

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)625/06-07
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Friday, 30 June 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
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 Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Albert HO Chun-yan
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 Timothy FOK Tsun-ting, GBS, JP
Dr Hon Joseph LEE Kok-long
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, 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

Mr Ian MCWALTERS
Senior Assistant Director of Public Prosecutions

Ms Sherman CHAN
Senior Assistant Law Draftsman

Ms Frances HUI
Senior Government Counsel

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

Miss Jenny HO
Legislative Assistant (2) 9

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration -

Clause 55

- (a) to consider whether a reviewing officer should be given the power to cancel an executive authorisation by applying the judicial review principles;
- (b) to reconsider whether clause 55(6)(a) had already captured the grounds for discontinuing an operation arising from "mistakes" and, if so, advise if clause 55(6)(b) was necessary;
- (c) to consider setting out examples of "conditions for continuance not being met" in the code of practice or the Bill;
- (d) to advise whether products obtained prior to the discontinuation of an operation under clause 55 might be retained and used;

Clause 58

- (e) to consider making it clear in the Bill that clause 58(4) also applied to appeal proceedings; and
- (f) to consider amending the term "essential" in clause 58(6) as "material".

3. The Administration agreed to refer to the Commissioner on Interception of Communications and Surveillance the suggestion that he might wish to refer to the respective total numbers of telephone lines, facsimile lines and email accounts which had been intercepted, and Internet Protocol addresses under surveillance by law enforcement agencies.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for 4 July 2006 at 8:30 am to continue discussion with the Administration.

5. The meeting ended at 10:35 am.

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Friday, 30 June 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000130	Chairman	Opening remarks	
000131 - 000321	Admin	Briefing on the Administration's response in paragraphs 5 and 6 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))	
000322 - 001056	Hon LAU Kong-wah Hon Emily LAU Admin Chairman	Whether all cases would be reviewed by the Commissioner on Interception of Communications and Surveillance	
001057 - 001319	Admin	Briefing on the Administration's response in paragraphs 7 to 10 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
001320 - 004210	Hon LAU Kong-wah Hon Audrey EU Hon James TO Admin Chairman	Whether clause 55(6) could cover all grounds for discontinuing a prescribed authorisation; whether clause 55(6)(a) had already captured the grounds for discontinuing an operation arising from "mistakes", whether clause 55(6)(b) was necessary; setting out examples of "conditions for continuance not being met" in the code of practice or the Bill	Admin to reconsider whether clause 55(6)(a) had already captured the grounds for discontinuing an operation arising from "mistakes" and, if so, advise if clause 55(6)(b) was necessary; to consider setting out examples of "conditions for continuance not being met" in the code of practice or the Bill
004211 - 004505	Hon Emily LAU Hon Howard YOUNG Chairman Admin	Effect of code of practice	
004506 - 004547	Admin	Briefing on the Administration's response in paragraph 11 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
004548 - 011156	Hon James TO Hon Emily LAU Hon Howard YOUNG Chairman Admin	Whether a reviewing officer should be given the power to cancel an executive authorisation by applying the judicial review principles; whether products obtained prior to the discontinuation of an operation under clause 55 might be retained and used	Admin to consider whether a reviewing officer should be given the power to cancel an executive authorisation by applying the judicial review principles; to advise whether products obtained prior to the discontinuation of an operation under clause 55 might be retained and used
011157 - 011221	Admin	Briefing on the Administration's response in paragraph 12 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))	
011222 - 011556	Hon James TO Chairman Admin	Administration's response in paragraph 10 of the Administration's paper	
011557 - 011906	Hon Ronny TONG Chairman Admin	Whether the code of practice would be in the form of subsidiary legislation or internal guidelines	
011907 - 012009	Admin	Briefing on the Administration's response in paragraph 13 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01))	
012010 - 012848	Hon James TO Hon LAU Kong-wah Chairman Admin	Whether records on the number of telephone lines and Internet protocol addresses intercepted in a year should be kept by law enforcement agencies	

Time marker	Speaker	Subject(s)	Action Required
012849 - 013236	Hon Ronny TONG Admin Chairman	Whether the retention of records should be determined by the head of the department concerned	
013237 - 013804	Chairman Admin Hon Ronny TONG	Administration's response in paragraph 14 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2556/05-06(01)); amending the term "essential" in clause 58(6) as "material"	Admin to consider amending the term "essential" in clause 58(6) as "material"
013805 - 014356	Hon James TO Chairman Admin	Whether law enforcement agencies should provide information on the number of telephone lines and Internet protocol addresses intercepted in a year to the Commissioner on Interception of Communications and Surveillance	
014357 - 020203	Hon Ronny TONG Hon Margaret NG Chairman Admin	Making it clear in the Bill that clause 58(4) also applied to appeal proceedings	Admin to consider making it clear in the Bill that clause 58(4) also applied to appeal proceedings