

立法會 *Legislative Council*

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Background brief for Panel on Constitutional Affairs

Accountability System for Principal Officials and Related Issues - Declaration and Handling of Investments/Interests

Purpose

This paper updates members on the developments subsequent to the special meeting of the Panel on Constitutional Affairs on 9 July 2002.

Panel meeting on 9 July 2002

2. The Panel held a special meeting on 9 July 2002 to discuss, inter alia, the Code for Principal Officials under the Accountability System (the Code) which was published in the Government Gazette on 28 June 2002 (G.N. 3845). A copy of the Code was issued to Members vide LC Paper No. CB(2)2462/01-02 on 29 June 2002.

3. Paragraph 5.6 of the Code stipulates that principal officials shall declare their investments and interests, and the declaration will be made available for public inspection on request. Members requested the Administration to provide the declarations of interests made by the Chief Executive (CE), Members of the Executive Council (ExCo) and principal officials under the accountability system for members' reference as soon as such information was available.

Developments subsequent to the Panel meeting

Declarations of interests and affiliation with political parties

4. On 5 August 2002, the Administration provided the declarations of interests and affiliation with political parties made by CE, ExCo Members, principal officials under the accountability system, and the Director of CE's Office for members' reference. The declarations were issued to Members vide LC Paper

Nos. CB(2)2679/01-02(01) - (35) on 6 August 2002. The supplementary information provided by Hon James TIEN as a Member of ExCo was circulated to Members vide LC Paper No. CB(2)2699/01-02 on 12 August 2002.

Curriculum vitae of five new Directors of Bureau

5. At the request of Hon Emily LAU after the meeting, the Administration also provided the curriculum vitae of the five new Directors of Bureau appointed from outside the civil service under the accountability system, namely, Secretary for Commerce, Industry and Technology, Secretary for Education and Manpower, Secretary for the Environment, Transport and Works, Secretary for Financial Services and the Treasury, and Secretary for Home Affairs. The information was circulated to Members vide LC Paper No. CB(2)2679/01-02(36) to (40) on 6 August 2002.

Administration's press release dated 18 August 2002

6. In response to the remarks made by Hon Emily LAU on the declarations of interests of ExCo Members and the principal officials under the accountability system at a radio programme on 18 August 2002, the Government issued a press release on the same day stating that the declaration system was largely adopted from those applied to the Members of the previous ExCo and senior civil servants and had been proven to be effective. Hon Emily LAU's Letter to Hong Kong and the Government's press release were circulated to members vide LC Paper No. CB(2)2831/01-02(01) and (02) on 27 September 2002.

Research study

7. To assist members' further consideration of the subject matter, Hon Andrew WONG, the Chairman, and Hon Emily LAU, the Deputy Chairman, requested the Research and Library Services Division (RLSD) to gather information relating to declaration of interests by senior members of government in the United States and the United Kingdom.

8. The Information Note entitled "Selected Issues Relating to Declaration of Interests and Avoidance of Conflicts of Interests by Senior Members of Government" prepared by RLSD (IN35/01-02) was issued to Members vide LC Paper No. CB(2)2801/01-02 on 19 September 2002.

Information sought from the Administration

9. On the instruction of the Chairman and Deputy Chairman, the Secretariat has requested the Administration to provide the following information for members' further consideration -

- (a) guidance notes or guidelines for CE, ExCo Members and principal officials to complete the forms on declaration of interests and affiliation with political parties;
- (b) whether CE, ExCo Members and principal officials are required to declare their liabilities in addition to their investments and other interests;
- (c) whether ExCo Members and principal officials are required to provide detailed information on their shareholding of companies (e.g. amount of the shares), properties (e.g. their locations) and other investments, to enable CE or the ExCo Secretariat to make an assessment whether there is a potential or actual conflict of interest;
- (d) whether detailed information on shareholdings and investments is available for public inspection;
- (e) details of the declaration system adopted for Members of the previous ExCo and senior civil servants, and the differences, if any, between this system and the system adopted for CE, ExCo Members and principal officials under the accountability system;
- (f) the criteria for CE or the ExCo Secretariat to judge whether a principal official has a conflict of interest in a subject matter to be discussed and that he should not be provided with any sensitive information on the subject matter;
- (g) whether the ExCo Secretariat keeps and publishes records on withdrawal from discussion or voting by principal officials who have conflict of interest in the subject matter under discussion; and
- (h) the setting up, operation and management of a "blind trust", and whether specific legislation is required on the regulation of the setting up and operation of a ministerial blind trust.