

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

**Issues/matters raised at the meeting on 29 April 2002
requiring the Administration's response**

(1) Principal officials under the proposed system

- (a) The role, if any, to be played by the Public Service Commission in the appointment of principal officials, including the appointment of the Secretary for the Civil Service;
- (b) Whether a Secretary for the Civil Service who has resigned/been removed from office for policy failure can return to the civil service, and if so, how such an arrangement would operate in practice;
- (c) The differences between "civil servants" and "public servants"; whether their conduct in public office is subject to the same types and extent of regulatory control under existing law, e.g. the Prevention of Bribery Ordinance;
- (d) Principal officials will be required to observe a Code of Practice which will among other things set out the relationship between principal officials and civil servants and safeguard the core values of the civil service. What is the "status" of this Code of Practice, i.e. is it a set of internal guidelines, or does it have legal backing;
- (e) Whether the status of the Permanent Secretaries being subordinates of principal officials will be established by legislative means, or through administrative measures;
- (f) Whether there will be changes to the powers and functions of the Chief Secretary for Administration and the Financial Secretary, and if so, whether such changes will be effected through legislative means or administrative measures;

(2) The functions, composition and operation of the Executive Council

- (g) To provide a list and explanation of the 689 references to "the Chief Executive (CE) in Council (ExCo)" in the laws of Hong Kong, and explain how appeals against decisions of principal officials presently dealt with by CE in Council will in future be handled when principal officials appointed under the proposed accountability system will also be members of ExCo;

(h) The legislative intent of Article 56 of the Basic Law and how such intent can be achieved. Under what circumstances will a record of CE not accepting a majority opinion of ExCo be made public. How have such records been kept since 1 July 1997, and who/which is/are the public officer/authorities responsible for keeping such records since 1 July 1997. Will the present arrangement for keeping such records be reviewed with a view to making the arrangement more transparent under the proposed accountability system; and

(3) Consistency with the Basic Law

(i) Relevant court judgments referred to in the Administration's paper entitled "The Constitutionality of the Accountability System" (issued under LC Paper No. CB(2)1735/01-02(01) dated 26 April 2002).

Council Business Division 2
Legislative Council Secretariat
2 May 2002