

**Extract from minutes of meeting of
Housing Committee held on 22 November 2002**

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(b) Consideration of whether the Committee on Rules of Procedure should be chaired by a Member of the Council who is also a Member of the Executive Council

(LC Paper No. CROP 13/02-03)

28. The Chairman said that Mr TSANG Yok-sing, Chairman of CROp, had requested her to present the paper, as Mr TSANG considered it inappropriate for him to do so and Miss Margaret NG, Deputy Chairman of CROp, was unable to attend the meeting.

29. Referring to the paper, the Chairman said that CROp had considered at its meeting on 4 November 2002 whether CROp, given its role and responsibilities, should not be chaired by a LegCo Member who was also an Executive Council (ExCo) Member. The Chairman further said that among the nine members who were present at the meeting, four considered it inappropriate for CROp to be chaired by a Member who was also an ExCo Member, while the other four members did not see the need to bar such a Member from chairing CROp. The Chairman added that the views of the two groups of members were detailed in paragraphs 6 and 7 of the paper.

30. The Chairman said that as the members who attended the meeting of CROp on 4 November 2002 were evenly split in their views on the matter, CROp had decided to refer the matter to the House Committee for consideration. The Chairman further said that while the House Committee was invited to give its view, it would be for CROp to make its own decision on the matter, taking into consideration the House Committee's view.

31. Dr YEUNG Sum said that Members belonging to the Democratic Party were of the view that it was inappropriate for CROp to be chaired by a Member with dual membership of LegCo and ExCo. Dr YEUNG stressed that the issue was not about Mr TSANG Yok-sing personally, but a matter of principle. Dr YEUNG further said that CROp was responsible for reviewing and proposing changes to the Rules of Procedure to ensure the smooth conduct of the Council's business. Given the close relationship between ExCo Members and the Executive Authorities, allowing a Member with dual membership of LegCo and ExCo to be the chairman of CROp would undermine the role of LegCo in monitoring the work of the Government.

32. Dr YEUNG added that he did not have strong views on imposing similar

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restriction on the chairmanship of other LegCo committees, such as Panels, as these committees did not formulate rules and procedures for the conduct of Council business.

33. Mr LEUNG Fu-wah said that chairmen of LegCo committees were elected by and from among members of the relevant committees, and under Article 71 of the Basic Law, the President of LegCo was elected by and from among the Members of LegCo. Mr LEUNG considered that an individual Member should not be deprived of his rights from being elected chairman of LegCo committees simply because he was also an ExCo Member or a member of some other bodies. He added that if Members considered a certain Member unsuitable to be the chairman of a particular committee, Members could choose not to elect that Member.

34. Mr NG Leung-sing shared Mr LEUNG Fu-wah's view. Mr NG said that he did not agree with Dr YEUNG that the monitoring role of LegCo would be undermined if CRoP was chaired by a Member who was also a Member of ExCo. Mr NG pointed out that all decisions of CRoP were made collectively after discussion, and not made by the CRoP chairman on his own.

35. Mr NG Leung-sing said that if the House Committee was of the view that it was inappropriate for a Member with dual membership of LegCo and ExCo to be the chairman of CRoP, it might also have to consider whether Members who were members of other bodies should also be barred from being chairmen of certain committees. Mr NG further said that it was undesirable for the House Committee to consider imposing restriction on a case-by-case basis whenever an incumbent committee chairman accepted an appointment to serve on a certain body. He added that if Members considered that the issue involved a matter of principle, it should be dealt with by reviewing the relevant rules.

36. Mr Fred LI pointed out that under Rule 77(6) of the Rules of Procedure, a Member who was the chairman or deputy chairman of a Government advisory body in respect of matters which a Panel considered to be directly related to the terms of reference of the Panel should not be the chairman or deputy chairman of the Panel.

37. Mr NG Leung-sing said that Rule 77(6) was applicable to Panels and not CRoP as its operation was governed by Rule 74 of the Rules of Procedure. Mr LEUNG Fu-wah added that ExCo was not an advisory body and therefore Rule 77(6) was not relevant.

38. Mr IP Kwok-him said that Members belonging to the Democratic Alliance of Betterment for Hong Kong did not consider that allowing a Member who was also an ExCo Member to be the chairman of CRoP or a Panel would give rise to conflict of interest or undermine the integrity of LegCo. Mr IP

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further said that CRoP was only responsible for the "internal" business of reviewing the Council's practices and procedures. As all matters of CRoP were decided by its members after discussion, he did not see any conflict in roles for a Member with dual membership of LegCo and ExCo to be the chairman of CRoP.

39. Mr Ambrose LAU said that he agreed with Dr YEUNG Sum that the issue was not about Mr TSANG Yok-sing being the Chairman of CRoP. He further said that as the issue concerned the present system of chairmanship of LegCo committees, it should be considered carefully. Mr LAU pointed out that there were no provisions in the Rules of Procedure prohibiting a Member from being elected as a committee chairman because of dual membership of LegCo and ExCo. He further pointed out that when Mr TAM Yiu-chung was an ExCo Member, he was at the same time the Chairman of the Panel on Public Service, and Members did not find any problem with the arrangement.

40. Mr Ambrose LAU further said that the argument that CRoP would not be able to safeguard LegCo's powers if CRoP was chaired by a Member who was also an ExCo Member could not be substantiated, as according to Rule 74 of the Rules of Procedure, CRoP did not have such a responsibility. Mr LAU pointed out that as the Rules of Procedure already contained provisions governing the disclosure of personal pecuniary interest and withdrawal from voting upon any question in which a Member had a direct pecuniary interest, the concern about conflict of interest should not arise. Mr LAU further pointed out that LegCo and the Executive Authorities were not always in opposition, they also sought to work with each other. Mr LAU added that in the event that the CRoP chairman who was also an ExCo Member considered it inappropriate for him to preside over the discussion of a certain item, the deputy chairman or another member of CRoP could always stand in.

41. Mr Ambrose LAU said that given the limited functions of CRoP as set out in Rule 74, and that any amendments to the Rules of Procedure could only be made by resolution of the Council, he could not agree that a Member with dual membership of LegCo and ExCo should not be the chairman of CRoP.

42. Mr Kenneth TING said that he supported that a Member with dual membership of LegCo and ExCo could be the chairman of CRoP.

43. Ms Miriam LAU said that the issue had been discussed in detail at the meeting of CRoP on 4 November 2002. She had voted against the proposal that a Member who was also a Member of ExCo should not be the chairman of CRoP. She further said that as LegCo had only 60 members, it would be impractical to impose too many restrictions on the chairmanship of committees as this would adversely affect the operation of the Council. She added that if Members considered that there was conflict in roles between the chairman of CRoP and an ExCo Member, the same concern might also arise in the case of

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Panels.

44. Ms Miriam LAU further said that she did not see how the chairman of CRoP could compromise LegCo's monitoring role, as the operation of CRoP was highly transparent and open, and all decisions of CRoP were made collectively after discussion. She therefore did not see any strong grounds to bar a Member with dual membership of LegCo and ExCo from serving as the chairman of CRoP.

45. Dr YEUNG Sum asked why CRoP had referred the matter to the House Committee. He was concerned that other committees might also refer their unresolved matters to the House Committee for consideration in future.

46. Mr TSANG Yok-sing explained that the discussion on the matter at the meeting of CRoP on 4 November 2002 was chaired by Miss Margaret NG, Deputy Chairman of CRoP, as he considered it inappropriate for him to chair the discussion. Although he was present at the meeting, he had not taken part in the discussion and the voting on the matter. Mr TSANG further said that of the other eight members present at the meeting, four voted for the proposal that a Member with dual membership of LegCo and ExCo should not be the chairman of CRoP, and four voted against the proposal. Mr TSANG added that he believed that Miss Margaret NG who presided over the meeting had a casting vote but had chosen not to exercise it.

47. The Chairman invited Members to consider whether the House Committee should take a position on the matter by taking a vote, or whether the House Committee should simply convey to CRoP the different views expressed by Members at the meeting and not indicate a stance.

48. Mr Andrew WONG said that the Panel on Constitutional Affairs had requested the Research and Library Services Division to carry out a research study on the relationship between the Government and the opposition or minority parties in the United Kingdom, New Zealand and United States. Mr WONG further said that under the accountability system for principal officials, the role of LegCo Members appointed as ExCo Members was a new issue which Members might wish to examine from a wider perspective and in the light of the experience of other places. Mr WONG pointed out that, for instance, the Committee of Public Accounts of the House of Commons of the United Kingdom must be chaired by a senior Member of the Opposition.

49. Mr WONG considered that CRoP should conduct a broader study of the system of chairmanship of the committees of LegCo. He said that he would only agree to take a vote if the question was on the broader issues that he had raised, and not restricted to the chairmanship of CRoP; otherwise, he would prefer the House Committee simply conveying to CRoP Members' views expressed at this meeting and not taking any position.

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50. Ms Miriam LAU said that the House Committee should give a clear indication of its view to facilitate CRoP to follow up the matter. Ms LAU further said that the issues raised by Mr WONG could be pursued by the Panel on Constitutional Affairs if considered necessary.

51. Mr IP Kwok-him concurred with Ms LAU and proposed that the House Committee should take a vote on the matter.

52. Dr Philip WONG asked whether a decision on the matter could be deferred to allow more time for Members to consider the various views expressed.

53. Dr YEUNG Sum proposed that a decision on the matter be deferred to the next House Committee meeting.

54. The Chairman put Dr YEUNG Sum's proposal to vote. The result was 13 Members voted for the proposal and 23 voted against the proposal. The Chairman declared that the proposal was negatived.

55. The Chairman put the question that the House Committee should take a vote on the matter. The result was 26 Members voted for the proposal and 11 voted against the proposal.

56. The Chairman put the question "that the Committee on Rules of Procedure may be chaired by a Member of the Council who is also a Member of the Executive Council" to vote. The result was 27 Members voted for the proposal and 12 voted against the proposal.

57. The Chairman said that it would be for CRoP to make its own decision on the matter taking into consideration the view of the House Committee.

VIII. Any other business

58. There being no further business, the meeting ended at 3:32 pm.