

Freezing of Assets under Existing Legislation

At the meeting of 5 February 2002, the Legislative Council Panel on Security requested the Administration to provide information on its past experience in the freezing of assets under existing legislation. The Administration's response is set out in the following paragraphs.

Procedures for freezing assets are available under the Organized and Serious Crimes Ordinance (OSCO), the Drug Trafficking (Recovery of Proceeds) Ordinance (DTROP) and the Mutual Legal Assistance in Criminal Matters Ordinance (MLA Ordinance).

The present OSCO and DTROP regimes allow for assets to be restrained by order of the Court of First Instance. Between 1998 and 2001, local law enforcement agencies (the Hong Kong Police and Customs and Excise Department) handled a total of 48 cases involving the freezing of assets in Hong Kong. In these 48 cases, 16 and 28 restraint orders were issued by the Court of First Instance under DTROP and OSCO respectively. Most of the assets frozen belonged to the arrested persons or defendants of specified offences like trafficking in dangerous drugs, manufacturing a dangerous drug, dealing with proceeds of drug trafficking, kidnapping, obtaining property by deception, bookmaking, theft, lending money at an excessive interest rate, living on the earnings of prostitution, assisting passage to Hong Kong of unauthorized entrants and money laundering. The frozen assets included cash on hand and at bank, securities, company equities, real estate, vehicles, yacht, jewellery, antique and companies with an estimated value of HK\$1,322 million. So Far, 14 out of the 48 cases have resulted in the subsequent confiscation of the frozen assets.

The Mutual Legal Assistance Unit of the Department of Justice (ILD) processes international requests for assets recovery under both the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order, Cap. 405 (the DTROP Order) and the MLA Ordinance, Cap. 525. The procedures under the DTROP Order apply to proceeds of drugs offences only, whereas the procedures under the MLA Ordinance apply to proceeds of all serious offences, including drugs offences. During the period 1998 to 2001 the ILD dealt with 16 incoming requests under the DTROP Order from USA, Australia, Canada and United Kingdom. For the same period, the ILD handled six incoming requests under the MLA Ordinance from Australia, Switzerland, Thailand and Myanmar. The cases predominantly concern drug and fraud proceeds of crime. All are formal requests made by the appropriate government authorities in the requesting jurisdiction to the Secretary for Justice

in Hong Kong. Proceeds in excess of HK\$250 million are under restraint or have been realised.

For the same period 1998 – 2001, Hong Kong has made one outgoing request for restraint of proceeds (to Switzerland, in relation to a fraud offence). The outgoing request for restraint of proceeds related to a crime case of the Hong Kong Police. It involved retained cash (US\$3,230,000) which belonged to the victim and was held in the suspects' bank accounts in Switzerland.