

**Response to Comments**  
**made by Mr Damien Wong by e-mail of 15 November 1999**

**Item 1**

- We do not consider it necessary to require by law organisations which make use of electronic means in contract formation to also provide the option of using paper-based records in contract formation. This is a matter for the transacting parties to decide amongst themselves.
- The Electronic Transactions Bill seeks to give legal recognition to the use of electronic records. It does not in any way mandate the use of electronic records in contract formation. This ensures that the contracting parties are free under common law to form contracts in a manner to be decided by themselves.

**Item 2**

- We do not consider that, for certain industries or types of transactions, there should be a legal requirement that the transacting parties have to file a paper contract at a later stage after a contract is formed with the use of electronic records. This will otherwise defeat the objective of the Electronic Transactions Bill to give legal recognition to electronic records. It is contingent upon the transacting parties to ensure that their records, whether physical or electronic, are well maintained for future reference.
- The use of digital signature will help to ensure the integrity of electronic communication and thus avoid mismatch of documents kept by the transacting parties.
- It is generally recognised that public/private key technology is an effective means to address common security concerns about electronic transactions. We consider that there is sufficient assurance about the trustworthiness of this technology for digital signatures generated with

the use of this technology to be legally recognised.

### **Item 3**

- The Electronic Transactions Bill is not intended to safeguard the trustworthiness of individual web sites or companies engaging in electronic commerce.
- The adoption of public key technology can help the customers to authenticate the identity of the companies which operate the web sites. The customers may choose only to deal with companies which authenticate their identity through the presentation of a digital certificate. The customers can also decide whether the digital certificate presented is trustworthy enough for acceptance by examining the reputation of the certification authority which issues the certificate, the security level of the certificate, etc.

### **Item 4**

- The Government has no plan, nor do we see the need, to audit the computer software, hardware or online services available in the market. Companies and individuals should be responsible for determining themselves the security measures to be adopted for their systems having regard to the technological developments in the market and their own security needs.

### **Item 5**

- We have separately presented a paper to Members which addresses criminal offences relating to the abuse, misuse or stealing of private key of another person for criminal purposes. There are adequate provisions in existing law to deal with these offences. If the offences involve elements which fall outside the jurisdiction of Hong Kong, local law enforcement agencies may seek international co-operation as appropriate in tackling these cases.