

立法會
Legislative Council

Ref : CB2/BC/12/06

LC Paper No. CB(2)969/07-08
(These minutes have been seen by
the Administration)

**Bills Committee on
Prevention of Bribery (Amendment) Bill 2007**

**Minutes of the 4th meeting
held on Tuesday, 8 January 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Jasper TSANG Yok-sing, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Hon CHEUNG Man-kwong
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Mrs Anson CHAN, GMB, JP
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Albert Jinghan CHENG, JP
Hon KWONG Chi-kin

**Public Officers : Item II
attending**

Miss Jennifer MAK
Director of Administration
Administration Wing, Chief Secretary for Administration's Office

Miss Shirley YUNG
Deputy Director of Administration
Administration Wing, Chief Secretary for Administration's Office

Mr Ian McWalters
Deputy Director of Public Prosecutions
Department of Justice

Mr Llewellyn MUI
Senior Government Counsel
Department of Justice

Ms Monica LAW
Senior Assistant Law Draftsman
Department of Justice

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2) 5

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Amy YU
Senior Council Secretary (2) 3

Ms Sandy HAU
Legislative Assistant (2) 5

Action

I. Confirmation of minutes of meeting
(*LC Paper No. CB(2)701/07-08*)

The minutes of the meeting held on 4 December 2007 were confirmed.

Action

II. Meeting with the Administration

(LC Paper No. CB(2)760/07-08(01))

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. Members noted that the Chief Executive (CE) would declare publicly all gifts of perceived value above HK\$400 presented to him and would purchase such gifts if he wished to retain them for his personal use. These arrangements were devised by CE's Office, making reference to the rules applicable to civil servants concerning acceptance of gifts. To better ensure transparency and accountability in relation to the acceptance and disposal of gifts to CE, the Administration was requested to formalise the above arrangements and set up a committee comprising people from outside the Government to make changes to the arrangements where appropriate. The Administration agreed to revert in writing.

Admin

4. The Chairman recapped the three main concerns of the Bills Committee as follows -

- (a) CE should be bound by the Prevention of Bribery Ordinance (POBO) (Cap. 201) as all other citizens of Hong Kong;
- (b) there should be sufficient safeguards against any corruption complaint against CE being covered up by the Administration under the referral mechanism; and
- (c) express provision to provide immunity for Members of the Legislative Council in disclosing information contained in Secretary for Justice's referrals in the course of discharging the constitutional duty under Article 73(9) of the Basic Law should be added to POBO.

Admin

5. At the request of the Chairman, the Administration undertook to provide/consolidate its response to these concerns as raised by members at previous meetings.

6. The Chairman sought members' view on inviting deputations to give views on the Bill. Members expressed support.

7. There being no other business, the meeting ended at 5:30 pm.

**Proceedings of the fourth meeting of the
Bills Committee on Prevention of Bribery (Amendment) Bill 2007
on Tuesday, 8 January 2008, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000231	Chairman	Opening remarks Confirmation of minutes of meeting on 4 December 2007	
000232 - 001147	Administration Chairman	The Administration's response to issues raised by members at the meetings on 15 November and 4 December 2007 concerning the application of sections 3 and 8(1) of the Prevention of Bribery Ordinance (POBO) (Cap. 201) to the Bill (LC Paper No. CB(2)760/07-08(01))	
001148 - 001728	Mr CHEUNG Man-kwong Administration Chairman	Mr CHEUNG Man kwong's enquiry on whether there were any rules governing the acceptance and disposal of gifts presented to the Chief Executive (CE) The Administration's response that CE would declare publicly all gifts of perceived value above HK\$400 presented to him and would purchase such gifts if he wished to retain them for his personal use	
001729 - 002042	Dr YEUNG Sum SALA2 Chairman	Members noted from the legal adviser that unlike the common law offence of bribery, the prosecution did not need to prove a corrupt motive to establish an offence under sections 3 and 8(1) of POBO	
002043 - 003031	Mr Martin LEE Administration Chairman	The Administration's response that the administrative arrangements in relation to the acceptance and disposal of gifts to CE were devised by CE's Office, making reference to the rules applicable to civil servants concerning acceptance of gifts	
003032 - 003244	Mr TAM Yiu-chung	Considered that the existing administrative measures were effective in ensuring the transparency and accountability in relation to the acceptance and disposal of gifts to CE	
003245 - 003506	Mrs Anson CHAN Chairman Administration	Mrs Anson CHAN's view that arrangements for the acceptance and disposal of gifts to CE should be formalised and made known to the public	
003507 - 005118	Mr CHEUNG Man-kwong Chairman Administration Dr YEUNG Sum Mr TAM Yiu-chung	Mr CHEUNG Man-kwong's views that to better ensure transparency and accountability in relation to acceptance and disposal of gifts to CE, the existing administrative arrangements on such should be formalised and a committee comprising people from outside the Government should be set up to make changes to these arrangements where appropriate	✓ (Admin to provide a written response)

Time marker	Speaker	Subject	Action required
005119 - 005938	Chairman Mr CHEUNG Man- kwong Dr YEUNG Sum	The Chairman recapped the three main concerns of the Bills Committee The Administration was requested to provide/consolidate its response to these concerns Invitation of public views	✓ (Admin to provide a written response)
005939 - 010146	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
29 January 2008