

立法會
Legislative Council

LC Paper No. CB(1)1955/05-06
(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-third meeting held on
Thursday, 27 April 2006, at 2:30 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 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
- Members absent** : Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, 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

Clerk in attendance : Miss Odelia LEUNG
Chief Council Secretary (2)6

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)940/05-06 — Minutes of meeting on 5 January 2006

LC Paper No. CB(1)945/05-06 — Minutes of meeting on 19 January 2006)

The minutes of the meetings held on 5 and 19 January 2006 were confirmed.

II Discussion on outstanding issues

(LC Paper No. CB(1)1351/05-06(01) — Letter dated 21 April 2006 from the Provisional Construction Industry Co-ordination Board to the Chairman regarding the tentative work plan of the Preparatory Committee for the Establishment of the Construction Industry Council

LC Paper No. CB(1)1351/05-06(02) — Updated Committee Stage Amendments to the Bill

LC Paper No. CB(1)1351/05-06(03) — Marked-up version of the updated Committee Stage Amendments to the Bill

LC Paper No. CB(1)942/05-06(01) — List of follow-up actions

arising from discussion at the meeting on 19 January 2006

- LC Paper No. CB(1)942/05-06(02) — Administration's Responses to Outstanding Follow-up Actions Arising from Discussions at Previous Meetings (as at 17 February 2006)
- LC Paper No. CB(1)1343/05-06(01) — Letter dated 21 April 2006 from the Provisional Construction Industry Co-ordination Board to the Chairman concerning transitional arrangement for the establishment of the Construction Industry Council
- 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)

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

3. The Administration was requested to:

- (a) consider asking the Construction Industry Training Authority (CITA) to convey to its serving staff the pledge contained in the letter issued by the Provisional Construction Industry Council Board to the Bills Committee that no major organizational changes or staff retrenchment would arise from budgetary reasons after the Bill was enacted and within two years upon the setting up of the Construction Industry Council (CIC) (the pledge). A member suggested that a letter in this respect be issued to each serving CITA staff;
- (b) reiterate the pledge at the resumption of the Second Reading debate on the Bill;
- (c) relay to CIC a member's request that should there be any staff retrenchment or change of employment terms after the two years' period, the exit terms should be better than those applicable under the employment contract and relevant labour legislation;
- (d) maintain communication with CITA staff when reviewing the development strategy and future positioning of CITA; and
- (e) report the progress of the amalgamation of CITA with CIC to the relevant Panels of the Legislative Council after working out the major issues concerned.

III Any other business

4. The Bills Committee supported the Administration's Committee Stage Amendments and recommended the resumption of the Second Reading debate on the Bill on 24 May 2006.
5. On behalf of the construction industry, Mr Abraham SHEK expressed thanks to the Chairman and members of the Bills Committee for their efforts in scrutinizing the Bill. The Chairman also expressed thanks to members, the Administration, and the Secretariat staff for their assistance in the scrutiny work.
6. The meeting ended at 4:30 pm.

Council Business Division 1
Legislative Council Secretariat
7 July 2006

**Proceedings of the twenty-third meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Thursday, 27 April 2006, at 2:30 pm
in Conference Room A of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action required |
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| I Confirmation of minutes | | | |
| 000000 – 000033 | Chairman | Confirmation of minutes of the meetings held on 5 and 19 January 2006 (LC Paper Nos. CB(1)940/05-06 and CB(1)945/05-06 respectively) | |
| 000034 – 000254 | Chairman | Opening remarks | |
| II Discussion on outstanding issues | | | |
| <i>Discussion on the letter dated 21 April 2006 from the Provisional Construction Industry Co-ordinantion Board to the Chairman concerning transitional arrangement for the establishment of the Construction Industry Council</i> | | | |
| 000255 – 000643 | Chairman Administration | Briefing by the Administration on the letter dated 21 April 2006 from the Provisional Construction Industry Co-ordinantion Board (PCICB) to the Chairman concerning transitional arrangement for the establishment of the Construction Industry Council (CIC) (LC Paper No. CB(1)1343/05-06(01)) | |
| 000644 – 010150 | Chairman Administration Mr Howard YOUNG Ms Emily LAU Ms LI Fung-ying Mr LEE Cheuk-yan Ms CHAN Yuen-han | Members' expression of the following views – (a) A member's view that the above transitional arrangement that no major organizational changes or staff retrenchment would arise from budgetary reasons after the Bill was enacted and within two years upon the setting up of CIC (the pledge) was acceptable but there was a need to formally consult the staff of the Construction Industry Training | |

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| | | <p>Authority (CITA);</p> <p>(b) Another member's view that the pledge was barely acceptable and should be extended to three years. She and another member said that a letter containing the pledge should be issued to each serving staff of CITA. The Administration should also reiterate the pledge at the resumption of the Second Reading debate on the Bill;</p> <p>(c) Yet another member's view that although it was the hope of CITA's staff that the pledge be extended to four years, he acknowledged the need to provide CIC the flexibility to make organizational changes upon review of CITA's role after its amalgamation with CIC. CIC should discuss with CITA's staff unions on any such organizational change in future. In this regard, he made the following requests:</p> <p>(i) to better assure CITA staff, the phrase "budgetary reasons" being a cause for staff retrenchment should be deleted from the pledge; and</p> <p>(ii) should there be any staff retrenchment or change of employment terms after the pledged period, the exit terms should be better than those applicable under the employment contract or relevant labour legislation;</p> | |

| Time marker | Speaker | Subject(s) | Action required |
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| | | <p>(d) A member’s view that the phrase “budgetary reasons” should be retained in the pledge to provide flexibility for CIC to make organizational changes where necessary. He supported the proposal that the Administration should reiterate the pledge at the resumption of the Second Reading debate on the Bill; and</p> <p>(e) A further member’s view that the pledged period should be extended further to address CITA staff’s concern about the implications of the implementation of the “3+3+4” education structure, i.e. three-year junior secondary and three-year senior secondary education linking to four-year undergraduate programmes.</p> <p>Administration’s expression of the following points –</p> <p>(a) The pledge was the outcome of consultation with relevant parties and agreed by the industry as an appropriate transitional measure. The staff unions of CITA had also been informally consulted;</p> <p>(b) It was expected that CIC would be set up after six to nine months upon enactment of the Bill. Taking this into account, the pledged period would at least be two and a half years;</p> <p>(c) Staff participation in the review on development strategies and future positioning of CITA</p> | <p>The Administration to take</p> |

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| | | <p>would be ensured by the increased representation of trade unions on CIC, coupled with an enhanced communication network of the Administration and union representatives established during the scrutiny process;</p> <p>(d) The Administration agreed to reiterate the pledge made by PCICB at the resumption of Second Reading debate on the Bill and would consider the suggestion of conveying it to staff concerned by CITA;</p> <p>(e) The Administration saw a need to retain “budgetary reasons” in the pledge because changes necessitated by financial difficulties encountered by CITA had all along been the major concern of its staff and members. Moreover, there was a need to provide CIC the flexibility to make necessary changes for other legitimate purposes; and</p> <p>(f) It would not be practicable to project the exit terms for staff after the transition period at this stage. Rather, there should be continued communication between the staff and management sides of CITA/CIC so as to identify suitable arrangements in future.</p> <p>Chairman’s view that where the Bills Committee (BC) was concerned, ensuring the adequacy of clause 82 and securing the pledge on</p> | <p>action under paragraph 3(d) of the minutes</p> <p>The Administration to take actions under paragraphs 3(a), 3(b) and 3(c) of the minutes</p> |

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| | | continuance of employment would suffice. Detailed arrangements of the future operation of CIC should be left to the management and staff. | |
| <i>Discussion on the Administration's responses to outstanding follow-up actions arising from discussions at previous meetings</i> | | | |
| 010151 – 010809 | Chairman Administration | Briefing by the Administration on its responses to outstanding follow-up actions arising from discussions at previous meetings (LC Paper No. CB(1)942/05-06(02)) | |
| 010810 – 012500 | Chairman Ms Emily LAU Mrs Selina CHOW Mr Abraham SHEK Mr WONG Kwok-hing Ms LI Fung-ying Administration | Administration's expression of the following points in response to members – (a) Regarding item (1) of the responses, the uploading of the register of interest declarations of CIC members onto the Internet could be effected by administrative means; (b) Regarding item (2), the transaction of business by circulation of papers was a standing practice in many public bodies including PCICB and there were established procedures in this regard. CITA resorted to these procedures to deal with urgent and straight-forward matters only; and (c) Regarding item (3), the “six-year” and “six-board” rules under which non-officials should not be appointed to more than six boards/committees and/or hold office for more than six consecutive years in general circumstances are administrative guidelines | |

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| | | <p>promulgated by Government, hence they should not be written into the Bill. Meanwhile, these rules might not be applied to CITB and other committees under the auspice of CIC since their appointment matters would be determined by the industry.</p> <p>A member’s expression of concern about the transaction of business by circulation of papers. Another member’s indication of agreement to the Administration’s views in item (b) above. A further member’s view that there was a need to retain flexibility in transacting business by circulation of papers</p> <p>Discussion on whether the “six-year” and “six-board” rules should be written into the Bill. Given the stipulation on term of office of CIC members in clause 10, the majority view was that this policy matter should not be enshrined in the Bill</p> | |
| <i>Discussion on the updated Committee Stage Amendments to the Bill</i> | | | |
| 012501 – 014233 | Chairman Ms LI Fung-ying Ms Emily LAU Administration Assistant Legal Adviser | <p>Briefing by the Administration on the updated Committee Stage Amendments (CSA) to the Bill (LC Paper Nos. CB(1)1351/05-06(02) and (03))</p> <p>A member’s view that the expression “關乎” in the new clause 5(ha) was redundant and should be deleted</p> <p>Administration’s advice that the term “關乎” was in line with English version of the relevant clause</p> <p>Administration and ALA’s confirmation that the clauses in the</p> | |

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| | | Bill would be renumbered when the Bill was enacted and published as an Ordinance in the Gazette. | |
| 014234 – 015420 | Chairman Ms LI Fung-ying Ms CHAN Yuen-han Ms Emily LAU Mrs Selina CHOW Mr Abraham SHEK Administration | <p>Briefing by the Administration on the letter dated 21 April 2006 from PCICB to the Chairman regarding the tentative work plan of the Preparatory Committee for the Establishment of CIC (LC Paper No. CB(1)1351/05-06(01))</p> <p>Administration's undertaking in response to members that it would report the progress of the amalgamation of CIC with CITA to the relevant Panels of the Legislative Council after working out the major issues concerned</p> <p>Administration's advice in response to a member that according to a preliminary estimation, CIC would have a small secretariat comprising of less than ten staff initially, while the need for and size of its office premises would be further examined</p> | The Administration to take action under paragraph 3(e) of the minutes |
| 015421 – 015550 | Chairman Mr Abraham SHEK Ms LI Fung-ying Mrs Selina CHOW Ms Emily LAU Administration | <p>A member's expression of thanks on behalf of the construction industry to the Chairman and members of the BC for their efforts in scrutinizing the Bill</p> <p>Members' agreement to report to the House Committee on 12 May 2006 for the resumption of the Second Reading debate on the Bill at the Council meeting on 24 May 2006</p> <p>Chairman's expression of thanks to members, the Administration, and the Secretariat staff for their assistance in the scrutiny work.</p> | |

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7 July 2006