

立法會
Legislative Council

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LC Paper No. CB(2)834/06-07
(These minutes have been seen by the
Administration)

**Subcommittee on
Mutual Legal Assistance in Criminal Matters (Germany) Order**

**Minutes of meeting
held on Thursday, 14 December 2006, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Margaret NG
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
- Public Officers attending** : Ms Manda CHAN
Principal Assistant Secretary for Security
Security Bureau
- Mr John HUNTER
Deputy Principal Government Counsel (Treaties & Law)
Department of Justice
- Ms Anthea LI
Senior Government Counsel
Department of Justice
- Ms Marie SIU
Senior Government Counsel
Department of Justice
- Ms Jane LEE
Assistant Secretary for Security
Security Bureau
- Clerk in attendance** : Mrs Sharon TONG
Chief Council Secretary (2) 1

Staff in attendance : Mr LEE Ka-yun, Kelvin
Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

Action

I. Election of Chairman

Hon James TO Kun-sun was elected Chairman of the Subcommittee.

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

II. Meeting with the Administration

3. The Subcommittee requested the Administration to advise whether information obtained under the Interception of Communications and Surveillance Ordinance could be provided under Article 5(2)8 of the Mutual Legal Assistance in Criminal Matters (Germany) Order (the Germany Order) to the Requesting Party.

4. The Administration undertook to consider the following views expressed by members when establishing bilateral mutual legal assistance (MLA) agreements in the future -

- (a) to assess whether provisions similar to Articles 10(3) of the Germany Order would have the effect of widening the scope of persons permitted to appear in the proceedings in the jurisdiction of the Requested Party and to question the person giving evidence at such proceedings;
- (b) to improve the drafting of the notification provisions similar to Article 20(1) of the Germany Order by clearly providing that the MLA agreement shall enter into force after both parties had notified each other that their respective requirements for entry into force of the MLA agreement had been complied with.

5. The Administration also undertook to consider whether there was a need to include a provision similar to Article 5(3)2(a) in the domestic law.

6. The Chairman concluded that, pending the information to be provided by the Administration, the Subcommittee had concluded its deliberations on the Germany Order and a written report on the deliberations of the Subcommittee would be submitted to the House Committee on 5 January 2007. Should the Administration be unable to provide the requested information in time, the written report on the

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deliberations of the Subcommittee would be submitted to the House Committee on 12 January 2007.

7. The meeting ended at 9:40 am.

Council Business Division 2
Legislative Council Secretariat
10 January 2007

**Proceedings of meeting of the
Subcommittee on
Mutual Legal Assistance in Criminal Matters (Germany) Order
held on Thursday, 14 December 2006, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000254	Hon Margaret NG Hon TSANG Yok-sing Hon James TO	Election of Chairman	
000255 - 000809	Admin	Article-by-article comparison between Articles 1 to 4 of the Mutual Legal Assistance in Criminal Matters (Germany) Order (the Germany Order) and the model agreement on mutual legal assistance (MLA)	
000810 - 001013	Chairman Admin	Why the wordings in the chapeau of Article 4 differed from that in the model agreement; refusal of providing assistance where the main purpose of the request was the assessment or collection of tax	
001014 - 001200	Admin	Article-by-article comparison between Article 5(1) and 5(2) and the model agreement on MLA	
001201 - 001519	Chairman Admin	Whether information obtained under the Interception of Communications and Surveillance Ordinance could be provided under Article 5(2)8 to the Requesting Party	Admin to advise whether information obtained under the Interception of Communications and Surveillance Ordinance could be provided under Article 5(2)8 of the Germany Order to the Requesting Party
001520 - 001716	Admin	Article-by-article comparison between Articles 5(3), 5(4) and 6 and the model agreement on MLA	

Time marker	Speaker	Subject(s)	Action Required
001717 - 002802	Chairman Hon Miriam LAU Admin	Effect of Article 5(3)2(a) and meaning of "competent authority"	
002803 - 003219	Admin	Article-by-article comparison between Articles 7 to 10 and the model agreement on MLA	
003220 - 004339	Chairman Admin Hon Miriam LAU	Drafting and effect of Article 10(3) and drafting of similar articles in future MLA agreements	
004340 - 005147	Admin	Article-by-article comparison between Articles 11 to 20 and the model agreement on MLA	
005148 - 010340	Chairman Hon Miriam LAU Hon TSANG Yok-sing Admin	Drafting of Article 20(1) and drafting of similar articles in future MLA agreements	
010341 - 010434	Admin	Briefing on Schedule 2	
010435 - 010859	Hon Miriam LAU Admin ALA1 Chairman	How the proposed amendments to the principal ordinance would be effected	
010900 - 011043	Chairman	Reporting the deliberations of the Subcommittee to the House Committee	