

立法會
Legislative Council

LC Paper No. CB(1)912/04-05
(These minutes have been
seen by the Administration)

Ref : CB1/BC/1/04

Bills Committee on Construction Industry Council (No. 2) Bill

**Minutes of fourth meeting held on
Tuesday, 4 January 2005, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon KWONG Chi-kin (Chairman)
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Yuen-han, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon CHEUNG Hok-ming, SBS, JP
- Members absent** : Hon LEE Cheuk-yan
Hon Andrew CHENG Kar-foo
Hon Patrick LAU Sau-shing, SBS, JP
- Public officers attending** : Mr Clement CHEUNG
Deputy Secretary for the Environment, Transport and
Works (Works) 1
- Ms Agnes KWAN
Assistant Secretary for the Environment, Transport and
Works (Industry Review)
- Ms Frances HUI
Senior Government Counsel
Department of Justice

Ms Selina LAU
Government Counsel
Department of Justice

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (1)4

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Sarah YUEN
Senior Council Secretary (1)6

Action

I Confirmation of minutes

- (LC Paper No. CB(1)600/04-05 -- Minutes of meeting on
2 December 2004
LC Paper No. CB(1)601/04-05 -- Minutes of meeting on
9 December 2004

The minutes of the meetings held on 2 and 9 December 2004 respectively were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(1)346/04-05(02) -- Administration's response to
the list of follow-up actions
arising from discussion at the
meeting on 5 November 2004
LC Paper No. CB(1)346/04-05(03) -- Information paper provided
by the Administration on
"Progress in Taking Forward
Recommendations of the
Construction Industry Review
Committee"
LC Paper No. CB(1)599/04-05(01) -- List of follow-up actions
arising from discussion at the
meeting on 9 December 2004
LC Paper No. CB(1)599/04-05(02) -- Summary of concerns/views
expressed by organizations
and the Bills Committee (as at
30 December 2004)
LC Paper No. CB(1)599/04-05(03) -- Summary of concerns/views

submitted by organizations for the meeting on 2 December 2004 and the Administration's responses

LC Paper No. CB(1)599/04-05(04) -- Letter dated 15 December 2004 from the Construction Industry Training Authority responding to the submission dated 7 December 2004 from the Construction Industry Training Authority Staff Association (LC Paper No. CB(1) 451/04-05(01)))

2. Members noted the following letters tabled at the meeting –

- (a) Letter dated 29 December 2004 from the management of the Construction Industry Training Authority (CITA) to its staff (the letter); and
- (b) Letter dated 4 January 2005 from the Construction Industry Training Authority Staff Association to the Bills Committee (BC).

(Post-meeting note: The above letters were circulated to members vide LC Paper No. CB(1)638/04-05 on 5 January 2005.)

3. The BC deliberated (Index of proceedings attached at the **Appendix**).

Admin 4. The Administration was requested to:

- (a) urgently look into issues raised in the letter about pay cut and reduction of fringe benefits and provide as soon as possible a written reply to the BC. A member requested CITA to withdraw the letter;
- (b) consider opening up future meetings of the Construction Industry Council (CIC) to enhance transparency of its operation. In this context, the Administration was requested to explain how and to what extent this could be achieved, for example, by express provisions in the Bill or administrative measures; and
- (c) draw up a list of professional bodies and trade associations which might nominate candidates for selection and appointment by the Secretary for Environment, Transport and Works to CIC. The Administration was also requested to consider stipulating this list by way of schedules. In this respect, members expressed the following views:

- (i) the criteria for drawing up this list had to be widely accepted by the industry; and
- (ii) the interest of relatively small trade associations should not be overlooked.

The way forward

5. Members expressed grave concern about the letter, which appeared to unilaterally vary the employment terms of CITA staff. Ms LI Fung-ying proposed that the BC should suspend scrutiny of the Bill pending resolution of this matter, which was related to clause 82 governing the process of transition from CITA to CIC. She was concerned that if the BC continued its scrutiny work but the matter could not be resolved at the end, the BC's work might be aborted.

6. Miss CHAN Yuen-han indicated support for Ms LI Fung-ying's proposal. However, in recognition of the widespread consensus reached among deputations for the early establishment of CIC to spearhead industry reform, Mrs Selina CHOW LIANG Shuk-ye, Ms Emily LAU Wai-hing, Ir Dr Raymond HO Chung-tai, and Messrs Abraham SHEK Lai-him, Howard YOUNG and Alan LEONG Kah-kit opined that the staffing relations problem in CITA should be dealt with separately while the BC continued its scrutiny work. Mr Alan LEONG highlighted the importance of ensuring that clause 82 was suitably drafted. Mr WONG Kwok-hing shared their views and urged the Administration to resolve it within a few days.

Admin 7. In response, the Deputy Secretary for Environment, Transport and Works (Works) 1 undertook to seek clarification from CITA and provide a written reply to the BC. Nonetheless, he did not expect the problem to be capable of being resolved immediately. Mr Abraham SHEK pointed out that since CITA was an independent statutory body, the BC should not unduly interfere in its operations. Ms Emily LAU called upon the Administration to relay to the CITA Board the BC's grave concerns and suggested that should the present situation remain unresolved, an urgent meeting should be convened to follow up with the CITA management.

Meeting arrangements

8. After taking into account the Administration's view, members agreed that the next meeting of the BC should be held on Tuesday, 15 February 2005, at 2:30 pm to discuss the following -

- (a) Composition of CIC (clause 9); and
- (b) Functions of CIC (clause 5).

(Post-meeting note: The above meeting was subsequently rescheduled for Tuesday, 22 February 2005, at 8:30 am at the Administration's request.)

9. Members also agreed that unless further developments of the matter dictated otherwise, the BC would not consider clause 82 at the next meeting.

III Any other business

10. The meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
16 February 2005

**Proceedings of the fourth meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Tuesday, 4 January 2005, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000124	Chairman	Confirmation of minutes of the meetings held on 2 and 9 December 2004 respectively (LC Paper Nos. CB(1)600/04-05 and CB(1)601/04-05)	
000125 - 000903	Chairman Administration	Briefing by the Administration on its response to the list of follow-up actions arising from discussion at the meeting on 5 November 2004 (LC Paper No. CB(1)346/04-05(02))	
000904 - 002726	Mr WONG Kwok-hing Administration ALA5	<p>A member's reference to an undertaking given by the Administration on continuity of employment for all serving staff of the Construction Industry Training Authority (CITA) with their existing terms and length of service preserved upon amalgamation with the Construction Industry Council (CIC)</p> <p>The member's grave concerns about the letter dated 29 December 2004 from CITA management to its staff (the letter) tabled at the meeting, requiring them to indicate acceptance before 7 January 2005 on the proposed pay cut and reduction in fringe benefits.</p> <p>Assistant Legal Adviser 5's advice that unilateral variation of conditions of service without the consent of employees would result in constructive dismissal under employment law</p> <p>Administration's explanations that:</p>	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - clause 82 was adequate in ensuring the continuity of employment for all serving staff of CITA on their existing terms upon amalgamation with CIC, and that any subsequent changes in this regard would be introduced only upon mutual agreement reached between the management and staff sides; - CITA Board has endorsed the proposed pay cut and reduction in fringe benefits as a means to cope with the forecast financial difficulty; - The Education and Manpower Bureau (EMB) was currently responsible for the housekeeping of CITA while a representative from the Environment, Transport and Works Bureau (ETWB) also sat on the CITA Board to contribute advice in relation to its manpower training programmes; and - The Administration would strive to facilitate effective communication between the management and staff of CITA. 	
002727 - 004214	Ir Dr Raymond HO Administration	<p>A member's emphasis on the need to appoint CIC members from candidates nominated by major professional bodies and trade associations to ensure proper representation, acceptability and accountability which would enable CIC to spearhead reforms</p> <p>Administration's explanation that due to the large number of stakeholder groups involved, there was practical difficulty in identifying the professional bodies and trade associations which might nominate</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>candidates for selection and appointment to CIC. In any event, it would not be appropriate to pursue this through the principal ordinance given the likelihood of changes to cope with prevailing circumstances.</p> <p>Administration's agreement to examine the following:</p> <ul style="list-style-type: none">- drawing up the criteria for selecting professional bodies and trade associations;- stipulating the professional bodies and trade associations by schedules; and- opening up future meetings of CIC to enhance transparency of its operation <p>The member's indication of support for opening up CIC meetings and emphasis on appointing CIC members as representatives of the relevant trades/sectors rather than in their personal capacities to strengthen accountability and communication.</p> <p>Administration's view that CIC members serving in their personal capacities could deliberate issues from a more objective and macro perspective, and that accountability could be achieved by requiring them to report to their respective trades/sectors through administrative means.</p>	

Time marker	Speaker	Subject(s)	Action required
004215 - 004837	Ms LI Fung-ying Administration	<p>A member's regret about the unilateral step taken by CITA despite having pledged full support for clause 82 that sought to ensure continued employment of its serving staff on the same terms. She proposed that the BC should suspend scrutiny of the Bill pending solution of this matter</p> <p>The member's concern about whether clause 82 was adequate in ensuring the continuity of employment for all serving staff of CITA upon its amalgamation with CIC, in particular the definition of "appointed day" in this clause</p> <p>Administration's explanation that the "appointed day" would be a date to be determined by the Secretary for Environment, Transport and Works taking into account readiness of various preparatory works leading to the amalgamation exercise.</p>	
004838 - 005832	Ms Emily LAU Administration	<p>A member's expression of the following views:</p> <ul style="list-style-type: none"> - the letter was unacceptable and the Administration should urgently look into this matter before reporting to the BC on whether the employment terms of serving CITA staff would be changed unilaterally; - given widespread consensus among industry stakeholders for early establishment of CIC, the BC should not suspend scrutiny of the Bill; - opening up future meetings of CIC should help to address in part the divergent views on the composition of CIC (clause 9); and - there was a need to identify the 	

Time marker	Speaker	Subject(s)	Action required
		<p>professional bodies and trade associations which might nominate candidates for selection and appointment to CIC</p> <p>Administration's explanations:</p> <ul style="list-style-type: none"> - the industry would be consulted in drawing up the list, which should be more suitably stipulated as schedules; - despite some envisaged difficulties in drawing up the list, a preliminary draft would be prepared for consideration by the BC at its next meeting; and - the Administration would consult the Provisional Construction Industry Co-ordination Board (PCICB) on the question of opening up future meetings of CIC. At present all meeting papers and summary of discussions were already uploaded onto the PCICB website for public access. 	
005833 - 010819	Miss CHAN Yuen-han Administration	<p>A member's emphasis on the need to ensure balanced representation on CIC, indication of support for the proposed suspension of scrutiny work, and regrets about the letter</p> <p>Administration's view that issue of the letter was untimely and undertook to expeditiously follow up with CITA</p> <p>The member's views on the criteria for drawing up the list, namely, that it might be advisable to include umbrella organizations or alliances, that the list should be widely accepted by the industry, and that representatives of workers in CIC</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>should be increased</p> <p>Administration's agreement to consider these views, particularly an increased number of representatives for workers in CIC</p>	
010820 - 011319	Mr Abraham SHEK Administration	<p>A member's expression of the following views:</p> <ul style="list-style-type: none"> - the list should be worked out in consultation with the industry, and a draft should be made available as soon as practicable to facilitate scrutiny of the Bill; - future meetings of CIC should be opened up; and - the Administration should seriously examine how to effectively ensure the continuity of employment for all serving staff of CITA upon its amalgamation with CIC <p>Administration's reiteration of its stance on the various issues</p> <p>Administration's confirmation that the accounts of CIC would be subject to audit. It should submit an annual report on its work and expenditure to the Secretary which would be laid on the table of the Legislative Council (clauses 27 to 29)</p>	
011320 - 011858	Mrs Selina CHOW Administration	<p>A member's indication of support for the appointment of CIC members selected from candidates nominated by professional bodies and trade associations. She also advised that the list of nominees should not be too long to facilitate better accountability and communication</p> <p>The member's view that to encourage frank discussion, CIC should not open</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>up all future meetings. However, the decisions made at such meetings should be publicized and explained to ensure transparency and accountability</p> <p>Administration's view that it might not be desirable to disclose immature deliberations, and that all meeting papers and summary of decisions were already uploaded onto the PCICB website for public access.</p>	
011859 - 012010	Mr Howard YOUNG Administration	<p>A member's reference to the Travel Industry Council of Hong Kong (TIC) as a relevant example of candidates nominated by professional bodies and trade associations for appointment</p> <p>Administration's view that CIC might be different from TIC since a much larger number of sectors were involved.</p>	
012011 - 012712	Mr WONG Kwok-hing Chairman Administration	<p>A member's expression of the following views:</p> <ul style="list-style-type: none"> - the proposals in the letter were not reform measures; - the letter was not a questionnaire; - there was an urgent need to clarify the matter; and <p>- CITA should be asked to withdraw the letter and provide an explanation together with EMB</p> <p>Administration's expression of the following points:</p> <ul style="list-style-type: none"> - the proposals in the letter were conceived by the CITA Board as part of an organizational reform exercise necessary to cope with the forecast financial difficulty; and 	

Time marker	Speaker	Subject(s)	Action required
		<p>- the Administration would relay to CITA members' grave concerns about the letter</p>	
012713 - 013500	Ms Emily LAU Administration	<p>A member's expression of the following views:</p> <ul style="list-style-type: none"> - the Administration should look into the letter urgently and provide a written reply to the BC; - the interests of relatively small trade associations should not be overlooked and the criteria for drawing up the list should be accepted by the industry; and - all future meetings of CIC should be opened up to enhance transparency of its operation, except for prescribed circumstances such as when commercially sensitive information or personal data was involved <p>Administration's expression of the following points:</p> <ul style="list-style-type: none"> - it would consider expanding both the number and scope of representatives for workers in CIC; and - in considering whether future meetings of CIC meetings should be opened up, the Administration would make reference to practices adopted by similar statutory bodies and industry sentiments <p>The member's view that she could not accept any arguments against opening up meetings for the reason of</p>	<p>The Administration to take action under paragraph 4(a) of the minutes</p> <p>The Administration to take action under paragraph 4(c) of the minutes</p> <p>The Administration to take action under paragraph 4(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		conduciveness to frank discussion	
013501 - 014441	Chairman Mr Abraham SHEK Ir Dr Raymond HO Mrs Selina CHOW Mr WONG Kwok-hing Administration Mr Howard YOUNG Ms Emily LAU Ms LI Fung-ying Mr Alan LEONG	Discussion on the way forward	
014442 - 015400	Chairman Administration Mrs Selina CHOW Ms Emily LAU Mr WONG Kwok-hing	Meeting arrangements	