

**立法會**  
***Legislative Council***

LC Paper No. CB(2)2690/03-04

(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 13<sup>th</sup> meeting  
held on Monday, 17 May 2004 at 4:30 pm  
in the Chamber of the Legislative Council Building**

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

**Members absent** : 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

**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

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**I. Clause-by-clause examination of the Bill**

(LC Paper Nos. CB(2)2353/03-04(01) and CB(2)2386/03-04(01) to (03))

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) to amend the definition of "authorized officer" in section 2 of the Bill to mean a police officer, a member of the Immigration Service, a member of the Customs and Excise Service or an officer of the Independent Commission Against Corruption;
- (b) to consider applying the mental element of "recklessness" to section 10(2) to criminalize those persons who, despite the risk involved, turned a blind eye to whether the organisations of which they were members were gazetted terrorist organisations;
- (c) to propose the way forward regarding the review of the reporting requirements under section 12 of the United Nations (Anti-Terrorism Measures) Ordinance and section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance by making reference to sections 19 and 21A of the United Kingdom Terrorism Act 2000 and for the purpose of introducing a two-tier reporting system in Hong Kong; and
- (d) to replace "make available" with "deal with" in new section 6(1) and provide for a definition of "deal with", in order to clearly reflect that the policy intent of freezing of property was to prevent property from being provided to terrorists/terrorist associates and to prohibit them

from mobilising property.

3. As members considered that section 2(5) already clearly protected the privilege against self-incrimination, the Administration would delete the proposed Committee Stage amendment (CSA) (which expressly specified that nothing in Parts 4A and 4B restricted the privilege) to that section.

4. The Chairman informed the meeting that he and Mr Albert HO were considering moving CSAs to section 18 to provide compensation to a person wrongfully specified as terrorist or terrorist associate or whose property was wrongfully specified as terrorist property without requiring that person to prove any default on the part of the Government -

- (a) by reversing the burden of proof so that the Government had to prove that there had been no fault on the part of any person concerned in obtaining the relevant specification; or
- (b) that the Court should order compensation to be paid unless the Government could satisfy the Court that the obtaining of the relevant specification was misled by the applicant's act or conduct.

## **II. Date of next meeting**

5. Members agreed that in addition to the meeting already scheduled for 21 May 2004 at 8:30 am, two further meetings would be held on 31 May 2004 at 4:30 pm and on 1 June 2004 at 4:30 pm.

*(Post-meeting note : The meeting scheduled for 21 May 2004 was cancelled to allow more time for the Administration to prepare a response to issues raised by members at the meeting on 17 May 2004.)*

6. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 2  
Legislative Council Secretariat  
8 June 2004

**Proceedings of the 13<sup>th</sup> meeting of the  
Bills Committee on United Nations  
(Anti-Terrorism Measures) (Amendment) Bill 2003  
on Monday, 17 May 2004 at 4:30 pm  
in the Chamber of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 003657	Chairman, Miss Margaret NG, Administration, Ms Miriam LAU and ALA1	<p><u>Committee Stage amendments (CSAs) proposed by the Administration</u> (LC Paper No. CB(2)2386/03-04(02))</p> <p>The Administration to -</p> <p>(a) amend the definition of "authorized officer" in section 2 of the Bill to mean a police officer, a member of the Immigration Service, a member of the Customs and Excise Service or an officer of the Independent Commission Against Corruption; and</p> <p>(b) consider applying the mental element of "recklessness" to section 10(2) to criminalize those persons who, despite the risk involved, turned a blind eye to whether the organisations of which they were members were gazetted terrorist organisations.</p> <p>As members considered that section 2(5) already clearly protected the privilege against self-incrimination, the Administration would delete the proposed CSA (which expressly specified that nothing in Parts 4A and 4B restricted the privilege) to that section.</p>	<p>✓ (Admin to provide a written response)</p>
003658 - 012546	Administration, Miss Margaret NG, Chairman, ALA1 and Ms Miriam LAU	<p><u>Administration's response to the suggestion that section 12 be revised, adopting the formulation in section 19 of the United Kingdom Terrorism Act 2000</u> (LC Paper No. CB(2)2383/03-04(01))</p> <p>The Administration to propose the way forward regarding the review of the reporting requirements under section 12 of the United Nations (Anti-Terrorism Measures) Ordinance and section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organised and Serious Crimes Ordinance by making reference to sections 19 and 21A of the United Kingdom Terrorism Act 2000 and for the purpose of introducing a two-tier reporting system in Hong Kong.</p>	<p>✓ (Admin to provide a written response)</p>
012547 - 012702	Administration	<p><u>CSAs proposed by the Administration</u> (LC Paper No. CB(2)2386/03-04(02))</p> <p>The Administration to replace "make available" with "deal with" in new section 6(1) and provide for a definition of "deal with", in order to clearly reflect that the policy intent of freezing of property was to prevent property from being provided to terrorists/terrorist associates and to prohibit them from mobilising property.</p>	<p>✓ (Admin to provide a written response)</p>

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
012703 - 015035	Chairman, Administration, Miss Margaret NG and Ms Miriam LAU	<u>Administration's response to issues raised at the Bills Committee meeting on 6 and 11 May 2004 respectively</u> (LC Paper No. CB(2)2353/03-04(01))  The Chairman informed the meeting that he and Mr Albert HO were considering moving CSAs to section 18 to provide compensation to a person wrongfully specified as terrorist or terrorist associate or whose property was wrongfully specified as terrorist property without requiring that person to prove any default on the part of the Government -  (a) by reversing the burden of proof so that the Government had to prove that there had been no fault on the part of any person concerned in obtaining the relevant specification; or  (b) that the Court should order compensation to be paid unless the Government could satisfy the Court that the obtaining of the relevant specification was misled by the applicant's act or conduct.	
015036 - 015227	Chairman and Miss Margaret NG	Date of next meeting	

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8 June 2004