

**立法會**  
***Legislative Council***

LC Paper No. CB(2)624/03-04

(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 4<sup>th</sup> meeting  
held on Wednesday, 26 November 2003 at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon James TO Kun-sun (Chairman)  
Hon Cyd HO Sau-lan  
Hon Albert HO Chun-yan  
Hon Margaret NG  
Hon LAU Kong-wah, JP  
Hon Miriam LAU Kin-yee, JP

**Members absent** : Dr Hon David CHU Yu-lin, JP  
Hon Audrey EU Yuet-mee, SC, 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 Assistant Secretary (2) 4

**Staff in attendance** : Ms Bernice WONG  
Assistant Legal Adviser 1  
  
Ms Joanne MAK  
Senior Assistant Secretary (2) 2

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**I. Confirmation of minutes**

(LC Paper No. CB(2)416/03-04)

The minutes of the meeting held on 12 November 2003 were confirmed.

**II. Meeting with the Administration**

(LC Paper Nos. CB(2)395/03-04(01), CB(2)446/03-04(01) and CB(2)454/03-04(01) to (06))

2. The Bills Committee deliberated (Index of proceedings at **Annex**).
3. The Administration was requested to provide a written response to the following questions raised by members -
  - (a) Background on the need for everyone to observe the requirements under section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and of the Organized and Serious Crimes Ordinance (Cap. 455);
  - (b) Background on the need for everyone to observe the requirement to report property known or suspected to be terrorist property under section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), given that the scope of section 25A of Cap. 405 and 455 was considerably narrower than that of section 12 of Cap. 575 in that the former was related to proceeds derived from drug trafficking or crimes; and
  - (c) Legal basis for interpreting "entities subject to anti-money laundering obligations" in the Financial Action Task Force on Money Laundering to include everybody in the context of Hong Kong.
4. The Administration was also requested to provide a written response to the following issues raised by members -

- (a) To amend clause 6 (new section 10) if the legislative intent of the clause was to prohibit the recruitment of members for or becoming a member of a body of terrorists or terrorist associates. In its present form, a person would not be criminalised for recruiting another person to become a member of, or becoming a member of, a body of persons even if he knew or had reasonable grounds to believe that the body of persons was terrorists or terrorist associate(s) although they were not specified in a notice under section 4(1) or (2) or section 5(2) of Cap. 575;
- (b) To provide relevant case law on the objective mens rea of "having reasonable grounds to believe" and to consider deleting the same in sections 7, 8, 9 and new section 10 of Cap. 575;
- (c) To amend section 7(a) of Cap. 575 to the effect that a person would only be criminalised if he supplied funds to a person who he knew or had reasonable grounds to believe to be a terrorist or terrorist associate, with the intention that the funds be used in part or in whole to finance or assist the commission of a terrorist act;
- (d) To amend section 8 of Cap. 575 to the effect that a person would only be criminalised if he made funds or financial (or related) services available to a person who he knew or had reasonable grounds to believe to be a terrorist or terrorist associate, with the intention that the funds, etc. be used in part or in whole to finance or assist the commission of a terrorist act; and
- (e) To confirm the interpretation that a notice of specification published in the Gazette did not create a presumption or proof that the person accused of an offence under section 7, 8 or 9 knew or had reasonable grounds to believe that another person was a terrorist or terrorist associate.

### **III. Date of next meeting**

5. The Clerk would fix the date of the next meeting, in consultation with members and the Administration, after the meeting.

*(Post-meeting note : The next meeting was scheduled for 5 December 2003 at 8:30 a.m.)*

6. There being no other business, the meeting ended at 10:30 a.m.

Council Business Division 2  
Legislative Council Secretariat  
11 December 2003

**Proceedings of the 4<sup>th</sup> meeting of the  
Bills Committee on United Nations  
(Anti-Terrorism Measures) (Amendment) Bill 2003  
on Wednesday, 26 November 2003 at 8:30 am  
in Conference Room B of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000343	Chairman	Confirmation of minutes of meeting on 12 November 2003	
000344 - 001849	Administration	Briefing by the Administration on paragraphs 7 - 26 of LC Paper No. CB(2)294/03-04(01) - Administration's response to the issues set out in LC Paper No. CB(2)1113/02-03(04) prepared by the Secretariat	
001850 - 005423	Miss Margaret NG, Administration, Chairman, Mr Albert HO and Ms Miriam LAU	<p>The Administration was requested to provide a written response to the following questions raised by members -</p> <p>(a) Background on the need for everyone to observe the requirements under section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and of the Organized and Serious Crimes Ordinance (Cap. 455);</p> <p>(b) Background on the need for everyone to observe the requirement to report property known or suspected to be terrorist property under section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), given that the scope of section 25A of Cap. 405 and 455 was considerably narrower than that of section 12 of Cap. 575 in that the former was related to proceeds derived from drug trafficking or crimes; and</p> <p>(c) Legal basis for interpreting "entities subject to anti-money laundering obligations" in the Financial Action Task Force on Money Laundering to include everybody in the context of Hong Kong.</p>	<p style="text-align: center;">✓</p> <p>(Admin to provide a written response)</p>
005424 - 014624	Miss Margaret NG, Chairman, Administration and Ms Miriam LAU	<p>The Administration was requested to provide a written response to the following issues raised by members -</p> <p>(a) To amend clause 6 (new section 10) if the legislative intent of the clause was to prohibit the recruitment of members for or becoming a member of a body of terrorists or terrorist associates. In its present form, a person would not be criminalised for recruiting another person to become a member of, or becoming a member of, a body of persons even if he knew or had reasonable grounds to believe that the body of persons was terrorists or terrorist associate(s) although they were not specified in a notice under section 4(1) or (2) or section 5(2) of Cap. 575;</p> <p>(b) To provide relevant case law on the objective mens rea of "having reasonable grounds to believe" and to consider deleting the same in sections 7, 8, 9 and new section 10 of Cap. 575;</p>	<p style="text-align: center;">✓</p> <p>(Admin to provide a written response)</p>

<b>Time Marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>(c) To amend section 7(a) of Cap. 575 to the effect that a person would only be criminalised if he supplied funds to a person who he knew or had reasonable grounds to believe to be a terrorist or terrorist associate, with the intention that the funds be used in part or in whole to finance or assist the commission of a terrorist act;</p> <p>(d) To amend section 8 of Cap. 575 to the effect that a person would only be criminalised if he made funds or financial (or related) services available to a person who he knew or had reasonable grounds to believe to be a terrorist or terrorist associate, with the intention that the funds, etc. be used in part or in whole to finance or assist the commission of a terrorist act; and</p> <p>(e) To confirm the interpretation that a notice of specification published in the Gazette did not create a presumption or proof that the person accused of an offence under section 7, 8 or 9 knew or had reasonable grounds to believe that another person was a terrorist or terrorist associate.</p>	
014625 - 015736	Miss Margaret NG, Administration, Mr Albert HO and Chairman	Section 18 of Cap. 575 - Compensation	
015737 - 015820	Chairman	Date of next meeting	