

立法會
Legislative Council

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(These minutes have been
seen by the Administration)

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Bills Committee on United Nations (Anti-Terrorism Measures) Bill

Minutes of the 7th meeting
held on Monday, 17 June 2002 at 2:30 pm
in the Chamber of the Legislative Council Building

Members Present : Hon LAU Kong-wah (Chairman)
Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Andrew WONG Wang-fat, JP

Public Officers Attending : Mrs Regina IP
Secretary for Security

Mr Timothy TONG
Deputy Secretary for Security

Ms Mimi LEE
Principal Assistant Secretary for Security (Narcotics)

Mr Johann WONG
Principal Assistant Secretary for Security

Ms Judy Maguire
Consultant (Narcotics)

Mrs Wendy CHOI
Assistant Secretary for Security

Mr Geoffrey Fox
Senior Assistant Law Draftsman

Mr Lawrence PENG
Senior Government Counsel
Law Drafting Division

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Miss Mary SO
Senior Assistant Secretary (2) 8

Ms Janet SHUM
Senior Assistant Secretary (2) 9

I. Meeting with the Administration

The Bills Committee deliberated (Index of proceedings attached at the **Annex**).

2. In light of the views expressed by members on the proposed Committee Stage amendments to be moved by the Administration tabled at the meeting, the Administration agreed to consider the following -

- (a) Notices made under the proposed new clause 4A which had not been revoked should expire much earlier than on the 3rd anniversary of the date of their publication in the Gazette;
- (b) Notices made under clause 5 which had not been revoked should expire

much earlier than on the 3rd anniversary of the date on which they were signed by the Secretary for Security (the Secretary);

- (c) Whether the words "to serve in any capacity with" referred to in clause 9 meant that lawyers would be prohibited from providing legal advice to a person specified as a terrorist, terrorist associate or whose property was specified as terrorist property under clause 4. If this was the case, whether this was inconsistent with Article 35 of the Basic Law which stipulated that Hong Kong residents should have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies;
- (d) Clause 10 should be deleted as it was not the mandatory element of the United Nations Security Council Resolution 1373;
- (e) If it was the policy intent of clause 11 that legal privilege should be overridden to safeguard public interest, this should be stated clearly in the Bill;
- (f) Persons specified as terrorists, terrorist associates or owning terrorist properties under the proposed new clause 4A or whose funds were frozen by the Secretary under clause 5 should apply to the Court of the First Instance, instead of the proposed Court of Appeal, to revoke the specification or freezing of funds; and
- (g) Amending powers of the authorized officers under Schedule 2 along the lines of provisions in the Organized and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) on powers of investigation.

Members noted that the Administration agreed to replace the words "knows or has reasonable grounds to suspect" mentioned in clause 11(1) and (4) with "knows or suspects", and to amend clause 18 by adding "subject to the approval of the Legislative Council" after "The Secretary may,".

3. At the request of the Bills Committee, the Administration also agreed to provide information on which Member States of the United Nations, apart from Singapore, had provision similar to clause 10.

II. Dates of next meetings

4. Members noted that the next two meetings were scheduled on 25 June 2002 at 8:30 am to meet deputations, and on 27 June 2002 at 8:30 am to continue discussion with the Administration on the Bill.

(Post meeting note : Two additional meetings would be held on 19 June 2002 at 10:45 am and on 24 June 2002 at 8:30 am.)

5. There being no other business, the meeting ended at 4:25 pm.

Council Business Division 2
Legislative Council Secretariat
9 August 2002

**Bills Committee on United Nations (Anti-Terrorism Measures) Bill
Meeting on Monday, 17 June 2002 at 2:30 pm
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000215	Chairman	Way forward	
000215 - 000251	Miss Margaret NG	Ditto	
000251 - 000308	Ms Emily LAU	Ditto	
000308 - 000404	Chairman	Ditto	
000404 - 000408	Miss Margaret NG	Ditto	
000408 - 000431	Chairman	Ditto	
000431 - 000602	Ms Emily LAU, Chairman	Ditto	
000602 - 000725	Chairman, Ms Emily LAU	Ditto	
000725 - 001750	Administration	Proposed Committee Stage Amendments moved by the Secretary for Security	
001750 - 002001	Ms Emily LAU	Why clause 10 had not been deleted as it was not the mandatory element of the United Nations Security Council Resolution (the Resolution) 1373	
002001 - 002734	Administration, Ms Emily LAU	Ditto	
002734 - 003041	Administration	Amendment to clause 18 by adding "subject to the approval of the Legislative Council" after "The Secretary may"	
003041 - 003103	Ms Emily LAU	Ditto	
003103 - 003124	Administration	Ditto	
003124 - 003154	Ms Emily LAU	The Administration should delete clause 10	
003154 - 003412	Administration	The Administration undertook to provide information on which Member States of the United Nations (UN), apart from Singapore, had provision similar to clause 10	
003412 - 003730	Mr Albert HO	What did "serious default" in clause 16A(4)(a) mean and should one apply to the Court of the First Instance, instead of the Court of Appeal, to revoke the specification or freezing of funds as specified in clause 5(2)(b)ii. Whether legal privilege was safeguard in clause 11	
003730 - 004222	Administration, Mr Albert HO	Ditto	
004222 - 004836	Administration, Mr Albert HO	Ditto	
004836 - 005249	Administration, Mr Albert HO	Ditto	
005249 - 005607	Administration, Mr Albert HO	Clause 11 was based on clause 25A of Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405) which had specified legal privilege in (25A(3))	
005607 - 010109	Mr Eric LI	Ditto	

010109 - 010942	Miss Margaret NG	<p>The Administration should reconsider that notices made under clause 4 and 5 which had not been revoked should expire much earlier than three years.</p> <p>Whether specification in clause 6(b) "having reasonable grounds to believe" which is non-mandatory should be deleted and whether the words "to serve in any capacity with" referred to in clause 9 meant that lawyers would be prohibited from providing legal advice to a person specified as terrorist, terrorist associate or owning terrorist property under clause 4.</p> <p>ALA to provide information whether the issue of "legal privilege" was discussed in the drafting of clause 25A of the Drug Trafficking Ordinance.</p>	
010942 - 010949	Chairman	Ditto	
010949 - 011107	Miss Margaret NG	Whether there would be amendments other than that tabled at this meeting	
011107 - 011809	Administration	Ditto	
011809 - 012027	Administration	Ditto	
012027 - 012159	Miss Margaret NG	Ditto	
012159 - 012238	Administration	The Administration would consider shortening the expiry date specified under clause 4 and 5	
012238 - 012547	Administration	Ditto	
012547 - 012730	Administration	Clause 12 was based on United Nation Sanction Ordinance and relevant provisions in the Drug Trafficking (Recovering of Proceeds) Ordinance, clause 13 (4) was based on the existing provision in the Drug Trafficking (Recovering of Proceeds) Ordinance (Cap 405) and clause 9 was based on UNSCR 1373	
012730 - 012917	Miss Margaret NG	The Administration should specify the extent legal privilege was protected in the Bill. Article 35 of the Basic Law stipulated that Hong Kong residents should have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies	

012917 - 013709	Ms Audrey EU	No details were listed in clause 4 as regards procedure for listing by the Chief Executive while in clause 5 criteria had to be met by the person who wished to revoke the specification. Subsection 1(1) of Schedule 2 had not specified legal privilege as that stated in subsection 1(2).	
013709 - 013745	Administration	Ditto	
013745 - 013847	Administration	Ditto	
013847 - 013902	Ms Audrey EU	Ditto	
013902 - 013952	Administration	Ditto	
013952 - 014030	Ms Audrey EU	Ditto	
014030 - 014133	Administration	Ditto	
014133 - 014314	Administration	Draft CSA would be revised to make amendment to subsection 1 of Schedule 2	
014314 - 014410	Administration	Ditto	
014410 - 014552	ALA	Consequential amendment should also be made to clause 14(9) in view of amendment to subsection 1 Schedule 2. The Administration should amend powers of the authorized officers under Schedule 2 along the lines of provisions in the Organized and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405) on powers of investigation.	
014552 - 014639	Ms Audrey EU	Ditto	
014639 - 014648	Administration, Chairman	Ditto	
014648 - 014802	Ms Emily LAU	Whether there were any listing procedures in specifying terrorists, terrorist associates or terrorist property not on the list of UN Security Council	
014802 - 014855	Administration	Ditto	
014855 - 015007	Administration	Ditto	
015007 - 015025	Ms Emily LAU	Ditto	
015025 - 015132	Chairman	Date of next meeting	
015132 - 015142	Administration	Ditto	
015142 - 015202	Chairman	Closing remarks	