

立法會
Legislative Council

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seen by the Administration)

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

Minutes of the 8th meeting
held on Wednesday, 19 June 2002 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present : Hon LAU Kong-wah (Chairman)
Hon LEE Cheuk-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 Albert HO Chun-yan
Hon Andrew WONG Wang-fat, JP

Public Officers Attending : Mrs Regina IP
Secretary for Security

Mr Timothy TONG
Deputy Secretary for Security

Mr Johann WONG
Principal Assistant Secretary for Security

Ms Judy Maguire
Consultant (Narcotics)

Mr L W TING
Assistant Secretary for Security (Narcotics)

Mrs Wendy CHOI
Assistant Secretary for Security

Mr Geoffrey Fox
Senior Assistant Law Draftsman

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. The Bills Committee commenced clause-by-clause examination of the Bill, taking into account the updated draft Committee Stage amendments to be moved by the Administration tabled at the meeting (LC Paper No. CB(2) 2356/01-02(01)).

3. The Administration was requested to provide a written response to the following issues/questions raised by members at the meeting -

Clause 2 - Interpretation

- (a) What types of property were intended to be covered by "economic resources" in the definition of "property", and to clarify the distinction between "funds" and "property" having regard to the word "includes" in both definitions;

- (b) In the definition of "terrorist act", paragraph (a)(i)(D) should be amended to make clear that such a provision was targeted at attacks such as biochemical and anthrax attacks which would create a serious risk to the health or safety of the public or a section of the public, and that it would not cover those actions which in the eyes of the general public were endangering a person's life but were believed to be otherwise by the persons committing the actions;
- (c) In the definition of "terrorist act", the word "involves" mentioned in paragraph (a)(i)(A) and (B) should be replaced with "causes", and the words "influence the Government" in paragraph (a)(ii)(A) should be replaced with the words "compel the Government" or "unduly compel or force the Government";
- (d) In relation to the definition of "weapons", what were the criteria adopted by the Customs and Excise Department in identifying which goods, that could be used for both military and non-military purposes, were to be confiscated;

Clause 3 - Application of certain provisions outside HKSAR

- (e) To clarify how the Administration would enforce sections 6,7, 8 and 9 on a body outside the HKSAR but was incorporated or constituted under the law of the HKSAR, and to consider adding the words "liable to be proceeded against as" before "a body incorporated" in clause 3(b)(ii);

Proposed new Clause 4 - Specification by Chief Executive of persons and property as terrorists, terrorist associates or terrorist property

- (f) What would be the impact on the specification by the Chief Executive (CE) of person or property as terrorist, terrorist associate or terrorist property if the "Committee" mentioned in the clause ceased to exist;
- (g) Specification of terrorist, terrorist associate and terrorist property by CE should automatically expire once a United Nations Security Council Committee had ceased to designate the person or property concerned as terrorist, terrorist associate or terrorist property. The notice published by CE in the Gazette in this regard should therefore be a formality rather than to revoke the specification;
- (h) Whether it should be declared that the notice under subclause (6) was not subsidiary legislation;
- (i) Provision should be made that there should be a material change in

circumstances before CE could re-specify a person or property as terrorist, terrorist associate or terrorist property under subclause (7);

Proposed new clause 4A - Specification by Court of First Instance of persons and property as terrorists, terrorist associates or terrorist property

- (j) To clarify under the proposed new clause 4A, whether the application for an order to specify a person or property as terrorist, terrorist associate or terrorist property would be made ex parte. If so, to consider whether the specification should take effect for a period shorter than two years;
- (k) To clarify whether a person who ceased to be designated by the Committee as terrorist or terrorist associate could be specified under the proposed new clause 4A;
- (l) The words "The Secretary for Justice, may, on behalf of the Chief Executive", in subclause (5), should be amended to the effect that CE "shall" direct the Secretary for Justice;
- (m) Whether the notices published in the Gazette under the proposed new clause 4A were subsidiary legislation; and
- (n) Provision should be made in subclause (9) that there should be a material change in circumstances before the Court of First Instance may re-specify a person or property as terrorist, terrorist associate or terrorist property.

Response to submissions

4. The Administration was also requested to provide a written response to the submission from Mr Simon YOUNG of the University of Hong Kong, particularly in respect of the freezing of funds, before the next meeting.

II. Date of next meeting

5. Members agreed that the next meeting, scheduled for 24 June 2002 at 8:30 am, be extended to end at 1:00 pm.

6. There being no other business, the meeting ended at 12:50 pm.

**Bills Committee on United Nations (Anti-Terrorism Measures) Bill
Meeting on Wednesday, 19 June 2002 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action Required
000000 - 000142	Chairman	Opening remarks	
000142 - 000609	Administration	The Secretary for Security (S for S) explained the urgent need to implement the United Nations (UN) Security Council Resolution 1373 (2001) and the Special Recommendations by Financial Action Task Force (FATF). S for S proposed to discuss the Committee Stage Amendments (CSAs) tabled at the meeting and noted that the CSAs related to the Court had still to be confirmed	
000609 - 000633	Chairman	Ditto	
000633 - 000801	Ms Audrey EU	The Bills Committee needed sufficient time to carefully examine the Bill	
000801 - 000912	Chairman	Ditto	
000912 - 000942	Miss Margaret NG	Ditto	
000942 - 001138	Chairman	The Administration would provide further CSAs on 27 June 2002 in response to views expressed by deputations on 25 June 2002	
001138 - 001239	Administration	Briefed members on amendments made in the revised CSAs	
001239 - 001245	Chairman	Ditto	
001245 - 001508	Administration	Ditto	
001508 - 001542	Administration	Ditto	
001542 - 001548	Chairman	Ditto	
001548 - 001607	Administration	Ditto	
001607 - 001653	Administration	Ditto	
001653 - 001723	Administration	Ditto	
001723 - 001804	Administration	Ditto	
001804 - 001825	Administration	Ditto	
001825 - 001950	Mr LEE Cheuk-yan	Whether paragraph (a)(i)(D) could also be included in subclause (b) to protect the privilege of the health professional in case of protests	
001950 - 002052	Administration	Ditto	
002052 - 002112	Mr LEE Cheuk-yan	Ditto	
002112 - 002150	Administration	Ditto	
002150 - 002248	Administration	Ditto	
002248 - 002309	Administration	Ditto	
002309 - 002323	Mr LEE Cheuk-yan	Ditto	
002323 - 002634	Ms Audrey EU	What types of property were intended to be covered by "economic resources" in the definition of "property" and what was the distinction between "funds" and "property" having regard to the word "includes" in both	

		definitions. In addition, would items used for non-military purpose be included in the definition of "weapons"	
002634 - 002929	Administration	Ditto	
002929 - 003129	Administration	Ditto	
003129 - 003140	Chairman	Ditto	
003140 - 003233	Administration	Ditto	
003233 - 003447	Ms Audrey EU	Paragraph (d) of the definition of weapons in clause 2 could also mean goods that could be used for dual (military on non-military) purposes	
003447 - 003507	Administration	Ditto	
003507 - 003554	Ms Audrey EU	What were the criteria adopted by the Customs and Excise Department in identifying which goods, that could be used for both military and non-military purposes, were to be confiscated	
003554 - 003729	Administration	Ditto	
003729 - 003756	Chairman	Ditto	
003756 - 003813	Ms Audrey EU	Ditto	
003813 - 004118	Miss Margaret NG	In the definition of "terrorist act", the word "involves" mentioned in paragraph (a)(i) (A)and(B) should be replaced with "causes" and the words "influence the Government" in paragraph(a)(i i) (A) should be replaced with the words "compel the Government" or "unduly compel or force the Government"	
004118 - 004250	Administration	Ditto	
004250 - 004408	Miss Margaret NG	Ditto	
004408 - 004514	Administration	Ditto	
004514 - 004641	Miss Margaret NG	Ditto	
004641 - 004725	Administration	Ditto	
004725 - 004855	Miss Margaret NG	Ditto	
004855 - 005058	Administration	Ditto	
005058 - 005250	Miss Margaret NG	The definition of "terrorist act" is too wide and would undermine an individual's civil and political rights. There would be cases that actions which involved violence might fall into the criteria of "terrorist act"	
005250 - 005335	Chairman	Ditto	
005335 - 005401	Miss Margaret NG	Ditto	
005401 - 005824	ALA	Briefed members on the Administration's responses to questions raised by members at earlier meeting	
005824 - 005832	Chairman	Ditto	
005832 - 010036	Administration	Explanation of clause 19 which provided for making of regulations specifying the power of the Secretary in the freezing of funds	
010036 - 010221	Mr Howard YOUNG	Whether goods specially designed for transportation of any arms or related material should also be included in (d) of clause 2	
010221 - 010257	Administration	Ditto	
010257 - 010340	Chairman	Ditto	

010340 - 010444	ALA	Clause 3 should be read in relation to clause 14 (11)	
010444 - 010552	Administration	Ditto	
010552 - 010604	Chairman	Ditto	
010604 - 010610	Administration	Ditto	
010610 - 010623	ALA	Ditto	
010623 - 010655	Administration	Ditto	
010655 - 010706	Chairman	Ditto	
010706 - 010813	Administration	Ditto	
010813 - 010829	Administration	Ditto	
010829 - 010835	Chairman	Ditto	
010835 - 011108	Mr James TO	Paragraph (a)(i)(D) of the definition of "terrorist act" in clause 2 should be amend to make clear that such provision was targeted at biochemical attacks, such as anthrax attacks, which would create a serious risk to the health or safety of the public or a section of the public	
011108 - 011159	Administration	Ditto	
011159 - 011318	Mr James TO	Ditto	
011318 - 011437	Ms Audrey EU	Ditto	
011437 - 011512	Administration	Ditto	
011512 - 011521	Ms Audrey EU	How would the Administration enforce sections 6,7,8 and 9 on a body outside the HKSAR but was incorporated or constituted under the law of the HKSAR. Would the Administration consider adding the words "liable to be proceeded against as "before" a body incorporated" in clause 3(b)(ii).	
011521 - 011624	Administration	Ditto	
011624 - 011644	Ms Audrey EU	Ditto	
011644 - 011653	Administration	Ditto	
011653 - 011733	Ms Audrey EU	Ditto	
011733 - 011757	Administration	Ditto	
011757 - 011918	Mr LEE Cheuk-yan	Sought clarification of "terrorist associate" under clause 2 (a)	
011918 - 011951	Administration	Ditto	
011951 - 012021	Administration	Ditto	
012021 - 012111	Ms Emily LAU	Ditto	
012111 - 012155	Chairman	Ditto	
012155 - 012355	ALA	The Administration should clarify and state clearly whether the notice under new clause 4(6)(b) was subsidiary legislation	
012355 - 012613	Administration	Ditto	
012613 - 012726	Ms Emily LAU	Ditto	
012726 - 012747	Administration	Ditto	
012747 - 012849	Ms Emily LAU	Ditto	
012849 - 012856	Administration	The Administration had proposed to add a new definition of "Committee" to clause 2	
012856 - 012900	Chairman	Ditto	
012900 - 012933	Administration	Ditto	

012933 - 013007	Ms Emily LAU, Administration	Ditto	
013007 - 013120	Administration	The Administration had proposed in the CSAs to replace clause 4 by new clauses 4 and 4A. The new clauses differentiate between terrorists, terrorist associates and terrorist property designated by a UN Security Council Committee, and persons whom CE had reasonable grounds to believe were terrorists or terrorist associates and property which CE had reasonable grounds to believe was terrorist property	
013120 - 013130	Ms Emily LAU	Ditto	
013130 - 013156	Administration, Ms Emily LAU	Ditto	
013156 - 013542	Administration	Ditto	
013542 - 013556	Mr James TO	Whether the words "The Secretary for Justice, may, on behalf of the Chief Executive", in the subclause (5), should be amended to the effect that CE "shall" direct the Secretary for Justice	
013556 - 013628	Administration	Ditto	
013628 - 013757	Ms Emily LAU	Ditto	
013757 - 013913	Administration	Ditto	
013913 - 013929	Ms Emily LAU	The Administration should clarify under the proposed new clause 4A, whether the application for an order to specify a person or property as terrorist, terrorist associate or terrorist property would be made ex parte. If so, the Administration should consider whether the specification should have an expiry period shorter than two years	
013929 - 014059	Administration	Ditto	
014059 - 014139	Ms Emily LAU	Ditto	
014139 - 014210	Administration	Ditto	
014210 - 014213	Ms Emily LAU	Ditto	
014213 - 014238	Administration	Ditto	

014238 - 014247	Ms Emily LAU	Ditto	
014247 - 014355	ALA	Drew members' attention to clause 17(1)(b)(ii) which specified the condition where an ex parte application was applicable	
014355 - 014441	Administration	Ditto	
014441 - 014516	Ms Emily LAU	Ditto	
014516 - 014540	Chairman	Ditto	
014540 - 015142	Miss Margaret NG	<p>What would be the impact on the specification by the Chief Executive of person or property as terrorist, terrorist associate or terrorist property if the "Committee" mentioned in the clause cease to exist.</p> <p>The Administration should consider that specification of terrorist, terrorist associate and terrorist property by CE should automatically expire once a UN Security Council Committee had ceased to designate the person or property concerned as terrorist, terrorist associate and terrorist property. The notice published by CE in the Gazette in this regard should therefore be a formality rather than to revoke the specification.</p> <p>The Administration should make provision in subclause (9) that there should be a material change in circumstances before the Court of First Instance may re-specify a person or property as terrorist, terrorist associate or terrorist property.</p>	
015142 - 015218	Mr James TO	Whether a person who ceased to be designated by the Committee as terrorist or terrorist associate could be specified under the proposed new clause 4A	
015218 - 015451	Ms Audrey EU	<p>Whether the notices published in the Gazette under the proposed new clause 4A were subsidiary legislation.</p> <p>The Administration should also specify that there should be a material change in circumstances before CE could re-specify a person or property as terrorist, terrorist associate or terrorist property under subclause (7).</p>	
015451 - 015459	Mr Jasper TSANG	Ditto	
015459 - 015531	Dr YEUNG Sum	Ditto	
015531 - 015552	Administration	Ditto	
015552 - 015620	Chairman	Arrangement for future meetings	
015620 - 015649	Administration	Ditto	
015649 - 015730	Chairman	Ditto	
015730 - 015738	Dr YEUNG Sum	Ditto	
015738 - 015748	Chairman	Ditto	
015748 - 015758	Administration	Ditto	

015758 - 015834	Chairman	Ditto	
015834 - 015848	Administration	Ditto	
015848 - 015900	Mr James TO	Ditto	
015900 - 015916	Chairman	Ditto	
015916 - 015934	Ms Emily LAU	The Administration should provide a written response to the submission from Mr Simon Young of the University of Hong Kong, particularly in respect of the freezing of funds, before the next meeting	Adm to provide a written response
015934 - 015953	Chairman	End of meeting	

Council Business Division 2
Legislative Council Secretariat
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