

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2725/01-02  
(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 thirteenth meeting  
held on Monday, 17 June 2002 at 10:45 am  
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon James TO Kun-sun (Chairman)  
Hon Eric LI Ka-cheung, 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 WONG Sing-chi  
Hon IP Kwok-him, JP
- Members Absent** : Hon Martin LEE Chu-ming, SC, JP  
Dr Hon David LI Kwok-po, GBS, 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
- 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

Mr Eric HO Wai-man  
Acting 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

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Action

**I. Meeting with the Administration**  
[LC Paper No. CB(2)2282/01-02(01)]

The Committee deliberated on the Administration's response to issues raised at the last meeting on 27 May 2002 [LC paper No. CB(2) 2282/01-02(01)] (index of proceedings attached at **Annex**).

Cases in which Restraint Orders may be made

2. The Chairman considered that for the sake of providing adequate protection to the person who had been arrested and released on bail or refused bail, the conditions of "not later than is reasonably necessary for the purposes of the investigation concerned" and "not later than 6 months after the date on which that order is made" should also be specified for the Court of First Instance to consider an application for extending the restraint order or charging order. The Administration agreed to amend the draft Committee Stage amendments (CSAs) to such effect.

Adm

Action

Provision of information about the value of property

3. The Administration informed members that it proposed to add a new subsection (13A) to section 8 of Schedule 1, section 7 of Schedule 2 and section 3 of Schedule 3 to the Bill in the draft CSAs. The purpose was to put it beyond doubt that a disclosure made in order to comply with a requirement under new section 10(12) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) or new section 15(12) of the Organized and Serious Crimes Ordinance (Cap. 455) would not be treated as a breach of any restriction upon the disclosure of information imposed by contract or by any enactment, rule of conduct or other provision. Miss Margaret NG said that the CSAs seemed to be in order. However, she would need more time to examine the CSAs in detail.

Adm

4. At the suggestion of the Assistant Legal Adviser, the Committee requested the Administration to consider making the following technical amendments -

- (a) to consider revising the CSAs to section 3(a) of Schedule 1 and section 3(a) of Schedule 2 to the Bill to maintain a consistency between the drafting of the proposed section 3(2)(c)(ii)(B) of Cap. 405 and the proposed section 8(3)(c)(i)(B)(II) of Cap. 455;
- (b) to amend "and any other information" in the CSA to section 8 of Schedule 1 to the Bill as "or any other information", and to amend similar phrase in relevant provisions in the Bill accordingly;
- (c) to amend "in such other manner" in the CSA to section 3(a) of Schedule 2 to the Bill as "in such additional manner", and to amend similar phrase in relevant provisions in the Bill accordingly;
- (d) to amend "the proposed section 15(12)(a)" in section 7 of Schedule 2 to the Bill as "the proposed section 15(12)"; and
- (e) to amend "the subject to the charging order concerned" in the proposed section 1(b) of Schedule 4 to the Bill as "the subject of the charging order concerned".

Money laundering offence and disclosure of suspicious transaction offence

5. The Chairman referred to a recent case where a barrister applied for judicial review against the Police for arresting him in connection with a money laundering case relating to his clients. He pointed out that the case might have implications on the discussion of the money laundering offence and the

Action

Adm

disclosure of suspicious transaction offence. Members considered that the right to legal representation should be protected and the legal responsibilities of the lawyer to disclose knowledge or suspicion that the money from his clients represented proceeds from money laundering should be clarified. The Committee requested the Administration to provide information on -

- (a) whether the accused could use part of his seized property for payment of legal expenses, and whether a lawyer's receipt of such payment would amount to money laundering;
- (b) the right of the accused whose property had been restrained to be legally represented in Court, and his eligibility for legal aid;
- (c) balance between the professional privilege of a lawyer and his responsibilities to disclose knowledge or suspicion that the money from his client represented proceeds from money laundering;
- (d) examples of restraint orders in which the proceeds had been quantified and those in which presumptions were used; and
- (e) the relevant cases and relevant provisions in local legislation.

## **II. Any other business**

6. Members noted that the Administration intended to resume the Second Reading debate on the Bill within the current legislative session and was ready to revert to the Bills Committee on the proposals in respect of sections 25 and 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance. The Chairman informed the meeting that the deadlines for notice of resumption of Second Reading debate and notice of CSAs for the Council meeting on 10 July 2002 were 24 and 29 June 2002 respectively. The Bills Committee would need to make a written report to the House Committee on 28 June 2002. In light of the legislative timetable, the Bills Committee agreed to hold the next meeting on Monday, 24 June 2002 at 10:45 am to discuss with the Administration.

7. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
30 August 2002

**Annex**

**Bills Committee on Drug Trafficking and Organized Crimes (Amendment) Bill 2000  
Meeting on Monday, 17 June 2002 at 10:45 am  
in Conference Room A of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000111	Chairman	Relevant papers	
000111 - 000330	Administration	Briefing on the Administration's response on cases in which restraint orders might be made	
000330 - 000342	Chairman	Revised Committee Stage amendments (CSAs) relating to the expiration date of a restraint/charging order	
000342 - 000442	Administration	Ditto	
000442 - 000649	Chairman	Ditto	
000649 - 000704	Administration	Ditto	
000704 - 000721	Chairman	Ditto	
000721 - 000900	Administration	Ditto	
000900 - 000917	Chairman	Ditto	
000917 - 000959	Administration	Ditto	
000959 - 001007	Chairman	Ditto	
001007 - 001034	Administration	Ditto	
001034 - 001037	Mrs Selina CHOW LIANG Shuk-ye	Ditto	
001037 - 001239	Chairman	Specifying the conditions of "not later than is reasonably necessary for the purposes of the investigation concern" and "not later than 6 months later the date on which that order is made" for the Court of First Instance to consider an application for extending the restraint order or charging order	
001239 - 001249	Administration	Ditto	
001249 - 001311	Chairman	Ditto	
001311 - 001327	Mrs Selina CHOW LIANG Shuk-ye	Ditto	
001327 - 001331	Chairman	Ditto	

001331 - 001348	Mrs Selina CHOW LIANG Shuk- yee	Ditto	
001348 - 001408	Chairman	Ditto	
001408 - 001427	Mrs Selina CHOW LIANG Shuk- yee	Ditto	
001427 - 001456	Chairman	Ditto	
001456 - 001500	Administration	Ditto	
001500 - 001528	Chairman	Ditto	
001528 - 001625	Mrs Selina CHOW LIANG Shuk- yee	Ditto	
001625 - 001628	Chairman, Mrs Selina CHOW LIANG Shuk-yee	Ditto	
001628 - 001651	Administration	Ditto	
001651 - 001659	Chairman	Ditto	The Administration agreed to amend the draft CSA to specify the conditions of "not later than is reasonably necessary for the purposes of the investigation concerned" and "not later than 6 months after the date on which that order is made" for the Court of First Instance to consider an application for extending the restraint order or charging order
001659 - 001854	Administration	Briefing on the Administration's response on notifying the abscondee of proceedings in respect of a confiscation order	
001854 - 001920	Chairman	Revised CSAs regarding notification of the abscondee of proceedings in respect of a confiscation order	
001920 - 002109	Administration	Ditto	
002109 - 002114	Chairman	Ditto	
002114 - 002257	Administration	Briefing on the Administration's response on the provision of information about the value of property	
002257 - 002319	Chairman, Administration	Revised CSAs regarding the provision of information about the value of property	
002319 - 002429	Administration	Ditto	
002429 - 002434	Miss Margaret NG	Ditto	
002434 - 002439	Chairman	Ditto	
002439 - 002451	Miss Margaret NG	Ditto	

002451 - 002520	Chairman	Ditto	
002520 - 002541	Administration	Ditto	
002541 - 002606	Miss Margaret NG	Ditto	
002606 - 002701	ALA4	Ditto	
002701 - 002755	Miss Margaret NG	The Administration's proposed addition of a new subsection (13A) to section 8 of Schedule 1 to the Bill	
002755 - 002824	Administration	Ditto	
002824 - 002830	Miss Margaret NG	Ditto	
002830 - 002834	Administration	Ditto	
002834 - 002842	Miss Margaret NG, Administration	Ditto	
002842 - 002843	Administration	Ditto	
002843 - 002846	Miss Margaret NG	Ditto	
002846 - 002902	Administration	Ditto	
002902 - 002906	Miss Margaret NG	Ditto	
002906 - 002911	Administration	Ditto	
002911 - 002920	Chairman	Ditto	
002920 - 003049	Administration	Ditto	
003049 - 003130	Miss Margaret NG	Examination of the draft CSAs relating to provision of information about the value of property in further detail	
003130 - 003140	Chairman	Ditto	
003140 - 003234	Administration	Briefing on the Administration's response regarding the long title of the Bill	
003234 - 003515	Chairman	CSAs in the Annex to the Administration's paper for the meeting	
003515 - 003635	ALA4	Consistency of the use of "and any other information" and "or any other information" in the Bill	
003635 - 003701	Chairman	Ditto	
003701 - 003720	Administration	Ditto	
003720 - 003728	Miss Margaret NG, Chairman	Ditto	
003728 - 003733	Chairman	Ditto	
003733 - 003741	Administration	Ditto	

003741 - 003752	Miss Margaret NG	Ditto	
003752 - 003807	Chairman	Ditto	The Administration was requested to amend "and any other information" in the CSA to section 8 of Schedule 1 to the Bill as "or any other information", and to amend similar phrase in relevant provisions in the Bill accordingly
003807 - 003820	ALA4	Ditto	
003820 - 004003	Chairman	CSAs relating to consequential amendments to the Mutual Legal Assistance in Criminal Matters Ordinance	
004003 - 004021	Administration	Ditto	
004021 - 004040	ALA4	Ditto	
004040 - 004054	Administration	Ditto	
004054 - 004142	Chairman	Ditto	
004142 - 004317	Administration	Ditto	
004317 - 004431	Chairman	Ditto	
004431 - 004602	Administration	Ditto	
004602 - 004659	Chairman	Ditto	
004659 - 004730	ALA4	Consistency between the drafting of the CSAs to section 3(a) of Schedule 1 and section 3(a) of Schedule 2 to the Bill	
004730 - 004752	Miss Margaret NG	Ditto	
004752 - 004814	ALA4	Ditto	
004814 - 004827	Chairman	Ditto	
004827 - 005038	ALA4	Ditto	
005038 - 005124	Administration	Ditto	The Administration undertook to consider revising the CSAs to section 3(a) of Schedule 1 and section 3(a) of Schedule 2 to the Bill to maintain a consistency between the drafting of the proposed section 3(2)(c)(ii)(B) of Cap. 405 and the proposed section



			8(3)(c)(i)(B)(II) of Cap. 455
005124 - 005144	Mrs Selina CHOW LIANG Shuk-ye	Ditto	
005144 - 005151	Administration	Ditto	
005151 - 005201	Mrs Selina CHOW LIANG Shuk-ye	Ditto	
005201 - 005228	Chairman	Ditto	
005228 - 005311	ALA4	Consistency in the use of "in such other manner" and "in such additional manner" in the Bill	
005311 - 005338	Administration, Chairman	Ditto	The Administration undertook to amend "in such other manner" in the CSA to section 3(a) of Schedule 2 to the Bill as "in such additional manner", and to amend similar phrase in relevant provisions in the Bill accordingly
005338 - 005414	Chairman	CSAs in the Annex to the Administration's paper for the meeting	
005414 - 005424	Administration	Ditto	
005424 - 005500	Chairman	Ditto	
005500 - 005550	ALA4	Amendment of "the proposed section 15(12)(a)" in section 7 of Schedule 2 to the Bill as "the proposed section 15(12)"	
005550 - 005558	Chairman	Ditto	The Administration undertook to amend "the proposed section 15(12)(a)" in section 7 of Schedule 2 to the Bill as "the proposed section 15(12)"
005558 - 005731	Chairman	CSAs in the Annex to the Administration's paper for the meeting	
005731 - 005804	Administration	Ditto	
005804 - 005818	Chairman	Ditto	
005818 - 005926	Administration, Chairman	Ditto	
005926 - 010202	Chairman	Issues arising from a recent case where a barrister applied for judicial review against the Police for arresting him in connection with a money laundering case relating to his clients	
010202 - 010207	Administration	Ditto	

010207 - 010237	Chairman	Ditto	
010237 - 010333	Administration	Ditto	
010333 - 010344	Chairman	Ditto	
010344 - 010348	Administration	Ditto	
010348 - 010439	Chairman	Ditto	
010439 - 010511	Administration	Ditto	
010511 - 010546	Chairman	Ditto	
010546 - 010617	Administration	Ditto	
010617 - 010634	Chairman	Ditto	
010634 - 010732	Administration	Ditto	
010732 - 010753	Chairman	Provision of the relevant provisions in local legislation and examples of restraint orders in which the proceeds had been quantified and those in which presumptions were used	The Administration was requested to provide the relevant provisions in local legislation and examples of restraint orders in which the proceeds had been quantified and those in which presumptions were used
010753 - 010758	Administration	Ditto	
010758 - 010920	Chairman	Ditto	
010920 - 010959	Administration	Relationship between the case and the Bill	
010959 - 011016	Chairman	Ditto	
011016 - 011020	Administration	Ditto	
011020 - 011047	Chairman	Ditto	
011047 - 011050	Administration	Ditto	
011050 - 011059	Chairman	Ditto	
011059 - 011103	Administration	Ditto	
011103 - 011216	Administration	Issue of whether the accused could use part of his seized property for payment of legal expenses, and whether a lawyer's receipt of such payment would amount to money laundering	
011216 - 011343	Chairman	Ditto	The Administration was requested to provide information on whether the accused could use part of

			his seized property for payment of legal expenses, and whether a lawyer's receipt of such payment would amount to money laundering
011343 - 011450	Mrs Selina CHOW LIANG Shuk-ye	Right of the accused whose property had been restrained to be legally represented in Court	
011450 - 011532	Chairman	Ditto	
011532 - 011718	Mrs Selina CHOW LIANG Shuk-ye	Ditto	
011718 - 011837	Chairman	Right of the accused whose property had been restrained to be legally represented in Court and his eligibility for legal aid	
011837 - 012005	Mr IP Kwok-him	Ditto	
012005 - 012603	Administration	Ditto	The Administration undertook to provide information on the right of the accused whose property had been restrained to be legally represented in Court and his eligibility for legal aid
012603 - 012704	Administration, Chairman	Ditto	
012704 - 012755	Mr IP Kwok-him	Ditto	
012755 - 012954	Chairman	Balance between the professional privilege of a lawyer and his responsibilities to disclose knowledge or suspicion that the money from his client represented proceeds from money laundering and relevant cases	The Administration undertook to provide information on the balance between the professional privilege of a lawyer and his responsibilities to disclose knowledge or suspicion that the money from his client represented proceeds from money laundering; and the relevant cases
012954 - 013018	Administration	Ditto	
013018 - 013115	Chairman	Ditto	
013115 - 013205	Miss Margaret NG	Ditto	
013205 - 013339	Chairman	Resumption of Second Reading debate on the Bill and deadlines for giving notices for resumption of Second Reading debate and moving CSAs	
013339 - 013549	Administration	Ditto	
013549 - 013558	Chairman	Ditto	

013558 - 013606	Administration	Ditto	
013606 - 013728	Chairman	Date of next meeting	
013728 - 013845	Miss Margaret NG	Ditto	
013845 - 013930	Chairman	Ditto	
013930 - 013944	Administration	Ditto	
013944 - 013955	Chairman	Ditto	
013955 - 014008	Administration	Ditto	
014008 - 014034	Chairman	Ditto	

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

Council Business Division 2  
Legislative Council Secretariat  
30 August 2002