

立法會
Legislative Council

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Finance Committee of the Legislative Council

Minutes of the 7th meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 2 November 2012, at 4:00 pm

Members present:

Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Michael TIEN Puk-sun, BBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

2. By the close of the deadline on 26 October 2012, a total of 1 244 amendments to the motion were received from 24 members. The Chairman ordered that a joint debate on the motion and the 1 244 amending motions be held. Each member would be allowed to speak for not more than 15 minutes in accordance with the order set out in the agenda. The Chairman said that he would invite members to move the amending motions in the order as set out in the agenda when all members had spoken on the question.

3. On behalf of the Committee, the Chairman moved the motion on the notice requirement as set out in the agenda. He said that -

- (a) There were no specific provisions under the Rules of Procedure ("RoP") and the FC Procedure on proposed amendments to the three sets of procedure of the FC and its two subcommittees;
- (b) All along, proposed amendments to the three sets of procedure had been submitted to the FC for consideration as part of a Secretariat's paper which were put to the FC for a vote by the Chairman when the FC was ready to do so;
- (c) On 10 October 2012, Mr IP Kwok-him gave notice to include an agenda item in the meeting on 19 October 2012 to amend the three sets of procedure. Having considered the relevant provisions in the FC Procedure, the item proposed by Mr IP Kwok-him was included in the agenda for the FC's meeting on 19 October 2012 and members were informed of the decision of the Chairman on 12 October 2012;
- (d) By a letter dated 17 October 2012, Mr Albert CHAN informed that depending on the justifications for the proposed amendment given by Mr IP Kwok-him at the meeting on 19 October 2012, Mr WONG Yuk-man, Mr CHAN Chi-chuen and he might consider moving amendments to Mr IP's motion in accordance with the RoP, related rules and past practices;
- (e) The Chairmen and the Deputy Chairmen of the FC, PWSC and ESC held a meeting on 17 October 2012 to discuss the issues relating to the procedures for handling amendments to the three sets of procedure;
- (f) Given the importance of the FC Procedure, PWSC Procedure and ESC Procedure, the six Chairmen and Deputy Chairmen

were of the view that in considering any amendment to the three sets of procedure, Rules 29 to 35 of the RoP, and practices governing the dealing of motions and amendments to motions with legislative effect in Council should be adopted. However, there was a need to make suitable modifications to the notice requirement. In gist, the notice requirement for a motion to amend the three sets of procedure should be given no less than five clear days before the day on which the motion was to be considered by the FC; and

- (g) A motion to amend the three sets of procedure should be amended by motions which should be subject to a notice requirement of not less than two clear days before the day on which the motion was to be considered by the FC and was ruled by the Chairman to be in order.

4. Mr Albert CHAN stressed the importance of safeguarding a Member's right of expression in Legislative Council ("LegCo"). He said that the RoP of the Council was modelled on that of the UK Parliament, which placed great emphasis on the importance of upholding members' rights to propose motions and amendments to motions. He cautioned that any attempt to depart from the established tradition would be subject to judicial challenge.

5. Mr Albert CHAN stressed that the proposed procedure for moving amendments to the three sets of procedure should first be reviewed by the Committee on Rules of Procedure ("CRoP") before it was debated and voted on by the Council. He also considered it necessary to have a thorough discussion on the related procedure before consideration was given to any proposed amendment.

6. Mr CHAN Chi-chuen said that Mr IP Kwok-him's proposal would have an effect of restricting members' right to express views on the Administration's proposals, and would undermine procedural justice and jeopardize the check-and-balance role of LegCo. He further pointed out that Mr IP's proposal, which was made at the beginning of a new LegCo term, had posed difficulties especially for new members who were still adjusting to the procedures and the manner of conducting business in LegCo.

7. As regards the proposed notification period for moving amendments to the procedures of the FC and its two subcommittees, Mr CHAN Chi-chuen commented that a longer lead time was required for serving the notice of motion to amend the procedures. However, the period for serving a notice to move amendments to the motion should be shortened.

8. Mr Alan LEONG Kah-kit raised a point of order. He referred to a joint letter from 23 Members seeking clarification of whether the adoption of the proposed notification requirements would affect how the motion from Mr IP Kwok-him should proceed. The Chairman responded that he would address Members' concern in a written reply to be issued after the meeting.

9. Mr WONG Yuk-man commented that he had never come across a legislature that would self-impose restrictions on members' rights of expression. He considered that any amendment to the rules and procedures of LegCo should aim at seeking wider flexibility to facilitate the work of Members rather than imposing constraints on their rights to speak. Mr WONG objected to Mr IP Kwok-him's proposed amendments to the three sets of procedure of the FC and its two subcommittees. He said that he would move a substantial amount of motions to amend the motion on the notification requirement, and the motion proposed by Mr IP Kwok-him to amend the three sets of procedure. He said that his action was necessary to preserve the dignity of LegCo as well as to safeguard public interest.

10. Ms Emily LAU said that clear rules on the notification requirements for proposed amendments to the three sets of procedures should be established before the FC deliberated on Mr IP Kwok-him's proposal. She said that the proposed amendments from Mr IP had far-reaching consequences, and she expressed disappointment that new Members had to deal with the proposed change of meeting procedures before they had time to learn and familiarize with these procedures. She was concerned whether new Members might be able to contribute meaningfully to the debate.

11. Ms Emily LAU further commented that Members belonging to the Democratic Party did not agree to Mr IP's proposed amendments which, if passed, would take away members' right of expression. She warned that numerous amendments to the notification requirement would be put forward. She urged Members from the pro-establishment camp to treat the matter seriously and should not rush to pass through the amendments.

12. Ms Emily LAU added that the proposed notification requirement and the proposal from Mr IP Kwok-him should be properly and rigorously addressed in a proper platform such as CRoP, and that the community should be allowed to express their views before LegCo.

13. Mr Albert HO said that he did not expect Mr IP Kwok-him would move amendments to the procedures of the FC and its two subcommittees at such an early stage in the new LegCo term. He said that many new Members were still not fully prepared for an in-depth debate on the issue. Mr HO agreed

that a proper procedure should be established by FC for dealing with amendments to the three sets of procedure before debating on the proposal put forward by Mr IP Kwok-him.

14. Mr Albert HO explained that he did not subscribe to Mr IP Kwok-him's suggestion because it would, in effect, restrict members' right of expression. He surmised that members' filibuster to stall the funding and establishment proposals related to the reorganization of the Government Secretariat in the previous term might have prompted Mr IP Kwok-him's initiative to suggest amendments to the procedures of the FC and its two subcommittees. Mr HO maintained that members would continue to criticize government's proposals through putting up questions and comments in procedurally permissible means as long as the whole system remained unjust. He reflected that, in a truly democratic system, filibuster would not be necessary.

15. Mr Albert HO said that the proposed procedural amendments submitted by Mr IP Kwok-him and the notification requirement as presented by the Chairman for serving notice of motions should not be considered in isolation. He agreed that their prior scrutiny by CRoP before a final decision was taken by FC was a proper approach to follow. Sufficient time should be allowed for debate and discussion on the matter. He further announced that he would propose amendments to the proposed notification requirement.

16. Mr SIN Chung-kai said that there was a need to review the existing arrangements for individual committees to determine their own practice and procedure as inconsistency and even contradiction would result.

17. Mr SIN Chung-kai suggested that CRoP should review the different sets of procedure as determined by committees and panels, and develop a standard procedure for application on all committees and panels. He also suggested that procedures of various committees and panels should be incorporated into RoP as appendices. Any subsequent changes to these procedures would be equivalent to amending RoP, where prior deliberation by CRoP and passage by LegCo by means of a resolution was warranted.

18. Mr SIN Chung-kai added that Members belonging to the Democratic Party did not support Mr IP Kwok-him's proposal to amend paragraph 37A of the FC Procedure and similar provisions of the ESC Procedure and PWSC Procedure. He explained that the proposed amendments would constraint the power of FC and would restrict members' right of expression. He would move amendments to Mr IP's motion, and would do likewise for any future attempts to amend other relevant parties of the FC Procedure to similar effects.

Meanwhile, he would not rule out the possibility of activating the procedure to amend RoP.

19. As regards the proposal of specifying notification requirement for moving amendments to the procedures of the FC and its two subcommittees, Mr SIN Chung-kai considered that a 12-day notice should be proposed for a motion and that five days should be prescribed for serving notice of amendment to the motion.

20. Mr WU Chi-wai said that in considering the proposed procedural changes and Mr IP Kwok-him's proposals, he had taken into account two fundamental principles: to safeguard members' right of expression and to maintain procedural justice. He said that these principles were part of a long-held tradition of LegCo, but could easily be damaged. Mr WU commented that in examining funding proposals, it was not uncommon that members had to file several rounds of questions before they could obtain pertinent information from the Administration. He said that members needed an effective mechanism in the rules and procedures to perform their monitoring role effectively.

21. Mr WU Chi-wai said that members should not take decision to amend procedures of the FC and its two subcommittees lightly for short-term operational expediency. Quoting the examples of changing LegCo election methods and the abolition of the two municipal councils, Mr WU argued that any attempt to restrict members' rights would have dire and unexpected long term ramifications.

22. Mr WU Chi-wai appealed to Mr IP Kwok-him to withdraw his motion, otherwise he would have to join hand with other members to block the proposed amendments. Mr WU echoed the other members' views that it was appropriate to standardize the procedures to narrow the differences among committees and panels in their conduct of business.

23. The Chairman ordered that the meeting be adjourned.

24. The meeting was adjourned at 6:00 pm.