

立法會
Legislative Council

LC Paper No. CB(2)2398/06-07
(These minutes have been seen by
the Administration)

Ref : CB2/SS/5/06

Subcommittee on Fugitive Offenders (Malaysia) (Amendment)
Order 2007 and Fugitive Offenders
(Suppression of the Financing of Terrorism) Order

Minutes of meeting
held on Thursday, 21 June 2007 at 11:45 am
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)

Miss LEE Sau-kong
Deputy Principal Government Counsel
(Treaties and Law) (Acting)

Mr Sunny CHAN
Senior Assistant Law Draftsman

Ms Selina LAU
Senior Government Counsel (Acting)

Ms Amy CHAN
Government Counsel

Clerk in attendance : Miss Mary SO
Chief Council Secretary (2)5

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Ms Alice LEUNG
Senior Council Secretary (2)1

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.40; SBCR 1/2716/89(98) Pt.23 and SBCR 2/1476/02), LS73/06-07, LC Paper No. CB(2)2119/06-07(01) & (02) and CB(2)2176/06-07(01))

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

Fugitive Offenders (Malaysia) (Amendment) Order 2007

3. Deputy Law Officer (Mutual Legal Assistance), Department of Justice (DLO(MLA)) explained the reasons for implementing the Protocol Supplementary to the Agreement between the Government of Hong Kong and the Government of Malaysia for the Surrender of Fugitive Offenders (the Agreement), details of which were set out in the Administration's paper (LC Paper No. CB(2) 2119/06-07(02)).

4. Members noted that Article VII in the Protocol was proposed by the Malaysian side to replace Article 18 of the Agreement to enable Malaysia to handle a situation where it was required to resurrender a fugitive to the International Criminal Court established in accordance with the Rome Statute which Malaysia intended to accede to in the near future. The Chairman asked whether Article VII went beyond the provisions of the Fugitive Offenders

Action

Ordinance (Cap. 503), as China was not a party to the Rome Statue establishing the International Criminal Court.

5. DLO(MLA) responded that a fugitive offender who had been surrendered under the Agreement should not be resurrendered by the Requesting Party to a third State or an international tribunal established in accordance with a multilateral international convention that applied to the Requesting Party for trial or punishment for any offence that was committed before his surrender to the Requesting Party unless (a) the Requested Party consented; and (b) if under the convention the consent of another State was required, that State consented. These safeguards were consistent with those provided by Cap. 503.

Fugitive Offenders (Suppression of the Financing of Terrorism) Order

6. Principal Assistant Secretary for Security (PAS(S)) took members through the Administration's paper on Fugitive Offenders (Suppression of the Financing of Terrorism) Order (LC Paper No. CB(2) 2176/06-07(01)).

7. The Chairman asked whether an act which constituted an offence within the scope of and as defined in one of the treaties listed in the annex to the International Convention for the Suppression of the Financing of Terrorism Convention (the Convention), under paragraph 1(a) of Article 2 of the Convention, was within the scope of terrorist act as defined in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575).

8. PAS(S) responded that Articles 2 as well as 4 of the Convention required States Parties to establish the offences of financing terrorist acts as criminal offences. Section 7 of Cap. 575, which prohibited provision or collection of funds to commit terrorist acts, implemented this Convention requirement.

9. Members agreed that the Fugitive Offenders (Malaysia) (Amendment) Order 2007 and the Fugitive Offenders (Suppression of the Financing of Terrorism) Order be supported and the Subcommittee would report to the House Committee on 29 June 2007.

III. Any other business

10. There being no other business, the meeting ended at 12:45 pm.

**Proceedings of meeting of the
Subcommittee on
Fugitive Offenders (Malaysia) (Amendment) Order 2007 and
Fugitive Offenders (Suppression of the Financing of Terrorism) Order
on Thursday, 21 June 2007, at 11:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000514	Hon Margaret NG Hon LAU Kong-wah Hon James TO	Election of Chairman	
000515 - 001239	Admin Chairman	Briefing on the Administration's explanatory memorandum on protocol supplementary to the agreement between the Government of Hong Kong and the Government of Malaysia for the surrender of fugitive offenders, done at Hong Kong on 11 January 1995 (LC Paper No. CB(2)2119/06-07(02))	
001240 - 002345	Admin Chairman Hon LAU Kong-wah Hon Margaret NG	Article I to Article IV	
002346 - 004311	Admin Chairman Hon LAU Kong-wah	Article V to Article IX	
004312 - 004627	Admin	Briefing on the Administration's paper on the Fugitive Offenders (Suppression of the Financing of Terrorism) Order (the Order) (LC Paper No. CB(2)2176/06-07(01))	
004628 - 005403	Chairman Admin	Whether an act which constituted an offence within the scope of and as defined in one of the treaties listed in annex to the International Convention for the Suppression of the Financing of Terrorism (the Convention), under paragraph 1(a) of Article 2 of the Convention, was within the scope of terrorist act as defined in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)	

Time marker	Speaker	Subject(s)	Action Required
005404 - 005542	Chairman CCS(2)5	Reporting to the House Committee on 29 June 2007	

Council Business Division 2
Legislative Council Secretariat
5 July 2007