

立法會
Legislative Council

LC Paper No. CB(2) 325/99-00
(These minutes have been seen by
the Administration)

Ref : CB2/BC/24/98

**Bills Committee on
Adaptation of Laws (No. 10) Bill 1999**

**Minutes of the second meeting
held on Wednesday, 29 September 1999 at 10:45 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon HUI Cheung-ching
Hon Howard YOUNG, JP
Hon Emily LAU Wai-hing, JP

Members Absent : Hon David CHU Yu-lin
Hon James TO Kun-sun
Hon Margaret NG
Hon TSANG Yok-sing, JP
Hon CHOY So-yuk

Public Officers Attending : Mr P C LEUNG
Deputy Director of Administration

Mrs Apollonia LIU
Assistant Director of Administration

Mrs Lilian WONG
Director of Protocol

Ms Amelia LUK
Deputy Law Officer (International Law)

Ms Judy CHEUNG
Senior Government Counsel

Mr Sunny CHAN
Senior Government Counsel

Clerk in Attendance : Mr LAW Wing-lok
Chief Assistant Secretary (2) 5

Staff in Attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Miss Mary SO
Senior Assistant Secretary (2) 8

Action

I. Confirmation of minutes of meeting held on 19 July 1999
(*LC Paper No. CB(2) 2889 /98-99*)

The minutes were confirmed.

II. Meeting with the Administration
(*LC Paper No. CB(2) 2890 /98-99(01)*)

2. The Chairman welcomed representatives of the Administration to the meeting.

3. Representatives of the Administration briefed members on the salient points of the Administration's response to the issues raised by the Bills Committee on 19 July 1999 set out in the paper.

4. Referring to item (2) of the Administration's response which set out the requirements that an applicant for declaration of change of nationality would need to satisfy before his/her application would be approved, Miss Emily LAU enquired what sort of evidence the applicant had to provide to satisfy that he/she was of sound mind and was a Chinese national under the Nationality Law of the People's Republic of China (PRC). Noting that one of the requirements was that the applicant would not become a stateless person after disclaiming his/her Chinese nationality, Miss LAU further enquired whether the inclusion of such a requirement was due to the fact that the Government of the PRC was a signatory of the Convention on the Reduction of Statelessness. Deputy Director of Administration (Dep D of Adm) undertook to seek clarification from the Immigration Department (ImmD).

Adm

5. Referring to item (4) of the Administration's response which mentioned that nationals from Canada and the United States, who were also Hong Kong residents of Chinese descent and born in Chinese territories, would not be treated as Chinese nationals even if they did not declare a change of nationality at the ImmD after they entered and stayed in Hong Kong for a period not exceeding three months, Mr Howard YOUNG enquired whether this would also mean that these people would be

Action

accorded the same treatment every time they entered Hong Kong. Dep D of Adm replied in the positive.

Adm

6. Mr YOUNG further enquired whether nationals from Canada and the United States, who were also Hong Kong residents of Chinese descent and born in Chinese territories, would be treated as Chinese nationals after entering Hong Kong from Macau after Macau became a Special Administrative Region of China. The Chairman also raised the question in respect of such nationals entering Hong Kong from Taiwan after Taiwan was reunified with China. Dep D of Adm undertook to provide a written response.

Adm

7. Referring to Annex E of the Administration's response, Miss Emily LAU enquired why there were no figures on the number of foreign nationals who were Hong Kong permanent residents. Dep D of Adm undertook to seek an explanation from the ImmD.

8. Assistant Legal Adviser (ALA) said that although he accepted the Administration's explanation that the reference to the word "custom" in the long title and section 6 of the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) should be taken to mean international custom, he nevertheless expressed reservation about the reference to "custom for the time being in force in the People's Republic of China" having regard to the fact that there was no customary law in China and that international custom would be accepted and observed by the PRC Government but would not be enforced by the courts in China.

9. Deputy Law Officer (International Law) responded that international custom was recognized and accepted by the PRC. She referred members to item (b) of Annex H of the Administration's response which stated that "where the law of the People's Republic of China or international treaties which the People's Republic of China has concluded or participates in do not contain a relevant provision, international custom may be applied".

Adm

10. The Chairman suggested adding the word "international" before "custom" in the long title and section 6 of Cap. 190 and replacing the words "for the time being in force in the People's Republic of China" with words such as "for the time being recognized by the People's Republic of China" to reflect the situation in the PRC. Members expressed support. Dep D of Adm undertook to prepare a Committee Stage amendment (CSA) along the lines suggested by the Chairman.

11. Members then proceeded to examine the Chinese version of the Bill clause-by-clause commencing from clause 4 of Schedule 2 of the Bill regarding the Stamp Duty Ordinance (Cap. 117).

12. Members raised no queries on the adaptations proposed in clause 4 of Schedule 2 to Schedule 6 of the Chinese version of the Bill. Members also did not

Action

raise queries on the English version of the Bill, with the exception of the long title and section 6 of Cap. 190.

13. In conclusion, the Chairman suggested not to hold further meeting and to circulate the Administration's response to the points raised in paragraphs 4, 6-7 and 10 above for members' consideration upon receipt. If members found the Administration's proposed CSA to the long title and section 6 of Cap. 190 acceptable, a report would be made to the House Committee recommending that the Second Reading debate on the Bill be resumed. As for the other issues mentioned in paragraphs 4 and 6-7, members could take them up with the relevant Panel where necessary. Members agreed.

14. The meeting ended at 11:15 am.

Legislative Council Secretariat

19 November 1999