

**立法會**  
**Legislative Council**

LC Paper No. CB(2)980/08-09  
(These minutes have been  
seen by the Administration)

Ref : CB2/SS/5/08

**Subcommittee on**  
**Mutual Legal Assistance in Criminal Matters (Indonesia) Order,**  
**Mutual Legal Assistance in Criminal Matters (Japan) Order and**  
**Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order**

**Minutes of the second meeting**  
**held on Thursday, 22 January 2009, at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

**Members Present** : Hon James TO Kun-sun (Chairman)  
Dr Hon Margaret NG  
Hon LAU Kong-wah, JP

**Public Officers attending** : Security Bureau

Mr David LAU  
Principal Assistant Secretary for Security

Ms Veronica WONG  
Assistant Secretary for Security

Department of Justice

Miss LEE Sau-kong  
Deputy Principal Government Counsel  
International Law Division

Ms Lonnie NG  
Senior Government Counsel  
Law Drafting Division

Miss Carrie WONG  
Senior Government Counsel  
Law Drafting Division

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 4

**Staff in attendance** : Mr Timothy TSO  
Assistant Legal Adviser 2  
  
Miss Florence WONG  
Senior Council Secretary (2) 5

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**I. Meeting with the Administration**

[Legislative Council Brief, proposed resolutions on the three Orders, LC Papers Nos. LS17/08-09 and CB(2)421/08-09(01) to (03)]

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

2. Noting that Article XVII(3) of the model agreement was not included in the agreement for mutual legal assistance entered into by Hong Kong and Japan which provided that a person who consented to give evidence would not be subject to prosecution based on his testimony, except for perjury, members expressed concern about the safeguards for a person who consented to give evidence in the absence of the immunity provision. The Administration advised that the legal position of the witness would be governed by the domestic law of the Requesting Party. The safeguards to protect the legal rights of a person transferred to or from Hong Kong were contained in sections 17(1)(iv) and (v), 19 and 23(2)(b) of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525).

Admin 3. In relation to the legal rights of a person who consented to give evidence or provide assistance, the Chairman requested the Administration to consider providing the person with information on the scope of legal advice available or the safeguards to protect his legal rights before consenting to give evidence or provide assistance pursuant to the agreements on mutual legal assistance.

**II. Any other business**

4. The Chairman said that the Subcommittee had completed scrutiny of the Mutual Legal Assistance in Criminal Matters (Indonesia) Order, the Mutual Legal Assistance in Criminal Matters (Japan) Order and the Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order, and supported the Administration giving fresh

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notice to move motions on the three Orders at a future Council meeting. The Subcommittee would report its deliberations to the House Committee on 6 February 2009.

5. There being no other business, the meeting ended at 9:10 am.

Council Business Division 2  
Legislative Council Secretariat  
26 February 2009

**Proceedings of the second meeting of the  
Subcommittee on  
Mutual Legal Assistance in Criminal Matters (Indonesia) Order,  
Mutual Legal Assistance in Criminal Matters (Japan) Order and  
Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order  
on Thursday, 22 January 2009, at 8:30 am  
in Conference Room A of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda item I – Meeting with the Administration</i>			
<i>(a) Mutual Legal Assistance in Criminal Matters (Japan) Order</i>			
000000 - 000313	Chairman	Opening remarks	
000314 - 000337	Admin	Examination of Article 7 of Schedule 1 to the Mutual Legal Assistance in Criminal Matters (Japan) Order (Japan Order); comparison between the Article and the relevant article in the Model Agreement on Mutual Legal Assistance in Criminal Matters (model agreement) (LC Paper No. CB(2)421/08-09(02))	
000338 - 000429	Admin	Examination of Article 8 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000430 - 000538	Admin	Examination of Article 9 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000539 - 000618	Admin	Examination of Article 10 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000619 - 000632	Admin	Examination of Article 11 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000633 - 000650	Admin	Examination of Article 12 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000651 - 000730	Admin	Examination of Article 13 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000731 - 000811	Admin	Examination of Article 14 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
000812 - 001341	Admin Dr Margaret NG Chairman	Examination of Article 15 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement  Safeguards for a person who consented to give evidence in the absence of the immunity provision provided under Article XVII(3) of the model agreement	
001342 - 001627	Admin	Examination of Article 16 of Schedule 1 to the Japan	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
	Chairman	Order; comparison between the Article and the relevant article in the model agreement; service of documents under the Hong Kong/Japan Agreement	
001628 - 001713	Admin	Examination of Article 17 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
001714 - 001740	Admin	Examination of Article 18 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
001741 - 001802	Admin	Examination of Article 19 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
001803 - 001813	Admin	Examination of Article 20 of Schedule 1 to the Japan Order; comparison between the Article and the relevant article in the model agreement	
001814 - 001930	Admin	Examination of other Articles of the model agreement that are not included in the Japan Order	
001931 - 002236	Chairman Admin	Examination of Schedule 2 – Modifications to the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) (the Ordinance)  Completion of scrutiny of the Japan Order	
002237 - 002702	Chairman Admin	The Administration to consider providing information on the scope of legal advice available and the safeguards to protect the legal rights of the person before consenting to provide assistance	<b>Admin</b>
<i>(b) Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order</i>			
002703 - 002733	Admin Chairman	Overview of Schedule 1 to the Mutual Legal Assistance in Criminal Matters (Sri Lanka) Order (Sri Lanka Order) in comparison with the model agreement (LC Paper No. CB(2)421/08-09(03))	
002734 - 002912	Admin	Comparison between Article 4 of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	
002913 - 003001	Admin	Comparison between Article 7(2)(d) of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	
003002 - 003037	Admin	Comparison between Article 9(6) of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	
003038 - 003113	Admin	Comparison between Article 14 of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	
003114 - 003637	Admin Dr Margaret NG Chairman	Comparison between Article 17 of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
		Reasons for and effect of not providing immunity from civil matters in the Agreement	
003638 - 003711	Admin Chairman	Comparison between Article 21 of Schedule 1 to the Sri Lanka Order and the relevant article in the model agreement	
003712 - 003808	Admin	Examination of Schedule 2 – Modifications to the Ordinance  Completion of scrutiny of the Sri Lanker Order	
003809 - 003855	Chairman Dr Margaret NG	The Administration's responses to outstanding issues raised by members at the last meeting  Date of reporting to the House Committee	<b>Admin</b>

Council Business Division 2  
Legislative Council Secretariat  
26 February 2009