

立法會
Legislative Council

LC Paper No. CB(2)1868/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 3 January 2012, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon James TO Kun-sun (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP

Members absent : Hon WONG Yung-kan, SBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHAN Hak-kan
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Public Officers attending : Item IV
Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr David LAU Kam-kuen
Principal Assistant Secretary for Security

Captain Michael CHAN Chi-pui, MBS, MBB, GMSM, AE
Controller
Government Flying Service

Mr Johnny YEE Lek-chun
Chief Aircraft Engineer (Acting)
Government Flying Service

Item V

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mr David LAU Kam-kuen
Principal Assistant Secretary for Security

Mr LIU Cheung-shing, CMSM
Assistant Commissioner (Boundary and Ports)
Customs and Excise Department

Mr LAM Chun-keung
Group Head (Marine Enforcement)
Customs and Excise Department

Mr YU Ying-wai
Senior Surveyor of Ships
Marine Department

Mr LEUNG Man-chiu
Senior Maintenance Manager
Marine Department

Item VI

Mr LAI Tung-kwok, SBS, IDSM, JP
Under Secretary for Security

Mrs Millie NG KIANG Mei-nei
Deputy Secretary for Security (Acting) /
Principal Assistant Secretary (Security) E

Ms Alice YEUNG Lai-shan
Assistant Secretary (Security) E2

Independent Commission Against Corruption

Mr Steven LAM Kin-ming
Assistant Director / 3
Operations Department

Mr KO Dale
Senior Principal Investigator / R Group

Mr James CHAN Ka-leung
Chief Investigator / R Group
Operations Department

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

Staff in attendance : Ms Connie FUNG
Senior Assistant Legal Adviser 1

Ms Rita LAI
Senior Council Secretary (2) 1

Mr Ian CHOW
Council Secretary (2) 1

Miss Lulu YEUNG
Clerical Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)686/11-12)

The minutes of the meeting held on 7 November 2011 were confirmed.

II. Information papers issued since the last meeting
(LC Paper Nos. CB(2)639/11-12(01), CB(2)674/11-12(01) and CB(2)685/11-12(01))

2. Members noted that the following papers had been issued since the

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last meeting -

- (a) information provided by the Administration on the safety of helicopters and its investigation into an accident on 3 July 2010 involving a helicopter operated by East Asia Airlines at Victoria Harbour;
- (b) information provided by the Administration on the fire which broke out at the hawkers stalls at Fa Yuen Street of Mong Kok in the early morning of 30 November 2011; and
- (c) response from the Independent Police Complaints Council on the progress of its investigation into the complaints regarding the Police's operations and security arrangements during the visit of Vice-Premier of the State Council, Mr LI Keqiang, to Hong Kong in August 2011.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)688/11-12(01) and (02))

Regular meeting in February 2012

3. Members agreed that the following items be discussed at the regular meeting at 2:30 pm on 7 February 2012 -

- (a) Development of asset management and maintenance system in Fire Services Department;
- (b) Report of the evaluation research on trial scheme on school drug testing in Tai Po district (School Year 2010-2011); and
- (c) Review of security arrangements during visits of political dignitaries to Hong Kong

Special meeting on 17 January 2012

4. The Chairman reminded members that a special meeting would be held on Tuesday, 17 January 2012 at 2:30 pm to receive the Commissioner of Police's briefing on the crime situation in 2011.

Immigration arrangements for Mainland single mothers visiting Hong Kong to take care of their children

5. Members noted that a referral (LC Paper No. CB(2)482/11-12(01)) from the Public Complaints Office regarding immigration arrangements for Mainland single mothers visiting Hong Kong to take care of their children who were permanent residents in Hong Kong had been circulated to members for information. At the meeting on 6 December 2011 when the Chairman informed members that the subject could be discussed by the Panel, no member suggested discussing the subject at a Panel meeting.

6. The Chairman reminded members that the Subcommittee to Study Issues Relating to Mainland - HKSAR Families had scheduled to discuss the subject at its meeting on 10 January 2012 at 2:30 pm and members of the Panel on Security had been invited to join the discussion of the item.

IV. Creation of a new rank of Assistant Aircraft Engineer in the Engineering Section of the Government Flying Service

(LC Paper No. CB(2)688/11-12(03))

7. Under Secretary for Security ("US for S") and Controller of Government Flying Service ("Contr(GFS)") briefed members on the proposal to create a new rank of Assistant Aircraft Engineer ("AAE") in the Engineering Section of the Government Flying Service ("GFS") as detailed in the Administration's paper.

8. Ms Audrey EU sought information on the remuneration package for the rank of AAE and asked whether it would be a local or overseas recruitment exercise. Contr(GFS) said that reference would be made to the remuneration of other professional ranks, including that for assistant engineers in the Government and a recommendation would be made to the Civil Service Bureau ("CSB"). Consultation would be further conducted with CSB and the Standing Committee on Disciplined Services Salaries and Conditions of Service in respect of the remuneration package. Given special job factors in relation to its being a disciplined services rank and the entry pay for jobs requiring similar qualifications and experience in the private aviation sector, it was planned that the monthly salary would be set within the range from \$30,000 to \$40,000. Regarding the recruitment exercise, priority would be given to local candidates and it was understood that there were suitable candidates in the aviation field to fill the post.

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9. In respect of the planned recruitment of local candidates to fill the post, Ms Audrey EU further asked whether it would be an internal promotion opportunity for staff of GFS or an external recruitment from the private aviation field. Contr(GFS) said that there should be suitable candidates in both the private aviation field and within the Government. In the past years, a number of Aircraft Technicians ("ATs") in GFS who possessed the relevant entry requirements and management experience had been appointed to the rank of AE. In principle, priority would be given to internal promotion of staff before external recruitment was conducted.

10. In response to the enquiry of Ms Audrey EU about the relevant years of experience required for AAE, Contr(GFS) replied that the target applicants would be required to possess a licence for aircraft maintenance and two years of relevant experience in aircraft maintenance.

11. Referring to consideration of other alternatives as given in paragraph 13 of the Administration's paper, Mr IP Kwok-him sought clarification on the strong resistance expressed by members of the AT grade. Contr(GFS) explained that one of the alternative proposals recommended by the last Grade Structure Review was to restructure the AT grade by reallocating some of the certification duties from AEs to ATs. During the rounds of staff consultation, members of the AT grade expressed resistance to the substantial changes to the job responsibilities. In addition, some ATs were concerned about the difficulties in obtaining the relevant statutory professional qualifications required for AEs. Taking into account staff sentiments and the importance of having personnel possessed with the required statutory professional qualification for handling certification work, the proposal had been suspended.

12. The Chairman enquired whether certification of safety was the major difference in the job requirements between an AE and an AT. Contr(GFS) replied in the affirmative. He added that AEs were accountable for the work undertaken by ATs and were ultimately responsible for safety matters.

13. In response to the Chairman's enquiry about the salary range for a Chief AT, Contr(GFS) said that it was between \$39,500 and \$61,700. The Chairman held the view that some experienced ATs would prefer to stay at the existing AT grade rather than be promoted to the AE grade as AEs were required to shoulder more responsibilities. In respect of priority given to internal promotion, the Chairman further asked whether there would be suitable young candidates in GFS to fill the post. Contr(GFS) replied in the affirmative.

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14. Dr PAN Pey-chyou sought clarification on whether open recruitment for AEs would still be conducted if the proposal on creating a new rank of AAE was approved. Contr(GFS) responded that open recruitment for AEs would be discontinued following the implementation of the proposal of creating a new rank of AAE, except for in-service appointment of qualified AT grade officers to the AE rank. GFS would further liaise with CSB in respect of such in-service appointment to be specified in the proposal.

15. Given that manpower for civil aviation and maintenance needed to be recruited from other countries, Dr PAN Pey-chyou expressed concern about the replacement of ATs if some ATs would be internally appointed to the rank of AE. Contr(GFS) informed members that the entry qualifications for an AT were relatively lower and currently there were relevant programmes offered by tertiary institutions in Hong Kong. It was believed that there should be no problem in filling AT posts.

16. The Chairman concluded that members of the Panel supported in principle the submission by the Administration of the proposal to the Establishment Subcommittee for consideration.

V. Replacement of one high speed pursuit craft of the Customs and Excise Department

(LC Paper Nos. CB(2)688/11-12(04) and (05))

17. US for S briefed members on the proposal by the Customs and Excise Department ("C&ED") to replace one High Speed Pursuit Craft ("HSPC") as detailed in the Administration's paper.

18. The Chairman asked about the grounding of a HSPC in October 2010. Assistant Commissioner (Boundary and Ports) ("AC(BP")) of C&ED said that in the night of the accident, C&ED carried out an anti-smuggling operation in accordance with intelligence and during which the accident took place when a HSPC grounded in a narrow waterway near Town Island, Sai Kung. According to the findings of investigation, the major cause of the incident was unfavourable weather conditions for navigation at that time, including total lunar eclipse, extreme darkness at sea, rapidly-changing wind condition and heavy swell, rain and very low tide, hence lowering the visibility, making the waterway shallower and narrower than normal, and making it difficult for the HSPC to maintain a stable course. Consequently, the HSPC deviated from the navigation course and was grounded.

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19. The Chairman considered that the unfavourable weather and conditions should have been made known to the officers concerned when the operation was launched near Town Island and the HSPC should be operated by experienced operators. He queried whether human error was involved in the incident or it was solely because of the bad weather conditions. It was understood that the HSPC was not in a speedy pursuit operation. He was of the view that a review of the incident should be conducted.

20. AC(BP) responded that the Crew Commander and Coxswain concerned were experienced officers. However, according to the results of the investigation, it was found that the Crew Commander should partly be responsible for the incident because of his negligence. In this regard, C&ED had administered a verbal warning to the Crew Commander and counselled the Coxswain.

21. The Chairman requested the Administration to provide information on the cause and investigation of the HSPC grounded in October 2010.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)897/11-12 on 27 January 2012.)

22. Mr IP Kwok-him referred to the proposed replacement HSPC with stronger and more stable hull made of aluminium alloy and a higher navigating speed. He sought information on the comparison between the existing and the new HPSC in terms of reliability in discharging duties and the disposal of the existing HPSC when the new one was in service.

23. AC(BP) said that the new HPSC would differ from the existing one in the navigating speed and the material for the hull. The speed of the proposed new HPSC would reach 55 knots, which was higher than the 49 knots of the existing HPSC. The hull of the new HSPC would be made of aluminium alloy, which was stronger and more stable than the existing fibre hull. Regarding the disposal of the existing HPSC, its parts would be used for the other three HPSCs.

24. Mr IP Kwok-him further asked about the comparison of the impact on the hull of a vessel made of aluminium alloy and that of another one made of fibre, and also the price difference of the two vessels. Senior Surveyor of Ships ("SS/S") of the Marine Department ("MD") responded that aluminium alloy was harder than fibre hull which was made of a combination of different materials, including fibre cloth and plastic resin. In the event of hitting submerged rock, the fibre hull would be badly

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damaged and it would be difficult to repair. Comparatively, the degree of damage to aluminium alloy hull would be less severe and it would be easier to repair and maintain. Regarding the price difference, AC(BP) advised that the cost of the existing HPSC was \$8 million when it was purchased in 2003 and that the proposed new HPSC would cost \$17.05 million.

25. Given the different and advanced specifications of the proposed new HPSC as compared with the other three HPSCs, Dr PAN Pey-chyou expressed concern about the maintenance of the proposed new HPSC. Senior Maintenance Manager of MD assured members that parts for the vessel would be available in the market.

26. Regarding the construction of the new vessel, Dr PAN Pey-chyou asked about the cost and whether specifications would be given by C&ED to the manufacturer or a ready-made vessel would be purchased. SS/S replied that the cost was an estimate with reference to the market price. Vessels with the required specifications were available in the market and the procurement would be made through open tender.

27. Ms Cyd HO expressed concern about the training to be provided to the operators after the purchase of the new HPSC so as to prevent the recurrence of the incident. AC(BP) responded that training on operation of the new HPSC would be included in the tender document as a requirement and internal regular training would also be provided by C&ED. In particular, arrangement would be made for site inspections and drills for officers at night of black spots in Hong Kong waters on the environmental conditions similar to those encountered during the incident. Ms HO requested the Administration to include information on training in its paper to the Finance Committee.

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(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)897/11-12 on 27 January 2012.)

28. The Chairman concluded that members of the Panel supported in principle the submission by the Administration of the proposal to the Finance Committee for consideration.

VI. Results of study of matters raised in the Annual Report 2010 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance

(LC Paper Nos. CB(2)419/11-12(01), CB(2)496/11-12(01) to (02), CB(2)655/11-12(01), CB(2)688/11-12(06) to (07) and FS12/11-12)

29. US for S briefed members on the supplementary information related to matters raised in the Annual Report 2010 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance ("the Commissioner") as detailed in the Administration's paper.

30. Dr Philip WONG enquired about the legal liability and the penalty imposed on the Commissioner and his staff for unauthorized disclosure of information relating to data privacy or subject to legal professional privilege ("LPP"). Given that the power to listen to intercept products was not granted to similar supervisory authorities in other common law jurisdictions, he asked whether it was necessary for the Administration to consult these jurisdictions and understand the rationale behind for not doing so.

31. US for S responded that there was no precedent in overseas jurisdictions in respect of empowering similar supervisory authorities to listen to intercept products. In the process of consultation, there were concerns about whether a mechanism and procedures would be put in place, similar to those regulating the conduct of the officers concerned in the law enforcement agencies ("LEAs"), to ensure the confidentiality of the information if the Commissioner and his staff were allowed to listen to the intercept products. US for S said that the Administration needed to strike a balance. While supporting the Commissioner's discharge of duties under the Interception of Communications and Surveillance Ordinance ("ICSO"), it was necessary to put in place a mechanism to ensure the confidentiality of the information in view of its sensitive nature.

32. US for S further said that officers of LEAs were subject to laws related to disciplined forces. Besides, internal disciplinary action would be taken against staff of LEAs who were found to be in breach of internal guidelines and this would be recorded in the personal file of the staff concerned. Criminal liability was not covered in ICSO. However, if an officer of LEAs intentionally intercept communications or conduct covert surveillance without obtaining prior authorization, he might commit the offence of misconduct in public office under the common law, and would

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be liable to conviction. This would apply to all public officers, including the Commissioner and his staff.

33. Ms Emily LAU expressed support for the Panel Chairman to move a motion for debate on the Commissioner's Annual Report 2010 at the Council meeting of 18 January 2012. Given the sensitivity of intercept products, she considered it appropriate to implement regulatory measures if the Commissioner and his staff were empowered to listen to intercept products in their discharge of the duties of overseeing the compliance of LEAs with the requirements of ICSO. Referring to the consultation being conducted by the Administration on the legislative proposals, Ms LAU enquired who the stakeholders were and whether other related issues would be covered in the consultation exercise.

34. Principal Assistant Secretary (Security) ("PAS(S)) advised that the Administration had consulted the key stakeholders, including panel judges, the two legal professional bodies, law faculties of local universities, journalist associations, the Privacy Commissioner for Personal Data on the legislative proposals in the first round of the consultation in respect of the comprehensive review of ICSO. Also, views from a human rights group had been received. The scope of the ICSO review had been presented to members at the Panel meeting in July 2011. The second round of consultation with the same stakeholders was being conducted on the legislative proposals, including the two latest legislative amendments recommended by the Commissioner in the Annual Report 2010. As the issues involved in the review were professional in nature, in particular those related to LPP, it would be more appropriate for the Administration to consider the professional views of the key stakeholders first. The Administration would then consolidate all the views and come up with the legislative proposals.

35. Ms Emily LAU held the view that the Administration should also consult the public on the legislative proposals. She enquired when the Administration would revert to the Panel its legislative proposals.

36. US for S said that the Administration would welcome views from any members of the public and would submit its legislative proposals to the Panel in the first half of 2012 upon completion of the consultation and consideration of all the views received.

37. The Chairman expressed the following views -

- (a) referring to paragraph 5 of the Administration's paper concerning a possibility that LEAs might inadvertently

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obtain information subject to LPP during an authorized interception operation which was carried out for the purpose of preventing or detecting serious crime or protecting public security, there would also be cases that LEAs deliberately obtained such information;

- (b) it was necessary to implement the recommendations of the Commissioner so as to safeguard people's right to confidential legal advice guaranteed by Article 35 of the Basic Law; and
- (c) criminal liability for misconduct in public office was insufficient to safeguard the privacy of individuals' personal data. A provision imposing criminal liability on unauthorized disclosure of intercept products by officers who had accessed such information should be included in ICSO. Such provision would apply to both the Commissioner and his staff and officers of LEAs concerned.

38. US for S responded that LEAs enforced the law in good faith and they would not seek to access the LPP information intentionally. There were stringent requirements in ICSO and its Code of Practice to safeguard the confidentiality of intercept products. LEAs were required to notify the panel judges when operations would involve or would likely involve LPP information. Cases in which information subject to LPP might be obtained as well as those assessed to have the likelihood of obtaining such information would have to be reported to the Commissioner. Over the years, the Commissioner had reviewed cases and did not find anything that indicated deliberate non-compliance with the statutory provisions or the law by LEAs.

39. The Chairman said that severe remarks had been used by the Commissioner in his annual reports to reflect his queries and doubts in his review of cases, including the destruction of information and delay in response. Ms Audrey EU shared a similar view. Referring to paragraph 6 of the Administration's paper, Ms EU pointed out that there were many loopholes in ICSO and there was a lack of power for the Commissioner to verify cases of non-compliance. It would be misleading to claim that there was no problem about LEAs' compliance with the statutory requirements.

40. The Chairman considered it essential to empower the Commissioner to listen to intercept products so as to protect personal privacy. The Administration's delay in implementing legislative

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amendments to ICSO had protected LEAs from being overseen by the Commissioner in their compliance with the requirements of ICSO.

41. Dr Margaret NG considered it inappropriate to make reference to the Canadian Court Case ("the Canadian Case") in which the Supreme Court of Canada pointed out that the Privacy Commissioner was not an adjudicator and did not have the power to compel the production of documents over which LPP was claimed. Dr NG pointed out that the relevant oversight and review functions in the United States and the United Kingdom were performed by the judicial authorities.

42. Referring to paragraphs 13 and 14 of the submission of the Hong Kong Bar Association ("the BAR") on the review of ICSO, Dr Margaret NG pointed out the BAR's view that by necessary implication, section 53 already gave the power to the Commissioner to obtain from LEAs the intercept products of possible communications that might be covered by LPP or journalistic material and to listen to them. In order to satisfy himself that there had been no breach of ICSO, the Commissioner had to be able to listen to intercept products. Yet, she understood that in order to avoid possible arguments, the Commissioner preferred enactment of relevant legislative amendments before he listened to the intercept products again. She urged the Administration to expedite the introduction of the legislative amendments. Dr NG further enquired when the Administration would provide its response to other recommendations and comments made by the BAR in its submission. These included issues concerning criminal liability for unauthorized access to intercept products and the overuse of ICSO as compared with other jurisdictions, and the low threshold for issuance of prescribed authorizations by panel judges resulting in large number of such authorizations issued as detailed in paragraphs 61 to 69 of the BAR's submission.

43. US for S pointed out that it was the preference of the Commissioner to have the enactment of relevant legislative amendments so as to give express power to him and his staff to listen to intercept products. Besides, the BAR considered it feasible to introduce legislative amendments.

44. Regarding the comment on the overuse of interception of communications as compared with overseas jurisdictions, US for S said that there were stringent requirements under ICSO that LEAs needed to follow when applying to panel judges for carrying out interception. The panel judges would consider the applications in accordance with the prescribed conditions and had to be satisfied that the proportionality and

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necessity tests were met before issuing the authorizations. Additional conditions would be imposed as necessary. The Commissioner had indicated in his report that he was satisfied that the panel judges had adopted a stringent attitude to perform their duties. The number of prescribed applications approved would depend on the need for the LEAs to enforce the law based on the empowerment of the Ordinance. LEAs complied with the statutory requirements in the enforcement of law and a balance had been struck. Regarding the legislative proposals, they would focus on the recommendations of the Commissioner, apart from those which had been addressed through administrative means as far as possible. If time permitted, the other recommendations of the BAR would also be considered.

45. Ms Audrey EU expressed disappointment about the response of the Administration to the recommendations for legislative proposals and the long period of time required for conducting the review of ICSO. She recalled that members had requested the incorporation of a "sunset clause" in ICSO when it was enacted in 2006 so as to cater for a review of the Ordinance as soon as possible. Ms EU pointed out that the Administration had not provided information on the interim administrative measures to enable the Commissioner to listen to intercept products and enquired about the outcome of seeking legal advice on such measures. Regarding the consultation with the stakeholders on the legislative proposals, she held the view that the Administration should clearly state its preliminary standpoint and provide more details for focused consideration by the stakeholders, including the pros and cons for different areas of concerns. She further enquired whether a consultation document would be issued by the Administration and the details for conducting the consultation, including when the consultation document would be issued and the duration of consultation.

46. US for S said that the Administration had briefed members on the scope of ICSO review at the Panel meeting in July 2011 and members had discussed the subject. Subsequently, letters had been sent to the key stakeholders to solicit their views as mentioned in paragraph 6 above. While there would always be room for review of any ordinance, US for S advised that the review of ICSO would first focus on those recommended by the Commissioner which were believed to be the major concerns of members.

47. Ms Cyd HO considered that the Administration's consultation with the key stakeholders on the subject was insufficient and members of the public should also be consulted. She recalled the hasty enactment of ICSO in 2006 with veto of some 190 proposed amendments because of

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the urgent need for a statutory regime for the conduct of interception of communications and covert surveillance by LEAs. Ms HO requested the Secretariat to prepare a summary of Members' proposed amendments to the Interception of Communications and Surveillance Bill. The Chairman said that the relevant information would be provided to members before 18 January 2012 as far as possible.

(Post-meeting note: A summary of the Committee State amendments proposed by Members to the Interception of Communications and Surveillance Bill in 2006 was circulated to members vide LC Paper No. CB(2)835/11-12 on 16 January 2012.)

48. Ms Cyd HO suggested that a public hearing might be held. To facilitate deputations to give views on the review of ICSO, she asked the Secretariat to compile a summary of the deficiencies identified by the Commissioner in his annual reports, and the measures taken by the Administration to respond to these deficiencies if the Administration did not provide such information.

49. US for S said that the Commissioner had clearly stated in each of his annual reports his recommendations as well as how the Administration had responded to his recommendations. The Commissioner was required by the law to make available an annual report so as to inform the public of the implementation of ICSO under the oversight of the Commissioner. It was followed by a press conference and open discussion by the Panel at its meeting.

50. Ms Cyd HO pointed out that the recommendations of the Commissioner had not been followed up properly and seriously by the Administration.

51. Apart from the Commissioner's recommendation for empowering him and his staff to listen to intercept products, Mr Paul TSE enquired whether there were other areas requiring immediate legislative amendments. Referring to the opinion of the BAR that by necessary implication the Commissioner had been given the power under section 53 of ICSO to listen to intercept products, Mr TSE queried whether the Commissioner was too cautious and sensitive not to act accordingly, and whether the Administration concurred with the BAR's view. He was of the view that some administrative measures could be taken immediately to address the issue.

52. US for S responded that the Administration had no objection in principle to the Commissioner's proposal for listening to intercept

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products in discharging his duties under ICSO. The Administration had informed the Commissioner of the Canadian Case for his reference. The Commissioner then decided not to listen to the recordings of the intercept products, pending the legislative amendments to expressly empower him to do so. At the request of the Commissioner, all intercept products and related records had been preserved for handling at a later stage. To his knowledge, the Commissioner was most concerned about the granting of power to him to listen to intercept products.

53. PAS(S) said that the scope of the ICSO review had been presented to members at the Panel meeting in July 2011 and the Commissioner had been consulted. Apart from the proposal of providing the Commissioner with the power to listen to intercept products, another major concern mentioned in the Commissioner's reports was the time gap between the revocation of the prescribed authorization and the actual discontinuance of the operation as this might cause technical non-compliance. The Commissioner once said in this press briefing that he considered that priority should be accorded to dealing with these two issues. US for S added that following the second round of consultation, the Administration would report to the Panel on its legislative proposals, including the handling of these two issues.

54. The Chairman referred members to the suggestion of the Deputy Chairman to further discuss the date of the Council meeting at which the motion to note the Commissioner's Annual Report 2010 was to be moved. As the Deputy Chairman was not present at the meeting, the Chairman assumed that there was no objection from the Deputy Chairman to the moving of the motion debate at the Council meeting of 18 January 2012. Members raised no objection to the date of the motion debate.

55. The meeting ended at 4:25 pm.