

**立法會**  
**Legislative Council**

Ref : CB2/SS/6/03

LC Paper No. CB(2) 2024/03-04  
(These minutes have been seen by  
the Administration)

**Subcommittee on  
the Mutual Legal Assistance in Criminal Matters (Ukraine) Order  
and the Mutual Legal Assistance in Criminal Matters (Singapore) Order**

**Minutes of meeting  
held on Wednesday, 24 March 2004 at 8:30 am  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon James TO Kun-sun (Chairman)  
Hon Margaret NG  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Miriam LAU Kin-yee, JP

**Public officers attending** : Mrs Margaret CHAN  
Principal Assistant Secretary for Security

Ms Amelia LUK  
Deputy Law Officer

Mr John HUNTER  
Deputy Principal Government Counsel

Ms Angelina KWAN  
Assistant Secretary for Security

Mr Alan CHONG  
Government Counsel

Ms Lily TSE  
Senior Government Counsel

Miss Selina LAU  
Government Counsel

**Clerk in attendance** : Mrs Constance LI  
Chief Council Secretary (2)5

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3  
  
Miss Lolita SHEK  
Senior Council Secretary (2)7

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Action

**I. Confirmation of minutes of meeting**  
[LC Paper No. CB(2) 1763/03-04]

The minutes of the meeting on 19 February 2004 were confirmed.

**II. Meeting with the Administration**  
[LC Paper Nos. CB(2) 1781/03-04(01) and CB(2) 1294/03-04(02)]

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

Mutual Legal Assistance in Criminal Matters (Ukraine) Order

3. The Administration briefed members on the paper providing additional information on Articles 11 and 19 of the Hong Kong/Ukraine Agreement for mutual legal assistance in criminal matters [LC Paper No. CB(2) 1781/03-04(01)].

4. In response to a question from the Chairman on paragraph 4 of the Administration's paper, the Administration clarified that there would be rare cases where compulsory measures would be employed to execute requests in connection with an order made under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525). Any measures to be taken by Hong Kong as the Requested Party would be confined to those powers conferred under Cap. 525. The Administration advised that the mere fact that a request had been made under an agreement for mutual legal assistance would not be sufficient to satisfy the requirement of "public interest" for the Chief Executive to exercise his power under section 33 of the Telecommunications Ordinance (Cap. 106) to prohibit transmission of messages.

- Admin 5. At the request of the Chairman, the Administration undertook to advise in writing the relationship between section 33 of the Telecommunications Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance concerning the execution of mutual legal assistance requests for location or identification of persons.

Action

Mutual Legal Assistance in Criminal Matters (Singapore) Order

6. The Administration took members through the Mutual Legal Assistance in Criminal Matters (Singapore) Order and the paper on "Article by Article Comparison with the Model Agreement" [LC Paper No. CB(2) 1294/03-04(02)].

Admin 7. The Administration undertook to consider the following requests from members -

- (a) Secretary for Security should confirm in his speech, in moving the proposed resolutions for the two MLA Orders at a Council meeting, that the Administration would attach great importance to the principle of reciprocity when considering whether to accede to requests for mutual legal assistance from foreign jurisdictions which fell outside the scope of the Agreements; and
- (b) the grounds of refusal of assistance set out in Article 3(4)(a) and (b) of the Hong Kong/Singapore Agreement should be included in all future mutual legal assistance in criminal matters agreements.

Admin 8. At the request of the Chairman, the Administration also agreed to provide in due course a paper by way of background on whether the confidentiality obligation in international agreements similar to that provided in Article 21(2) of the agreement with Singapore would constitute an excuse from complying with a summons requiring production of documents issued by the Court, or by a select committee of the Legislative Council using the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap 382).

**III. Any other business**

Way forward

9. The Chairman said that the additional information to be provided by the Administration in paragraph 5 above would be circulated to members when received. No further meetings of the Subcommittee would be held, unless members had further queries on the two Orders. The Chairman further said that the Subcommittee would report to the House Committee after members had considered the further information to be provided by the Administration.

10. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2  
Legislative Council Secretariat  
15 April 2004

**Subcommittee on  
the Mutual Legal Assistance in Criminal Matters (Ukraine) Order  
and the Mutual Legal Assistance in Criminal Matters (Singapore) Order**

**Meeting on Wednesday, 24 March 2004 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>
0001-0329	Chairman	Confirmation of minutes of meeting on 19 February 2004	
0330-1846	Chairman Administration ALA3 Clerk	Administration's response to the issues raised at the meeting on 19 February 2004 [LC Paper No. <u>CB(2) 1781/03-04(01)</u>  Article 11 of the Hong Kong/Ukraine Agreement  Compulsory measures to execute requests in connection with an order made under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance and the relationship between section 33 of the Telecommunications Ordinance and execution of requests for mutual legal assistance	<b>Admin to provide additional information as per paragraph 5 of the minutes</b>
1847-3402	Chairman Administration Mr Jasper TSANG Miss Margaret NG	Article 19 of the Hong Kong/Ukraine Agreement  Interpretation of the phrase "proceeds from crime according to the law of the Requesting Party" in Article 19(1)	
3403-012127	Chairman Administration Miss Margaret NG Ms Miriam LAU Mr Jasper TSANG	Scrutiny of the Mutual Legal Assistance in Criminal Matters <u>(Singapore) Order</u>  Article by Article comparison with the model agreement	

		Title and preamble Article 1  Exclusion of the provision relating to assistance for taxation offences from the Hong Kong/Singapore Agreement, and consideration of reciprocity in processing requests for mutual legal assistance	<b>Admin to consider members' request as per paragraph 7(a) of the minutes</b>
012128-012655	Chairman Administration Mr Jasper TSANG	Article 2	
012656-012803	Chairman Administration	Article 3  Grounds of refusal of assistance set out in Article 3(4)(a) and (b)	<b>Admin to consider members' request as per paragraph 7(b) of the minutes</b>
012804-014034	Chairman Administration	Articles 4 to 20	
014035-014246	Chairman Administration	Article 21  Confidentiality of materials provided and requests made under mutual legal assistance agreements	
014247-014401	Administration	Articles 22 to 27	
014402-014847	Chairman Administration	Whether the confidentiality obligation provided in mutual legal assistance agreements would constitute an excuse from complying with a summons requiring production of documents issued by the Court or a select committee of the Legislative Council	<b>Admin to provide additional information as per paragraph 8 of the minutes</b>
014848-014956	Chairman Administration	Way forward	

