

立法會
Legislative Council

LC Paper No. CB(4)278/15-16
(These minutes have been seen
by the Administration)

Ref: CB4/SS/21/14

Subcommittee on Consular Relations (Additional Privileges and Immunities) (Cambodia) Order and Consular Relations (Additional Privileges and Immunities) (Philippines) Order

**Minutes of the first meeting held on
Tuesday, 27 October 2015, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon James TO Kun-sun (Chairman)
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP

Public Officers attending : **Agenda item II**

Administration Wing

Mrs DO PANG Wai-yee, JP
Deputy Director of Administration 2

Mrs Judy LI
Director of Protocol

Department of Justice

Ms Lonnie NG
Senior Government Counsel

Ms Melody HUI
Senior Government Counsel (Treaties and Law)

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (4)5

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Ms Lauren LI
Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Election of Chairman

Election of Chairman

Mr James TO, the member with the highest precedence among those present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr James TO was nominated by Mr Dennis KWOK and the nomination was seconded by Mr SIN Chung-kai. Mr James TO accepted the nomination. There being no other nomination, Mr TO was declared Chairman of the Subcommittee.

II. Meeting with the Administration

(L.N. 177 of 2015 — Consular Relations (Additional Privileges and Immunities) (Cambodia) Order

L.N. 180 of 2015 — Consular Relations (Additional Privileges and Immunities) (Philippines) Order

File Ref.: SF (10) in PROT CR — Legislative Council Brief
6/1126/98 issued by the Administration Wing of the Chief Secretary for Administration's Office on Subsidiary Legislation relating to Consular Matters

Action

- LC Paper No. LS82/14-15 — Legal Service Division Report on Subsidiary Legislation Gazetted on 25 September 2015
- LC Paper No. CB(4)78/15-16(01) — Letter from the Assistant Legal Adviser to the Administration dated 19 October 2015
- LC Paper No. CB(4)78/15-16(02) — Letter from the Administration dated 23 October 2015 in response to the Assistant Legal Adviser's letter
- LC Paper No. CB(4)78/15-16(03) — A copy of the Vienna Convention on Consular Relations provided by the Administration
- LC Paper No. CB(4)78/15-16(04) — A copy of the Consular Relations Ordinance (Cap. 557) provided by the Administration
- LC Paper No. CB(4)78/15-16(05) — A copy of the Consular Convention Between the People's Republic of China and the Kingdom of Cambodia provided by the Administration
- LC Paper No. CB(4)78/15-16(06) — A copy of the Consular Agreement Between the People's Republic of China and the Republic of the Philippines provided by the Administration)

Discussion

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

ActionFollow-up action(s) to be taken by the Administration

4. Members requested the Administration to provide information on the stance of the Hong Kong Special Administrative Region and its legal interpretation of the term "consular archives", i.e. whether it only meant physical form documents or it also covered documents stored in electronic form, in the bilateral consular agreements that had been entered before the use of electronic devices became common.

III. Any other businessInvitation of views

5. Members agreed that there was no need to invite public views.

Legislative timetable

6. Members noted that the Subcommittee had completed the scrutiny of the two items of subsidiary legislation. To allow more time for the Subcommittee to prepare the report, members agreed to extend the scrutiny period of these two items of subsidiary legislation to the Council meeting of 2 December 2015. They further noted that Subcommittee Chairman would move a motion at the Council meeting of 4 November 2015 to extend the said scrutiny period, and report the Subcommittee's deliberations to the House Committee at its meeting on 20 November 2015. The deadline for giving notice to move amendments to these two items of subsidiary legislation was 25 November 2015.

7. There being no other business, the meeting ended at 5:34 pm.

Council Business Division 4
Legislative Council Secretariat
26 November 2015

**Proceedings of the first meeting of the Subcommittee on
Consular Relations (Additional Privileges and Immunities) (Cambodia) Order and
Consular Relations (Additional Privileges and Immunities) (Philippines) Order
on Tuesday, 27 October 2015, at 4:30 pm
in Conference Room 2A of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
|---|---|---|---|
| Agenda item I – Election of Chairman | | | |
| 000841 – 000913 | Mr James TO Mr Dennis KWOK Mr SIN Chung-kai | Election of Chairman | |
| Agenda item II – Meeting with the Administration | | | |
| 000914 – 001538 | Chairman Administration | Briefing by the Administration on the two items of subsidiary legislation, i.e. Consular Relations (Additional Privileges and Immunities) (Cambodia) Order ("the Cambodia Order") and Consular Relations (Additional Privileges and Immunities) (Philippines) Order (Legislative Council ("LegCo") Brief, File Ref.: SF(10) to PROT CR 6/1126/98) | |
| 001539 – 002428 | Chairman Administration | Noting that the two Orders were substantially the same, members agreed to make reference to the Cambodia Order during the scrutiny. Discussion on the definition of "consular archives" in the two Orders and similar subsidiary legislation made for bilateral consular agreements entered before the use of electronic devices became common | The Administration to follow up as per paragraph 4 of the minutes |
| 002429 – 003426 | Chairman Mr SIN Chung-kai Administration | Discussion on the privileges and immunities in respect of inviolability of residences of consular officers and personal inviolability of their family members | |
| 003427 – 003605 | Chairman Administration | Discussion on Articles 35 to 40 of the Schedule to the Cambodia Order | |
| 003606 – 004146 | Chairman Administration | Discussion on "official functions" as the term appeared in Article 35 of the Schedule to the Cambodia Order | |
| 004147 – 004827 | Chairman Administration | Discussion on consular functions concerning administration of the estates left in the Hong Kong Special Administrative Region ("HKSAR") by deceased nationals of Cambodia and the Philippines under the bilateral consular agreements with the People's Republic of China. The agreements provided for the administration of estates by consular officers applicable to the HKSAR were governed by the Administration of Estates by Consular Officers | |

| Time marker | Speaker | Subject(s) | Action required |
|---|---|---|-----------------|
| | | Ordinance (Cap. 191) and the Consular Conventions Ordinance (Cap. 267). | |
| 004828 – 005530 | Mr SIN Chung-kai Administration Chairman Assistant Legal Adviser 2 ("ALA2") | Discussion on the power of the LegCo to repeal or amend the two Orders | |
| 005531 – 010345 | Chairman Administration ALA2 | ALA2 drew members' attention to the difference in some wordings between the Chinese and English texts of the Cambodia Order, and the Chinese renditions of "official functions" and "professional" in the Cambodia Order and previous similar Orders. | |
| Agenda item III – Any other business | | | |
| 010346 – 010433 | Chairman | Invitation of public views and legislative timetable | |