

**Bills Committee on
Safety of United Nations and Associated Personnel Bill**

Purpose

This note sets out the Administration's response to the issues raised at the Bills Committee meeting on 31 July 2006 and the draft Committee Stage Amendments (CSAs) which the Administration intends to propose.

Clause 2 – Definition of “specified person”

2. Members have requested the Administration to consider deleting the definition of “specified person” from clause 2, and replacing the definition in the relevant provisions of the Bill with “Chinese national and a Hong Kong permanent resident”, taking into account the proposed extension of extra-territoriality to cover stateless persons who are Hong Kong permanent residents.

3. At the suggestion of Members at the Bills Committee meeting on 1 June 2006, we have earlier agreed to extend extra-territorial jurisdiction to a stateless person who is a Hong Kong permanent resident. We have prepared a draft CSA to this effect, by including a stateless person who is a Hong Kong permanent resident in the definition of “specified person”. A corollary of this amendment is the need to amend the long title of the Bill to refer to both paragraphs 1 and 2(a) of Article 10 of the Convention on the Safety of United Nations and Associated Personnel.

4. With this agreed change, if we further dispense with the definition of “specified person” in clause 2, we would need to substitute “specified person” with “a person who is a Chinese national and a Hong Kong permanent resident, or a person who is a stateless person and a Hong Kong permanent resident” whenever it appears in the Bill. The relevant provisions would become cumbersome and could render a provision difficult to comprehend, especially when another person is also mentioned in the same provision. From a drafting point of view, we consider that it is more appropriate to retain the definition of “specified person” in clause 2.

Clause 5 – Offence of threat

5. Given the higher penalty prescribed for the offence of threat under the Bill, Members have suggested that the “intent” to commit crimes against United Nations and associated personnel, or the “knowledge” that the crime was targeted at a member of the United Nations and associated personnel should be included as an element of the offence of threat. We accept this suggestion, and propose to revise clause 5 to provide that in the context of a threat offence, an offender knowing or having reason to believe that the person to whom an act constituting a “relevant offence” will be done is a member of the United Nations or associated personnel, commits an offence. With clause 5 amended, clause 7 will need to be consequentially amended to provide for an exception for clause 5.

6. The draft CSAs reflecting the above changes are at the **Annex**.

Security Bureau
December 2006

SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL BILL

COMMITTEE STAGE

Draft Amendments to be moved by the Secretary for Security

<u>Clause</u>	<u>Amendment Proposed</u>
long title	By deleting "paragraph 1" and substituting "paragraphs 1 and 2(a)".
2	By deleting the definition of "specified person" and substituting - "“specified person” (指明人士) means - (a) a person who is - (i) a Chinese national; and (ii) a Hong Kong permanent resident; or (b) a person who is - (i) a stateless person; and (ii) a Hong Kong permanent resident;".
5	By deleting subclauses (1) and (2) and substituting - "(1) A person shall not, in order to compel another person to do or refrain from doing any act,

make to the other person a threat that an act will be done which, if done, would constitute a relevant offence -

- (a) with the intention that the other person will fear that the threat will be carried out; and
- (b) knowing or having reason to believe
 -
 - (i) that, in relation to a threat that an act will be done to or in relation to any person ("relevant person"), the relevant person is a member of the United Nations personnel or a member of the associated personnel; or
 - (ii) that, in relation to a threat that an act will be done to or in relation to any premises or means of transportation, the premises are or the means of transportation is ordinarily used by a member of the United Nations personnel or a member of the associated personnel.

(2) A specified person shall not, outside Hong Kong, in order to compel another person to do or refrain from doing any act, make to the other person a threat that an act will be done which, if done, would constitute a relevant offence -

- (a) with the intention that the other person will fear that the threat will be carried out; and
- (b) knowing or having reason to believe
 - - (i) that, in relation to a threat that an act will be done to or in relation to any person ("relevant person"), the relevant person is a member of the United Nations personnel or a member of the associated personnel; or
 - (ii) that, in relation to a threat that an act will be done to or in relation to any premises or means of transportation, the premises are or the means of transportation is ordinarily used by a member of the United

Nations personnel or a member of
the associated personnel.”.

7 By adding “except as otherwise expressly provided by
section 5(1) and (2),” after “6(1) and (2),”.