

立法會
Legislative Council

LC Paper No. CB(2)2036/01-02
(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 eleventh meeting
held on Friday, 3 May 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 Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Bernard CHAN
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
- Member Absent** : 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
- Ms Marie SIU
Senior Government Counsel
Department of Justice

Mr Kelvin LEE
Government Counsel
Department of Justice

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

Mr Raymond LAM
Senior Assistant Secretary (2)5

Action

I. Confirmation of minutes

[LC Paper Nos. CB(2) 1695/01-02, CB(2) 1696/01-02 and CB(2) 1697/01-02]

The minutes of the meetings held on 22 February, 27 February and 4 March 2002 were confirmed.

II. Meeting with the Administration

[LC Paper No. CB(2)1764/01-02(01)]

2. The Committee deliberated on the Administration's response to issues raised at previous meetings [LC Paper No. CB(2)1764/01-02(01)] (index of proceedings attached at **Annex**).

Threshold for making charges

3. Hon Margaret NG said that she objected to the Administration's draft Committee Stage amendment (CSA) as proposed in paragraph 4 of the Administration's response because -

Action

- (a) the CSA as proposed would enable a restraint order to be applied against a person who had been arrested and released on bail for one year, which was an unduly long period; and
- (b) although any person affected by the restraint order could apply to the Court to have the order lifted, making a successful application would be very difficult because the threshold, i.e. "the Court of First Instance is satisfied that, in all the circumstances of the case, there is reasonable cause to believe that the defendant may be charged with the offence after further investigation is carried out", was very low.

Adm

4. The Administration said that depending on the circumstances of the case, sometimes the time taken to lay a charge against a person who had been arrested for a drug trafficking offence could be no more than one and a half months. However, it must be noted that this period referred to a person being charged with a holding charge, which the Administration regarded as inappropriate if the sole purpose of so holding charged was for applying a restraint order. Members in general agreed that the threshold could be retained if the restraint order would expire after a shorter period of time, say, two or three months. The Administration was requested to propose an appropriate period of time by revising the draft CSA accordingly and to provide justification for its proposed period.

Notifying the abscondee of proceedings in respect of a confiscation order

5. To facilitate members' consideration, the Administration was requested -
- (a) to amend the CSA to section 3 of Schedule 1 and section 3 of Schedule 2 to the Bill to the effect that the phrase "and notice of those proceedings, addressed to that person, has been published in a Chinese language newspaper, and an English language newspaper, circulating generally in Hong Kong" was added after "whereabouts";
 - (b) to provide examples of deemed service relating to court proceedings in existing legislation; and
 - (c) to examine whether there was another option of notifying the abscondee of proceedings in respect of a confiscation order, as a balance between substituted service and deemed service.

Action

Application of procedure for enforcing confiscation orders

6. In respect of the case referred to in Annex E to the Administration's response, the Administration was requested to ascertain whether an appeal had been lodged against the Court's decision of not fixing the time for payment of confiscation order.

Punishment for non-compliance with restraint orders and charging orders

7. Members noted that under section 14C of the Prevention of Bribery Ordinance (POBO) (Cap. 201), if a person did not comply with a restraint order issued by the Court, he would be guilty of an offence and would be liable on conviction to a fine of \$50,000 or to the value of the property disposed of or otherwise dealt with, whichever was greater, and to imprisonment for one year. The Chairman expressed concern that the proposed penalties for non-compliance with restraint orders and charging orders under Cap. 405 and Cap. 455 must not be appropriate as POBO was reviewed in 1997 but no amendment was proposed to the relevant penalty provision. To facilitate members' consideration as to whether the proposed penalties were commensurate with the gravity of the offences, the Administration was requested to provide information about offences in other local legislation where a person was liable on conviction upon indictment to a fine of \$500,000 and to imprisonment of five years.

Adm

Provision of information about value of property

8. The Administration was requested to consider revising the proposed CSA to section 8 of Schedule 1, section 7 of Schedule 2 and section 3 of Schedule 3 to the Bill to set out clearly that it should not be necessary for a person to incur extra cost or time in providing information about the value of a property.

Adm

III. Any other business

9. The Committee agreed that the next meeting would be held when the Administration's response to the issues raised by members was available.

10. There being no other business, the meeting ended at 6:45 pm.

Council Business Division 2
Legislative Council Secretariat
22 May 2002

Annex

**Bills Committee on Drug Trafficking and Organized Crimes (Amendment) Bill 2000
Meeting on Friday, 3 May 2002 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000209	Chairman	Confirmation of minutes and relevant papers	
000209 - 000757	Administration	Briefing on the Administration's response in respect of the threshold for making charges	
000757 - 000812	Mr IP Kwok-him, JP	Maximum period within which a charge was to be made	
000812 - 000903	Administration	- Ditto -	
000903 - 001015	Miss Margaret NG	Objection to the Administration's draft Committee Stage amendment (CSA) as proposed in paragraph 4 of the Administration's response	
001015 - 001042	Administration	- Ditto -	
001042 - 001204	Miss Margaret NG	- Ditto -	
001204 - 001311	Administration	- Ditto -	
001311 - 001431	Miss Margaret NG	- Ditto -	
001431 - 001444	Administration	- Ditto -	
001444 - 001528	Chairman	- Ditto -	
001528 - 001708	Miss Margaret NG	- Ditto -	
001708 - 001730	Administration	- Ditto -	
001730 - 001744	Chairman	- Ditto -	
001744 - 001812	Administration	- Ditto -	

001812 - 001843	Chairman	- Ditto -	
001843 - 001936	Administration	- Ditto -	
001936 - 002041	Miss Margaret NG	- Ditto -	
002041 - 002124	Administration	- Ditto -	
002124 - 002145	Miss Margaret NG	- Ditto -	
002145 - 002228	Mr IP Kwok-him, JP	Shortening of the period by which a restraint order would expire	
002228 - 002317	Chairman	- Ditto -	
002317 - 002357	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
002357 - 002410	Chairman	- Ditto -	
002410 - 002540	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
002540 - 002606	Administration	- Ditto -	
002606 - 002623	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
002623 - 002657	Miss Margaret NG	- Ditto -	
002657 - 002718	Chairman	- Ditto -	
002718 - 002740	Administration	- Ditto -	
002740 - 002755	Miss Margaret NG	- Ditto -	
002755 - 002825	Chairman	- Ditto -	The Administration was requested to propose a shorter period by which a restraint order would expire, justification for its proposed period, and revise the draft CSA accordingly
002825 - 003335	Administration	Briefing on the Administration's response on	

		notification of the abscondee of proceedings in respect of a confiscation order	
003335 - 003530	Miss Margaret NG	CSA to section 3 of Schedule 1 and section 3 of Schedule 2 to the Bill	The Administration was requested to amend the CSA to section 3 of Schedule 1 and section 3 of Schedule 2 to the Bill to the effect that the phrase "and notice of those proceedings, addressed to that person, has been published in a Chinese language newspaper, and an English language newspaper, circulating generally in Hong Kong" was added after "whereabouts"
003530 - 003544	Administration	- Ditto -	
003544 - 003726	Mrs Selina CHOW LIANG Shuk-ye, JP	CSA to section 3 of Schedule 1 and section 3 of Schedule 2 to the Bill, and issue of whether there was another option of notifying the abscondee of proceedings in respect of a confiscation order	The Administration was requested to examine whether there was another option of notifying the abscondee of proceedings in respect of a confiscation order, as a balance between substituted service and deemed service
003726 - 003734	Chairman	- Ditto -	
003734 - 003812	Administration	- Ditto -	
003812 - 003835	Chairman	- Ditto -	
003835 - 003917	Administration	- Ditto -	

003917 - 004043	Chairman	Examples of substituted service and deemed service relating to court proceedings in existing legislation	The Administration was requested to provide examples of deemed service relating to court proceedings in existing legislation
004043 - 004102	Administration	- Ditto -	
004102 - 004116	Chairman	- Ditto -	
004116 - 004135	Mr IP Kwok-him, JP	CSA to section 3 of Schedule 1 and section 3 of Schedule 2 to the Bill	
004135 - 004421	Chairman	Issue of whether deemed service or substituted service should be adopted for the notifying the abscondee of proceedings in respect of a confiscation order	
004421 - 004506	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
004506 - 004515	Chairman	- Ditto -	
004515 - 004656	Mrs Selina CHOW LIANG Shuk-ye, JP	Difficulties associated with deemed service	
004656 - 004825	Administration	- Ditto -	
004825 - 005113	Administration	Briefing on the Administration's response in respect of assessing the proceeds of drug trafficking	
005113 - 005527	Chairman	Persons involved in drug trafficking and those involved in money laundering only	
005527 - 005622	Administration	- Ditto -	
005622 - 005718	Chairman	- Ditto -	
005718 - 005958	Administration	- Ditto -	
005958 - 010257	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
010257 - 010502	Mr NG Leung-sing, JP	Chinese translation of "assessing" and criteria for	

		assessing the proceeds of drug trafficking	
010502 - 010839	Administration	- Ditto -	
010839 - 010932	Mr NG Leung-sing, JP	Past experience in assessing proceeds from drug trafficking	
010932 - 011004	Administration	- Ditto -	
011004 - 011109	Chairman	- Ditto -	
011109 - 011125	Administration	- Ditto -	
011125 - 011151	Chairman	- Ditto -	
011151 - 011407	Administration	Briefing on the Administration's response in respect of issue of a confiscation order against a deceased or absconded defendant on a civil standard of proof	
011407 - 011415	Chairman	CSAs to be moved by the Administration	
011415 - 011432	Administration	- Ditto -	
011432 - 011442	Chairman	- Ditto -	
011442 - 011826	Administration	Briefing on the Administration's response in respect of application of procedure for enforcing confiscation orders	
011826 - 011848	Chairman	Issue of whether there was a need to amend section 8(1)(a) of Cap. 405 and section 13(1)(a) of Cap. 455	
011848 - 011855	Administration	- Ditto -	
011855 - 011954	Chairman	- Ditto -	
011954 - 012001	Mr IP Kwok-him, JP	- Ditto -	
012001 - 012037	Chairman	- Ditto -	

012037 - 012158	Administration	- Ditto -	
012158 - 012320	Chairman	- Ditto -	
012320 - 012418	Administration	- Ditto -	
012418 - 012435	Chairman	- Ditto -	
012435 - 012521	Administration	- Ditto -	
012521 - 012553	Chairman	- Ditto -	
012553 - 012620	Administration	- Ditto -	
012620 - 012626	Chairman	- Ditto -	
012626 - 012816	Administration	- Ditto -	
012816 - 012855	Mr IP Kwok-him, JP	- Ditto -	
012855 - 012927	Chairman	- Ditto -	
012927 - 012939	Mr IP Kwok-him, JP	- Ditto -	
012939 - 013018	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
013018 - 013141	Chairman	- Ditto -	
013141 - 013236	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
013236 - 013404	Chairman	- Ditto -	
013404 - 013502	Administration	- Ditto -	
013502 - 013510	Chairman	- Ditto -	The Administration was requested to ascertain whether an appeal had been lodged against the Court's decision of not fixing the time for payment of confiscation order
013510 -	Administration	- Ditto -	

013711			
013711 - 013730	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
013730 - 013906	Chairman, Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
013906 - 013931	Administration	- Ditto -	
013931 - 014008	Chairman	- Ditto -	
014008 - 014023	Mr IP Kwok-him, JP	- Ditto -	
014023 - 014037	Chairman	- Ditto -	
014037 - 014451	Administration	Briefing on the Administration's response in respect of punishment for non- compliance with restraint orders and charging orders	
014451 - 014600	Mrs Selina CHOW LIANG Shuk-ye, JP	Offences in other local legislation where a person was liable on conviction upon indictment to a fine of \$500,000 and to imprisonment of five years	The Administration was requested to provide information about offences in other local legislation where a person was liable on conviction upon indictment to a fine of \$500,000 and to imprisonment of five years
014600 - 014746	Administration	- Ditto -	
014746 - 014845	Chairman	Penalty levels proposed in the Bill and those in the Prevention of Bribery Ordinance	
014845 - 014935	Administration	- Ditto -	
014935 - 014957	Mr IP Kwok-him, JP	Offences in other local legislation where a person was liable on conviction upon indictment to a fine of \$500,000 and to imprisonment of five years	
014957 -	Chairman	- Ditto -	

015153			
015153 - 015549	Administration	Briefing on the Administration's response in respect of provision of information about value of property	
015549 - 015703	Mrs Selina CHOW LIANG Shuk-ye, JP	The Administration's proposal in respect of the provision of information about value of property	
015703 - 015821	Administration	- Ditto -	
015821 - 015824	Chairman	- Ditto -	
015824 - 015900	ALA4	- Ditto -	
015900 - 015915	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
015915 - 015921	ALA4	- Ditto -	
015921 - 015946	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
015946 - 020027	Administration	- Ditto -	
020027 - 020433	Chairman	Drafting of CSA to section 8 of Schedule 1	
020433 - 020555	Administration	- Ditto -	
020555 - 020652	Chairman	- Ditto -	
020652 - 020708	Administration	- Ditto -	
020708 - 020718	Chairman	- Ditto -	
020718 - 020844	Administration	- Ditto -	
020844 - 020937	Chairman	- Ditto -	
020937 - 020958	Mrs Selina CHOW LIANG Shuk-ye, JP	- Ditto -	
020958 - 021015	Chairman	- Ditto -	
021015 - 021050	Administration	- Ditto -	The Administration was requested to

			consider revising the proposed CSA to section 8 of Schedule 1, section 7 of Schedule 2 and section 3 of Schedule 3 to the Bill to set out clearly that it should not be necessary for a person to incur extra cost or time in providing information about the value of a property
021050 - 021205	Chairman	Date of next meeting	

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

Council Business Division 2
Legislative Council Secretariat
22 May 2002