

# S for S speaks on proposed amendments to Fugitive Offenders Ordinance and Mutual Legal Assistance in Criminal Matters Ordinance

Following is the transcript of remarks by the Secretary for Security, Mr John Lee, at a media session after attending a radio programme today (March 30):

Reporter: Secretary, I have two questions. First question regarding AmCham's (American Chamber of Commerce in Hong Kong) criticism that they have serious concerns. Do you think these concerns are reasonable? Do they really need to worry? Second question is about you said that in future in the Mainland, only high level departments can request an extradition. Can that really ensure that the process is fair and there would be a fair trial? Can that really soothe concerns away?

Secretary for Security: I will continue to explain what the Bill intends to do to the business sector including business sectors from overseas. It is the international commitment to fight organised crime. In fact, in the United Nation resolution, signatory countries have agreed that this is for the overall good of its country and the world. So, in order to have an environment, which is free of organised crime, I can only think that it will benefit business environment, and I will strongly believe that overseas businessmen, who operate or run a business in Hong Kong or in the Mainland, are law-complying businessmen. So, to create an environment, which will be free of organised crime, in fact, should be productive to business. That's the first thing. The second thing I have been noting is that, a lot of countries have been asking Mainland China to open up to more businesses from overseas to go into to do business, and I think these businessmen, who will of course, go into Mainland China so as to run their business in accordance with the law. So, they want to do more business in the Mainland, and they will be doing business in accordance with the law. We, Hong Kong, try to deal with this matter, so that we will help fight organised crime. So, I think it should benefit (the business sector), but of course I will continue to explain to them. If the accusation is that somebody may unwittingly become a political offender, then I have said repeatedly that the law at present, under our Fugitive Offenders Ordinance, has clearly stated that this will not be possible. There are at least three clearly written provisions to say that political offences, no matter how they are described, they will not be surrenderable. There is a provision to say that no matter how you purport that offence to be, if it relates to political opinion, religion, nationality or ethnicity, then it will not be surrenderable. There is also a third provision, which says that, if a person will be prejudiced as he is tried, or in any way mistreated, because of his political opinion, nationality, religion or ethnicity, then he will not be surrendered. So, for anybody who

thinks that he may then become a political prisoner, I think the law has sufficiently protected him. What is your second question?

Reporter: About in future in the Mainland, high level departments request an extradition. Can that be really ensured a fair trial?

Secretary for Security: I really wish the society doesn't confuse a long-term arrangement with a case-by-case arrangement. The long-term arrangement will not be affected in anyway whatsoever under the present Fugitive Offenders Ordinance. I think you have seen the Bill, anything relates to a long-term agreement will be totally preserved. Our discussion with the Mainland for a long-term arrangement is still going on, so don't confuse that. I am proposing a system, which will allow Hong Kong to deal with a jurisdiction's request on a case-by-case basis when that jurisdiction does not have a long-term agreement with Hong Kong. That's what I am proposing, and there will be a universal standard that I am going to apply, with mutual respect to any such requests. That standard conforms to all the safeguards and the legal procedures of the present law. So, I am not designing this system mainly for the Mainland. But since a lot of people have asked this question, and in fact in some of the communications I have with representatives, they have sent me written request about this point. So I have communicated with my counterparts in the Mainland, their initial response is they will be centralising requests, so that it will be handled at a high level. The usual way to handle a surrender between states will be likely between either foreign offices or the responsible departments of justice. Under the "one country, two systems", the one-country (two-system) operation, then of course, is a different system that may have to apply. So the initial response that was given to me has been that, "yes", they will centralise to ensure that the cases that are dealt with, are cases that are worth the consideration of both places. One other thing which people may have not picked up is, for any surrender under this case-by-case arrangement, it will be done fully under the spotlight. I am sure you will be reporting it almost completely, so it will be done under the sunshine. So, in Hong Kong it will be in the open court. You will be seeing the whole process how the subject person's rights will be fully protected, how the case will be heard, how the government side will argue and the other side will also argue on the case, how a habeas corpus can be applied for and how appeals and juridical review will be done. So, under that spotlight, I am sure everybody will begin to understand more of how the law is going to apply. And also under that spotlight, you will see how strictly all these provisions and safeguards will be enforced. Likewise, when the subject person is handed over, I think the media in that jurisdiction will also put the whole case under the spotlight. So I think this system gives not just safeguards, which is written in the law, but also safeguards by the fourth power. Thank you very much.