

立法會
Legislative Council

LC Paper No. CB(1)2551/11-12
(These minutes have been seen
by the Administration)

Ref: CB1/SS/10/11

Subcommittee on Prevention of Bribery Ordinance
(Amendment of Schedules 1 and 2) Order 2012

Minutes of the first meeting held on
Friday, 30 March 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon LAU Kong-wah, JP
Hon Audrey EU Yuet-mee, SC, JP
Dr Hon Samson TAM Wai-ho, JP

Public Officers : **Agenda item II**
attending

Miss Joey LAM, JP
Deputy Government Chief Information Officer
(Policy and Customer Service)
Commerce and Economic Development Bureau

Mr Andrew LAI, JP
Deputy Commissioner for Innovation and
Technology
Commerce and Economic Development Bureau

Mr Manuel NG
Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Macy NG
Senior Council Secretary (1)2

Ms Emily LIU
Legislative Assistant (1)2

Action

I Election of Chairman

Mr James TO, the member who had the highest precedence among those present at the meeting, presided at the election of Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Dr Samson TAM nominated Mr CHAN Kam-lam, and the nomination was seconded by Mr James TO. Mr CHAN Kam-lam accepted the nomination.

3. There being no other nominations. Mr CHAN Kam-lam was elected Chairman of the Subcommittee.

II Meeting with the Administration

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|----------------------------------|---|---|
| (L.N. 38 of 2012 | - | The Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012 |
| File Ref.: GCIO 11/1/36(C) | - | Legislative Council Brief issued by the Commerce and Economic Development Bureau and the Office of the Government Chief Information Officer |
| LC Paper No. LS48/11-12 | - | Legal Service Division Report on subsidiary legislation gazetted on 16 March 2012 |
| LC Paper No. CB(1)1452/11-12(01) | - | Marked-up copy of the Prevention of Bribery Ordinance (Amendment |

of Schedules 1 and 2) Order prepared by the Legal Service Division)

4. The Subcommittee deliberated (index of proceedings attached at **Annex**).
5. The Administration briefed members on the Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012 (the Order).

Discussion

6. Members expressed the following major views and concerns about the Order at the meeting –

- (a) differences between designating and not designating the four organisations (i.e. Hong Kong Internet Registration Corporation Limited (HKIRC), Hong Kong Domain Name Registration Company Limited (HKDNR); Hong Kong Applied Science and Technology Research Institute Company Limited; and Hong Kong Cyberport Management Company Limited) as public bodies under the Prevention of Bribery Ordinance (Cap. 201) (the Ordinance); and
- (b) whether the above four organizations had contracted out any core operations and, if so, whether the outsourced contractors concerned should also be subject to a level of probity.

Admin 7. To facilitate further discussion on the Order, the Administration was requested to provide the following information –

- (a) a table comparing the differences of designating and not designating the four organisations as public bodies with reference to each of the relevant sections of the Ordinance;
- (b) report of the assignment study conducted in 2007 by the Independent Commission Against Corruption (ICAC) on HKIRC and HKDNR;
- (c) rights of HKIRC's ordinary members, including whether they could override the decisions made by the Board of Directors; and

Action

- (d) response to a member's view that contractors engaged by the four organizations should also be added to Schedule 1 of the Ordinance when they were engaged to perform any of the core functions of the public bodies.

Legislative timetable

8. Members agreed that the Chairman of the Subcommittee should move a motion at the Council meeting on 18 April 2012 to extend the scrutiny period of the Order to 9 May 2012. In this connection, the deadline for giving notice of amendments to the Order would be 2 May 2012.

Date of next meeting

9. Members agreed to hold the next meeting on 13 April 2012 and representatives of the ICAC should be invited to attend the next meeting.

III Any other business

10. There being no other business, the meeting ended at 11:40 am.

Council Business Division 1
Legislative Council Secretariat
7 September 2012

**Proceedings of the first meeting of
the Subcommittee on Prevention of Bribery Ordinance
(Amendment of Schedules 1 and 2) Order 2012
on Friday, 30 March 2012, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000117 – 000159	Mr James TO Dr Samson TAM Mr CHAN Kam-lam	- Election of Chairman - Mr CHAN Kam-lam was elected Chairman of the Subcommittee	
Agenda item II – Meeting with the Administration			
000200 – 000437	Chairman Administration	- Briefing by the Administration on the Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012	
000438 – 001118	Chairman Ms Audrey EU Administration	- Discussion on why the Administration designated the four organisations as public bodies only after they had established for more than ten years and whether the legislative amendments would have retrospective effect - Discussion on the differences between designating and not designating the four organisations as public bodies and the Administration's response that bribery was at any time an offence but public bodies were subject to more stringent control than private organisations	
001119 – 002305	Chairman Mr James TO Administration Assistant Legal Adviser 10	- The Administration's reply in response to Mr TO that although non-public bodies were not subject to control under sections 4, 5 and 8 of the Prevention of Bribery Ordinance (Cap. 201) ("the Ordinance"), they were subject to control under Sections 6, 7 and 9 of the Ordinance - Request for the Administration to provide: (a) a table comparing the differences of designating and not designating the four organisations as public bodies with reference to each of the relevant sections of the Ordinance; and (b) report of the assignment study conducted in 2007 by the Independent Commission Against Corruption (ICAC) on Hong Kong Internet Registration Corporation Limited (HKIRC) and Hong Kong Domain Name	Administration to provide information/response (paragraph 7 of minutes)

Time marker	Speaker	Subject(s)	Action required
		Registration Company Limited (HKDNR)	
002306 – 002652	Chairman Dr Samson TAM Administration	<ul style="list-style-type: none"> - Mr TAM's enquiries on why the Administration took a long time to make a proposal to designate HKIRC and HKDNR as public bodies as the proposal was recommended by the ICAC early in 2007, and why HKIRC was recommended to be added to both Schedules 1 and 2 whereas the other three organisations would only be added to Schedule 1 - The Administration's response that the HKIRC had been considering in consultation with ICAC the justification to include HKIRC in Schedule 2 in addition to Schedule 1 as ordinary members had no responsibilities for the management of HKIRC and should not be made public servants 	
002653 – 003711	Chairman Mr James TO Administration	<ul style="list-style-type: none"> - Administration's reply in response to Mr TO on the scope of the assignment study conducted in 2007 by the ICAC on HKIRC and HKDNR - Administration's explanation that subscribers of domain names of HKIRC could choose to register as ordinary members or not, and that about 2 370 subscribers had chosen to register as ordinary members - Request for the Administration to provide information on the rights of HKIRC's ordinary members, including whether they could override the decisions made by the Board of Directors - Discussion on the possible loopholes of adding HKIRC to both Schedules 1 and 2 as under which ordinary members would be subject to less stringent control 	Administration to provide information/response (paragraph 7 of minutes)
003712 – 004812	Chairman Mr James TO Administration Dr Samson TAM	<ul style="list-style-type: none"> - Administration's confirmation that the Hong Kong Applied Science and Technology Research Institute Company Limited (ASTRI) comprised the Board of Directors appointed by the Government and 588 staff members - Request for the Administration's response to Mr TO's view that contractors engaged by the four organizations should also be added to Schedule 1 of the Ordinance when they were engaged to perform any of the core functions of the public bodies 	Administration to provide information/response (paragraph 7 of minutes)

Time marker	Speaker	Subject(s)	Action required
004813 – 004931	Chairman Ms Audrey EU Administration	- Request for the Administration to explain with examples on the differences between designating and not designating the four organisations as public bodies	Administration to provide information/response (paragraph 7 of minutes)
004932 – 005318	Chairman Mr James TO	- Legislative timetable - Date of next meeting	

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