

LS/B/22/01-02

Secretary for Security
F Division
Security Bureau
6/F, Main & East Wings
Central Government Offices
Lower Albert Road
Hong Kong

5 July 2002

BY FAX

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(Attn : Mr Johann Wong, Principal Assistant Secretary)

Dear Mr Wong,

United Nations (Anti-Terrorism Measures) Bill

At the Bills Committee meeting on 2 July 2002, members noted the Administration's intent that after the passage of the Bill, certain clauses of the Bill relating to or in connection with the rules of court to be made under Clause 18 would not come into operation until such rules of court are in place. Members wished to know which provisions specifically would come into operation before the rules of court are made, and whether there would be any safeguard in law to protect persons affected by those provisions.

In response to Members' queries and after consultation with the Administration, I advised at the meeting on 3 July 2002 that:

- (a) the Administration has indicated its policy intent that the following clauses of the Bill would not come into operation until the rules of court have been made under clause 18 -
 - (i) clause 4A (specification by Court of First Instance);
 - (ii) clause 5 (freezing of funds);
 - (iii) clause 7 (prohibition of supply of funds);
 - (iv) clause 14A (supplementary provisions applicable to licences);

- (v) clause 16 (applications to Court of First Instance);
and
- (vi) clause 16A (compensation);

- (b) the Administration has also pointed out that insofar as Clause 14 (providing for various offences) is concerned, the commencement date of those parts of clause 14 relating to clauses 5 and 7 would be the same as the commencement date for clauses 5 and 7;

- (c) as for the remaining provisions of the Bill that may have implications -
 - (i) any person aggrieved by the specification by the Chief Executive under clause 4 may seek judicial review;
 - (ii) clauses 6, 8, 9, 10 and 11 are offence provisions whereby the prosecution bears the burden of proof to adduce evidence sufficient to satisfy the court beyond reasonable doubt that an offence is committed;
 - (iii) under clause 13, property would not be forfeited unless the Court of First Instance so orders;

- (d) the rest of the Bill (clauses 1, 2, 3, 15, 17, 18 and 19) deals with technical aspects and empowers the making of regulations or rules of court.

Although the Deputy Secretary has indicated at that meeting that the Administration agrees with the above analysis, I would appreciate it if you could confirm again by letter since Members have subsequently requested the advice to be put in writing.

I shall be grateful if your reply, in both languages, could reach us by 6 July 2002.

Yours sincerely,

(Bernice Wong)
Assistant Legal Adviser

c.c. CAS(2)4