

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2022/16-17  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/9/16

**Bills Committee on United Nations (Anti-Terrorism Measures)  
(Amendment) Bill 2017**

**Minutes of meeting  
held on Friday, 21 July 2017, at 8:45 am  
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon CHAN Hak-kan, BBS, JP (Chairman)  
Hon James TO Kun-sun  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Chi-chuen  
Hon Kenneth LEUNG  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon Wilson OR Chong-shing, MH  
Hon CHAN Chun-ying
- Members absent** : Dr Hon Elizabeth QUAT, BBS, JP  
Hon Jimmy NG Wing-ka, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon YUNG Hoi-yan
- Public Officers attending** : Item II  
Ms Mimi LEE Mei-mei, JP  
Deputy Secretary for Security 1

Ms Iris LEE Ho-ki  
Principal Assistant Secretary for Security A

Mr Percy LEUNG Siu-to  
Assistant Secretary for Security A2

Ms Anthea LI Suk-kwan  
Deputy Principal Government Counsel  
(Mutual Legal Assistance) 1 (Acting)  
Department of Justice

Miss Osa CHAN Wing-yan  
Government Counsel  
Department of Justice

Mr Gary LI Ming-fung  
Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Miss Evelyn LEE  
Assistant Legal Adviser 10

Mr Raymond LAM  
Senior Council Secretary (2) 7

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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**I. Election of Chairman**

Mr CHAN Hak-kan was elected Chairman of the Bills Committee.

2. Members agreed that there was no need for the Bills Committee to elect a Deputy Chairman.

## **II. Meeting with the Administration**

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).
4. The Bills Committee requested the Administration to:
  - (a) explain why the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017 ("the Bill") was directed at terrorist training, as referred to in paragraph 5 of the Legislative Council Brief, instead of training for such act;
  - (b) provide information on the recommendations of the Financial Action Task Force ("FATF") in relation to Hong Kong, the consequences of non-compliance, whether Hong Kong had failed to comply with FATF's recommendations in the past and the sanctions imposed, if any;
  - (c) explain the extra-territorial application of the Bill if passed;
  - (d) clarify whether an airline company or a travel agency would be held liable under the Bill in case where the company or agency had organized, or made arrangements to facilitate, a customer's travel during the company's or agency's ordinary course of business (such as by selling tickets to its customer and/or making reservations at a hotel for its customer) and only discovered that the customer was leaving Hong Kong for a specified purpose (as provided in the new section 11M(1)) after the ticket was sold to or arrangements were made for the customer;
  - (e) if the answer to paragraph (d) above was in the affirmative, advise on the steps which the airline company or travel agency concerned must take so that it would not be held liable under the Bill in the cases referred to in paragraph (d) above; and
  - (f) explain why the proposed new section 11K of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) would apply to Hong Kong permanent residents only.

### **III. Any other business**

5. The Bills Committee agreed that a meeting would be held to receive the views of the public on the Bill and the Clerk would schedule the next meeting in consultation with the Chairman and the Administration.

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

Council Business Division 2  
Legislative Council Secretariat  
16 August 2017

**Proceedings of meeting of the Bills Committee on  
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017  
held on Friday, 21 July 2017, at 8:45 am  
in Conference Room 2B of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000000 - 000730	Mr CHAN Hak-kan Mr YIU Si-wing Ir Dr LO Wai-kwok Mr James TO Mr WU Chi-wai	Election of Chairman	
000731 - 000908	Chairman	Opening remarks	
000909 - 002249	Chairman Mr James TO Mr WU Chi-wai Ir Dr LO Wai-kwok Mr CHAN Chi-chuen Mr YIU Si-wing Admin Mr Paul TSE Mr CHAN Chun-ying Mr Alvin YEUNG Mr MA Fung-kwok	Discussion on whether there was a need to hold a meeting to receive the views of the public on the United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017 ("the Bill").  Administration's response that a two-month public consultation exercise was conducted and 10 written submissions were received.  Members' agreement that a meeting would be held to further receive the views of the public on the Bill.	
002250 - 003045	Chairman Admin	Briefing by the Administration on the Bill.	
003046 - 003556	Chairman Mr YIU Si-wing Admin	Mr YIU Si-wing's expression of support for early passage of the Bill.  Mr YIU's question regarding whether travel agencies would be incidentally caught by the offences referred to in paragraph 5(c) of the Legislative Council ("LegCo") Brief on the Bill.  Administration's response that a high threshold of <i>mens rea</i> was required for an offence under the Bill. Only persons who had the intention or knowledge that the travel was organized or facilitated for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts, or the provision or receiving of terrorist training ("specified purpose") would be convicted of the new offence.	

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003557 - 004054	Chairman Mr MA Fung-kwok Admin	<p>Mr MA Fung-kwok's question regarding whether the acts to be prohibited under the Bill were dealt with under existing legislation and whether there was any mechanism for lodging an appeal.</p> <p>Administration's response that the Financial Action Task Force ("FATF") had pointed out that existing provisions in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) ("UNATMO") in relation to the freezing of terrorist property were inadequate because the freezing process involved several procedural steps which would lead to delays. That said, a channel had already been provided for under UNATMO for challenging the decision to specify a terrorist property.</p>	
004055 - 010452	Chairman Mr James TO Mr Kenneth LEUNG Admin	<p>Expression of support in principle by Mr James TO and Mr Kenneth LEUNG for international efforts to combat terrorist acts.</p> <p>Mr TO's concerns regarding:</p> <ul style="list-style-type: none"> <li>(a) whether the proposals in the Bill would be open to abuse;</li> <li>(b) the definition of the term "terrorist"; and</li> <li>(c) why the Bill was directed at terrorist training, as referred to in paragraph 5 of the LegCo Brief, instead of training for such act.</li> </ul> <p>Mr LEUNG's concerns regarding:</p> <ul style="list-style-type: none"> <li>(a) whether the Bill sought to implement recommendations of FATF;</li> <li>(b) how non-permanent residents of Hong Kong were to be prohibited under the Bill from leaving Hong Kong for specified purpose;</li> <li>(c) whether the Administration would, after passage of the Bill, prohibit Hong Kong permanent residents who had been refused entry into Macao from leaving Hong Kong for Macao; and</li> <li>(d) the scope of the forthcoming mutual evaluation exercise of FATF on Hong Kong and the impacts of failure to meet the requirements of FATF.</li> </ul>	

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		<p>Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) there was an international trend in recent years to strengthen anti-terrorism laws;</li> <li>(b) the Bill sought to amend UNATMO having regard to the United Nations Security Council Resolution ("UNSCR") 2178 and recommendations of FATF on freezing mechanism of property of terrorist, taking into account the circumstances of Hong Kong;</li> <li>(c) from the security point of view, there was a need to step up prohibitions of terrorist financing in Hong Kong;</li> <li>(d) there was absolutely no intention of abuse of provisions in the Bill. The Bill would only prohibit travels and related matters for specified purpose;</li> <li>(e) acts of persons who were not Hong Kong permanent residents could be dealt with under other existing arrangements;</li> <li>(f) under UNATMO, terrorists would only be specified in accordance with the designations made by the United Nations committee on the relevant UNSCR, or by the court on application by the Administration. As for "terrorist training", it was stated in the Bill that it referred to "training that is in connection with the perpetration, planning or preparation of, or participation in, one or more terrorist acts"; and</li> <li>(g) assessors of FATF would conduct the next round of mutual evaluation on Hong Kong in 2018 to assess Hong Kong's compliance with FATF's recommendations. Failure to implement the recommendations of FATF might trigger off FATF's follow-up actions on Hong Kong. In the worst scenario, public statements might be made against Hong Kong, thereby affecting Hong Kong's status as an international financial centre.</li> </ul> <p>The Administration was requested to further explain why the Bill was directed at terrorist training, as referred to in paragraph 5 of the LegCo Brief, instead of training for such act.</p>	<p><b>Admin</b></p>

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010453 - 014549	Chairman Mr Paul TSE Mr CHUNG Kwok-pan Admin	<p>Mr Paul TSE's concerns regarding:</p> <ul style="list-style-type: none"> <li>(a) the definition of "terrorist act";</li> <li>(b) the recommendations of FATF in relation to Hong Kong, the consequences of non-compliance, and whether Hong Kong had failed to comply with FATF's recommendations in the past;</li> <li>(c) the extra-territorial application of the Bill;</li> <li>(d) whether an airline company or a travel agency would be held liable under the Bill in case where the company or agency had organized, or made arrangements to facilitate, a customer's travel during the company's or agency's ordinary course of business (such as by selling tickets to its customer and/or making reservations at a hotel for its customer) and only discovered that the customer was leaving Hong Kong for a specified purpose (as provided in the new section 11M(1)) after the ticket was sold to or arrangements were made for the customer;</li> <li>(e) the steps which the airline company or travel agency concerned must take, if the answer to paragraph (d) above was in the affirmative, so that it would not be held liable under the Bill in the cases referred to in paragraph (d) above; and</li> <li>(f) whether there had been any case of prosecution under UNAMTO in the past.</li> </ul> <p>Mr CHUNG Kwok-pan's concerns regarding:</p> <ul style="list-style-type: none"> <li>(a) the scope of "terrorist associate" in paragraph 4 of the LegCo Brief;</li> <li>(b) whether the recent "lone wolf" attacks in other countries constituted terrorist acts;</li> <li>(c) whether the Administration would allocate sufficient resources for implementation of the Bill; and</li> <li>(d) why the proposal in the Bill to prohibit a person from leaving Hong Kong for a foreign state for the purpose of provision or receiving of terrorist training would apply only to Hong Kong permanent residents but not to other residents.</li> </ul>	



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		<p>Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) an act would amount to a terrorist act only if the conditions in sub-paragraph (a) of the definition of "terrorist act" in section 2(1) of UNATMO were met, subject to the exemptions provided in the relevant sub-paragraph (b) under the definition;</li> <li>(b) the term "terrorist act" as defined in section 2(1) of UNATMO was broadly the same as that under the relevant anti-terrorism laws of the other common law jurisdictions such as United Kingdom and Canada. There was a need for a degree of consistency in the definition of "terrorist act" in different jurisdictions so that a terrorist could not escape from one jurisdiction to another;</li> <li>(c) the Bill did not involve any amendment to the definition of "terrorist act" in UNATMO;</li> <li>(d) there had not been any case of prosecution under UNAMTO in the past;</li> <li>(e) the extra-territorial application of the Bill, if passed, could be enforced through international cooperation as provided for under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) and the Fugitive Offenders Ordinance (Cap. 503);</li> <li>(f) "terrorist associate" was defined under section 2 of UNAMTO as an entity owned or controlled, directly or indirectly, by a terrorist;</li> <li>(g) the recent "lone wolf" suicide or massive destruction attacks in other countries had been classified as terrorist acts in the countries concerned;</li> <li>(h) the Administration would consider stepping up communication with the travel industry in relation to the enforcement of UNATMO, e.g. by distributing briefing materials, as appropriate;</li> <li>(i) the Administration would review the adequacy of resources for implementation of the Bill, if and as passed by LegCo; and</li> </ul>	

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		<p>(j) having regard to UNSCR 2178's objective that each Member state should prevent its nationals from travelling for specified purpose, the proposal in the Bill to prohibit a person from leaving Hong Kong for a foreign state for specified purpose would apply only to Hong Kong permanent residents.</p> <p>The Administration was requested to:</p> <p>(a) provide information on the recommendations of FATF in relation to Hong Kong, the consequences of non-compliance, whether Hong Kong had failed to comply with FATF's recommendations in the past and the sanctions imposed, if any;</p> <p>(b) explain the extra-territorial application of the Bill; and</p> <p>(c) clarify whether an airline company or a travel agency would be held liable under the Bill in case where the company or agency had organized, or made arrangements to facilitate, a customer's travel during the company's or agency's ordinary course of business (such as by selling tickets to its customer and/or making reservations at a hotel for its customer) and only discovered that the customer was leaving Hong Kong for a specified purpose (as provided in the new section 11M(1)) after the ticket was sold to or arrangements were made for the customer;</p> <p>(d) if the answer to paragraph (c) above was in the affirmative, advise on the steps which the airline company or travel agency concerned must take so that it would not be held liable under the Bill in the cases referred to in paragraph (c) above.</p>	<p><b>Admin</b></p>
014550 - 014559	Chairman	Extension of meeting by 10 minutes.	
014600 - 015023	Chairman Mr Holden CHOW Admin	<p>Mr Holden CHOW's question regarding whether the Bill could deal with a person's act, without the person leaving Hong Kong, to organize or facilitate a terrorist act in another country.</p> <p>Administration's response that the Bill would prohibit a person from organizing or facilitating the</p>	

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		<p>travel of individuals between states with the intention or knowing that the travel was for specified purpose, regardless of whether the person was in Hong Kong or not (because of the extra-territorial application of the new offence). Besides, such an act might be dealt with under existing legislation in relation to conspiracy to commit crime.</p>	
015024 - 015559	<p>Chairman Mr Paul TSE Admin</p>	<p>Mr Paul TSE's question regarding why the proposed new section 11K of UNATMO would apply to Hong Kong permanent residents only.</p> <p>Administration's response that having regard to UNSCR 2178's objective that each Member state should prevent its nationals from travelling for specified purpose, the proposal in the Bill to prohibit a person from leaving Hong Kong for a foreign state for specified purpose would apply only to Hong Kong permanent residents.</p> <p>The Administration was requested to further explain why the proposed new section 11K of UNATMO would apply to Hong Kong permanent residents only.</p>	<p><b>Admin</b></p>
015600 - 020009	<p>Chairman ALA10</p>	<p>ALA10, at the invitation of the Chairman, briefly highlighted the issues referred to in her letter dated 12 July 2017 to the Administration (LC Paper No. CB(2)1945/16-17(01)) and the Administration's reply dated 18 July 2017 (LC Paper No. CB(2)1945/16-17 (02)). Such issues would be further discussed at future meetings.</p>	