

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)596/06-07
(These minutes have been seen by
the Administration)

**Bills Committee on
Interception of Communications and Surveillance Bill**

**Minutes of meeting
held on Saturday, 24 June 2006, at 2:00 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon LI Kwok-ying, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS

Members absent : Hon LAU Kong-wah, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Bernard CHAN, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Vincent FANG Kang, JP

Dr Hon Joseph LEE Kok-long
Hon Daniel LAM Wai-keung, BBS, JP
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP

Public Officers : Mr Stanley YING
attending Permanent Secretary for Security

Miss S H CHEUNG
Deputy Secretary for Security

Mr Ian WINGFIELD
Law Officer (International Law)
Department of Justice

Ms Sherman CHAN
Senior Assistant Law Draftsman

Clerk in : Mrs Sharon TONG
attendance Chief Council Secretary (2)1

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

Mr Raymond LAM
Senior Council Secretary (2)5

Ms Sandy HAU
Clerical Assistant (2)1

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -

Clause 3

(a) to consider amending the proposed Committee Stage amendments to provide a clearer linkage between the "purpose" and specific serious

crime or threats to public security in the clause;

- (b) to consider including in the new clause 3(1)(b)(iii) an express reference to the Basic Law, in particular Chapter III;

Clause 10

- (c) to consider amending clause 10(b) to make it clear that an authorisation could cease to have effect upon a specified event;

Others

- (d) to refer to the Commissioner on Interception of Communications and Surveillance the suggestion that he might wish to collect information on the maximum duration of operations that had been renewed;
- (e) to consider setting out in the code of practice the minimum rank of the officer who might apply for authorisations;
- (f) to consider including in the code of practice the requirement that the applying officer should not be the same person as the authorising officer;
- (g) to consider providing information on the rough proportion of participant monitoring cases along the lines of the statement given by the judge in *R v. Duarte*;
- (h) to consider stipulating, either in the code of practice or in the Bill, the arrangements for making good damage to property interfered with during an interception or covert surveillance operation and for retrieving surveillance devices after an operation; and
- (i) to consider, in consultation with the Judiciary, the feasibility of arranging for review of the decisions by the panel judges some time, such as two years, after the establishment of the new statutory scheme, for the purpose of making recommendations to ensure consistency among panel judges and building up jurisprudence.

II. Date of next meeting

3. The Bills Committee noted that the next meeting had been scheduled for 26 June 2006 at 8:30 am to continue discussion with the Administration.

4. The meeting ended at 6:15 pm.

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Saturday, 24 June 2006, at 2:00 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000132	Chairman	Opening remarks	
000133 - 000309	Admin	Briefing on paragraph 35 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2532/05-06(01))	
000310 - 001028	Hon James TO Chairman Hon Margaret NG Admin	Effect of the Administration's proposed Committee Stage amendments (CSAs) to clause 3	
001029 - 001831	Admin Hon Margaret NG Chairman Hon Mrs Selina CHOW	Drafting of the proposed clause 3(aa)	
001832 - 003407	Hon James TO Admin Chairman Hon Mrs Selina CHOW	Amending the proposed CSAs to provide a clearer linkage between the "purpose" and specific serious crime or threats to public security in clause 3; whether the new clause 3(1)(b)(iii) should include an express reference to the Basic Law (BL), in particular Chapter III of BL	Admin to consider amending the proposed CSAs to provide a clearer linkage between the "purpose" and specific serious crime or threats to public security in clause 3; to consider including in the new clause 3(1)(b)(iii) an express reference to BL, in particular Chapter III of BL
003408 - 003436	Chairman Admin	Administration's response to issues raised by members in relation to clause 3 (paragraph 36 of LC Paper No. CB(2)2532/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
003437 - 004002	Chairman Admin Hon James TO Hon Albert HO SALA1	Administration's response to issues raised by members in relation to clause 4 (paragraphs 37 and 38 of LC Paper No. CB(2)2532/05-06(01))	
004003 - 004217	Chairman Admin	Administration's response to issues raised by members in relation to clauses 4, 5, 7 and 11(3) (paragraphs 39 to 42 of LC Paper No. CB(2)2532/05-06(01))	
004218 - 005354	Hon James TO Hon Mrs Selina CHOW Admin Chairman	Mechanism for the granting of executive authorisation	
005355 - 005842	Chairman Admin Hon James TO Hon Mrs Selina CHOW	Administration's response to issues raised by members in relation to clause 8 (paragraphs 43 and 44 of LC Paper No. CB(2)2532/05-06(01))	
005843 - 010300	Admin Hon James TO Chairman	Administration's response to issues raised by members in relation to clause 10 (paragraphs 45 and 46 of LC Paper No. CB(2)2532/ 05-06(01)); amending clause 10(b) to make it clear that an authorisation could cease to have effect upon a specified event	Admin to consider amending clause 10(b) to make it clear that an authorisation could cease to have effect upon a specified event
010301 - 010426	Admin Chairman Hon Mrs Seliina CHOW	Administration's response to issues raised by members in relation to clause 11 (paragraph 47 of LC Paper No. CB(2)2532/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
010427 - 012939	Admin Hon James TO Hon Albert HO Chairman Hon Mrs Selina CHOW	Administration's response to issues raised by members in relation to clause 12 (paragraphs 48 to 50 of LC Paper No. CB(2)2532/ 05-06(01)); referring to the Commissioner on Interception of Communications and Surveillance the suggestion that he might wish to collect information on the maximum duration of operations that had been renewed	Admin to refer to the Commissioner on Interception of Communications and Surveillance the suggestion that he might wish to collect information on the maximum duration of operations that had been renewed
012940 - 015429	Admin Hon James TO Hon Howard YOUNG Hon Mrs Selina CHOW Hon Margaret NG Chairman	Administration's response to issues raised by members in relation to clauses 14 to 16 (paragraphs 51 to 57 of LC Paper No. CB(2)2532/ 05-06(01)); setting out in the code of practice the minimum rank of the officer who might apply for authorisations; including in the code of practice the requirement that the applying officer should not be the same person as the authorising officer	Admin to consider setting out in the code of practice the minimum rank of the officer who might apply for authorisations; to consider including in the code of practice the requirement that the applying officer should not be the same person as the authorising officer
015430 - 015613	Chairman Admin	Administration's response to issues raised by members in relation to clause 23 (paragraph 58 of LC Paper No. CB(2)2532/ 05-06(01))	
015614 - 015758	Hon Margaret NG Admin	Providing the Bills Committee with information on the rough proportion of participant monitoring cases along the lines of the statement given by the judge in <i>R v. Duarte</i>	Admin to consider providing information on the rough proportion of participant monitoring cases along the lines of the statement given by the judge in <i>R v. Duarte</i>
Break			

Time marker	Speaker	Subject(s)	Action Required
021103 - 024703	Hon Margaret NG Hon LEUNG Kwok-hung Hon Selina CHOW Hon Albert HO SALA1 Chairman Admin	Administration's response to issues raised by members in relation to clause 23 (paragraph 59 of LC Paper No. CB(2)2532/05-06(01))	
024704 - 031640	Hon Margaret NG Hon Albert HO Hon LI Kwok-ying Chairman Admin	Administration's response to issues raised by members in relation to clause 23 (paragraph 60 of LC Paper No. CB(2)2532/05-06(01))	
031641 - 032609	Admin Hon Albert HO Chairman	Administration's response to issues raised by members in relation to clauses 23 to 28 (paragraphs 61 to 67 of LC Paper No. CB(2)2532/05-06(01))	
032610 - 033304	Admin Chairman Hon Albert HO	Administration's response to issues raised by members in relation to clause 29 (paragraphs 68 to 72 of LC Paper No. CB(2)2532/05-06(01))	
033305- 034329	Admin Chairman Hon Albert HO Hon Mrs Sophie LEUNG	Administration's response to issues raised by members in relation to clauses 29 and 30 (paragraphs 73 to 79 of LC Paper No. CB(2)2532/05-06(01)); stipulating the arrangements for making good damage to property interfered with during an interception or covert surveillance operation and for retrieving surveillance devices after an operation	Admin to consider stipulating, either in the code of practice or in the Bill, the arrangements for making good damage to property interfered with during an interception or covert surveillance operation and for retrieving surveillance devices after an operation
034330 - 034927	Admin Chairman	Administration's response to issues raised by members in relation to clauses 30, 30A and 36 (paragraphs 80 to 83 of LC Paper No. CB(2)2532/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
034928 - 035506	Admin Chairman Hon LI Kwok-ying Hon Albert HO	Administration's response to issues raised by members in relation to clause 38 (paragraphs 84 to 89 of LC Paper No. CB(2)2532/ 05-06(01))	
035507 - 035836	Admin Hon Albert HO Chairman	Administration's response to issues raised by members in relation to clause 39 (paragraphs 90 to 96 of LC Paper No. CB(2)2532/ 05-06(01))	
035837 - 041112	Hon Albert HO Admin Chairman	Administration's response to issues raised by members in relation to clauses 40 and 41 (paragraphs 97 to 98 of LC Paper No. CB(2)2532/ 05-06(01)); arranging for review of the decisions by the panel judges some time after the establishment of the new statutory scheme	Admin to consider, in consultation with the Judiciary, the feasibility of arranging for review of the decisions by the panel judges some time, such as two years, after the establishment of the new statutory scheme, for the purpose of making recommendations to ensure consistency among panel judges and building up jurisprudence
041113 - 041710	Admin Hon Albert HO Chairman	Administration's response to issues raised by members in relation to clauses 42 and 43 (paragraphs 99 to 102 of LC Paper No. CB(2)2532/ 05-06(01))	
041711 - 041732	Chairman	Date of next meeting	