

立法會
Legislative Council

LC Paper No. CB(1)940/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/04/2

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

**Minutes of twenty-first meeting held on
Thursday, 5 January 2006, 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 Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon LI Fung-ying, BBS, JP
Hon WONG Kwok-hing, MH
Hon Alan LEONG Kah-kit, SC
Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon LEE Cheuk-yan
Hon Howard YOUNG, SBS, JP
Hon Abraham SHEK Lai-him, JP
Hon CHEUNG Hok-ming, SBS, JP
- Public officers attending** : Mr Jack CHAN
Principal Assistant 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

Attendance by invitation : The Construction Industry Training Authority

Mr Tony YAU
Accounting Manager

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 Clause-by-clause examination of the Bill

- (LC Paper No. CB(1)628/05-06(01) -- List of follow-up actions arising from discussion at the meeting on 20 December 2005
- LC Paper No. CB(1)628/05-06(02) -- Administration's responses to follow-up actions arising from discussions at the meetings on 24 November and 8 December 2005
- LC Paper No. CB(1)99/05-06(03) -- Draft Committee Stage Amendments to Clauses 2, 5, 7, 9, 18, 21, 56, 58, 59 and 71 and new Schedule 1A, Schedule 2 and Schedule 5
- LC Paper No. CB(1)99/05-06(04) -- Marked-up version of the draft Committee Stage Amendments to Clauses 2, 5, 7, 9, 18, 21, 56, 58, 59 and 71 and new Schedule 1A, Schedule 2 and Schedule 5
- LC Paper No. CB(1)2313/04-05(04) -- A comparison of the Construction Industry Council (No. 2) Bill with relevant

- provisions of the Industrial Training (Construction Industry) Ordinance (Cap. 317)
- LC Paper No. CB(1)2024/04-05(04) -- Updated summary of concerns/views expressed by organizations and the Bills Committee (as at 11 July 2005)
- LC Paper No. CB(1)2386/04-05(02) -- Administration's responses to the updated summary of concerns/views expressed by organizations and the Bills Committee (as at 11 July 2005)
- LC Paper No. CB(1)1120/04-05(01) -- Letter dated 14 March 2005 from Hon CHEUNG Hok-ming expressing views on certain clauses of the Bill
- LC Paper No. CB(1)1161/04-05(03) -- Administration's response to the letter from Hon CHEUNG Hok-ming
- LC Paper No. CB(1)1106/04-05(01) -- Assistant Legal Adviser's letter dated 9 March 2005 commenting on certain clauses of the Bill
- LC Paper No. CB(1)1201/04-05(01) -- Administration's response to the letter from Assistant Legal Adviser
- LC Paper No. CB(3)34/04-05 -- The Construction Industry Council (No. 2) Bill
- LC Paper No. CB(1)153/04-05(02) -- Marked-up copy of the consequential amendments arising from the Bill)

The Bills Committee deliberated (Index of proceedings attached at the **Appendix**).

2. The Administration was requested to –

Clause 6 in Schedule 2

- (a) explain the present operation of Construction Industry Training Authority (CITA) and the future operation of Construction Industry Council (CIC) concerning disclosure of interests of members, including the consequences of failure to do so;

- (b) relay to the Home Affairs Bureau the concern of members on the need to standardize the practice concerning disclosure of interests of members serving on various advisory and statutory bodies. Some members considered that there should be a system and a centralized record in this respect;

Clause 9 in Schedule 2

- (c) advise the frequency of transaction of business by resolutions in writing without meetings of CITA;
- (d) review the clause to address the following concerns expressed by members –
 - (i) the authority for deciding transaction of business by a resolution in writing without meetings should be clearly stated;
 - (ii) there should be clear guidelines setting out the circumstances under which a resolution in writing without meetings were permitted; and
 - (iii) any member might request the holding of a meeting to discuss the matter which was being transacted by circulation of papers.

The Administration was requested to refer to the relevant provision in the Town Planning Ordinance; and

Clause 2 in Schedule 3

- (e) review the clause to address the following views expressed by members –
 - (i) if members of Construction Industry Training Board (the Board) and CIC were intended to be different, the nominating system for members of CIC should also apply to the Board;
 - (ii) if members of the Board were also members of CIC, this would avoid interface and communication problem; and
 - (iii) under the scenario in (ii), other persons could be co-opted into the Board.

II Any other business

3. Members noted that the twenty-second meeting of the Bills Committee had been scheduled for Thursday, 19 January 2006, at 4:30 pm to continue clause-by-clause examination of the Bill. The Chairman reminded the Administration to provide details of its undertaking concerning clause 82 for consideration at the twenty-second meeting.

4. The meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
20 February 2006

**Proceedings of the twenty-first meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Thursday, 5 January 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000052	Chairman	Opening remarks	
000053 – 000730	Administration	Briefing by the Administration on its responses to follow-up actions arising from discussions at the meetings on 24 November and 8 December 2005 (LC Paper No. CB(1)628/05-06(02))	
000731 – 001015	Administration	<i>Clauses 77 to 81</i> Members noted the clauses	
001016 – 001622	Administration Chairman Mr WONG Kwok-hing Ms Emily LAU CITA	<i>Clause 82 Continuance of employment</i> Members' emphasis on the need to provide through administrative means an undertaking concerning smooth transition of the staff of the Construction Industry Training Authority (CITA) upon the amalgamation of CITA and the Construction Industry Council (CIC) Administration's reaffirmation to provide details of a written undertaking about the length of the transitional period after a consensus had been reached with relevant parties. Members' agreement to revisit clause 82 after receiving the details A member's view that while an undertaking could be given, the existing employment terms of CITA staff should be honoured	

Time marker	Speaker	Subject(s)	Action required
001623 – 001658	Administration	<p><i>Clause 83 Submission of reports on activities of CITA</i></p> <p>Members noted the clause</p>	
001659 – 001840	Chairman Administration Ms Emily LAU	<p><i>Clause 84 Council to appoint auditor for purposes of clause 83</i></p> <p>Administration’s confirmation in response to a member that accounts of CIC would be examined by independent auditor instead of the Audit Commission since relevant funding would come from construction levy rather than sponsorship by the Government.</p>	
001841 – 002010	Administration	<p><i>Clauses 85 to 86</i></p> <p>Members noted the clauses</p>	
002011 – 002152	Chairman Administration Mr WONG Kwok-hing	<p><i>Schedule 1 Construction operations</i></p> <p>Administration’s confirmation in response to a member that renovation works would be broadly covered by clause 1(c) and (f) in Schedule 1</p>	
002153 – 002710	Chairman Administration Ms Emily LAU	<p><i>Schedule 2 Meetings and proceedings of Council</i></p> <p><i>- Clause 5: Proceedings of Council</i></p> <p>Administration’s confirmation in response to a member that CIC could compile its own rules of procedure</p> <p>Reference to the views expressed by the Hong Kong Institute of Architects and the Bills Committee (BC) on clause 5 in the updated summary of concerns/views expressed by organizations and the Bills Committee (as at 11 July 2005) (LC Paper No. CB(1)2024/04-05(04)) and the Administration’s response (LC Paper</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>No. CB(1)2386/04-05(02))</p> <p>Briefing by the Administration on the draft Committee Stage Amendment to Schedule 2 to provide in law the opening up of meetings of CIC (LC Paper No. CB(1)99/05-06(04))</p>	
002711 –003716	<p>Chairman Administration Ms Emily LAU CITA Mr Patrick LAU</p>	<p>- <i>Clause 6: Disclosure of interests of members</i></p> <p>Members’ expression of the following views –</p> <p>(a) To ensure understanding of the requirement to disclose interests, there was a need for detailed guidelines in this regard, such as on the timing of disclosure, the consequences of failure to do so, etc. Some of the details might need to be set out in law;</p> <p>(b) CIC should maintain a register of members’ interests accessible to the public and ensure its timely update. Members who had an interest in matters under consideration should not be provided with the relevant papers;</p> <p>(c) Some members’ view on the need to standardize the practice concerning disclosure of interests of members of various advisory/statutory bodies to facilitate updating and to obviate the need for persons serving more than one committee to repeatedly declare interests. There should also be a system and a centralized record in this respect; and</p> <p>(d) A member’s view that it was not necessary to declare interests in matters which happened long time</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>ago, say three years.</p> <p>Administration's expression of the following points –</p> <p>(a) CIC could develop guidelines for its members to observe in respect of disclosure of interests under specific circumstances. To this end, references would be made to the present operation of relevant systems put in place by CITA and other similar statutory bodies;</p> <p>(b) Members' view in (c) above would be relayed to the Home Affairs Bureau; and</p> <p>(c) Members' other views above would be conveyed to the preparatory committee being set up by the Provisional Construction Industry Co-ordination Board or the secretariat of CIC as appropriate.</p>	<p>The Administration to take action under paragraph 2(a) of the minutes</p> <p>The Administration to take action under paragraph 2(b) of the minutes</p>
003717 – 011131	<p>Chairman Administration Ms LI Fung-ying Mrs Selina CHOW Ms Emily LAU Mr Patrick LAU Mr WONG Kwok-hing Mr Alan LEONG</p>	<p>- <i>Cause 9: Resolutions without meetings</i></p> <p>Members' expression of the following views –</p> <p>(a) In consideration of the undesirable performance of CITA's management, the provision might be too loose. To avoid abuse, CIC should set out clear guidelines on the circumstances under which a resolution in writing without meetings were permitted ;</p> <p>(b) Resolutions without meetings should only apply to non-controversial and straight-forward matters;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) A member’s view that resolutions without meetings should only apply to matters which had been discussed at previous meetings or which had been agreed to be so transacted;</p> <p>(d) The authority for deciding transaction of business by a resolution in writing without meetings should be clearly stated;</p> <p>(e) A meeting should be called should any member request the holding of a meeting to discuss the matter which was being transacted by circulation of papers; and</p> <p>(f) Reference should be made to similar statutory bodies’ practices in this regard, in particular to the relevant provision in the Town Planning Ordinance (Cap. 131).</p> <p>Administration’s expression of the following points –</p> <p>(a) Members’ views would be drawn to the attention of CIC. Whilst relevant guidelines could be promulgated as suggested, clause 9 would be reviewed in respect of the request in (f) above;</p> <p>(b) A mechanism for requesting the holding of meetings was already provided in clause 2(2) in Schedule 2. The specific requirements concerning businesses transacted by circulation would be carefully examined;</p> <p>(c) Under the Bill, matters discussed at CIC meetings would be decided by a majority of votes. Since the</p>	<p>The Administration to take action under paragraph 2(d) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		<p>same rule should apply to businesses done by resolutions in writing, clause 9(1) would provide that a resolution in writing must be signed by more than half of the members entitled to attend and vote at a meeting; and</p> <p>(d) The Administration would provide information on the frequency of transaction of business by resolutions in writing without meetings of CITA.</p>	<p>The Administration to take action under paragraph 2(c) of the minutes</p>
011132 – 015019	<p>Chairman Administration Ms LI Fung-ying Mr Patrick LAU Ms Emily LAU Mrs Selina CHOW Mr Alan LEONG Mr WONG Kwok-hing</p>	<p><i>Schedule 3 Composition, meetings and proceedings of Board, etc.</i></p> <p><i>Clause 2: Composition of Board</i></p> <p>Members' expression of the following views –</p> <p>(a) If members of Construction Industry Training Board (the Board) and CIC were intended to be different, the nomination system for members of CIC (clause 9) should also apply to the Board;</p> <p>(b) The present nomination system for members of CITA should not be replaced by an appointment system notwithstanding that the Board would be one of the committees underpinning CIC. Moreover, the sectors concerned might not be aware of such a change, and it was unclear how members would be appointed;</p> <p>(c) If members of the Board were also members of CIC, this would avoid interface and communication problems;</p>	<p>The Administration to take action under paragraph 2(e)(i) of the minutes</p> <p>The Administration to take action under</p>

Time marker	Speaker	Subject(s)	Action required
		<p>(d) Under the scenario in (c) above, other persons could be co-opted into the Board; and</p> <p>(e) A member’s view that nominating organizations might make nominations representing their sectors for both CIC members and Board members.</p> <p>Administration’s expression of the following points –</p> <p>(a) The nominating mechanism adopted for CIC already ensured that key industry stakeholders currently represented in CITA would continue to play a significant role in the proposed umbrella organization with an extended scope of powers and functions;</p> <p>(b) Since the Board would be operated under CIC as one of its major committees, appointment of Board members should be made by industry representatives sitting on CIC instead of by the Government through the nominating mechanism ;</p> <p>(c) Such appointment system would also be applied to other committees established by CIC for carrying out any of its statutory functions; and</p> <p>(d) It might not be advisable to allow CIC members only to sit on the</p>	<p>paragraph 2(e)(ii) of the minutes</p> <p>The Administration to take action under paragraph 2(e)(iii) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		Board in light of the knowledge and expertise required in performing the training functions currently carried out by CITA.	
015020 – 015150	Chairman Ms LI Fung-ying Ms Emily LAU Miss CHAN Yuen-han	Meeting arrangements	

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Legislative Council Secretariat
20 February 2006