

# 立法會

## *Legislative Council*

LC Paper No. CB(1) 153/04-05(01)

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

#### **Background brief**

#### **Purpose**

This paper sets out the background of the Construction Industry Council (No. 2) Bill (the Bill), and summarizes the major legislative proposals therein and views of Members on the proposals and related issues.

#### **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 upon 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 its quality and cost-effectiveness. In particular, the CIRC observed in its report that the construction industry is highly fragmented and beset with an adversarial culture which impedes long-term development. It therefore concluded that a statutory industry co-ordinating body (ICB) 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 ICB 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 in June 2003 the CIC Bill and introduced it into the Legislative Council (LegCo) for first reading on 11 February 2004. However, it was not scrutinized due to limited time available in the last legislative session of the LegCo's second term. Pursuant to section 9(4) of the Legislative Council Ordinance (Cap. 542), consideration of the CIC Bill lapsed at the end of term on 30 September 2004. 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 to take over the function of the CITA established under the Industrial Training (Construction Industry) Ordinance (Cap.317). The main provisions in the Bill include the following:-

- (a) to stipulate the functions, powers, composition, membership, and meeting and funding arrangements of CIC;
- (b) to provide for the establishment of a committee known as Construction Industry Training Board under CIC to perform the functions in relation to issues concerning value of construction operations ;
- (c) to provide for the imposition of a levy on construction operations carried out in Hong Kong and the assessment procedure; and
- (d) to provide for an objection and appeal mechanism in respect of any levy or surcharge imposed under the Bill.

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

### **Consultation with LegCo Panels**

7. Members were briefed on the proposed establishment of CIC and the introduction of the CIC Bill at the joint meeting of the LegCo Panel on Planning, Lands and Works and the LegCo Panel on Manpower on 25 November 2003. While Panel members did not raise objection to the proposal, some of them expressed the following concerns -

(a) *Mode of appointment of members to CIC*

Since members of existing CITA were nominated by professional bodies, trade associations and labour unions, some Panel members suggested that CIC and CITB, which were to take over the functions of CITA, should include some representatives nominated by major professional bodies and trade associations. The Administration undertook to discuss with PCICB and other relevant industry bodies in light of the views conveyed by members.

(b) *Proposed establishment of CITB to replace CITA*

According to the Administration, all serving staff of CITA would be taken as employees of CIC with their existing terms preserved and no service break would be counted for the purpose of determining their rights to employment benefits. A member sought assurance from the Administration that the jobs and benefits of the serving staff of CITA would be properly safeguarded upon transfer to CITB. The Administration assured members that for the 500 odd staff in CITA, their existing terms of employment would be unchanged upon transfer to CIC but it was not appropriate for the Administration to impose too many constraints on how CIC should manage CITB.

(c) *Composition of CIC*

Members noted the proposal that there would be no more than two members representing construction workers in CIC. Members who spoke on this issue considered the number of representatives for construction workers not sufficient, and demanded that the number of seats allocated to construction workers be brought up to match the number of seats for construction contractors, subcontractors and suppliers of building materials or equipment (i.e. not more than 5).

The Administration agreed to review the number of seats allocated to construction workers on CIC but declined to give an undertaking that it would be brought up to match the number of representatives for construction contractors, subcontractors and suppliers of building materials or equipment. In the Bill, no more than two persons who are from trade unions representing workers employed in the construction industry are to be appointed as members of CIC.

(d) *Representatives from labour unions*

Members generally considered that the representatives for construction workers in CIC should come from labour unions. The Administration agreed to consider this view. In the Bill, clause 9(3)(e) provides that those persons (not more than two) whom are to be appointed to CIC shall come from trade unions representing workers employed in the construction industry that are registered under the Trade Unions Ordinance (Cap. 332).

Council Business Division 1  
Legislative Council Secretariat  
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