

**立法會**  
**Legislative Council**

LC Paper No. CB(2)727/17-18  
(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 Wednesday, 20 December 2017, at 2:30 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  
Dr Hon Elizabeth QUAT, BBS, JP  
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 CHAN Chun-ying

**Members absent** : Hon Kenneth LEUNG  
Dr Hon Junius HO Kwan-yiu, JP  
Hon YUNG Hoi-yan

**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

Ms Kiwi NG  
Legislative Assistant (2) 1

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## **I. Meeting with the Administration**

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

2. The Bills Committee requested the Administration to:

- (a) consider amending the proposed section 11K(2) of the United Nations (Anti-Terrorism Measures) Ordinance ("UNATMO") (Cap. 575) along the line of adding the phrase "with the intention" before "for a specified purpose";

- (b) explain the rationale for and provide background information on the difference in drafting between section 8 and the proposed section 8A of UNATMO, and consider amending section 8 of UNATMO by adding "specified under section 4 or 5" after "terrorist or terrorist associate";
- (c) provide the legal and policy considerations on whether to provide, in a piece of legislation, for the level or amount of fine imposed on a person who was convicted of an offence on indictment in the light of the fact that such fine was not provided under the proposed section 14(1A) and (4A) but was provided under other pieces of legislation;
- (d) advise whether there were guidelines to the court on the determination of fines upon a defendant's conviction in case where the relevant piece of legislation did not provide for the amount or level of fine to be imposed and consider specifying the level or amount of fines in the proposed section 14(1A)(a) and (4A)(a);
- (e) provide information on the fine imposed by the court in the past for offences liable on conviction on indictment to imprisonment for 14 years; and
- (f) confirm whether all references in UNATMO to "section 6(1) or 8" were amended under the Bill to "section 6(1), 8 or 8A".

3. The Bills Committee also requested Assistant Legal Adviser 10 to confirm whether all references in UNATMO to "section 6(1) or 8" were amended under the Bill to "section 6(1), 8 or 8A".

## **II. Any other business**

4. The Bills Committee agreed that the next meeting would be held on 8 January 2018 at 2:30 pm to continue discussion with the Administration.

5. There being no other business, the meeting ended at 4:25 pm.

**Proceedings of meeting of the Bills Committee on  
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017  
held on Wednesday, 20 December 2017, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
000000 - 000510	Chairman	Opening remarks	
<i>Administration's response to issues raised at the meeting on 28 November 2017</i>			
000511 - 000937	Chairman Mr James TO Admin	Briefing by the Administration on its response to issues raised at the meeting on 28 November 2017 (LC Paper No. CB(2)557/17-18(02)).	
000938 - 002524	Chairman Mr James TO Admin ALA10	<p>Mr James TO's suggestion and the Administration's response regarding whether there was a need for amending the proposed section 11K(2) of the United Nations (Anti-Terrorism Measures) Ordinance ("UNATMO") (Cap. 575) along the line of adding the phrase "with the intention" before "for a specified purpose" in order to expressly provide for the intention required under the proposed section 11K(2) by adopting a drafting approach similar to the approach adopted in the proposed section 11K(1).</p> <p>The Administration was requested to consider amending the proposed section 11K(2) of UNATMO along the line of adding the phrase "with the intention" before "for a specified purpose".</p>	<b>Admin</b>
<i>Continuation of clause-by-clause examination of the Bill</i>			
002525 - 010729	Chairman Admin Mr James TO ALA10	<p>Examination of clause 5 of the Bill.</p> <p>Mr James TO's questions and the Administration's response regarding:</p> <p>(a) the difference in drafting between section 8 and the proposed section 8A of UNATMO; and</p> <p>(b) whether section 8 of UNATMO should be amended by adding "specified under section 4 or 5" after "terrorist or terrorist associate" in section 8.</p>	

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>The Administration was requested to explain the rationale for and provide background information on the difference in drafting between section 8 and the proposed section 8A of UNATMO, and consider amending section 8 of UNATMO by adding "specified under section 4 or 5" after "terrorist or terrorist associate".</p> <p>Mr James TO's question regarding whether there were existing provisions in UNATMO on dealing with terrorist property.</p> <p>The Administration's response that provisions on freezing terrorist property as well as the definition of "deal with" were set out in section 6 of UNATMO.</p> <p>Mr TO's view that it might be unfair to prohibit a family member of a terrorist from dealing with property owned jointly by the terrorist and the family member, if the property had not been derived from proceeds of crime. It might also be unfair to prohibit a terrorist who had already served his sentence for terrorist activity from dealing with property which had not been derived from proceeds of crime for the purpose of meeting the his own medical expenses.</p> <p>The Administration's response that under section 6 of UNATMO, the Secretary for Security might grant a licence for dealing with terrorist property under certain conditions and exceptions. Section 15(1) of UNATMO had set out the conditions and exceptions which might be specified in such a licence. Such exceptions might relate to reasonable living expenses, reasonable legal expenses and payments liable to be made under the Employment Ordinance (Cap. 57).</p>	<p><b>Admin</b></p>
<p>010730 - 013238</p>	<p>Chairman Mr CHUNG Kwok-pan Mr James TO Admin</p>	<p>Examination of clauses 6 and 7 of the Bill.</p> <p>Mr CHUNG Kwok-pan's question regarding how the proposed section 11K(2) of UNATMO would be implemented.</p> <p>The Administration's response that the provision might be enforced through:</p>	

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		<p>(a) notifying the jurisdiction concerned under the existing international cooperation mechanism; or</p> <p>(b) international cooperation as provided for under the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525). Such assistance included the rendering of assistance to jurisdictions in the absence of an operative bilateral agreement on mutual legal assistance in criminal matters with the Hong Kong Special Administrative Region and an applicable multilateral convention on the basis of a reciprocity undertaking from the requesting jurisdictions.</p> <p>Mr James TO's questions regarding the effect of the proposed sections 11L and 11M of UNATMO.</p> <p>The Administration's response that the proposed section 11L of UNATMO prohibited the financing of the travel of any person between states for a specified purpose. The proposed section 11M of UNATMO prohibited organizing or facilitating travel for a specified purpose, regardless of whether the travel was eventually completed.</p> <p>Mr James TO's question regarding whether the provisions in the proposed section 12(2A) concerning disclosure were found in other existing legislation.</p> <p>The Administration's response that similar provisions could be found in section 25A of the Organized and Serious Crimes Ordinance (Cap. 455) and section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405).</p>	
013239 - 014953	Chairman Admin Mr CHUNG Kwok-pan Mr James TO ALA10	Examination of clause 8 of the Bill.  The Administration was requested to:  (a) provide the legal and policy considerations on whether to provide, in a piece of legislation, for the level or amount of fine imposed on a person who was convicted of	<b>Admin</b>

Time marker	Speaker	Subject(s) / Discussion	Action Required
		<p>an offence on indictment in the light of the fact that such fine was not provided under the proposed section 14(1A) and (4A) but was provided under other pieces of legislation;</p> <p>(b) advise whether there were guidelines to the court on the determination of fines upon a defendant's conviction in case where the relevant piece of legislation did not provide for the amount or level of fine to be imposed and consider specifying the level or amount of fines in the proposed section 14(1A)(a) and (4A)(a); and</p> <p>(c) provide information on the fine imposed by the court in the past for offences liable on conviction on indictment to imprisonment for 14 years.</p>	
014954 - 015350	Chairman Admin Mr James TO	<p>Examination of clause 9 of the Bill.</p> <p>Mr James TO's remarks that:</p> <p>(a) the phrase "may relate but are not limited to" in section 15(1)(b) of UNATMO should be amended along the line of "may relate to any expenses, but are not limited to"; and</p> <p>(b) he might consider moving a Committee stage amendment ("CSA") to such effect, if the Administration would not move such a CSA.</p> <p>The Administration's response that the meaning of the provision concerned was clear and there was not a need for the suggested amendment.</p>	
015351 - 015632	Chairman Admin Mr James TO	<p>Examination of clause 10 of the Bill.</p> <p>The Administration and ALA10 were requested to confirm respectively whether all references in UNATMO to "section 6(1) or 8" were amended under the Bill to "section 6(1), 8 or 8A".</p>	<b>Admin ALA10</b>
015633 - 015700	Chairman Admin	Examination of clause 11 of the Bill.	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s) / Discussion</b>	<b>Action Required</b>
015701 - 015811	Chairman Admin	Date of next meeting.	

Council Business Division 2  
Legislative Council Secretariat  
17 January 2018