

立法會
Legislative Council

LC Paper No. CB(4)906/15-16
(These minutes have been seen
by the Administration)

Ref: CB4/BC/1/15

**Bills Committee on Eastern Harbour Crossing Legislation
(Amendment) Bill 2015**

**Minutes of the third meeting held on
Tuesday, 1 March 2016, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon LEE Cheuk-yan
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon CHAN Han-pan, JP
Hon KWOK Wai-keung
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Public Officers attending : **Agenda item I**
Transport and Housing Bureau

Ms Ivy LAW
Deputy Secretary for Transport and Housing
(Transport) 3

Ms Cordelia LAM
Principal Assistant Secretary for Transport and
Housing (Transport) 2

Transport Department

Ms Macella LEE, JP
Assistant Commissioner for Transport / Management
and Paratransit

Mr SO Chun-chuen
Chief Transport Officer / Eastern Harbour Crossing

Mr Alfred LAM
Chief Engineer / Transport Planning

Department of Justice

Miss Emma WONG
Senior Government Counsel

Clerk in attendance : Ms Shirley CHAN
Chief Council Secretary (4)5

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Lauren LI
Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Meeting with the Administration

Correspondence between Assistant Legal Adviser and the Administration

(LC Paper No. CB(4)653/15-16(01) —Letter from Assistant Legal
Adviser to the Administration
dated 18 February 2016

LC Paper No. CB(4)653/15-16(02) — Administration's response to Assistant Legal Adviser's letter dated 18 February 2016)

Draft Committee stage amendments

(LC Paper No. CB(4)645/15-16(01) — Committee stage amendments proposed by Hon WU Chi-wai

LC Paper No. CB(4)645/15-16(02) — First batch of Committee stage amendments proposed by Hon WONG Yuk-man

LC Paper No. CB(4)662/15-16(01) — Administration's response to the Committee stage amendments proposed by Hon WU Chi-wai and Hon WONG Yuk-man as set out in LC Paper Nos. CB(4)645/15-16(01) and (02)

LC Paper No. CB(4)662/15-16(02) — Second batch of Committee stage amendments proposed by Hon WONG Yuk-man

LC Paper No. CB(4)662/15-16(03) — Committee stage amendments proposed by Hon TANG Ka-piu)

Other relevant papers

(LC Paper No. CB(3)237/15-16 — The Bill

LC Paper No. CB(4)585/15-16(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to members only))

Discussion

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

Action

Bills Committee's decision

2. The Bills Committee noted the proposed Committee stage amendments ("CSAs") from Mr TANG Ka-piu, Mr WU Chi-wai and Mr WONG Yuk-man, and the Administration's stance on the proposed CSAs from members.

3. The Bills Committee would not move any CSAs in its name.

(Post-meeting note: written responses from the Administration to the CSAs proposed by members were issued to members vide LC Paper Nos. CB(4)662/15-16(01) on 1 March 2016 and CB(4)680/15-16(01) on 4 March 2016.)

Legislative timetable

4. Members noted that the Administration would resume the Second Reading debate on the Bill at the Council meeting of 20 April 2016 and the Chairman would report the deliberations of the Bills Committee to the House Committee on 8 April 2016. The deadline for giving notice of moving CSAs was 11 April 2016.

II. Any other business

5. There being no other business, the meeting ended at 11:31 am.

Council Business Division 4
Legislative Council Secretariat
22 April 2016

**Proceedings of the third meeting of
the Bills Committee on Eastern Harbour Crossing Legislation (Amendment) Bill 2015
on Tuesday, 1 March 2016, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Meeting with the Administration			
000440 – 000624	Chairman	Chairman's opening remarks	
000625 – 001400	Chairman Administration	Briefing by the Administration on its written responses to the letter from Assistant Legal Adviser dated 18 February 2016 and the Committee stage amendments ("CSAs") proposed by Mr WU Chi-wai and Mr WONG Yuk-man as set out in LC Paper Nos. CB(4)645/15-16(01) and (02) [LC Paper Nos. CB(4)653/15-16(02) and CB(4)662/15-16(01)]	
001401 – 002046	Chairman Mr Frankie YICK Mr TANG Ka-piu	<p>Briefing by Mr TANG Ka-piu on his proposed CSA [LC Paper No. CB(4)662/15-16(03)] which sought to amend the toll of the Eastern Harbour Crossing ("EHC") for public and private double-decked buses prescribed in the Eastern Harbour Crossing Legislation (Amendment) Bill 2015 ("the Bill") by aligning it with the respective toll level of the Cross-Harbour Tunnel ("CHT")</p> <p>Mr TANG Ka-piu said that he had tried to balance the overall interests of the public in drawing up his proposed CSA which aimed to create room for reducing franchised bus fares. As the frequency of franchised bus services was monitored by the Transport Department, he considered that the downward adjustment of toll for double-decked buses would not aggravate the traffic conditions at EHC.</p> <p>Mr Frankie YICK supported the CSA proposed by Mr TANG Ka-piu. Mr YICK also suggested that the Administration should –</p> <p>(a) in future legislation related to a Build-Operate-Transfer ("BOT") franchise, include a provision which set out the Government's takeover arrangements after the expiry of the franchise; and</p> <p>(b) commence early the study on the rationalization of cross-habour traffic involving the adjustment of toll levels.</p>	

Time marker	Speaker	Subject(s)	Action required
002047 – 002512	Chairman Mr WU Chi-wai	<p>Briefing by Mr WU Chi-wai on his proposed CSA [LC Paper No. CB(4)645/15-16(01)] which was a sunset clause that had the effect of terminating the existing toll structure and levels chargeable in respect of EHC by 31 January 2018</p> <p>Mr WU Chi-wai said that the aim of his CSA was to require the Administration to work out a plan to rationalize the traffic distribution among the three road harbour crossings ("RHCs") within a specified time frame. He considered that 18 months, i.e. from the expiry of the BOT franchise of EHC in August 2016 to January 2018, would provide a reasonable period of time for the Administration to complete its study on the rationalization of cross-harbour traffic. He welcomed the Administration to discuss with him further the time required to conduct the study.</p>	
002513 – 003214	Chairman Administration Mr WU Chi-wai	<p>The Administration advised that –</p> <p>(a) the subject matter of the Bill was clearly stated in the long title which stated that it was a bill to, inter alia, "[a]mend the Road Tunnels (Government) Ordinance and its subsidiary legislation to extend their application to the Eastern Harbour Crossing and incorporate the existing tolls chargeable under the Eastern Harbour Crossing Ordinance". The substantive provisions and the Explanatory Memorandum of the Bill also clearly reflected this policy intention. As such, any proposed amendment to amend the tolls of EHC in the Bill was not relevant to the subject matter of the Bill and inadmissible under Rule 57(4)(a) of the Rules of Procedure ("RoP");</p> <p>(b) apart from RoP 57(4)(a), Mr WU Chi-wai's CSA also had charging effect under RoP 57(6) on the grounds that it would impose a new and distinct function on the Government, and forego Government revenue which might be collected under existing statutory authority;</p> <p>(c) at the Panel on Transport meeting on 6 November 2015, the Secretary for Transport and Housing ("STH") already indicated that the Government would commence a study on the rationalization of cross-harbour traffic involving the adjustment of toll levels. With</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the commissioning of the Central-Wan Chai Bypass, the Government would examine and devise toll adjustment options by looking at all three RHCs in a holistic manner. The options would be thoroughly discussed by the Legislative Council and the community. On 18 February 2016, STH also made it clear in his speech for Debate on Motion of Thanks to the Chief Executive's Policy Address that upon the takeover of EHC, the Administration would embark on a study of the overall strategy and feasible options for the rationalization of traffic among the three RHCs;</p> <p>(d) CSAs from Mr TANG Ka-piu and Mr WU Chi-wai might not comply with RoP; and</p> <p>(e) setting a specific deadline for the Administration to devise a toll adjustment scheme would allow the Administration little flexibility in its discussion with stakeholders such as the franchisee of the Western Harbour Crossing and consultation with the public.</p>	
003215 – 003415	Chairman Mr KWOK Wai-keung	<p>Discussion on adjusting toll levels for franchised buses</p> <p>The Chairman advised that policy issues like bus fares should be followed up by the Panel on Transport where appropriate.</p>	
003416 – 003816	Chairman Administration	Discussion on the legislative timetable	
003817 – 004709	Chairman Mr WONG Yuk-man Administration	<p>Mr WONG Yuk-man presented his two batches of CSAs. The first batch of CSAs was mainly textual amendments to improve the drafting of the Bill [LC Paper No. CB(4)645/15-16(02)]. The second batch of CSAs sought to amend the tolls of EHC prescribed in the Bill by aligning them with the existing toll levels of CHT [LC Paper No. CB(4)662/15-16(02)].</p> <p>The Administration considered the textual amendments proposed by Mr WONG Yuk-man unnecessary as the present drafting of the Bill was appropriate and conformed with legislation drafting practices. Separately, the Administration indicated that it would consider proposing CSAs to achieve consistency.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>Regarding the second batch of CSAs proposed by Mr WONG Yuk-man, the Administration considered that any proposed amendment to amend the tolls of EHC in the Bill was not relevant to the subject matter of the Bill and inadmissible under RoP 57(4)(a).</p> <p>In response to Mr WONG Yuk-man's view that the Bills Committee had yet to scrutinize the English version of the Bill, the Chairman advised that following usual practice, a Bills Committee might examine one language of the Bill at the meetings and request the legal adviser of the Secretariat to examine the text in the other language. The legal adviser would alert the Bills Committee if issues were identified.</p>	
Agenda item II – Any other business			
004710 – 004751	Chairman	Closing remarks	