

**立法會**  
***Legislative Council***

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**Paper for the House Committee meeting  
on 6 December 2002**

**Committee on Rules of Procedure**

**Consideration of whether it is appropriate for a Member who moves a motion  
at a Council meeting on behalf of a committee of the Council to  
speak and vote against the motion**

**Purpose**

This paper invites Members to note the outcome of the Committee on Rules of Procedure's (CRoP's) deliberations on whether it is appropriate for a Member who moves a motion at a Council meeting on behalf of a committee of the Council to speak and vote against the motion.

**Background**

2. At the Council meeting on 31 October 2001, pursuant to the decision of the Panel on Home Affairs, the chairman of the Panel moved a motion which sought to authorize the Panel to exercise the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to order the attendance of witnesses and the production of documents. He spoke against the motion when moving it and in his reply before the close of the debate. He also voted against the motion. A Member raised concern at the meeting as to whether it was appropriate for the Panel chairman to do so. Subsequently, the President invited CRoP to study the matter.

3. The Panel's decision to move the motion in Council had been made towards the end of the 2000-01 session. The motion could not be moved in Council until the following session when the Panel elected a new chairman who had voted against the proposal in the previous session. In moving the motion in accordance with the Panel's previous decision, the Panel chairman explained in his speech the special circumstances of the matter.

## **Relevant provisions in the Rules of Procedure**

4. Rule 33(1) of the Rules of Procedure (RoP) provides that the mover of a motion shall make such remarks as he may wish in moving the motion. Rule 33(3A) provides, inter alia, that the mover's reply shall be confined to matters raised during the debate. Rule 41 governs the contents of speeches made at Council meetings, including those made in moving a motion and in the mover's reply. Under Rule 41(1), a Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject. The relevant provisions are reproduced in the **Appendix**. There is no provision in RoP or the House Rules (HR) requiring the mover of a motion to speak and vote in favour of the motion. On the other hand, Rule 77(13) of RoP provides that votings by the Panel "shall not be binding on any Member, whether in Council, in a committee of the whole Council or in the House Committee."

## **CRoP's recommendation**

5. CRoP considers that whilst it appears odd for a Member moving a motion on behalf of a committee to speak and vote against the motion, current rules in RoP or HR do not prescribe that the Member must speak in favour of a motion, thereby imposing additional restrictions on the contents of Members' speeches or how Members should vote in Council. Moreover, there is no requirement that only the chairman of a committee may move the motion on behalf of the Committee. To avoid recurrence of similar incidents, CRoP recommends that in the event that the chairman of a committee is not in favour of a motion that the committee would like to have moved in Council, or if the chairman does not wish to move the motion, the committee may consider designating one of its members who is in favour of the motion to move the motion. In other words, the mover of such a motion can be, but need not be, the chairman, the deputy chairman or another member of the committee.

## **Advice sought**

6. Members are invited to take note of CRoP's recommendation in paragraph 5 above.

Legislative Council Secretariat  
4 December 2002

**Extract from the Rules of Procedure of the Legislative Council of  
the Hong Kong Special Administrative Region**

### **33. Manner of Debating Motions**

(1) A Member called upon by the President or Chairman to move a motion shall rise in his place and in moving the motion shall make such remarks as he may wish.

X            X            X            X            X            X            X

(3A) When no more Member indicates his intention to speak in a debate in the Council, the President shall call upon the mover of the motion to speak in reply. The reply, if so made, shall be confined to matters raised during the debate. *(L.N. 86 of 2000)*

X            X            X            X            X            X            X

### **41. Contents of Speeches**

(1) A Member shall restrict his observations to the subject under discussion and shall not introduce matter irrelevant to that subject.

(2) Reference shall not be made to a case pending in a court of law in such a way as, in the opinion of the President or Chairman, might prejudice that case.

(3) Except as otherwise provided in Rule 66 (Bills Returned for Reconsideration), it shall be out of order to attempt to reconsider a specific question on which the Council has taken a decision during the session, except in debate on a motion to rescind that decision moved with the permission of the President.

(4) It shall be out of order to use offensive and insulting language about Members of the Council.

(5) A Member shall not impute improper motives to another Member.

(6) The name of the Chief Executive shall not be used to influence the Council.

(7) Except where his conduct is the subject of a motion to which Part JA (Procedures for Particular Motions) applies, the conduct of the Chief Executive, a Member of the Executive Council or a Member of the Legislative Council otherwise than in the performance of his official duties shall not be raised. *(L.N. 311 of 1998)*

(8) The conduct of Judges or other persons performing judicial functions shall not be raised.