

SBCR26/1/2716/80 Pt. 2

LS/S/2(a)/01-02

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26 October 2001

Mr KAU Kin-wah
Legal Service Division
Legislative Council Secretariat

Dear Mr Kau,

Fugitive Offenders (Sri Lanka) Order

Thank you for your letter dated 22 October.

We note your concern but we do not think it appropriate to approach the Sri Lankan authorities to make an amendment. We have the following considerations. First and foremost, we do not consider that the differences between the Chinese texts of Article 2 of the Sri Lankan Agreement and the Schedule to the Fugitive Offenders Ordinance (Cap. 503) are so substantial as to warrant an amendment, the downside of which is explained below. Further, while the Chinese descriptions in Article 2 differ from those in the Chinese text of the Schedule, they generally reflect the same meaning as the English text. We do not believe that the differences will give rise to problems of implementation for the two parties.

Secondly, Article 2 of the Sri Lankan Agreement is in fact quite close to Article 2 of the Chinese text of the Indonesian Agreement, which was cleared by LegCo; the Agreement with Indonesia is now in force. Also, a number of items are similar or the same as items in other Agreements (including the US), which have similarly entered into force.

Thirdly, prior to conclusion of the Agreement, we have consulted the Sri Lankan authorities on the English and Chinese texts and they have found these to be acceptable. The texts have also been cleared with OCMFA. Since the Agreement has been signed by both parties in late 1999, we are obligated to comply with the necessary requirements to

bring it into force. We would find ourselves in an awkward position if we were to go back to them at this stage with a proposal to amend the Agreement to cover primarily textual changes; doing so may pose problems with their Parliamentary procedures. It would also be necessary to raise the matter with OCMFA. We are concerned that this would not augur well for international cooperation.

We do see your point that the Chinese text of the list of offences in the Agreement should follow closely the wording in the Ordinance. We undertake to ensure that this is done in future Agreements.

Yours sincerely,

(Mrs Margaret CHAN)
for Secretary for Security