

立法會
Legislative Council

Ref : CB2/BC/2/05

LC Paper No. CB(2)3119/05-06
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Saturday, 3 June 2006, at 9:00 am
in Conference Room A 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 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 James TO Kun-sun
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, 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 Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
- Members absent** : Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS

Hon Timothy FOK Tsun-ting, GBS, JP
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Patrick LAU Sau-shing, SBS, JP

Public Officers : Mr Stanley YING
attending 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

Ms Frances HUI
Senior Government Counsel

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

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

Mr Raymond LAM
Senior Council Secretary (2)5

Miss Jenny HO
Legislative Assistant (2) 9

I. Meeting with the Administration

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

2. The Bills Committee requested the Administration –

New clause 2(5A)

- (a) to explain whether the threshold of “likely” in the proposed new clause 2(5A) was appropriate; and

Clause 3

- (b) to consider stating explicitly the necessity test in clause 3(1)(b).

3. The Administration advised that it was inappropriate to set out in the Bill that the Bill did not cover offences under Article 23 of the Basic Law (BL23) that had not yet been enacted. The Administration also advised that the Secretary for Security would state in his speech during the resumption of the Second Reading debate on the Bill that the public security ground would not be used for political purposes, nor for suppressing the right to freedom of expression or the right of peaceful assembly, and that the Bill was unrelated to the BL23 exercise.

II. Date of next meeting

4. The Bills Committee noted that the next meeting had been scheduled for 5 June 2006 at 8:30 am to continue discussion with the Administration.

5. The meeting ended at 1:05 pm.

Council Business Division 2
Legislative Council Secretariat
29 September 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Saturday, 3 June 2006, at 9:00 am
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|---|------------------------|
| 000000 – 003125 | Chairman Admin Hon Margaret NG Hon LAU Kong-wah Hon Audrey EU Hon Mrs Selina CHOW Hon Emily LAU Hon James TO | Administration's proposed Committee Stage amendments relating to "public security"; whether the proposed new clause 2(5A) should be amended along the lines of the definition of "terrorist act" in the United Nations (Anti-Terrorism Measures) Ordinance; a similar provision in the relevant legislation of Canada; whether the phrase "likely to be" should be deleted from the proposed new clause 2(5A); exclusion of offences relating to Article 23 of the Basic Law (BL23) from the Bill | |
| 003126 – 004043 | Hon Mrs Selina CHOW Chairman Hon LAU Kong-wah Hon James TO | Whether the timer should be used; whether a time period of seven minutes, 10 minutes or 12 minutes should be allotted for each session | |
| 004044 – 004300 | Admin Chairman Hon James TO | Confirmation by the Administration that the Secretary for Security would state in his speech during the resumption of the Second Reading debate on the Bill that the public security ground would not be used for political purposes, nor for suppressing the right to freedom of expression or the right of peaceful assembly, and that the Bill was unrelated to the BL23 exercise | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|--|--|
| 004301 – 011134 | Hon Emily LAU Hon James TO Hon Mrs Selina CHOW Dr Hon LUI Ming-wah Hon Margaret NG Admin Chairman | Whether the proposed new clause 2(5A) should be amended along the lines of the definition of “terrorist act” in the United Nations (Anti-Terrorism Measures) Ordinance | |
| 011135 – 011941 | Hon LAU Kong-wah Hon Emily LAU Admin Chairman | Whether the threshold of “likely” in the proposed new clause 2(5A) was appropriate | Admin to explain whether the threshold of “likely” in the proposed new clause 2(5A) was appropriate |
| 011942 – 012728 | Hon James TO Admin Chairman | Whether there was a need for reference to “public security” in clause 3 | |
| 012729 – 015422 | Hon Margaret NG Hon James TO Hon Mrs Selina CHOW Hon Howard YOUNG Admin Chairman | Effect of the proposed new clause 2(5A) | |
| 015423 – 020237 | Hon Emily LAU Chairman Admin | Effect of the proposed new paragraph (b)(v)(A) of Part 1 of Schedule 3 to the Bill | |
| 020238 – 021547 | Hon LAU Kong-wah Hon James TO Chairman Admin | Whether it should be provided in the Bill that it did not cover offences under BL23 that had not yet been enacted; whether the term “likely” in the proposed new clause 2(5A) was needed; whether a list of acts excluded from the scope of “public security” could be set out in the Bill | |
| Break | | | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|--|--|
| 022409 – 022622 | Chairman Hon Martin LEE Admin | Whether it could be provided in the Bill that interception of communications and surveillance would not be conducted on a victim, unless for the purpose of protecting the victim’s safety | |
| 022623 – 023022 | Hon Mrs Selina CHOW Chairman Admin | How the Bills Committee could deal with the suggestion of listing acts excluded from the scope of “public security” in the Bill | |
| 023023 – 023747 | Hon Emily LAU Chairman Admin | Whether a definition could be provided for “public security” and the practice of Canada | |
| 023748 – 030354 | Hon Martin LEE Hon Margaret NG Hon Mrs Selina CHOW Hon LAU Kong-wah Admin Chairman | Differences between the terms used in constitutions and legislation; whether it could be provided in the Bill that interception of communications and surveillance would not be conducted on a victim, unless for the purpose of protecting the victim’s safety; how differences in views could be dealt with; stating explicitly the necessity test in clause 3(1)(b) | Admin to consider stating explicitly the necessity test in clause 3(1)(b) |
| 030355 – 033232 | Hon Emily LAU Hon James TO Hon Martin LEE Hon Mrs Selina CHOW Chairman Admin | Whether a definition should be provided for “public security” in clause 3(1)(a)(ii); practices of other jurisdictions in relation to defining the term “security” | |
| 033233 – 033613 | Chairman SALA1 | Rules governing the manner of speaking of members at Bills Committee meetings in the Rules of Procedure and the House Rules | |

| Time marker | Speaker | Subject(s) | Action Required |
|--------------------|---|--|------------------------|
| 033614 – 035209 | Hon James TO Hon LAU Kong-wah Hon Martin LEE Admin Chairman | Scope of “public security” | |
| 035210 – 040003 | Hon Martin LEE Hon Margaret NG Admin Chairman | Whether the definitions of “security” in other common law jurisdictions could be adopted in Hong Kong; incorporating the elements of necessity and proportionality in clause 3(1)(b) | |
| 040004 – 040121 | Chairman | Date of next meeting | |

Council Business Division 2
Legislative Council Secretariat
29 September 2006