立法會
Legislative Council

LC Paper No. CB(2)1095/00-01
(These minutes have been
seen by the Administration)

Ref : CB2/BC/3/00

Bills Committee on
Drug Trafficking and Organized Crimes (Amendment) Bill 2000

Minutes of second meeting
held on Thursday, 8 February 2001 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present	**:**	Hon James TO Kun-sun (Chairman) Hon Martin LEE Chu-ming, SC, JP Hon Eric LI Ka-cheung, JP Hon NG Leung-sing Hon Margaret NG Hon Bernard CHAN Hon Ambrose LAU Hon-chuen, JP Hon Abraham SHEK Lai-him, JP Hon Henry WU King-cheong, BBS
Members Absent	:	Dr Hon David LI Kwok-po, JP Hon Mrs Selina CHOW LIANG Shuk-yee, JP Hon WONG Sing-chi Hon IP Kwok-him, JP
Public Officers Attending	**:**	Mrs Claire LO, JP Commissioner for Narcotics Ms Mimi LEE Principal Assistant Secretary for Security (Narcotics)

Mr M C BLANCHFLOWER
Senior Assistant Director of Public Prosecutions
Department of Justice

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Mr Gareth WILLIAMS
Superintendent, Narcotics Bureau
Hong Kong Police Force

Mr Stephen Barry TARRANT
Superintendent, Organized Crime and Triad Bureau
Hong Kong Police Force

Ms Diana WONG
Group Head (Financial Investigation)
Customs and Excise Department

Clerk in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

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I. Confirmation of minutes of the last meeting
[LC Paper No. CB(2)610/00-01]

The minutes of the meeting held on 20 November 2000 were confirmed.

II. Meeting with the Administration
[LC Paper Nos. LS32/00-01, CB(2)744/00-01, CB(2)800/00-01 and CB(2)820/00-01]

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2. Members noted that in response to the points raised by members at the last meeting, the Administration had provided the following papers -

(a) Comparison table between the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), the Organized and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking and Organized Crimes (Amendment) Bill 2000 (LC Paper No. CB(2) 744/00-01(01));

(b) Note on Suspicious Transaction Indicators (LC Paper No. CB(2) 744/00-01(02));

(c) UK Report on Recovery of Proceeds of Crime (LC Paper No. CB(2) 744/00-01(03));

(d) Note on "Drug trafficking offence" referred to under section 25A of Cap. 405 and "indictable offence" under section 25A of Cap. 455 (a response to Mr Eric LI's letter) (LC Paper No. CB(2) 800/00-01(01));

(e) Note on "Reasonable grounds to suspect", "reasonable grounds to believe" and reasons for introducing two money laundering offences using different mental elements (LC Paper no. CB(2) 820/00-01(01)); and

(f) Administration's response to the letter from Hong Kong Society of Accountants on amendments to sections 25 and 25A of Cap. 405 and Cap. 455 (LC Paper No. CB(2) 820/00-01(02)).

3. The Chairman said that the Administration had provided 11 actual cases in item (e) above to illustrate the operational difficulties in instituting charges under the mental elements of "know", "reasonable grounds to believe" (section 25) and "suspect" (section 25A). At his suggestion, members agreed to focus discussion on the paper.

Note on "Reasonable grounds to suspect", "reasonable grounds to believe" and reasons for introducing two money laundering offences using different mental elements
(LC Paper no. CB(2) 820/00-01(01))

4. At the invitation of the Chairman, Commissioner for Narcotics (C for N) introduced the paper. She said that owing to the narrow coverage of the existing legislation, only 85 persons were prosecuted and 49 persons convicted of money laundering from 1996 to 2000, despite 2 778 investigations were made during the

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same period. The 11 cases quoted in Annex I to the paper illustrated the operational difficulties encountered. It was observed that all the 11 cases bore some common characteristics -

(a) a close relationship between the drug trafficker and suspects of money laundering;

(b) substantial circumstantial evidence to infer that the suspects were involved in money laundering; and

(c) cases could not be pursued because of insufficient evidence to prove the mental elements of the suspects having knowledge or reasonable grounds to believe that the money was the proceeds of drug trafficking or an indictable offence.

5. C for N added that none of the banks involved in the 11 cases were prosecuted under section 25 or section 25A as there was no evidence to prove that bank staff had knowledge or suspicion, that the money was proceeds of drug trafficking or an indictable offence. The Administration held the view that that would be the case if the proposal to add new section 25(1A) and to amend section 25A of Cap. 405 and Cap. 455 were enacted.

6. C for N further said that there was a need to introduce an offence using the mental element of "reasonable grounds to suspect", so that the scope of the offences could be expanded to cover those obvious cases where a person was assisting criminals to launder crime proceeds but could not be pursued due to the limitations of the existing legislation. The problem of the law being ineffective in combating money laundering did not only appear in Hong Kong. In UK, the Cabinet Office Report, "Recovery of Crimes June 2000", revealed the unsatisfactory state of UK's legislation. The Cabinet Office intended to extend all money laundering offences to cover circumstances under which the defendant had "reasonable grounds to suspect". The relevant UK Bill was scheduled to be released publicly in March 2001.

Case II

7. The Chairman said that Case II was a good example to illustrate the difficulty to prove the mental element of a person "knowing" or "having reasonable grounds to believe" that the property he dealt with represented proceeds of a drug trafficking or an indictable offence under section 25. He asked the Administration to explain the implications of the case after enactment of the proposed amendments.

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8. Superintendent of the Narcotics Bureau of the Hong Kong Police Force (S/NB) said that Ms E, the defendant in Case II, was charged with four counts of money laundering and each charge involved the receipt of funds from Australia. The funds came from her relatives who were subsequently convicted of drug trafficking. This was a typical example of how the lack of direct evidence to prove the mental state of a person knowing or having reasonable grounds to believe the property represented proceeds of crime resulted in the failure of convicting that person. As mentioned in paragraph 6 of the note on Case II, the Judge had "found that there were grounds for Ms E to suspect that she had dealt in the proceeds of drug trafficking, but insufficient evidence to prove that she knew or had reasonable grounds to believe this beyond a reasonable doubt". The Administration believed that Ms E would have been convicted of all the four charges if the proposed section 25(1A) of Cap. 455 had been in operation at the time of the trial.

9. Mr Martin LEE asked whether the words in paragraph 6 of the note was the actual wording of the Judge. If not, he expressed concern that the Administration might have inferred more in the paraphrase than the passage of the Judge. He requested the Administration to provide a copy of the Judgment for members' information.

Adm

10. S/NB responded that although the wording in paragraph 6 was a paraphrase, he did not believe that the Administration had inferred more than the actual meaning of the Judge. In response to members' enquiry, S/NB confirmed that all the facts in paragraph 3 of the note were canvassed in open court except the statement made by Ms E under caution to police in which she stated that the HK $1.2 million received by her own bank account belonged to Mr C was ruled inadmissible by the court.

11. Mr Martin LEE said that he needed to look at the wording of the Judgment so as to ascertain whether Ms E would have been convicted even on the basis of "reasonable grounds to believe" had the caution statement be ruled admissible, and whether the Judge might well have acquitted the defendant even if the charge had been differently framed under the proposed mental element of "reasonable grounds to suspect".

12. Miss Margaret NG said that given that the case was tried in an open court and the defendant was acquitted, she saw no reason why the Judgment could not be made available to the Bills Committee. She further pointed out that since the caution statement was inadmissible, it should not be considered part of the evidence.

13. S/NB explained that the content of the caution statement was included in

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sub-paragraph 3(i) because it was important for the Bills Committee to know that the caution statement did play a part in the decision to lay charges, although it was not considered in the decision to find Miss E guilty or innocent of the charges. He undertook to consult the Judiciary as to whether the Judgment could be divulged.

Adm

14. Mr Martin LEE asked whether the charges would have been laid on Ms E, had there not been a caution statement at the outset. S/NB replied that he had not sought clarification from the Department of Justice on the issue.

15. Mr Eric LI said that paragraph 8 of the note had listed the suspicious activity indicators associated with Ms E. They were: (a) frequent, large cash withdrawal; (b) accounts used as temporary repositories; and (c) involvement of a country commonly associated with drug trafficking, i.e. Australia. He asked whether the bank concerned would be prosecuted for non-disclosure under proposed section 25A.

16. S/NB responded that the bank would only be prosecuted if it was proved to have committed an offence. In Case II, there was no way to expect the bank to conclude simply on the presence of the three indicators that the holders of the bank account could reasonably be suspected of dealing with the proceeds of drug trafficking or an indictable offence. The three indicators could only be regarded as step 1 of the 4-step systematic approach to the identification of suspicious financial activity i.e. recognition of a suspicious financial activity indicator or indicators. He pointed out that the bank would not have known the facts set out in sub-paragraphs 3(b), 3(d) and 3(e) of the note. The banks were not prosecuted under section 25 or section 25A of Cap. 405 or Cap. 455 as there was no evidence to prove that bank staff had knowledge, or reasonable grounds to believe, or suspect, that the money was the proceeds of drug trafficking or an indictable offence. Members noted that this would also be the case if the proposed amendments to section 25(1A) and 25A were enacted.

17. S/NB further said that the fact that a bank had not reported a suspicious transaction did not mean that it had committed an offence because the guidelines for suspicious transactions were not law. In response to Mr Eric LI's enquiry, S/NB said that the guidelines for the Hong Kong Association of Banks had been updated with the 4-step approach for detecting suspicious transactions in September 2000. The general approach to the identification of suspicious financial activities and the indicators of suspicious transactions were set out in Annex I to LC Paper No. CB(2) 744/00-01(02). The information was also available on the website of the Joint Financial Intelligent Unit (JFIU).

Section 25A

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Implications of proposed section 25A

18. Mr Eric LI expressed concern about the proposal to use the mens rea of "having reasonable grounds to suspect" to replace "suspect" for the offence under section 25A concerning disclosure of suspicion that property represented proceeds of drug trafficking or an indictable offence. He reiterated that a person who had not suspected that the property he dealt with represented proceeds of drug trafficking or an indictable offence would not be convicted under current section 25A. Under the proposed section 25A, when the same fact was presented to that person, a court could easily conclude that he ought to have suspected as a reasonable person and convict him of committing the offence.

19. Miss Margaret NG said that she had no difficulty to appreciate the obvious difference between the mental elements of "suspect" and "reasonable grounds to suspect". She was concerned that the proposed section 25A would impose a statutory duty on a person to suspect if a certain set of circumstances came to his knowledge. If that person did not perform that duty, he might well be liable for conviction even if he genuinely did not suspect. Miss NG was of the view that the proposed amendment to section 25A might have cast the net too wide. She had not yet seen the justification of why a person who did not suspect an activity should be convicted.

20. C for N said that section 25A as presently worded was not working as evidenced by the fact that in the past 11 years, there had been only one successful prosecution. The proof of that essentially came from the defendant's own admission. The proposed amendment had the advantage of introducing an objective element of "reasonable grounds". She did not agree with Miss Margaret NG's observation that the net was cast too wide.

21. Mr Eric LI shared the view of Miss Margaret NG that the net was cast too wide in the Bill. He made the following points –

(a) The proposed legislation encompassed all indictable offences, including those committed abroad. It was beyond an average person's capability to understand the implications of proposed section 25A. It was quite conceivable that a person would not suspect that certain proceeds related to a relevant offence, primarily because he was not aware that the activities involved had constituted an indictable offence;

(b) The provision would apply to "any person". According to his understanding of paragraph 9.61 of the Cabinet Office Report, the offence in UK would only apply to a conspiring party who was

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involved in concealing or transferring another's proceeds of drug trafficking;

(c) In overseas countries, the standard of "having reasonable grounds to suspect" only applied to exceptional or extreme cases of money laundering relating to very serious crimes or terrorism; and

(d) Paragraph 7.51 of the Cabinet Office Report stated that safeguards were needed to ensure that the powers to compel persons to produce documents, answer questions, etc were invoked in a way proportionate to the criminality under investigation. Given the wide applications of section 25A, he questioned whether the Administration had taken into consideration the principle of proportionality when drafting the law.

22. In reply, Senior Assistant Director of Public Prosecutions of the Department of Justice (SAD/PP) said that LegCo Members had decided in 1994 that legislation relating to money laundering should cover all indictable offences in order to prevent money launderers from getting around the law. In 1995 LegCo Members had further repealed the old offence which was applicable to persons who helped criminals and brought in a new money laundering offence so that "any person" who committed an offence under section 25 or 25A would be prosecuted for money laundering. SAD/PP remarked that it would be a rollback on law if it was made applicable to serious crimes, or to conspiring parties only.

23. Mr Eric LI clarified that he did not propose to change the existing law. His proposal was that while the law remained as it was, the application of the additional new threshold for the disclosure requirement should be limited to serious and complex crimes and to conspiring parties only.

24. Miss Margaret Ng said that the law must be clear enough for people to obey. It appeared to her that the elements constituted "reasonable grounds to suspect" were not clear.

25. The Chairman said that the Administration had answered part of Miss NG's questions by using actual cases to illustrate what constituted "reasonable grounds to suspect". C for N said that paragraph 6 of LC Paper No. CB(2)820/00-01(01) explained that "reasonable grounds to suspect" constituted an objective and a subjective part. The note provided by the Administration on suspicious transaction indicators (LC Paper No. CB(2) 744/00-01(02)) further set out the situations where a person should report a suspicious transaction.

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26. SAD/PP explained that the mental element of "reasonable grounds to suspect" was not vague. He said that whether there were sufficient evidence to charge a person would depend upon a combination of pieces of evidence. Bearing in mind that it would be the person carrying out the transactions in relation to bank accounts, he should know whether he was transgressing the law. There was a combination of objective factors such as the volume of the transaction, frequency, etc. which should alert the person of a suspicious transaction and to make a report. There was also circumstantial evidence, such as the person's relation with the alleged criminal, his employment status, etc. which should form part of the decision to lay charges against that person. Although each piece of evidence might not lead a person to suspect, the combination of it should give a common person reasonable grounds to suspect. Therefore, the mental element of "reasonable grounds to suspect" was not vague.

27. Having listened to the explanations of the Administration, Miss Margaret NG said that she needed to give the matter further thoughts.

Implications on professional bodies

28. The Chairman expressed concern that the proposed amendment to section 25A might unduly catch professionals such as bankers, accountants, lawyers, etc. He perceived that there would be drastic changes between the relationship of a professional and his client, given that the professional would have to question his client, if he detected a possible suspicious activity.

29. Mr Eric LI added that even if a professional had complied with the code of practice of his profession, he would still be liable for conviction under proposed section 25A, if he had not reasonably suspected an activity and made a report.

30. C for N said that she noted Mr LI's concern. The Administration would take into consideration the circumstantial evidence before laying a charge against a person. It would also consider possible ways to provide adequate protection to professionals who had complied with their professions' guidelines. She further said that the Administration would assist professionals in drafting their guidelines if they had difficulties to do so.

Suspicious transaction reporting (STR)

31. The Chairman said that as far as STR was concerned, the impact of the proposed amendments on the banking sector would be less acute, given that it had been following the guidelines to detect suspicious transaction closely.

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32. Mr Eric LI said that although an outsider might think that a bank should have all the information of an account holder on hand, the fact was that only few staff would have the complete information, given that the transactions relating to the account were handled by various sections of the bank. Although senior management could access the complete information, it would not come across the information on a daily basis. Availability of these facts might not trigger a reasonable person to suspect. In order to avoid being caught by the law, the safe way to defend oneself was to report anything that appeared suspicious. According to the banking sector's assessment, it would have to file ten times more reports if the new law was passed. He said that Mr David LI had already voiced objection to the new law. The Chairman said that the volume of work arising from investigation would be a matter of concern, if the banking sector's assessment was correct.

33. C for N said that the Administration had consulted the banking sector on proposed section 25A. The sector welcomed the mental element of "reasonable grounds to suspect" which contained an objective element and opined that the present amendment would make the law clearer and hence the requirement easier to follow. In the course of consultation, the Administration had reassured the banking sector that the proposed amendment would not entail extra workload or procedure of reporting. Also, the banking sector had not expressed any concern about the increase of STRs as a result of the new law.

34. S/NB said that the present system of STR was by no means perfect. As the joint head of the JFIU, he did not see a lot of disclosure made at the moment. A working group had been formed with a view to improving the quality and quantity of STRs. In the banking sector, there were banks making few but good quality STRs, and others making a lot of low quality STRs. Assessment of the quality of STRs was based on a number of factors. A good STR would have all the indicators of the 4-step approach to identifying suspicious transactions. A low quality STR might have only one indicator. Comparison would be drawn between banks of similar size and business focus. The Narcotics Bureau would write to the banks, which had made few reports, advising them to increase staff awareness. Banks making a lot of reports would be asked to improve the quality of STRs.

35. As regards members' concern about the increase in the number of STRs as a result of the change in law, S/NB said that he did not think there would be any substantial increase because it was not the law but the guidelines and professional awareness which would affect the quantity and quality of STRs. He informed members that there was a vast discrepancies between the number of reports filed by the banking sector and other sectors e.g. accounting and legal sectors.

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36. Mr Bernard CHAN said that the quality of STRs had to do with the size of the bank. It was easier for a small bank to catch irregular activities. He asked the Administration about the number of STRs filed by the insurance sector in the past few years. S/NB replied that the insurance sector had made 1, 8 and 16 report(s) in 1997, 1998 and 1999 respectively. He said that since it was difficult for the insurance sector to launder money, he did not expect a lot of such reports.

37. The Chairman said that if awareness was the major factor in low reporting, perhaps the Administration should consider increasing professional awareness as an initial step to observe the effect before introducing legislative amendments to section 25A.

Overseas practices

38. Mr Eric LI reiterated that in other countries the standard of "having reasonable grounds to suspect" applied to only serious and complex crimes and not to all types of offences. On the international level, the International Federation of Accountants and representatives of the financial industry had not accepted the proposed change. They had proposed change which was not of the same breadth and width as the proposed amendment presently worded. He queried why Hong Kong had to move ahead of other jurisdictions.

39. C for N said that Hong Kong was not the first place to apply the concept of “reasonable grounds to believe” and “reasonable grounds to suspect”. In Australia, the Proceeds of Crime Act 1987 contained the mental element of "reasonably to know" and "reasonably be suspected" (paragraph 12 of LC Paper No. CB(2) 820/00-01(01) refers). In UK, the Cabinet Office Report revealed the unsatisfactory state of UK's legislation. Paragraph 9.59 of the Cabinet Office Report stated that the offence "relies on making inferences as to the state of an individual's mind and demonstrating to a jury that a transaction or series of transactions appeared suspicious. This difficulty dissuades prosecutors from bringing money laundering cases and contributes to a relatively low conviction rate". Paragraph 9.62 further proposed that the test for all money laundering offences should be simplified and this should be achieved by extending all money laundering offences to cover circumstances under which the defendant had "reasonable grounds to suspect". It was significant that UK was approaching the matter in the same manner as Hong Kong.

40. SAD/PP supplemented that paragraph 9.62 made reference back to paragraph 8.17, which spelt out the three types of offences connected to money laundering which were drug trafficking, terrorism or other crimes. The UK Cabinet Office had proposed to bring the offences under one umbrella.

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41. Referring to paragraph 7.44 of the Cabinet Office Report, Mr Eric LI pointed out that the National Crime Authority in Australia had been established to address "sophisticated, complex or organized crime" crossing state and boundaries. It had powers not available to police officers. The exercise of certain powers was subject to permission from the committee of Commonwealth, State and Territory Ministers that oversaw its work. It would appear that the application of the mental element of "reasonably be suspected" was highly contained in sophisticated and organized crime.

42. The Chairman said that he disagreed with Mr LI's view. He pointed out that "sophisticated crime" referred to in the paragraph was used in the context of powers available to financial investigators in Australia.

43. C for N said that it might not serve any meaningful purpose to compare the disclosure system of Hong Kong with other countries. She pointed out that a number of the 29 member jurisdictions of the Financial Action Task Force on Money Laundering adopted a threshold reporting system. For instance in the US, failure to report any remittance over U$10,000 was an offence. The disclosure system for Hong Kong would be completely different if threshold reporting was mandatory.

44. Mr Ambrose LAU said that it would be helpful if the Administration could provide more information on anti-money laundering regimes in overseas countries. Mr Ng Leung-sing said that more information should be sought on the operational experience in Australia where the mental elements of "reasonably to know" and "reasonably be suspected" were applied.

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Need for the proposed sections 25(1A) and 25A

45. Mr Martin LEE said that he started off being extremely opposed to the idea of imposing a higher penalty on a case that was difficult to prove. However, his view was changing. He pointed out that a syndicate involved in money laundering was well organized, hiring persons who were professed in law, accounting and financial affairs to assist in criminal activities. If the law enforcement agencies faced pressing problems, he did not think that as legislators he should brush off the proposal too soon. Referring to paragraph 10.1 of the Cabinet Office Report which revealed that criminal business generated between £6.5 billion and £11.1 billion in 1996 that were untaxed, Mr LEE asked the Administration to provide similar statistics in Hong Kong and other jurisdictions, so as to facilitate members to ascertain the magnitude of the problem and the urgency of the matter. Mr NG Leung-sing supported his view.

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46. Mr Martin LEE further said that he preferred one test , be it "reasonable grounds to believe" or "reasonable grounds to suspect", be used for provisions relating to money laundering offence.

47. In reply, C for N said that for Hong Kong to uphold justice and maintain its status as an international financial centre, it should have an effective regime, including legislation to combat money laundering. However, past 11 years of experience had indicated that our legislation was not working to achieve the intended purpose. She informed members that 15 countries or territories had been labelled as non-cooperative countries or territories in June 2000 for the deficiencies in their systems in combating money laundering. In view of the low conviction rate, Hong Kong needed to strive to improve its anti-money laundering regime.

48. SAD/PP pointed out that since 1989 Hong Kong was the first place in the region to enact anti-money laundering measures, Hong Kong took the bold step then. Hong Kong did it because it was the member of the newly formed Financial Action Task Force on Money Laundering and it also recognized its responsibility as an international financial centre. In 1994 Hong Kong expanded the money laundering offence to cover all indictable offences. In 1995 LegCo amended the money laundering provision to cover "any person". In his view, Hong Kong had one of the best-framed money laundering offence as far as simplicity was concerned.

49. SAD/PP stressed that criminals knew how to structure their money laundering activities so that they and the persons engaged in money laundering had a very slight chance of being detected or prosecuted for money laundering under the existing legislation. As a result, the proceeds of crime remained in circulation to be used for future crimes, and proceeds of crime were not being restrained or confiscated. He clarified that proposed section 25(1A) was not directed towards the professionals. The amendment to section 25A did not seek to encourage more reporting. Proposed 25A was to allow any person including professional to make STR so that the investigation against money launderers and criminals could commence timely enough.

50. Superintendent of Organized Crime and Triad Bureau of the Hong Kong Police Force (S/OCTB) added that proposed section 25A was most important because the disclosure system would only work if there was a provision against those who did not comply with it. At the moment, he believed that a number of sectors were not complied with the law. They did not wish to get involved or make disclosure for various reasons. Case X of LC Paper No. CB(2) 820/00-01(01) gave an example which showed that unless the professional complied with

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the disclosure requirement, action could not be made against a person who engaged in money laundering.

51. In light of the Administration's response, the Chairman asked whether the Administration would be able to make more prosecutions and obtain more convictions under existing section 25 if proposed section 25A was enacted to trigger off more STRs. He further asked whether the Administration considered proposed section 25A was the primary tool to combat money laundering or proposed section 25 was equally important.

52. C for N responded that operational experience had revealed that due to the narrow coverage of the existing legislation, prosecutions (85 persons from 1996 to 2000) and convictions against money launderers (49 persons from 1996 to 2000) were few, despite the fact that the number of investigations during that period was 2 778. However, the total number of STRs from 1996 to 2000 was as many as around 25 000. The Chairman then asked whether the Administration considered the number of STRs should be much higher than the actual figure. C for N replied that under-reporting by professionals was a worldwide problem. To this end, the Financial Action Task Force on Money Laundering had started an initial discussion last year with professionals on ways to improve the quantity and quality of STRs.

53. Mr Eric LI said that representatives of the International Federation of Accountants had participated in the discussion with the Financial Action Task Force on Money Laundering in February 2000. While the representatives were willing to offer assistance in combating money laundering, they had not agreed to any proposals which went as far as the Bill had proposed.

54. Mr Eric LI said that while he appreciated the operational difficulties of law enforcement, he was concerned that the Administration would be flooded with low quality STRs and innocent people might be caught by the law if the Bill was enacted in its present form. He made the following suggestions for revising proposed section 25A –

(a) To limit the application of the additional new threshold for the disclosure requirement to serious and complex crimes and to conspiring parties. The wording in section 49(2) and (3) of the Drug Trafficking Act 1994 of UK could be used as a reference; and

(b) To add a defence provision to the Bill so as to give protection to a professional who had acted in compliance with the code of practice.

Adm 55. The Chairman requested the Administration to seriously consider Mr LI's

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suggestions as they might be able to address the concerns about the scope of proposed section 25A.

III. Date of next meeting

56. Members agreed that the Clerk would liaise with the Administration on the date of next meeting.

(*Post-meeting note* : The next meeting is subsequently scheduled for Friday, 16 March 2001 at 4:00 pm.)

57. The meeting ended at 12:55 pm.

Legislative Council Secretariat
13 March 2001