

立法會
Legislative Council

LC Paper No. CB(1)1646/04-05
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/04

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

**Minutes of ninth meeting held on
Tuesday, 10 May 2005, at 4:30 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 Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
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 Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, 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

Action

I Confirmation of minutes

(LC Paper No. CB(1)1455/04-05 -- Minutes of meeting on
19 April 2005)

The minutes of the meeting held on 19 April 2005 were confirmed.

II Meeting with the Administration

(LC Paper No. CB(1)1456/04-05(01) -- List of follow-up actions
arising from discussion at the
meeting on 19 April 2005

LC Paper No. CB(1)1456/04-05(02) -- Administration's response to
the list of follow-up actions
arising from discussion at the
meeting on 19 April 2005

LC Paper No. CB(1)1456/04-05(03) -- Progress report on
implementation of
recommendations of the
Construction Industry Review
Committee

LC Paper No. CB(1)1456/04-05(04) -- Measures to monitor and
control payment of workers'
wages and multi-layer
subcontracting

LC Paper No. CB(1)1456/04-05(05) -- Letter dated 4 May 2005 from
the Administration providing
a consolidated list of
nominating organizations

- LC Paper No. CB(1)1473/04-05(01) -- Revised draft Committee Stage Amendments to clause 5 of the Bill proposed by the Administration
- LC Paper No. CB(1)1473/04-05(02) -- Marked-up version of the revised draft Committee Stage Amendments to clause 5 of the Bill
- LC Paper No. CB(1)1161/04-05(02) -- Administration's response to the list of follow-up actions arising from discussion at the meeting on 15 March 2005
- LC Paper No. CB(1)1265/04-05(03) -- Letter dated 13 April 2005 from the Administration on "Nominating Organizations for the Category of 'Trade Unions' and Further Changes to Proposed Functions")

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

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

4. The Administration was requested to provide information on the following –

- (a) Financial contribution made by the Government to CITA in the past few years; and
- (b) The existing and projected financial position of CITA and the Government policy direction in respect of the financing of CITA.

III Any other business

5. Members agreed to discuss the following at the next meeting to be held on Tuesday, 31 May 2005, at 2:30 pm –

- (a) Composition of Construction Industry Council (CIC);
- (b) Meeting arrangement of CIC;
- (c) Finance for CITA and CIC; and
- (d) Clause-by-clause examination of the Bill.

6. The meeting ended at 6:30 pm.

Council Business Division 1
Legislative Council Secretariat
30 May 2005

**Proceedings of the ninth meeting of the
Bills Committee on Construction Industry Council (No. 2) Bill
on Tuesday, 10 May 2005, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000244	Chairman	Confirmation of minutes of the meeting held on 19 April 2005 (LC Paper No. CB(1)1455/04-05)	
<u>Discussion on composition of Construction Industry Training Board</u>			
000245 - 000505	Chairman Administration	Administration's view that since the Construction Industry Training Board (CITB) would function as one of the major committees underpinning the Construction Industry Council (CIC), a flexible model with individual candidates appointed on an ad personam basis should suffice. Moreover, as a hybrid model had been proposed for the composition of CIC and there might be overlap of membership between CIC and CITB, the Administration considered the proposed mode of composition of CITB appropriate.	
<u>Discussion on updated Committee Stage Amendments to clause 5</u>			
000506 - 001113	Chairman Administration	Briefing by the Administration on the revised draft Committee Stage Amendments to clause 5 (the CSAs) (LC Paper Nos. CB(1)1473/04-05(01) and (02))	
001114- 001742	Chairman Ms Emily LAU Miss CHAN Yuen-han Administration	Administration's explanation that the amended clause 5 would allow CIC to reflect general concerns of the industry to the Government and promote good practices relating to multi-layer subcontracting, dispute resolution, project management/supervision as well as other specified areas in particular.	

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		A member's indication of support for the CSAs	
<u>Discussion on finance for Construction Industry Training Authority and Construction Industry Council</u>			
001743 - 002802	Chairman Administration Ms Emily LAU Miss CHAN Yuen-han ALA5	<p>Administration's explanation that in light of the projected financial difficulties arising from a forecasted reduction of construction levies and student intake, the Construction Industry Training Authority (CITA) was giving thoughts on organizational changes necessary to cope with the situation including the introduction of a voluntary exit scheme (VES).</p> <p>A member's view on the need to resolve the financial difficulties faced by CITA before the Bills Committee (BC) could support resumption of second reading debate on the Bill (clauses 73 and 74)</p> <p>Administration's view that while active steps were being taken to tackle the problem and updated information would be provided once available, scrutiny of other provisions of the Bill could proceed in parallel</p> <p>ALA's advice that in principle such an approach was acceptable because the concerns did not lie with the contents of the Bill. She suggested that the BC might require the Administration to make regular reports to the relevant Panel on concerns over the finance of CITA before relevant parts of the Bill came into operation</p>	

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002803 - 004103	Mr LEE Cheuk-yan Ms Emily LAU Administration	<p>A member's query on the timetable of coming up with a proposal to address the financial problems faced by CITA before the Bill resumed second reading debate</p> <p>Administration's explanation that there was already a positive dialogue between the management and staff sides of CITA to examine the feasibility of introducing the VES. Meanwhile, the proposed amalgamation with CITA would only take place after proper transitional arrangements had been worked out.</p> <p>Another member's query of whether CIC and CITA could operate in parallel if different parts of the Bill were to take effect in phases</p> <p>Administration's confirmation that according to legal advice, operation of CIC and CITA in parallel was legally permissible.</p> <p>The other member's emphasis of the need to sort out the rights, assets, liabilities and obligations of CITA before they were to be vested in CIC (clause 74)</p>	
004104 – 004849	Mr WONG Kwok-hing Administration	<p>A member's expression of concern about how the BC could continue its scrutiny work pending resolution of staffing matters in CITA. In his view, there might not be a need to introduce VES because construction activities were increasing with the recovery of the property market</p> <p>Administration's explanation of the need to ensure the financial sustainability of CITA before its amalgamation with CIC</p> <p>The member's expression of regrets</p>	

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		<p>about the manner in which CITA had been attempting to resolve the staffing matters. He called upon the Administration to keep a close watch over the operation of CITA.</p> <p>Administration's explanation that CITA as a statutory body was vested with specific powers and responsibilities to handle its own financial and manpower issues. Nonetheless, considerable efforts had been made to facilitate proper communication between the management and staff sides of CITA in mapping out the necessary organizational reforms.</p>	
004850 - 005528	<p>Chairman Mr Andrew CHENG Administration</p>	<p>A member's expression of reservation about ALA's suggestion in consideration of the unsatisfactory track record of the Administration in honouring its undertakings to report to the relevant Panel. He opined that the proposed amalgamation between CIC and CITA should only be implemented after meeting specified conditions.</p> <p>Administration's reiteration that relevant parts of the Bill would only be implemented after ascertaining the financial sustainability of CITA</p>	
005529 - 011913	<p>Mr Alan LEONG Mr Patrick LAU Mrs Selina CHOW Ms Emily LAU Administration</p>	<p>Certain members' view that CITA's staffing and financial matters should be resolved before the Bill resumed second reading debate</p> <p>Administration's view that a general consensus on the way forward instead of implementation details should be targeted at in tackling the above concerns during the scrutiny process</p> <p>Discussion on the desirability of inviting CITA to explain their situation</p>	

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		<p>to the BC direct</p> <p>Discussion on CITA's financial situation and Administration's explanation that it would hinge on the proposed organizational changes including whether and how VES would be implemented</p> <p>A member's request for information on the existing and projected financial position of CITA</p> <p>Another member's expression of the following views -</p> <p>(a) There was a need to establish CIC early to spearhead industry reform. Hence the need to pass the Bill pending resolution of CITA's staffing matters; and</p> <p>(b) The Government had to decide early on its policy direction in respect of the operation and financing of CITA</p> <p>Administration's explanation that given the impending financial problems, CITA was reviewing its operation with input from relevant bureaux/departments. Being a pan-industry forum as proposed, CIC once established would take the lead in forging consensus on provision of training for the industry.</p>	<p>The Administration to take action under paragraph 4(b) of the minutes</p> <p>The Administration to take action under paragraph 4(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
011914 - 012534	Ms Emily LAU Administration	<p>A members' view that since training in construction industry was related to public interests, the Government should ensure that CIC was provided with sufficient resources to discharge this function</p> <p>Administration's expression of the following points:</p> <p>(a) Since public sector projects constituted about half of all construction activities at present, Government was already making a substantial financial contribution through payment of levies; and</p> <p>(b) CIC was intended to be an umbrella organization set up by the industry and for the industry. There was a general consensus that it should be funded by construction levies collected by CITA at present.</p>	The Administration to take action under paragraph 4(a) of the minutes
012535 - 012725	Miss CHAN Yuen-han Administration	Administration's explanation of the need to provide in clause 74(3) that the Stamp Duty Ordinance (Cap. 117) would not apply to any vesting effected by clause 74	
012726 - 014243	Chairman Mr LEE Cheuk-yan Mrs Selina CHOW Ms Emily LAU Administration ALA5	<p>A member's proposal that to prevent the establishment of CIC from being held up by CITA's matters, the Bill could be split into two parts with the first part, which dealt with the establishment of CIC, to proceed first, and CITA's amalgamation with CIC be handled by CIC later</p> <p>Administration's comment that the proposal might deviate from the legislative intent of setting up an umbrella organization for the industry as advocated by the Construction Industry Review Committee and serious consideration on its merits was necessary.</p>	

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		<p>The member was of further view that by doing so, the amalgamation between CIC and CITA could take effect subject to vetting of relevant provisions by the Legislative Council, so that members could ensure a smooth transition before endorsing the proposal.</p> <p>Another member's disagreement with the member's view having regard that passage of the Bill should not be hindered by CITA's staffing matters if the BC supported CITA's amalgamation with CIC in principle.</p> <p>Administration's expression of the following points–</p> <ul style="list-style-type: none"> (a) The deliberations of the BC generated additional impetus for the management and staff sides of CITA to collaborate in resolving the financial problem; (b) The proposal of implementing the Bill in phases should be acceptable if the BC was satisfied that the staffing matters of CITA could be resolved in a positive manner; and (c) A transition period for CIC and CITA to operate concurrently would be inevitable, but preferably as brief as possible. As reflected in the proposed composition, the sectors to be represented on CITB were almost the same as those represented on CITA Board. <p>The other member's view that unless it was really necessary, it was undesirable to have CIC and CITA running in parallel for a prolonged period of time.</p>	

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		<p>Two members' view that if CIC was to handle CITA's amalgamation with it, it should be properly empowered by the Bill to do so. Hence the need to pass the Bill in its entirety, or amend its provisions to achieve the purpose</p> <p>ALA's advice that there was a need to introduce CSAs to the Bill to empower CIC to handle amalgamation with CITA</p>	
014244 - 014707	Mrs Selina CHOW Administration	<p>A member's view that Government should consider the viability of providing loans to CIC where necessary. However, the basic principle was that CIC/CITA should be funded by industry levies and the Government should not directly inject funds into it. Moreover, CITA's staffing matters should not hinder passage of the Bill</p> <p>Administration's expression of the following points –</p> <p>(a) To facilitate an early establishment of CIC as supported by the industry, it might help if the BC could proceed with clause-by-clause examination of the Bill in respect of the provisions not related to the amalgamation with CITA; and</p> <p>(b) Further assessment of the financial situation of CITA would only be possible if the management and staff sides could arrive at a proposal on implementation of organizational reforms.</p>	

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014708 - 015442	Chairman Ms Emily LAU Mr LEE Cheuk-yan Administration Clerk	Meeting arrangements Chairman's view that if CITA's financial position was sufficiently sound to enable it to operate for two or more years without changing its organization structure, the BC might consider supporting the Bill and leaving CITA's staffing matters to CIC to resolve in due course Members' view that information in this regard should be provided to facilitate BC's consideration of whether to support the Bill Administration's emphasis of the need to ensure long-term financial sustainability of CITA.-+	