

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

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**Subcommittee on Fugitive Offenders (Germany) Order and
Fugitive Offenders (Republic of Korea) Order**

**Minutes of meeting
held on Thursday, 4 January 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Margaret NG
Hon Miriam LAU Kin-ye, GBS, JP
- Member absent** : Hon LAU Kong-wah, JP
- Public Officers attending** : Security Bureau

Ms Manda CHAN
Principal Assistant Secretary for Security

Ms Jane LEE
Assistant Secretary for Security

Department of Justice

Ms Deneb CHEUNG
Senior Government Counsel

Ms Grace LEUNG
Government Counsel
- Clerk in attendance** : Miss Mary SO
Chief Council Secretary (2)5

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Katherine YUNG
Senior Council Secretary (2)8

Miss Kiwi NG
Legislative Assistant (2)5 (Atg)

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I. Meeting with the Administration

(Legislative Council Brief (File Ref. SBCR 3/5691/95 Pt.36; SBCR 1/2716/89(98) Pt.22), LS12/06-07, LC Paper Nos. CB(2)573/06-07(01)-(03) and CB(2)709/06-07(01))

The Subcommittee deliberated (index of proceedings at **Annex**)

2. Senior Government Counsel (SGC) took members through the Administration's paper on an article by article comparison of the Agreement between the Government of the Hong Kong Special Administrative Region and the Government of the Republic of Korea for surrender of fugitive offenders (SFO) and the model text on SFO (LC Paper No. CB(2)573/06-07(03)).

Political offence restriction on surrender of fugitive offenders

3. In response to members' enquiry about the progress that had been made since March 2006 about the consideration of amending the Fugitive Offenders Ordinance (Cap. 503) to give a clearer mandate for future orders to specify exceptions to the political offence restriction contained in section 5(1)(a) of the Ordinance, Principal Assistant Secretary for Security (PAS(S)) advised that the Security Bureau (SB), in consultation with the Department of Justice, was continuing its study on the necessary scope of amendments to be made to the Ordinance to provide for exceptions to the political offence restriction on surrender of fugitive offenders for the purpose of avoidance of doubt. The Administration would take into account in its study -

- (a) any other exception provision that has been made in the existing fugitive offenders orders in respect of the bilateral arrangements with other jurisdictions;
- (b) any necessary related amendment that would need to be made to the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525); and

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- (c) international trend and practices of other jurisdictions in providing for exceptions to the political offence restriction.

4. PAS(S) also advised that upon completion of the study, SB would consult the Panel on Security as soon as possible, hopefully by 2007, before proceeding to draw up the relevant legislative proposal. At the suggestion of the Subcommittee, PAS(S) undertook to expedite the study as soon as possible.

Surrender of property

5. Members noted that while article 13 of the model agreement referred to "articles", the word "property" was used in paragraphs 1-3 of Article 15 of the Fugitive Offenders (Republic of Korea) Order (the Korea Order) instead. SGC explained that "property" was used in the Korea Order in order to be consistent with the wording adopted in sections 8 and 9 of Cap. 503.

6. Miss Margaret NG was of the view that the Administration should have taken into account that "property" had a wider meaning than "article" in the context of Article 15 of the Korea Order. Ms Miriam LAU pointed out that the word "articles" was used in Article 15 of the Fugitive Offenders (Germany) Order (the Germany Order) and if consistency was the reason for the change from "article" to "property", similar changes would need to be made to the Germany Order.

7. SGC clarified that the change was intended to reflect the provisions of sections 8 and 9 of Cap. 503 and Article 15 would be implemented in accordance with the Ordinance. SGC agreed to consider carefully in future surrender of fugitive offenders orders the need to use the word "property" in the context of surrender of property and, if so, to adopt the same wording consistently for all future orders.

Remedy for persons wrongly detained for surrender to certain places outside Hong Kong

8. The Chairman suggested that persons detained for the purpose of surrender to certain places outside Hong Kong but were subsequently released because of insufficient documentation provided by the requesting parties should have avenue for remedies. SGC noted the Chairman's suggestion.

9. Members agreed that the Germany Order and the Korea Order be supported and the Subcommittee would report to the House Committee on 5 January 2007.

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II. Any other business

10. There being no other business, the meeting ended at 5:37 pm.

Council Business Division 2
Legislative Council Secretariat
18 January 2007

**Proceedings of the meeting of Subcommittee on
Fugitive Offenders (Germany) Order and
Fugitive Offenders (Republic of Korea) Order
on Thursday, 4 January 2007, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000042	Chairman	Opening remarks	
000043 - 001017	Admin ALA3 Chairman Miss Margaret NG	Briefing on the Administration's paper on an article by article comparison of the Agreement between the Government of the Hong Kong Special Administrative Region and the Government of the Republic of Korea for surrender of fugitive offenders (SFO) and the model text on SFO (LC Paper No.CB(2)573/06-07(03)) - Articles 1 to 5	Admin to expedite the study on consideration of amending the Fugitive Offenders Ordinance (Cap. 503) to give a clearer mandate for future orders to specify exceptions to the political offence restriction contained in section 5(1)(a) of the Ordinance (para. 4 of the minutes)
001018 - 004921	Admin Ms Margaret NG Chairman Ms Miriam LAU	Articles 6 to 15	Admin to carefully consider in future SFO orders the need to use the word "property" and, if so, to adopt the wording consistently for all future orders (para. 7 of the minutes)
004922 - 005341	Chairman Admin	Articles 16 to 22	
005342 - 005909	Chairman Admin Ms Miriam LAU	Annex - Description of offences referred to in Article 2	
005910 - 010011	Chairman Miss Margaret NG Ms Miriam LAU	Reporting to the House Committee on 5 January 2007	