

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)696/06-07
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Friday, 14 July 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)
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
Hon SIN Chung-kai, 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, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
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
Dr Hon LUI Ming-wah, SBS, JP

Hon Bernard CHAN, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS

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

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

Mr Ken WONG
Legislative Assistant (2) 8

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 -
 - (a) to consider setting out in the code of practice the safeguards of the mechanism for dealing with property intercepted in a postal interception;
 - (b) to consider adding ", whether physically or electronically," after "premises" in paragraph (b)(i) of the definition of "Type 2 surveillance";
 - (c) to provide the Committee Stage amendments to clause 65, having regard to the judgment delivered by the Court of Final Appeal (CFA) in *Koo Sze Yiu and Leung Kwok-hung v. Chief Executive of the Hong Kong Special Administrative Region* on 12 July 2006;
 - (d) to consider amending the proposed section 33(1) of the Telecommunications Ordinance (TO) (Cap. 106) along the lines of "For the purpose of execution of the prescribed authorisation, the Chief Executive may order the installation, provision or make available the facilities reasonably required for the execution"; and
 - (e) to provide further information, if any, on the provisions in section 33 of TO which had not been ruled unconstitutional by CFA.
3. The Administration advised that the requirement of setting out in an Affidavit the devices to be used and period of operation of the devices would be spelt out in the code of practice.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for the same afternoon to continue discussing Members' draft Committee Stage amendments.
5. The meeting ended at 1:00 pm.

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Friday, 14 July 2006, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000339	Chairman	Opening remarks	
000340 - 010858	Admin Hon LAU Kong-wah Hon James TO Hon Mrs Sophie LEUNG Hon Margaret NG Hon Emily LAU Hon Mrs Selina CHOW Hon Howard YOUNG Chairman SALA1	Paragraphs 13 to 15 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01)); discontinuance of an unauthorised operation; whether there were differences between the conditions referred to in clauses 31 and 55; interpretation of "as soon as reasonably practicable" in clause 55; implications of the the judgment delivered by the Court of Final Appeal (CFA) in <i>Koo Sze Yiu and Leung Kwok-hung v. Chief Executive of the Hong Kong Special Administrative Region</i> on 12 July 2006 (the CFA judgment)	
010859 - 011237	Admin Hon James TO Hon Emily LAU Chairman	Paragraphs 16 to 18 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01))	
011238 - 011558	Hon James TO Chairman Admin	Paragraph 19 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01))	

Time marker	Speaker	Subject(s)	Action Required
011559 - 013140	Admin Hon James TO Hon Emily LAU Chairman	Paragraph 20 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01)); whether the requirement of setting out the devices to be used and period of operation in an affidavit or affirmation would be set out in the code of practice; paragraphs 8, 9 and 10 of the mock-up provided by the Independent Commission Against Corruption	
013141 - 013613	Admin Hon James TO Chairman	Paragraphs 21 and 22 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01)); timing for publishing the enacted legislation in the Gazette	
013614 - 014157	Admin Hon James TO Chairman	Paragraphs 23 to 24 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01)); whether there would be sufficient manpower to destroy originals of telecommunications intercepts within one month	
014158 - 014959	Admin Hon Emily LAU Hon James TO Chairman	Paragraph 25 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2708/05-06(01)); safeguards of the mechanism for dealing with property intercepted in a postal interception operation	Admin to consider setting out in the code of practice the safeguards of the mechanism for dealing with property intercepted in a postal interception

Time marker	Speaker	Subject(s)	Action Required
015000 - 020127	Admin Hon James TO Chairman	Paragraphs 2, 3 and Annex A to the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2765/05-06(03)); examples of offences in existing legislation that attracted a maximum penalty of \$ 1 million and an imprisonment term of less than three years	
020128 - 020844	Admin Hon James TO Chairman	Paragraph 4 of the Administration's paper entitled "Response to issues raised" (LC Paper No. CB(2)2765/05-06(03))	
020845 - 021359	Hon James TO Chairman	Definition of "Type 2 surveillance" in clause 2(1)	Admin to consider adding ", whether physically or electronically," after "premises" in paragraph (b)(i) of the definition of "Type 2 surveillance"
Break			
023054 - 024629	Hon Ronny TONG Hon James TO Admin Chairman	Effect of the CFA judgment on clause 65	Admin to provide the draft Committee Stage amendments to clause 65, having regard to the CFA judgment
024630 - 025737	Hon James TO Chairman Admin	Validity period of an emergency authorisation	

Time marker	Speaker	Subject(s)	Action Required
025738 - 030545	Hon James TO Hon Margaret NG Hon Emily LAU Chairman Admin	Intent and effect of the proposed section 33(1) of the Telecommunications Ordinance (TO) in Schedule 5; provisions in section 33 of TO which had not been ruled unconstitutional by CFA	Admin to consider amending the proposed section 33(1) of TO along the lines of "For the purpose of execution of the prescribed authorisation, the Chief Executive may order the installation, provision or make available the facilities reasonably required for the execution"; to provide further information, if any, on the provisions in section 33 of TO which had not been ruled unconstitutional by CFA
030546 - 032100	Chairman Hon Margaret NG Hon James TO	Committee Stage amendments (CSAs) proposed by Hon Margaret NG; introduction of a sunset clause	
032101 - 035137	Hon Margaret NG Hon LAU Kong-wah Hon James TO Hon Mrs Selina CHOW Chairman	CSAs proposed by Hon Margaret NG to clause 2	
035138 - 035607	Hon Margaret NG Hon James TO	CSAs proposed by Hon Margaret NG to clause 3	
035608 - 041255	Hon Margaret NG Hon James TO Hon LAU Kong-wah Admin Chairman	CSAs proposed by Hon Margaret NG to clauses 4, 5, 6, 8 and Schedule 2	
041256 - 041532	Hon Margaret NG Hon Ronny TONG Chairman	CSAs proposed by Hon Margaret NG to clauses 9, 10, 11 and 12	

Time marker	Speaker	Subject(s)	Action Required
041533 - 042156	Hon Margaret NG Hon LAU Kong-wah Chairman	CSAs proposed by Hon Margaret NG to clauses 14, 15, 18, 20 and 21	
042157 - 042947	Hon Margaret NG Hon James TO Chairman	CSAs proposed by Hon Margaret NG to clauses 23, 24, 25, 27 and 28	
042948 - 043020	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
18 December 2006