

立法會

Legislative Council

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Paper for the House Committee meeting on 12 May 2006

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

Purpose

This paper reports on the deliberations of the Bills Committee on Construction Industry Council (No. 2) Bill and seeks Members' support for the resumption of Second Reading debate on the Bill on 24 May 2006.

Background

2. In the light of various incidents involving non-complying construction building works, which had revealed some inherent weaknesses in the construction industry, the Chief Executive appointed the Construction Industry Review Committee (CIRC) in April 2000 to examine the operation of the construction industry, and to make recommendations on measures to improve the practices of the trade. The CIRC completed the review and published in January 2001 a report entitled "Construction for Excellence". The report recommended 109 improvement measures, covering the whole spectrum of construction activities, to lift their quality and cost-effectiveness. In particular, the CIRC observed in its report that the construction industry was highly fragmented and beset with an adversarial culture which impeded long-term development. It therefore concluded that a statutory industry co-ordinating body encompassing all key sectors should be formed to promote the culture of self-regulation in a market-driven environment.

3. At its meeting held on 5 June 2001, the Executive Council agreed in principle to the formation of a statutory industry co-ordinating body and directed that a provisional body should be set up pending its formation. The Provisional Construction Industry Co-ordination Board (PCICB) was thus established in September 2001 and accorded top priority to drawing up a draft legal framework of the Construction Industry Council (CIC). After consultation with industry stakeholders, PCICB submitted a draft legal framework of CIC to the Administration in April 2003.

4. On the basis of PCICB's draft framework, the Administration drew up the CIC Bill (the 2003 Bill) and introduced it into the Legislative Council (LegCo) on 11 February 2004. However, the 2003 Bill was not scrutinized due to limited time available in the remainder of that legislative term to complete the scrutiny of the proposed legislation. Pursuant to section 9(4) of the Legislative Council Ordinance (Cap. 542), consideration of the CIC Bill lapsed at the end of the term. The Administration therefore re-introduced the Bill on 13 October 2004.

The Bill

5. The Bill seeks to establish a statutory body known as CIC, which will take over the functions of the Construction Industry Training Authority (CITA) established under the Industrial Training (Construction Industry) Ordinance (Cap. 317). The main provisions in the Bill include the following –

- (a) stipulating the functions, powers, composition, membership, and meeting and funding arrangements of CIC;
- (b) providing for the establishment of a committee known as Construction Industry Training Board (CITB) under CIC to assume the existing functions and responsibilities of CITA in respect of construction training and trade testing;
- (c) providing for the imposition of a levy on construction operations carried out in Hong Kong and the assessment/collection of levy payable by contractors in accordance with the existing mechanism prescribed in Cap 317; and
- (d) providing for objection and appeal channels in respect of any levy or surcharge imposed under the Bill based on existing practices of CITA.

6. According to the Administration, the policy intent of the CIC Bill and the 2003 Bill is the same. However, some amendments have been made essentially owing to the enactment of the Construction Industry Levy (Miscellaneous Amendments) Ordinance 2004 and the Construction Workers Registration Ordinance in the 2003-04 legislative session, as well as for drafting refinements.

Bills Committee

7. Members agreed at the House Committee on 15 October 2004 to form a Bills Committee to scrutinize the Bill. The Bills Committee comprises 14

members with Hon KWONG Chi-kin elected as the Chairman. The membership list of the Bills Committee is in **Appendix I**. The Bills Committee held 23 meetings, met with 20 deputations and received 29 submissions. A list of deputations which have presented views orally to the Bills Committee is in **Appendix II**.

Deliberations of the Bills Committee

8. Members of the Bills Committee support the establishment of a statutory body to coordinate and spearhead reform to uplift the quality of the construction industry. Recognizing the unique nature of the local construction industry which covers a wide spectrum of trades, members consider that certain important principles must be enshrined in the Bill to ensure that the statutory body will achieve its intended purposes. These include the following –

- (a) the scope of functions of CIC must be appropriate and well defined to enable it to carry out its role as a coordinating and representing body in the construction industry;
- (b) the mode of composition of CIC and its major committee, CITB, must be widely accepted by the industry;
- (c) the operation of CIC must be transparent to enhance public monitoring;
- (d) the sources of finance for CIC must be steady to enable its sustainable operation; and
- (e) the transitional arrangements for CIC amalgamating with CITA, in particular in relation to staffing matters, must be seamless and smooth.

9. With regard to the above principles, members thoroughly and critically examined the provisions of the Bill. The deliberations of the Bills Committee are set out in the ensuing paragraphs.

Functions of Construction Industry Council

10. The first and foremost task of the Bills Committee is to examine the scope of functions of CIC as defined in the Bill (clause 5). The Bill confers CIC with a much wider range of functions than the existing functions of CITA. The functions of CIC include, amongst others, giving advice and making recommendations to the Government on strategic matters that are connected with the industry; reflecting to the Government the construction industry's needs and aspirations; formulating codes of conduct and enforcing such codes; improving the performance of stakeholders through establishing or

administering registration scheme or rating schemes; promoting good practices in the construction industry in relation to procurement methods, site safety and others; and making recommendations with respect to the rate of the levy imposed under the Bill.

11. Although PCICB considers that the scope of functions of CIC as defined in the Bill is appropriate to enable it to discharge its role as an umbrella organization for the construction industry, members of the Bills Committee find the proposed functions of CIC inadequate. Members are gravely concerned about the long-standing problems in the construction industry which have yet to be resolved. These include unnecessary subcontracting arrangements, wage arrears and evasion of Mandatory Provident Fund (MPF) contributions. Members consider that unless CIC is expressly entrusted with the functions to deal with these problems, its role to uplift the quality of the industry could not be fulfilled effectively. Members agree unanimously that the proposed functions of CIC should be expanded to include industry-wide concerns.

12. After reaching a consensus on the need to expand the functions of CIC to address industry-wide concerns, members have then examined how best this could be achieved. Members appreciate that it is impracticable and, indeed, impossible to include by express provisions in the Bill each and every concern of the industry within the scope of functions of CIC. An excessive minute specification of functions of CIC may hamper its flexibility in operation. After considering from both practical and drafting perspectives, the Bills Committee agrees that clause 5 of the Bill should be amended to the effect that the functions of CIC will include promoting good practices in the construction industry in relation to subcontracting, project management and supervision. CIC will also be tasked to enhance the cohesiveness of the construction industry by promoting harmonious labour relations and observance of statutory requirements relating to employment. The Administration will move Committee Stage Amendments (CSAs) to the clause to achieve the effect.

13. Apart from expanding the functions of CIC to tackle industry-wide problems, members have called on the Administration to proactively devise measures to resolve these problems at root. In this respect, members note the formation of a Working Group by the Environment, Transport and Works Bureau to undertake a review on the contractual arrangements ascertaining whether further control can be incorporated into the contract to alleviate the problems of non-payment of worker wages and unnecessary subcontracting of works. The Bills Committee welcomes the proposal of the Working Group to implement a scheme of measures in a few selected public works contracts on a trial basis to tackle the problems. These measures include establishing computerized site access control and a special team to receive and handle complaints; controlling/monitoring payment of worker wages; and prohibiting the main contractor's core management team from taking part in subcontracting any part of the works under the contract. The Bills Committee hopes that after assessing the outcomes of the trials and consultation with stakeholders,

the proposed measures can be implemented expeditiously for all future works contracts.

Composition of Construction Industry Council

Mode of composition proposed in the Bill

14. Throughout the deliberations of the Bills Committee, membership composition of CIC remains one of the thorniest issues. The Bill (clause 9) proposes that CIC is to consist of a Chairman, an Executive Director, three public officers and 20 other members. Except the Executive Director, all the members are to be appointed by the Secretary for Environment, Transport and Works (SETW). The other 20 members are to be persons who, in the opinion of SETW, represent the various sectors of the construction industry. These sectors include employers, professionals, consultants, contractors, subcontractors, materials and equipment suppliers, training institutes, academic and research institutions, and trade unions of construction workers. Under the Bill, members representing these sectors are to be appointed in their individual capacity.

Views of deputations

15. The majority of organizations submitting views to the Bills Committee object to the proposed mode of composition. They suggest that members of CIC other than public officers and its office bearers should be nominated by the relevant sectors for appointment by SETW. Various reasons have been put forth to support their suggestion and the major ones are as follows –

- (a) nominees will be accepted by the representing sectors and could better reflect their views;
- (b) nominees will have a duty to report back to the nominating organizations which could enhance accountability; and
- (c) performance of nominees could be monitored by the nominating organizations.

Revised mode of composition

16. Members of the Bills Committee share the concern of the organizations and consider the proposed mode of composition of CIC in the Bill far from satisfactory. Nevertheless, they also recognize that with so many trades and interested organizations in the construction industry, it would be unrealistic to include representatives of each and every relevant body in CIC. It is therefore necessary to strike an acceptable balance of interest in deciding on the appropriate mode of composition. After discussion, members accept the Administration's proposal to adopt a hybrid model under which selected

nominating organizations representing specific sectors in the industry can put forward candidates for consideration and appointment by SETW to CIC on an ad personam basis.

17. Based on the categories stipulated in clause 9 of the Bill, members agree that the nominating organizations should be drawn from several major sectors in the construction industry, namely, employers, professionals, consultants, contractors, subcontractors, materials/equipment suppliers, and trade unions of workers. Although training and research institutes are also one of the categories stipulated in clause 9, members agree not to identify nominating organizations for this sector. The reasons are that most faculties and departments in the universities have formed a network of affiliated research centres or institutes. There is a common practice for industry bodies to forge partnership with these entities in taking forward specific research activities. Given the complex and dynamic nature of the research community, members accept the Administration's view that it is practicably difficult to come up with a list of nominating organizations without duplications or contest.

18. The Administration has devised the following broad principles in drawing up the list of nominating organizations –

- (a) nominating organizations must be legal entities incorporated in Hong Kong or labour unions registered under the Trade Unions Ordinance (Cap. 332) for a minimum period of four years;
- (b) nominating organizations must have demonstrated both willingness and capability to spearhead industry reforms as representative bodies within their own categories;
- (c) registered labour unions must have a membership of not less than 100 construction workers;
- (d) professional bodies must be established by local statute and public sector clients must be covered by the Prevention of Bribery Ordinance (Cap. 201); and
- (e) trade federations and/or general labour unions rather than their member associations would be selected, where appropriate.

19. Members generally agree with these broad principles. The only principle about which some members have concern is the requirement that labour unions must be registered for a minimum period of four years. According to the Administration, the requirement that the nominating organizations should be incorporated or registered for a minimum of four years will be applicable to all categories and not just the labour unions. The aim is to provide a basis for assessing the participation of individual organizations in taking forward the reform agenda mapped out by CIRC in 2001 and to prevent

proliferation of stakeholder groups aspiring to taking part in the nominating mechanism.

20. On the basis of the agreed principles, the Administration draws up the list of nominating organizations for the stipulated sectors in **Appendix III**. Members are satisfied with the representation of the nominating organizations. As far as the trade unions of construction workers are concerned, the seven nominating organizations cover 95% of all construction workers represented by a total of some 30 registered trade unions. To facilitate revision of the nominating organizations in future, where necessary, the Bills Committee agrees that the list should be incorporated in a schedule to the Bill and not as a provision in the principal ordinance. The Administration will move CSAs to add a new Schedule 1A.

21. For the purpose of ensuring that members appointed to CIC will reflect the views of the representing sectors, the Administration has undertaken, at the request of members, to state at the Second Reading debate on the Bill its requirement for nominating organizations to put in place a system for the appointees to report regularly to stakeholder groups belonging to their constituent sectors. The Administration has also agreed to request CIC to include communication with key stakeholder groups as an area of major activity in its annual report submitted to SETW during its initial stage of formation.

Seat for the trade unions of construction workers

22. Some members have criticized that the proposed composition of CIC fails to achieve a balanced representation. Of the 20 non-official members to be appointed by SETW, four represent employers but only two represent labour unions. The Administration provides explanation on the fair balance of interests among all industry sectors covered in the proposal and agrees that while maintaining the operation efficiency of CIC, an extra seat to be allocated to construction worker unions can be offset by the deletion of the one reserved for the Executive Director. In this way, the total number of members of CIC will remain at 25. Although a few members consider that the number of seats allocated to construction worker unions should be further increased, the Bills Committee accepts the Administration's revised proposal and considers it as an improvement. The Administration will move CSAs to clause 9.

Public officers sitting on CIC

23. The Bill provides that not more than three public officers shall be appointed by SETW to CIC. Members note that these three public officers will serve as a bridge between the Administration and CIC. Subject to further consultation with the relevant industry organizations and government departments, senior officials from the Environment, Transport and Works

Bureau, the Housing, Planning and Lands Bureau and the Buildings Department will be appointed to sit on CIC.

Composition of Construction Industry Training Board

24. Being an umbrella organization to spearhead reform in the construction industry, CIC is empowered under the Bill to set up any committees for the better performance of its functions. One of such committees is CITB which will assume the present functions and responsibilities of CITA in respect of construction training and trade testing.

25. Members of the Bills Committee note the different modes of composition of CITA and CITB. Under Cap 317, CITA consists of 13 members appointed by the Chief Executive. Of the 13 members, seven members are nominated by specified professional bodies and trade associations which are connected with the construction industry in one way or another. These organizations include the Hong Kong Construction Association Limited, the Hong Kong Federation of Electrical and Mechanical Contractors Limited, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors and the Hong Kong Institution of Engineers. Such nomination system will not apply to CITB. Although the number of members and the proportion of professional representation in CITB model largely on those of CITA, under clause 2 in Schedule 3 to the Bill, the 13 members of CITB shall be appointed by CIC.

26. Members of the Bills Committee noted the views of many organisations and queried why the present prescriptive approach for CITA could not apply to CITB alike. Many organisations were concerned whether the persons appointed to CITB would be representative of the industry. In this respect, the Administration explains that given the status of CITB as a committee underpinning CIC, the same flexible model with individual candidates drawn from key sectors and appointed on an ad personam basis should be adopted for its composition. Moreover, since the appointments to CITB will be made by CIC whose members will be selected through the nominating mechanism, the consensus of the industry must be adequately reflected during this process. As the main concern of many organisations is about the representation of members of CITB, members agree that the nominating mechanism for CIC members could address this concern. Moreover, having considered the functions of CITB which mainly relate to construction training and trade testing, the Bills Committee accepts the Administration's explanations and the proposed composition of CITB in the Bill.

Meetings of Construction Industry Council

27. Members are well aware that the list of specified bodies for nominating members to CIC is far from exhaustive and has not included each

and every organization in the relevant sectors. Members therefore consider it important to ensure that small groups of persons connected with the industry which have not been selected as nominating organizations could participate in the work of CIC, and that the performance of CIC could easily be monitored. One way to achieve these is to enhance the transparency of CIC by opening up its meetings.

28. The Bill is silent in this respect. Clause 8 in Schedule 2 to the Bill provides that CIC may determine its own procedures. It is the intention of the Administration that the current administrative arrangements implemented by CITA since 1997 would be extended to CIC. At present, all meetings held by the main board of CITA are publicized and open to the public along specific procedures, except the deliberations on confidential or sensitive issues such as financial/staffing decisions and recommendations relating to the assessment and collection of construction levies. Discussion papers and minutes of the open sessions are available for public consumption. CITA has promulgated a set of guidelines concerning meeting arrangements.

29. Members have thoroughly examined CITA's guidelines on meeting arrangements and find them out of pace with the present day circumstances. Instead of adopting the administrative arrangements of CITA, members consider it necessary to provide in law that meetings of CIC be open to the public. After discussion, the Administration agrees to make a provision in the Bill to address members' concern. Under the proposed new clause 7A in Schedule 2, CIC shall hold open meetings except under certain specified circumstances. The specified circumstances include opening of the meetings would likely result in premature release of information concerning any financial matter or investment of CIC, or in a disclosure of information in breach of legal obligation or duty; and discussion of personnel matters or a particular case in relation to levy. The new provision also specifies that CIC, having regard to all the circumstances of a particular case, may decide not to open the meeting to the public if it reasonably so considers.

30. To allay some members' concern about the discretion of CIC not to open meetings to the public, the Administration has provided a number of relevant case law to clarify the meaning of "reasonably considers". Members note from the case law that there are objective criteria to assess if the exercise of the discretionary power conferred on an authority is proper. With the Administration's assurance that justifications would be required should CIC decide not to open meetings to the public, members accept the new clause 7A in Schedule 2. The Administration will move the CSAs.

31. In this connection, members have also examined whether meetings of CITB should be open to the public as well. Having regard to the functions of CITB which relate to construction training and trade testing and the fact that CITB is subsumed under CIC meetings of which will be open, members agree that the open meeting requirement should not be extended to CITB.

Financing for Construction Industry Council

32. Whether and how CIC with enlarged functions could obtain sufficient funding to sustain its operation remains an issue throughout the deliberations of the Bills Committee. At present, there are two main sources of income for CITA. These are levy income and course fees and related income. Under Cap 317, a levy at the rate of 0.4% is imposed on construction operations carried out in Hong Kong with the total value exceeding \$1 million.

33. Members note that the levy income makes up about 70 to 80% of the total income of CITA. Over the past few years, there were reductions both in levy income as well as student intake in CITA. The levy income for CITA decreased from \$264 million in 2002 to \$226 million in 2004. The course fees and related income dropped sharply from \$64.5 million in 2002 to \$35.7 million in 2004. Members are gravely concerned whether these two main sources of income could sustain the current operations of CITA, not to mention the expanded functions to be performed by CIC under the Bill.

34. To allay the concerns of members, the Administration has provided the financial information of CITA for members' scrutiny, which demonstrates that the value of construction levy has decreased drastically since 2000. While CITA faces no immediate shortage of funds, the delayed effect of economic downturn has begun to kick in, resulting in a gradual deterioration of its financial position leading up to 2010. To address the foreseeable financial stringency, CITA has over the past few years taken conscious efforts to cut down on operating costs. Notwithstanding a reduction of income accrued from construction levy and training/trade testing by 14% and 41% respectively during the period from 2002 to 2004, the accumulated reserve of CITA has risen by \$34.9 million to \$230 million in the corresponding period. However, widening annual operating deficits will fully deplete the accumulated reserves in 2009/10 if no action is taken by CITA in the meantime to cut cost or increase income. Since staff costs make up around 70% of CITA's recurrent expenditure, downsizing is inevitable in order to balance the books.

35. Members note that to reduce its operating costs and to reposition itself to cope with the evolving industry needs, CITA introduced the voluntary exit scheme (VES) in August 2005. The scheme has received positive response from staff, and 109 applications for VES have been approved. This well exceeds the expectation of CITA. Taking into account savings derived from VES and based on the assumption that the value of construction works commencing each year will be \$40 - 45 billion, the Administration envisages that CITA has to grapple with its annual operating deficits whilst the pool of reserves will be sustainable in the next few years. The projected financial position of CITA from 2005 to 2010 is in **Appendix IV**.

Transitional arrangements

36. Notwithstanding the general improvements in the economy recently and hence the possible impact on the financial position of CIC, members still find it necessary to ensure continued employment of CITA's existing staff who have chosen not to opt for VES upon its amalgamation with CIC. Despite the Administration's reiteration that no adverse impact would be caused on all serving staff of CITA when it is subsumed under CIC as stipulated in clause 82 of the Bill, members consider the provision inadequate. To allay members' concern, the Administration agrees to recast clause 82 without changing its legal effect. The clause will be amended to provide expressly that employees of CITA are not to be terminated by reason of the dissolution of CITA.

37. To provide further safeguard and assurance to CITA staff, members consider it necessary for the Administration to provide a written undertaking that no redundancy of serving staff of CITA will arise due to amalgamation of CITA with CIC for a reasonable period upon enactment of the Bill. In response to members' request, the Chairman of PCICB issued a letter dated 21 April 2006 to the Bills Committee pledging that no major organizational changes or staff retrenchment would arise from budgetary reasons after the Bill is enacted and within two years upon the setting up of CIC. The Administration has agreed to consider members' suggestion that the letter of PCICB be conveyed by CITA to each of its serving staff. The Administration will also reiterate the pledge at the resumption of the Second Reading debate on the Bill.

38. Members note that upon enactment of the Bill, the Administration will need six to nine months to prepare for the formation of CIC. CIC and CITA will operate in parallel for a period of time to ensure that the transitional issues are settled before their amalgamation. Members support the setting up of a preparatory committee by PCICB to sort out the detailed operational planning and transitional arrangements as this will help expedite the amalgamation and minimize the financial implications of parallel operation of CIC and CITA. Members have taken note of the tentative work plan of the preparatory committee and its major areas of work, including recruiting key personnel and locating office premises for the permanent secretariat; devising a framework for the amalgamation of CIC and CITA; developing a liaison mechanism between Government and CIC; mapping out priorities of attention; and formulating house rules.

39. Although the Administration considers it not conducive to the smooth transition to provide a definite deadline as to when the amalgamation exercise will be completed, it has undertaken to the Bills Committee that the transitional period will be as brief as practically feasible. The Administration has also undertaken that it will report the progress of the amalgamation to the relevant Panels of LegCo after working out the major issues concerned.

Other amendments

40. The Administration has taken on board a number of suggestions from members to improve the future operation of CIC and the text of the Bill. The major ones which will require amendments to the Bill include the following –

- (a) clarifying the policy intention about the maximum tenure of appointed members of CIC and CITB that they should not hold office for more than six consecutive years (clause 10 and clause 3 in Schedule 3) ;
- (b) deleting the provision concerning appointment of members to fill casual vacancies of CIC (clause 13). The provision is considered unnecessary from the policy angle because a similar provision in Cap 317 has never been invoked;
- (c) adding an express provision to regulate the relationship of the Executive Director of CIC with CIC (clause 14). The Executive Director of CIC shall be responsible to CIC for the management, conduct and administration of CIC, and shall perform his functions as the Executive Director subject to CIC's direction;
- (d) establishing a register of interest declarations made by CIC members for public inspection (new clause 6A in Schedule 2). The register will be uploaded on the web-site of CIC; and
- (e) regulating the transaction of CIC business by circulation of papers by providing that any member may require the business be transacted at a meeting (clause 9 in Schedule 2) .

Recommendations

41. The Bills Committee supports the Administration's CSAs and recommends the resumption of Second Reading debate on the Bill on 24 May 2006.

Committee Stage Amendments

42. A full list of the CSAs to be moved by the Administration is in **Appendix V**.

Advice sought

43. Members are invited to support the recommendation of the Bills Committee in paragraph 41 above.

Council Business Division 1
Legislative Council Secretariat
11 May 2006

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

Membership list

Chairman Hon KWONG Chi-kin

Members 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

(Total: 14 members)

Clerk Miss Odelia LEUNG

Legal Adviser Miss Kitty CHENG

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

A list of deputations which presented views orally to the Bills Committee

1. Chartered Institute of Building (Hong Kong)
2. Construction Industry Training Authority
3. Construction Industry Training Authority Staff Association
4. Construction Site Staff Association (建築地盤職工總會)
5. Consultant Engineering Firm Resident Site Staff Association
6. Hong Kong & Kowloon Bamboo Scaffolders General Merchants Association
7. Hong Kong & Kowloon Electrical Engineering & Appliances Trade Workers Union
8. Hong Kong Construction Industry Employees General Union
9. Hong Kong Construction Sub-Contractors Association
10. Hong Kong Dumper Truck Drivers Association
11. Hong Kong General Building Contractors Association Ltd.
12. Hong Kong Licensed Plumbers Association
13. Hong Kong Marble & Granite Merchants Association
14. Mixer Truck Drivers Association
15. Professional Green Building Council
16. Provisional Construction Industry Co-ordination Board
17. The Association of Plastering Subcontractors Ltd.
18. The Hong Kong Construction Association Ltd.
19. The Hong Kong Institute of Architects
20. The Hong Kong Institute of Surveyors

List of Nominating Organizations

(A) *Employers*

- Airport Authority
- Kowloon-Canton Railway Corporation
- MTR Corporation Limited
- The Real Estate Developers Association of Hong Kong Limited

(B) *Professionals/Consultants*

- The Hong Kong Institute of Architects
- The Hong Kong Institute of Landscape Architects
- The Hong Kong Institute of Planners
- The Hong Kong Institute of Surveyors
- The Hong Kong Institution of Engineers

(C) *Contractors/Subcontractors & Materials/Equipment Suppliers*

- The Association of Plastering Sub-contractors Limited
- Hong Kong Bar-bending Contractors Association, Limited
- The Hong Kong Construction Association, Limited
- Hong Kong Construction Materials Association Limited
- The Hong Kong Federation of Electrical and Mechanical Contractors Limited
- Hong Kong General Building Contractors Association Limited
- Hong Kong Hydraulic Truck Cranes Association Limited
- Hong Kong & Kowloon Scaffolders General Merchants Association Limited
- Hong Kong Licensed Plumbers Association Limited
- The Hong Kong Marble & Granite Merchants Association, Limited
- The Registered Elevator and Escalator Contractors Association Limited

(D) *Trade Unions*

- Construction Site Workers General Union
- Consultant Engineering Firm Resident Site Staff Association
- Hong Kong and Kowloon Electrical Engineering and Appliances Trade Workers Union
- Hong Kong Construction Industry Employees General Union
- Hong Kong Electrical Engineering Professional Employees Association
- Hong Kong General Union of Lift and Escalator Employees
- Union of Hong Kong Electrical Engineering Assistants

Appendix IV

Projected Financial Position of the Construction Industry Training Authority from 2005 to 2010

Year	Value of construction works commenced (\$ billion)	Value of construction works subject to levy assessment (\$ billion)	Levy income (\$ million)	Operating Surplus / (Deficits) (\$ million)	Accumulated Reserves (excluding fixed assets) (\$ million)
2005	40 – 45	60	210	(22)	208
2006	40 – 45	51	180	0	208
2007	40 – 45	42 – 43	161 – 166	(24) – (20)	184 – 188
2008	40 – 45	40 – 43	158 – 171	(41) – (28)	143 – 160
2009	40 – 45	40 – 44	160 – 178	(32) – (13)	111 – 147
2010	40 – 45	40 – 45	160 – 180	(15) - 7	96 – 154

* Based on the assumption that the value of construction works commencing each year will be \$40 – 45 billion and take into account savings derived from the voluntary exit scheme launched for eligible staff in 2005.

CONSTRUCTION INDUSTRY COUNCIL (NO. 2) BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for the
Environment, Transport and Works

<u>Clause</u>	<u>Amendment Proposed</u>
2(1)	In the definition of "Objections Committee", by deleting "異議審核" and substituting "處理反對 事宜".
2(2)(a)(ii)	By deleting ", and the person for whom the construction operations are carried out is the contractor".
5	(a) In paragraph (a) - (i) by adding ", and on matters of concern to the construction industry" after "industry"; (ii) in the Chinese text, by deleting "或作" and substituting "及作". (b) In paragraph (e), by deleting "stakeholders in" and substituting

"persons connected with".

(c) In paragraph (h) -

(i) by deleting "procurement methods, site safety," and substituting "dispute resolution,";

(ii) by adding "multi-layer subcontracting, occupational safety and health, procurement methods, project management and supervision," after "protection,".

(d) By adding -

"(ha) to enhance the cohesiveness of the construction industry by promoting harmonious labour relations and the observance of statutory requirements relating to employment, and by facilitating communication among various sectors of the industry;".

(e) In paragraph (j), by deleting "monitor" and substituting "assess".

- 7(2)
- (a) In paragraph (g), by deleting "stakeholders, companies or personnel of" and substituting "persons connected with".
 - (b) In paragraph (k), in the English text, by deleting "construction personnel" and substituting "personnel".
 - (c) In paragraph (t), by deleting "statutory objects" and substituting "functions".
- 9(1)
- (a) By deleting paragraph (b).
 - (b) In paragraph (d), by deleting "20" and substituting "21".
- 9(3)
- (a) In paragraph (a), by deleting ", in the opinion of the Secretary,".
 - (b) In paragraph (b), by deleting ", in the opinion of the Secretary,".
 - (c) In paragraph (c), by deleting ", in the opinion of the Secretary,".
 - (d) In paragraph (d), by deleting ", in the opinion of the Secretary,".
 - (e) In paragraph (e) -
 - (i) by deleting "2" and substituting "3";

- (ii) by deleting “, in the opinion of the Secretary,”.

9

By adding -

“(5) When appointing a member referred to in subsection (3)(a), (b), (c) or (e), the Secretary shall have regard to any nomination made for the purposes of such appointment by any one or more of the specified bodies.

(6) In subsection (5), “specified bodies” (指明團體) means -

- (a) in relation to subsection (3)(a), the bodies set out in Part 1 of Schedule 1A;
- (b) in relation to subsection (3)(b), the bodies set out in Part 2 of Schedule 1A;
- (c) in relation to subsection (3)(c), the bodies set out in Part 3 of Schedule 1A;
- and
- (d) in relation to subsection (3)(e), the bodies set out in Part 4 of Schedule

1A.".

- 10(1) In the Chinese text, by deleting everything after "成員" and substituting "的任期由局長決定，但不得超逾3年。".
- 10(2) By deleting everything after "but" and substituting "he may not serve as such a member continuously for more than 6 years.".
- 12 In paragraph (d), by deleting "the functions assigned to him" and substituting "his functions as such member".
- 13 By deleting the clause.
- 14 By deleting the heading and substituting "**Executive Director of Council**".
- 14 By deleting subclause (2) and substituting -
"(2) The Executive Director shall be responsible to the Council for the management, conduct and administration of the Council and shall perform his functions as the Executive Director

subject to the Council's directions."

- 14 By deleting subclause (3).
- 15 By deleting the clause.
- 18(2)(g) In the Chinese text, by deleting "異議審核" and substituting "處理反對事宜".
- 21(3)(c) In the Chinese text, by deleting "異議審核" and substituting "處理反對事宜".
- 56 In the heading, in the Chinese text, by deleting "異議審核" and substituting "處理反對事宜".
- 56(2) In the Chinese text, by deleting "異議審核" and substituting "處理反對事宜".
- 56(3) In the Chinese text, by deleting "異議審核" where it twice appears and substituting "處理反對事宜".

- 56(4) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.
- 58 In the heading, in the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.
- 58(1) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.
- 58(2) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.
- 58(3) In the Chinese text, by deleting “異議審核” where it twice appears and substituting “處理反對事宜”.
- 59 In the heading, in the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.
- 59(1) In the Chinese text, by deleting “異議審核” and substituting “處理反對事宜”.

71 (a) In the heading, by adding "1A," before
"2".

(b) By adding "1A," before "2".

82 By adding before subclause (1) -

"(1A) The employment of an employee
of the CITA is not to be terminated by
reason of the dissolution of the CITA.".

82(1) By deleting "dissolution of the CITA" and
substituting "dissolution".

82(2) By deleting "such a person" and substituting
"a person referred to in subsection (1)".

82 By adding -

"(3) This section applies
notwithstanding sections 19 and 20.".

New By adding -

"SCHEDULE 1A [ss. 9 & 71]

SPECIFIED BODIES

PART 1

EMPLOYERS

1. Airport Authority
2. Kowloon-Canton Railway Corporation
3. MTR Corporation Limited
4. The Real Estate Developers
Association of Hong Kong Limited

PART 2

PROFESSIONALS AND CONSULTANTS

1. The Hong Kong Institute of
Architects
2. The Hong Kong Institute of Landscape
Architects
3. The Hong Kong Institute of Planners
4. The Hong Kong Institute of Surveyors
5. The Hong Kong Institution of
Engineers

PART 3

CONTRACTORS, SUBCONTRACTORS, MATERIALS
SUPPLIERS AND EQUIPMENT SUPPLIERS

1. The Association of Plastering
Sub-contractors Limited
2. Hong Kong Bar-bending Contractors
Association, Limited
3. The Hong Kong Construction
Association, Limited
4. Hong Kong Construction Materials
Association Limited
5. The Hong Kong Federation of
Electrical and Mechanical
Contractors Limited
6. Hong Kong General Building
Contractors Association Limited
7. Hong Kong Hydraulic Truck Cranes
Association Limited

8. Hong Kong & Kowloon Scaffolders
General Merchants Association
Limited
9. Hong Kong Licensed Plumbers
Association Limited
10. The Hong Kong Marble & Granite
Merchants Association, Limited
11. The Registered Elevator and
Escalator Contractors Association
Limited

PART 4

TRADE UNIONS

1. Construction Site Workers General
Union
2. Consultant Engineering Firm Resident
Site Staff Association
3. Hong Kong and Kowloon Electrical
Engineering and Appliances Trade
Workers Union

4. Hong Kong Construction Industry
Employees General Union
5. Hong Kong Electrical Engineering
Professional Employees Association
6. Hong Kong General Union of Lift and
Escalator Employees
7. Union of Hong Kong Electrical
Engineering Assistants".

Schedule 2,
section 1

- (a) In the definition of "chairman", by deleting everything after "section 9(1)(a) of this Ordinance" and substituting a semicolon.
- (b) In the definition of "member", by deleting everything after "section 9(1) of this Ordinance" and substituting a full stop.

Schedule 2

By adding -

"6A. Keeping of register by Council

- (1) The Council is to establish and

maintain a register for the purpose of keeping a record of any disclosure made by a member.

(2) The Council may determine the form of the register, including the manner of making entries in it.

(3) After a disclosure is made by a member, the Council is to cause the name of that member and the particulars of the disclosure to be recorded in the register; if a further disclosure is made, the Council is to cause those particulars to be recorded in the register after such disclosure is made.

(4) For the purpose of enabling any member of the public to ascertain the particulars of the disclosure made by a member, the Council is to make available the register for inspection by the public at any reasonable time.

(5) In this section, "disclosure" (披露) means a disclosure of pecuniary interest required to be made under section 6."

Schedule 2 By adding -

"7A. Meetings of Council to be held in public

(1) Subject to subsection (2), a meeting of the Council shall be open to the public.

(2) Subsection (1) does not apply to a meeting of the Council or a part of a meeting of the Council in the following circumstances -

(a) if, in the opinion of the Council, it is likely that the application of subsection (1) would result -

(i) in premature release of information concerning any financial matter or investment of the Council; or

(ii) in a disclosure of information in breach of any law, order or

direction of a
court or
tribunal, duty
of
confidentiality,
or other legal
obligation or
duty;

(b) if, in the opinion of the
Council, it is likely that
any matter to be discussed
or considered at the
meeting or part of the
meeting -

(i) concerns
personnel
matters; or

(ii) concerns a
particular case
that involves
the carrying out
of any provision
of this
Ordinance
relating to the

levy, surcharge,
penalty or
further penalty;
or

(c) if the Council, having regard to all the circumstances of a particular case, reasonably considers that subsection (1) should not apply to the meeting or part of the meeting."

Schedule 2 By deleting section 9 and substituting -

"9. Resolutions without meetings

(1) Subject to section 2(2) and this section, any business that may be transacted by a resolution of the Council in a meeting may be validly transacted, without a meeting, by a resolution in writing if -

(a) the resolution is signed and endorsed by more than half of the eligible members; and

(b) it is so signed and endorsed within the specified period.

(2) If a resolution is in the form of more than one document, the requirements of subsection (1)(a) are to be regarded as satisfied if each document is in the like form and the documents together bear the signatures of, and have been endorsed by, more than half of the eligible members.

(3) A telex, cable or facsimile, or an electronically transmitted document, that bears the signature of an eligible member is to be regarded as signed by that member.

(4) A resolution in the form of more than one document is to be regarded as made on the date on which the resolution is signed by the last member to sign and endorse it within the specified period.

(5) A member may, within the specified period, give notice in writing to the chairman requiring that the

business to which the resolution relates be transacted at a meeting of the Council.

(6) Where a notice is given under subsection (5), the following applies -

(a) the business to which the resolution relates may not be transacted in the manner described in subsection (1);

(b) a resolution for the purposes of subsection (1) may not be made or regarded as having been made.

(7) For the purposes of this section -

"eligible member" (合資格成員) means a

member who, on the date on which the resolution is made, is entitled to attend and vote at a meeting of the Council in respect of the business;

"endorse" (同意), in relation to a

resolution, includes to endorse the transaction of the business by a

resolution without a meeting of the Council;

"specified period" (指明期間), in relation to any business referred to in subsection (1), means a period -

(a) that is determined by the chairman and specified in the documents circulated for the purposes of transacting the business; and

(b) within which a member may indicate to the Council as to whether he endorses the resolution."

Schedule 3,
section 1

In the definition of "Board member", by deleting everything after "section 2" and substituting a semicolon.

Schedule 3

By deleting section 3 and substituting -

"3. Term of office of Board member who is not public officer

(1) Subject to subsection (2), a Board member who is not a public

officer -

(a) holds office for a period
determined by the Council;

and

(b) is eligible for
reappointment on the
expiry of his term of
office.

(2) A Board member who is not a
public officer may not serve as such a
member continuously for more than 6
years."

Schedule 3 By deleting section 5.

Schedule 3 By deleting section 12.

Schedule 5,
section 4 By deleting "103." and "104." and substituting
"104." and "105." respectively.

Schedule 5,
section 6(b) In the proposed section 2(2)(a)(ii), by
deleting ", and the person for whom the
construction operations are carried out is the
contractor".

Schedule 5, By deleting "71." and substituting "72."
section
26(b)