

**立法會**  
**Legislative Council**

Ref : CB2/SS/5/02

LC Paper No. CB(2) 1859/02-03  
(These minutes have been seen by  
the Administration)

**Subcommittee on  
the Mutual Legal Assistance in Criminal Matters (Ireland) Order  
and the Mutual Legal Assistance in Criminal Matters (Netherlands) Order**

**Minutes of meeting  
held on Wednesday, 9 April 2003 at 8:30 am  
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Margaret NG  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Miriam LAU Kin-ye, JP  
Hon Audrey EU Yuet-mee, SC, JP
- Member absent** : Hon James TO Kun-sun (Chairman)
- Public Officers Attending** : Mrs Margaret CHAN  
Principal Assistant Secretary for Security
- Ms Amelia LUK  
Deputy Law Officer (International Law)
- Mr John Hunter  
Deputy Principal Government Counsel
- Ms Anthea LI  
Senior Government Counsel
- Mr Alan CHONG  
Government Counsel
- Clerk in attendance** : Mrs Constance LI  
Chief Assistant Secretary (2)5

**Staff in attendance** : Miss Connie FUNG  
Assistant Legal Adviser 3  
  
Miss Betty MA  
Senior Assistant Secretary (2)1

---

Miss Margaret NG was elected by members to chair the meeting in the temporary absence of the Chairman.

**I. Confirmation of minutes of meeting**  
[LC Paper Nos. CB(2) 1626/02-03]

2. The minutes of meeting held on 13 March 2003 were confirmed.

**II. Meeting with the Administration**  
[LC Paper Nos. CB(2) 1226/02-03(01) & (02)]  
[LC Paper Nos. CB(2) 1663/02-03(01) & (02)]

3. The Subcommittee deliberated (Index of proceedings attached at **Annex**).

Mutual Legal Assistance in Criminal Matters (Ireland) Order

4. The Administration briefed members on the paper providing additional information on Articles 8(1) and 9(5) of the Mutual Legal Assistance in Criminal Matters (Ireland) Order and the procedures for taking of evidence from a witness asserting a claim of immunity [LC Paper No. CB(2) 1663/02-03(01)]. Members did not raise further questions on the Order.

Mutual Legal Assistance in Criminal Matters (Netherlands) Order

5. The Administration briefed members on the Mutual Legal Assistance in Criminal Matters (Netherlands) Order (the Netherlands Order), and highlighted the differences between the various Articles in the Order and the model agreement [LC Paper No. CB(2) 1226/02-03(02)].

6. The Administration said that as pointed out by the legal adviser, there was a translation error in the Chinese text of Article 14(5) of the Netherlands Order. The Administration had already written to the Dutch authority seeking resolution to rectify the Chinese translation error in respect of the "Requesting Party" and "Requested Party" in Article 14(5) of the Netherlands Order. The Administration would revert to the Subcommittee after receiving the reply from the Dutch authority.

7. Members raised questions on certain paragraphs in the Netherlands Order, in particular the procedures for taking of testimony in the Requested Party under Article 10(5) if there was a dispute about the claim of immunity or privilege under the law of the Requesting Party. Ms Audrey EU asked whether a separate document procedure similar to that adopted under Article 9(5) of the Ireland Order could be followed in such cases. At the request of the Chairman, the Administration agreed to provide a written response to the concern raised and to confirm that a magistrate of the Hong Kong Special Administrative Region had the power to resolve a claim of immunity or privilege made by a witness for the purpose of the Netherlands Order.

8. Members also noted the Administration's response to the questions raised by the legal adviser [LC Paper No. CB(2) 1226/02-03(03)&(04)]. Members did not raise any queries on these issues.

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

9. The Chairman requested the Administration to provide a written response to the Subcommittee in about a month's time on the matters discussed in paragraphs 6 and 7 above. The Subcommittee would then decide the way forward.

10. There being no other business, the meeting ended at 9:52 am.

Council Business Division 2  
Legislative Council Secretariat  
24 April 2003

**Subcommittee on  
the Mutual Legal Assistance in Criminal Matters (Ireland) Order  
and the Mutual Legal Assistance in Criminal Matters (Netherlands) Order  
Meeting on Wednesday, 9 April 2003 at 8:30 am  
in Conference Room B of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action Required</b>
000038-000132	Clerk Hon Audrey EU Hon Jasper TSANG Hon Margaret NG	Election of Chairman of the meeting	
000133-000545	Chairman Administration	Additional information on Article 8(1) of the Mutual Legal Assistance in Criminal Matters (Ireland) Order (the Ireland Order) [LC Paper No. CB(2)1663/02-03(01)]	
000546-001210	Chairman Administration	Additional information on Article 9(5) of the Ireland Order	
001211-001918	Administration Chairman	Chinese translation error in Article 14(5) of the Mutual Legal Assistance in Criminal Matters (Netherlands) Order  Comparison of Preamble and Articles 1 to 4 of the Netherlands Order with the model agreement	<b>Admin to report how to rectify the error</b>
001919-002853	Chairman Administration ALA3 Hon Jasper TSANG	Grounds of refusal of assistance under Article 4 of the Netherlands Order [LC Paper No. CB(2) 1226/02-03(03) and (04)]	

002854-003601	Administration	Comparison of Articles 5 to 10 of the Netherlands Order with the model agreement	
003602-003644	Chairman Administration	Meaning of "declaration" in Article 10	
003645-010621	Hon Audrey EU Administration Chairman Hon Jasper TSANG	Taking of testimony under Article 10(5) and procedures in case of dispute over a claim of immunity or privilege	<b>Admin to provide requested information</b>
010622-011532	Administration Chairman	Comparison of Articles 11 to 24 of the Netherlands Order with the model agreement	
011533-011859	Chairman Administration	Way forward	

**Note : The audio records of the above proceedings are kept at the LegCo Library**

Council Business Division 2  
Legislative Council Secretariat  
24 April 2003