

**Legislative Council**

**Panel on Security  
and**

**Panel on Administration of Justice and Legal Services**

**Summary of views expressed/suggestions made by organisations/individuals on  
the Administration's Proposals to implement Article 23 of the Basic Law  
prepared by the Legislative Council Secretariat**

**16 January - 28 February 2003**

## Part I - General Comments

<div> <div> <b>Organisation/ Individual</b> </div> <div> <b>LC Paper No. of Written submission</b> </div> </div>		General comments
1.	<p>The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]</p>	<p>(a) Many of the proposals in the Consultation Document would stifle the free flow of information in Hong Kong;</p> <p>(b) The Government should produce actual draft legislation and allow an additional three-month period for consultation; and</p> <p>(c) It supported legislation under Article 23 to protect the sovereignty of China against armed subversion and external attack. It opposed expansion of that mandate to criminalise aspects of the legitimate exercise of freedoms of a civil society and a free press environment, which Hong Kong currently enjoyed and which had been guaranteed under the Basic Law.</p>
2.	<p>Mr Philip YUNG Tak-lam LC Paper No. CB(2) 973/02-03(01) LC Paper No. CB(2) 987/02-03(01)</p>	<p>(a) Offences of persons of foreign nationality should perhaps be dealt with under legislation other than that to implement Article 23 of the Basic Law (BL23).</p>
3.	<p>A member of the public LC Paper No. CB(2) 1010/02-03(01)</p>	<p>(a) The Government had a responsibility to enact laws on its own under BL23 to protect national security.</p>

**Part II - Views/suggestions on specific areas in the Consultation Document**

<b>Organisation/ individual</b>		<b>Views/suggestions</b>
<b>LC Paper No. of Written submission</b>		
<b>C. Sedition</b>		
1.	The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]	(a) The proposed offence of possession of seditious materials was unreasonably broad. It was unreasonable to make it a crime for an individual, who had no intent to incite violence, merely to possess such information; and  (b) The crime of sedition as outlined in the Consultation Document was flawed and unnecessary.

<div> <div>Organisation/ individual</div> <div>LC Paper No. of Written submission</div> </div>	Views/suggestions
<b>E. Theft of state secrets</b>	
<div>1.</div> <div>The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]</div>	<div>It urged the Government to incorporate the following safeguards in the draft legislation -</div> <div> <div>(a) Protection of information should not depend simply on how the information was obtained, but rather on whether the content of that information would truly damage national security;</div> <div>(b) There should be a public interest defence;</div> <div>(c) Information already in the public domain, no matter how it was originally obtained, should not be included in the category of restricted information;</div> <div>(d) Information exposing unlawful or unconstitutional acts by public officials should not be included in the category of restricted information; and</div> <div>(e) The Government should consider establishing a balancing statutory right of access to information along the lines of a "freedom of information" law.</div> </div>

<b>Organisation/ individual</b>		<b>Views/suggestions</b>
<b>LC Paper No. of Written submission</b>		
<b>F. Proscription of local organisations</b>		
1.	The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]	(a) The provision went well beyond the requirements of BL23;  (b) "Affiliation" should be defined to mean a very high degree of connection; and  (c) The scope of the proposed definition for the term "connection" in paragraph 7.17 of the Consultation Document was too broad. The proposal of prohibiting the operation of an organisation that had a connection with a proscribed organisation should be deleted.

<b>LC Paper No. of Written submission</b>		<b>Organisation/ individual</b>	<b>Views/suggestions</b>
<b>G. Emergency investigation powers</b>			
1.	The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]		(a) The proposal of providing the Police with emergency entry, search and seizure powers should be deleted because it was unnecessary and could easily be abused; and  (b) All acts infringing a person's basic rights, such as search and entry, should require approval by the court.

<b>Organisation/ individual</b>		<b>Views/suggestions</b>
<b>LC Paper No. of Written submission</b>		
<b>H. Procedural and miscellaneous matters</b>		
1.	The Society of Publishers in Asia - further submission LC Paper No. CB(2) 932/02-03(01) [First submission at LC Paper No. CB(2) 287/02-03(01) which has been included in the summary up to 15 January 2003 (LC Paper No. CB(2) 896/02-03(01))]	(a) The time limit for prosecution against sedition offences should remain six months.