

立法會
Legislative Council

LC Paper No. CB(1)2392/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of thirty-sixth meeting on
Monday, 21 May 2007, at 5:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Mr TAM Yiu-chung, GBS, JP (Deputy Chairman)
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 Mrs Selina CHOW, GBS, JP
Hon Mr CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon LAU Kong-wah, JP
Hon Emily LAU, JP
Hon Andrew CHENG
Hon Abraham SHEK Lai-him, JP
Hon Ms LI Fung-ying, BBS, JP
Hon Tommy CHEUNG, JP
Hon Albert CHAN
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon LEUNG Kwok-hung
Dr Hon Fernando CHEUNG
Hon CHEUNG Hok-ming, SBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
- Members absent** : Hon Albert HO Chun-yan
Hon SIN Chung-kai, JP
Hon WONG Kwok-hing, MH
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon TAM Heung-man

- 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
Principal Assistant Secretary for Financial Services and the Treasury
- Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice
- Miss Clara LEUNG
Government Counsel
Department of Justice
- Attendance by invitation** : MTR Corporation
- Mr Leonard TURK
Legal Director & Secretary
- Mr LEUNG Kwok-yiu
Operations Manager – Airport Railway
- Mr Martin HANKS
Manager – Merger Coordination
- Ms Maggie SO
External Affairs & Government Relations Manager
- Mr Richard THORNHILL
Partner, Slaughter & May
(Legal Adviser of MTR Corporation)
- Ms Peggy LEUNG
Associate, Slaughter & May
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Michael KWAN
Train Operations Manager

Ms Ida LEUNG
Senior Public Affairs Manager

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Pauline NG
Assistant Secretary General 1

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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I Discussion of draft Committee Stage amendments to be moved by individual members

(LC Paper No. CB(1)1646/06-07(01) - Administration's response to the follow-up to Bills Committee meetings on clause-by-clause examination of the Bill (Second batch)

LC Paper No. CB(1)1646/06-07(02) - The Administration's response to issues raised at previous meetings (Sixth batch))

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

2. Mr Albert CHAN was concerned that in closing the Bills Committee meeting held in the morning of the same day (21 May 2007), the Chairman stated that three members, namely Mr CHAN himself, Mr Andrew CHENG and Dr Fernando CHEUNG, had indicated that they would propose amendments to the Bill and they had not submitted their amendments nor attended the meeting. Mr CHAN stated that such remarks had given the public the impression that the three members had wasted the time of the Bills Committee and the officials in attending the meeting. Mr CHAN

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pointed out that he had in fact given advance notice to the Secretariat that he would not attend the Bills Committee meeting in the morning.

3. Mr Andrew CHENG shared Mr CHAN's concern that the Chairman's statement might have misled the public that the three members had failed to attend the meeting or submit their proposed amendments in time. Mr CHENG said that he had indicated in the previous meeting that given the complexity of the issues and the need to consult the legal adviser to the Bills Committee, he would require more time to draw up his proposed amendments to the Bill, and therefore he might not be able to attend the meeting held in the morning. Mr CHENG pointed out that before members could draft their proposed amendments, they needed to study the finalized set of Committee Stage amendments (CSAs) proposed by the Administration to the Bill which, however, were not available before the meeting in the morning. Since the Administration's and members' proposed amendments to the Bill were not ready, the meeting in the morning should have been cancelled.

4. Dr Fernando CHEUNG stated that he had been working diligently on his proposed amendments to the Bill. However, when he arrived at the meeting held in the morning, he found that the meeting had already ended. Dr CHEUNG said that he still had to consult the legal adviser to the Bills Committee to work out his proposed amendments to the Bill.

5. The Chairman remarked that in order to enable members to brief the Bills Committee on CSAs to be moved by individual members, the Bills Committee had agreed to convene a series of meetings for the purpose. The first meeting of this kind was held in the morning. She also said that members had been repeatedly reminded of the arrangements last week and the Clerk also issued a relevant circular to inform members of the meeting arrangement. Whilst the finalized wordings of the CSAs might not be available at this stage, members who intended to move CSAs could indeed brief the Bills Committee on the intent of their proposed amendments, and answer questions from the floor. With regard to the allegation made by the three members, the Chairman clarified that she had only stated at the meeting in the morning that since no proposed amendments to the Bill had been received, deliberation on the relevant Bill had to be deferred to the meeting scheduled for this afternoon. The Chairman also said that she just reminded members at the meeting held in the morning that three members, namely Mr Andrew CHENG, Mr Albert CHAN and Dr Fernando CHEUNG, had indicated to the legal adviser to the Bills Committee that they might consider moving amendments to the Bill. In their absence, there was no discussion item for the meeting scheduled for this morning and hence it had to be deferred. The Chairman stressed that she had no intention whatsoever to imply that members had not fulfilled their obligation.

6. In view that the complete set of CSAs to be moved by the Administration was just available, some members found great difficulties in providing the wordings of their CSAs at the scheduled meetings before the Bills Committee reported to the House Committee on 25 May 2007 or before the deadline for giving notice of CSAs on 28 May 2007 should the Second Reading of the Bill resume on 6 June 2007. Mr Andrew CHENG, Mr LEE Cheuk-yan and Dr Fernando CHEUNG opined that the

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Second Reading of the Bill should be deferred for one week so that members would have adequate time for preparation of their proposed amendments. The Bills Committee noted the Administration's target timetable to complete the legislative exercise for the rail merger within the current legislative session on or before 11 July 2007 so as to facilitate the early implementation of fare reduction. To meet this timetable, the latest dates for resumption of the Second Reading debate on the Bill and for laying the merger-related subsidiary legislation which was subject to negative vetting procedure on the table of the Legislative Council would be 6 June 2007 and 13 June 2007 respectively, and any deferral would result in further delay to merger implementation by three months or more. After discussion, it was decided that a meeting be scheduled for 29 May 2007 to discuss the CSAs to be moved by individual members and that a proposal be put to the President (who was also the Chairman of the Committee of the Whole Council) to seek her leave to extend the deadline for giving notice of CSAs.

Amendments proposed by Mr LEE Cheuk-yan

7. Mr LEE Cheuk-yan briefed members on his proposed amendments to the Bill, including an amendment to the long title of the Bill, which was tabled at the meeting.

8. The Bills Committee also deliberated on the nature and the procedural issues related to the long title of a bill and whether the long title of the Bill could be amended under the Rules of Procedure in the same manner as if it were a clause of the Bill. The legal adviser to the Bills Committee was requested to prepare a paper on the related matters for members' deliberation.

(Post meeting note: The paper was circulated to members vide LC Paper No. LS 78/06-07).

II Any other business

Date of next meeting

9. Members agreed that the next meeting should be held on 29 May 2007.

10. There being no other business, the meeting ended at 7:30 pm.

**Proceedings of the thirty-sixth meeting of
the Bills Committee on Rail Merger Bill
on Monday, 21 May 2007, at 5:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Discussion of draft Committee Stage amendments to be moved by individual members</i>			
000000 - 013349	Chairman Mr Albert CHAN Mrs Selina CHOW Mr TAM Yiu-chung Mr LEUNG Kwok-hung Mr Andrew CHENG The Administration Dr Fernando CHEUNG Mr Abraham SHEK Mr Tommy CHEUNG Mr CHAN Kam-lam Ms LI Fung-ying Mr LAU Kong-wah Mr LEE Cheuk-yan Assistant Legal Adviser 3 (ALA3)	- Opening remarks by the Chairman - Discussion on meeting arrangements, the way the Chairman handled the meeting held in the morning, the proposal for extending the deadline for giving notice of amendments to the Bill, the proposal for deferring the resumption of the Second Reading debate on the Bill	
013350 – 013737	Mr LEE Cheuk-yan	- Committee Stage amendment proposed by Mr LEE Cheuk-yan	
013738 – 020100	Mr TAM Yiu-chung ALA3 Ms Emily LAU Chairman Mr LEUNG Kwok-hung Mr Fernando CHEUNG Mr Andrew CHENG	- Discussion on the nature of and the procedural issues related to the long title of the Bill, and whether the long title of the Bill could be amended in the same manner as if it were a clause of the Bill	
<i>Agenda Item II – Any other business</i>			
020101 - 020534	Chairman The Administration	- Date of next meeting - Concluding remarks	