

立法會
Legislative Council

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LC Paper No. CB(2)698/06-07
(These minutes have been seen by
the Administration)

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

**Minutes of meeting
held on Wednesday, 19 July 2006, at 4:30 pm
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)
Dr Hon David LI Kwok-po, GBS, JP
Hon Margaret NG
Hon James TO Kun-sun
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 LI Kwok-ying, MH, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
- Members absent** : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Dr Hon Joseph LEE Kok-long, JP

Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Ronny TONG Ka-wah, SC
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

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

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

Ms Sandy HAU
Clerical 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 -

- (a) to consider submitting a report on its review of the Bill within 2009; and
- (b) to consider requiring the name of a participant to be included in a Type 2 authorisation.

3. The Bills Committee requested the Administration to advise the Panel on Security whether any guidelines had been issued, after the judgments had been delivered by the courts in *Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region*, to law enforcement officers or within the Department of Justice regarding restrictions on law enforcement or presentation of evidence before the court.

4. The Bills Committee requested Senior Assistant Legal Adviser 1 to provide a written advice on the meaning of the sentence "The Government can, during that period of suspension, function pursuant to what has been declared unconstitutional..." in paragraph 50 of the judgment of the Court of Final Appeal in *Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region* (FACV Nos. 12 and 13 of 2006).

5. The Administration advised that it would state in the speech of the Secretary for Security in the resumption of Second Reading debate on the Bill that the Administration would conduct a full review on the Bill and submit a report to the Legislative Council within a specified time.

II. Date of next meeting

6. The Bills Committee noted that the next meeting had been scheduled for 20 July 2006 at 8:30 am to continue discussion on the draft code of practice with the Administration.

7. The meeting ended at 6:35 pm.

Council Business Division 2
Legislative Council Secretariat
18 December 2006

**Proceedings of meeting of the
Bills Committee on
Interception of Communications and Surveillance Bill
on Wednesday, 19 July 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000 - 000403	Chairman	Opening remarks	
000404 - 000449	Hon Margaret NG Chairman	Timing for discussion of the Administration's latest draft Committee Stage amendments (CSAs) to clause 65	
000450 - 010519	Admin Hon Margaret NG Hon LAU Kong-wah Hon James TO Hon Emily LAU Chairman	Whether the Administration would conduct a full review on the Bill a certain period after implementation; whether the review would include the gathering of the views of the public; when the report on the review would be submitted to the Legislative Council; timing for commencement and completion of the review; whether a sunset clause should be incorporated in the Bill; sunset clause proposed by Hon Margaret NG	Admin to consider submitting a report on its review of the Bill within 2009
010520 - 013722	Admin Hon Margaret NG Hon Emily LAU Hon James TO Chairman SALA1	Administration's latest draft CSAs to clause 65; timing for destruction of interception and surveillance products obtained before enactment of the Bill; meaning of the sentence "The Government can, during that period of suspension, function pursuant to what has been declared unconstitutional..." in paragraph 50 of the judgment of the Court of Final Appeal in <i>Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region</i>	SALA1 to provide a written advice on the meaning of the sentence "The Government can, during that period of suspension, function pursuant to what has been declared unconstitutional..." in paragraph 50 of the judgment of the Court of Final Appeal in <i>Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region</i>

Time marker	Speaker	Subject(s)	Action Required
013723 - 013934	Hon James TO Chairman Admin	Whether any guidelines had been issued, after the relevant judgments had been delivered by the courts in <i>Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region</i> , to law enforcement officers or within the Department of Justice regarding restrictions on law enforcement or presentation of evidence before the court	Admin to advise the Panel on Security whether any guidelines had been issued, after the relevant judgments had been delivered by the courts in <i>Koo Sze Yiu and Leung Kwok Hung v Chief Executive of the Hong Kong Special Administrative Region</i>, to law enforcement officers or within the Department of Justice regarding restrictions on law enforcement or presentation of evidence before the court
013935 - 014525	Chairman Hon Emily LAU Admin	Paragraphs 1 to 7 of the draft code of practice provided by the Administration (LC Paper No. CB(2)2772/5-06(01))	
014526 - 014654	Hon Howard YOUNG Admin	Why mobile phones were excluded from paragraph 4 (b) of the draft code of practice	
014655 - 020631	Hon James TO Hon LAU Kong-wah Hon Emily LAU Admin Chairman SALA1	Whether there was a need to provide in the code of practice whether the Chief Executive could authorise interception of communications or surveillance under the Bill; requiring the name of a participant to be included in a Type 2 authorisation so as to avoid conflict with the phrase "whether through any other person or otherwise" in paragraph 4 of the draft code of practice	Admin to consider requiring the name of a participant to be included in a Type 2 authorisation
020632 - 020659	Chairman	Date of next meeting	