

立法會
Legislative Council

LC Paper No. CB(1)161/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/01/2

**Bills Committee on
Chemical Weapons (Convention) Bill**

**Minutes of third meeting held on
Friday, 18 October 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Cyd HO Sau-lan (Chairman)
Hon James TO Kun-sun
Hon HUI Cheung-ching, JP
Hon LAU Kong-wah
Dr Hon LO Wing-lok
Hon Audrey EU Yuet-mee, SC, JP

Public officers attending : Ms Ellen CHOY
Principal Assistant Secretary for Commerce,
Industry and Technology (Commerce and Industry)

Miss Hinny LAM
Assistant Secretary for Commerce,
Industry and Technology (Commerce and Industry)

Ms Vivian SUM
Assistant Director-General
Trade and Industry Department

Ms Doris CHAN
Principal Trade Officer
Trade and Industry Department

Mr Andrew WONG
Head of Trade Controls
Customs and Excise Department

Mr K H NG
Principal Trade Controls Officer
Customs and Excise Department

Mr C Y AU YEUNG
Senior Chemist
Government Laboratory

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Ms Marie SIU
Senior Government Counsel
Department of Justice

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Ms Cindy CHENG
Senior Assistant Secretary (1)4

Action

- I. Meeting with the Administration**
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| (LC Paper No. CB(1)59/02-03(01) | — | "Follow-up to the first meeting on 18 April 2002" prepared by the Legislative Council Secretariat |
| LC Paper No. CB(1)1722/01-02(01) | — | Description of the Chemical Weapons Convention Schedule 1 Chemicals |
| LC Paper No. CB(1)1722/01-02(02) | — | Description of the Chemical Weapons Convention Schedule 2 Chemicals |
| LC Paper No. CB(1)1722/01-02(03) | — | Description of the Chemical Weapons Convention Schedule 3 Chemicals |

Action

- LC Paper No. CB(1)1722/01-02(04) — Implications of the Chemical Weapons (Convention) Bill for the general public and establishments that need to acquire or use chemicals
- LC Paper No. CB(1)2206/01-02(01) — Comparison of the Chemical Weapons (Convention) Bill to the Australia Chemical Weapons (Prohibition) Act 1994 and the UK Chemical Weapons Act 1996
- LC Paper No. CB(1)2206/01-02(02) — The full text of the Chemical Weapons (Prohibition) Act 1994 of the Commonwealth of Australia
- LC Paper No. CB(1)2206/01-02(03) — The full text of the Chemical Weapons Act 1996 (C.6) of the United Kingdom
- LC Paper No. CB(1)59/02-03(02) — "Follow-up to the second meeting on 16 July 2002" prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)59/02-03(03) — Reply dated 16 October 2002 from the Administration to the Clerk to Bills Committee
- LC Paper No. CB(1)1511/01-02(02) — First letter dated 1 November 2001 from the Assistant Legal Adviser to the Administration
- LC Paper No. CB(1)1511/01-02(03) — Reply dated 24 November 2001 from the Administration to the Assistant Legal Adviser
- LC Paper No. CB(1)59/02-03(04) — Second letter dated 24 April 2002 from the Assistant Legal Adviser to the Administration
- LC Paper No. CB(1)59/02-03(05) — Reply dated 12 October 2002 from the Administration to the Assistant Legal Adviser
- LC Paper No. CB(1)59/02-03(06) — Third letter dated 6 August 2002 from the Assistant Legal Adviser to the Administration)

Members noted the amendment sheets to LC Paper No. CB(1)59/02-03(03), which were tabled at the meeting by the Administration.

(Post-meeting note: The amendment sheets were issued to members vide LC Paper No. CB(1)91/02-03 on 21 October 2002.)

Action

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

- Admin 3. As requested by the Bills Committee, the Administration undertook to take the follow-up actions listed below:

(a) Cross-referencing the Bill and the Convention

To provide a table cross-referencing the Bill and the relevant parts of the Convention so as to facilitate the Bills Committee's consideration of the need to set out the full text of the Convention in Schedule 1 to the Bill.

(b) Addition of the definitions of key terms in clause 2

Certain key terms such as "Chemical Weapons" and "Facility" were defined in the Convention, but not in clause 2 (Interpretation) of the Bill. The Administration was requested to consider adding the definitions of such terms in clause 2 by referring to the definitions provided in the Convention.

(c) Clause 5(e) and (f)

Clause 5(f) provided that no person "shall assist, encourage or induce in any way, anyone to engage in any activity prohibited under the Convention". In this connection, the Administration was requested:

- (i) to review whether it was appropriate to use the term "encourage" in the context of clause 5(f) and its implications, and whether the term was commonly used in local legislation; and
- (ii) to consider whether the defence provision under clause 29(2), which was applicable to clause 5(a), (b), (c) or (d), should also be applicable to clause 5(e) and (f).

(Post-meeting note: The comparison table provided by the Administration on paragraph 3(a) above was circulated to members vide LC Paper No. CB(1)98/02-03(02) on 23 October 2002.)

Date of next meeting

4. The Chairman reminded members of the meeting schedule of the Bills Committee, as follows:

<u>Meeting</u>	<u>Date</u>	<u>Time</u>
Fourth	24 October 2002 (Thursday)	10:45 am
Fifth	31 October 2002 (Thursday)	8:30 am

Action

II. Any other business

5. There being no other business, the meeting ended at 10:20 am.

Legislative Council Secretariat

25 October 2002

**Proceedings of the third meeting of the
Bills Committee on Chemical Weapons (Convention) Bill
on Friday, 18 October 2002 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000-0321	Chairman Administration	Descriptions of the Chemical Weapons Convention Schedule 1 Chemicals, Schedule 2 Chemicals and Schedule 3 Chemicals (LC Paper Nos. CB(1)1722/01-02(01), (02) and (03))	
0322-1715	Chairman Administration	Supplementary information provided by the Administration on issues raised at the second meeting (LC Paper No. CB(1)59/02-03(03) and the amendment sheets tabled at the meeting by the Administration)	
1716-2306	Mr HUI Cheung-ching Chairman Administration Mr LAU Kong-wah	Control over chemicals under other existing legislation in Hong Kong and whether there would be any possible overlapping with the Bill (Paragraph 2 and Annex A to LC Paper No. CB(1)59/02-03(03)) (Paragraphs 2 to 5 and Annex A to LC Paper No. CB(1)59/02-03(05))	
2307-2629	Chairman Administration	Survey results regarding two industry surveys conducted by the Administration in 1998 and 2001 (Paragraphs 7 to 10 of LC Paper No. CB(1) 59/02-03(03))	
2630-3012	Chairman Ms Audrey EU Yuet-mee Administration	Definition of the term "Facility" under the Convention and the parties subject to control under the present definition of the term	

Time	Speaker	Subject(s)	Action required
		applicable to the Bill	

Time	Speaker	Subject(s)	Action required
3013-3929	Chairman Administration Mr LAU Kong-wah	Rationale for incorporating the Convention into the Bill (Paragraph 7 of LC Paper No. CB(1)59/02-03(04)) (Paragraphs 9 to 11 of LC Paper No. CB(1)59/02-03(05))	Admin to provide a table cross-referencing the Bill and the relevant parts of the Convention
3930-5345	ALA2 Mr James TO Administration	Concerns over the following : (a) Some key terms such as "Facility" and "Chemical Weapons" were defined in the Convention, but not in clause 2 (Interpretation) of the Bill. (b) The use of the term "encourage" in clause 5(f) of the Bill and its implications. (c) Whether the defence provision under clause 29(2) should also be applicable to clause 5(e) and (f).	Admin to consider reviewing clause 5(f) and clause 29(2)
5346-010023	Mr LAU Kong-wah Chairman Administration	The arrangement of not incorporating the definitions of certain key terms such as "Chemical Weapons" and "Facility" in clause 2 (Interpretation) of the Bill	Admin to consider incorporating the definition of key terms in clause 2
010024-010700	Mr James TO Administration Chairman	Implications of the term "encourage" used in clause 5(f) of the Bill and whether the term was commonly used in local legislation	Admin to review whether the term "encourage" was commonly used in local legislation

Time	Speaker	Subject(s)	Action required
010701-011929	Ms Audrey EU Yuet-mee Chairman ALA 2	(a) Part 2 Offences as provided in clause 29 (b) Reasons for the defence provision under clause 29(2) not applicable to clause 5(e) and (f) (c) The need to set out the full text of the Convention in Schedule 1 to the Bill (d) Staffing implication of implementation of the legislation	
011930-013023	Mr James TO Administration Chairman	Clarification on the "activity prohibited under the Convention" in clause 5(f) (Paragraph 2 of LC Paper No. CB(1)59/02-03(06))	
013024-013340	Mr LAU Kong-wah Chairman ALA2 Administration	The need for incorporating the full text of the Convention in the Bill	
013341-013650	Ms Audrey EU Yuet-mee Chairman Administration	Staffing implication of implementation of the legislation	
013651-013759	Mr HUI Cheung-ching Administration	Information regarding the production of chemical weapons	
013800-014146	Chairman	(a) Concluding remarks (b) Dates of the fourth and fifth meetings	

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

25 October 2002