

**立法會**  
**Legislative Council**

LC Paper No. CB(2)659/08-09  
(These minutes have been  
seen by the Administration)

Ref : CB2/SS/5/08

**Subcommittee on  
Mutual Legal Assistance in Criminal Matters (Indonesia) Order,  
Mutual Legal Assistance in Criminal Matters (Japan) Order and  
Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order**

**Minutes of the first meeting  
held on Friday, 12 December 2008, at 10:00 am  
in Conference Room B of the Legislative Council Building**

**Members Present** : Hon James TO Kun-sun (Chairman)  
Dr Hon Margaret NG  
Hon LAU Kong-wah, JP

**Public Officers attending** : Item II

Security Bureau

Mr David LAU  
Principal Assistant Secretary for Security

Ms Jane LEE  
Assistant Secretary for Security

Department of Justice

Miss LEE Sau-kong  
Deputy Principal Government Counsel  
International Law Division

Ms Anthea LI  
Senior Government Counsel  
International Law Division

Mr James DING  
Senior Government Counsel  
International Law Division

Ms Lonnie NG  
Senior Government Counsel  
Law Drafting Division

Miss Carrie WONG  
Senior Government Counsel  
Law Drafting Division

Mr Vidy CHEUNG  
Senior Government Counsel  
Law Drafting Division

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 4

**Staff in attendance** : Mr Timothy TSO  
Assistant Legal Adviser 2

Mr Chris LAI  
Senior Council Secretary (2) 5

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**I. Election of Chairman**

Mr James TO was elected Chairman of the Subcommittee.

**II. Meeting with the Administration**

[Legislative Council Brief, proposed resolutions on the three Orders, LC Papers Nos. LS17/08-09 and CB(2)421/08-09(01) to (03)]

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

3. The Subcommittee requested and the Administration agreed to provide information on the estimated expenses incurred and manpower involved in processing requests for mutual legal assistance in criminal matters under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) in the past year, if available.

Admin

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**III. Any other business**

4. The Chairman said that the Subcommittee had completed scrutiny of the Mutual Legal Assistance in Criminal Matters (Indonesia) Order, and would continue discussion with the Administration on the Mutual Legal Assistance in Criminal Matters (Japan) Order and the Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order at the next meeting. He further said that members would be informed of the meeting date in due course.

5. There being no other business, the meeting ended at 11:30 am.

Council Business Division 2  
Legislative Council Secretariat  
13 January 2009

**Proceedings of the first meeting of the  
Subcommittee on  
Mutual Legal Assistance in Criminal Matters (Indonesia) Order,  
Mutual Legal Assistance in Criminal Matters (Japan) Order and  
Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order  
on Friday, 12 December 2008, at 10:00 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda item I – Election of Chairman</i>			
000000 - 000315	Dr Margaret NG Mr James TO Mr LAU Kong-wah	Election of Chairman	
<i>Agenda item II – Meeting with the Administration</i>			
<i>(a) Mutual Legal Assistance in Criminal Matters (Indonesia) Order</i>			
000316 - 000600	Chairman Dr Margaret NG	Opening remarks by the Chairman	
000601 - 000730	Chairman Admin	The Chairman's enquiry about a recent case involving the taking of evidence in the Mainland by the prosecution from Hong Kong	
000731 - 000837	Chairman Admin	Examination of Article 1 of Schedule 1 to the Mutual Legal Assistance in Criminal Matters (Indonesia) Order (Indonesia Order); comparison between the Article and the relevant article in the Model Agreement on Mutual Legal Assistance in Criminal Matters (model agreement) (LC Paper No. CB(2)421/08-09(01))	
000838 - 000930	Admin	Examination of Article 2 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
000931 - 000944	Admin	Examination of Article 3 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
000945 - 001018	Admin	Examination of Article 4 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
001019 - 001129	Admin	Examination of Article 5 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
001130 - 003857	Chairman Admin Mr LAU Kong-wah Dr Margaret NG	Examination of Article 6 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement  Meaning and application of "excessive burden" in Article 6(2)(b); effect of not including Article IV(3) of the model agreement in Article 6  The Administration to provide information on the estimated expenses incurred and manpower involved in	<b>Admin</b>

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
		processing requests for mutual legal assistance in criminal matters under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) in the past year if available	
003858 - 003908	Admin	Examination of Article 7 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
003909 - 003923	Admin	Examination of Article 8 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
003924 - 004314	Admin Chairman	Examination of Articles 9 and 10 of Schedule 1 to the Indonesia Order; comparison between the Articles and the relevant articles in the model agreement	
004315 - 004355	Admin	Examination of Article 11 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004356 - 004500	Admin	Examination of Article 12 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004501 - 004511	Admin	Examination of Article 13 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004512 - 004530	Admin	Examination of Article 14 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004531 - 004725	Admin Chairman	Examination of Article 15 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004726 - 004736	Admin	Examination of Article 16 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
004737 - 005940	Admin Chairman Mr LAU Kong-wah Dr Margaret NG	Examination of Article 17 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement  Meaning and application of "proceeds of crime" in Article 17(6)	
005941 - 010005	Admin	Examination of Article 18 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
010006 - 010049	Admin	Examination of Article 19 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
010050 - 010055	Admin	Examination of Article 20 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
010056 - 010115	Admin	Examination of Article 21 of Schedule 1 to the Indonesia	

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		Order; comparison between the Article and the relevant article in the model agreement	
010116 - 010301	Admin Chairman	Examination of Article 22 of Schedule 1 to the Indonesia Order; comparison between the Article and the relevant article in the model agreement	
010302 - 010501	Chairman Admin	Examination of Schedule 2 to the Indonesia Order	
010502 - 010953	Chairman Admin	Application of the term "the safety of any person" in Article 6(2)(a)  Completion of scrutiny of the Indonesia Order	
<i>(b) Mutual Legal Assistance in Criminal Matters (Japan) Order</i>			
010954 - 011122	Chairman Admin	Examination of Article 1 of Schedule 1 to the Mutual Legal Assistance in Criminal Matters (Japan) Order (Japan Order); comparison between the Article and the relevant article in the model agreement (LC Paper No. CB(2)421/08-09(02))	
011123 - 011145	Admin	Examination of Article 2 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
011146 - 012426	Admin Chairman	Examination of Article 3 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement  The Administration's interpretation of the term "military law" when agreeing with Japan not to include Article IV(1)(c) of the model agreement in the Japan Order	
012427 - 012522	Admin Chairman	Examination of Article 4 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
012523 - 012600	Admin	Examination of Article 5 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
012601 - 012858	Admin Chairman	Examination of Article 6 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
<i>Agenda item III – Any Other Business</i>			
012859 - 012930	Chairman	Date of next meeting	