立法會
Legislative Council

Ref : CB2/PL/SE/1

LegCo Panel on Security

Minutes of special meeting
held on Saturday, 10 February 2001 at 9:00 am
in the Chamber of the Legislative Council Building

Members present : Hon LAU Kong-wah (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon Margaret NG
Hon Howard YOUNG, JP
Hon Ambrose LAU Hon-chuen, JP
Hon IP Kwok-him, JP

Members attending : Hon Eric LI Ka-cheung, JP
Hon SIN Chung-kai
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon Albert HO Chun-yan
Dr Hon LUI Ming-wah, JP
Hon CHEUNG Man-kwong
Hon Mrs Selina CHOW LIANG Shuk-yee, JP
Hon Andrew WONG Wang-fat, JP
Hon WONG Sing-chi

Public Officers attending : Miss CHEUNG Siu-hing
Deputy Secretary for Security (Special Duties)

Mr John LEE Ka-chiu
Chief Assistant Secretary for Security

Attendance by : The Law Society of Hong Kong
  Invitation

Mr Kevin STEEL
Member, Criminal Law & Procedure Committee

Hong Kong Internet Service Providers Association

Mr Chester SOONG
Chairman

The Institution of Electrical and Electronics Engineers,
  Hong Kong Section (Computer Chapter)

Dr Joseph NG Kee-yin
Chairman

Hong Kong Computer Society

Dr Louis MA
Vice President (Membership)

Mr Bill FOK
Director of Community Service

International Federation of the Phonographic Industry
  (Hong Kong Group)

Mr Ricky FUNG Tim-chee
Chief Executive Officer

Hong Kong Information Technology Federation

Mr LEE Kheng-joo
Council Member

Hong Kong Society of Accountants

Mr Michael K H CHAN
Chairman of Information Technology Committee

Mr Peter TISMAN
Deputy Director (Professional Practices)

Hong Kong Information Systems Audit and Control Association
   (Hong Kong Chapter)

Ms Susanna CHIU
Vice President

Mr William GEE
Membership Director

Hong Kong Institution of Engineers (Information Technology
   Division)

Ir Jolly WONG
Past Chairman

Ir K C LAI
Hon Secretary

Webmaster (Hong Kong) Association

Ms Elizabeth QUAT
President and Co-founder

Mr Ringo LAM
Co-founder & Past President

Information Security and Forensics Society

Mr Ricci IEONG
Secretary

Individual

Mr Wanbil LEE

Clerk in   :   Mrs Sharon TONG
  attendance   Chief Assistant Secretary (2)1

Staff in   :   Mr Raymond LAM
  attendance   Senior Assistant Secretary (2)5

Action

I.   To receive public views on the issues raised and recommendations made in the Report of the Inter-departmental Working Group on Computer Related Crime (the Report)

Meeting with representative of the Law Society of Hong Kong
(LC Paper No. CB(2) 846/00-01(01))

       Mr Kevin STEEL presented the views as detailed in the submission of the Law Society of Hong Kong.

Meeting with representative of the Hong Kong Internet Service Providers Association
(LC Paper No. CB(2) 811/00-01(01))

2.   Mr Chester SOONG presented the views as detailed in the submission of the Hong Kong Internet Service Providers Association (HKISPA).

Meeting with representative of the Institution of Electrical and Electronics Engineers, Hong Kong Section (Computer Chapter)
(LC Paper No. CB(2) 828/00-01(01))

3.   Dr Joseph NG Kee-yin presented the views as detailed in the submission of the Institution of Electrical and Electronics Engineers, Hong Kong Section (Computer Chapter).

Meeting with representatives of the Hong Kong Computer Society
(LC Paper No. CB(2) 811/00-01(02))

4.   Dr Louis MA presented the views as detailed in the submission of the Hong Kong Computer Society.

5.   Mr Bill FOK informed Members that the word "escorted" as referred to in the third paragraph of the second page of the submission should read

"escrowed".

Meeting with representative of International Federation of the Phonographic Industry (Hong Kong Group)
(LC Paper No. CB(2) 811/00-01(03))

6. Mr Ricky FUNG Tim-chee presented the views as detailed in the submission of International Federation of the Phonographic Industry (Hong Kong Group) (IFPI).

Meeting with representative of the Hong Kong Information Technology Federation
(LC Paper No. CB(2) 832/00-01(01))

7. Mr LEE Kheng-joo presented the views as detailed in the submission of the Hong Kong Information Technology Federation (HKITF).

Meeting with representatives of the Hong Kong Society of Accountants and the Hong Kong Information Systems Audit and Control Association (Hong Kong Chapter)
(LC Paper No. CB(2) 828/00-01(02))

8. Mr Michael CHAN, Mr Peter TISMAN, Mr William GEE and Ms Susanna CHIU presented the views as detailed in the joint submission of the Hong Kong Society of Accountants and the Hong Kong Information Systems Audit and Control Association (Hong Kong Chapter).

Meeting with representatives of the Hong Kong Institution of Engineers (Information Technology Division)
(LC Paper No. CB(2) 828/00-01(03))

9. Ir Jolly WONG presented the views as detailed in the submission of the Information Technology Division of the Hong Kong Institution of Engineers.

Meeting with representatives of the Webmaster (Hong Kong) Association
(LC Paper No. CB(2) 811/00-01(04))

10. Mr Ringo LAM presented the views as detailed in the submission of the Webmaster (Hong Kong) Association.

Meeting with Mr Wanbil LEE
(LC Paper No. CB(2) 828/00-01(04))

11. Mr Wanbil LEE presented the views as detailed in his submission for the meeting.

Meeting with representative of the Information Security and Forensic Society
(LC Paper No. CB(2) 841/00-01(01))

12.   Mr Ricci IEONG presented the views as detailed in the submission of the Information Security and Forensic Society.

Issues raised by Members

13.   Mr Howard YOUNG pointed out that HKITF suggested that the log records of accounts be kept by Internet service providers (ISPs) for less than three months, while the Webmaster (Hong Kong) Association considered that keeping the log records for a longer time would not result in a substantial increase in cost for ISPs. He asked about the rationale for keeping log records for a period of less than three months.

14.   Mr LEE Kheng-joo responded that according to past experience and in consultation with HKISPA, HKITF considered that keeping a log record for three months was sufficient and feasible. Mr Howard YOUNG expressed concern that keeping the log records for three months or less might not be sufficient, as computer-related crime sometimes took a long time to detect.

15.   Mr SIN Chung-kai said that computer-related crime might be difficult to define, as a person could use a local computer to activate a computer in overseas to hack a computer system in Hong Kong. He expressed concern that the Report had been compiled by the Inter-departmental Working Group on Computer Related Crime (the Working Group) without the assistance of the business sector and professional associations. He sought the attending deputation's views on whether the Administration should refer the issues raised in the Report to the Fight Crime Committee (FCC) for further examination. He added that while legislative amendments on computer-related crime might offer more protection, it might also hinder information technology (IT) development. Given that the subject of jurisdictional rules was still to be studied, he asked how computer related crime should be addressed and whether it was the appropriate time to introduce legislative amendments.

16.   Deputy Secretary for Security (Special Duties) (DS for S(SD)) responded that the Administration would analyse the views received in the consultation exercise before determining the way forward. She said that even if the legislative amendments were to be introduced as proposed in the Report, it would be unlikely that a single piece of legislation would be introduced. While some legislative amendments could be introduced earlier, other legislative amendments such as those related to encryption might need more time to study. Bodies such as The Law Reform Commission would also take at least two to three years to study the jurisdictional rules.

17.   Mr Chester SOONG considered that the issues raised in the Report

should be referred to FCC for further examination and consultation with the relevant parties should be conducted. This would assist the Government in better assessing the situation before the introduction of legislative amendments.

18.   Mr Ricky FUNG Tim-chee said that besides the introduction of legislation on computer related crime, the Copyright Ordinance should also be amended.

19.   Mr Ringo LAM commented that the Report had placed too much emphasis on legislative amendments. He considered that instead of forming different inter-departmental working groups to address different subjects such as computer-related crime, Internet gambling and copyright on the Internet, a new institution should be established under the Information Technology and Broadcasting Bureau (ITBB) to coordinate all work and address issues related to computer related crime and the Internet, including copyright on the Internet. He informed Members that legislation on copyright in the United States had been found inadequate for addressing copyright problems on the Internet. Many pieces of legislation had thus been enacted in the area in recent years. Ms Elizabeth QUAT said that the establishment of such an institution under ITBB would be more effective than the current arrangement of addressing problems on a piece meal basis.

20.   Mr Bill FOK considered that instead of placing too much emphasis on legislative amendments at this stage, public education on information security should be stepped up.

21.   Mr LEE Kheng-joo said that existing legislation had already set out the foundations for addressing various crimes. Discussions on computer-related crime would be ongoing. It was thus not possible to have one piece of comprehensive legislation on computer-related crime.

22.   Mr Michael CHAN supported the view that an institution should be established under ITBB.   He said that such a suggestion had been made by the Hong Kong Society of Accountants in the past when ITBB was first established. He added that both short-term and long-term solutions were needed for addressing the problem of computer related crime.

23.   Mr William GEE said that it was difficult for the enactment of legislation to catch up with the rapid development of technology.   Besides the enactment of legislation, everyone had a responsibility to safeguard the security of his own computer system.   Codes of practice on computer security should be drawn up by the relevant professional bodies and organisations.   Public education on information security should also be strengthened.

24.   Dr Joseph NG said that as the enactment of legislation would take time, public education should be stepped up.   He added that actions should be taken

in respect of short-term solutions identified in the Report, while the more fundamental issues could be examined at the same time.

25.   Ms Audrey EU sought the views of attending deputations on the problem of Internet gambling.   She asked whether it was technically viable to address the problem.

26.   Mr LEE Kheng-joo said that it would be very difficult to take actions against bookmakers located overseas.   Dr Joseph NG said that although it was technically viable to block certain web sites, offenders could easily establish another site on the Internet.   He considered that little could be done in respect of enforcement against Internet gambling.   Public education might be a more effective means in addressing the gambling problem.   Mr Ricci IEONG said that the blocking of a web site would need the collaborative effort of all local universities and ISPs.   Mr William GEE said that although the blocking of a web site would need the collaborative effort of all parties concerned, the question of who should be responsible for coordinating the blocking of a web site would have to be considered.   He added that even if access to an overseas web site was completely blocked, a user could still establish connection with an overseas web site by means of a long distance call.   It was thus very difficult to prevent Internet gambling.   He considered that it would be more effective to address the problem through other means.

27.   DS for S(SD) said that the Working Group had focussed its work on the macro problems of computer-related crime, such as encryption, jurisdictional rules and the adequacy of resources of law enforcement agencies.   With the very rapid development of computer technology, the examination of all crimes that might be committed via the computer or the Internet, such as Internet gambling and pornographic materials, would be an endless task.   Thus, the Working Group did not seek to deal with all crimes that might be committed via the computer or the Internet.   They would be dealt with under the relevant policy context by the respective policy beaux concerned.   She added that the Working Group comprised representatives from various government bureaux and departments, including ITBB.   As regards denial of service, she said that prosecution had been made in the past under the Crimes Ordinance.   However, it might not be possible under existing legislation to prosecute overseas hackers because of the jurisdictional problem.

28.   Mr Ringo LAM said that from the perspective of a general public, he was concerned that the meaning of national security was unclear.   He added that one might unintentionally breach the laws of the Mainland, as most people had little knowledge about Mainland laws.

29.   Miss Margaret NG said that in the promotion of IT, it was important to create a safe environment that facilitated the privacy and freedom from surveillance.   She considered that the recommendation in the Report in respect

of decryption was unacceptable. There should be a balance between protection against crime and the maintenance of a safe environment. With the compulsory disclosure of decryption tools or decrypted text and the maintenance of log records by ISPs, a safe environment could not be achieved because all users would be exposed to total surveillance. She hoped that a code of practice would soon be developed to facilitate a safe environment that provided protection against both crime and surveillance. She expressed concern that computer-related crime was suggested to be so broadly defined that innocent persons might be wrongly criminalised. In her view, it was important to ensure that compliance was viable before an act was criminalized. Problems related to jurisdictional rules should be dealt with speedily. As regards extraterritorial gambling, she said that the issue was being studied by the Bills Committee on Gambling (Amendment) Bill 2000. She invited the views of deputations on the drawing up of a code of practice to build up a safe environment.

30. Mr Bill FOK said that codes of practice were practical solutions to problems especially given that the enactment of legislation would take some time. In fact, there were already well established codes of practice and guidelines that complied with international standards in Hong Kong, although the majority of people in Hong Kong had not paid much attention to such codes.

31. Ms Susanna CHIU said that the removal of an offending web site should be carried out by the Commercial Crime Bureau of the Police rather than ISPs. She added that the commercial sector and the public seldom paid attention to codes of practice. Many small or medium sized companies lacked resources to introduce information security measures. Legislation were thus needed for a deterrent effect.

32. Mr William GEE said that as the environment of Internet was an insecure one, encryption and surveillance were needed for ensuring safety. He said that although closed circuit television systems could be found in many companies, they were intended for creating a deterrent effect rather than genuine surveillance. He added that codes of practice would facilitate building up a safe environment. He said that many codes of practice, best practices and guidelines were already in place in Hong Kong. Many international standards, such as ISO 17799, were under development. However, it was not possible to apply one single code of practice across different industries. The code of practice that should be adopted might be different from one industry to another. He added that besides putting in place codes of practice, a third party was also needed for monitoring compliance with the codes.

33. Mr Ricci IEONG said that the keeping of log records by ISPs was necessary because one could not know the identity of the person to whom communication was made. He informed Members that a hacker was found to have used the IP address of his former colleague to hack a certain important infrastructure. Without the log, it would have been very difficult to identify

who had performed the hacking. As regards denial of service, he said that existing legislation might not be adequate for dealing with situations where a hacker merely brought a system to a halt.

34.   <u>Mr Ricky FUNG Tim-chee</u> said that although codes of practice were useful, IFPI hoped that legislation on "take down" procedures would be enacted.

35.   <u>Mr LEE Kheng-joo</u> said that there was a lot of exchange between local and overseas ISPs on codes of practice. There was also peer group pressure for compliance with the codes of practice.

36.   <u>Mr Wanbil LEE</u> said that the computer was a good tool in that it could extend one's intellectual power, although whether it would benefit or cause harm to the community would depend on how it was used. As regards blockage of web sites, it would be necessary to examine the information in the web site before a decision was made on whether blockage should be carried out. He said that the enactment of laws was always lagging behind events. While the discussions at the meeting had focussed on solutions and implementation aspects, he considered that the problem should be more clearly defined. As the process would be a lengthy one, short-term solutions should be introduced for the time being in parallel with the examination of the problem in a systematic way.

37.   <u>Mr James TO</u> expressed concern that section 33 of the Telecommunications Ordinance had not been implemented after its enactment in 1997. He sought the views of deputations on whether there were legislative measures that should be introduced within a year's time. <u>The Chairman</u> said that the attending deputations could provide a written response after the meeting.

38.   <u>DS for S (SD)</u> said that she believed that both the Administration and attending deputations shared the view that a good environment conducive to the legitimate use of the computer and the Internet should be provided. She pointed out that although the first few chapters of the Report focussed on legislative measures, the recommendations of the Working Group were not confined to such measures. The Working Group had in fact pointed out that administrative measures, which would require more sustained effort to implement, might be more effective in addressing the problem. Nevertheless, legislative measures would serve as a safety net.

39.   <u>The Chairman</u> thanked the deputations for attending the meeting. He welcomed the deputations to provide further views, if any, to the Panel in writing.

40.   The meeting ended at 12:05 pm.

Legislative Council Secretariat
17 July 2001