

# 立法會

## *Legislative Council*

LC Paper No. CB(1)2196/05-06  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/3/05

### **Bills Committee on Rail Merger Bill**

#### **Minutes of first meeting on Thursday, 27 July 2006, at 10:45 am in Conference Room A of the Legislative Council Building**

- Members present** :
- Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
  - Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
  - Hon Albert HO Chun-yan
  - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
  - Hon LEE Cheuk-yan
  - Dr Hon LUI Ming-wah, SBS, JP
  - Hon CHAN Kam-lam, SBS, JP
  - Hon LEUNG Yiu-chung
  - Hon LAU Kong-wah, 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 Tommy CHEUNG Yu-yan, JP
  - Hon WONG Kwok-hing, MH
  - Hon LEE Wing-tat
  - Hon LI Kwok-ying, MH, JP
  - Hon Jeffrey LAM Kin-fung, SBS, JP
  - Hon LEUNG Kwok-hung
  - Hon CHEUNG Hok-ming, SBS, JP
  - Hon Patrick LAU Sau-shing, SBS, JP
  - Hon TAM Heung-man
- Members absent** :
- Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
  - Hon SIN Chung-kai, JP
  - Hon Albert CHAN Wai-yip
  - Dr Hon Fernando CHEUNG Chiu-hung
  - Hon Ronny TONG Ka-wah, SC
  - Hon CHIM Pui-chung
  - Hon KWONG Chi-kin

- Public Officers Attending** : Mr Patrick HO  
Deputy Secretary for the Environment, Transport and Works
- Miss Ida LEE  
Principal Assistant Secretary for the Environment,  
Transport and Works
- Mr David LAU  
Acting Deputy Secretary for Financial Services and the  
Treasury
- Mr Sunny CHAN Yuen-sun  
Senior Government Counsel  
Department of Justice
- Mr Lewis LAW Chung-ming  
Government Counsel  
Department of Justice
- Clerk in attendance** : Mr Andy LAU  
Chief Council Secretary (1)2
- Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3
- Mr Anthony CHU  
Council Secretary (1)2
- Miss Winnie CHENG  
Legislative Assistant (1)5
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Action

**I Election of Chairman**

Ms Miriam LAU and Mr TAM Yiu-chung were elected Chairman and Deputy Chairman of the Bills Committee respectively.

**II Meeting with the Administration**

- (LC Paper No. CB(3)700/05-06      - the Bill  
File Ref: ETWB(T) CR 1/986/00      - The Legislative Council Brief  
LC Paper No. LS91/05-06          - Legal Service Division Report

Action

LC Paper No. CB(1)2031/05-06 - Background Brief on Rail Merger Bill prepared by the Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

3. At the request of the Bills Committee, the Administration undertook to provide further information in respect of the following before the next meeting:

*Property package issues*

- (a) Basis and methodology adopted by the professional valuer appointed by the Government in conducting valuation of the property and related commercial interests included in the property package;
- (b) Details of the valuation of the property package of the rail merger proposal;
- (c) Given the Administration's reply that disclosure of the valuation of individual property sites not yet tendered would cause a disadvantage to the post-merger Corporation (MergeCo) during the future tender process, the Administration was requested to explain, with reference to Government's public works and land sale programme, and Hong Kong Housing Authority's (HKHA) property development projects, how the disclosure of relevant project estimates/open market value (OMVs) had caused disadvantage to the Government or HKHA in the past tender exercises, and whether OMV reserve prices of individual sites as estimated by the Government/HKHA were made known to potential bidders in the past;
- (d) Why the valuation of the eight property development sites conducted by the professional valuer appointed by Government would differ significantly from those prepared by other professional valuers as quoted in the press, and whether the properties were disposed of at a severely diminished valuation;
- (e) The triggering mechanism and factors to be considered in invoking the proposed railway property development control mechanism to enable Government to exercise control on the level of flat production arising from the tender programme for railway property developments;
- (f) The basis, calculation method and discount rate adopted for projecting the assessed development profits (in present value) associated with the selling of the rights over the property development sites to MTR Corporation Limited (MTRCL);

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### *Fare-related issues*

- (g) Earliest date for fare adjustment under the fare adjustment mechanism (FAM);
- (h) Illustration of the changes of railway fares over the past 20 years by applying the FAM formula;
- (i) As the adoption of a FAM for adjusting public transport fares was already an established Government transport policy, the FAM for adjusting railway fares should be implemented without further delay to enable the general public to enjoy fare reduction at the earliest opportunity, and the FAM should also be delinked from the present rail merger exercise;
- (j) Measures to ensure objectivity and transparency of the productivity factor in the FAM formula;
- (k) Details and basis of the calculation of the different levels of fare reduction, and their relationship with the synergies arising from the rail merger; and

### *Staff-related issues*

- (l) Kowloon-Canton Railway Corporation (KCRC) was requested to render assistance to its staff to facilitate their registration as registered skilled workers with the Construction Workers Registration Authority.

4. Members noted that the Administration would brief the Bills Committee on the changes to the existing Operating Agreement between Government and MTRCL, which would include the FAM, and the proposed amendments to the relevant subsidiary legislation in due course.

### Public consultation

5. Members agreed that a general invitation for submissions should be posted on the website of the Legislative Council and a press release for this purpose would also be issued. Letters would also be issued to the 18 District Councils inviting views on the Bill. Members also agreed that the Research and Library Services Division should be requested to compile a list of academics, organizations and individuals who had expressed views on the valuation of the property package of the rail merger in the press since April 2006. They would also be invited to give views on the Bill. Members also agreed that if any interested parties had indicated that they wished to attend a meeting of the Bills Committee to give oral presentations, the Bills Committee would meet with them at two meetings scheduled for 28 October 2006 and 4 November 2006, from 9:00 am to 1:00 pm.

Action

Meeting schedule

6. Members agreed to hold the next meeting on 20 September 2006, at 2:30 pm to discuss the finance/property package of the rail merger. Representatives of MTRCL and KCRC should be invited to future meetings to exchange views with members. Members also agreed to hold bi-weekly meetings starting from 20 September 2006 onwards for an initial period of three months. The Clerk was instructed to prepare a meeting schedule for members' discussion at the next meeting.

Provision of papers by the Administration

7. Regarding the provision of discussion and follow-up papers by the Administration, members took the view that the Administration should provide the necessary information papers, in both English and Chinese versions, at least two clear days before the relevant Bills Committee meeting in order to allow sufficient time for members to peruse the papers, failing which, the Bills Committee would consider cancelling the meeting. Members agreed that expression "clear days" excluded the day of receipt of the paper by the Legislative Council Secretariat, the day of the relevant meeting and intervening public holidays. The Administration took note of members' request.

**III Any other business**

8. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 1  
Legislative Council Secretariat  
13 September 2006

**Proceedings of the first meeting of  
the Bills Committee on Rail Merger Bill  
on Thursday, 27 July 2006, at 10:45 am  
in Conference Room A of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I – Election of Chairman</i>			
000000 – 000552	Mr Albert HO Ir Dr Raymond HO	Election of Chairman	
000553 – 001109	Chairman	Election of Deputy Chairman	
<i>Agenda Item II – Meeting with the Administration</i>			
001110 – 003642	Chairman Ms Emily LAU Mr LEE Wing-tat Administration Mr WONG Kwok-hing Mr LEUNG Kwok-hung Mr Andrew CHENG Mr LEUNG Yiu-chung Mr Abraham SHEK Mr Tommy CHEUNG Mr LEE Cheuk-yan	<ul style="list-style-type: none"> <li>- Opening remarks</li> <li>- Schedule of meetings and provision of papers by the Administration</li> <li>- Whether adoption of the proposed fare adjustment mechanism (FAM) should be delinked from the rail merger exercise</li> </ul>	
003643 – 004339	Chairman Mr LEE Wing-tat Ms Emily LAU Mr Albert HO Mr LEUNG Yiu-chung	<ul style="list-style-type: none"> <li>- Invitation for submissions</li> <li>- Meeting arrangements for receiving public views</li> </ul>	
004340 – 005306	Administration	Briefing on the Administration's responses to members' queries raised at previous Panels meetings (LC Paper No. CB(1)1935/05-06(01), progress of the on-going discussions between the two railway corporations and the staff side, future plan to brief the Bills Committee on the major amendments to the Operating Agreement and the proposed amendments to the relevant subsidiary legislation	
005307 – 005853	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> <li>- Expression of views that adoption of a more objective and transparent FAM was already an established Government transport policy and its implementation should be delinked from the rail merger exercise so that the public could enjoy early reduction of railway fares and members would have sufficient time to scrutinize the legislative proposal</li> </ul>	Administration to take necessary follow-up action

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<ul style="list-style-type: none"> <li>- The Administration's reply that               <ul style="list-style-type: none"> <li>i) the rail merger exercise provided the opportunity to replace the existing fare autonomy by the proposed formulaic approach for determining future fare adjustments</li> <li>ii) the synergy arising from the rail merger would provide scope for fare reduction</li> <li>iii) FAM would be included in the Integrated Operating Agreement (IOA) and the Administration would brief the Bills Committee on the details</li> </ul> </li> </ul>	
005854 – 010542	Mr LEE Wing-tat Administration	<ul style="list-style-type: none"> <li>- Expression of view that the two railway corporations should have reduced their fares due to the cumulative deflation over the past few years</li> <li>- Expression of view that the valuation of the property package conducted by the professional valuer appointed by the Government was substantially below market value as estimated by other professional valuers as quoted in the press</li> <li>- The Administration's reply that the valuation was conducted by an independent professional valuer. The land premium in respect of the two property sites which had been tendered were provided to members but valuation details were commercially sensitive information and could not be made public so as to avoid possibly causing disadvantage to the post-merger Corporation (MergeCo) during future tender process</li> </ul>	Administration to take necessary follow-up action
010543 – 011059	Mr WONG Kwok-hing Administration	<ul style="list-style-type: none"> <li>- Expression of view that the two railway corporations should first reduce their fares to meet the public aspiration for more affordable railway fares</li> <li>- Expression of concern that the two railway corporations had not addressed the concerns of the Alliance of Five Unions in Two Rails and the staff, including the definition of frontline staff and the re-deployment of staff affected by the rail merger, etc</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<ul style="list-style-type: none"> <li>- Request by The Alliance of Five Unions in Two Rails for the establishment of a regular communication system with the Administration</li> <li>- The Administration's briefing on the communication arrangements and the on-going work undertaken by the two railway corporations to address the concerns of the staff side</li> </ul>	
011100 – 011817	Mr LEE Cheuk-yan Administration	<ul style="list-style-type: none"> <li>- Concern about the lack of an effective monitoring mechanism for railway fares after the rail merger as MergeCo would be allowed to automatically increase its fares during inflationary period without public scrutiny</li> <li>- Expression of view that railway fares should immediately be reduced to reflect the cumulative deflation over the past few years</li> <li>- Whether FAM fell within the scope of the Rail Merger Bill</li> <li>- Earliest date for fare adjustment under FAM in the rail merger proposal</li> <li>- Illustration of the changes of railway fares by applying FAM for the past 20 years</li> <li>- Concern about the job security of all staff, and change of employment terms and benefits after the rail merger</li> <li>- The Administration's reply that all serving staff of the two railway corporations would be employed by MergeCo on their prevailing terms and conditions upon rail merger. MergeCo would formulate a unified set of terms and conditions after the rail merger after consulting the staff side</li> </ul>	Administration to take necessary follow-up action
011818 – 012402	Mr Albert HO Administration	<ul style="list-style-type: none"> <li>- Expression of view that the properties of Kowloon-Canton Railway Corporation (KCRC) should be disposed of through public auction/tender and should not form part of the merger deal</li> <li>- Concern about the lack of a proper mechanism for controlling future fare</li> </ul>	



Time marker	Speaker	Subject(s)	Action required
		<p>adjustments and the need for including a new provision governing the operation of FAM in the Bill</p> <ul style="list-style-type: none"> <li>- Fare reduction should immediately be implemented and delinked from the rail merger exercise</li> <li>- The Administration's reply that               <ul style="list-style-type: none"> <li>i) FAM would be stipulated in IOA</li> <li>ii) properties above or adjacent to railway stations should be developed by railway corporations in order that the property and railway development could be better synchronized</li> </ul> </li> </ul>	
012403 – 013012	Mr LEUNG Kwok-hung Administration	<ul style="list-style-type: none"> <li>- Expression of view that the properties of KCRC should be disposed of through public auction/tender, and any sale of properties at diminished value would be at the expense of the general public</li> <li>- Expression of view that railway fares were too high and should be reduced. FAM should also be included in the Bill for members' consideration</li> <li>- Expression of view that MTR Corporation Limited (MTRCL) had a bad track record of dismissing the union office bearers in 1984. Compulsory collective bargaining should be introduced to safeguard employees' rights</li> </ul>	
013013 – 013512	Ms LI Fung-ying Administration	<ul style="list-style-type: none"> <li>- Concern about the job security of serving staff</li> <li>- Concern about the alignment of the terms and conditions of employment and grading structure of MTRCL and KCRC to facilitate the integration of the human resources of the two railway corporations. Proper consultation should be conducted</li> <li>- KCRC had not rendered assistance to its staff to register as skilled workers under the Construction Workers Registration Scheme</li> <li>- The Administration's reply that there were on-going discussions between the management and the staff side of the</li> </ul>	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		<p>two railway corporations. The two corporations had also commissioned a consultant to study various aspects of human resource integration and would fully consult their staff before implementation. The Administration would follow up with KCRC on the registration of KCRC's skilled workers and revert</p>	
013513 – 014019	Ms Emily LAU Administration	<ul style="list-style-type: none"> <li>- Expression of view that the two railway corporations should first reduce their fares to meet the public aspiration</li> <li>- Concern about the corporate governance arrangements for MergeCo to ensure proper monitoring of the operation and fare setting of railway service after the rail merger</li> <li>- The Administration's reply that in the context of the rail merger, a more objective and transparent FAM would be adopted. Regarding the Managing Board of MergeCo, the present appointment system adopted by MTRCL worked well. For the future Managing Board of MergeCo, it would continue to include members from different sectors of the society to ensure a balanced composition of the Board to handle its activities</li> </ul>	
014020 – 014544	Miss TAM Heung-man Administration	<ul style="list-style-type: none"> <li>- Concern about the lack of information on financial and property packages to facilitate the scrutiny of the rail merger proposal</li> <li>- Concern about the selling of KCRC's properties at diminished valuation without putting them up for auction or tender</li> <li>- Delivery of new railway projects under the Ownership Approach (i.e. with the operator responsible for the finance, construction and operation of the new railway) and the Concession Approach (i.e. with the operator responsible for the operation of the new railway through a separate service concession arrangement)</li> <li>- The Administration's reply that               <ul style="list-style-type: none"> <li>i) valuation of the property package</li> </ul> </li> </ul>	

Time marker	Speaker	Subject(s)	Action required
		<p>was assessed by an independent professional valuer and the price of the property package was fair and reasonable</p> <p>ii) the rail-property model could better synchronize rail development with property development and allow better risk management</p> <p>iii) in taking forward natural extensions of the KCRC Railway and New Separate Projects, Government would have the discretion to adopt the Ownership Approach or the Concession Approach</p>	
014545 – 015050	Mr Patrick LAU Administration	<ul style="list-style-type: none"> <li>- Disclosure of detailed valuation of the eight property development sites under the property package</li> <li>- The Administration's reply that               <ul style="list-style-type: none"> <li>i) the actual land premium for the sites which had been tendered had been provided</li> <li>ii) disclosure of the valuation of the other sites which had not been tendered might cause a disadvantage to the MergeCo in future tender process</li> </ul> </li> </ul>	
015051 – 015443	Ir Dr Raymond HO Administration	<ul style="list-style-type: none"> <li>- Concern about the loss of talent of the two railway corporations after the rail merger and proper staff arrangements for MergeCo should be worked out</li> <li>- The Administration's explanation that the estimated staff synergies for managers and professionals could be redeployed due to an increase in job vacancies in the first three years after merger</li> </ul>	
015444 – 020019	Mr LEUNG Yiu-chung Administration	<ul style="list-style-type: none"> <li>- Mechanism for ensuring transparency and objectivity of the productivity factor in the FAM formula. Railway fares after the merger should be subject to public scrutiny</li> <li>- Relationship between synergies arising from rail merger and levels of fare reduction in the fare reduction package</li> <li>- Railway fares should immediately be reduced</li> <li>- MergeCo should fulfil its corporate</li> </ul>	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		<p>social responsibility and offer concessionary fares to the elderly and persons with disabilities (PwDs)</p> <ul style="list-style-type: none"> <li>- The Administration's reply that               <ul style="list-style-type: none"> <li>i) FAM would be included in IOA</li> <li>ii) a concessionary fare of \$2 per trip would be provided for the elderly travelling on the railway network on Sundays and public holidays in the first year after the rail merger. MergeCo would ensure a barrier-free environment for PwDs</li> <li>iii) the two railway corporations had been providing various types of fare concessions to passengers. The travelling public would enjoy fare reduction out of the rail merger</li> <li>iv) it should be noted that the operating costs of railway corporations had not been reduced during the past deflationary period</li> </ul> </li> </ul>	
<i>Agenda Item III – Any other business</i>			
020020 – 020249	Chairman Mr LEE Wing-tat Mr WONG Kwok-hing Mr Andrew CHENG Mr Albert HO	<ul style="list-style-type: none"> <li>- Discussion topic for next meeting</li> <li>- Invitation of representatives from MTRCL and KCRC to attend next meeting</li> </ul>	Administration to take necessary follow-up action
020250 – 020624	Chairman Mr Andrew CHENG Mr LEE Wing-tat Mr WONG Kwok-hing	Request for information	Administration to take necessary follow-up action