

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1695/01-02  
(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 eighth meeting  
held on Friday, 22 February 2002 at 4:30 pm  
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 NG Leung-sing, JP  
Hon Margaret NG  
Hon Bernard CHAN  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon WONG Sing-chi  
Hon IP Kwok-him, JP
- Members Absent** : Hon Eric LI Ka-cheung, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Mrs Selina CHOW LIANG Shuk-ye, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Henry WU King-cheong, BBS
- Public Officers Attending** : Ms Mimi LEE  
Principal Assistant Secretary for Security (Narcotics)
- Mr Geoffrey FOX  
Senior Assistant Law Draftsman  
Department of Justice

Action

Ms Marie SIU  
Senior Government Counsel  
Department of Justice

Mr Kelvin LEE  
Government Counsel  
Department of Justice

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

Mr Stephen Barry TARRANT  
Superintendent, Organized Crime and Triad Bureau  
Hong Kong Police Force

Ms Diana WONG  
Superintendent, 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

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Action

**I. Confirmation of minutes**  
[LC Paper No. CB(2)1138/01-02]

The minutes of the meeting held on 15 January 2002 were confirmed.

**II. Meeting with the Administration**  
[LC Paper No. CB(2)1136/01-02(01)]

2. The Committee deliberated on the Administration's response to members' questions raised at the last meeting in respect of restraint orders [paragraphs 1 to 24 of LC Paper No. CB(2)1136/01-02(01)] (Index of proceedings attached at **Annex**).

Action

3. Members appreciated that there was a need to prevent the person who had been arrested and released on bail from dissipating his property such that no property would be available to satisfy a confiscation order if one was made in his case. To protect the property's right of a person who should be presumed innocent before any conviction, members considered that it was necessary to strike a balance by raising the threshold for invoking the power to restrain the property of a person who had been arrested and released on bail. The Administration was requested to consider the feasibility for the Court to apply a lower threshold to make a restraint order for a limited period of time and to apply a higher threshold if that period of time was to be extended.

4. To address members' concerns, the Administration had suggested to add a condition to the amended section 9(1)(ba) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and amended section 14(1)(ba) of the Organized and Serious Crimes Ordinance (Cap. 455) to the effect that the Court of First Instance must also be satisfied that a holding charge could not be laid in that case.

Adm 5. The Chairman requested the Administration to consider the feasibility of the two foregoing suggestions (including their merits and demerits) and provide a discussion paper for members' consideration at a future meeting.

**III. Any other business**

6. Members agreed that the Committee would continue discussion on the Administration's response to members' questions raised at the last meeting in respect of confiscation orders [paragraphs 25 to 28 of LC Paper No. CB(2)1136/01-02(01)] at the next meeting to be held on Wednesday, 27 February 2002 at 8:30 a.m.

7. There being no other business, the meeting ended at 6:00 p.m.

Council Business Division 2  
Legislative Council Secretariat  
23 April 2002

**Proceedings of the meeting of the Bills Committee on  
Drug Trafficking and Organized Crimes (Amendment) Bill 2000  
on Friday, 22 February 2002 at 4:30 pm  
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000 - 0215	Chairman	Confirmation of minutes/Welcoming remarks for representatives of Administration	
0216 - 1141	Admin	Briefing on restraint orders (paragraphs 1 to 24) in LC Paper No. CB(2)1136/01-02(01)	
1142 - 1208	Chairman	Discussion on the three cases illustrating why it was not desirable to restrain the property of a person under investigation by means of a holding charge	
1209 - 1554	Miss Margaret NG	- ditto -	
1555 - 1600	Admin	- ditto -	
1601 - 1622	Chairman	- ditto -	
1623 - 1826	Admin	- ditto -	
1827 - 1839	Chairman	- ditto -	
1840 - 2003	Miss Margaret NG	Application of a restraint order in case A	
2004 - 2051	Chairman	- ditto -	
2052 - 2123	Miss Margaret NG	- ditto -	
2124 - 2128	Chairman	- ditto -	
2129 - 2131	Miss Margaret NG	- ditto -	
2132 - 2137	Chairman	- ditto -	
2138 - 2338	Admin	Application of a restraint order in cases A and B	
2339 - 2416	Miss Margaret NG	Application of a restraint order in case A and the balance to be achieved in preventing the dissipation of property before a charge could be laid	
2417 - 2423	Chairman	- ditto -	
2424 - 2701	Miss Margaret NG	- ditto -	
2702 - 2820	Admin	- ditto -	

2821 - 2834	Chairman	- ditto -	
2835 - 2929	Admin	- ditto -	
2930 - 2940	Chairman	- ditto -	
2941 - 2949	Admin	- ditto -	
2950 - 2956	Chairman	- ditto -	
2957 - 3002	Admin	- ditto -	
3003 - 3014	Chairman	- ditto -	
3015 - 3023	Miss Margaret NG	- ditto -	
3024 - 3036	Admin	- ditto -	
3037 - 3129	Mr Martin LEE	Application of different levels of threshold at different stages of proceedings	
3130 - 3144	Chairman	- ditto -	
3145 - 3229	Admin	Nature of property be considered when application for the restraint order was made	
3230 - 3416	Chairman	Application of a restraint order in case A and the laying of the holding charge	
3417 - 3519	Admin	- ditto -	
3520 - 3549	Chairman	- ditto -	
3550 - 3626	Admin	- ditto -	
3627 - 3637	Chairman	- ditto -	
3638 - 3750	Admin	- ditto -	
3751 - 3752	Chairman	- ditto -	
3753 - 3846	Admin	Application of a restraint order in case B and the laying of the holding charge	
3847 - 3850	Chairman	- ditto -	
3851 - 4036	Admin	- ditto -	
4037 - 4044	Chairman	- ditto -	
4045 - 4049	Admin	- ditto -	
4050 - 4051	Chairman	- ditto -	
4052 - 4108	Admin	- ditto -	
4109 - 4117	Chairman	- ditto -	
4118 - 4145	Admin	- ditto -	
4146 - 4224	Miss Margaret NG	Application of a restraint order in case A and balance to be achieved in preventing the dissipation of property before a charge could be laid	
4225 - 4241	Admin	- ditto -	

4242 - 4251	Miss Margaret NG	- ditto -	
4252 - 4253	Admin	- ditto -	
4254 - 4414	Miss Margaret NG	- ditto -	
4415 - 4424	Chairman	- ditto -	
4425 - 4506	Miss Margaret NG	- ditto -	
4507 - 4529	Admin	- ditto -	
4530 - 4554	Miss Margaret NG	- ditto -	
4555 - 4625	Admin	- ditto -	
4626 - 4800	Miss Margaret NG	- ditto -	
4801 - 4845	Admin	- ditto -	
4846 - 4848	Chairman	- ditto -	
4849 - 4920	Miss Margaret NG	Application of a restraint order in case B and balance to be achieved in preventing the dissipation of property before a charge could be laid	
4921 - 4924	Admin	- ditto -	
4925 - 4925	Miss Margaret NG	- ditto -	
4926 - 4927	Admin	- ditto -	
4928 - 4934	Miss Margaret NG	- ditto -	
4935 - 4942	Admin	- ditto -	
4943 - 5114	Miss Margaret NG	- ditto -	
5115 - 5203	Admin	- ditto -	
5204 - 5237	Chairman	- ditto -	
5238 - 5399	Admin	- ditto -	
5400 - 5446	Miss Margaret NG	Discretion of the court in respect of the threshold for making charges	
5447 - 5448	Chairman	- ditto -	
5449 - 5618	Admin	- ditto -	
5619 - 5628	Chairman	- ditto -	
5629 - 5703	Mr Martin LEE	Specification of the property to be restrained	
5704 - 5715	Admin	- ditto -	
5716 - 5719	Mr Martin LEE	- ditto -	
5720 - 5728	Admin	- ditto -	
5729 - 5748	Mr Martin LEE	- ditto -	
5749 - 5750	Admin	- ditto -	
5751 - 5808	Mr Martin LEE	- ditto -	
5809 - 5810	Chairman	- ditto -	

5811 - 5958	Mr Martin LEE	Application of a restraint order in case B and the relationship among laying of a charge, conviction of a crime and the restraint of proceeds of crime in Cap.405 and Cap.455	
5959 - 010114	Admin	- ditto -	
01 0115 - 01 0150	Mr Martin LEE	- ditto -	
01 0151 - 01 0217	Admin	- ditto -	
01 0218 - 01 0238	Mr Martin LEE	- ditto -	
01 0239 - 01 0241	Chairman	- ditto -	
01 0242 - 01 0254	Mr Martin LEE	- ditto -	
01 0255 - 01 0309	Admin	- ditto -	
01 0310 - 01 0313	Mr Martin LEE	- ditto -	
01 0314 - 01 0320	Admin	- ditto -	
01 0321 - 01 0340	Mr Martin LEE	- ditto -	
01 0341 - 01 0350	Admin	- ditto -	
01 0351 - 01 0425	Mr Martin LEE	- ditto -	
01 0426 - 01 0504	Admin	- ditto -	
01 0505 - 01 0507	Mr Martin LEE	- ditto -	
01 0508 - 01 0521	Admin	- ditto -	
01 0522 - 01 0529	Mr Martin LEE	- ditto -	
01 0530 - 01 0549	Chairman	- ditto -	
01 0550 - 01 0611	Mr Martin LEE	- ditto -	
01 0612 - 01 0641	Chairman	- ditto -	
01 0642 - 01 0655	Admin	- ditto -	
01 0656 - 01 0719	Mr Martin LEE	- ditto -	
01 0720 - 01 0725	Admin	- ditto -	
01 0726 - 01 0727	Mr Martin LEE	- ditto -	
01 0728 - 01 0738	Admin	Time limit of the court in relation to an ex parte restraint order	
01 0739 - 01 0750	Mr Martin LEE	- ditto -	
01 0751 - 01 0800	Admin	- ditto -	
01 0801 - 01 0807	Chairman	- ditto -	
01 0808 - 01 0820	Mr Martin LEE	- ditto -	
01 0821 - 01 0829	Admin	- ditto -	
01 0830 - 01 0837	Mr Martin LEE	- ditto -	
01 0838 - 01 0842	Admin	- ditto -	
01 0843 - 01 0851	Chairman	- ditto -	

01 0852 - 01 0857	Admin	- ditto -	
01 0858 - 01 0899	Mr Martin LEE	- ditto -	
01 0900 - 01 0917	Admin	- ditto -	
01 0918 - 01 0927	Chairman	- ditto -	
01 0928 - 01 1011	Admin	- ditto -	
01 1012 - 01 1020	Mr Martin LEE	- ditto -	
01 1021 - 01 1025	Admin	- ditto -	
01 1026 - 01 1029	Mr Martin LEE	- ditto -	
01 1030 - 01 1035	Admin	- ditto -	
01 1036 - 01 1040	Chairman	- ditto -	
01 1041 - 01 1046	Mr Martin LEE	- ditto -	
01 1047 - 01 1049	Chairman	- ditto -	
01 1050 - 01 1100	Admin	- ditto -	
01 1101 - 01 1213	Chairman	- ditto -	
01 1214 - 01 1247	Admin	- ditto -	
01 1248 - 01 1250	Mr Martin LEE	- ditto -	
01 1251 - 01 1254	Admin	- ditto -	
01 1255 - 01 1258	Mr Martin LEE	- ditto -	
01 1259 - 01 1306	Admin	- ditto -	
01 1307 - 01 1311	Mr Martin LEE	Time taken to obtain the records of the bank statements in case B	
01 1312 - 01 1317	Admin	- ditto -	
01 1318 - 01 1318	Mr Martin LEE	- ditto -	
01 1319 - 01 1329	Admin	- ditto -	
01 1330 - 01 1331	Chairman	- ditto -	
01 1332 - 01 1332	Admin	- ditto -	
01 1333 - 01 1343	Mr Martin LEE	- ditto -	
01 1344 - 01 1350	Admin	- ditto -	
01 1351 - 01 1406	Chairman	- ditto -	
01 1407 - 01 1436	Admin	Principles in amending the legislation on the application of a restraint order with regard to the three cases	
01 1437 - 01 1441	Mr Martin LEE	- ditto -	
01 1442 - 01 1446	Admin	- ditto -	
01 1447 - 01 1525	Chairman	- ditto -	
01 1526 - 01 1541	Admin	- ditto -	
01 1542 - 01 1543	Chairman	- ditto -	



01 1544 - 01 1615	Admin	- ditto -	
01 1616 - 01 1703	Chairman	- ditto -	
01 1704 - 01 1833	Admin	- ditto -	
01 1834 - 01 1851	Mr Martin LEE	- ditto -	
01 1852 - 01 1858	Admin	- ditto -	
01 1859 - 01 1901	Chairman	- ditto -	
01 1902 - 01 1904	Admin	- ditto -	
01 1905 - 01 2118	Chairman	Suggestions on improving the legislation to facilitate the application of a restraint order/ Application of different levels of threshold at different stages of proceedings	
01 2119 - 01 2229	Admin	Suggested amending clause 7 so that the court was also satisfied that a holding charge could not be laid	
01 2230 - 01 2414	Chairman	- ditto -	√ The Admin was requested to provide the proposals in writing.
01 2415 - 01 2431	Mr IP Kwok-him	- ditto -	
01 2432 - 01 2447	Chairman	Suggestions on improving the legislation to facilitate the application of a restraint order	√ The Admin was requested to consider Mr Martin LEE's suggestion of applying different levels of threshold for making charges at different stages.
01 2448 - 01 2451	Mr IP Kwok-him	- ditto -	
01 2452 - 01 2501	Chairman	- ditto -	
01 2502 - 01 2525	Admin	Arrangement for the next meeting	
01 2526 - 01 2539	Chairman	- ditto -	
01 2540 - 01 2542	Admin	- ditto -	
01 2543 - 01 2555	Chairman	- ditto -	

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

Council Business Division 2  
Legislative Council Secretariat  
23 April 2002