

立法會
Legislative Council

LC Paper No. CB(2)1549/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/SS/3/05

Subcommittee on Fugitive Offenders (Finland) Order

Minutes of meeting
held on Monday, 6 March 2006 at 4:30 pm
in Conference Room B of the Legislative Council Building

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Margaret NG
Hon LAU Kong-wah, JP
- Public Officers attending** : Security Bureau

Ms Manda CHAN
Principal Assistant Secretary for Security

Ms Jane LEE
Assistant Secretary for Security

Department of Justice

Ms Amelia LUK
Deputy Law Officer (Mutual Legal Assistance)

Ms Marie SIU
Senior Government Counsel
- Clerk in attendance** : Miss Flora TAI
Chief Council Secretary (2)2
- Staff in attendance** : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Joanne MAK
Senior Council Secretary (2)2

Action

I. Election of Chairman

Mr James TO was elected Chairman of the Subcommittee.

II. Meeting with the Administration

[Legislative Council Brief (File Ref. SBCR 3/5691/95 Pt.34; SBCR 1/2716/89(98) Pt.21), LC Paper No. CB(2)1290/05-06(01) - (02) and LS36/05-06]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. Deputy Law Officer (Mutual Legal Assistance) (DLO(MLA)) took members through the Administration's paper on an article by article comparison of the agreement between the Government of the Hong Kong Special Administrative Region (HKSAR) and the Government of the Republic of Finland concerning surrender of fugitive offenders (SFO) and the model text on SFO.

(Post-meeting note : the model agreement on SFO which was tabled at the meeting was issued to members vide LC Paper No. CB(2)1340/05-06 dated 8 March 2006.)

4. Principal Assistant Secretary for Security (PAS(S)) explained that the "multilateral agreement" in Article 6(2) of the Fugitive Offenders (Finland) Order (the Finland Order) included the international conventions against terrorism applied to Hong Kong, such as the International Convention for the Suppression of Terrorist Bombings (the Bombings Convention). Article 11 of the Bombings Convention required that for the purposes of extradition and mutual legal assistance, Convention offences were not to be regarded as political offences. The effect of this requirement in combination with Article 6(2) of the Finland Order would be that in case Finland requested the Government of HKSAR to surrender a person sought in connection with any of the Convention offences, the Government of HKSAR could not refuse to do so on the grounds that the offence of which that person was accused was an offence of a political character and vice versa. PAS(S) added that one of the 46 descriptions of offences specified in Schedule 1 to the Fugitive Offenders Ordinance (Cap. 503) related to offences for which persons might be surrendered under multilateral international conventions.

Action

5. Members noted that at the suggestion of the Subcommittee to Study Issues relating to the Fugitive Offenders (Sri Lanka) Order in 2002, the Administration had undertaken to consider amending Cap. 503 to give a clearer mandate for future orders to specify exceptions to the political offence restriction on surrender contained in section 5(1)(a) of Cap. 503. On the work of the Administration in following up the matter, PAS(S) informed members that the Security Bureau in consultation with the Department of Justice was studying the necessary scope of amendments to be made to Cap. 503 to provide for exceptions to the political offence restriction on SFO for the purpose of avoidance of doubt. The Administration would take into account in its study –

- (a) any other exception provision that had been made in the existing fugitive offenders orders in respect of the bilateral arrangements with other jurisdictions;
- (b) whether any necessary related amendment would need to be made to the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525); and
- (c) the international trend and practices of other jurisdictions in providing for exceptions to the political offence restriction.

Upon completion of the study, the Administration would consult the Panel on Security as soon as possible, hopefully by 2007, before proceeding to draw up the legislative proposals to amend Cap. 503.

Admin

6. At the suggestion of the Subcommittee, the Administration agreed –

- (a) to provide supplementary information on the “extraordinary or ad hoc court or tribunal” referred to in Article 7(1)(e) of the Finland Order for members’ reference;
- (b) to consider requesting as detailed information as possible from the Requesting Party as provided for under Article 21(2) in handling requests for transit under Article 21 of the Finland Order; and
- (c) to expedite the study referred to in paragraph 5 above.

7. Members noted that the Chairman of the House Committee had given a notice to move a motion at the Council meeting on 8 March 2006 to extend the scrutiny period of the Finland Order to 26 April 2006 and the deadline for amending the Order would be 19 April 2006 if the resolution was passed.

8. Members agreed that the Finland Order be supported and the Subcommittee would report to the House Committee accordingly.

Action

9. There being no other business, the meeting ended at 5:50 pm.

Council Business Division 2
Legislative Council Secretariat
28 March 2006

**Proceedings of the Subcommittee on Fugitive Offenders (Finland) Order
on Monday, 6 March 2006 at 4:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subjects	Action required
000000 – 000808	Members and Clerk Chairman	Election of Chairman.	
000809 – 001555	Admin Chairman	Briefing on the Administration's paper on an article by article comparison of the agreement between the Government of the Hong Kong Special Administrative Region (HKSAR) and the Government of the Republic of Finland concerning surrender of fugitive offenders (SFO) and the model text on SFO. [LC Paper No. CB(2)1290/05-06(01)] - Articles 1 to 2	
001556 – 001654	Admin	- Article 3	
001655 – 001723	Admin	- Article 4	
001724 – 001757	Admin	- Article 5	
001758 – 002636	Admin Mr LAU Kong-wah Chairman Ms Margaret NG	- Article 6	
002637 – 004515	Admin Chairman Mr LAU Kong-wah Ms Margaret NG	- Article 7	Admin to provide supplementary information (para. 6(a) of the minutes)
004516 – 004663	Admin Chairman	- Article 8	
004664 – 004751	Admin	- Article 9	
004752 – 004822	Admin	- Article 10	
004823 – 004837	Admin	- Article 11	
004838 – 004931	Admin	- Article 12	
004932 – 005005	Admin	- Article 13	
005006 – 005127	Admin	- Article 14	

Time marker	Speaker	Subjects	Action required
005128 – 005159	Admin	- Article 15	
005200 – 005221	Admin	- Article 16	
005222 – 005339	Admin Chairman	- Article 17	
005340 – 005451	Admin	- Article 18	
005452 – 005510	Admin	- Article 19	
005511 – 005642	Admin Chairman	- Article 20	
005643 – 010755	Admin Chairman Mr LAU Kong-wah Ms Margaret NG	- Article 21	Admin to consider the Chairman's suggestion (para. 6(b) of the minutes)
010756 – 010845	Admin	- Article 22	
010846 – 011553	Ms Margaret NG Admin ALA3 Chairman	- Article 6(2) Follow-up on the Administration's undertaking previously made to the Subcommittee to Study Issues relating to the Fugitive Offenders (Sri Lanka) Order on considering to amend the Fugitive Offenders Ordinance (Cap. 503) for the purpose of providing exceptions to the political offence restriction on surrender of fugitive offenders.	Admin to consult the Panel on Security (para. 5 and 6(c) of the minutes)
011554 – 011815	Chairman Admin Clerk	Extending the scrutiny period of the Finland Order and submission of a report on the deliberations of the Subcommittee to the House Committee.	Clerk to prepare report