance -

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- (a) in respect of funds, or part thereof, specified in a notice under subsection (1); and
- (b) before the expiration of the notice under subsection (3),

then, subject to subsection (2), the notice shall not expire in relation to the funds, or part thereof, as the case may be, until the date, if any, on which -

- (c) proceedings relating to the application (including proceedings relating to any appeal) are no longer pending; and
- (d) the funds, or part thereof, as the case may be, have not been forfeited in consequence of those proceedings.

(3B) Where a notice under subsection (1) has been revoked under subsection (2) or has expired under subsection (3) or (3A), the Secretary shall not again exercise the power under subsection (1) in respect of the funds specified in the notice unless there has been a material change in the grounds in respect of which the Secretary proposes to again exercise that power in respect of the funds.

(4) For the avoidance of doubt, it is hereby declared that the revocation under subsection (2), or the expiry under subsection (3) or (3A), of a notice under subsection (1) shall not affect the

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application of section 7 to the funds which were specified in the notice."

7 By deleting "for the purposes of this section".

9 By deleting the clause and substituting -

**"9. Prohibition on recruitment,  
etc. to bodies of persons  
specified in notices under  
section 4(1) and (2) or  
orders under section 4A(2)**

(1) A person shall not -

(a) recruit another person to become a member of; or

(b) become a member of,

a body of persons (including individuals), whether corporate or unincorporate, who the first-mentioned person knows or has reasonable grounds to believe is specified in a notice under section 4(1) or (2), or specified in an order under section 4A(2), published in the Gazette.

(2) Where a person is a member of -

(a) a body of persons (including individuals), whether corporate or unincorporate, specified in a notice under section 4(1) or (2) published in the Gazette; or

ClauseAmendment Proposed

- (b) a body of persons (including individuals), whether corporate or unincorporate, specified in an order under section 4A(2) published in the Gazette,

immediately before the date of its publication in the Gazette, then the first-mentioned person shall, as soon as is practicable after that date, take all practicable steps to cease to be such a member."

- 11 (a) In subclause (1), by deleting "has reasonable grounds to suspect" and substituting "suspects".

- (b) By adding -

"(3A) In the case of a person who was in employment at the relevant time, this section shall have effect in relation to disclosures to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as it has effect in relation to disclosures to an authorized officer."

- (c) In subclause (4), by deleting "has reasonable grounds to suspect that a disclosure has been made under subsection (1)" and substituting "suspects that a disclosure has been made under subsection (1) or (3A)".

- (d) By adding -

"(5) In this section, "authorized officer" (獲授權人員) means a public officer authorized in writing by the Secretary for the purposes of this section."

<u>Clause</u>	<u>Amendment Proposed</u>
Part 5	In the heading, by deleting "EVIDENCE,".
12	By deleting the clause.
13	(a) In subclause (4), by deleting "on the balance of probabilities" and substituting "the standard of proof applicable to civil proceedings in a court of law".  (b) In subclause (5), by deleting "17(3)" and substituting "18(3)".
14	(a) In subclause (3), by adding ", without reasonable excuse," after "who".  (b) By deleting subclauses (8), (9) and (10).
15	(a) By deleting the heading and substituting " <b>Delegations</b> ".  (b) By deleting subclause (1).  (c) In subclauses (2) and (3), by deleting "person, or class or description of persons" and substituting "public officer, or class or description of public officers".
16	By deleting the clause and substituting -  <b>"16. Applications to Court of First Instance</b>  (1) Where -



ClauseAmendment Proposed

- (a) an application under section 4A(1) has been made ex parte and in consequence thereof an order under section 4A(2) has been published in the Gazette, then -
- (i) any person specified in the order, or any person acting for or on behalf of the person so specified, may at any time make an application to the Court of First Instance for the order to be revoked to the extent that it relates to the person so specified;
  - (ii) any person by, for or on behalf of whom any property specified in the order is held, or any other person in respect of whom the Court of First Instance is satisfied that the person is affected by the order, may at any time make an application to the Court of First Instance for the order to be revoked to the extent that it relates to the property so specified;
- (b) a notice has been given under section 5(1), then any person by, for or on behalf of whom any funds specified in the notice are held, or any other person in respect of whom the Court of First Instance is satisfied that the person is affected by the notice, may at any time make an application to the Court of First Instance for the notice to be revoked to the extent that it relates to the funds so specified.

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(2) A person who makes an application under subsection (1) shall give a copy of the application (and an affidavit, if any, and other relevant documents, if any, in support) -

- (a) to the Secretary for Justice and, in the case of an application under subsection (1)(a)(ii) or (b), to any other person by, for or on behalf of whom the property or funds concerned is or are held; and
- (b) not later than 7 days before the date fixed for the hearing of the application or such shorter period as the Court of First Instance may permit pursuant to rules of court.

(3) On an application under subsection (1) -

- (a) in the case of an application under subsection (1)(a)(i) or (ii), the presumption mentioned in section 4A(4) shall not be applicable, whether for the purposes of the proceedings or otherwise, immediately upon the initiation of the proceedings and until the conclusion of the proceedings (including the conclusion of any appeal arising out of the proceedings); and
- (b) the Court of First Instance shall grant the application unless -
  - (i) where subsection (1)(a)(i) is applicable, the Court of First Instance is satisfied that the person specified in the order

ClauseAmendment Proposed

concerned under section 4A(2) is a terrorist or terrorist associate, as the case may be;

(ii) where subsection (1)(a)(ii) is applicable, the Court of First Instance is satisfied that the property specified in the order concerned under section 4A(2) is terrorist property;

(iii) where subsection (1)(b) is applicable, the Court of First Instance is satisfied that there are reasonable grounds to suspect that the funds specified in the notice concerned under section 5(1) are terrorist property.

(4) An application for -

(a) the grant of a licence mentioned in section 5(1) or 7 may be made by any person affected by the operation of that section; or

(b) the variation of a licence mentioned in section 5(1) or 7 may be made by any person affected by the licence.

(5) A person who makes an application under subsection (4) shall give a copy of the application (and affidavit, if any, and other relevant documents, if any, in support) -

(a) to the Secretary for Justice and to any other person affected by the operation

ClauseAmendment Proposed

concerned of section 5(1) or 7, or the licence concerned, as the case may be; and

- (b) not later than 7 days before the date fixed for the hearing of the application or such shorter period as the Court of First Instance may permit pursuant to rules of court.

(6) The Court of First Instance shall not grant an application under subsection (4) unless it is satisfied that it is reasonable in all the circumstances of the case to do so.

(7) Where -

- (a) proceedings relating to an application under subsection (4)(including proceedings relating to any appeal) are no longer pending; and

- (b) the licence to which the application relates -

- (i) is, or is still, required to be granted; or

- (ii) is, or is still, required to be varied,

as the case may be,

then the Secretary shall, as soon as is practicable, cause the licence to be granted or varied, as the case may be, accordingly.

ClauseAmendment Proposed**16A. Compensation**

(1) Subject to subsection (2), where -

(a) a person has ceased to be specified as a terrorist or terrorist associate under section 4A(2); or

(b) property has ceased to be -

(i) specified as terrorist property under section 4A(2); or

(ii) specified in a notice under section 5(1),

then the Court of First Instance may, on application by -

(c) in the case of paragraph (a), the person who was so specified, or any person acting for or on behalf of the person who was so specified;

(d) where paragraph (b) is applicable, any person by, for or on behalf of whom the property that was so specified is held,

order compensation to be paid by the Government to the applicant if, having regard to all the circumstances, it considers it appropriate to make such an order.

(2) The Court of First Instance shall not order compensation to be paid under subsection (1) unless it is satisfied -

(a) where subsection (1)(a) is applicable, that at no time when the person

ClauseAmendment Proposed

concerned was specified as a terrorist or terrorist associate under section 4A(2) was the person either a terrorist or terrorist associate;

- (b) where subsection (1)(b) is applicable, that at no time when the property was specified as terrorist property under section 4A(2), or was specified in a notice under section 5(1), as the case may be, was the property terrorist property;
- (c) that there has been some serious default on the part of any person concerned in obtaining the relevant specification under section 4A(2) or 5(1); and
- (d) the applicant has, in consequence of the relevant specification and the default mentioned in paragraph (c), suffered loss.

(3) The amount of compensation to be paid under this section shall be such as the Court of First Instance thinks just in all the circumstances of the case."

17, 18 and 19 By deleting the clauses and substituting -

**"17. Regulations**

(1) The Secretary may make regulations for the purposes of enabling persons to be prohibited from dealing with any property (other than funds) -

ClauseAmendment Proposed

- (a) that the Secretary has reasonable grounds to suspect is terrorist property; and
  - (b) except under the authority of a licence granted by the Secretary for the purposes of the regulations.
- (2) The Secretary may make regulations for the purposes of -
- (a) facilitating the obtaining of evidence and information for the purpose of securing compliance with or detecting evasion of this Ordinance;
  - (b) facilitating the obtaining of evidence in relation to the commission of an offence under this Ordinance; and
  - (c) enabling property suspected of being terrorist property to be seized and detained while its origin or derivation is further investigated or consideration is given to the institution (whether in the HKSAR or elsewhere) of proceedings -
    - (i) against any person in relation to an offence with which the property is connected; or
    - (ii) which may result in the property being specified in a notice under section 5(1) or which may result in the forfeiture or other confiscation of the property.

ClauseAmendment Proposed

(3) The Secretary may make regulations for the purposes of authorizing public officers to perform functions or exercise powers under regulations made under this section.

(4) The Secretary may make regulations for the purposes of providing compensation to be paid, on grounds specified in the regulations, to a person who has suffered loss in consequence of any act done or omission made under regulations made under this section in respect of any property.

(5) Regulations made under this section may provide for applications to be made to, and orders to be made by, a magistrate or court for any purposes mentioned in subsection (1), (2) or (4).

(6) Regulations made under this section may -

(a) prescribe offences in respect of contraventions of the regulations (including contravention of any orders made under the regulations); and

(b) provide for the imposition in respect of any such offence of -

(i) on conviction on indictment, a fine and imprisonment for not more than 7 years;

(ii) on summary conviction, a fine at not more than level 6 and imprisonment for not more than 1 year.



ClauseAmendment Proposed

(7) Regulations made under this section shall be subject to the approval of the Legislative Council.

**18. Procedure**

- (1) Provision may be made by rules of court -
- (a) with respect to applications under -
    - (i) section 4A;
    - (ii) section 13;
    - (iii) section 16;
    - (iv) section 16A; or
    - (v) regulations made under section 17;
  - (b) without limiting the generality of paragraph (a), with respect to the circumstances in which applications mentioned in that paragraph shall be made ex parte;
  - (c) without limiting the generality of paragraph (a), with respect to expediting, on grounds specified in the rules, the hearing of applications mentioned in that paragraph;
  - (d) with respect to the division, conversion or disposal of property for the purposes of satisfying an order under section 13(1) to which the property is subject where -

ClauseAmendment Proposed

- (i) section 13(2) is applicable; and
  - (ii) the property is not readily divisible for those purposes;
  - (e) without limiting the generality of paragraph (a), prescribing interests for the purposes of the definition of "prescribed interest";
  - (f) generally with respect to the procedure under this Ordinance before any court.
- (2) Subsection (1) is without prejudice to the generality of any existing power to make rules.
- (3) Rules made under this section may -
- (a) state that they supersede, in whole or in part, any rules that apply to procedure under this Ordinance by virtue of section 13(5);
  - (b) for the purposes of reflecting a supersession mentioned in paragraph (a), amend section 13(5).

**19. Proceedings inter partes shall be held in open court unless otherwise ordered by the court**

- (1) Subject to subsection (2), proceedings inter partes in respect of applications mentioned in section 18(1)(a) shall be held in open court unless the court otherwise orders, upon application made by any party to

ClauseAmendment Proposed

the proceedings, that all or part of the proceedings shall be held in chambers or in camera.

(2) The court shall not make an order that proceedings mentioned in subsection (1) shall be held in chambers or in camera unless the court is satisfied that the order is reasonably necessary in the interests of -

- (a) the security, defence or external relations of the HKSAR; or
- (b) the administration of justice.

(3) In this section, "court" (法庭) includes a magistrate."

Schedule 1 By deleting -

"SCHEDULE 1 [ss. 2(1) & 18]"

and substituting -

"SCHEDULE [s. 2(1)]".

Schedule 2 By deleting the Schedule.

Schedule 3 By deleting the Schedule.

## UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL

## COMMITTEE STAGE

Amendments to be moved by the Honourable Margaret NG

- | <u>Clause</u> | <u>Amendment Proposed</u>  |
|---------------|--|
| 2             | <p>In subclause (1), by deleting the definition of "terrorist property" and substituting -</p> <p style="padding-left: 40px;">""terrorist property" (恐怖分子財產) means any property including funds that is intended to be used to finance or otherwise assist the commission of a terrorist act."</p>   |
| 6             | <p>By deleting the clause and substituting -</p> <p style="padding-left: 40px;"><b>"6. Prohibition on supply of funds to terrorists and terrorist associates</b></p> <p style="padding-left: 80px;">A person shall not provide or collect, by any means, directly or indirectly, funds with the intention that the funds should be used in whole or in part in order to carry out a terrorist acts."</p>   |
| 7             | <p>By deleting the clause and substituting -</p> <p style="padding-left: 40px;"><b>"7. Prohibition of making funds or financial services available to terrorists and terrorist associates</b></p> <p style="padding-left: 80px;">(1) No person shall knowingly make available, or cause to be made available, directly or indirectly, without lawful justification or reasonable excuse, any funds or financial services either to, or for the benefit of, a person,</p> |

ClauseAmendment Proposed

knowing that the person is for the time being specified in a notice under section 4(1) or (2) or specified in an order under section 4(A)(2) published in the Gazette as a terrorist or as a terrorist associate;

(2) Nothing in subsection (1) prohibits a person making funds available, or causing property or financial services to be made available, either to, or for the benefit of, a movement or organization advocating democratic government or the protection of human rights or promoting or providing humanitarian relief or assistance and that is not involved in any way in the carrying out of a terrorist act;

(3) For the avoidance of doubt, the making available of funds or financial services to or for the benefit of any person so specified or of a dependant of any person so specified for the purpose only of feeding, clothing or housing, satisfying the medical needs of or any such person or dependant of such person or for the purposes of the obtaining of legal advice or representation shall constitute lawful justification or reasonable excuse under subsection (1) without prejudice to the generality of those words."

8 (a) In Paragraph (b), by deleting "having reasonable grounds to believe" and substituting "believing on reasonable grounds".

(b) By deleting "has reasonable grounds to believe" and substituting "believes on reasonable grounds".

9 By deleting the clause and substituting -

ClauseAmendment Proposed

**"9. Prohibition on recruitment,  
etc, to bodies of persons specified  
in notices under section 4(1) and  
(2) or orders under section 4A(2)**

(1) A person shall not -

- (a) recruit another person to become a member of; or
- (b) become a member of,

a body of persons (including individuals), whether corporate or unincorporate, whom the first-mentioned person knows to be the body of persons specified in a notice under section 4(1) or (2), or specified in an order under section 4A(2), published in the Gazette.

(2) Where a person is a member of a body of persons (including individuals), whether corporate or unincorporated -

- (a) whom the first-mentioned person knows to be the body of persons specified in a notice under section 4(1) or (2), or an order under section 4A(2), published in the Gazette; and
- (b) immediately before the date of publication of the Gazette,

then the first-mentioned person shall, as soon as practicable after that date, take all practicable steps to cease to be such a member."

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13

By deleting subclause (1) and substituting -

"(1)The Court of First Instance may, if satisfied on an application made by or on behalf of the Secretary for Justice that any property specified in the application is terrorist property order, subject to subsection (2), the forfeiture of the property."

## UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL

## COMMITTEE STAGE

Amendments to be moved by the Honourable  
Mrs Selina CHOW LIANG Shuk-ye

<u>Clause</u>	<u>Amendment Proposed</u>
10	<p>(a) In subclause (1), by deleting "inducing in him or any other person" and substituting "causing alarm to the public or a section of the public by".</p> <p>(b) In subclause (2), by deleting "inducing in another person" and substituting "causing alarm to the public or a section of the public by".</p> <p>(c) By deleting subclause (3).</p>



## UNITED NATIONS (ANTI-TERRORISM MEASURES) BILL

## COMMITTEE STAGE

Amendments to be moved by the Honourable Albert HO Chun-yanClauseAmendment Proposed

New

By adding in Part 6 -

**"14A. Supplementary provisions  
applicable to licences  
mentioned in section 5(1)  
or 7**

(1) Without prejudice to the generality of conditions and exceptions which may be specified in a licence mentioned in section 5(1) -

- (a) such conditions may relate to specifying the manner in which the funds to which the licence relates shall be held from time to time; and
- (b) such exceptions may relate but are not limited to -
  - (i) the reasonable living expenses;
  - (ii) the reasonable legal expenses; and
  - (iii) the payments liable to be made under the Employment Ordinance (Cap. 57),

ClauseAmendment Proposed

of any person by, for or on behalf  
of whom the funds are held.

(2) Without prejudice to the generality of conditions and exceptions which may be specified in a licence mentioned in section 7, such exceptions may relate to the reasonable living expenses, reasonable legal expenses and the payments liable to be made under the Employment Ordinance (Cap. 57) of the person second-mentioned in that section to which the licence relates."

## Annex X

## MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2002

## COMMITTEE STAGE

Amendments to be moved by the Secretary for  
Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
1(3)	By adding "and the Treasury" after "Services".
4(a)	In the Chinese text, by deleting the proposed section 7A(7) and substituting -  " (7) 如僱員（臨時僱員除外）的工資期 —  (a) 不多於 1 個月，則就在有關時間之後受僱工作的第 30 日當日或之前開始的工資期而言，僱主不得根據第(2)(b)款，就該僱員在該工資期所賺取的有關入息作出扣除；  (b) 多於 1 個月，則就由有關時間至有關時間之後受僱工作的第 30 日所在的公曆月的最後一日為止的期間而言，僱主不得根據第(2)(b)款，就該僱員在該期間所賺取的有關入息作出扣除。 ” .
11	By deleting the proposed section 43B(3) and (4) and substituting -  "(3)An employer who is convicted of an offence against this section is liable -  (a) to a fine at level 6 and to imprisonment for 6 months on the first occasion on which the person is convicted of the offence; and

ClauseAmendment Proposed

- (b) to a fine of \$200,000 and to imprisonment for 12 months on each subsequent occasion on which the person is convicted of the offence and, in the case of an offence consisting of a failure by the employer to comply with the requirement imposed on the employer by section 7(1A), a daily penalty of \$500 for each day on which the offence is continued.

(4) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), proceedings may be instigated for an offence against this section within 6 months after the offence is discovered by, or comes to the notice of, the Authority."

## New

By adding -

**"12A. Decisions which may  
be the subject of  
an appeal**

Schedule 6 is amended by repealing items 10 and 11 and substituting -

"10. A decision of the Authority to reject an application for its consent to the restructuring of one or more registered schemes."."

## Schedule

- (a) In section 13(c), in the proposed section 145(7A)(a), by adding "in respect of the contribution person that ends" after "concerned".

ClauseAmendment Proposed

- (b) In section 14(c), in the proposed section 146(9A)(a), by adding "in respect of the contribution period that ends" after "concerned".
- (c) In section 16, in the proposed section 150A(b) -
- (i) by adding "within the permitted period" after "scheme";
  - (ii) by deleting "(a)段所述" and substituting "上述註冊".
- (d) In section 17, in the proposed section 164(5)(c), by deleting "在該成員失業的情況下 -".
- (e) In section 20 -
- (i) in paragraph (b), in the proposed section 2(3), by adding "of this Schedule" after "section 6(b)(i), (ii) or (iii)";
  - (ii) in paragraph (f), in the proposed section 8(1) -
    - (A) in paragraph (a), by adding "a" after "on";
    - (B) in paragraph (b), by adding "approved by the Authority for the purposes of section 6A of this Schedule" after "scheme".
- (f) In section 21, by deleting "repealing "any" and substituting "direct"" and substituting "adding "direct" after "any"".
- (g) In section 26, in the proposed section 4(3)(b) and (c), by deleting "或" and substituting "及".

## MANDATORY PROVIDENT FUND SCHEMES (AMENDMENT) BILL 2002

**COMMITTEE STAGE**Amendments to be moved by the Honourable Andrew CHENG Kar-fooClauseAmendment Proposed

- 5                    In the proposed section 10A -
- (a)    in subsection (2), by deleting "Without limiting the factors which the Authority may take into account for the purposes of conducting" and substituting "For the purposes of conducting";
  - (b)    in subsection (2)(a), by deleting "50" and substituting "not less than 60";
  - (c)    in subsection (2)(b), by deleting "monthly employment earnings at 90th" and substituting "monthly employment earnings at a percentile not exceeding 80th".
- 12                    In the proposed Schedule 2 -
- (a)    in section 1 -
    - (i)    in paragraphs (a) and (c), by deleting "\$5,000" and substituting "\$6,000";
    - (ii)   in paragraph (b), by deleting "\$160" and substituting "\$193";
  - (b)    in section 2, by deleting "\$160" and substituting "\$193";
  - (c)    in section 3, by deleting "\$5,000 per month or \$60,000 per year" and substituting "\$6,000 per month or \$72,000 per year".

Clause

Amendment Proposed

Schedule

In section 25, by deleting "\$160.00" and substituting "\$193.00".

**CORRIGENDUM**

Page 9179, third and fourth paragraphs, should be amended as follows:

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

**(Members raised their hands)**

**CHAIRMAN** (in Cantonese): I think the question is **not 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 **negatived**.