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LC: Speech by Secretary for Constitutional Affairs

Following is the speech by the Secretary for Constitutional Affairs, Mr Michael Suen, in respect of the government motion on the accountability system for principal officials at the Legislative Council meeting today (May 29).

Madam President,

I move that the motion to support the accountability system for principal officials be passed by the Legislative Council (LegCo).

Since the Chief Executive (CE) outlined the framework of the accountability system for principal officials in his Policy Address last year, LegCo and members of the public have been discussing this. Their discussion shows their concern on the introduction of the accountability system. During this time, apart from participating in the relevant discussion, we have also carefully listened to the views expressed by different sectors. In working out details of the accountability system for principal officials, we have fully considered these views with a view to improving the system.

The CE announced details of the accountability system at the LegCo meeting on 17 April. This was followed by more extensive discussion. LegCo has set up a subcommittee to facilitate exchanges on the details of the new system. The Subcommittee meets twice a week, four hours each time. In addition, LegCo also arranged public hearings to gather the views of the public.

Other political groups and non-government organisations have also had discussion on this. All these discussion is useful and constructive. Through such discussion, we have a better understanding of the views, concerns and misconceptions of the public. Our participation in such discussion, be it in the LegCo Chamber or otherwise, prompted us to study some of the issues more thoroughly. It provided us the opportunity to explain our

thinking and to address the concerns expressed. It also provided us the opportunity to take into account the views of the public and make modifications to the system as necessary. Apart from the views expressed during the meetings of the Subcommittee, Subcommittee members have also put in a number of written questions. As at 27 May 2002, the Subcommittee has raised over 80 issues for our written response. We have responded to all these in writing. We have also provided a written response to the views expressed during the public consultation sessions.

I hope that Members could, instead of focusing their attention on the details, look at the wider picture today. I would like to put on record the background, objectives and merits of implementing the accountability system.

(I) Why Change?

Since the Handover in 1997, we have been enjoying a high degree of autonomy under the Basic Law. With Hong Kong people governing Hong Kong, there has been enhanced awareness among the community of the need for good governance. Hong Kong people have higher expectations of their government, and expect Secretaries of Department and Directors of Bureau to enhance their accountability including where necessary, to step down for policy failures. Such a demand is not consistent with the established appointment and removal system of the civil service.

Since the Handover, the legislature and the media have become more aggressive and critical, subjecting the government to more intensive monitoring and pressure. Such is the characteristic of a civilised and open society. However Directors of Bureaux are now expected not only to be responsible for the formulation and implementation of policy, but also to promote policies to LegCo and the public and to gain their support. Their workload has increased and the results may not always be to their entire satisfaction.

(II) Objectives

The Government would need to bring in changes in step with such developments. We need to introduce the accountability system to meet the

needs and aspirations of the community. The specific objectives of the accountability system are as follows:

1. to enhance the accountability of principal officials for their respective policy portfolios;
2. to enable senior government officials to better appreciate the aspirations of the community and better respond to the needs of the community;
3. to select the best and most suitable persons to take up the principal official positions to serve the community and to enhance governance;
4. to enhance the cooperation between the Government and LegCo;
5. to better coordinate the formulation and implementation of policies to ensure effective implementation of policies and provision of quality services to the public; and
6. to maintain a permanent, professional, clean and politically neutral civil service.

(III) Major elements of the Accountability System

To achieve the above objectives, we consider that the accountability system must comprise seven core elements.

1. principal officials shall be accountable for matters falling within their policy portfolios and in extreme cases, they may have to step down for serious policy failures;
2. principal officials should not come under the civil service establishment; the civil service appointment and removal system should not be applicable to principal officials under the accountability system;
3. candidates for principal officials may come from within or outside the civil service;
4. principal officials shall be directly responsible to the Chief Executive;

5. principal officials shall be appointed to the Executive Council (ExCo) and take part in the high level decision making process;

6. principal officials shall keep closer tabs on the public pulse and ensure better response to community aspirations;

7. principal officials shall engage more proactively in communication with LegCo Members.

Based on the seven core elements, we have developed the specific arrangements under the accountability system. The major elements include:

(i) Appointment arrangements

Firstly, the appointment arrangement under the new system is more flexible and it enables the CE to select the most suitable persons from within and outside the civil service as principal officials. Under the new appointment system, competent, committed and innovative persons can be recruited to join the government and serve the public.

In addition, principal officials under the accountability system will no longer be appointed on civil service terms, and can truly assume political responsibility. This fulfils the expectation of the public.

(ii) Clearly defining the powers and responsibilities of principal officials under the accountability system

Secondly, principal officials under the accountability system will have well-defined powers and responsibilities, their powers will commensurate with their responsibilities. They will be responsible for their respective policy portfolios and be directly accountable to the CE. Principal officials will have clear demarcation of duties and well-defined powers and responsibilities. As such, they will be held more accountable to LegCo and the public to gain their support.

The CE will delegate authority to them and appoint them as members of the Executive Council. They will participate in the government's high level

decision-making process. As such, the government will be in a better position to coordinate its priority on policy implementation and allocation of resources.

In addition, principal officials will be held responsible for matters within their policy portfolios. They will be accountable to the public and LegCo. In extreme cases, they may have to resign over major failures.

(iii) Strengthen a culture of enhanced accountability

Thirdly, implementation of the accountability system will strengthen the importance attached to public opinions and sentiments and foster a culture of enhanced accountability. Principal officials have to take greater initiative to liaise with the public and formulate policies, which meet their needs and aspirations. This includes more visits to districts to communicate with members of the public directly to take heed of their sentiments. They will have to actively disseminate information through the media and explain policies to the public so the latter could have a better understanding of the rationale of government policies. This will be conducive to building up consensus in the community.

Principal officials will have to engage in proactive communication with LegCo members to establish mutual trust and strengthen co-operation. They will carefully listen to and consider the views of LegCo members with a view to enlisting their support for government policies.

(IV) Basic Principles in Formulating the Accountability System

Next, I would like to talk about the basic principles guiding the formulation of the accountability system. In formulating the accountability system, we are guided by the following two principles:

First, the accountability system must be consistent with the Basic Law and be lawful and constitutional. I noted that during the discussion at the Subcommittee, some members have cast doubt on the legality and constitutionality of the accountability system. We have made clear that the accountability system is entirely legal and constitutional. The HKSARG formulates the accountability system on the basis of the Basic Law and all

arrangements under the accountability system are fully consistent with the Basic Law.

Second, while implementing the accountability system, we must uphold the integrity of the civil service system and maintain a permanent, neutral, clean and meritocratic civil service. The CE made it clear at the LegCo meeting on 17 April that this was the established policy of the Government. The civil service system of recruitment, assessment, promotion, posting and disciplinary action will remain unchanged after the implementation of the accountability system. Under the accountability system, the existing strengths of the civil service will be preserved and given fuller play.

(V) Universal Suffrage and Constitutional Development vis-a-vis the Accountability System

The Hon. Martin Lee proposes to amend the Government's motion to one that supports an accountability system for principal officials which is grounded in a democratic political system based on universal suffrage and is accountable to LegCo.

As we all know, only some of the existing LegCo members are returned by universal suffrage, and the method for selecting the CE shall be specified by the Basic Law and in accordance with the principle of gradual and orderly progress, with the ultimate goal being the selection of the CE by universal suffrage. According to the Basic Law, it is only after 2007 that LegCo may be formed and the CE selected by universal suffrage. In light of the above, we, of course, will not be able to satisfy Mr. Lee's demand at the moment, or even in the near future. In that case, does Mr. Lee suggest that the accountability system should not be implemented before universal suffrage is fully introduced? Does the amendment require that universal suffrage be fully introduced as a prerequisite for the implementation of the accountability system? If the answers are in the affirmative, then I think the debate today may well end here because, according to the amendment proposed by Mr. Lee, any discussion on the accountability system before universal suffrage is fully introduced would be meaningless, thus rendering it unnecessary for us to spend time debating whether the accountability system should be implemented.

If it is not the objective of Mr. Lee's amendment to require that universal suffrage be fully introduced as a prerequisite for the implementation of the accountability system, then how should one interpret what he refers to as "the accountability of principal officials under a system which is grounded in a democratic political system based on universal suffrage"? I think Mr. Lee must give us a clear explanation for the purpose of today's debate, otherwise our debate would be rendered completely worthless.

As regards the establishment of an accountability system for principal officials which is accountable to the LegCo, we think the requirement of the Basic Law for the executive authorities to be accountable to LegCo is crystal clear and needs no repeating. As a matter of fact, Article 64 of the Basic Law stipulates that the Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure. After the implementation of the accountability system, the HKSARG will continue to be accountable to LegCo in accordance with Article 64 of the Basic Law.

(VI) Concluding remarks

Judging from opinions aired in discussions held in different forums over the past month or so, I can say that there is in fact consensus in our society on implementation of the new system and consensus that the accountability system for principal officials could help the Government to attain its objectives in streamlining its structure, enhancing efficiency and better serving the community.

The results of a recent opinion poll on the accountability system for principal officials conducted by AC Nielsen as commissioned by the Home Affairs Bureau indicate that over 65 per cent of the respondents supported the implementation of the system and close to 60 per cent of the respondents agreed that the system should be implemented on 1 July this year. In addition, over 60 per cent of the respondents agreed that the CE should have a team of officials who share a common mission to help him

formulate and implement policies. And close to 80 per cent of the respondents agreed with the proposal for the CE to delegate powers to Secretaries of Department and Directors of Bureau under the accountability system to enable them to have the necessary authority to formulate and implement policies. What does this mean? It illustrates the fact that members of the public generally agree that the system should be implemented and expect that to take place as soon as possible.

Madam President, although the Government and Members do not see eye to eye on various arrangements relating to the accountability system, I trust that we have a common goal, namely to enhance governance of the SARG. We need to take the first step by implementing the accountability system at the start of office of the new term CE. After that, we could revise the system in the light of experience with a view to improving the system. There is no point in engaging in a tangle of empty discussion based on hypotheses.

Thank you, Madam President.

End/Wednesday, May 29, 2002

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