

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)2450/05-06
(These minutes have been seen by
the Administration)

**Bills Committee on
Interception of Communications and Surveillance Bill**

**Minutes of meeting
held on Tuesday, 9 May 2006 at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon LAU Kong-wah, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon LI Kwok-ying, MH
Dr Hon Joseph LEE Kok-long
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon Patrick LAU Sau-shing, SBS, JP

Members absent : Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, BBS, JP
Hon CHEUNG Hok-ming, SBS, JP
Hon CHIM Pui-chung

Public Officers attending : Mr Stanley YING
Permanent Secretary for Security

Miss S H CHEUNG
Deputy Secretary for Security

Mrs Apollonia LIU
Principal Assistant Secretary for Security

Mr Ian WINGFIELD
Law Officer (International Law)
Department of Justice

Ms Sherman CHAN
Senior Assistant Law Draftsman

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

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Raymond LAM
Senior Council Secretary (2)5

Miss Helen DIN
Legislative Assistant (2) 1

I. Meeting with the Administration

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration –

Definition of “copy”

- (a) to consider amending sub-clause (a)(i) under the definition of “copy” in clause 2(1) of the Bill along the lines of “any copy, extract or summary of material which in substance is a copy, extract or summary of the material or identifies itself as such copy, extract or summary of such contents”;

Definition of “covert surveillance”

- (b) to provide information on the methods used by law enforcement agencies, the devices used and the types of surveillance that would fall within the meaning of “covert surveillance”;
- (c) to reconsider whether the scope of “covert surveillance” should be confined to those cases in which surveillance device was used;
- (d) to provide information on the law which governed covert surveillance by undercover agents without the use of surveillance device;
- (e) to explain why surveillance carried out by a participating party or undercover agent without the use of surveillance device was not covered under the Bill; and
- (f) to consider spelling out in the long title that the Bill sought to protect the freedom and privacy of communication of Hong Kong residents as provided in Article 30 of the Basic Law.

II. Date of next meeting

3. The Bills Committee noted that the next meeting had been scheduled for Wednesday, 17 May 2006 at 8:30 am to continue discussion with the Administration.

4. The Bills Committee agreed that the schedule of additional meetings between the week of 22 May 2006 and the week of 19 June 2006 would be as follows -

| <u>Date</u> | <u>Time</u> |
|------------------------|--------------------|
| 25 May 2006 (Thursday) | 8:30 am – 10:30 am |
| 1 June 2006 (Thursday) | 4:30 pm – 6:30 pm |

| | |
|-------------------------|---------------------|
| 2 June 2006 (Friday) | 8:30 am – 10:30 am |
| 3 June 2006 (Saturday) | 9:00 am – 1:00 pm |
| 6 June 2006 (Tuesday) | 10:45 am – 12:45 pm |
| 8 June 2006 (Thursday) | 4:30 pm – 6:30 pm |
| 10 June 2006 (Saturday) | 9:00 am – 1:00 pm |
| 15 June 2006 (Thursday) | 4:30 pm – 6:30 pm |
| 16 June 2006 (Friday) | 8:30 am – 10:30 am |
| 17 June 2006 (Saturday) | 9:00 am – 1:00 pm |
| 20 June 2006 (Tuesday) | 8:30 am – 10:30 am |
| 22 June 2006 (Thursday) | 10:45 am – 12:45 pm |

5. The meeting ended at 10:30 am.

Council Business Division 2
Legislative Council Secretariat
19 June 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Tuesday, 9 May 2006 at 8:30 am
in the Chamber of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action Required |
|------------------------------|---|--|---|
| 000000 – 002649 | Chairman Hon Emily LAU Hon Martin LEE Hon Howard YOUNG Hon LAU Kong-wah Hon Ronny TONG Hon Tommy CHEUNG Hon Mrs Selina CHOW Hon Margaret NG Hon Jeffrey LAM Chairman Admin | List of issues awaiting the Administration's response; timing for provision of the Administration's response to outstanding issues; time available for scrutiny of the Bill; whether more meetings of the Bills Committee should be scheduled; scheduling of additional meetings; whether the Bills Committee should commence clause-by-clause examination of the Bill at this stage | |
| Clause-by-clause examination | | | |
| 002650 – 002801 | Chairman | Relevant papers | |
| 002802 – 002829 | Chairman | Examination of the long title of the Bill | |
| 002830 – 002833 | Chairman | Examination of clause 1 of the Bill | |
| 002834 – 003501 | Chairman SALA1 Hon LI Kwok-ying Hon Margaret NG Hon Ronny TONG Admin | Examination of the terms "address", "authorizing officer", "code of practice", "Commissioner", "communication", "communication transmitted by a postal service", "conduct", "conveyance", "copy" and "court" in clause 2 of the Bill | Admin to consider amending sub-clause (a)(i) under the definition of "copy" in clause 2(1) of the Bill along the lines of "any copy, extract or summary of material which in substance is a copy, extract or summary of the material or identifies itself as such copy, extract or summary of such contents" |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|--|--|---|
| 003502 – 010519 | Chairman Hon Emily LAU Hon Margaret NG Hon Audrey EU Hon Ronny TONG Admin | Examination of the term “covert surveillance” in clause 2(1) of the Bill; Administration’s response in item 20 of the Administration’s paper entitled “Administration’s Response to Submissions to Bills Committee”(LC Paper No. CB(2)1812/05-06(02)); scope of “covert surveillance” and how the term should be defined; whether there was a need for the term “systematic” in the definition for “covert surveillance” | |
| 010520 – 011339 | Hon Emily LAU Chairman Admin | Information on the surveillance being conducted by law enforcement agencies, the devices used and the types of surveillance that would fall within the meaning of “covert surveillance” | Admin to provide information on the methods used by law enforcement agencies, the devices used and the types of surveillance that would fall within the meaning of “covert surveillance” |
| 011340 – 011949 | Hon Albert HO Admin Chairman | Whether the element of “use of any surveillance device” should be removed from the definition for “covert surveillance”; whether surveillance with the deployment of undercover agents but without the use of surveillance device fell within the scope of the Bill | Admin to reconsider whether the scope of “covert surveillance” should be confined to those cases in which surveillance device was used |
| 011950 – 012125 | Hon LI Kwok-ying Chairman | Chinese version of “systematic” in the definition of “covert surveillance” | |
| 012126 – 012325 | Hon Howard YOUNG | Scope of “covert surveillance” | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|------------------------------------|---|--|
| 012326 – 013336 | Hon LEE Cheuk-yan Admin | Scope of “covert surveillance”; reasonable expectation of privacy; whether there was a need for the term “systematic” in the definition for “covert surveillance” | |
| 013337 – 013924 | Hon Margaret NG Chairman | Regulation of surveillance carried out by a participating party; existing law which governed covert surveillance by undercover agents without use of surveillance device | Admin to provide information on the law which governed covert surveillance by undercover agents without the use of surveillance device |
| 013925 – 015035 | Hon Ronny TONG Admin | Why surveillance carried out by a participating party or undercover agent without the use of surveillance device was not covered under the Bill; whether the scope of the Bill covered surveillance for a political purpose; whether all types of surveillance should be regulated; how the privacy issues raised in various reports of the Law Reform Commission were to be dealt with | Admin to explain why surveillance carried out by a participating party or undercover agent without the use of surveillance device was not covered under the Bill |
| 015036 – 015715 | Hon Emily LAU Admin Chairman | Spelling out in the long title that the Bill sought to protect the freedom and privacy of communication of Hong Kong residents as provided in Article 30 of the Basic Law; regulation of surveillance carried out by law enforcement agencies | Admin to consider spelling out in the long title that the Bill sought to protect the freedom and privacy of communication of Hong Kong residents as provided in Article 30 of the Basic Law |
| 015716 – 015848 | Hon Margaret NG | Whether all types of surveillance should be regulated | |
| 015849 – 015909 | Chairman | Date of next meeting | |