

**立法會**  
**Legislative Council**

LC Paper No. CB(2)862/01-02  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/3/00

**Bills Committee on  
Drug Trafficking and Organized Crimes (Amendment) Bill 2000**

**Minutes of sixth meeting  
held on Thursday, 3 January 2002 at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon James TO Kun-sun (Chairman)  
Hon Martin LEE Chu-ming, SC, JP  
Hon Eric LI Ka-cheung, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon NG Leung-sing, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, JP  
Hon Bernard CHAN  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Henry WU King-cheong, BBS  
Hon WONG Sing-chi  
Hon IP Kwok-him, JP
- Members Absent** : Hon Margaret NG  
Hon Abraham SHEK Lai-him, JP
- Public Officers Attending** : Mrs Claire LO, JP  
Commissioner for Narcotics
- Ms Mimi LEE  
Principal Assistant Secretary for Security (Narcotics)
- Mr Geoffrey FOX  
Senior Assistant Law Draftsman  
Department of Justice

Action

Mr Robert S K LEE  
Senior Assistant Director of Public Prosecutions  
Department of Justice

Ms Marie SIU  
Senior Government Counsel  
Department of Justice

Mr SIN Kam-wah  
Acting Chief Superintendent, Narcotics Bureau  
Hong Kong Police Force

Mr LEUNG Lap-fun  
Superintendent, Narcotics Bureau  
Hong Kong Police Force

Ms Diana WONG  
Group Head (Financial Investigation)  
Customs and Excise Department

**Clerk in Attendance** : Miss Flora TAI  
Chief Assistant Secretary (2)2

**Staff in Attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Miss Irene MAN  
Senior Assistant Secretary (2)7

---

Action

**I. Matters arising from the last meeting**  
[LC Paper No. CB(2)791/01-02(01)]

The Committee deliberated (Index of proceedings attached at **Annex**).

2. The Administration was requested -

- a) to ascertain from the Council of Europe the names of the six countries which have adopted a lower mental element test i.e. a "negligence" standard in money laundering offence;

Action

- b) to prepare an analysis on a representative size of the 498 money laundering cases investigated by the Police in the period between May and November 2001 to ascertain the number of the cases which would have brought to trial and the amount of suspected criminal proceeds involved, if the mental element in the present section 25 and section 25A had been lowered as proposed by the Administration;
  - c) to provide information on the scope of application of the relevant provisions of the overseas legislation [paragraph 17 of the Administration's paper issued vide LC Paper No. CB(2)791/01-02(01) referred] which had adopted a lower mental element test than "knowledge" and to confirm whether the relevant provisions imposed a criminal offence; and
  - d) to make reference to the suggestion of the Hong Kong Bar Association in re-drafting the proposed defence provision in section 25(3A) and section 25(3AA).
3. The Committee decided to hold its next meeting on Tuesday, 15 January 2002 at 2:30 pm to discuss the proposals in respect of provisions other than sections 25 and 25A.

**II. Any other business**

4. There being no other business, the meeting ended at 12:20 p.m.

Council Business Division 2  
Legislative Council Secretariat  
14 January 2002

## Annex

### **Proceedings of the meeting of the Bills Committee on Drug Trafficking and Organized Crimes (Amendment) Bill 2000 on Thursday, 3 January 2002 at 10:45 am in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0420	Chairman	Briefing on the progress of past discussions	
0421 - 1633	Admin	Briefing on LC Paper No.CB(2)791/01-02(01) issued on 2 January 2002	
1634 - 1731	Mr Martin LEE	Details of the six countries adopting a lower standard of proof / cases having a higher chance of being brought to trial had the mental element in the present sections 25 and 25A been lowered	
1732 - 1810	Admin	Details of the six countries adopting a lower standard of proof	
1811 - 1819	Chairman	- ditto -	
1820 - 1833	Admin	- ditto -	Undertaken to provide the names of the six countries of the Council of Europe which have adopted "negligence" as mental element for money laundering offences
1834 - 1841	Chairman	Cases having a higher chance of being brought to trial had the mental element in the present sections 25 and 25A been lowered	
1842 - 1957	Admin	- ditto -	
1958 - 2009	Mr Martin LEE	- ditto -	
2010 - 2026	Chairman	- ditto -	
2027 - 2111	Admin	- ditto -	
2112 - 2137	Mr Martin LEE	- ditto -	
2138 - 2145	Admin	- ditto -	
2146 - 2310	Mrs Selina CHOW	- ditto -	
2311 - 2327	Admin	- ditto -	
2328 - 2536	Chairman	- ditto -	

2537 - 2616	Mrs Selina CHOW	- ditto -	
2617 - 2640	Chairman	- ditto -	
2641 - 2759	Mrs Selina CHOW	- ditto -	
2760 - 2806	Chairman	- ditto -	
2807 - 2832	Admin	- ditto -	
2833 - 3013	Chairman	-ditto -	Admin to provide analysis on relevant cases to ascertain whether adopting a lower mental element test would be appropriate
3014 - 3245	Mr NG Leung-sing	Relationship between commercial crime and money laundering / the local's prosecution rate of money laundering cases in the international context	
3246 - 3541	Admin	- ditto -	
3542 - 3726	Mr NG Leung-sing	Relationship between commercial crime and money laundering	
3727 - 3740	Chairman	- ditto -	
3741 - 3743	Mr NG Leung-sing	- ditto -	
3744 - 3806	Chairman	- ditto -	
3807 - 3839	Mr NG Leung-sing	- ditto -	
3840 - 3847	Chairman	- ditto -	
3848 - 3852	Mr NG Leung-sing	- ditto -	
3853 - 3940	Chairman	- ditto -	
3941 - 4033	Mr NG Leung-sing	Relationship between commercial crime and money laundering / the local's prosecution rate of money laundering cases in the international context	
4034 - 4041	Chairman	- ditto -	
4042 - 4415	Admin	- ditto -	
4416 - 4816	Mr Eric LI	Obligation of reporting money laundering offences by individuals and institutions in different countries	
4817 - 4955	Admin	- ditto -	
4956 - 5053	Mr Eric LI	- ditto -	
5054 - 5204	Chairman	- ditto -	
5205 - 5219	Mr Eric LI	- ditto -	

5220 - 5238	Chairman	- ditto -	
5239 - 5243	Mr Eric LI	- ditto -	
5244 - 5258	Chairman	- ditto -	
5259 - 5305	Mr Eric LI	- ditto -	
5306 - 5316	Chairman	- ditto -	
5317 - 5326	Mr Eric LI	- ditto -	
5327 - 5458	Chairman	- ditto -	
5459 - 5515	Mr Eric LI	- ditto -	
5516 - 5536	Admin	- ditto -	
5537 - 5636	Chairman	- ditto -	
5637 - 5717	Admin	- ditto -	
5718 - 5756	Chairman	- ditto -	
5757 - 5799	Admin	- ditto -	
5800 - 5815	Chairman	- ditto -	
5816 - 5958	Mr Eric LI	- ditto -	
5959 - 01 0025	Admin	- ditto -	
01 0026 - 01 0039	Mr Eric LI	- ditto -	
01 0040 - 01 0253	Admin	- ditto -/bill on anti-terrorism	Undertaken to provide information on the application of overseas legislation as in paragraph 17 of LC Paper No.CB(2)791/01-02(01) where a lower mental element test than "knowledge" had been adopted and to confirm whether a criminal offence was imposed
01 0254 - 01 0409	Chairman	Invitating members' views on the way forward of the Bills Committee in relation to the work progress of the bill on anti-terrorism	
01 0410 - 01 0529	Admin	- ditto -	
01 0530 - 01 0614	Chairman	- ditto -	
01 0615 - 01 0645	Mr Martin LEE	- ditto -	
01 0646 - 01 0655	Chairman	- ditto -	
01 0656 - 01 0817	Admin	- ditto -	
01 0818 - 01 0917	Mr Martin LEE	- ditto -	

01 0918 - 01 1131	Chairman	- ditto -	
01 1132 - 01 1245	Mr Eric LI	- ditto -	
01 1246 - 01 1552	Mrs Selina CHOW	- ditto -	
01 1553 - 01 1730	Admin	- ditto -	
01 1731 - 01 1824	Chairman	Views on discussion of provisions other than section 25 and section 25A of Cap.405 and Cap.455 in future meetings and invitation on any other views on LC Paper No.CB(2)791/01-02(01) issued on 2 January 2002	
01 1825 - 01 2320	Mr Martin LEE	Committee Stage amendments to section 25(1A) on the objectivity of the requirement to prove with reasons for not harbouring a suspicion and the proposal of the Bar Association	
01 2321 - 01 2343	Admin	- ditto -	Undertaken to consider re-drafting section 25(1A)
01 2344 - 01 2348	Mr Martin LEE	- ditto -	
01 2349 - 01 2424	Chairman	Invitation on any other views on LC Paper No.CB(2)791/01-02(01) issued on 2 January 2002	
01 2425 - 01 2599	Mrs Selina CHOW	Reasons given by the professional bodies to oppose the proposal during the consultation	
01 2600 - 01 2705	Admin	- ditto -	
01 2706 - 01 3200	Chairman	Arrangement for the next meeting	

**Note : The audio records of the above proceedings are kept at the LegCo Library**

Council Business Division 2  
Legislative Council Secretariat  
 14 January 2002