

**Subcommittee to study the proposed  
accountability system for principal officials and related issues**

**Issues raised at the meeting of the Panel on Constitutional Affairs  
on 18 April 2002**

(1) Basic principles

- (a) In what way would the proposed system ensure that the Government of the Special Administrative Region is accountable to the Legislative Council;
- (b) In what way would the proposed system implement the Basic Law principle of gradual and orderly progress in the democratic development in Hong Kong;

(2) Consistency with the Basic Law

- (c) Whether the proposal system would contravene the Basic Law especially in view of -
  - (i) its limiting effect on the career path of a public servant (whether he is employed on permanent pensionable terms or contract terms);
  - (ii) the change in the constitutional role of the public servants as members of the Government of HKSAR from one of formulating policies to one of assisting principal officials in the formulation of policies;
  - (iii) the change from the existing system of CE appointing some of the principal officials to the Executive Council to one under which all principal officials would automatically become members of the Executive Council;

(3) Executive Council

- (d) The difference, if any, in the functions and operation of the Executive Council brought about by the proposed system;

(4) Amalgamation of Bureaux

- (e) The reasons for the proposed amalgamation of Bureaux. A member has suggested the Administration to consider merging Commerce & Industry with Economic Services and Financial Services into one Bureau;

(5) Civil Service under the proposed system

- (f) Whether a Permanent Secretary can refuse to carry out instructions from a principal official if he considers that the instructions to be unlawful or the carrying out of such instructions would be contrary to his conscience, and whether a Permanent Secretary would be required to resign from office if he refuses to carry out instructions from a principal official, and if so, whether he is prohibited from revealing the reasons for his refusal to carry out the instructions after leaving office;
- (g) whether a Code similar to the UK Civil Service Code should be promulgated;

(6) Conflict of interest

- (h) The reasons for not proposing legislation to deal with the questions of conflict of interest and protection of whistle blowers; and

(7) Transfer of statutory functions

- (i) in view of the fact that the proposed transfer of statutory functions would be for establishing the proposed new system of accountability for principal officials, the reasons for effecting such transfer by means of a resolution of the Legislative Council under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) rather than by means of primary legislation.