

香港特別行政區政府  
保安局



The Government of the  
Hong Kong Special Administrative Region  
Security Bureau

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14 May 2012

Ms Miranda HON  
Chief Council Secretary  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Ms HON,

**United Nations (Anti-Terrorism Measures) (Amendment) Bill 2012**

**Response to issues raised at the Bills Committee meeting  
held on 7 May 2012**

This note provides the information on the issues raised by the Bills Committee at the meeting on 7 May 2012 in relation to the United Nations (Anti-Terrorism Measures) (Amendment) Bills 2012 (“the Bill”).

**“International Organizations”**

As stated in our submission of 23 February 2012 (LC Paper No. CB(4)139/11-12(04)), *“it is commonly understood in the context of international law that an ‘international organization’ refers to an international intergovernmental organization, as discussed in Parry and Grant, Encyclopaedic Dictionary of International Law, 2nd edition, p.370. For example, an international intergovernmental organization can be constituted by international multilateral treaty and has international*

*legal personality and consisted of State members.*” As regards the International Committee of the Red Cross (ICRC), it has a special place in the international arena. It has concluded international agreements with a number of states and carries certain rights and duties under international law. However, on the other hand, it was not established by a treaty under international law and has no member states or state representatives. In fact, it sees itself distinct from intergovernmental agencies (such as United Nations organizations) and non-governmental organizations<sup>1</sup>. In view of the foregoing, the ICRC does not fall within the scope of "international organization" as commonly understood in international law.

**“R v Cairns [1999] 2 Cr App R 137 CA”**

In the case of “R v Cairns [1999] 2 Cr App R 137 CA”, the appellant was charged with causing grievous bodily harm and dangerous driving. The victim presented himself as a threat to the appellant by clambering onto the bonnet of the car driven by the appellant. The victim’s group also followed after the appellant’s car, shouting and gesturing. The appellant thought it wise to drive on, with the victim in such posture described. When the appellant came to a speed hump in the road, and applied his brake, the victim was dislodged from the bonnet and got injured. The appellant relied upon the defence of necessity, but was convicted, after trial, of both charges. The appellant appealed against the convictions. The Court of Appeal allowed the appeal on the ground that the proper direction on the defence of “necessity” was not left to the jury.

According to paragraph 16-97 of *Archbold Hong Kong 2012*, “*a person will have a defence to a charge of crime if: (a) the commission of the crime was necessary, or reasonably believed to have been necessary (see R v Cairns [1999] 2 Cr App R 137, CA), for the purpose of avoiding or preventing death or serious injuries to himself or another; (b) that necessity was the sine qua non of the commission of the crime; and (c) the commission of crime, viewed objectively, was reasonable and proportionate having regard to the evil to be avoided or prevented.*”



(Ms Veronica WONG)  
for Secretary for Security

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<sup>1</sup> See page 6 of ICRC publication “Discover the ICRC” <[http://www.icrc.org/eng/assets/files/other/icrc\\_002\\_0790.pdf](http://www.icrc.org/eng/assets/files/other/icrc_002_0790.pdf)>