

立法會
Legislative Council

LC Paper No. CB(2)2982/03-04

(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 14th meeting
held on Monday, 31 May 2004 at 4:30 pm
in Conference Room A of the Legislative Council Building**

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

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon LAU Kong-wah, JP

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)2455/03-04(01), CB(2)2473/03-04(01), CB(2)2487/03-04(01) & (02), CB(2)2516/03-04(01), CB(2)2557/03-04(01) to (06) and CB(2)2564/03-04(01))

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

2. Sharing JUSTICE's view in its submission of 20 May 2004, Miss Margaret NG disagreed with the proposed section 10(2)(b) which criminalised a person for being reckless as to whether the body to which he was a member was a terrorist organisation. In her view, a person either knew or did not know that the body to which he was a member was a terrorist organisation. There was simply no necessity to have a lower threshold than proof of knowledge.

3. Miss NG further said that it was not clear how a person could take all practicable steps to cease to be a member of a specified organisation. The Chairman and Ms Miriam LAU shared similar view. They also noted that paragraph 2(a) of the United Nations Security Council Resolution 1373 only stipulated that all States should refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups, and did not specifically require criminalising a person for failing to cease to be a member of a terrorist organisation.

4. Nothing members' concerns mentioned in paragraphs 2 and 3 above, the Administration would further consider how the proposed section 10(2) should be dealt with and would provide a written response.

5. At the request of the Bills Committee, the Administration agreed to provide a written response to a suggestion from the Hong Kong Association of Banks on conferring banks with immunity from civil liability for delays in processing payments

or receipts, caused by internal screening procedures to ensure compliance with sections 7 and 8 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

6. Members noted from the further submission from the Hong Kong Journalists Association (HKJA) dated 19 May 2004 expressing the concern that journalists might be forced to reveal confidential sources of information during questioning. HKJA believed that sections 12A and 12B fell outside the scope of Part XII of the Interpretation and General Clauses Ordinance (Cap. 1) which concerned search and seizure of journalistic materials. According to the Administration's response to HKJA's further submission, the objective tests to be met for issuing a court order to require a person to furnish information or produce materials under new sections 12A(4) and 12B(5) were comparable to those conditions under section 84 of Cap. 1 for making a court order requiring production of journalistic material. As such, the Administration considered that sections 12A and 12B were already subject to sufficient judicial safeguards. Furthermore, section 2(7)(b) of the Ordinance already provided, for the avoidance of doubt, that "the provisions of this Ordinance shall be subject to the operation of Part XII of the Interpretation and General Clauses Ordinance (Cap. 1)". In the light of this, the Secretariat was requested to forward the aforesaid Administration's response to HKJA and to request it to clarify its proposal to protect journalistic confidentiality under Cap. 575.

7. The Chairman informed the meeting that he might consider a Committee Stage amendment to section 6 requiring prior court authorisation for freezing of property.

II. Date of next meeting

8. Members agreed to re-schedule the meeting originally scheduled for the following day to 7 June 2004 at 8:30 am to allow more time for the Administration and HKJA to prepare a response to issues raised by members at the meeting.

9. There being no other business, the meeting ended at 6:20 pm.

Council Business Division 2
Legislative Council Secretariat
2 July 2004

**Proceedings of the 14th meeting of the
Bills Committee on United Nations
(Anti-Terrorism Measures) (Amendment) Bill 2003
on Monday, 31 May 2004 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000000 - 001508	Chairman and Administration	<p><u>Administration's response to issues raised at the Bills Committee meeting on 17 May 2004</u> (LC Paper No. CB(2)2557/03-04(01))</p> <ul style="list-style-type: none"> - Section 2(5) on protection of privilege against self-incrimination - Definition of "authorized officer" - New section 6 on freezing of property - Section 10(2) on offence of failing to cease to be a member of a gazetted terrorist group and consequential technical amendment to section 14 - The possibility of introducing a two-tier reporting system in Hong Kong, by making reference to the UK Terrorism Act 2000 - Improving drafting of the new section 7 - Adding a new section 11D(ba) to include ships owned or operated by Hong Kong for customs and police purposes in the exemption list 	
001509 - 005312	Administration, Chairman, Miss Margaret NG and Ms Miriam LAU	<p><u>Committee Stage amendments (CSAs) proposed by the Administration</u> (LC Paper No. CB(2)2564/03-04(01))</p> <p>The Administration to see how best to address members' queries about the need to criminalise a person for failing to cease to be a member of a terrorist organisation. Members considered that it was not clear how a person could take all practicable steps to cease to be a member of a specified organisation. They also noted that the United Nations Security Council Resolution 1373 did not require creating such an offence.</p>	<p>✓ (Admin to provide a written response)</p>
005313 - 010840	Chairman, Administration, ALA1 and Ms Miriam LAU	<p><u>Further submission from Hong Kong Journalists' Association (HKJA) and the Administration's response</u> (LC Paper Nos. CB(2)2455/03-04(01) & CB(2)2557/03-04(02))</p> <p>The Secretariat to forward the Administration's response to HKJA and request it to clarify its proposal to protect journalistic confidentiality under the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (the Ordinance).</p>	<p>✓ (the Clerk to take action)</p>

Time Marker	Speaker	Subject(s)	Action Required
010841 - 012015	Chairman, Administration and Miss Margaret NG	<u>Further submission from Mr Simon YOUNG of the Faculty of Law of the University of Hong Kong and the Administration's response</u> (LC Paper Nos. CB(2)2487/03-04(02) & CB(2)2557/03-04(04))	
012016 - 012148	Chairman, Miss Margaret NG and Ms Miriam LAU	<u>Further submission from the Hong Kong Association of Banks and the Administration's response</u> (LC Paper Nos. CB(2)2516/03-04(01) & CB(2)2557/03-04(05)) The Administration to provide a written response to the suggestion from the Hong Kong Association of Banks on conferring banks with immunity from civil liability for delays in processing payments or receipts, caused by internal screening procedures to ensure compliance with sections 7 and 8 of the Ordinance.	✓ (Admin to provide a written response)
012149 - 012449	Chairman and Administration	<u>Further submission from the Law Society of Hong Kong and the Administration's response</u> (LC Paper Nos. CB(2)2487/03-04(01) & CB(2)2557/03-04(06))	
012450 - 013632	Chairman, Administration and Ms Miriam LAU	The Chairman informed the meeting that he might consider moving a CSA to section 6 requiring prior court authorisation for freezing of property.	
013633 - 014112	Administration, Ms Miriam LAU, Chairman and ALA1	<u>Further submission from JUSTICE and the Administration's response</u> (LC Paper Nos. CB(2)2473/03-04(01) & CB(2)2557/03-04(03))	
014113 - 014147	Chairman, members and Administration	Date of next meeting	