

立法會
Legislative Council

LC Paper No. CB(1)1068/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/04

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

**Minutes of fifth meeting held on
Tuesday, 22 February 2005, at 8:30 am
in Conference Room B 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 LEE Cheuk-yan
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 Andrew CHENG Kar-foo
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
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)912/04-05 -- Minutes of meeting on 4 January 2005)

The minutes of the meeting held on 4 January 2005 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1)923/04-05(01) -- List of follow-up actions arising from discussion at the meeting on 4 January 2005

LC Paper No. CB(1)923/04-05(02) -- Updated summary of concerns/views expressed by organizations and the Bills Committee (as at 24 January 2005)

LC Paper No. CB(1)923/04-05(03) -- Administration's responses to concerns/views expressed by organizations and Bills Committee (as at 24 January 2005)

LC Paper No. CB(1)923/04-05(04) -- Letter dated 15 February 2005 from the Administration on "Proposed Composition and Functions of the Construction Industry Council")

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

3. The Administration was requested to -
- (a) consider the following views in drawing up the list of nominating organizations eligible to put forward candidates for selection and appointment to the Construction Industry Council (CIC) -
 - (i) representation of the nominating organizations in the trade was very important and should be one of the basic principles in compiling the list;
 - (ii) relationship between trade federations and member associations and their representation in the trade had to be carefully assessed. Circumstances under which member associations instead of trade federations were selected should be clarified;
 - (iii) being one of the largest employers in the construction field, the Hong Kong Housing Authority should be represented in CIC;
 - (iv) as the number of works projects undertaken by the Hong Kong Housing Society was relatively few, the appropriateness of it being a nominating organization should be reviewed; and
 - (v) the appropriateness of including trade associations as nominating organizations under the category of “professionals/consultants” should be considered;
 - (b) consider the viability of drawing up a list of nominating organizations for training institutes/academic or research institutes and trade unions respectively notwithstanding that the relevant bodies were many;
 - (c) assess the respective merits of allowing the nominating organizations to put forward the number of their representatives in excess of the number of seats for selection by the Government and of restricting the number of nominees to the exact number of seats; and
 - (d) consider the appropriateness of increasing the membership of CIC, say to 30.

Meeting arrangements

4. In response to Ms Emily LAU Wai-hing, the Clerk explained that the next meeting of the Bills Committee (BC) was originally scheduled for 8 March 2005. It was deferred to 15 March 2005 due to unavailability of representatives from the Administration.

5. After taking into account the Administration's views, members agreed on the agenda for the next meeting as follows -

- (a) Discussion on functions of the Construction Industry Council (clause 5);
- (b) Update on employment matters of Construction Industry Training Authority; and
- (c) Clause-by-clause examination of the Bill.

6. Members also agreed to reschedule the seventh meeting of the BC originally scheduled for 29 March 2005 for Thursday, 31 March 2005, at 10:45 am to facilitate attendance by members.

III Any other business

7. The meeting ended at 10:25 am.

Council Business Division 1
Legislative Council Secretariat
14 March 2005

**Proceedings of the fifth meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Tuesday, 22 February 2005, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000039	Chairman	Confirmation of minutes of the meeting held on 4 January 2005 (LC Paper No. CB(1)912/04-05)	
000040 – 001012	Administration	Briefing by the Administration on the proposed composition of the Construction Industry Council (CIC) (clause 9) elaborated in its letter dated 15 February 2005 (LC Paper No. CB(1)923/04-05(04))	
001013 – 001617	Chairman Mrs Selina CHOW Administration	<p>A members' expression of the following views:</p> <p>(a) Notwithstanding the four basic principles for compiling the list of nominating organizations (the basic principles) highlighted in LC Paper No. CB(1)923/04-05(04), Government should retain some degree of discretion in compiling the list; and</p> <p>(b) "Representation" should also be included as a basic principle with reference to the size, history and track record of individual organizations.</p> <p>Discussion on the need and viability of including "representation" as a basic principle</p> <p>The Administration agreed to consider the view</p>	<p>The Administration to take action under paragraph 3(a)(i) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
001618 – 002213	Mr Howard YOUNG Administration	<p>A member’s concern about principle (d) in paragraph 4 in LC Paper No. CB(1)923/04-05(04) on selection of trade federations instead of their member associations where appropriate. The member’s view that some member associations could command greater acceptability and credibility than their affiliated trade federations, hence the need to clarify the circumstances under which member associations instead of trade federations would be selected</p> <p>Administration’s explanations:</p> <p>(a) The four basic principles were interlinked and should be considered collectively;</p> <p>(b) Principle (d) was intended to allow flexibility to cater for different circumstances. For example, in the case of sub-contractors, it would be far more effective to liaise with an umbrella federation given the number of different trades involved. Nevertheless, an active member association with demonstrated track record on industry reforms could also be selected; and</p> <p>(c) The contribution of CIC members could be ensured by monitoring their actual performance.</p>	The Administration to take action under paragraph 3(a)(ii) of the minutes

Time marker	Speaker	Subject(s)	Action required
002214 – 003054	Ms LI Fung-ying Administration	<p>Administration’s expression of the following views concerning representation of labour unions:</p> <p>(a) Organizations which had the willingness and capability to spearhead industry reforms could be identified from those contributing positively to the activities and/or consultation exercises launched by the Provisional Construction Industry Co-ordination Board (PCICB); and</p> <p>(b) It might not be desirable to specify nominating organizations for the category of “trade unions” since disputes might arise from the divergent background and membership structure of various registered unions</p> <p>A member’s view that despite (b) above, there was a need to identify representative trade unions to nominate candidates for selection and appointment to CIC</p> <p>Administration’s view that instead of specifying nominating organizations for the category of “trade unions”, it might be more appropriate to work out a list of potential candidates for selection and appointment to CIC through consultation.</p>	
003055 – 004206	Chairman Ms Emily LAU Administration	<p>A member’s expression of the following views:</p> <p>(a) CIC members should be able to reflect the views and aspirations of their respective sectors and not merely representatives in the opinion of the Secretary for the Environment, Transport and Works (the Secretary); and</p>	

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		<p>(b) There should be a mechanism to ensure that the views of small organizations, in particular small trade unions, would be heard in CIC. Opening up future meetings of CIC could be a way to achieve this objective</p> <p>Administration's expression of the following points:</p> <p>(a) While a list of nominating organizations could be identified for certain categories, there was a need for the CIC members to be appointed in their personal capacities. In this regard, detailed selection criteria would be drawn up in consultation with relevant stakeholder groups without being explicitly stipulated in the Bill; and</p> <p>(b) There were practical difficulties in identifying nominating organizations for trade unions</p> <p>A member's emphasis on the importance for individual sectors to reach consensus on the candidates nominated for selection and appointment to CIC, and that the Administration should facilitate this process</p> <p>The member's reiteration of the request that the Administration should identify nominating organizations for trade unions</p>	
004207 – 005055	Chairman Mr Abraham SHEK	A member's indication of support for the proposed arrangements in LC	

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	Administration	<p>Paper No. CB(1)923/04-05(04)</p> <p>Discussion on the following:</p> <p>(a) Why the Housing Authority (HA) was not identified as a nominating organization for the category of “employers”; and</p> <p>(b) Whether the number of candidates in each sector put forward by nominating organizations should be exactly the same as the number of seats available</p> <p>Administration’s explanations:</p> <p>(a) Since the Secretary for Housing, Planning and Lands also chaired HA, its representative on CIC could be counted as one of the three public officer(s) (clause 9(1)(c));</p> <p>(b) The Urban Renewal Authority (URA) had not been identified as a nominating organization for the category of “employers” because of its limited participation in construction matters and its relatively few projects; and</p> <p>(c) It would seem desirable if the nominating organizations could put forward more candidates so as to provide a larger pool of talents for selection by the Government</p> <p>The member’s expression of the following views:</p> <p>(a) Since HA was one of the largest employers in the construction field and played an important role in spearheading industry reforms, it should be represented in CIC.</p>	

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		<p>Many members of HA’s Building Committee were not public officers and could not therefore be appointed under the category of public officers; and</p> <p>(b) Appropriateness of the Hong Kong Housing Society (HKHS) being a nominating organization should be reviewed because of its relatively few projects;</p> <p>The Chairman’s support of the need to clearly spell out that HA would be represented on CIC</p> <p>The Administration agreed to consider (a) and (b) above but pointed out that if HA was to be represented by a non-official, the number of seats allocated for public officers on CIC might have to be adjusted</p>	<p>The Administration to take action under paragraphs 3(a)(iii) and 3(a)(iv) of the minutes</p>
005056 –010506	<p>Chairman Ir Dr Raymond HO Mr Patrick LAU Administration</p>	<p>A member’s expression of the following views:</p> <p>(a) HKHS and URA should not be included as nominating organizations for the category of “employers”;</p> <p>(b) It might not be necessary to select both Kowloon-Canton Railway Corporation and MTR Corporation as nominating organizations for the category of “employers” after their proposed merger; and</p> <p>(c) The Association of Consulting Engineers of Hong Kong (ACEHK) should be selected as a nominating organization for professionals/consultants given</p>	

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		<p>the unique work nature of consultant engineers</p> <p>The Administration agreed to consider (c) above, adding that if trade associations were to be included in the list of nominating organizations for the category of “professionals/consultants”, the proposed principle (c) in LC Paper No. CB(1)923/04-05(04) would need to be amended</p> <p>Another member’s expression of the following views:</p> <p>(a) If ACEHK were to be identified as a nominating organization, the trade associations of architects and surveyors should also be given the same treatment;</p> <p>(b) Since the number of public officers and representatives of construction workers might be too small, the size of CIC should be increased to 30; and</p> <p>(c) There was a need to clarify the types of persons to be appointed to CIC as “such other persons as the Secretary thinks fit to be members of the Council” under clause 9(3)(f)</p> <p>Administration’s expression of the following points:</p> <p>(a) Consulting engineers represented by ACEHK indeed played an important supervisory role in construction projects. However, the inclusion of other trade associations had to be carefully considered due to their overlapping memberships with</p>	

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		<p>professional bodies;</p> <p>(b) The proposed size of CIC was already optimal for operational efficiency. Moreover, increase in the seats for any category might necessitate corresponding adjustments in other sectors to ensure a balanced representation;</p> <p>(c) The number of public officers on CIC should be kept to a minimum so that the industry could take ownership of the reform process. Government departments would continue to render their support by attending the meetings of CIC; and</p> <p>(d) The persons to be appointed to CIC under clause 9(3)(f) could inject valuable expertise in areas such as legal, insurance and economic analysis</p> <p>The other member's expression of the following views:</p> <p>(a) Having regard that there were 300 000 practitioners in the construction industry, CIC should have a larger membership;</p> <p>(b) The inclusion of ACEHK as a nominating organization might risk giving rise to duplication of representation; and</p> <p>(c) The persons referred to in clause 9(3)(f) could be appointed to CIC as co-opt members</p> <p>Administration's expression of the following points:</p> <p>(a) The appropriateness of including</p>	<p>The Administration to take action under paragraph 3(d) of the minutes</p> <p>The Administration to take action</p>

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		<p>trade associations as nominating organizations under the category of “professionals/consultants” would be assessed in light of the role played by their constituents; and</p> <p>(b) The appointment of co-opt members might be adopted in committees and subcommittees to be set up under CIC</p>	<p>under paragraph 3(a)(v) of the minutes</p>
010507 – 010951	Mr LEE Cheuk-yan Administration	<p>A member’s view that given the technical support rendered by different government departments, there might not be a need to appoint lay persons as CIC members under clause 9(3)(f)</p> <p>Administration’s explanation on the valuable expertise and impartial advice offered by two PCICB members from the legal and economic fields</p>	
010952 – 012327	Mr Alan LEONG Administration	<p>A member’s expression of the following views:</p> <p>(a) He could not see how principle (a) in LC Paper No. CB(1)923/04-05(04) that nominating organizations should be legal entities incorporated in Hong Kong was related to clause 9;</p> <p>(b) The willingness and capability to spearhead industry reforms in principle (b) in LC Paper No. CB(1)923/04-05(04) were open to subjective assessment;</p> <p>(c) To ensure accountability, it might be more advisable to require the nominating organizations of each category to agree on and nominate</p>	

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		<p>candidates only slightly in excess of the seats available; and</p> <p>(d) CIC members for categories listed under clauses 9(3)(d) and 9(3)(e) should be selected and appointed in the same way as those for categories listed under clauses 9(3)(a) to 9(3)(c)</p> <p>Administration's expression of the following views:</p> <p>(a) The Administration would prefer to have some flexibility to select and appoint CIC members from a larger pool of candidates;</p> <p>(b) The Administration had not proposed nominating organizations for training institutes or academic or research institutions connected with the construction industry (clause 9(3)(d)) because of practicable difficulties arising from varied background, size and scale of research bodies; and</p> <p>(c) The Administration had not proposed nominating organizations for trade unions (clause 9(3)(e)) so as to avoid the risk of creating conflicts or proliferation within the sector</p> <p>The member's expression of the following views:</p> <p>(a) More nominating organizations should be identified for the categories listed under clause 9(3)(a) and (b) to enhance representativeness and ensure greater accountability. This would not adversely affect the</p>	

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		<p>forging of consensus on candidates to be nominated if the criteria for selection and appointment were clear and transparent; and</p> <p>(b) Efforts should be made to draw up a list of nominating organizations for the categories listed under clause 9(3)(d) and (e) despite envisaged difficulties</p> <p>Administration's agreement to consider the above views</p>	<p>The Administration to take action under paragraph 3(b) of the minutes</p>
012328 – 013548	Mr Andrew CHENG Administration	<p>A member's expression of the following views:</p> <p>(a) The composition of statutory bodies had always been a concern because:</p> <ul style="list-style-type: none"> - the policy secretaries who appointed the members were not elected; and - there was territorialism among the trade federations and their member associations and hence concerns about the fairness of resource allocation; and <p>(b) While appreciating the Administration's willingness to draw up the basic principles, he was concerned about principle (d) because there were always disputes between trade federations and their member associations. It was therefore important to define the expression "where appropriate"</p> <p>Administration's explanation that the</p>	

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		<p>selection of a trade federation or any of its member association would be made against the proposed basic principles including their extent of participation in industry reforms</p> <p>The member's view that to avoid challenge, only trade federations should be selected as nominating organizations, thus providing an incentive for member associations to join the trade federations in order to be represented on CIC</p> <p>The Administration cited that the industry reforms had triggered off a wave of consolidation and integration, a recent example being the formation of Hong Kong Construction Sub-contractors Association</p>	
013549 - 014107	Chairman Miss CHAN Yuen-han Administration	<p>A member's view that to reduce rivalry between trade federations and their member associations, the functions of CIC under clause 5(b) should be expanded to require individual CIC members to reflect the needs and aspirations of the categories they represented</p> <p>The Chairman's advice that the functions of CIC would be discussed at a later stage</p>	
014108 – 014526	Ms Emily LAU Administration	<p>A member's expression of the following views:</p> <p>(a) It was important to ensure the views of all organizations, big or small, would be reflected by trade representatives sitting on CIC; and</p> <p>(b) She could not see any practical merits of requiring each nominating organization to put</p>	The Administration to take action

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		<p>forward a number of candidates in excess of the seats available for selection by the Government</p> <p>Administration's explanation that the Government was keen to ensure CIC members would function effectively to spearhead the reforms and hence considered it necessary to have the flexibility in the selection and appointment process. The above arrangement had been proposed and accepted by the industry</p>	<p>under paragraph 3(c) of the minutes</p>
014527 – 014654	Mr Abraham SHEK Ir Dr Raymond HO Administration	<p>A member's clarification that the Hong Kong Construction Association Ltd represented construction companies of varying sizes in Hong Kong and that it only agreed to nominate a list of candidates for selection as a response to the Administration's original proposal</p> <p>Another member's clarification that the professional bodies accepted an arrangement to nominate candidates for selection and appointment to CIC only as a compromise</p>	
014655 – 015203	Chairman Ms LI Fung-ying Clerk	<p>Brief update on employment matters of Construction Industry Training Authority</p> <p>Meeting arrangements</p>	