

立法會
Legislative Council

LC Paper No. CB(1)2041/99-00
(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 eighth meeting
held on Monday, 29 November 1999 at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Chairman)
Hon David CHU Yu-lin
Hon Eric LI Ka-cheung, JP
Hon Ronald ARCULLI, JP
Hon MA Fung-kwok
Hon CHAN Kwok-keung
Hon Howard YOUNG, JP

Members absent : Hon Jasper TSANG Yok-sing, JP
Hon FUNG Chi-kin

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

Miss Leonora IP
Government Counsel

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. Matter arising from the fifth meeting

(LC Paper No. CB(1)465/99-00(01) — Paper provided by the Administration to address an outstanding issue raised by members at the fifth meeting)

At the Chairman's invitation, Deputy Secretary for Information Technology and Broadcasting (DSITB) briefed members on the Administration's paper to address the Bills Committee's concern about the scope of application of the Electronic Transactions Bill (the Bill) provided in clause 4, and the proposed Committee Stage amendment (CSA) to the clause. Members supported the proposed amendment.

II. Matters arising from the seventh meeting

(LC Paper No. CB(1)465/99-00(02) — Paper provided by the Administration to address the issues raised by members at the seventh meeting

LC Paper No. CB(1)465/99-00(03) — Administration's response to the third submission from the Hong Kong Institution of Engineers (IT Division))

2. DSITB briefed members on the Administration's response to the issues raised by members at the seventh meeting held on 26 November 1999, and to the third submission from the Hong Kong Institution of Engineers (IT Division).

III. Discussion on the draft Committee Stage amendments

(LC Paper No. CB(1)465/99-00(04) — Committee Stage amendments to be moved by the Administration (Second draft)

LC Paper No. CB(1)465/99-00(05) — Explanatory notes on the draft Committee Stage amendments (Revised)

LC Paper No. CB(1)465/99-00(06) — Summary of Committee Stage amendments prepared by the Legislative Council Secretariat)

3. DSITB briefed members on the second draft of the CSAs proposed by the Administration.

4. Mr Ronald ARCULLI supported the proposed CSA to the definition of "accept a certificate" in clause 2 in principle. However, he considered that the newly added words "uses the certificate" should be provided in a new paragraph, instead of paragraph (b), of the definition. Senior Assistant Law Draftsman (SALD) undertook to revise the drafting of clause 2 accordingly.

5. At the suggestion of Mr Ronald ARCULLI, DSITB undertook to refine the drafting of the new subclauses (5) and (6) of clause 25 to the effect that subclause (5) would deal with the revocation or suspension of the recognition of a certification authority (CA), and subclause (6) the revocation or suspension of the recognition of a certificate.

6. Mr Ronald ARCULLI noted that under clauses 22(6) and 23(4), a revocation or suspension of recognition took effect on the expiry of 7 days from the date on which the notice of revocation or suspension was served on the CA, and that under clause 27(1), a CA aggrieved by a decision of the Director of Information Technology Services (DITS) might appeal to the Secretary for Information Technology and

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Broadcasting (SITB) against the decision within 7 days of the date on which the notice of the decision was served on the CA. Mr ARCULLI also noted that the Administration proposed to add the new clause 27A to provide that the notice was taken to have been given if it was sent by post or registered post to the last known address of the person concerned. To be fair to the CA concerned, Mr ARCULLI considered that the notice should be sent to the CA concerned promptly by electronic means. He also suggested that "the date on which the notice of the decision was served on the CA" be replaced by "the date on which the decision was made". Other members supported Mr ARCULLI's views. The Chairman pointed out that the new clause 27C(1) should be amended accordingly. DSITB undertook to consider making the appropriate amendments.

7. In response to Mr Ronald ARCULLI's enquiry on the meaning of "any other function under this Ordinance" in the proposed CSA to clause 46(2), SALD undertook to refine the drafting of the subclause to improve its clarity.

IV. Discussion on the draft Code of Practice

(LC Paper No. CB(1)230/99-00(03) — Consultation on the Draft Code of Practice for Recognized Certification Authorities

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")

8. DSITB and Assistant Director (Infrastructure Services) of the Information Technology Services Department (AD(IS)/ITSD) briefed members on the proposed amendments to the draft Code of Practice in response to comments received during the consultation period.

9. In response to the enquiries of Mr Eric LI and Mr Ronald ARCULLI, AD(IS)/ITSD advised that the guidelines on "trustworthy system" to be used by a recognized CA in performing its services would be incorporated into the Code of Practice.

10. Members stressed the need for the Administration to monitor the implementation of the Code of Practice and to consult the Legislative Council and the industry on any amendment to be made to the Code in future. The Chairman, Mr Ronald ARCULLI and Mr Eric LI were of the view that the Code of Practice should be included in clause 44 to the effect that it was subsidiary legislation subject to negative vetting of the Legislative Council. DSITB advised that the Administration did not consider it appropriate to do so as the Code only specified standards and procedures for recognized CAs to follow, but not statutory requirements for a professional

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qualification. Mr Ronald ARCULLI maintained his view that the Code should be subsidiary legislation. Other members suggested that an advisory committee be set up to oversee the implementation of the Code and to consider appropriate amendments to be made in the light of operational experience. DSITB undertook to consider the suggestion.

V. Any other business

Way forward

11. DSITB advised that the Administration proposed that the Second Reading debate on the Bill be resumed on 15 December 1999, so that the legal framework for conducting commercial and other transactions by electronic communication in Hong Kong could be put in place before the end of 1999. The Chairman advised that if the Administration's proposal was adopted, the Bills Committee would have to report its deliberations to the House Committee on 3 December 1999 and the deadline for giving notice of CSAs was 6 December 1999. Mr Ronald ARCULLI considered the schedule too tight, having regard to the fact that the Bills Committee needed more time to scrutinize the revised English version of the draft CSAs and the Chinese version of the draft.

12. At the suggestion of the Chairman, members agreed that the ninth meeting of the Bills Committee be held on Tuesday, 30 November 1999 at 2:00 pm to discuss the revised draft CSAs and the way forward.

(Post-meeting note : The third draft of CSAs was tabled at the ninth meeting of the Bills Committee and then circulated to members vide LC Paper No. CB(1)483/99-00(01) on 30 November 1999.)

13. There being no other business, the meeting ended at 6:45 pm.

Legislative Council Secretariat
12 September 2000