

**立法會**  
**Legislative Council**

Ref : CB2/BC/4/05

LC Paper No. CB(2)2696/05-06  
(These minutes have been seen  
by the Administration)

**Bills Committee on Safety of United Nations and Associated Personnel Bill**

**Minutes of the second meeting  
held on Thursday, 1 June 2006 at 8:50 am  
in Conference Room B of the Legislative Council Building**

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

**Public Officers attending** : Item II  
  
Ms Manda CHAN  
Principal Assistant Secretary for Security  
  
Ms Leonora IP  
Senior Assistant Law Draftsman (Acting)  
  
Mr James DING  
Government Counsel (Treaties & Law)  
  
Ms Jane LEE  
Assistant Secretary for Security

**Clerk in attendance** : Mrs Percy MA  
Chief Council Secretary (2)3

**Staff in attendance** : Miss Kitty CHENG  
Assistant Legal Adviser 5  
  
Mrs Eleanor CHOW  
Senior Council Secretary (2)4

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Action

**I. Election of Chairman**

Ms Margaret NG was elected Chairman of the Bills Committee.

**II. Meeting with the Administration**

(LC Paper No. CB(3)532/05-06 – The Bill

SBCR 25/15/5691/74 – The Legislative Council Brief on the Bill

LS61/05-06 – The Legal Service Division Report

LC Paper No. CB(2)2186/05-06(02) – Background Brief prepared by the Legislative Council Secretariat

LC Paper No. CB(2)2186/05-06(03) – Letter dated 23 May 2006 from Assistant Legal Adviser to the Administration

LC Paper No. CB(2)2186/05-06(04) – The Administration's response to Assistant Legal Adviser's letter of 23 May 2006)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

3. Members noted that the maximum penalty for the offence of threatening to attack proscribed by Article 9 of the Convention on the Safety of United Nations and Associated Personnel (the Convention) was imprisonment for ten years, whereas the maximum penalty for the intimidation offence set out in section 24 of the Crimes Ordinance (Cap. 200) was imprisonment for five years. Members expressed concern that different penalties were imposed for the same act, depending on whether United Nations and associated personnel or Hong Kong residents were victims.

4. As the Administration had made reference to the penalty level for the relevant offence of threat in Australia, Canada and the United Kingdom, members requested the Administration to provide a comparison on the level of penalties imposed by these jurisdictions when the offence was committed against United Nations and associated personnel as opposed to the general threat offence, and to provide the relevant statutory provisions for reference of members.

Adm

5. Members noted that the term “specified person” under clause 2 of the Bill was defined as a “person who is a Chinese national and a Hong Kong permanent resident”. The Administration was requested to –

Adm

- (a) explain the reasons for adopting the term “specified person” in the Bill, instead of “a national of that State” as stipulated in the Article 10(1)(b) of the Convention;

- (b) consider whether the reference to “a Hong Kong permanent resident” could be deleted from the definition of “specified person”;
- (c) in relation to crimes which Hong Kong had extra-territorial jurisdiction, clarify the categories of persons that the extra-territoriality would apply to, e.g. whether it applied to Hong Kong residents or Hong Kong permanent residents;
- (d) clarify if China and Hong Kong had concurrent extra-territorial jurisdiction over Hong Kong permanent residents who were nationals having committed the crimes proscribed by the Convention after enactment of the Bill, and how such offences would be dealt with; and
- (e) consider the need to extend the Bill to cover stateless persons who were Hong Kong permanent residents.

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

6. The Clerk would liaise with the Administration on the date of the next meeting, pending the information to be provided by the Administration to the Bills Committee.

*(Post-meeting note: The next meeting will be held on 21 July 2006 at 8:30 am.)*

7. The meeting ended at 10:12 am.

Council Business Division 2  
Legislative Council Secretariat  
17 July 2006

**Proceedings of the second meeting of the  
Bills Committee on Safety of United Nations and Associated Personnel Bill  
on Thursday, 1 June 2006 at 8:50 am  
in Conference Room B of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
000000 - 000220	Chairman Mr James TO	Election of Chairman	
000221 - 000708	Admin Chairman	Briefing by the Administration on the Bill	
000709 - 001342	ALA5 Chairman Admin Mr James TO	Issues raised by ALA5 and the Administration's response (LC Paper Nos. CB(2)2186/05-06(03) and (04))  Differences between the offence of intimidation under section 24 of the Crimes Ordinance and the offence of making a threat under clause 5 of the Bill and the penalty proposed	
001343 - 001938	Chairman Admin	Briefing by the Administration on how Hong Kong and overseas countries established extra-territorial jurisdiction over crimes proscribed by the Convention on the Safety of United Nations and Associated Personnel (the Convention) when the alleged offender was a national of that State, i.e. State Party to the Convention (Annex to LC Paper No. CB(2)2186/05-06(04))  The need for using the term "specified person" to implement Article 10(1)(b) of the Convention in Hong Kong. The Bill defined "specified person" as a person who was "a Chinese national" and "a Hong Kong permanent resident"	
001939 - 002427	Mr James TO Chairman Admin	The need for the Bill to establish extra-territorial jurisdiction over stateless persons who were Hong Kong permanent residents  The Administration was requested to consider the need to extend the Bill to cover stateless persons who were Hong Kong permanent residents	<b>Admin to follow up</b>
002428 - 002931	Mr James TO Chairman Admin	Application of the Bill to an offender who was –  (a) a Hong Kong permanent resident residing in Taiwan; and	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>(b) a Hong Kong permanent resident with dual nationality</p> <p>(Appendix to LC Paper No. CB(2)2186/05-06(02))</p>	
002932 - 003714	Mr Jasper TSANG Chairman Admin	<p>Concern that different penalties were imposed on the same act committed under section 24 of the Crimes Ordinance and clause 5 of the Bill, depending on whether the victims were United Nations and associated personnel or not</p> <p>Explanation by the Administration that in Australia, Canada and the United Kingdom, the penalty for making a threat to United Nations and associated personnel was in general harsher than that of a general threat / intimidation offence</p> <p>The Administration was requested to provide –</p> <p>(a) a comparison on the level of penalties imposed by Australia, Canada and the United Kingdom on the offence of threat when the offence was committed against United Nations and associated personnel as opposed to the general threat offence; and</p> <p>(b) the relevant statutory provisions of (a) above for reference of members</p>	<b>Adm to follow up</b>
003715 - 003958	Mr Jasper TSANG Chairman Admin	<p>Given that China was a State Party to the Convention, the Administration was requested to clarify if China and Hong Kong had concurrent extra-territoriality over Hong Kong permanent residents who were Chinese nationals having committed crimes proscribed by the Convention after enactment of the Bill, and how such offences would be dealt with</p>	<b>Adm to follow up</b>
003959 - 010918	Mr James TO Mr Jasper TSANG Chairman Admin	<p>Members expressed concern on –</p> <p>(a) the coverage of the Bill given China’s obligation of establishing jurisdiction over the crimes proscribed by the Convention when the alleged offender was a Chinese national; and</p> <p>(b) the need for defining “specified person” as a person who was “a Hong Kong permanent resident”, in addition to “a Chinese national”</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>The Administration explained that –</p> <ul style="list-style-type: none"> <li>(a) Hong Kong courts could not assume jurisdiction over an offender based on the law of the Chinese Mainland not applicable to Hong Kong; and</li> <li>(b) Hong Kong did not have its own nationals and “Hong Kong permanent resident” was the most proximate concept and could provide the nexus</li> </ul> <p>The Administration was requested to –</p> <ul style="list-style-type: none"> <li>(a) explain the reasons for adopting the term “specified person” in the Bill, instead of “a national of that State” as stipulated in the Convention; and</li> <li>(b) consider whether the reference to “a Hong Kong permanent resident” could be deleted from the definition of “specified person”</li> </ul>	<b>Adm to follow up</b>
010919 - 011611	Mr Jasper TSANG Mr James TO Chairman Admin	In relation to crimes which Hong Kong had extra-territorial jurisdiction, the Administration was requested to clarify the categories of persons that the extra-territoriality would apply to, e.g. whether it applied to Hong Kong residents or Hong Kong permanent residents	<b>Adm to follow up</b>
011612 - 011625	Chairman	<p>Concern about the lack of public consultation on the proposed offence of threat and the penalty proposed in the Bill</p> <p>In giving a reply to the Bills Committee, the Administration should consider whether the maximum penalty for the offence of threat (imprisonment for ten years) proposed in the Bill was reasonable by Hong Kong standard</p>	