

立法會
Legislative Council

LC Paper No. CB(2)1273/03-04
(These minutes have been
seen by the Administration)

Ref : CB2/BC/11/02

**Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2003**

**Minutes of the 6th meeting
held on Saturday, 10 January 2004 at 9 am
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Hon Margaret NG
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan

Public Officers attending : Mrs Margaret CHAN
Principal Assistant Secretary for Security

Mr John Hunter
Deputy Principal Government Counsel

Ms Nilmini Dissanayake
Senior Assistant Law Draftsman

Miss Selina LAU
Government Counsel

Mr L W TING
Assistant Secretary for Security (Narcotics)

Ms Manda CHAN
Assistant Secretary for Security

Deputations : Item I

by invitation

Hong Kong Bar Association

Mr Andrew Bruce, SC
Bar Council Member

JUSTICE (The Hong Kong Section of the International
Commission of Jurists)

Ms Gladys LI, SC
Chairman

Mr Nigel Kat
Member

Mr Martin WONG
Member

Hong Kong Journalists Association

Mr Cliff Bale
Press Freedom Subcommittee Convenor

Ms MAK Yin-ting
Hon Secretary

Individual

Mr Simon N M YOUNG
Assistant Professor, Faculty of Law, University of Hong Kong

**Clerk in
attendance** : Miss Mary SO
Chief Council Secretary (2) 4

**Staff in
attendance** : Ms Bernice WONG
Assistant Legal Adviser 1

Ms Joanne MAK
Senior Council Secretary (2) 2

I. Meeting with deputations/individual

(LC Paper Nos. CB(2)210/03-04(01), CB(2)395/03-04(01), CB(2)929/03-04(02) and CB(2)906/03-04(01))

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

II. Meeting with the Administration

(LC Paper Nos. CB(2)771/03-04(01), CB(2)800/03-04(01), CB(2)906/03-04(02) to (04) and CB(2)929/03-04(01))

2. The Administration was requested to provide a written response to the following questions raised at the meeting -

- (a) Whether the Administration would consider amending the definition of "terrorist act" in the United Nations (Anti-Terrorism Measures) Ordinance (the Ordinance) taking reference from the anti-terrorism legislation in Canada and New Zealand, which required that there must be a specific intention to cause an outcome such as those listed in paragraph (a)(i) of the definition of that term in section 2(1) of the Ordinance;
- (b) Which overseas jurisdictions used a criminal approach in implementing paragraph 1(d) of the United Nations Security Council Resolution (UNSCR)1373;
- (c) Whether the new section 12A(9) would override the provisions protecting legal privilege under section 2(5) of the Ordinance and the circumstances under which that section would be used; and
- (d) Whether the coverage of 'to relate to any matter relevant to the investigation' in the new section 12A(3)(c) and (6) was too wide and should be tightened.

3. The Administration was also requested to provide -

- (a) The judgment of District Court in HKSAR v Yam Ho Keung (DCCC of 2001); and
- (b) Other judgment(s) made by Hong Kong court(s) requiring the prosecution to prove "reasonable grounds to believe" (other than HKSAR v Shing Siu Ming and Others).

4. The Secretary for Justice was requested to provide a written response on whether she still considered the various provisions of the Ordinance and of the Bill did not undermine human rights and did not go beyond the requirements of UNSCR 1373 and the Special Recommendations of the Financial Action Task Force on Money Laundering, having regard to the views expressed by deputations/individual, in particular those from JUSTICE. The Legal Policy Division of the Department of Justice was also requested to provide a similar response.

III. Date of next meeting

5. The Clerk would liaise with members and the Administration to fix the date of the next meeting.
6. There being no other business, the meeting ended at 12 noon.

Council Business Division 2
Legislative Council Secretariat
18 February 2004

**Proceedings of the 6th meeting of the
Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2003
on Saturday, 10 January 2004 at 9:00 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 001056	Chairman	Welcoming remarks	
001057 - 001712	Hong Kong Bar Association	Presented the views set out in its submission (LC Paper No. CB(2) 395/03-04(01))	
001713 - 005327	JUSTICE (The Hong Kong Section of the International Commission of Jurists) (JUSTICE)	Presented the views set out in its two submissions (LC Paper Nos. CB(2) 204/03-04(04) and 929/03-04(02))	
005328 - 010942	Mr Simon YOUNG of Assistant Professor of the Faculty of Law of the University of Hong Kong (Mr Simon YOUNG)	Presented the views set out in his two submissions (LC Paper Nos. CB(2) 210/03-04(02) and 906/03-04(01))	
010943 - 012418	Hong Kong Journalists Association (HKJA)	Presented the views set out in its submission (LC Paper No. CB(2) 210/03-04(01))	
012419 - 012434	Chairman and Miss Margaret NG	Way forward	
012435 - 014726	Miss Margaret NG, Chairman, Administration, JUSTICE and Ms Miriam LAU	<p>The Secretary for Justice was requested to provide a written response on whether she still considered the various provisions of the United Nations (Anti-Terrorism Measures) Ordinance and of the Bill did not undermine human rights and did not go beyond the requirements of the United Nations Security Council Resolution (UNSCR) 1373 and the Special Recommendations of the Financial Action Task Force on Money Laundering, having regard to the views expressed by deputations/individual, in particular those from JUSTICE. The Legal Policy Division of the Department of Justice was also requested to provide a similar response.</p> <p>The Administration was requested to provide information on whether the Administration would consider amending the definition of "terrorist act" of the Ordinance taking reference from the anti-terrorism legislation in Canada and New Zealand, which required that there must be a specific intention to cause an outcome such as those listed in paragraph (a)(i) of the definition of that term in section 2(1) of the Ordinance.</p>	✓ (Admin to provide written responses)
014727 - 021822	Ms Miriam LAU, JUSTICE, Chairman, Administration, Hong Kong Bar Association, Miss Margaret NG and Mr Simon YOUNG	<p>Supply of funds to terrorists and terrorist associates</p> <p>The Administration was requested to provide information on which overseas jurisdictions used a criminal approach in implementing paragraph 1(d) of UNSCR 1373.</p>	✓ (Admin to provide a written response)
Time Marker	Speaker	Subject(s)	Action Required

021823 - 022610	Miss Margaret NG, Administration and JUSTICE	Legal professional privilege The Administration was requested to provide information on whether the new section 12A(9) would override the provisions protecting legal privilege under section 2(5) of the Ordinance and the circumstances under which that section would be used.	✓ (Admin to provide a written response)
022611 - 025639	Miss Margaret NG, Administration, HKJA, Chairman, Hong Kong Bar Association, JUSTICE, Ms Miriam LAU and Mr Simon YOUNG	New section 12A - Requirement to furnish information or produce material Whether the coverage of 'to relate to any matter relevant to the investigation' in the new section 12A(3)(c) and (6) was too wide and should be tightened	✓ (Admin to provide a written response)
025640 - 030000	Ms Miriam LAU, Chairman and Miss Margaret NG	The Administration was requested to provide - (a) the judgment of the District Court in <u>HKSAR v Yam Ho Keung</u> (DCCC of 2001); and (b) other judgment(s) made by Hong Kong court(s) requiring the prosecution to prove "reasonable grounds to believe" (other than <u>HKSAR v Shing Siu Ming and Others</u>).	✓ (Admin to provide the information and materials)
030001 - 030027	Chairman	Date of next meeting	