

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1162/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/1/04

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

**Minutes of sixth meeting held on  
Tuesday, 15 March 2005, at 2:30 pm  
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 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 Patrick LAU Sau-shing, SBS, JP
- Members absent** : Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP  
Hon CHAN Yuen-han, JP  
Hon CHEUNG Hok-ming, 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

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Action

**I Confirmation of minutes**

(LC Paper No. CB(1)1068/04-05 -- Minutes of meeting on  
22 February 2005)

The minutes of the meeting held on 22 February 2005 were confirmed.

**II Meeting with the Administration**

(LC Paper No. CB(1)1067/04-05(01) -- List of follow-up actions  
arising from discussion at the  
meeting on 22 February 2005

LC Paper No. CB(1)1067/04-05(02) -- Administration's response to  
the list of follow-up actions  
arising from discussion at the  
meeting on 22 February 2005

LC Paper No. CB(1)1067/04-05(03) -- Summary of concerns/views  
expressed by organizations  
and the Bills Committee (as at  
8 March 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"

LC Paper No. CB(1)663/04-05(01) -- Letter dated 5 January 2005  
from the Administration to the  
Chairman of the Construction  
Industry Training Authority  
(CITA) conveying to him  
members' concerns about the

LC Paper No. CB(1)685/04-05(01) -- announcement made by CITA on a number of revised employment terms for its staff Letter dated 10 January 2005 from the Secretary for the Environment, Transport and Works clarifying various issues of concern raised by the Construction Industry Training Authority Staff Association)

2. Mr Patrick LAU Sau-shing declared interests as member of the Construction Industry Training Authority (CITA).

3. Members noted the letter dated 14 March 2005 from Hon CHEUNG Hok-ming which was tabled at the meeting.

*(Post-meeting note: The above letter was circulated to members vide LC Paper No. CB(1)1120/04-05 on 16 March 2005.)*

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

5. The Administration was requested to:

Functions of Construction Industry Council

- (a) provide draft Committee Stage Amendments (CSAs) to clause 5 addressing the concern expressed by members about long-standing problems in the industry arising from wage arrears, insurance coverage for genuine workers who took up self-employed status and management of subcontracting;
- (b) review consistency between the English and Chinese versions of clause 5(i);
- (c) explain the measures being considered for adoption in three public works pilot projects to tackle the problem of wage arrears and draw reference from experience in Macau and Canada on how to safeguard the welfare of workers;

Composition of Construction Industry Council

- (d) provide a draft list of nominating organizations for the category of "trade unions" together with selection criteria and explain how those organizations not so selected could reflect their views to CIC;

- (e) provide a revised list of nominating organizations for the categories of “employers”, “professionals/consultants” and “contractors/subcontractors & material/equipment suppliers”, if any;

Meetings of Construction Industry Council

- (f) propose a mechanism for opening up future meetings of CIC and compare it with that envisaged for the Town Planning Board in this respect;

Composition of Construction Industry Training Board

- (g) explain why the present composition of the Construction Industry Training Authority could not be retained ; and

Drafting

- (h) provide a response each to the letters from Hon CHEUNG Hok-ming and Ms Kitty CHENG dated 14 March and 9 March respectively.

**III Any other business**

- 6. The Chairman reminded members that the next meeting would be held on Thursday, 31 March 2005, at 10:45 am.
- 7. The meeting ended at 4:25 pm.

**Proceedings of the sixth meeting of the  
Bills Committee on Construction Industry Council (No. 2) Bill  
on Tuesday, 15 March 2005, at 2:30 pm  
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 22 February 2005 (LC Paper No. CB(1)1068/04-05)	
000040 - 000337	Chairman	Opening remarks	
Discussion on functions of the Construction Industry Council (CIC) (clause 5)			
000338 - 002909	Chairman Mr WONG Kwok-hing Ms LI Fung-ying Administration	<p>The Administration put forth the following proposals on the functions of CIC (clause 5):</p> <p>(a) A new sub-clause would be added to address harmonious labour relations as well as observance of statutory requirements relating to employment; and</p> <p>(b) Consideration would be given to refining clause 5(h) so as to address the problems arising from management of subcontracting</p> <p>Administration's advice that it aimed to consult the trade unions on these proposals</p> <p>A member's emphasis on the need to empower CIC to tackle long-standing problems in the industry such as default payment of employers' contribution to the Mandatory Provident Fund (MPF) Scheme</p> <p>Administration's report that a working group had been formed to steer forward three pilot public works</p>	<p>The Administration to take action under paragraph 5(a) of the minutes</p> <p>The Administration to take action</p>

Time marker	Speaker	Subject(s)	Action required
		<p>projects identified for the purpose of trying out new measures to prevent wage arrears and evasion of MPF contributions including:</p> <ul style="list-style-type: none"> <li>- Requiring self-employed persons to take out an insurance coverage amounting to \$1 million;</li> <li>- Installing a smart card system at construction sites to provide accurate attendance records; and</li> <li>- Encouraging contractors and their subcontractors to sign up written contracts with employees</li> </ul> <p>The member urged the Administration to take stock of experience in Macau to safeguard the welfare of workers and reiterated the need to expand the function of CIC in clause 5 to cover problems arising from management of subcontracting</p>	<p>under paragraph 5(c) of the minutes</p> <p>The Administration to take action under paragraph 5(c) of the minutes</p>
002910 - 004507	<p>Chairman Mr Patrick LAU Mr WONG Kwok-hing Administration</p>	<p>A member's expression of the following views:</p> <ul style="list-style-type: none"> <li>(a) The current pool of levies might not be sufficient for CIC to discharge a wide range of functions; and</li> <li>(b) The Administration should draw reference from the Mechanics' Lien Act in Canada when tackling the problem of wage arrears</li> </ul> <p>Administration's expression of the following points:</p> <ul style="list-style-type: none"> <li>(a) The Provisional Construction Industry Co-ordination Board (PCICB) had been able to launch many initiatives with minimal resources by leveraging on the support offered by key stakeholders, an example being</li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<p>the voluntary subcontractor registration scheme. Moreover, the permanent secretariat of CIC was only expected to comprise a small team of staff; and</p> <p>(b) Should a consensus be reached on the need to perform additional functions, CIC could propose an upward adjustment of the levy rate.</p> <p>The member's view that it was important for CIC to set up a resource centre or research body to promote exchange of knowledge with other places such as Switzerland regarding formulation of industry standards, and that such a facility might require injection of resources by Government and cross-boundary collaboration</p> <p>Administration's expression of the following points:</p> <p>(a) Since public sector projects constituted about half of all construction activities at present, Government was already making a substantial financial contribution through payment of levies;</p> <p>(b) Under clause 5(a), CIC was entitled to make recommendations to Government on long-term strategic matters including the setting up of a research centre; and</p> <p>(c) Major clients had indicated willingness to accept an increase of the levy rate subject to proper justifications. CIC would serve as a platform to forge consensus in this regard</p>	<p>The Administration to take action under paragraph 5(c) of the minutes</p>
004508 - 004619	Chairman	ALA5's view that it was more	

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	ALA5 Administration	appropriate to wait and see if the Administration's proposal to amend clause 5 could adequately address the concern of Mr Andrew CHENG on management of subcontracting  Administration's reaffirmation of the intention to amend clause 5	
004620 - 005013	Chairman Administration	Chairman's expression of the following views:  (a) The Government should be more forthcoming in empowering CIC to tackle long-standing problems in the industry; and  (b) Apart from amending clause 5(h), a new sub-clause should be added to allow CIC to examine issues of concern to the industry and recommend improvement measures in a proactive manner  Administration agreed to consider if clause 5(a) could be expanded to accommodate the suggestion	The Administration to take action under paragraph 5(a) of the minutes
005014 - 005154	Chairman Mr Patrick LAU Administration	A member's view that the English and Chinese versions of clause 5(i) were not consistent. The Administration undertook to look into this.  Chairman requested the Administration to revert on some of the requests and views raised at the Bills Committee (BC)'s meeting on 19 April 2005	The Administration to take action under paragraph 5(b) of the minutes
Update on staff relations matters of Construction Industry Training Authority (CITA)			



Time marker	Speaker	Subject(s)	Action required
005155 - 010024	Chairman Administration	<p>Update by the Administration on staffing matters of CITA below:</p> <p>(a) There was a more positive dialogue between the management and staff of CITA on organizational changes necessary to cope with the projected reduction of levy income and student intake, including a voluntary exit scheme (VES) proposed by the staff side</p> <p>(b) The amalgamation of CIC and CITA would only take place after detailed transitional arrangements had been worked out; and</p> <p>(c) PCICB had requested to be kept informed of major strategic decisions and organizational changes envisaged by CITA before the establishment of CIC</p>	
010025 - 010845	Chairman Ms LI Fung-ying Administration	<p>A member's concern about how the BC could continue its scrutiny work pending resolution of staffing matters in CITA, many of which were related to clause 82</p> <p>Administration's undertaking to strive for an effective dialogue between the management and staff of CITA taking into account the following:</p> <p>(a) Adopting administrative measures similar to those applicable to the Hong Kong Sports Development Board as suggested earlier by a member;</p> <p>(b) Exploring the feasibility of introducing VES; and</p> <p>(c) Amending clause 82(1) according to the version proposed earlier by</p>	

Time marker	Speaker	Subject(s)	Action required
		another member	
010846 - 013527	Chairman Mr WONG Kwok-hing Administration	<p>A member's expression of the following views:</p> <p>(a) The Administration's letter dated 10 January 2005 clarifying various issues of concern raised by the Construction Industry Training Authority Staff Association (the Staff Association) (LC Paper No. CB(1)685/04-05(01)) could not address the concern about unilateral amendment of employment terms of CITA staff. The Administration had only managed to defer the deadline for CITA staff to indicate acceptance or otherwise of the employment terms;</p> <p>(b) Instead of asking the management of CITA to unilaterally conduct additional briefing/consultative sessions, a four- or five-party meeting among the management and staff sides of CITA, the Environment, Transport and Works Bureau, the Education and Manpower Bureau, and even members should be convened to discuss the transitional arrangements;</p> <p>(c) VES was not an idea mooted by the staff of CITA;</p> <p>(d) Staffing matters in CITA should be resolved expeditiously to facilitate scrutiny of the Bill; and</p> <p>(e) Major organizational reforms should not proceed in CITA without a general consensus between its management and staff</p> <p>Administration's expression of the</p>	

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		<p>following points:</p> <p>(a) The letter (LC Paper No. CB(1)685/04-05(01)) was meant to be an urgent response to the BC and that CITA had subsequently decided to postpone proposed changes to the employment terms of its staff;</p> <p>(b) CITA was a statutory body with specific powers and responsibilities to handle its own financial and manpower issues. The Administration should refrain from interfering in its operations, nor was the BC an appropriate forum to deal with its staffing matters;</p> <p>(c) The Administration understood from CITA that VES was proposed by its staff;</p> <p>(d) With staff costs making up around 64% of the projected recurrent expenditure of CITA in 2005, downsizing and organizational changes were inevitable unless the levy rate could be adjusted upward. VES might therefore be a practical means to cope with the projected financial difficulties; and</p> <p>(e) The Bill vested CIC with all existing powers and functions of CITA for implementation of the necessary organizational reforms</p> <p>The member's reference to the Secretary for Environment, Transport and Works (the Secretary)'s earlier undertaking to ensure the continued employment of all serving CITA staff with their terms and conditions preserved upon the amalgamation</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>with CIC</p> <p>Administration's clarification that the Secretary's undertaking as enshrined in the Bill was intended to address direct impact associated with an amalgamation of CITA and CIC</p> <p>The member's expression of his view that staff interests should not be unduly compromised when attempting to tackle the financial challenges faced by CITA</p> <p>The member's call upon the Administration to explore solutions other than change of employment terms of CITA staff and increase in levy rate to tackle CITA's financial problems</p> <p>The Chairman's comments:</p> <p>(a) VES might be a viable solution; and</p> <p>(b) Given a lack of trust between the management and staff of CITA, the Administration might need to step up its mediating efforts</p>	
Other issues and concerns			
013528 - 014507	Chairman Ms Emily LAU Administration	<p>Reference to the summary of concerns/views expressed by organizations and the Bills Committee (LC Paper No. CB(1)1067/04-05(03))</p> <p>Briefing by the Administration on its latest thinking regarding the proposed composition of CIC (clause 9) (LC Paper No. CB(1)1067/04-05(02)), in particular its agreement to provide a tentative list of nominating organizations for the category of "trade unions" (the list) on the basis of</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>their history and membership size</p> <p>A member's expression of support for the above criteria for drawing up the list. She however pointed out that there should be a mechanism to ensure that the views of small trade unions not selected as nominating organizations could be reflected to CIC. Conducting open meetings could be a way to achieve this objective</p> <p>Administration's undertaking to consider how communication could be maintained between small trade unions and CIC</p>	<p>The Administration to take action under paragraphs 5(d) and (e) of the minutes respectively</p>
014508 - 014717	Chairman Administration	<p>Chairman's reference to deputations and the BC's comments on the establishment and composition of Construction Industry Training Board (CITB) (clause 31)</p> <p>Administration's advice that since CITB would function as a standing committee of CIC, its composition should remain flexible with individual members appointed on an personam basis</p>	<p>The Administration to take action under paragraph 5(g) of the minutes</p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
014718 - 015012	Chairman Ms Emily LAU Administration	Administration's reaffirmation of its agreement to consider opening up future meetings of CIC to enhance transparency of its operation but the mechanism might not be identical to that of the Town Planning Board (TPB) since CIC as a self-regulatory body would focus on industry concerns rather than community-wide issues  A member's request for details on the mechanism contemplated for CIC as compared with that of TPB	The Administration to take action under paragraph 5(f) of the minutes
015013 - 015117	Chairman Ms LI Fung-ying Ms Emily LAU Administration	Meeting arrangements  Administration's undertaking to provide a written response each to the letters from Hon CHEUNG Hok-ming and ALA dated 14 and 9 March respectively	The Administration to take action under paragraph 5(h) of the minutes