

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 1513/01-02  
(These minutes have been seen  
by the Administration)

Ref : CB2/SS/6/01

**Subcommittee to study issues relating to the  
Fugitive Offenders (Sri Lanka) Order**

**Minutes of the 2nd meeting on  
Tuesday, 19 March 2002 at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon James TO Kun-sun (Chairman)  
Hon Margaret NG  
Hon Jasper TSANG Yok-sing, JP  
Hon Miriam LAU Kin-yee, JP  
Hon Audrey EU Yuet-mee, SC, JP

**Public Officers attending** : Mrs Margaret CHAN  
Principal Assistant Secretary for Security  
  
Mr John HUNTER  
Deputy Principal Government Counsel  
  
Ms Francoise LAM  
Government Counsel

**Clerk in attendance** : Mrs Sharon TONG  
Chief Assistant Secretary (2) 1

**Staff in attendance** : Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Dora WAI  
Senior Assistant Secretary (2)4

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Action

**Meeting with the Administration**

The Subcommittee deliberated (Index of proceedings attached at **Annex**).

2. As suggested by the Subcommittee, the Administration undertook to consider amending the Fugitive Offenders Ordinance (Cap. 503) to provide a clearer legislative mandate for future Orders to specify exceptions to the political offence restriction on surrender contained in section 5(1)(a) of Cap. 503. The Administration pointed out, however, that such an amendment would be for "the avoidance of doubt" and that a number of previous Orders which contained such exceptions had been validly made in accordance with the provisions of section 3(1) and (9) of Cap. 503.
3. The Chairman said that he was just informed by the Hong Kong Human Rights Monitor that it would make a further written submission to the Subcommittee. The submission, when received, would be circulated to members.
4. The Subcommittee agreed that -
  - (a) subject to members' agreement, a further meeting might be convened to discuss new issue, if any, raised in the further submission of the Hong Kong Human Rights Monitor; and
  - (b) if no further meeting was required, a report on the deliberations of the Subcommittee would be made to the House Committee on 12 April 2002.

Council Business Division 2  
Legislative Council Secretariat  
3 April 2002

**Proceedings of the 2nd meeting of the  
Subcommittee to study issues relating to the  
Fugitive Offenders (Sri Lanka) Order  
on Tuesday, 19 March 2002 at 8:30 am  
in Conference Room B of the Legislative Council Building**

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
0000 - 0107	Chairman	Opening remarks	
0108 - 0343	Miss Margaret NG	Meaning of Article 6(2)	
0344 - 0633	Admin	- ditto -	
0634 - 0755	Miss Margaret NG	Difference between having and not having Article 6(2) in circumstances where an offence committed by a fugitive was of both criminal and political nature	
0756 - 1059	Admin	- ditto -	
1100 - 1337	Miss Margaret NG	Meaning of the word "substantial" in the context of "substantial conformity with the Ordinance"	
1338 - 1451	Admin	- ditto -	
1452 - 1520	Chairman	Inviting Admin to brief members on its written response to the issues raised in the submissions from the Hong Kong Human Rights Monitor and Ms Janice Brabyn (LC Paper No. CB(2)1309/01-02(01))	
1521 - 1926	Admin	Briefing on Admin's written response concerning surrender of nationals (Article 3)	
1927 - 2025	Miss Margaret NG	Whether a Chinese national with Hong Kong permanent residence would be repatriated to Hong Kong or China if he was deported from another country	
2026 - 2150	Admin	- ditto -	
2151 - 2531	Chairman	Reasons for including a provision to reserve the right to refuse the surrender of PRC nationals in the Agreement, while the right to refuse the surrender of Hong Kong permanent residents was not included	
2532 - 2741	Admin	- ditto -	
2742 - 2805	Chairman	- ditto -	
2806 - 2841	Admin	- ditto -	
2842 - 2927	Chairman	- ditto -	
2928 - 2951	Admin	- ditto -	
2952 - 3040	Chairman	- ditto -	

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
3041 - 3212	Admin	Briefing on Admin's written response concerning substantial conformity of Article 6(2) with the Ordinance	
3213 - 3227	Chairman	Substantial overlap between Article 6(1)(a) and Article 6(1)(b) & (c) and the political offence exception created by Article 6(2)	
3228 - 3338	Admin	- ditto -	
3339 - 3442	Chairman	Merit of having Article 6(2) from Sri Lankan Government's point of view	
3443 - 3531	Admin	- ditto -	
3532 - 3644	Chairman	Case laws in other jurisdictions concerning refusal of surrender which demonstrated how Articles 6(1)(a), (b) & (c) and 6(2) worked	
3645 - 4337	Admin	International trend to limit the political offence exception in conventions	
4338 - 4550	Chairman	Difference in the scope of the political offence exception between the Agreement and the Ordinance	
4551 - 4752	Admin	- ditto -	
4753 - 4849	Chairman	- ditto -	
4850 - 5019	Admin	Substantial conformity of Article 6(2) with the Ordinance	
5020 - 5155	Chairman	Extent to which the political offence exception should be introduced in an agreement	
5156 - 5307	Admin	- ditto -	
5308 - 5336	Chairman	Dividing line for substantial conformity	
5337 - 5359	Admin	- ditto -	
5400 - 5449	Chairman	Merits of having Article 6(2) in the Agreement in the context of arguing a case in court	
5450 - 5522	Admin	- ditto -	
5523 - 5537	Chairman	Case laws in other jurisdictions concerning refusal of surrender which demonstrated how Articles 6(1)(a), (b) & (c) and 6(2) worked	
5538 - 5615	Admin	Article on the issue of political offence exception and non-discriminatory clause	
5616 - 5731	Chairman	Suggestion that the words "For the purposes of this Agreement" in Article 6(2) should be replaced by "For the purposes of Article 6(1)(a)" in future agreements, where necessary	
5732 - 5737	Admin	- ditto -	

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
5738 - 5801	Chairman	Case laws demonstrating how Articles 6(1)(a), (b) & (c) and 6(2) worked	
5802 - 5913	Admin	- ditto -	
5914 - 010007	Chairman	- ditto -	
010008 - 010138	Admin	- ditto -	
010139 - 010209	Chairman	Inviting Admin to brief members on its written response concerning suppression of terrorism	
010210 - 010508	Admin	Briefed members on Admin's plan to introduce legislation to implement the extradition obligations in the Conventions concerning the Suppression of Terrorist Bombings and the Financing of Terrorism	
010509 - 010535	Mr Jasper TSANG	Reason for having Article 6(2) despite the presence of Article 6(1)(b) & (c)	
010536 - 010632	Admin	- ditto -	
010633 - 010648	Mr Jasper TSANG	Whether the seriousness of an offence would affect the Sri Lanka Government in refusing the surrender of a fugitive offender	
010649 - 010718	Admin	- ditto -	
010719 - 010743	Ms Miriam LAU	Impact on the existing Agreements if amendments to implement the Conventions concerning the Suppression of Terrorist Bombings and the Financing of Terrorism were introduced to the Ordinance	
010744 - 010758	Admin	- ditto -	
010759 - 010804	Ms Miriam LAU	Impact on future agreements if amendments to implement the Conventions concerning the Suppression of Terrorist Bombings and the Financing of Terrorism were introduced to the Ordinance	
010805 - 010945	Admin	- ditto -	
010946 - 011111	Chairman	Timing for passing the Order	
011112 - 011349	Admin	- ditto -	
011350 - 011448	Chairman	Timing for introducing the legislation concerning suppression of terrorism into LegCo	
011449 - 011600	Admin	(a) Timing for introducing the legislation concerning suppression of terrorism into LegCo; and (b) Undertook to consider amending the Ordinance to give a clearer legislative mandate to specify exceptions to section 5 of the Ordinance in future orders	✓ Admin to follow up

<b>Time</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
011601 - 011853	Chairman	Suggestion that - (a) subject to members' agreement, a further meeting might be convened to discuss new issue, if any, raised in the further submission of the Hong Kong Human Rights Monitor; and (b) if no further meeting was required, a report on the deliberations of the Subcommittee would be made to the House Committee on 12 April 2002	

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

Council Business Division 2  
Legislative Council Secretariat  
3 April 2002