

立法會
Legislative Council

LC Paper No. CB(2)2188/03-04

(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 9th meeting
held on Thursday, 15 April 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon Margaret NG
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-yee, JP
Hon Audrey EU Yuet-mee, SC, JP

Member absent : Hon Cyd HO Sau-lan

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

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 the Administration
(LC Paper Nos. CB(2)1984/03-04(01) and (02))

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

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

- (a) What was the policy intent of new section 2(8) in the Bill and whether the Administration would consider amending section 2(8) to the effect that the Chief Executive might specify a body to be a public body for the purposes of new sections 12A(10) and 12B(7);
- (b) What mechanism was in place to ensure that bodies receiving information provided under the proposed amended section 12(6)(b) and section 12D(2)(b) would only use such information for the purpose of preventing and suppressing the funding of terrorist acts;
- (c) Whether the Administration would consider adding a provision similar to new section 12A(12) to new section 12B; and
- (d) What was the legal basis for new section 12G(1) to empower the Court to authorise the use of assistance and force as necessary and reasonable for entering premises, and whether there was any limit to the Court's power in determining the level of assistance and force.

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

- (a) To consider adding "in whole or in part" after "used" in the amended

section 7(a) and (b) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance);

- (b) To consider replacing the mental element of "having reasonable grounds to believe" in sections 8, 9 and 10 of the Ordinance with that of recklessness;
- (c) To consider further improving the drafting of the proposed amendment to new section 10(1) of the Ordinance to make it clear that a person would only be criminalised if he knew the terrorist group concerned had been gazetted;
- (d) To consider amending "after the person knows" in the proposed amendment to new section 10(2) of the Ordinance along the lines of "after the person comes to know";
- (e) To consider putting the provisions on the purposes of disclosure at the end of sections 12(6)(b) and 12D(2)(b), and the new section 25A(9)(b) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap.455) to make it clear that the recipients of the information concerned would use it for the specified purposes;
- (f) To consider deleting everything after "common law" in new section 18A(1); and
- (g) To consider revising section 12 of the Ordinance to the effect that the imposition of obligations to disclose knowledge or suspicion that property was a terrorist property should not be on every ordinary citizen, but should restrict to individuals working in the financial institutions, other businesses or entities subject to anti-money laundering obligations, taking reference from the formulation in the UK Terrorism Act 2000.

4. The Administration was also requested to provide the following information requested by members at the meeting -

- (a) Names of the authorities in other jurisdictions, which the Administration intended to exchange information for the purpose of preventing and suppressing the funding of terrorist acts; and
- (b) Overseas and local legislation which had provisions similar to new section 12G(1).

5. The Clerk undertook to forward members an information paper provided by

the Administration to the Panel on Security on 16 January 2003 concerning the compensation provision in the legislation of other jurisdictions.

II. Date of next meeting

6. Members agreed to hold the next meeting on 29 April 2004 at 4:30 pm. In addition to the meeting already scheduled for 6 May 2004 at 10:45 am, members further agreed to schedule another meeting in mid-May 2004.

(Post-meeting note : The meeting scheduled for 29 April 2004 was cancelled. Apart from the meeting to be held on 6 May 2004, four additional meetings were scheduled for 4, 11, 17 and 21 May 2004.)

7. There being no other business, the meeting ended at 4:34 pm.

Council Business Division 2
Legislative Council Secretariat
28 April 2004

**Proceedings of the 9th meeting of the
Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2003
on Thursday, 15 April 2004 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000310	Chairman and Administration	Draft Committee Stage amendments (CSAs) proposed by the Administration. [LC Paper No. CB(2)1984/03-04(02)]	
000311 - 003440	Miss Margaret NG, Chairman, Ms Miriam LAU and Administration	Section 2 - Interpretation The Administration was requested to provide a written response on the policy intent of new section 2(8) in the Bill and whether the Administration would consider amending section 2(8) to the effect that the Chief Executive might specify a body to be a public body for the purposes of new sections 12A(10) and 12B(7).	✓ (Admin to provide a written response)
003441 - 003847	Ms Miriam LAU, Administration and Chairman	Section 7 - Prohibition on provision or collection of funds to commit terrorist acts The Administration was requested to consider adding "in whole or in part" after "used" in the amended section 7(a) and (b) of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance).	✓ (Admin to provide a written response)
003848 - 005646	Miss Margaret NG, Chairman, Ms Miriam LAU, Mr Albert HO and Administration	Section 10 - Prohibition on recruitment, etc. to a body specified in a section 4(1) notice or a section 5(2) order The Administration was requested - (a) to consider further improving the drafting of the proposed amendment to new section 10(1) of the Ordinance to make it clear that a person would only be criminalised if he knew the terrorist group concerned had been gazetted; and (b) to consider amending "after the person knows" in the proposed amendment to new section 10(2) of the Ordinance along the lines of "after the person comes to know".	✓ (Admin to provide a written response)
005647 - 010834	Miss Margaret NG, Chairman, Administration, Ms Miriam LAU and Mr Albert HO	Sections 8 - Prohibition on making funds, etc. available to terrorists and terrorist associates Section 9 - Prohibition on supply of weapons to terrorists and terrorist associates Section 10 - Prohibition on recruitment, etc. to a body specified in a section 4(1) notice or a section 5(2) order The Administration was requested to consider replacing the mental element of "having reasonable grounds to believe" in sections 8, 9 and 10 of the Ordinance with that of recklessness.	✓ (Admin to provide a written response)
Time Marker	Speaker	Subject(s)	Action

			Required
010835 - 012839	Miss Margaret NG, Chairman, Ms Miriam LAU, Administration and ALA1	<p>Section 12 - Disclosure of knowledge or suspicion that property is terrorist property, etc.</p> <p>The Administration was requested -</p> <p>(a) to consider putting the provisions on the purposes of disclosure at the end of sections 12(6)(b) and 12D(2)(b), and the new section 25A(9)(b) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap.455) to make it clear that the recipients of the information concerned would use it for the specified purposes;</p> <p>(b) to provide information on what mechanism was in place to ensure that bodies receiving information provided under the proposed amended section 12(6)(b) and section 12D(2)(b) would only use such information for the purpose of preventing and suppressing the funding of terrorist acts; and</p> <p>(c) to provide names of the authorities in other jurisdictions, such as those in Europe, which the Administration intended to exchange information for the purpose of preventing and suppressing the funding of terrorist acts.</p>	<p>✓ (Admin to provide a written response)</p>
012840 - 013910	Miss Margaret NG, Chairman, Ms Miriam LAU	<p>New section 12A - Requirement to furnish information or produce material</p> <p>New section 12B - Order to make material available</p> <p>The Administration was requested to consider adding a provision similar to new section 12A(12) to new section 12B.</p>	<p>✓ (Admin to provide a written response)</p>
013911 - 014607	Miss Margaret NG, Administration and Chairman	<p>New section 12G - Issue of warrant</p> <p>The Administration was requested to provide information on the following -</p> <p>(a) what was the legal basis for new section 12G(1) to empower the Court to authorise the use of assistance and force as necessary and reasonable for entering premises, and whether there was any limit to the Court's power in determining the level of assistance and force; and</p> <p>(b) overseas and local legislation which had provisions similar to new section 12G(1).</p>	<p>✓ (Admin to provide a written response)</p>
014608 - 020009	Miss Margaret NG, Chairman, Administration, Ms Miriam LAU and Mr Albert HO	<p>Section 18 - Compensation</p> <p>The Administration was requested to consider deleting everything after "common law" in new section 18A(1).</p>	<p>✓ (Admin to provide a written response)</p>

Time Marker	Speaker	Subject(s)	Action Required
020010 - 020229	Miss Margaret NG, Chairman and Ms Miriam LAU	The Administration was requested to consider revising section 12 of the Ordinance to the effect that the imposition of obligations to disclose knowledge or suspicion that property was a terrorist property should not be on every ordinary citizen, but should restrict to individuals working in the financial institutions, other businesses or entities subject to anti-money laundering obligations, taking reference from the formulation in the UK Terrorism Act 2000.	✓ (Admin to provide a written response)
020230 - 020259	Mr Albert HO and Chairman	The Clerk to forward members an information paper provided by the Administration to the Panel on Security on 16 January 2003 concerning the compensation provision in the legislation of other jurisdictions.	✓ (Clerk to provide information)
020300 - 020535	Chairman and members	Date of next meeting.	

Council Business Division 2
Legislative Council Secretariat
 28 April 2004