

立法會
Legislative Council

LC Paper No. CB(2)2463/03-04
(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 10th meeting
held on Tuesday, 4 May 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon James TO Kun-sun (Chairman)
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

Members absent : Dr Hon David CHU Yu-lin, JP
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. Confirmation of minutes

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

The minutes of meeting held on 15 April 2004 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(2)2236/03-04(01))

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

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

- (a) To consider improving the drafting of new section 12G(1) along the lines that the magistrate might grant a warrant to any authorised officer to enter the premises named in the warrant and to search for, seize, remove and detain terrorist property, and that the authorised officer may use such force and assistance that was necessary and reasonable for the purpose;
- (b) To consider adding a provision to put it beyond doubt that nothing in the new sections 12A and 12B would affect the protection of the privilege against self-incrimination under section 2(5)(c);
- (c) To confirm that the proposed amended section 3 would not affect the application of extraterritoriality at common law and in other ordinances;
- (d) To consider amending new Part 4A by adopting the model in the Organized and Serious Crimes Ordinance (Cap. 455);
- (e) To illustrate the differences between the bombing offences under new section 11B and existing similar offences in terms of scope, extraterritorial jurisdiction and penalties; and
- (f) To explain what act would constitute "other form of intimidation"

referred to in new section 11E(1).

4. The Assistant Legal Adviser suggested the following -

- (a) S for S should point out in his speech during the resumption of Second Reading debate on the Bill that the word "person" referred to in the Ordinance also meant any public body and any body of persons, corporate or unincorporate, and to clarify the effect of the amendments to new sections 2(8), 12A(10), 12B(7) and 12B(12) and the deletion of the definition of "public body"; and
- (b) To consider making consequential amendments to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and Cap. 455.

5. The Assistant Legal Adviser undertook to check whether other legislation, apart from Cap. 405 and Cap. 455, contained the definition of "public body".

III. Date of next meeting

6. Members noted that the next meeting was scheduled for 6 May 2004 at 10:45 am.

7. There being no other business, the meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
20 May 2004

**Proceedings of the 10th meeting of the
Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2003
on Tuesday, 4 May 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 000505	Chairman	Confirmation of minutes of meeting	
000506 - 002441	Administration, Miss Margaret NG, ALA1 and Ms Miriam LAU	The Administration's responses to issues raised at the previous meeting held on 15 April 2004 [LC Paper No. CB(2) 2236/03-04(01)]	
002442 - 002927	Administration, Miss Margaret NG, Chairman, Ms Miriam LAU and ALA1	<u>New section 12G - issue of search warrant</u> The Administration to consider improving the drafting of new section 12G(1) along the lines that the magistrate might grant a warrant to any authorised officer to enter the premises named in the warrant and to search for, seize, remove and detain terrorist property therein, and that the authorised officer might use such force and assistance that was necessary and reasonable for the purpose of giving effect to the warrant.	✓ (Admin to provide a written response)
002928 - 004608	Chairman, Administration, Ms Audrey EU, Miss Margaret NG, ALA1 and Ms Miriam LAU	<u>New section 12A(12) - statement by a person not be used against him in criminal proceedings against him</u> The Administration to consider adding a provision to put it beyond doubt that nothing in the new sections 12A and 12B would affect the protection of the privilege against self-incrimination under section 2(5)(c).	✓ (Admin to provide a written response)
004609 - 004745	ALA1	<u>Definition of "public body"</u> The Administration to consider Assistant Legal Adviser's (ALA) suggestion that the Secretary for Security should point out in his speech during the resumption of Second Reading debate on the Bill that the word "person" referred to in the Ordinance also meant any public body and any body of persons, corporate or unincorporate, and to clarify the effect of the amendments to new sections 2(8), 12A(10), 12B(7) and 12B(12) and the deletion of the definition of "public body". The Administration to consider ALA's suggestion of making consequential amendments to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and the Organized and Serious Crimes Ordinance (Cap. 455). ALA would check whether other legislation, apart from Cap. 405 and Cap. 455, contained the definition of "public body".	✓ (Admin to provide a written response) ✓ (Admin to provide a written response) ✓ (ALA to provide information)
004746 - 005300	Chairman, Ms Audrey EU, ALA1, Miss Margaret NG, Ms Miriam LAU and Administration	Clause-by-clause examination of the Bill	

Time Marker	Speaker	Subject(s)	Action Required
005301 - 005351	Chairman	<u>Clause 1 - Short title and commencement</u>	
005352 - 005503	Chairman, ALA1, Administration and Miss Margaret NG	<u>Title of the Bill</u>	
005504 - 005508	Chairman	<u>Clause 2 - Interpretation</u>	
005509 - 010502	Chairman, Administration	<u>Clause 3 - application of certain provisions outside HKSAR</u> The Administration to confirm that the proposed amended section 3 would not affect the application of extraterritoriality at common law and in other ordinances.	✓ (Admin to provide a written response)
010503 - 012225	Chairman, Administration, ALA1, Miss Margaret NG, Ms Miriam LAU and Ms Audrey EU	<u>Clause 4 - Section added</u> The Administration to consider amending new Part 4A by adopting the model in the Organized and Serious Crimes Ordinance (Cap. 455).	✓ (Admin to provide a written response)
012226 - 012830	Chairman, Miss Margaret NG and Administration	<u>Clause 17(1) and (2) - Minor amendments</u>	
012831 - 013009	Chairman and Miss Margaret NG	<u>Clause 5 - Freezing of property</u>	
013010 - 013030	Chairman and Miss Margaret NG	<u>Clause 6 - Section substituted</u>	
013031 - 015208	Chairman, Administration, Miss Margaret NG, Mr Albert HO and ALA1	<u>Clause 7 - Parts 3A and 3B added</u> The Administration to - (a) illustrate the differences between the bombing offences under new section 11B and existing similar offences in terms of scope, extraterritorial jurisdiction and penalties; and (b) explain what act would constitute "other form of intimidation" referred to in new section 11E(1).	✓ (Admin to provide a written response)