

立法會

Legislative Council

LC Paper No. CB(2)346/19-20
(These minutes have been seen by
the Administration)

Ref : CB2/PL/SE

Panel on Security

**Minutes of special meeting
held on Wednesday, 5 June 2019, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon CHAN Hak-kan, BBS, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon YIU Si-wing, BBS
Hon MA Fung-kuok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Elizabeth QUAT, BBS, JP
Hon POON Siu-ping, BBS, MH
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick

Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon YUNG Hoi-yan
Hon CHAN Chun-ying, JP
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Dr Hon CHENG Chung-tai
Hon AU Nok-hin
Hon Tony TSE Wai-chuen, BBS

Members attending : Hon LEUNG Yiu-chung
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon WU Chi-wai, MH
Dr Hon KWOK Ka-ki
Dr Hon Helena WONG Pik-wan
Hon Martin LIAO Cheung-kong, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon SHIU Ka-fai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai

Members absent : Hon SHIU Ka-chun

Public Officers attending : Item I
Mr John LEE Ka-chiu, SBS, PDSM, PMSM, JP
Secretary for Security

Ms Mimi LEE Mei-mei, JP
Deputy Secretary for Security 1

Mr Watson HAU Lai-man
Assistant Secretary for Security E3

Mr Paul TSANG Keung, SBS
Law Officer (International Law)
Department of Justice

Ms Linda LAM Mei-sau
Deputy Law Officer (Mutual Legal Assistance)
Department of Justice

Miss Sandy SHUM Tik
Senior Government Counsel (Acting)
Department of Justice

Ms Fanny IP Fung-king
Deputy Law Draftsman II
Department of Justice

Mr Peter SZE Chun-fai
Senior Assistant Law Draftsman (Acting)
Department of Justice

Mr Llewellyn MUI Kei-fat
Deputy Solicitor General (Constitutional Affairs)
Department of Justice

Mr Paul HO Wing-kwong
Deputy Director of Public Prosecutions (II)
Department of Justice

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 1

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Ms Gloria TSANG
Senior Council Secretary (2) 7

Mr Ronald LAU
Council Secretary (2) 1

Ms Kiwi NG
Legislative Assistant (2) 1

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I. Issues relating to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019
(Ref : SB CR 1/2716/19, LC Paper Nos. CB(2)1236/18-19(01), CB(2)1355/18-19(01), CB(2)1449/18-19(01) and CB(2)1578/18-19(01))

Meeting arrangements

The Chairman said that this meeting was convened to continue discussion on issues relating to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 ("the Bill"). He further said that members' proposed motions, if any, would be dealt with towards the end of the meeting.

2. Mr KWONG Chun-yu expressed grave dissatisfaction with the absence of the Secretary for Justice ("SJ") at the meeting. Given the controversy of the Bill, he considered that SJ should attend the meeting to give a clear explanation, and strongly requested her presence during the resumption of the Second Reading debate on the Bill at the Council meeting of 12 June 2019. The Chairman said that Mr KWONG's request would be conveyed to the Administration and the President of the Legislative Council.

Issues relating to the Mutual Legal Assistance in Criminal Matters Ordinance

3. Mr CHUNG Kwok-pan sought information on the activation procedures of mutual legal assistance in criminal matters ("MLA") and queried why a search warrant could be applied in Hong Kong despite a criminal offence was committed outside Hong Kong. In the event that a restraint order was granted, he was concerned about the affordability of the person concerned in hiring lawyers for the relevant legal proceedings and asked whether only the suspected proceeds of crime would be frozen.

4. Deputy Law Officer (Mutual Legal Assistance)/Department of Justice ("DLO(MLA)/DoJ") explained that the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) ("MLAO") provided the statutory framework to regulate the provision and obtaining of assistance in the investigation and prosecution of criminal offences, including the taking of evidence, search and seizure, production of materials, transfer of persons to give evidence and confiscation of the proceeds of crime. Upon receiving a request for assistance, DoJ would need to be satisfied, inter alia, that the grounds for refusal of assistance under section 5 of the MLAO did not apply. DoJ would then make applications to the court for the relevant orders with grounds in support in execution of the request, such as a production order and

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a search warrant. The court, after examining the applications in detail, would grant the relevant orders if it was satisfied that the applications met the requirements of MLAO. For search and seizure, within one month after a thing was seized and if the original of the thing was required, the appropriate authority of a place outside Hong Kong would need to give notice in writing to SJ to set out the grounds on which the original of the thing was required for the purposes of the criminal matter concerned in that place. Any affected person could apply for judicial review ("JR") of the search and seizure. As regard a restraint order, she said that it could be applied for if legal proceedings had been commenced in another jurisdiction. The court would grant a restraint order if it was shown that the person involved had assets within Hong Kong, that proceedings had commenced in the requesting place and had not been concluded and that either an external confiscation order had been made or it appeared to the Court that there were reasonable grounds for believing that an external confiscation order might be made upon the completion of the relevant legal proceedings in the requesting place. Meanwhile, the person concerned could ask the court to vary the restraint order to release funds for meeting reasonable legal or living expenses.

5. Dr CHENG Chung-tai sought further information on the activation procedures of a MLA request and the circumstances in which a request should be refused. He asked whether it was identical to the procedures adopted in handling requests for the surrender of fugitive offenders ("SFO") that the Chief Executive ("CE") could include additional safeguards in the arrangement according to the needs of the case during the preliminary executive stage.

6. DLO(MLA)/DoJ said that the activation procedures for SFO and MLA were a bit different. CE was not involved in the procedures for MLA. That said, Hong Kong had adopted procedures which were in line with the international practice for handling MLA requests. Apart from the existing 32 MLA agreements that Hong Kong had signed, other jurisdictions which had not entered into MLA agreements with Hong Kong could obtain assistance in the investigation of criminal offences pursuant to multilateral conventions, such as the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime. In the absence of a multilateral convention or a bilateral MLA agreement, cooperation could be provided by Hong Kong under MLAO upon the giving of reciprocity undertakings. In the processing of MLA requests, SJ or her designated officials would examine those requests in accordance with relevant provisions in MLAO including the restrictions in section 5 of the Ordinance and the applicable bilateral agreement or multilateral convention,

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before agreeing to process the requests by making applications to the court. DLO(MLA)/DoJ stressed that under section 2 of MLAO, an external confiscation order would be recognized under MLAO only when it was made for the purposes of, inter alia, recovering payments or other rewards received in connection with an external serious offence or their value. Any person opposing the order could file an application to the court.

7. Ms Alice MAK sought clarification as to whether the property or assets of Hong Kong residents could be forfeited upon passage of the Bill. Secretary for Security ("S for S") advised that with an external confiscation order, proceeds of crime which met the principle of "double criminality" could be forfeited or confiscated. In addition, as far as requests from the Mainland were concerned, the Hong Kong Special Administrative Region ("HKSAR") Government would only process requests made by the Supreme People's Procuratorate. DLO(MLA)/DoJ added that freezing and confiscation of proceeds of crimes were common international tools for the combat of crimes. In executing a request for confiscation of property, the court had to be satisfied with, inter alia, the relationship between the property and the crime. Besides, the confiscation order sent to HKSAR for registration and enforcement should not be subject to appeal. The court also needed to be satisfied that the enforcement of the order would not be contrary to the interests of justice, and the person in respect of whom the order was made received notice of the proceedings and had the opportunity of defending the proceedings in the requesting jurisdiction.

Human rights and procedural safeguards under the proposed special surrender arrangements

8. Mr CHEUNG Kwok-kwan referred to the case of *CHEN Chong Gui v The Chief Executive of the Hong Kong Special Administrative Region*, HCAL 48/1998 and sought clarification about the gatekeeping power of the court in an SFO request. Law Officer (International Law), Department of Justice ("LO(IL)/DoJ") advised that the court had clearly stated in the case that there could be cases where the decision reached was wholly inconsistent with the known facts and circumstances. Without reasons to justify what appeared to be irrational decision, it was open to the court in a JR case to infer that the decision was unreasonable. In accordance with the common law principle and precedent cases, CE would consider the test of "wrong, unjust or oppressive" in deciding whether a person should be surrendered, and the decision was subject to scrutiny by the court by way of JR. He added that a similar framework was adopted by Australia and New Zealand as well.

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9. Mr HUI Chi-fung pointed out that the so-called JR process involved mainly review of procedural impropriety but absolutely not a review of human rights safeguards. According to paragraph 72 of the case of *Cheng Chui Ping v The Chief Executive of the Hong Kong Special Administrative Region and the United States of America*, HCAL 1366/2001, "the Chief Executive, therefore, has the power - it is not a duty - to refuse to surrender a person if he considers that it would be wrong, unjust or oppressive to order the surrender. Nor is the Chief Executive answerable to the courts in respect of the merits of any decision made in the exercise of that power." He queried why the provisions on human rights safeguards were not expressively provided for under the Bill.

10. LO(IL)/DoJ referred to the last few paragraphs of the case of *CHEN Chong Gui v The Chief Executive of the Hong Kong Special Administrative Region*, HCAL 48/1998, and said that in every JR case, the court did not look at the merits of CE's decision concerned, but those traditional bases for application for JR, such as illegality, irrationality or procedural impropriety. It was also highlighted that CE's power in any SFO requests would be exercised in accordance with the law, including the Basic Law ("BL"), the Hong Kong Bill of Rights Ordinance (Cap. 383) and the Fugitive Offenders Ordinance (Cap. 503) ("FOO"). He reiterated that the proposed special surrender arrangements ("SSAs") did not change the human rights and procedural safeguards or other provisions under the current law. It was also stressed that a comprehensive review of FOO and MLA0 was not the policy objective of the current legislative exercise. The Bill basically involved relatively simple amendments, i.e. removing the geographical restrictions from FOO and MLA0, and introducing the proposed SSAs as a supplementary measure on the basis that long-term surrender arrangements would not be affected.

11. Mr James TO asked whether it was the Administration's view that the removal of the geographical restrictions from FOO and MLA0, in particular allowing SFO to the Mainland, was not a drastic political change. S for S remarked that a comprehensive policy review of FOO and MLA0 involved meticulous consideration, thorough research and extensive consultation, which was absolutely not the policy objective of the current legislative exercise. He further said that a motion urging the HKSAR Government to expeditiously discuss and conclude an agreement with the Central People's Government ("CPG"), on the basis of internationally accepted principles, on rendition arrangements between the Mainland and the HKSAR Government was moved and discussed in 1998. He considered that the proposals in the current legislative exercise were by and large similar to the views raised

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during the motion debate in 1998. He also highlighted that the Bill was not tailor-made for any particular jurisdiction. Instead, it sought to enable Hong Kong to effectively and practicably handle SFO requests involving serious criminal cases under the proposed SSAs.

12. Mr AU Nok-hin, however, pointed out that the Security Bureau had stated in a paper submitted to the Panel on Security in 1998 that one of the guiding principles in devising a rendition arrangement with the Mainland was to take into account the "one country, two systems" principle and the differences in the legal and judicial systems of the two places. He expressed grave concern about the power of Mainland's court and doubted whether judicial independence could be upheld on the Mainland. Dr Fernando CHEUNG considered that the lack of confidence in the Mainland legal system was the crux of the current legislative proposals.

13. S for S said that as reported by the World Economic Forum ("WEF"), China ranked 45 in terms of judicial independence among the 140 places analysed in 2017-2018. Apart from sharing information available on the internet, he would not comment on the legal systems of other jurisdictions.

14. Mr Dennis KWOK, however, pointed out that China ranked 121 in terms of human rights safeguard among 126 places analysed by WEF. He sought the Administration's view on the basic human rights protection on the Mainland.

15. S for S responded that additional safeguards stipulated in Annex 2 to the Administration's paper could be included under the proposed SSAs to protect the rights of surrendered persons. He further said that SFO served the purpose of transferring fugitive offenders to another jurisdiction to prevent them from making use of judicial loophole to evade legal responsibility and, at the same time, protecting their rights. In doing this, it was inevitable that fugitive offenders would be surrendered to other jurisdictions of different rankings in terms of rule of law. For example, the United States of America and the United Kingdom had signed SFO agreements with over 100 jurisdictions, which included some countries with lower rankings in terms of rule of law. Mr Paul TSE and Mr KWOK Wai-keung concurred with his view.

16. Mr Alvin YEUNG expressed concern about the earlier remark made by DLO(MLA)/DoJ that evidence may be adduced for the purposes of showing that a person brought before the court of committal or any other court was not the person identified in the request for surrender. He asked about the burden

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of proof and whether the wanted person could cross-examine the witnesses providing evidence for a requesting party. DLO(MLA)/DoJ said that the burden of proof lay on the person involved if his case was that he was not the wanted person. Witnesses giving evidence for a requesting party would not be available to be cross-examined because a committal hearing was not a trial which would be held in the requesting party. That said, the person involved was entitled to make representations to CE opposing surrender at the final executive stage on any claims of fabrication of evidence.

17. As stipulated in Article 19 of BL, "the courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs". Mr WU Chi-wai asked whether any mechanism was in place to refuse a surrender request by CPG in relation to defence or foreign affairs. S for S said that under section 24(3) of FOO, CE should comply with the instruction from CPG on the ground that if the instruction were not complied with, the interests of the People's Republic of China in matters of defence or foreign affairs would be significantly affected. LO(IL)/DoJ supplemented that although CE should cause CPG to be given notice of any proceedings that had been instituted for the surrender of a person from Hong Kong to a prescribed place pursuant to prescribed arrangements where an order of committal had been made in relation to the person under section 24(1)(b) of FOO, there might be circumstances that a habeas corpus was subsequently granted to the person prohibiting the surrender. In such cases, CE had to inform CPG that the request should no longer be processed in accordance with the law of Hong Kong.

18. Mr Paul TSE acknowledged the effort made by LO(IL)/DoJ and DLO(MLA)/DoJ in clarifying Members' concerns during the recent meetings. He particularly pointed out that as opposed to zero handling of any SFO requests from jurisdictions that did not have long-term surrender agreements with HKSAR, the Bill, if passed, would at least handle SFO requests relating to exceptionally serious offences. He said that SFO was an international consensus to fight against organized and cross-boundary crimes, and should be respected. As regards the issue of voir dire, he said that it should not be used as a trial was not involved. In reality, the person involved under SSAs would be well protected by the human rights and procedural safeguards under the existing FOO, such as the application for habeas corpus and JR.

19. Pointing out that some people were concerned about the fairness of trial conducted on the Mainland, Mr LEUNG Che-cheung sought details about the introduction of an "observer scheme" to protect the rights of surrendered persons mentioned by SJ earlier. S for S responded that

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additional safeguards which were in line with general human rights protection, such as open trial and legal representation, could be added before the activation of SSAs. As such, public engagement and media scrutiny would play a key role in SFO to the Mainland. Besides, the Administration would negotiate the issue of post-surrender visits on a case-by-case basis, so as to arrange visits via appropriate means, including visits by consuls and officials, or other special cooperation arrangements.

20. Mr SHIU Ka-fai said that it was now well-known that a Hong Kong resident, after committing homicide on the Mainland, in Taiwan or in Macau, could seek refuge in Hong Kong and escape justice. He expressed concern about the security threats in the society if the Bill was not passed. S for S advised that under the existing FOO, fugitive offenders could not be surrendered to the Mainland, Taiwan or Macau. As such, the purpose of the Bill was to amend FOO to ensure that offenders of serious crimes could not evade legal responsibilities, which was in line with the international consensus to fight against and reduce serious crimes.

21. Mr Tommy CHEUNG said that many people were still concerned about the gatekeeping power of the court in handling SFO requests. He particularly sought information on the hearing procedures of the court of committal. S for S assured Members that the court of committal would decide whether to make a committal order independently and impartially based on the relevant provisions of FOO and evidence of the case. The executive authority and CE had no right to intervene.

22. Mr KWOK Wai-keung considered that the five meetings of the Panel held between 31 May and 5 June 2019 had provided a platform for the Administration to repeatedly explain the contents of the Bill, as well as clarify the gatekeeping power of the court and CE. In addition, the additional safeguards proposed by the Administration had greatly improved and refined the Bill. Given that Germany had recently granted asylum to two Hong Kong residents who jumped bail to flee Hong Kong while awaiting trial on serious charges, he asked whether consideration would be given to reviewing the existing surrender agreement with Germany. S for S said that CE had expressed objection and regret with Germany's Acting Consul General in Hong Kong in respect of the reported granting of asylum to two Hong Kong residents. The Police and DoJ would continue following up on the case accordingly.

23. Mr Christopher CHEUNG considered that the human rights protection and legal system on the Mainland had been improving over the past 30 years.

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In response to Mr CHEUNG's enquiry regarding the threshold imprisonment requirement for applicable offences under the proposed SSAs, S for S advised that having considered some views that SSAs should only handle exceptionally serious offences, it was decided that the offences to which SSAs would apply should be those punishable with imprisonment for seven years or more, both in Hong Kong and in the requesting party. It was also highlighted that only surrender requests from the central authority of a place would be processed, i.e. requests made by the Supreme People's Procuratorate if taking the Mainland as an example.

24. Mr CHAN Chi-chuen said that under section 7(1)(b) of FOO, a warrant for the arrest of a person might be issued by a magistrate if he/she was satisfied by information given on oath that the person was or was believed to be in or on his way to Hong Kong. As such, he cast doubt on CE's earlier response to the media, saying that the legislative proposals would not apply to transit-passengers and that some Consul Generals were over-worried about the risk of being detained or surrendered to the Mainland when their nationals transited through Hong Kong. He sought clarification in this aspect, as well as relevant procedures and statistics in respect of surrendering transit-passengers in the past.

25. S for S assured members that transit-passengers should not be worried as the legislative proposals sought to handle fugitive offenders who had committed serious criminal offences. The Administration would process a case only if a requesting party had provided the necessary information relating to a crime and the wanted person. DLO(MLA)/DoJ supplemented that section 7(1)(b) of FOO sought to handle urgent cases. It would apply to assistance sought by jurisdictions with long-term surrender agreements with Hong Kong. SSAs involved negotiation of arrangements on a case by case basis before requests could be made and considered. It was a stringent and complicated mechanism making it difficult to contemplate how a provisional arrest under section 7(1)(b) could be invoked under the mechanism. The Administration did not keep statistics on provisional arrests under section 7(1)(b) involving transit passengers.

Other issues

26. In view of some inaccurate sayings about the Bill in the society, Mr Frankie YICK asked whether any measures would be put in place by the Administration to ease public misunderstanding and worries. S for S reiterated that under the principle of "double criminality", a person would not be surrendered to another jurisdiction because of reasons of speech, the press

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and publication, religious belief, engagement in academic research, literary and artistic creation as these acts did not constitute a criminal offence in Hong Kong. The proposed SSAs would just process SFO requests relating to the most serious criminal offences made by the central authority of a place. Since February 2019, the Administration had been working hard to engage in relevant publicity work, as well as providing explanations for enhancing the understanding of the contents of the Bill among different stakeholders and members of the public.

27. Mr Paul TSE asked whether it could facilitate the establishment of a long-term surrender arrangement with the Mainland upon passage of the Bill. S for S responded that with practical surrender experience with the Mainland upon passage of the Bill, it would definitely act as a reference for pursuing long-term surrender arrangements, which was the key policy objective of the Administration in the combat of crime. It was also highlighted that SSAs were only supplementary measures before long-term surrender arrangements were in place.

28. Mr LEUNG Che-cheung said that the five Panel meetings held between 31 May and 5 June 2019 had helped ease public worries and doubts about the legislative proposals. He appealed to the Administration to continue explaining the contents of the Bill to further enhance public understanding. With a view to upholding justice and protecting the safety of the society, he expressed support for the passage of the Bill and considered that the general public would be receptive to it gradually. He was also confident that the passage of the Bill would help take forward the long-term surrender agreement with the Mainland.

Motions

29. The Chairman said that Ms Claudia MO and Mr AU Nok-hin had indicated intention to move motions under the agenda item. He ruled that the two motions were directly related to the agenda item in accordance with Rule 22(p) of the House Rules. He said that the motions would be proceeded with and voted on in the order in which they were presented to the Panel.

30. Ms Claudia MO moved the following motion:

"鑒於保安局局長及有關官員於出席本會會議時重複迴避問題，含糊其詞言不及義，未能釋除香港以至國際社會的多重有關疑慮，本會促請林鄭月娥政府撤回其提出的逃犯條例修訂。"

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(Translation)

"In view of the fact that the Secretary for Security and the government officials concerned, when attending meetings of this Panel, have always been dodging questions, evasive and prevaricating, failing to allay various misgivings of Hong Kong and the international community, this Panel urges the Administration under Carrie LAM to withdraw the amendments to the Fugitive Offenders Ordinance."

31. The Chairman put Ms MO's motion to vote. Members requested a division.

The following members voted in favour of the motion:

Mr James TO, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr Alvin YEUNG, Mr LAM Cheuk-ting, Mr HUI Chi-fung, Dr CHENG Chung-tai and Mr AU Nok-hin. (11 members)

The following members voted against the motion:

Mr Jeffrey LAM, Ms Starry LEE, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan and Mr Tony TSE. (24 members)

32. The Chairman declared that 11 members voted in favour of the motion and 24 members voted against it. Dr Fernando CHEUNG and Mr CHU Hoi-dick said that they were in favour of the motion but failed to indicate their views by the electronic voting system on time. The Chairman declared that the motion was negated.

33. Mr AU Nok-hin moved the following motion:

"鑑於中國最高人民法院體制包括「機關黨委」，而根據中國《最高人民法院關於保守審判工作秘密的規定》第3條：「...有關單位領導、黨委的意見，一律不得向工作上無關人員和單位透露。」

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逃犯條例修訂須確保兩地提控審訊公開透明，司法獨立，由於國內無法保證共產黨不干涉司法權，若保安局無法確保中共黨委無權干涉司法，應撤回逃犯條例修訂。

(Translation)

"The system of the Supreme People's Court of China includes "Party committees of authorities", and under Rule III of the Rules of the Supreme People's Court on Guarding Judicial Secrets, "anyone may not let out to any personnel or units unrelated to work...opinions advanced by leaders or Party committees of the relevant organizations".

Meanwhile, the amendments to the Fugitive Offenders Ordinance are required to ensure that prosecution and trials will be conducted in an open and transparent manner with judicial independence in Hong Kong and the Mainland. As judicial power being free from interference by the Communist Party of China cannot be guaranteed in the Mainland, the Security Bureau should withdraw the amendments to the Fugitive Offenders Ordinance if it cannot guarantee that the Party committees under the Communist Party of China have no right to interfere with judicial affairs."

34. The Chairman put Mr AU's motion to vote.

The following members voted in favour of the motion:

Mr James TO, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr Alvin YEUNG, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr HUI Chi-fung, Dr CHENG Chung-tai and Mr AU Nok-hin.
(13 members)

The following members voted against the motion:

Mr Jeffrey LAM, Ms Starry LEE, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr POON Siu-ping, Mr CHUNG Kwok-pan, Mr Jimmy NG, Dr Junius HO, Mr HO Kai-ming, Mr Holden CHOW, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan and Mr Tony TSE. (24 members)

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35. The Chairman declared that 13 members voted in favour of the motion and 24 members voted against it. He declared that the motion was negatived.

36. There being no other business, the meeting ended at 10:37 am.

Council Business Division 2
Legislative Council Secretariat
5 December 2019