

立法會 *Legislative Council*

LC Paper No. CROP 13/02-03

Ref: CB(3)/CROP/3

Paper for the House Committee meeting on 22 November 2002

Committee on Rules of Procedure

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

Purpose

This paper invites the House Committee to consider whether the Committee on Rules of Procedure (CRoP) should be chaired by a Member of the Council who is also a Member of the Executive Council (ExCo).

Background

2. Under Rule 74(2) of the Rules of Procedure, CRoP shall consist of a chairman, a deputy chairman and 10 members who shall be appointed by the President in accordance with an election procedure determined by the House Committee (HC). Rule 74(6) provides that the practice and procedure of CRoP shall be determined by the Committee. Under the election procedure endorsed by HC, the chairman and deputy chairman of CRoP are elected by members of the Committee from amongst themselves. At the HC meeting held on 20 October 2000, the following Members were elected to CRoP:

Hon Kenneth TING Woo-shou, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Andrew WONG Wang-fat, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Henry WU King-cheong, BBS, JP
Hon IP Kwok-him, JP

In accordance with the election procedure, the HC meeting was suspended for 10 minutes and the above members elected Hon Jasper TSANG to be the chairman and Hon Margaret NG the deputy chairman of CRoP. The chairman, deputy chairman and members of CRoP were all subsequently appointed by the President on 23 October 2000 for the current LegCo term.

3. Together with Hon James TIEN, Hon Jasper TSANG was appointed a Member of ExCo with effect from 1 July 2002.

Deliberations of the Committee on Rules of Procedure

4. At a member's request, CRoP considered at its meeting on 4 November 2002 whether the Committee should be chaired by a Legislative Council (LegCo) Member who is also an ExCo Member.

5. From the outset, members of CRoP made it clear that the issue was whether CRoP, given its role and responsibilities, should be chaired by a Member who is also an ExCo Member. Among the nine members who were present at the meeting, four considered it inappropriate for CRoP to be chaired by a Member who is also an ExCo Member, while the others did not see the need to bar such a Member from chairing CRoP. The views of the two groups of members are summarized below.

6. Members who consider it inappropriate for CRoP to be chaired by a Member with dual membership of LegCo and ExCo have expressed the following views:

- (a) CRoP is responsible not only for reviewing and proposing changes to the Council's Rules of Procedure to ensure the smooth conduct of the Council's business, but also for upholding the Council's powers, especially at times of disagreement with the Administration. Allowing CRoP to be chaired by a Member with dual membership may give cause for concern about the impartiality of the chairman, pose a public perception problem and undermine the institutional integrity of LegCo;
- (b) a non-official ExCo Member is a "minister without portfolio" who formulates policies with other Principal Officials in ExCo. There is thus a conflict between the roles of the CRoP chairman and an ExCo Member. Given the current separation of the Executive Authorities and the Legislature, the Administration is inclined to have the Rules of Procedure amended in its favour. Should there be any such proposal to amend the Rules of Procedure, its passage will be facilitated if CRoP is chaired by a LegCo Member who is also an ExCo Member; and
- (c) the Executive Authorities and the Legislature should be institutionally separate, and should counterbalance and

complement each other. If CRoP is chaired by a Member with dual membership, there will be a lack of counterbalance of the Executive Authorities by the Legislature.

7. Members who do not consider it necessary to bar an ExCo Member from chairing CRoP are of the following views:

- (a) CRoP deals with LegCo's internal business and the CRoP chairman's function is to ensure that members have sufficient opportunities to consider and express opinions on issues before the Committee, with a view to making recommendations to HC and the Council. There is no question of conflict of roles or interests if CRoP is chaired by a Member with dual membership;
- (b) the CRoP chairman does not enjoy more powers than the chairmen of other committees of the Council, which would enable him to influence Members' decision. To a certain extent, the CRoP chairman is less influential than a Panel chairman in terms of policy formulation. As Panels mainly deal with policy issues proposed by the Administration, a Panel chairman, by virtue of his power to determine when a Panel should meet, may facilitate or delay the deliberation of issues that the Administration considers urgent. This is not the case for CRoP which is more concerned with LegCo's internal procedural affairs; and
- (c) CRoP's mode of operation is very transparent and open. Any member of the Committee may, in fact, suggest issues for discussion. The chairman has no authority to disallow the discussion of the issues. Where necessary, matters can be decided by voting. If the chairman is seen to be conducting the Committee's meetings in a manner that favours the Administration, members are free to raise the concern for discussion, especially as CRoP's meetings are held behind closed door.

8. As the members who attended the meeting were evenly split in their views on the matter, the Committee decided to refer it to HC for consideration.

Advice sought

9. Members are invited to consider whether CRoP should be chaired by a LegCo Member who is also an ExCo Member.

Legislative Council Secretariat

15 November 2002

