

立法會
Legislative Council

LC Paper No. CB(1)2043/99-00
(These minutes have been seen
by the Administration and
cleared with the Chairman)

Ref : CB1/BC/19/98/2

**Bills Committee on
Electronic Transactions Bill**

**Minutes of the tenth meeting
held on Friday, 10 December 1999 at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Chairman)
Hon David CHU Yu-lin
Hon Ronald ARCULLI, JP
Hon MA Fung-kwok
Hon CHAN Kwok-keung
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Hon FUNG Chi-kin

Member absent : Hon Eric LI Ka-cheung, JP

Public officers attending : **Information Technology and Broadcasting Bureau**

Mrs Jessie TING
Deputy Secretary for Information Technology and
Broadcasting

Mr Alan SIU
Principal Assistant Secretary

Department of Justice

Mrs N DISSANAYAKE
Senior Assistant Law Draftsman

Information Technology Services Department

Mr Stephen MAK
Assistant Director (Infrastructure Services)

Mr H C PANG
Senior Systems Manager

Efficiency Unit

Mr W F YUK
Assistant Director (Special Duties)

Hongkong Post

Mr Michael CHUNG
Senior Manager, Electronic Services

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Mr Matthew LOO
Senior Assistant Secretary (1)7

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I. Discussion on the Administration's response

(LC Paper No. CB(1)559/99-00(01) — Letter dated 3 December 1999 from the Chairman of the Bills Committee to the Administration

LC Paper No. CB(1)559/99-00(02) — Administration's response to the Chairman's letter

LC Paper No. CB(1)559/99-00(03) — E-mail dated 7 December 1999 from Mr Charles LAM

LC Paper No. CB(1)559/99-00(04) — Administration's response to Mr Charles LAM's e-mail)

Administration's response to the Chairman's letter

At the Chairman's invitation, Deputy Secretary for Information Technology and Broadcasting (DSITB) briefed members on the Administration's response to the Chairman's letter dated 3 December 1999.

2. On the appeal mechanism under clause 27, the Chairman suggested that the appeal procedures be stipulated in the Code of Practice. DSITB undertook to consider the Chairman's suggestion.

3. On the proposed membership of the Advisory Committee on Code of Practice for Recognized Certification Authorities, Mr MA Fung-kwok noted that the Advisory Committee comprised "selected representatives" of recognized certification authorities (CAs), of business users of certification services, and of other related bodies. In response to Mr MA's enquiry, DSITB advised that the selected representatives would be appointed by the Director of Information Technology Services (DITS). At the suggestion of the Chairman, DSITB undertook to amend the Chinese version of the term "selected representatives" to reflect its meaning more clearly.

Administration's response to Mr Charles LAM's e-mail

4. Responding to the Chairman, DSITB advised that in considering appropriate amendments to be made to the Code of Practice in future, the Administration would consult the Advisory Committee and the public.

II. Discussion on the draft Committee Stage amendments

(LC Paper No. CB(1)559/99-00(05) — Committee Stage amendments to be moved by the Administration (Fourth draft)

LC Paper No. CB(1)559/99-00(06) — Summary of Committee Stage amendments prepared by the Legislative Council Secretariat)

5. At the Chairman's invitation, DSITB briefed members on the fourth draft of the proposed Committee Stage amendments (CSAs) to be moved by the Administration.

Commencement date of the Bill

6. Responding to Mr Ronald ARCULLI, DSITB advised that the Administration proposed to move CSAs to clause 1 to the effect that those provisions the operation of which did not have to rely on subsidiary legislation should come into operation at the beginning of the day on which the Electronic Transactions Ordinance was published in the Gazette, and that the remaining provisions should come into operation on a day to

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be appointed by the Secretary for Information Technology and Broadcasting (SITB). This would enable the Administration to bring into effect as early as possible those provisions which enhanced certainty in the use of electronic records in contract formation and those which related to the provision of certification services by the Hongkong Post. At the request of Mr ARCULLI, DSITB undertook to provide a paper to explain the proposed CSAs to clause 1 in detail.

(Post-meeting note : The Administration's paper was circulated to members vide LC Paper No. CB(1)597/99-00 on 13 December 1999.)

Particulars and documents to be furnished by CAs applying for recognition

7. Mr Ronald ARCULLI was concerned that the drafting of the proposed new subclause (3)(a) of clause 19 could imply that DITS would require different applicants to furnish different particulars and documents. At the suggestion of Mr ARCULLI, DSITB undertook to amend clause 19(3)(a) and the relevant clauses (such as clauses 21(1A) and 26(2)) to the effect that DITS must specify by notice in the Gazette the particulars and documents to be furnished by an applicant.

Appeal mechanism

8. As regards the appeal mechanism under clause 27, members considered that the appellant should be given the opportunity to make oral representations to SITB. In response, DSITB advised that the Administration did not consider it necessary to make such an arrangement as the appellant concerned might state the grounds of his appeal in writing. Nevertheless, the Administration would review the appeal mechanism 18 months after the enactment of the Electronic Transactions Ordinance.

Recognized certificates

9. Mr Ronald ARCULLI and Mr MA Fung-kwok were concerned that as a recognized CA might issue recognized or unrecognized certificates, consumers might not be able to differentiate between the two. To address members' concern, DSITB agreed to keep the situation under review in the light of operational experience to see if this gave rise to any problems and if so, to see how the situation could be improved.

10. Responding to the Chairman, DSITB undertook to provide the revised draft CSAs for the consideration of the Bills Committee as soon as possible.

(Post-meeting note : The revised draft CSAs were circulated to members vide LC Paper No. CB(1)601/99-00 on 14 December 1999.)

III. Discussion on the revised draft Code of Practice

(LC Paper No. CB(1)559/99-00(07) — Revised draft Code of Practice

LC Paper No. CB(1)443/99-00(05) — Paper provided by the Administration on "Comments Received in the Public Consultation Exercise on the Draft Code of Practice for Recognized Certification Authorities")

11. DSITB briefed members on the revised draft Code of Practice. Members were pleased to note that the Administration had revised the draft Code and substantially expanded its contents in the light of major comments received during the consultation period, including those from the Bills Committee.

12. On the qualifications of the person to prepare the report under clause 19(3)(b)(ii), the Chairman noted that section 12.2 of the Code of Practice provided that ".....Certified Public Accountantswho are supported by technical expertise in IT as necessary, are considered acceptable for approval by the Director as the person to prepare the report." He considered that the person should have expertise in both accounting and information technology and therefore, it was inappropriate to use the words "supported by" in section 12.2 of the Code. DSITB advised that the detailed qualifications of the person were stipulated in Annex 3 to the Code. Nevertheless, she undertook to make suitable amendments to section 12.2 of the Code.

13. At the request of members, DSITB agreed to further revise the draft Code of Practice to include the procedure for application to DITS for recognition, the appeal procedures, and the terms of reference and composition of the advisory committee.

IV. Any other business

Regulations

14. DSITB advised that the regulations to be issued under clause 44 of the Bill were still in the drafting stage.

Resumption of Second Reading debate

15. The Chairman advised that subject to the revised draft CSAs being in order, the Bills Committee would report its deliberations to the House Committee on 17 December 1999, recommending the resumption of the Second Reading debate on the Bill on 5 January 2000. The deadline for giving notice of CSAs was 22 December 1999.

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(Post-meeting note : The Electronic Transactions Bill (with CSAs) and the amendment to the Post Office Trading Fund Resolution (Cap. 430 sub. leg.) were passed by the Legislative Council on 5 January and 12 January 2000 respectively.)

16. There being no other business, the meeting ended at 5:10 pm.

Legislative Council Secretariat
12 September 2000