

立法會
Legislative Council

LC Paper No. CB(1)347/04-05
(These minutes have been
seen
by the Administration)

Ref : CB1/BC/1/04

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

**Minutes of first meeting held on
Friday, 5 November 2004, at 10:45 am
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 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 Howard YOUNG, SBS, 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

Mr Matthew LOO
Senior Council Secretary (1)3

Action

I. Election of Chairman

Ir Dr Raymond HO Chung-tai, the Member who had the highest precedence in the Council amongst those who were present at the election, presided over the election of Chairman for the Bills Committee.

2. Dr Raymond HO invited nominations for the Chairmanship of the Bills Committee. Mr KWONG Chi-kin was nominated by Mr Abraham SHEK Lai-him and the nomination was seconded by Ms LI Fung-ying and Miss CHAN Yuen-han. Mr KWONG accepted the nomination. There being no other nomination, Mr KWONG was elected Chairman of the Bills Committee.

II. Meeting with the Administration

(LC Paper No. CB(3)34/04-05	-- The Construction Industry Council (No. 2) Bill
Ref: ETWB(IR)310/13(02)	-- Legislative Council Brief
LC Paper No. LS6/04-05	-- Legal Service Division Report
LC Paper No. CB(1)153/04-05(01)	-- Background brief on 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)

Action

Declaration of interests

3. Ms Emily LAU Wai-hing declared interests that The Frontier had received a donation of \$254,400 from the Hong Kong Construction Association (HKCA) for conducting a survey on housing, and that she had been treated to a meal by the HKCA. Ir Dr Raymond HO also declared interests that he was the ex-President of the Hong Kong Institution of Engineers, the Chairman of the Association of Engineers in Society, and that the Association had received donation from HKCA.

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

Follow-up actions to be taken by the Administration

5. Members requested the Administration to take the following actions:

Composition of the Construction Industry Council (clause 9)

(a) to review the proposed composition of the Construction Industry Council (CIC) in clause 9. In this respect, members expressed different views as follows –

- (i) appointment of members of CIC by the Secretary for the Environment, Transport and Works (Secretary) was appropriate but objective criteria should be drawn up for the appointment;
- (ii) members of CIC should be nominated by professional bodies or trade associations and should not be appointed by the Secretary;
- (iii) mixed mode of composition of CIC should be explored. Depending on the nature of the trade/sector, some members might be nominated by the relevant professional bodies or trade associations and some appointed by the Secretary;
- (iv) the number of representatives for construction workers in CIC should be increased from two to five;
- (v) architects and engineers should be represented in CIC by persons nominated by their respective professional bodies;
- (vi) the meaning of “employers” in clause 9(3)(a) was unclear and should be reviewed; and
- (vii) clause 9(3)(f) provided the Secretary with excessive flexibility for appointment of members and should be reviewed;

Action

Continuance of employment (clause 82)

- (b) to make reference to the case of the Hong Kong Sports Development Board in dealing with the employment matters of the Construction Industry Training Authority (CITA). Some members felt strongly that no staff should be adversely affected because of the dissolution of the CITA;
- (c) to review the adequacy of the present drafting of clause 82 in reflecting the policy intention of protecting continued employment of staff of the CITA upon its dissolution. A suggested version was to add at the end of clause 82(1) “provided that no employment of any employee of the CITA should be terminated by reason only of and in anticipation of the dissolution.”;

Subcontracting

- (d) to elaborate how the problems associated with management of subcontracting in the construction industry could be addressed upon the establishment of CIC;

Consultation with stakeholders

- (e) to liaise with stakeholders with a view to agreeing on ways to resolve their concerns; and

Provisional Construction Industry Co-ordination Board

- (f) to provide a progress report on the work of the Provisional Construction Industry Co-ordination Board.

Follow-up action to be taken by the Assistant Legal Adviser

6. Mr Andrew CHENG Kar-foo requested Assistant Legal Adviser 5 to examine whether the Bill could be amended to ensure that the problems associated with management of subcontracting in the construction industry could be addressed upon the establishment of CIC.

III. Any other business

Invitation for public views

7. The Bills Committee agreed to invite views on the Bill from the organizations listed in the proposed list of industry consultees prepared by the

Action

Secretariat. The Bills Committee also agreed that members should notify the Clerk if they wished to invite other suggested organizations.

(Post-meeting note: The list was circulated to members vide LC Paper No. CB(1)187/04-05 on 8 November 2004.)

8. Members also agreed to invite public views on the Bill through the following ways:

- (a) an advertisement be placed in one local Chinese and one local English newspaper;
- (b) a notice be placed on the website of the Legislative Council;
- (c) a press release be issued; and
- (d) invitation letters be sent to the District Councils.

Date of next meeting

9. Members agreed to hold the next meeting on Thursday, 2 December 2004, from 9:00 am to 12:30 pm to meet with the Administration and deputations.

(Post-meeting note: With the concurrence of the Chairman, an additional meeting was subsequently scheduled for Thursday, 9 December 2004, from 9:00 am to 12:30 pm to meet with the Administration and deputations.)

10. The meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
30 November 2004

**Proceedings of the first meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Friday, 5 November 2004, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000239	Ir Dr Raymond HO Mr Abraham SHEK Mr KWONG Chi-kin	Election of Chairman	
000240 - 001108	Administration	Briefing by the Administration on the Bill	
001109 - 001705	Chairman Ms LI Fung-ying Administration	<p>Concern about how impacts of the dissolution of the Construction Industry Training Authority (CITA) on its staff could be minimized</p> <p>Administration's explanations -</p> <p>(a) The CITA would be subsumed under the Construction Industry Council (CIC) as a committee named as the Construction Industry Training Board (CITB), with its existing statutory powers and governance structure enshrined in the Bill</p> <p>(b) The Bill also provided that the terms of employment of staff in the CITA would be preserved upon transfer to CIC</p> <p>(c) It would not be appropriate for the Administration to impose too many constraints in the Bill on how CIC should manage CITB</p>	
001706 - 002754	Mr WONG Kwok-hing Administration	<p>Discussion on subcontracting -</p> <p>(a) The Bill's effect on tackling problems associated with multi-layer subcontracting, such as difficulty in ensuring insurance coverage for genuine</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>construction workers who took up self-employed status, wage arrears, etc.</p> <p>(b) Whether layers of subcontracting should be limited in all kinds of construction works, and measures taken and contemplated to tighten up regulation of subcontracting</p> <p>(c) Whether the problems associated with management of subcontracting should be addressed by legislative measures or by self-regulation such as voluntary subcontractor registration schemes</p>	
002755-010024	<p>Chairman Mr Abraham SHEK Ms Emily LAU Mr Patrick LAU Miss CHAN Yuen-han Administration</p>	<p>Discussion on composition of CIC and the mode of appointment of CIC members –</p> <p>(a) Rationale behind the proposed composition of CIC and the mode of appointment of CIC members, namely, to maximize the pool of potential candidates, to provide greater flexibility, and to strike a balance of interests among the various stakeholders</p> <p>(b) Members’ comments on clause 9, namely, that the proposed composition of CIC was not balanced enough, that clause 9(3)(f) provided the Secretary for the Environment, Transport and Works (Secretary) with excessive flexibility for appointment of members and should be reviewed, and that appointment of CIC members in their personal capacity could not ensure accountability</p> <p>(c) Whether negotiation on who to represent a certain sector should</p>	<p>The Administration to take action under paragraph 5(a)(vii) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		<p>be initiated by the Administration or by the industry itself, and the difficulties envisaged</p> <p>(d) A member's view on the need to increase the proposed number of construction workers represented in CIC</p> <p>(e) A member's elaboration of the need to have architects and surveyors represented in CIC by persons nominated by their respective professional bodies, and the Administration's assurance that it recognized the important role played by all construction professionals</p>	<p>The Administration to take action under paragraph 5(a)(v) of the minutes</p>
010025 - 010809	Chairman Miss CHAN Yuen-han Administration	<p>Need for the Bills Committee to invite views from all stakeholders</p> <p>Concern that the existing power of the CITA would be diminished should it be subsumed under CIC</p> <p>Administration's explanation that CITB would be given delegated powers by CIC to perform all statutory functions currently discharged by the CITA, and that the establishment of CIC as an umbrella organization was necessary for spearheading reforms</p> <p>Need to properly control subcontracting</p>	
010810 - 011921	Ir Dr Raymond HO Administration Chairman	<p>Discussion on the mode of appointment of members to CIC –</p> <p>(a) A member's view :</p> <p>- members of CIC should be nominated by professional bodies or trade associations and</p>	<p>The Administration to take action</p>

Time marker	Speaker	Subject(s)	Action required
		<p>should not be appointed by the Secretary in their own personal capacity</p> <ul style="list-style-type: none"> - The representative of engineers in CIC should be drawn from a list of candidates nominated by the Hong Kong Institution of Engineers <p>(b) Administration’s emphasis of the need to consider the views of various stakeholders on the mode of appointment of members to CIC</p> <p>(c) Whether appointment of representatives of professional bodies to committees under the Provisional Construction Industry Co-ordination Board (PCICB) and regular report of PCICB’s work to all stakeholders would suffice to ensure effective communication in construction-related matters</p>	<p>under paragraph 5(a)(ii) of the minutes</p> <p>The Administration to take action under paragraph 5(a)(v) of the minutes</p>
011922 - 012833	Mr LEE Cheuk-yan Mr Alan LEONG Chairman Administration	<p>Adequacy of the present drafting of clause 82 in reflecting the policy intention of protecting continued employment of staff of the CITA upon its dissolution</p> <p>A member’s view that multi-layer subcontracting would give rise to greater risks</p> <p>Views of members on the composition of CIC –</p> <p>(a) The meaning of “employers” in clause 9(3)(a) was unclear and should be reviewed, and that there might not be a need for four</p>	<p>The Administration to take action under paragraph 5 (c) of the minutes</p> <p>The Administration to take action under</p>

Time marker	Speaker	Subject(s)	Action required
		<p>seats for employers in CIC</p> <p>(b) A mixed mode of composition of CIC should be explored. Depending on the nature of the trade/sector, some members might be nominated by the relevant professional bodies or trade associations and some appointed by the Secretary</p> <p>(c) The number of representatives for construction workers in CIC should be increased from two to five</p> <p>Need for the Administration to liaise with stakeholders with a view to agreeing on ways to resolve their concerns</p>	<p>paragraph 5(a)(vi) of the minutes</p> <p>The Administration to take action under paragraph 5(a)(iii) of the minutes</p> <p>The Administration to take action under paragraph 5(a)(iv) of the minutes</p> <p>The Administration to take action under paragraph 5(e) of the minutes</p>
012834 - 014847	Mr Andrew CHENG Mrs Selina CHOW Mr Alan LEONG Administration	<p>A member's request for specific details about how the problems associated with management of subcontracting could be addressed upon the establishment of CIC (clauses 5 to 7)</p> <p>Administration's explanation that the policy intention was to promote self-regulation in the industry by introducing voluntary subcontractor registration schemes and by requiring main contractors to submit subcontractor management plans at</p>	<p>The Administration and ALA to take actions under paragraphs 5(d) and 6 of the minutes respectively</p>

Time marker	Speaker	Subject(s)	Action required
		<p>tender stage, etc.</p> <p>Another member's view that the CIC should be adequately empowered to spearhead reform. There might be a need for certain degree of subcontracting to share out risks. The relevant control measures should be initiated by the industry itself instead of being imposed by the Government</p> <p>A member's view that while appointment of members of CIC by the Secretary was appropriate, objective criteria should be drawn up for the appointment</p>	<p>The Administration to take action under paragraph 5(a)(i) of the minutes</p>
014848 - 015224	Mr Alan LEONG Administration	<p>Need for objective criteria for the appointment of members of CIC (clause 9)</p> <p>Suggestion to add at the end of clause 82(1) "provided that no employment of any employee of the CITA should be terminated by reason only of and in anticipation of the dissolution"</p> <p>How to address the problems associated with subcontracting should be worked out by CIC instead of being stipulated in the Bill</p>	<p>The Administration to take action under paragraph 5(c) of the minutes</p>
015225 -015928	Chairman Ms Emily LAU Clerk Mr Abraham SHEK Ms LI Fung-ying Administration	<p>Date of next meeting</p> <p>Agreement on the ways to invite public views on the Bill and organizations to be invited</p>	<p>Clerk to issue invitation letters and a press release and to place advertisements in local newspapers and a notice on website of</p>

Time marker	Speaker	Subject(s)	Action required
		Request for provision of a progress report on the work of the PCICB	LegCo The Administration to take action under paragraph 5(f) of the minutes
015929 - 020026	Ms LI Fung-ying	Call upon the Administration to make reference to the case of the Hong Kong Sports Development Board in dealing with employment matters to ensure that no staff of the CITA would be adversely affected because of its dissolution	The Administration to take action under paragraph 5(b) of the minutes
020027 - 020202	Mr WONG Kwok-hing Chairman Administration	A member's view on the need for the Bill to specify how the various problems associated with management of subcontracting could be addressed	