

Extract

立法會

Legislative Council

LC Paper No. CB(1)1686/04-05

Ref: CB1/SS/7/04

Paper for the House Committee meeting on 3 June 2005

**Report of the Subcommittee on
International Organizations (Privileges and Immunities)
(World Trade Organization) Order**

X X X X X

Legal and drafting aspects

Drafting format

13. The WTO Order (L.N. 62 of 2005) comprises three sections and a Schedule. Those provisions in the 1947 Convention which are to be implemented in Hong Kong are reproduced in the Schedule; and pursuant to section 3(1) of the Order, these provisions shall have the force of law in Hong Kong. Section 3(2) and (3) of the Order set out how certain expressions in the provisions of the 1947 Convention listed in the Schedule should be construed. An example of how this will work is given in **Appendix II**.

14. Noting that the provisions as specified in the Schedule should be construed with regard to section 3(2) and (3) of the Order and the need for extensive cross-referencing, some members consider the Order, as currently drafted, quite cumbersome and not reader-friendly. They have asked whether the Administration has considered other drafting approaches for the sake of brevity and easy readability.

15. In this connection, the Administration points out that as the 1947 Convention applies to specialized agencies in general, certain adaptation is necessary when the P&Is provided in the 1947 Convention are to be applied to the WTO. According to the DoJ, this is the first time that the relevant provisions in the 1947 Convention to be applied in Hong Kong are reproduced intact in a Schedule. In adopting this drafting approach, the Administration's intention is to enable the users to peruse the relevant provisions of the 1947 Convention in full while making the necessary construction with reference to section 3(2) and (3) of the Order. The Administration nevertheless acknowledges members' concern and agrees to look into its drafting practice.

16. While the Subcommittee will not object to the WTO Order as currently drafted, members consider that the subject of the drafting approaches adopted for preparing local legislation to implement provisions of international agreements in Hong Kong should be followed up, and agree that the matter be referred to the Panel on Administration of Justice and Legal Services for further consideration.

X

X

X

X

X