

**立法會**  
**Legislative Council**

LC Paper No. CB(2)571/17-18  
(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 Tuesday, 28 November 2017, at 4:30 pm  
in Conference Room 2 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  
Dr Hon Elizabeth QUAT, BBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon YUNG Hoi-yan  
Hon CHAN Chun-ying
- Members attending** : Hon Dennis KWOK Wing-hang  
Hon CHU Hoi-dick
- Members absent** : Hon CHUNG Kwok-pan  
Dr Hon Junius HO Kwan-yiu, JP

**Public Officers attending** : Item I

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  
Department of Justice

Ms Carmen CHAN Ka-man  
Senior 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. Meeting with the Administration**

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

2. The Administration was requested to:
  - (a) consider amending the proposed section 11J of the United Nations (Anti-Terrorism Measures) Ordinance ("UNATMO") (Cap. 575), in the light of section 101.2(1)(c) of the Criminal Code Act 1995 of Australia referred to in footnote 2 of LC Paper No. CB(2)385/17-18(02) by providing for a requisite knowledge in the proposed section 11J;
  - (b) consider amending the proposed section 11K(2) of UNATMO to the effect that a Hong Kong permanent resident ("HKPR") must not leave the Hong Kong Special Administrative Region ("HKSAR"), or a place outside HKSAR, for a foreign state with the intention to achieve a specified purpose ;
  - (c) advise whether the Bill was in conformity with the United Nations Security Council Resolution 2178 (2014) ("the Resolution") and reconsider, in the light of paragraphs 6(a) and 8 of the Resolution, whether the proposed section 11K of UNATMO should apply to HKPRs only; and
  - (d) explain, in relation to paragraph 13 of the Administration's response to issues raised at the meeting on 17 November 2017 (LC Paper No. CB(2)385/17-18(02)), whether a non-HKPR who was a holder of a valid One-way Permit but had not ordinarily resided in Hong Kong for a continuous period of not less than seven years could be deported for the reasons stated in that paragraph.

## **II. Any other business**

3. Members noted that the next meeting had been scheduled for 15 December 2017 at 8:30 am to continue discussion with the Administration.
4. There being no other business, the meeting ended at 6:33 pm.

**Proceedings of meeting of the Bills Committee on  
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017  
held on Tuesday, 28 November 2017, at 4:30 pm  
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s) / Discussion	Action Required
000000 - 000838	Chairman	Opening remarks and relevant paper	
000839 - 001232	Chairman Mr James TO Admin	Briefing by the Administration on its response to issues raised at the meeting on 17 November 2017 (LC Paper No. CB(2)385/17-18(02)).	
001233 - 003713	Chairman Mr James TO Mr WU Chi-wai Mr CHAN Chi-chuen Admin	<p>Mr James TO's question regarding whether the proposed section 11J of the United Nations (Anti-Terrorism Measures) Ordinance ("UNATMO") (Cap. 575) could be amended, in the light of section 101.2(1)(c) of the Criminal Code Act 1995 of Australia referred to in footnote 2 of LC Paper No. CB(2)385/17-18(02), by providing for a requisite knowledge in that proposed section.</p> <p>Mr WU Chi-wai's questions regarding:</p> <p>(a) the merits and drawbacks of amending the proposed section 11J of UNATMO to provide for a requisite knowledge in that proposed section; and</p> <p>(b) whether a person who had left Hong Kong for receiving training in terrorist acts in another country could be arrested under the provisions in the Bill on his return to Hong Kong.</p> <p>The Administration's response that:</p> <p>(a) the proposed section 11K of UNATMO had already incorporated the element of knowledge in section 101.2(1)(c) of the Criminal Code Act 1995 of Australia;</p> <p>(b) a high threshold of severity in respect of the damage caused by (or attempted to be caused by) or injury inflicted (or attempted to be inflicted) by the act committed was required for an act to be qualified as a "terrorist act" under UNATMO; and</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>(c) the Bill would only prohibit travels for specified purpose defined in the proposed section 11J of UNATMO ("specified purpose").</p> <p>Mr CHAN Chi-chuen's question regarding how a Hong Kong permanent resident ("HKPR") leaving Hong Kong for Taiwan for a specified purpose would be dealt with.</p> <p>The Administration's response that:</p> <p>(a) according to the definition in the Interpretation and General Clauses Ordinance ("IGCO") (Cap. 1), "a foreign state" referred to in section 11K should be construed as any state other than "the People's Republic of China" ("PRC"). As defined under IGCO, PRC "includes Taiwan, the Hong Kong Special Administrative Region and Macau". Travels from Hong Kong to Taiwan would therefore not be covered by the new section; and</p> <p>(b) as the United Nations Security Council Resolution 2178 (2014) ("the Resolution") stipulated requirements on Member States and its spirit was to require all member states to build a worldwide counter-terrorism network against travels of terrorists between different states, it did not cover travels within a state. Regarding travels within PRC involving terrorist activities, Hong Kong law enforcement agencies could, through the established co-operation mechanism, share the intelligence with their counterparts in the relevant places, so that appropriate enforcement actions could be taken in those places.</p> <p>The Administration was requested to consider amending the proposed section 11J of UNATMO in the light of section 101.2(1)(c) of the Criminal Code Act 1995 of Australia referred to in footnote 2 of LC Paper No. CB(2)385/17-18(02) by providing for a requisite knowledge in the proposed section 11J.</p>	<p><b>Admin</b></p>

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003714 - 004339	Chairman Mr Dennis KWOK Admin	<p>Mr Dennis KWOK's questions regarding:</p> <ul style="list-style-type: none"> <li>(a) whether cyber terrorist act was covered under the Bill;</li> <li>(b) whether there had been any prosecution under UNATMO relating to hacking; and</li> <li>(c) whether exemption had been provided in the current definition of "terrorist act" to exclude the use or threat of action in the course of demonstrations.</li> </ul> <p>The Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) laws that applied to the real world were also applicable to the cyber world;</li> <li>(b) whether an act would amount to a terrorist act, or whether a training would amount to a training for terrorist act, would be determined having regard to facts of the case and whether the linkage between the training and the "terrorist act" as defined in section 2(1) of UNATMO could be built, subject to the exemptions provided in the relevant paragraph (b) under the definition; and</li> <li>(c) exemption had been provided in paragraph (b) of the current definition of "terrorist act" to exclude the use or threat of action in the course of any advocacy, protest, dissent or industrial action.</li> </ul>	
004340 - 011314	Chairman Mr James TO Mr Holden CHOW Mr WU Chi-wai Admin ALA10	<p>Mr James TO's question and the Administration's response regarding whether there was a need to amend the proposed section 11K(2) of UNATMO to the effect that a HKPR must not leave the Hong Kong Special Administrative Region ("HKSAR"), or a place outside HKSAR, for a foreign state with the intention to achieve a specified purpose.</p> <p>ALA10's remarks on the legal effect of the proposed section 11K(1) and (2) of UNATMO as drafted.</p> <p>Mr Holden CHOW's view that issues relating to drafting might be dealt with during the clause-by-clause examination of the Bill.</p>	

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		<p>Mr WU Chi-wai's question regarding whether a HKPR who left HKSAR or a place outside HKSAR for a foreign state to provide or receive training would be in breach of the proposed section 11K of UNATMO, if he was not aware when leaving HKSAR that the training concerned was connected with the perpetration, planning or preparation of, or participation in, one or more terrorist acts.</p> <p>The Administration's response that:</p> <p>(a) it would not be in breach of the proposed section 11K of UNATMO, if the travel concerned was not for a specified purpose; and</p> <p>(b) the drafting of the proposed section 11K of UNATMO was similar to that of relevant legislation in Canada.</p> <p>The Administration was requested to consider amending the proposed section 11K(2) of UNATMO to the effect that a HKPR must not leave HKSAR, or a place outside HKSAR, for a foreign state with the intention to achieve a specified purpose.</p>	<p><b>Admin</b></p>
<p>011315 - 014830</p>	<p>Chairman Mr James TO Mr WU Chi-wai ALA10 Admin</p>	<p>ALA10 referred to paragraphs 6(a) and 8 of the Resolution and the long title of the Bill to inquire how the Bill or the proposed section 11K sought to implement these paragraphs.</p> <p>ALA10 elaborated on the basis of the enquiry made in respect of the unequal treatment between HKPRs and non-HKPRs under the proposed section 11K of UNATMO and said that the Administration should:</p> <p>(a) explain why such unequal treatment was necessary and proportionate; and</p> <p>(b) clarify whether such unequal treatment was in conformity with the decision of UNSC in paragraph 8 of the Resolution.</p> <p>Mr James TO's remark that he would consider the Bill acceptable, if it was in conformity with the Resolution.</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>Mr WU Chi-wai's questions regarding:</p> <ul style="list-style-type: none"> <li>(a) the respective numbers of HKPRs and non-HKPRs in Hong Kong; and</li> <li>(b) whether a non-HKPR who was a holder of a valid One-way Permit but had not ordinarily resided in Hong Kong for a continuous period of not less than seven years could be deported for the reasons stated in 13 of the Administration's response to issues raised at the meeting on 17 November 2017 (LC Paper No. CB(2)385/17-18(02)).</li> </ul> <p>The Administration's response that:</p> <ul style="list-style-type: none"> <li>(a) there were about 7.6 million HKPRs and 1.7 million non-permanent residents in Hong Kong;</li> <li>(b) in the drafting of the Bill, reference had been made to relevant legislation of other jurisdictions;</li> <li>(c) the Bill was not a direct word-by-word adaptation of the Resolution;</li> <li>(d) the proposed section 11K of UNATMO sought to strike a balance between effective law enforcement and protection of human rights; and</li> <li>(e) the proposed sections 11L and 11M of UNATMO would apply to all persons in Hong Kong.</li> </ul> <p>The Administration was requested to:</p> <ul style="list-style-type: none"> <li>(a) advise whether the Bill was in conformity with the Resolution and reconsider, in the light of paragraphs 6(a) and 8 of the Resolution, whether the proposed section 11K of UNATMO should apply to HKPRs only; and</li> <li>(b) explain, in relation to paragraph 13 of the Administration's response to issues raised at the meeting on 17 November 2017 (LC Paper No. CB(2)385/17-18(02)), whether a non-HKPR who was a holder of a valid</li> </ul>	<p><b>Admin</b></p>

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		One-way Permit but had not ordinarily resided in Hong Kong for a continuous period of not less than seven years could be deported for the reasons stated in that paragraph.	
014831 - 015301	Chairman Mr WU Chi-wai Mr SHIU Ka-fai Mr YIU Si-wing	Expression of views by members on whether the Bills Committee should commence with the clause-by-clause examination of the Bill.	
015302 - 015608	Chairman Admin Mr WU Chi-wai	Examination of the long title and clause 1 to clause 3 of the Bill.	
015609 - 020723	Chairman Admin Mr WU Chi-wai Mr CHAN Chi-chuen ALA10	Examination of clause 4 of the Bill.	

Council Business Division 2  
Legislative Council Secretariat  
20 December 2017