

立法會
Legislative Council

LC Paper No. CB(2)1095/02-03
(These minutes have been
seen by the Administration)

Ref : CB2/SS/3/02

**Subcommittee on
the draft Criminal Jurisdiction Ordinance
(Amendment of Section 2(2)) Order 2002**

**Minutes of first meeting
held on Wednesday, 8 January 2003 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon James TO Kun-sun (Chairman)
Hon Cyd HO Sau-lan
Hon Margaret NG
Hon CHAN Kwok-keung
Hon SIN Chung-kai
Hon Ambrose LAU Hon-chuen, GBS, JP
- Public Officers attending** : Mr Johann WONG
Principal Assistant Secretary for Security
- Mr F C WONG
Chief Superintendent of Police
- Mr Richard TURNBULL
Senior Assistant Director of Public Prosecutions
- Ms Phyllis POON
Government Counsel
- Ms Manda CHAN
Assistant Secretary for Security

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Paul WOO
Senior Assistant Secretary (2)3

Action

I. Election of Chairman

Mr James TO Kun-sun was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(The draft Order circulated vide LC Paper No. CB(3)193/02-03; Legislative Council Brief issued by the Security Bureau (Ref: SBCR 11/14/3231/88); LC Paper No. LS26/02-03); LC Paper Nos. CB(2)823/02-03(02) to (05))

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

3. In relation to the concerns raised by members, the Administration was requested to -

- (a) explain the policy considerations for adding the three computer related offences to the Criminal Jurisdiction Ordinance (CJO);
- (b) provide examples of the three computer related offences and number of reported cases which could not be prosecuted under traditional jurisdictional rules and how the draft Order, if approved, would address the situation and operate;
- (c) provide texts of legislative provisions in other jurisdictions to address jurisdictional problems on similar computer related offences;

Action

- (d) provide details of international treaties or conventions on measures to combat cross-border cyber crime, such as the Convention of Cyber Crime of the Council of Europe;
- (e) confirm whether the draft Order under consideration by the Subcommittee was the first one introduced since enactment of CJO;
- (f) identify references to the offences proposed in the Consultation Document on Proposals to Implement Article 23 of the Basic Law which were related to the three computer related offences proposed in the draft Order; and
- (g) advise the outcome of the Department of Justice's legal research on the general review of jurisdictional rules (paragraph 10 of the LegCo Brief on Report of Inter-departmental Working Group on Computer Related Crime dated 16 July 2002 issued by the Security Bureau refers).

Admin

III. Date of next meeting

4. The Subcommittee agreed that the date of the next meeting should be fixed later, pending the Administration's response to the issues raised by members.

5. The meeting ended at 12:35 pm.

Council Business Division 2
Legislative Council Secretariat
5 February 2003

Annex

**Proceedings of the first meeting of the Subcommittee on
the draft Criminal Jurisdiction Ordinance
(Amendment of Section 2(2)) Order 2002
on Tuesday, 8 January 2003 at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000001-000110	Ms Cyd HO Sau-lan/ Miss Margaret NG/ Mr James TO	Election of Chairman of the Subcommittee	
000111-000558	Chairman/ Miss Margaret NG/ Ms Cyd HO Sau-lan	Brief discussion on the draft Criminal Jurisdiction Ordinance (Amendment of Section 2(2)) Order 2002 (the draft Order)	
000559-000712	Administration	Introduction on the purpose and content of the draft Order	
000713-001446	Miss Margaret NG/ Administration	The three computer related offences proposed to be included in the Group A offences in section 2(2) of the Criminal Jurisdiction Ordinance (CJO)	
001447-003704	Miss Margaret NG/ Chairman/ Mr SIN Chung-kai/ Administration	(a) Policy considerations for adding the three computer related offences to CJO; and (b) Reported cases on the three computer related offences which could not be prosecuted under traditional jurisdictional rules and how the draft Order would operate to address the situation	Admin to respond in writing
003705-004035	Administration/ Chairman	Example of a previous case of unauthorised access by an offender to a computer system of a school with criminal intent to intimidate a female student	
004036-005600	Ms Cyd HO Sau-lan/ Administration/ Chairman	(a) Mutual assistance between jurisdictions and assistance from Internet service providers for combating computer related crime; and (b) Cases over which the Hong Kong courts could exercise jurisdiction after approval of the draft Order	

Time marker	Speaker	Subject(s)	Action required
005601-005729	Chairman/ Ms Cyd HO Sau-lan/ Mr SIN Chung-kai/ Administration	Legislative provisions in other jurisdictions to address jurisdictional problems on similar computer related offences	Admin to provide the information
005730-010659	Miss Margaret NG/ Administration/ Miss Margaret NG	Reasons for targeting at the three specific computer related offences	
010700-011055	Mr SIN Chung-kai/ Chairman	International treaties or conventions on measures to combat cross-border cyber crime	Admin to provide the information
011056-012235	Ms Cyd HO Sau-lan/ Chairman/ Administration/ Miss Margaret NG/ Mr SIN Chung-kai	Whether CJO applied to the Government of the Hong Kong Special Administrative Region	
012236-013956	Miss Margaret NG/ Administration/ Chairman	(a) Whether the draft Order under consideration was the first one introduced since enactment of CJO; and (b) Outcome of the Department of Justice's legal research on the general review of jurisdictional rules	Admin to respond in writing
013957-014643	Chairman/ Mr SIN Chung-kai/ Administration/ Miss Margaret NG/	References to the offences proposed in the Consultation Document on Proposals to Implement Article 23 of the Basic Law which were related to the three computer related offences proposed in the draft Order	Admin to respond in writing
014644-014747	SALA1/ Chairman/ Miss Margaret NG	The list of offences under section 2(2) of CJO had not been previously amended by way of a draft Order made under section (4) and (5)	
014748-014830	Chairman/ Mr SIN Chung-kai/ Miss Margaret NG/ Administration/ SALA1	Draft Order to be approved by resolution of the Legislative Council	
014831-014847	Chairman	Date of next meeting to be fixed	

Note : The audio records of the above proceedings are kept at the LegCo Library