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**Panel on Constitutional Affairs**

**Background Brief prepared by Legislative Council Secretariat**

**Implementation of the Accountability System for Principal Officials**

**INTRODUCTION**

1. The Chief Executive (CE) announced the framework of the accountability system for Principal Officials (POs) at the meeting of the Legislative Council (LegCo) on 17 April 2002. Details of the accountability system were set out in the paper entitled "Accountability System for Principal Officers" issued by the Constitutional Affairs Bureau (CAB's Paper) on the same day. The accountability system for POs was implemented on 1 July 2002, and the Administration has undertaken to review the implementation of the system within 12 months to provide an overall assessment of the implementation of the system.

2. In response to Members' request, CAB provided a six-month report on the implementation of the accountability system to the Panel on Constitutional Affairs (CA Panel) in January 2003 (issued vide LC Paper No. CB(2)930/02-03(02) and in the **Appendix**). To assist Members in considering the Administration's report, the Secretariat prepared a Background Brief which highlighted the issues previously raised by Members which required follow-up actions by the Administration (LC Paper No. CB(2)930/02-03(01)). The brief also summarized the developments subsequent to the implementation of the accountability system on 1 July 2002.

3. To assist Members in considering the 12-month report on the implementation of the accountability system, this paper highlights -

- (a) the objectives of the accountability system, accountability, role and responsibility of POs, CAB's reports on the implementation of the accountability system;
- (b) discussions on four incidents/matters by the relevant LegCo committees;
- (c) discussions of Members on other issues relating to the accountability system; and

- (d) LegCo questions and motion debates relating to the accountability system.

## **THE ACCOUNTABILITY SYSTEM**

### **Objectives of the accountability system**

4. In addressing LegCo on the accountability system for POs on 17 April 2002, CE said that "the purpose of introducing the accountability system is to enable principal officials of the SAR Government to assume responsibility for their policy portfolios, to share a common agenda and to have clear directions. We need to feel the pulse of the community, to understand community sentiments, and to strengthen liaison and communication with the Legislative Council, different sectors of the community and the general public. We need to improve the prioritizing of the Government's agenda and to improve overall policy co-ordination, so that we would be in a position to provide better services to the community and the general public".

5. As elaborated in CAB's six-month report on the implementation of the accountability system for POs, the objectives of the accountability system are -

- (a) to enhance the accountability of POs for their respective policy portfolios;
- (b) to enable senior government officials to better appreciate the aspirations of the community and to better respond to the needs of the community;
- (c) to select the best and most suitable persons to take up the position of POs and to serve the community and enhance effective governance;
- (d) to enhance cooperation between the Executive and the Legislature;
- (e) to better coordinate the formulation of policies as well as to ensure effective implementation of policies and provision of quality services to the public; and
- (f) to maintain a permanent, professional, meritocratic, honest and politically neutral civil service.

### **Accountability, role and responsibility of POs**

6. Paragraph 12 of the CAB's Paper stated that POs "are accountable to the Chief Executive for the success or failure of matters falling within their respective portfolios. They will accept total responsibility and in an extreme case, they may have to step down for serious failures relating to their respective portfolios. These include serious failures in policy outcome and serious mishaps in the implementation of the

relevant policies. They may also have to step down for grave personal misconduct or if they cease to be eligible under the Basic law".

7. The role and responsibility of POs as set out in paragraph 13 of CAB's Paper are as follows -

- (a) to gauge public opinion and take societal interests into account in serving the community;
- (b) to set policy objectives and goals, and develop, formulate and shape policies;
- (c) to take part as a member of the Executive Council (ExCo) in all of the deliberations and decision making at the ExCo and assume collective responsibility for the decisions made;
- (d) to secure the support of the community and LegCo for their policy and legislative initiatives as well as proposals relating to fees and charges and public expenditure;
- (e) to attend full sessions of LegCo to initiate bills or motions, respond to motions and answer questions from LegCo members;
- (f) to attend LegCo committee, subcommittee and panel meetings where major policy issues are involved;
- (g) to exercise the statutory functions vested in them by law;
- (h) to oversee the delivery of services by the executive departments under their purview and ensure the effective implementation and successful outcome of policies; and
- (i) to accept total responsibility for policy outcome and the delivery of services by the relevant executive departments.

8. At the Council meeting on 17 April 2002, Members had asked whether there were any objective and transparent criteria for determining the retention or otherwise of a PO under the accountability system, and what CE would do in case LegCo passed a vote of no confidence in respect of a certain PO. CE had replied that "I will act according to the Basic Law". CE further said that "under the Basic Law, the ultimate power of dismissal rests with the Central Government. Regardless of what an accountable official has done, if the Legislative Council moves and passes a vote of no confidence in respect of him, my principle will be that I will first try to find out in detail why the Legislative Council has moved such a motion and how it is passed. This will certainly be one of my considerations, but not the only consideration influencing my final decision".

9. The "Code for Principal Officials under the Accountability System" (Code for POs) was published in the Gazette on 28 June 2002 and issued to Members vide LC Paper No. CB(2)2462/01-02 on 29 June 2002.

### **CAB's reports on the implementation of the accountability system**

#### CAB's six-month report

10. The CA Panel discussed CAB's six-month report at its meetings on 15 January and 17 February 2003. The key changes brought about by the accountability system, according to CAB's six-month report, are summarized in paragraphs 11 to 16 for Members' easy reference.

#### *A new culture of effective governance*

11. The accountability system is working smoothly and yielding dividends. POs are devoting considerable time and effort to communicate with different sectors of the community and to have a better understanding of public sentiments, expectations and priorities. This ensures the formulation of policies that best meet the needs and aspirations of the public at large.

#### *Greater responsiveness and new initiatives*

12. Some of the examples where POs have responded quickly on issues relating to their portfolios are -

- (a) the Chief Secretary for Administration (CS) has completed a report on Population Policy before the end of 2002 as requested by CE;
- (b) the Financial Secretary (FS) has determined the level of operating expenditure of the Administration to be \$200 billion by 2006/07. This has resulted in a series of cost-saving measures being devised;
- (c) the efforts of the Secretary for Commerce, Industry and Technology and the Secretary for Economic Development and Labour have led to the business and trade sectors introducing a voluntary "One Company One Job" campaign in late July 2002 to provide employment and training opportunities for fresh graduates;
- (d) the calls on the part of the Secretary for the Environment, Transport and Works have led to the introduction of fare concessions by relevant public transport operators;
- (e) the Government has taken a lead in fostering the transparency and accountability of the self-regulatory regime of the accounting sector;

- (f) the Secretary for Constitutional Affairs (SCA) has responded to public opinion and increased the number of elected seats in the District Councils;
- (g) the Government issued a Statement on Housing Policy which contains a set of clear and comprehensive housing policies and a package of measures to facilitate the smooth operation of the property market; and
- (h) the Secretary for Security has published a consultation document to solicit views on the proposals relating to the enactment of legislation to implement Article 23 of the Basic Law (BL 23).

*Enhanced co-operation between the Executive and the Legislature*

13. Upon taking up appointment, POs under the accountability system have taken an early opportunity to brief LegCo Members of their policy objectives and initiatives. They have engaged in proactive communication with LegCo Members with a view to strengthening co-operation. Such enhanced co-operation between the Executive and the Legislature would be conducive to more effective implementation of the Government's policies.

*Better policy coordination*

14. As POs under the accountability system are all members of the ExCo, they participate directly in policy-making at the highest level and in prioritising the policy agenda. During discussion at the ExCo, POs do not restrict themselves to matters within their policy portfolios. They are part of the senior echelon of the Government and will endeavour to provide constructive advice on overall policy formulation and implementation. POs have a more comprehensive and thorough understanding of the policy objectives and directions of the Government as a whole and in turn the Government is in a better position to decide on its policy and resource allocation priorities.

*Integrity of the civil service maintained*

15. The Administration has all along recognized the importance of the civil service. CE has repeatedly stressed the importance of maintaining a permanent, professional, meritocratic, honest and politically neutral civil service. In devising the accountability system for POs, one of the guiding principles was to preserve the integrity of the civil service.

16. Since implementation of the accountability system, POs have worked closely and effectively with civil servants. POs are assisted by civil servants under the supervision of the Permanent Secretaries. They assist POs in formulating, explaining and defending policies and in implementing policies and delivering quality service to the public. With the assistance of civil servants, POs can direct their energy to address policy and political issues.

### CAB's 12-month report

17. When CAB's six-month report was discussed by the CA Panel, a Member had enquired what criteria would be adopted for assessing the success or failure of the system, and whether the 12-month report to be submitted to the Panel would give an account of the work of individual bureaux and the performance of individual POs.

18. The SCA had replied that the six-month and 12-month reports would focus on the implementation of the system and its effectiveness as a whole, as well as any outstanding issues which the Administration had undertaken to report to LegCo. The 12-month report would provide an overall assessment of the implementation of the system. With regard to the work of individual bureaux and the accountability of individual POs to the public for matters under their respective policy portfolios, it would be more appropriate for the relevant Panels to follow up if considered necessary.

### **DISCUSSIONS ON FOUR INCIDENTS/MATTERS BY THE RELEVANT LEGCO COMMITTEES**

19. Since the implementation of the accountability system on 1 July 2002, the following four incidents/matters had been followed up by the relevant LegCo Committees -

- (a) the "penny stocks" incident;
- (b) the incident of FS purchasing a vehicle prior to his announcement of an increase in motor vehicles first registration tax;
- (c) the outbreak of the Severe Acute Respiratory Syndrome (SARS); and
- (d) the Nationality Security (Legislative Provisions) Bill.

The discussions of the respective committees are summarized in paragraphs 20 to 47 below.

#### **The "penny stocks" incident**

20. On 25 July 2002, the Hong Kong Exchanges and Clearing Limited (HKEx) published a "Consultation Paper on Amendments to the Listing Rules Relating to Initial Listing and Continuing Listing Criteria and Cancellation of Listing Procedures" for public consultation. As part of the package, the HKEx proposed that where the moving average of the daily volume weighted share price over 30 consecutive trading days of a listed company was less than HK\$0.5, the price of the listed company should be consolidated, failing which, after a series of procedures and possible appeals, delisting might follow. On 26 July 2002, 577 (or 76%) out of the 761

stocks listed on the Main Board recorded a loss. 66 stocks (62 of which were stocks which traded at below \$0.5 (i.e. penny stocks)) suffered a decline of 20% or more.

21. The Panel on Financial Affairs (FA Panel) held a special meeting on 31 July 2002 to discuss issues arising from the proposed amendments to the listing rules relating to the delisting mechanism announced by HKEx on 25 July 2002 and the unusual market movement of penny stocks on 26 July 2002. Representatives of the Administration, the Securities and Futures Commission (SFC), HKEx, and the four industry bodies were in attendance. The Secretary for Financial Services and the Treasury (SFST) explained that prior to the release of the Consultation Paper on 25 July 2002, SFC and HKEx had not discussed the proposal with him nor had he been given a copy of the Consultation Paper. It was only after the "penny stocks" incident that he discovered from his staff that HKEx had sent a summary of the proposals contained in the Consultation Paper to his office prior to the release of the Consultation Paper. However, due to the enormous amount of papers he had received, he had not read the summary. Under the three-tier regulatory framework, it was not his responsibility but the role of HKEx to assess market reaction to the proposals contained in the Consultation Paper before its release. However, SFST agreed that as the PO responsible for financial affairs, he should bear a certain degree of responsibility for the problems arising from the proposal.

22. In view of the wide public concern about the "penny stocks" incident, FS informed the FA Panel that he had decided to appoint an independent Panel of Inquiry to look into the circumstances leading to the "penny stocks" incident, including the arrangements for preparation and release of the Consultation Paper, and to recommend measures for improvement. Some Members expressed doubts about the credibility of the investigation to be conducted by the Panel of Inquiry which was appointed by and answerable to FS. These Members called for the appointment of a statutory Commission of Inquiry to investigate the incident. Other Members considered it appropriate for FS to appoint an independent Panel of Inquiry to investigate the incident as FS was accountable to LegCo on financial affairs.

23. The FA Panel passed a motion urging CE to set up a statutory Commission of Inquiry to investigate the incident. The scope of the inquiry should cover, inter alia, the respective duties of the relevant Government officials, including FS and SFST, and the management and key personnel of SFC and HKEx in the preparation and release of the Consultation Paper, and whether any of the persons/parties concerned had failed to perform their duties.

24. CE was informed of the motion passed by the FA Panel on 1 August 2002. On 7 August 2002, the Private Secretary to CE replied that given FS's overall responsibility for financial and monetary policies, it was entirely appropriate for FS to set up the independent inquiry to establish what happened in the incident and recommend improvement measures. CE saw no need for the appointment of a statutory Commission of Inquiry to look into the same matter.

25. The Report of the Panel of Inquiry on the Penny Stocks Incident was released on 10 September 2002. In Chapter 12 of the Report on "Roles of Individuals", the Panel of Inquiry adopted four broad categories of responsibilities for assessing the responsibilities of the concerned individuals and officials in the "penny stocks" incident, i.e. policy responsibility, executive responsibility, systemic responsibility and personnel responsibility. The Panel of Inquiry was quite unable to say that FS had failed to discharge any of those responsibilities. As regards SFST, leaving aside his sub-par performance before the FA Panel meeting on 31 July 2002, the Panel of Inquiry did not think that SFST had failed in the discharge of his responsibilities.

26. FS and SFST briefed the FA Panel on the Report at its meeting on 16 September 2002. FS expressed regret for the way the incident had unfolded and admitted that the handling of the incident left much to be desired. He also expressed regret about a remark he made to the media on 29 July 2002, which had given the impression that the Administration was reluctant to take responsibility for the mishap. In hindsight, he considered that he could have done better. As the findings of the Report revealed weaknesses in the communication and delineation of roles and functions of the Government, SFC and HKEx, particularly in relation to the regulation of listing matters, FS advised the FA Panel that he had decided to appoint an expert group to review the operation of the securities and futures market regulatory structure.

27. SFST assured the FA Panel at the same meeting that his bureau would study the recommendations of the Report in collaboration with SFC and HKEx with a view to mapping up the implementation plan in a coordinated manner. SFST informed the Panel that after the release of the Report, he had openly accepted the criticisms about his performance before the FA Panel meeting and apologized to the public on 11 September 2002.

#### **The incident of FS purchasing a vehicle prior to announcement of an increase in motor vehicles first registration tax**

28. On 9 March 2003, a newspaper reported that Mr Antony LEUNG, FS, had purchased a Lexus LS430 in January 2003, prior to his announcement of an increase in motor vehicles first registration tax on the Budget Day on 5 March 2003. FS gave a media briefing in the evening of 9 March 2003 to clarify that he bought a car out of practical need rather than a wish to avoid tax. FS announced that he would donate to a charity a sum of \$100,000, being double the difference in the retail price of the car before and after the first registration tax was revised.

29. On 10 March 2003, having learnt that the difference in the first registration tax in respect of a Lexus LS430 before and after the first registration tax adjustment was about \$190,000, FS announced his decision to increase his donation to a charity (the Community Chest) from \$100,000 to \$380,000. On the same day, CE told the media that FS should be more sensitive when it came to issues like a conflict of interest, but he believed that FS did not deliberately purchase the car before the tax increase for personal gain.



30. On 15 March 2003, CE made public his letter to FS on the incident. CE concluded that what FS had done amounted to gross negligence. FS had breached parts of the Code for POs and his behaviour was highly inappropriate as a PO. CE considered that FS's offer to resign was an honourable act on his part. Having weighed the full circumstances of the case, CE had come to the conclusion that FS's mistake warranted a formal criticism, but not his resignation.

31. At the meetings of the CA Panel on 17 March and 8 April 2003, FS gave an account of the incident and a chronology of events on the discussions of the Budget Strategy Group on the various revenue items, including the first registration tax, since July 2002. FS advised the Panel that although he had no intention to evade the tax, he should not have made the purchase so as to avoid any perceived conflict of interest. He accepted the conclusion of CE on the incident, and at the request of CE, he withdrew his offer to resign.

32. At the request of the Panel, FS provided copies of the two reports he submitted to CE on 10 and 13 March 2003, his resignation letter, and statements of his Administrative Assistant and Senior Personal Assistant confirming the dates they typed the English and Chinese versions of the resignation letter respectively, for Members' reference.

33. Some Members expressed doubts about FS's integrity as he had not disclosed all the relevant information in his first report to CE, and he failed to declare his purchase of a new car, even after the Secretary for Health, Welfare and Food had declared at the ExCo meeting on 5 March 2003 that he had ordered a private car. These Members also had doubts as to whether FS had actually offered to resign on 10 March 2003 as no reference was made to this piece of crucial information in his second report to CE. They also considered that CE was too hasty in coming to a conclusion on the matter on 15 March 2003 by simply relying on FS's two written reports.

34. Some other Members considered that FS had been cooperative in attending the Panel meetings and in providing information to Members. As CE had come to the conclusion that what FS had done amounted to gross negligence and had already issued a formal criticism, the matter should be put to an end as early as possible. These Members were of the view that the present priority should be on getting Hong Kong through the difficult times, such as dealing with the outbreak of SARS and the deficit budget.

35. At the meeting of the House Committee on 21 March 2003, Members also discussed two proposals to follow up the incident, i.e. requesting CE to appoint a statutory Commission of Inquiry to inquire into the incident and inviting CE to attend a meeting of the Council to explain the course of action he had taken in the matter. Both proposals did not receive support at the House Committee meeting.

36. At the Council meeting on 9 April 2003, Dr Hon YEUNG Sum moved a

motion seeking the appointment of a select committee and powers conferred by the Legislative Council (Powers and Privileges) Ordinance for the select committee to inquire into the incident and related matters. The motion was negatived.

37. At the Council meeting on 7 May 2003, Hon Margaret NG moved the motion "That this Council has no confidence in the Financial Secretary, Mr Antony LEUNG" for debate. The motion was negatived.

38. On 16 July 2003, Mr Antony LEUNG tendered his resignation as FS with immediate effect. CE had decided to respect his wish and accept his resignation. CE had recommended to the Central People's Government (CPG) the removal of Mr LEUNG from the post of FS, in accordance with BL 48(5).

### **Outbreak of SARS**

39. Following media reports of atypical pneumonia cases in Guangdong Province in late 2002, the Panel on Health Services (HS Panel) discussed with the Administration in February 2003 the notification mechanism for infectious diseases between Guangdong and Hong Kong. After 43 health care workers in the Prince of Wales Hospital contracted respiratory tract infection with pneumonia symptoms in early March 2003, the HS Panel had been monitoring the handling of the SARS outbreak by the Government and the Hospital Authority (HA) through its weekly special meetings with the Administration. Up to 23 June 2003, there were 1 755 SARS cases, 386 of which included health care workers of hospitals/clinics and medical students. Of the 296 fatal cases, eight involved health care workers.

40. On 14 May 2003, the HS Panel passed a motion proposing that a select committee should be set up by LegCo to inquire into the handling of the SARS outbreak by the Government and HA, and to conduct a comprehensive review of the whole process. The Panel noted that CE had appointed the SARS Expert Committee to investigate into the SARS epidemic, and HA would also conduct a review on the SARS outbreak. However, most Members of the Panel considered that the Expert Committee which was chaired by Dr YEOH Eng-kiong, the Secretary for Health, Welfare and Food (SHWF), lacked independence, and that Dr YEOH should not lead an inquiry which involved investigating into his own role in handling the SARS outbreak. They considered that LegCo should uphold its monitoring role by conducting an independent inquiry into the handling of the outbreak.

41. The Panel's proposal was considered by the House Committee on 30 May 2003. Members considered that after the Expert Committee had completed its work, an inquiry should be carried out by a statutory Commission of Inquiry to pinpoint responsibility. The Commission should be headed by a person who was not involved in the handling of the SARS outbreak. The House Committee passed a motion demanding the Government to appoint an independent Commission of Inquiry before October to conduct an investigation to find out the truth and whether any persons should be held responsible; and if the Government refused to do so, the House

Committee would consider setting up a select committee. On 9 June 2003, the Chairman of the House Committee wrote to inform CE of the motion passed by the House Committee.

42. On 28 June 2003, CE replied that the Government's aim was to complete the review in September 2003 and urged Members to give the Expert Committee a chance to complete the review before drawing any conclusion on what follow-up action was necessary.

43. On 17 July 2003, CE announced that in order to dispel public misunderstanding, Dr YEOH Eng-kiong would not be the Chairman of the SARS Expert Committee. The Committee would be directly accountable to CE for its work and submit its report directly to CE in September 2003. The findings and recommendations of the Committee would be made public.

### **Nationality Security (Legislative Provisions) Bill**

44. The Bills Committee on Nationality Security (Legislative Provisions) Bill will hold a meeting on 23 July 2003 to discuss with the Administration the Committee Stage amendments to the Bill proposed by the Administration on 5 July 2003 and its plan concerning the Bill.

45. The Bills Committee reported its deliberations to the House Committee on 27 June 2003. The Administration gave notice of resumption of the Second Reading debate on the Bill at the Council meeting on 9 July 2003. Following the mass procession on 1 July 2003, CE announced at a meet-the-media session on 5 July 2003 that ExCo had decided to introduce further amendments to the Bill in order to allay the concerns of the public over the legislative proposals to implement BL 23. The Second Reading debate on the Bill would be resumed at the Council meeting on 9 July 2003 as scheduled.

46. In the early morning on 7 July 2003, CE issued a statement announcing that, in the light of the position of the Liberal Party and after detailed deliberations, ExCo had decided to defer the resumption of the Second Reading debate on the Bill. However, CE reiterated that the Hong Kong Special Administrative Region (HKSAR) had a constitutional duty to legislate for the protection of national security. (The Liberal Party issued a statement on 6 July 2003 asking the Government to defer the resumption of the Second Reading debate on the Bill. Hon James TIEN, Chairman of the Liberal Party, tendered his resignation from ExCo on the same day). When CE attended a media session later that same day, he said that ExCo had decided to defer the resumption of the Second Reading debate on the Bill in further response to the views and concerns expressed by the people.

47. Some Members are of the view that Mrs Regina IP, Secretary for Security, should not continue to be the public officer in charge of the Bill. According to the press release issued by the Government on 16 July 2003, Mrs IP tendered her

resignation as Secretary for Security on personal grounds on 25 June 2003. CE tried to persuade her to stay but could not change her decision. After careful consideration, CE had decided to respect her wish and accept her resignation. CE had recommended to CPG the removal of Mrs IP from the post of Secretary for Security, in accordance with BL 48(5).

## **DISCUSSIONS OF MEMBERS ON OTHER ISSUES RELATING TO THE ACCOUNTABILITY SYSTEM**

48. In the course of discussions of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues, the Administration undertook to revert to LegCo on a number of issues relating to the accountability system. The Administration had reported the progress of some of these issues in CAB's six-month report. Following the implementation of the accountability system on 1 July 2002, Members had also raised various concerns about the accountability system. The major areas and issues of concern discussed by the Subcommittee and other committees of LegCo include the following -

- (a) Procedures for removal of POs (paragraphs 49 - 51);
- (b) Conflict of interest and related issues (paragraphs 52 - 55);
- (c) Financial implications of the accountability system for POs and review of relationship between bureaux and departments (paragraphs 56 - 62);
- (d) Number and ranking of Permanent Secretaries (paragraphs 63 - 69);
- (e) Review of the role and functions of advisory and statutory bodies (paragraphs 70 - 72);
- (f) POs' leave relief arrangements and representation at meetings of LegCo (paragraphs 73 - 77); and
- (g) Review of statutory functions of CS and FS (paragraphs 78 - 83).

### **Procedures for removal of POs**

49. In the light of the incident of FS purchasing a vehicle prior to the announcement of an increase in motor vehicles first registration tax, the CA Panel had discussed the procedures of removal of POs under the accountability system at its meeting on 19 May 2003. Members were advised that if the resignation of a PO was accepted in principle by CE, CE would recommend to the CPG the removal of the PO in accordance with BL 48(5). After CPG had agreed to the removal, the Government of HKSAR would accept the resignation of the PO and terminate his employment in accordance with the provisions of the employment agreement. In

response to Members' question about the procedure for immediate termination of the employment of a PO, the Administration explained that CE would recommend to CPG the removal of the PO. After CPG had agreed to the removal, the Government of the HKSAR would terminate the employment of the PO in accordance with the provisions of the employment agreement, either by paying the PO an amount equal to one month's salary in lieu of notice, or the employment agreement might be resolved by mutual agreement between the Government of the HKSAR and the PO.

50. A Member considered that a formal mechanism should be established to deal with serious and unexpected incidents involving POs, for example, a thorough and independent investigation should be conducted, and the report on the investigation should be made public. Another Member suggested that a formal impeachment procedure, similar in operation to that for the impeachment of CE under BL 73(9), should be introduced to deal with cases of POs committing serious misconduct.

51. The Administration was of the view that although BL did not provide for an impeachment procedure for POs, the accountability system allowed the public, the media and LegCo to effectively monitor the performance of the Government.

### **Conflict of interest and related issues**

52. Following the implementation of the accountability system, the CA Panel held three meetings to discuss, inter alia, prevention of conflict of interest and related issues. Members, in particular, focused on the provisions of Chapter 5 of the Code for POs which dealt specifically with prevention of conflict of interest. A Background Brief summarizing the main views and concerns raised by Members regarding prevention of conflict of interest of POs and related issues was issued to Members vide LC Paper No. CB(2)726/02-03 on 19 December 2002.

53. In response to Members' suggestion, the Administration agreed that the declarations made by POs and other ExCo Members should include -

- (a) information on the usage of the properties, in addition to the location; and
- (b) in cases where CE had given written consent to company directorships held by POs and other ExCo Members, the names and nature of business of the companies concerned.

54. Some Members suggested that the Administration should implement measures to improve the transparency of the declaration system, such as requiring POs to disclose liabilities, partners and shareholders of foreign companies or British Virgin Islands companies used for holding financial interests/assets, and resign from company directorships which were held in a personal capacity. These Members also expressed concern that family trusts, instead of blind trusts as required under the Code for POs, had been set up by some POs to manage their assets. They suggested that

the Administration should ensure that trusts set up by POs were controlled and operated in such a way that all matters concerning the investment, management and disposal of the trust assets were left entirely with the trustees.

55. While the Administration remained of the view that the declaration system currently in place was appropriate, it had agreed to review the system in the light of experience and in the context of the 12-month report on the implementation of the accountability system for POs.

### **Financial implications of the accountability system for POs and review of relationship between bureaux and departments**

#### Background

56. In announcing the framework of the accountability system at the Council meeting on 17 April 2002, CE said that the Government intended to make the introduction of the accountability system cost-neutral within one year through internal redeployment of savings. The Administration had undertaken that POs would conduct a review of the staffing and structure of the policy bureaux and the working relationship between the policy bureaux and executive departments within their respective portfolios. The review would be completed within 12 months with a view to effecting sufficient savings to make the introduction of the accountability system a cost neutral exercise.

57. At the meeting of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues on 4 June 2002, the Administration further advised that the additional costs for implementation of the accountability system would be offset by staff savings, at the directorate level, in the next financial year.

58. The net additional full annual average staff cost in connection with the implementation of the accountability system when it was introduced on 1 July 2002 amounted to \$42.228 million.

#### Position in January 2003

59. In CAB's six-month report submitted to the CA Panel in January 2003, the Administration advised that the 11 Directors of Bureau had made a preliminary assessment of the need to reorganize the bureaux and departments under their purview. The reorganization of the Housing, Planning and Lands Bureau and the Education and Manpower Bureau took effect on 1 January 2003 with the approval of the Finance Committee (FC). The Civil Service Bureau and the Financial Services and the Treasury Bureau would present proposals on establishment changes to LegCo as necessary. Of the remaining seven bureaux, the Constitutional Affairs Bureau and the Security Bureau had decided that there would not be any major re-organization, and the remaining five would come to a view on the matter by mid 2003. Through re-organization of the various bureaux and departments, the net savings so far realized

or identified in terms of staff costs amounted to \$75.65 million.

### Subsequent developments

60. At the request of Members, the Secretary for Constitutional Affairs briefed the Establishment Subcommittee (ESC) on 11 June 2003 on the paper entitled "Creation and deletion of directorate posts after implementation of the Accountability System" (ECI(2003-04)2), before ESC proceeded to the consideration of the relevant staffing proposals.

61. The various re-organization, streamlining and cost-saving exercises conducted since the implementation of the accountability system included -

- (a) the merger of the Education and Manpower Bureau and the Education Department with effect from 1 January 2003;
- (b) the re-organization of the former Housing Bureau and the Housing Department with effect from 1 January 2003. A more comprehensive review of the Housing Department with a view to de-layering its organizational structure and streamlining its work is expected to be completed before the end of 2003;
- (c) the merger of the Government Land Transport Agency, the Government Supplies Department and the Printing Department, under the Financial Services and the Treasury Bureau, into a new government Logistics Department with effect from 1 July 2003;
- (d) the re-organization of the Civil Service Bureau with effect from 1 November 2002 (Phase I) and 1 July 2003 (Phase II) ;
- (e) the rationalization and streamlining of the work of the Commerce and Industry Branch and Information Technology and the Broadcasting Branch, of the Commerce, Industry and Technology Bureau, with effect from 1 July 2003;
- (f) the merger of the Labour Branch of the Economic Development and Labour Bureau and the Labour Department with effect from 1 July 2003; and
- (g) the review of the responsibilities and establishment of the directorate in the Home Affairs Bureau, the Environment, Transport and Works Bureau, the Constitutional Affairs Bureau, the Security Bureau, and the Health, Welfare and Food Bureau.

62. As a result of these exercises, a net deletion of 18 directorate posts and 146 non-directorate posts had been achieved. The savings realized or identified so far in terms of full annual average staff cost from the deletion of directorate posts amounted to \$46.398 million and that from the deletion of non-directorate posts amounted to \$64.760 million. The total savings realized or identified so far amounted to \$111.158 million. The deletion of directorate posts resulting in savings of \$46.398 million is in excess of the \$42.228 million incurred in connection with the implementation of the accountability system.

### **Number and ranking of Permanent Secretaries**

#### Background

63. Under the accountability system implemented on 1 July 2002, the 16 civil service D8 posts heading 16 policy bureaux were retained and retitled as Permanent Secretaries. The distribution of the 16 Permanent Secretary posts in the 11 bureaux is as follows -

<u>Directors of Bureau</u>	<u>No. of Permanent Secretary (portfolio)</u>
(a) Secretary for the Civil Service	1
(b) Secretary for Commerce, Industry and Technology	1 (Commerce and Industry) 1 (Information, Technology and Broadcasting)
(c) Secretary for Constitutional Affairs	1
(d) Secretary for Economic Development and Labour	1 (Economic Development) 1 (Labour)
(e) Secretary for Education and Manpower	1
(f) Secretary for the Environment, Transport and Works	1 (Environment) 1 (Transport and Works)
(g) Secretary for Financial Services and the Treasury	1 (Financial Services) 1 (Treasury)
(h) Secretary for Health, Welfare and Food	1



- |   |                                       |
|---|---------------------------------------|
| (i) Secretary for Home Affairs                | 1                                     |
| (j) Secretary for Housing, Planning and Lands | 1 (Housing)<br>1 (Planning and Lands) |
| (k) Secretary for Security                    | 1                                     |

64. Of the 16 Permanent Secretary posts, the following five posts were created under delegated authority on a supernumerary basis for a period of up to 12 months by holding against five permanent D8 posts -

- (a) Permanent Secretary for Education and Manpower;
- (b) Permanent Secretary for Health, Welfare and Food;
- (c) Permanent Secretary for Economic Development and Labour (Labour);
- (d) Permanent Secretary for the Environment, Transport and Works (Environment); and
- (e) Permanent Secretary for the Environment, Transport and Works (Transport and Works).

The Administration undertook not to extend these five supernumerary posts beyond 12 months unless with the endorsement of ESC and the approval of FC.

#### Position in January 2003

65. In CAB's six-month report submitted to the Panel in January 2003, the Administration advised that five Directors of Bureau had completed their review of the number and ranking of Permanent Secretaries. The posts of the Permanent Secretary for Constitutional Affairs Bureau and Security Bureau were re-ranked to D6 level with effect from 1 December 2002, pending a further review in the light of experience. The Secretary for Housing, Planning and Lands, Secretary for Education and Manpower, Secretary for Civil Service had decided that the Permanent Secretary posts in their bureaux should continue to be pitched at D8 level.

66. The remaining Directors of Bureau would continue with their reviews and present their proposals to LegCo as appropriate.

67. A few Members pointed out that it was the consensus view of political parties and groups represented in LegCo that the Administration should adopt a prudent approach to Government spending in the face of its sizable deficit. They considered that there was scope for further downgrading the rank of the remaining Permanent

Secretary posts. Another Member was of the view that under the accountability system for POs, Permanent Secretaries working to the politically appointed POs should be of a sufficiently high rank in order to preserve the integrity of the civil service.

#### Subsequent developments

68. The subsequent development in respect of the position of the five Permanent Secretary posts referred to in paragraph 64 above is as follows -

- (a) with the merger of the former Education and Manpower Bureau and Education Department with effect from 1 January 2003, the post of Permanent Secretary for Education and Manpower has been established on a permanent basis (endorsed by ESC on 20 November 2002 and approved by FC on 6 December 2002);
- (b) the proposal to make permanent the post of Permanent Secretary for Health, Welfare and Food was endorsed by ESC on 11 June 2003 and approved by FC on 27 June 2003;
- (c) the proposal to make permanent the post of Permanent Secretary for Economic Development and Labour (Labour) was endorsed by ESC on 11 June 2003 and approved by FC on 27 June 2003;
- (d) following a review of the organization and division of work within the bureau, Permanent Secretary for the Environment, Transport and Works (Environment) has assumed the additional policy responsibility for the transport portfolio since August 2002 and has been re-designated as Permanent Secretary for the Environment, Transport and Works (Environment and Transport). The proposal to make permanent the post was endorsed by ESC on 11 June 2003 and approved by FC on 27 June 2003; and
- (e) following the redistribution of duties mentioned in paragraph 68(d) above, the Permanent Secretary for the Environment, Transport and Works (Transport and Works) has been retitled as Permanent Secretary for the Environment, Transport and Works (Works) and has taken on essentially the same duties as the former Secretary for Works.

69. As regards the ranking of Permanent Secretaries, the Administration advised ESC on 11 June 2003 that the posts of Permanent Secretary for Constitutional Affairs and Permanent Secretary for Security had been temporarily re-ranked at D6 level. The Permanent Secretary posts in the other nine bureaux would continue to be ranked at D8 level.

## **Review of the role and functions of advisory and statutory bodies**

### Background

70. The Administration had advised the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues that POs would review the role and functions of advisory and statutory bodies (ASBs). The aim would be to ensure the effectiveness of the advisory bodies, so that the Administration would be able to tap the best talents and advice from a wide spectrum of the community and maintain a free flow of opinion and innovative ideas.

71. In late 2001, the Home Affairs Bureau (HAB) completed a survey and collected information on 634 ASBs including their subcommittees. One of the improvement measures recommended by HAB was that the bureaux and departments should critically review the need to revamp or abolish any ASB which no longer achieved the role or functions it was set up for, was not performing effectively, or overlapped with the functions of other ASBs. The results of the survey and the improvement measures recommended by HAB were discussed by the Panel on Home Affairs (HA) at its meeting on 12 March 2002. The HA Panel requested the Administration to undertake a comprehensive review of the ASB system and provide a detailed report on the review for future discussion. The Administration advised the Panel that the report should be ready for discussion in May 2003.

### Subsequent developments

72. In April 2003, HAB issued the "Consultation Paper on Review of the Role and Functions of Public Sector Advisory and Statutory Bodies" for public comments by 31 May 2003. A two-stage approach would be adopted for the review. At the first stage of the review, HAB would conduct an overall review of the existing system of ASBs to identify issues and problems. After considering these concerns, a set of guiding principles of conducting a further review would be recommended. During the second stage, individual bureaux would conduct an in-depth review of ASBs under their purview on the basis of the recommended guiding principles. The Administration had agreed to revert to the HA Panel upon completion of the first stage of the review.

## **POs' leave relief arrangements and representation at meetings of LegCo**

73. Arising from the discussions of the House Committee concerning the incident where the POs concerned did not attend the meeting of the Public Works Subcommittee on 16 October 2002, CS advised the Chairman of the House Committee that the Administration had discussed and decided on the arrangements for attendance at full Council meetings of LegCo during the temporary absence of POs. The arrangements are detailed in a letter dated 28 October 2002 from the Director of Administration to the Chairman (LC Paper No. CB(2)211/02-03).

74. The CA Panel discussed the leave relief arrangements during the temporary leave absence of POs under the accountability system, and the Government's representation at meetings of Panels or other committees at its meetings on 20 January and 17 February 2003.

75. The CA Panel was advised that during the absence of CS or FS, the Director of Bureau who stood in as acting CS or acting FS would attend the full Council meeting and speak on behalf of the Government. In the case of the Secretary for Justice and the Secretary for the Civil Service, given their special roles and responsibilities, arrangements would be made for a designated Law Officer and the Permanent Secretary for the Civil Service to attend the full Council meeting on their behalf respectively. During the absence of the other Directors of Bureau, another Director of Bureau would speak on behalf of the Government on established policy relating to the absent Director of Bureau but under his/her own title.

76. As regards meetings of Panels or other committees, the Government's representation would depend on the subject being discussed. The guiding principle was that the Government would send the most suitable representative(s). Irrespective of the level of Government's representation, the Administration assured the CA Panel that POs would accept total responsibility for matters under their policy portfolios.

77. Some Members suggested that Directors of Bureau should make it a practice to attend the regular monthly meetings of Panels to discuss policy issues with Members, and the first few meetings of bills committees or subcommittees on subsidiary legislation to explain the policy behind the proposed legislation and listen to the views and concerns of the Members concerned. A Member also pointed out that an essential feature of the accountability system was that POs and Permanent Secretaries were two separate entities within the Government. POs were political appointees assuming sole responsibility for their policies, whereas Permanent Secretaries were politically neutral civil servants assisting POs in the implementation of policies and should distinct themselves from any political role. Where a committee meeting involved discussion on policy issues, the relevant PO should attend the meeting to answer questions. On the other hand, questions relating to established policy and implementation matters could be answered by the relevant Permanent Secretaries or other civil servants.

## **Review of statutory functions of CS and FS**

### Background

78. During the deliberations of the Subcommittee to Study the Proposed Accountability System for Principal Officials and Related Issues, Members noted that there were about 120 and 500 references to the wide-ranging statutory functions of CS and FS respectively under the existing law. In addition, under Cap. 1, the term FS meant FS and the Secretary for the Treasury (S for Try). With the transfer of statutory functions from S for Try to SFST, a PO under the accountability system,

SFST could exercise some of the statutory functions currently exercisable by FS. This raised the question of whether it was appropriate for another PO to be able to exercise the statutory functions of FS who was also a PO and did not have a supervisory role over the other PO.

79. The Administration advised the Subcommittee that the resolution on transfer of statutory functions did not cover CS and FS. Both CS and FS would continue to exercise the statutory functions vested in them. The Administration had undertaken to review the statutory functions currently vested in CS and FS to see if any such functions should be transferred or delegated to the relevant Directors of Bureau. The review would include an examination of the definition of FS in section 3 of Cap. 1.

80. One of the recommendations of the Report on Panel of Inquiry on the Penny Stocks Incident released on 10 September 2002 was that the Government, should as a matter of priority, complete the review of statutory powers and functions currently vested in FS but exercised on his behalf by SFST, and clarify the division of responsibilities and lines of commands between FS and SFST.

#### Position in January 2003

81. In CAB's six-month report to the CA Panel, the Administration advised that -
- (a) the review of the statutory powers vested in CS and FS was underway and any necessary legislative amendments would be introduced by the relevant bureaux into LegCo for approval; and
  - (b) as regards the division of responsibilities between FS and SFST and the related issue of the definition of FS in section 3 of Cap. 1, the Financial Services and the Treasury Bureau (FSTB) had conducted a review of legislation under its purview and would inform the FA Panel of the outcome of the review in the first quarter of 2003.

#### Subsequent developments

82. In the LegCo Brief issued by FSTB on 27 June 2003 (Ref. G10/24/8C), the Administration informed Members of the key findings and recommendations of the IMF - Financial Sector Assessment Programme (FSAP) Mission and the Administration's responses to such recommendations. The FSAP is a joint IMF-World Bank programme.

83. The Government had taken steps to address the concerns expressed by the FSAP Mission about the roles of certain authorities overseeing the financial markets and the coordination and transparency of the financial stability policy. These included, inter alia, publishing an official document to delineate clearly the roles and responsibilities of FS and SFST in relation to the management of financial affairs and public finance. According to the Administration, the document published on the

FSTB's website [<http://www.info.gov.hk/fstb/fsb/report/index.htm>] would serve the purpose of informing LegCo of the outcome of the review on the division of responsibilities between FS and SFST, and the related issue of the definition of FS under Cap. 1, an undertaking made to the FA Panel in the light of the recommendation of the Panel of Inquiry on the Penny Stocks Incident. The matter has not been discussed by the relevant Panel.

## **LEGCO QUESTIONS AND MOTION DEBATES RELATING TO THE ACCOUNTABILITY SYSTEM**

84. Since 1 July 2002, Members had raised the following LegCo questions relating to the accountability system -

- (a) Hon CHEUNG Man-kwong raised an oral question on "The Secretary for Financial Services and the Treasury's compliance with the Code for Principal Officials under the Accountability System" at the Council meeting on 23 October 2002;
- (b) Hon Emily LAU Wai-hing raised a written question on "Use of flight awards earned from government passages" at the Council meeting on 11 December 2002; and
- (c) Hon CHEUNG Man-kwong raised an oral question on "Procedure for resignation of principal officials and withdrawal of such resignation" at the Council meeting on 30 April 2003.

85. At the Council meeting on 7 May 2003, Hon Margaret NG moved the motion "That this Council has no confidence in the Financial Secretary, Mr Antony LEUNG" for debate. The motion was negatived with 22 Members voting in favour of it, 31 Members voting against it, and two Members abstaining from voting.

86. At the Council meeting on 9 July 2003, Dr Hon YEUNG Sum moved the motion "That this Council considers that the accountability system for principal officials introduced by the Chief Executive, Mr TUNG Chee-hwa, is neither democratic or accountable, and is a failed system" for debate. The motion was negatived with 22 Members voting in favour of it, and 27 Members voting against it.

**Legislative Council Panel on Constitutional Affairs**

**Report on Implementation of the  
Accountability System for Principal Officials**

In the course of discussing the accountability system, the Administration undertook to review a number of issues relating to or arising from the accountability system. At the meeting of the Finance Committee of the Legislative Council on 14 June 2002, the Administration undertook to provide a report six months after implementation of the accountability system for principal officials.

2. The accountability system has been implemented for six months. The Administration has prepared the report. This is now attached for Members' information.

Constitutional Affairs Bureau  
15 January 2003

## **Report on Implementation of the Accountability System for Principal Officials**

### **PURPOSE**

This paper provides an interim report on the implementation of the accountability system for principal officials.

### **BACKGROUND**

2. The accountability system for principal officials has been implemented since 1 July 2002 with a view to achieving the following objectives:

- (a) to enhance the accountability of principal officials for their respective policy portfolios;
- (b) to enable senior government officials to better appreciate the aspirations of the community and to better respond to the needs of the community;
- (c) to select the best and most suitable persons to take up the position of principal officials and to serve the community and enhance effective governance;
- (d) to enhance cooperation between the Executive and the Legislature;
- (e) to better coordinate the formulation of policies as well as to ensure effective implementation of policies and provision of quality services to the public; and
- (f) to maintain a permanent, professional, meritocratic, honest and politically neutral civil service.



3. At the meeting of the Finance Committee of the Legislative Council (LegCo) on 14 June 2002, the Administration undertook to provide a report to LegCo six months after implementation of the accountability system for principal officials.

## **CHANGES FOR THE BETTER**

### **A new culture of effective governance**

4. The introduction of the accountability system is a significant step forward in the governance of Hong Kong. Under the new system, the Chief Executive has the flexibility to select as principal officials the best and most suitable persons from within and outside the civil service. Principal officials are no longer employed on civil service terms, and can truly assume political responsibility. They are underpinned by a permanent, professional, meritocratic, honest and politically neutral civil service.

5. The accountability system is working smoothly and yielding dividends. Principal officials are devoting considerable time and effort to communicate with different sectors of the community and to have a better understanding of public sentiments, expectations and priorities. This ensures the formulation of policies that best meet the needs and aspirations of the public at large.

### **Greater responsiveness and new initiatives**

6. No system can lay a claim to perfection and certainly not from the start. However, we have quickly climbed the learning curve, adjusted to the new system and responded speedily to situations as they develop. The principal officials under the accountability system have developed new initiatives and within six months have published the policy agenda to set out the priorities for the next 18 months.

7. Some of the examples where principal officials have responded quickly on issues relating to their policy portfolios are set out below:

- (a) the Chief Secretary for Administration has completed a report on Population Policy before the end of the year as requested by the Chief Executive;
- (b) the Financial Secretary has determined the level of operating expenditure of the Administration to be \$200 billion by 2006/07. This has resulted in a series of cost-saving measures being devised;
- (c) the efforts of the Secretary for Commerce, Industry and Technology and the Secretary for Economic Development and Labour have led to the business and trade sectors introducing a voluntary "One Company One Job" campaign in late July 2002 to provide employment and training opportunities for fresh graduates;
- (d) the calls on the part of the Secretary for the Environment, Transport and Works have led to the introduction of fare concessions by relevant public transport operators;
- (e) the Government has taken a lead in fostering the transparency and accountability of the self-regulatory regime of the accounting sector. In early December 2002, the Secretary for Financial Services and the Treasury met representatives of the accounting sector to discuss ways to improve the regime, specifically on the need to include more independent participation in the Disciplinary and Investigation Committees of the Hong Kong Society of Accountants ("the Society"). The Government will continue to join forces with the Society to press ahead with proposals in this direction; and
- (f) the Secretary for Constitutional Affairs has responded to public opinion and increased the number of elected seats in the District Councils.

8. In view of widespread public concern over the state of the property market, the Government issued a Statement on Housing Policy which contains a set of clear and comprehensive housing policies and a package of measures to facilitate the smooth operation of the property market. These measures have been well received by the community.

9. In addition, the Secretary for Security has published a consultation document to solicit views on the proposals relating to the enactment of legislation to implement Article 23 of the Basic Law.

### **Enhanced co-operation between the Executive and the Legislature**

10. Upon taking up appointment, principal officials under the accountability system have taken an early opportunity to brief LegCo Members of their policy objectives and initiatives. They have engaged in proactive communication with LegCo Members with a view to strengthening co-operation. Such enhanced co-operation between the Executive and the Legislature would be conducive to more effective implementation of the Government's policies.

### **Better policy coordination**

11. As principal officials under the accountability system are all members of the Executive Council, they participate directly in policy-making at the highest level and in prioritising the policy agenda. During discussion at the Executive Council, principal officials do not restrict themselves to matters within their policy portfolios. They are part of the senior echelon of the Government and will endeavour to provide constructive advice on overall policy formulation and implementation. Principal officials have a more comprehensive and thorough understanding of the policy objectives and directions of the Government as a whole and in turn the Government is in a better position to decide on its policy and resource allocation priorities.

### **Integrity of the civil service maintained**

12. The Administration has all along recognized the importance of the civil service. The Chief Executive has repeatedly stressed the importance of maintaining a permanent, professional, meritocratic, honest and politically neutral civil service. In devising the accountability system for principal officials, one of our guiding principles was to preserve the integrity of the civil service.

13. Under the accountability system, the civil service system has remained basically unchanged. There continues to be a permanent, professional, meritocratic, honest and politically neutral civil service. The

prevailing civil service management systems in respect of appointment, promotion, posting and discipline, as well as the independent advisory role of the Public Service Commission, have all been maintained.

14. To underline the importance the Government attaches to the civil service, a circular advising civil servants of their roles and responsibilities in relation to principal officials has been issued. The circular sets out, among other things, the core values guiding the conduct of civil servants. These core values include:

- (a) commitment to the rule of law;
- (b) honesty and integrity;
- (c) accountability for decisions and actions;
- (d) political neutrality;
- (e) impartiality in the execution of public functions; and
- (f) dedication, professionalism and diligence in serving the community.

Civil servants are expected to continue to uphold these values under the accountability system while principal officials are required to abide by the Code for Principal Officials under the Accountability System. The Code requires them, among other things, to promote the core values of the civil service, to give fair consideration and due weight to the honest and impartial advice from civil servants, and to give due regard to Government Regulations which are applicable to civil servants or otherwise regulate the operation of the Government.

15. Since implementation of the accountability system, principal officials have worked closely and effectively with civil servants. Principal officials are assisted by civil servants under the supervision of the Permanent Secretaries. They assist principal officials in formulating, explaining and defending policies and in implementing policies and delivering quality service to the public. With the assistance of civil servants, principal officials can direct their energy to address policy and political issues.

## **MATTERS UNDER REVIEW**

16. In the course of discussing the accountability system and related issues, the Administration undertook to review a number of issues relating to or arising from the accountability system. These include:

- (a) the working relationship between bureaux and departments;
- (b) the measures to be taken to make the introduction of the accountability system cost neutral;
- (c) the number and ranking of Permanent Secretaries;
- (d) the role and functions of statutory and advisory bodies;
- (e) the statutory powers and functions of the Chief Secretary for Administration (CS) and the Financial Secretary (FS);
- (f) the division of responsibilities between FS and the Secretary for Financial Services and the Treasury (SFST), and the related issue of the definition of FS under the Interpretation and General Clauses Ordinance (Cap. 1); and
- (g) the system of declaration of interests.

### **Working relationship between bureaux and departments**

17. The Administration undertook to review the working relationship between bureaux and departments within 12 months after implementation of the accountability system.

18. The primary objective of the review is to ensure that respective Directors of Bureau are better able to discharge their responsibilities in policy formulation and policy implementation. In considering whether or not to effect any re-organisation of bureaux and departments, due regard has been (and will be) given to the following criteria:

- (a) whether or not it is possible to streamline the organisation structure, for example, by delayering policy making functions in bureaux and departments;
- (b) whether or not it is possible to integrate policy formulation and policy implementation functions in bureaux and departments; and
- (c) whether or not it is possible to enhance efficiency and effect cost savings.

19. In conducting the review, it is for the respective Directors of Bureau to decide how the review should be carried out and whether any streamlining or restructuring would be required, having regard to the specific structure and needs of the bureaux and departments under their purview. Due consideration has also been (and will be) given to the impact of any restructuring proposals on the civil service.

#### ***Latest position***

20. The 11 Directors of Bureau have made a preliminary assessment of the need to re-organise the bureaux and departments under their purview. Of the 11 bureaux, Housing, Planning and Lands Bureau, Education and Manpower Bureau, Civil Service Bureau and Financial Services and the Treasury Bureau have made progress.

#### ***Re-organisation of the former Housing Bureau and Housing Department***

21. In June 2002, the Committee on the Review of the Institutional Framework for Public Housing (RIFPH) issued a Report which recommended, among other things, the reorganisation of the former Housing Bureau (HB) and the Housing Department (HD) into a single organisation with the objective of removing any overlap in functions between HB and HD and bringing about a more streamlined organisation.

22. Having carefully reviewed the recommendations of the RIFPH Report, and having taken the opportunity to review the functions of both HB and HD since taking up appointment in July 2002, the Secretary for Housing,

Planning and Lands (SHPL) has come up with a more streamlined 2-tiered structure for the combined organisation, on the basis of the 3-tiered structure recommended in the RIFPH Report. The new organisation, called the Housing Department, continues to serve as the executive arm of the Housing Authority.

23. With the approval of the Finance Committee, the new Housing Department came into being with effect from 1 January 2003.

24. Under the new structure for the combined organisation, the Permanent Secretary for Housing, Planning and Lands (Housing) (PSH) (ranked at AOSGA1 (D8)) also performs the functions of Director of Housing. He is designated simultaneously as PSH and Director of Housing. He is underpinned by six Deputy Directors: two at D4 level and four at D3 level.

25. As a result of the re-organisation, seven directorate posts and 20 non-directorate posts have been deleted and three new directorate posts created in the Department. The net savings in terms of full annual average staff costs is \$25.98 million.

26. The re-organisation has achieved the following major objectives:

- (a) removal of overlap in duties – all overlap in duties identified between HB and HD have been removed;
- (b) delayering of the senior directorate structure – the new structure is both flat and lean;
- (c) full integration of policy formulation and implementation; and
- (d) substantial savings – the re-organisation has resulted in a net savings of \$25.98 million in terms of full annual average staff cost.

27. The re-organisation above represents the first stage of SHPL's streamlining initiatives. SHPL and his management team have proceeded to review all levels of the new organisation. The review is expected to be completed within a year. Meanwhile, SHPL has concluded that there is no pressing need to merge the Planning and Lands Branch and its departments.

**Re-organisation of Education and Manpower Bureau and Education Department**

28. Having reviewed the scope of responsibilities and staffing establishment of both the Education and Manpower Bureau (EMB) and the Education Department (ED), the Secretary for Education and Manpower (SEM) decided to merge EMB with ED so as to ensure better synergy between policy formulation and implementation and to reduce duplication of efforts. With the approval of the Finance Committee, the establishment changes and the redistribution of duties took effect from 1 January 2003.

29. Following the re-organisation, the Permanent Secretary for Education and Manpower (PSEM) directly oversees the operations of the new EMB. She is responsible for its day-to-day management and provides direct oversight of both policies and operational matters.

30. PSEM is assisted by six Deputy Secretaries: two at D4 level and four at D3 level. Each of the Deputy Secretaries is directly in charge of two to three major divisions.

31. The hierarchy of the new EMB has been flattened to achieve better integration and to avoid duplication of work. At the same time, it is equipped with the necessary professional leadership and expertise required for the delivery of support services to the education sector.

32. The re-organisation has resulted in an annual savings in staff cost of about \$14 million, due mainly to the deletion of five civil service directorate posts, offset by the creation of one directorate post through upgrading, plus the deletion of one non-civil service directorate post.

33. The integration has four major objectives:

- (a) ensure better achievement of policy intentions;
- (b) clearly delineate responsibility and accountability at each level;
- (c) empower staff and eliminate double-handling of work; and



- (d) facilitate communication and consistency across divisions.

34. SEM will review the directorate structure in two years' time in the light of operational experience. There may be scope for further savings in staff cost at the non-directorate level and in other operating costs in the new EMB through process re-engineering and refocusing of priorities. In view of the many new initiatives aimed at improving the quality of education in Hong Kong and the need to strengthen our professional support to schools to face the challenges from the education and curriculum reforms, SEM will re-deploy any further savings arising from the re-organisation to achieve such objectives.

**Re-organisation of Civil Service Bureau**

35. As Phase One of its re-organisation, the Civil Service Bureau has reviewed its strategic role, re-organised its internal organisation structure and devolved more human resources management responsibility to bureaux and departments on 1 November 2002. Coupled with the streamlining of civil service management rules and procedures and delayering of decision-making process, the exercise has enabled bureaux and departments to assume greater ownership in the management of their staff, accelerated the decision-making processes and achieved a better use of manpower resources. As compared with March 2002, the Bureau will be able to reduce its establishment by about 10% or 34 posts by end of March 2003, representing a net savings of about \$9.2 million in terms of full annual average staff cost. The Bureau is exploring the scope for further streamlining and will present proposals on establishment changes to LegCo as necessary.

**Re-organisation of Logistic Support Departments under the Financial Services and the Treasury Bureau**

36. The Financial Services and the Treasury Bureau (FSTB) has put forward proposals to merge the Government Land Transport Agency (GLTA), Government Supplies Department (GSD) and Printing Department (PD). The present plan is to merge GLTA, GSD and PD into a new Department, to be called Government Logistics Department (GLD), and for it to be established on 1 July 2003, subject to the approval of the Establishment Sub-Committee and the Finance Committee of LegCo. Together with the merger, there will also be initiatives to streamline the establishment. It is estimated that the proposals

will result in a net deletion of 60 posts (including one directorate post) and will bring about annual savings of about \$26.47 million in terms of full annual average staff costs.

**Other bureaux**

37. Of the remaining seven bureaux, Constitutional Affairs Bureau (CAB) and Security Bureau (SB) have decided that there will not be any major re-organisation involving the bureaux or the executive departments falling within their policy purview.

38. For CAB, the only executive department under its purview is the Registration and Electoral Office (REO). REO supports the Electoral Affairs Commission (EAC) in the effective discharge of the EAC's statutory functions under the EAC Ordinance to ensure that elections are conducted openly, honestly and fairly. REO's tasks are to implement the decisions of EAC in relation to:

- (a) the review and delineation of geographical constituencies for the Legislative Council and District Council constituencies;
- (b) the registration of electors; and
- (c) the conduct and supervision of elections.

REO is also responsible for registering electors for the functional constituencies and conducting election of the Chief Executive.

39. In view of the role and functions of the REO, the Secretary for Constitutional Affairs (SCA) considers that it would not be appropriate to consider options for integrating REO with CAB.

40. As regards SB, the executive departments under its purview include Auxiliary Medical Service, Civil Aid Service, Correctional Services Department, Customs and Excise Department, Fire Services Department, Government Flying Service, Hong Kong Police Force, and Immigration Department. Given the varied and highly operational nature of work of these departments, the Secretary for Security (S for S) does not consider it appropriate to merge any of these

departments with the Bureau.

41. The other five bureaux are giving the matter further careful consideration and will come to a view by mid-2003. For any proposals which will affect the working relationship between bureaux and departments, individual Directors of Bureau will present their proposals to LegCo as appropriate.

### ***Staff consultation***

42. Before formal implementation of the re-organisation plans, SHPL, SEM and the Secretary for the Civil Service (SCS) have conducted consultation with the staff. They are generally receptive to the proposals. Secretary for Financial Services and the Treasury is in the process of consulting the staff of the component departments of the future GLD. Directors of Bureau who are reviewing the organisation structures of the bureaux and departments under their purview will also consult their staff on any re-organisation plans as and when appropriate.

### **Cost neutrality**

43. The net increase in full annual cost of the accountability system amounted to \$42.228 million when it was introduced on 1 July 2002. In the course of discussing the accountability system, the Administration pledged that it would effect sufficient savings within 12 months to make the exercise cost neutral.

44. Since implementation of the accountability system in July 2002, principal officials have been making good progress in identifying savings. SHPL, SEM, SCS and SFST, for instance, have effected or identified savings through re-organisation of the bureaux and departments under their purview. The savings realized or identified so far in terms of staff costs already amount to \$75.65 million.

### **Number and ranking of Permanent Secretaries**

45. At the meeting of the Establishment Sub-Committee on 6 June 2002, the Administration undertook to review the number and ranking of Permanent

Secretaries.

46. With the implementation of the accountability system, there are 16 permanent secretary posts ranked at AOSGA1 (D8) level. Permanent Secretaries are the most senior civil servants in the bureaux underpinning the respective Directors of Bureau. In general, Permanent Secretaries perform the following functions:

- (a) assist the Directors of Bureau in formulating, explaining and defending policies, in securing support of the public and LegCo, and in answering LegCo questions, moving bills and taking part in motion debates;
- (b) subject to the direction of the relevant Directors of Bureau, assist in explaining and defending policies in public including at meetings of LegCo panels and committees;
- (c) steer and coordinate the work of the executive departments falling within the respective portfolios of the Directors of Bureau and liaise with other concerned bureaux to achieve smooth, timely and effective implementation of the agreed policies and programmes;
- (d) support the Directors of Bureau in the implementation of policies and delivery of services by acquiring and deploying resources;
- (e) monitor the needs and aspirations of the community and having regard to the findings, undertake timely review and generate proposals to the Directors of Bureau for necessary changes to the established policies and services;
- (f) uphold the reliability and professional standards in the delivery of services by the executive departments and agencies;
- (g) act as the controlling officer for the relevant heads and subheads of expenditure and ensure proper use of financial resources within the bureau; and
- (h) manage civil servants and other staff in the bureaux.

47. In deciding on the number and ranking of permanent secretaries within their bureaux, Directors of Bureau have had regard to:

- (a) the scope of responsibilities and complexity of the portfolios;
- (b) the span of control and size of the resources under the steer of the office; and
- (c) the demand for policy formulation work and high level administrative skills.

48. As at 31 December 2002, five Directors of Bureau, namely SCS, SCA, SEM, SHPL and S for S, have completed their review in respect of the number, ranking and duties of permanent secretaries for their bureaux, having regard to the criteria set out in paragraph 47 above and the specific requirements of the individual posts. Of these five Directors of Bureau, SCA and S for S have decided that the post of Permanent Secretary for their bureaux could be pitched at AOSGA (D6) for the time being pending a further review in the light of experience. The two Bureaux have already temporarily downgraded their Permanent Secretary posts by creating supernumerary AOSGA posts held against the D8 posts with effect from 1 December 2002. SHPL and SEM have presented their proposals to the Establishment Sub-Committee and Finance Committee. There are two Permanent Secretaries ranked at AOSGA1 (D8) in HPLB and one Permanent Secretary ranked at AOSGA1 (D8) in EMB. As explained in paragraphs 21 to 34 above, with the approval of the Finance Committee, the proposed changes have taken place from 1 January 2003. SCS has decided that the post of Permanent Secretary for the Civil Service should continue to be ranked at AOSGA1(D8). The remaining Directors of Bureau will continue with their reviews. If there are any changes to the number, ranking or duties of their Permanent Secretary posts, individual Directors of Bureau will present their proposals to LegCo as appropriate.

### **Role and functions of statutory and advisory bodies**

49. In the course of discussing the accountability system, the Administration said that it would review the role and functions of statutory and advisory bodies after implementation of the accountability system and would revert to LegCo on the findings of the review.

50. Following the integration of EMB and ED and the corresponding deletion of the post of Director of Education, there is a need to streamline the existing advisory structure to ensure closer synergy between policy formulation and implementation. At present, two major bodies comprising mainly non-official members advise the Administration on education issues. The Board of Education (BoE), first established in 1920, is a statutory body set up under the Education Ordinance to advise the Director of Education on educational matters at school level. With the establishment of the non-statutory Education Commission (EC) in 1984 to advise the Government on education objectives and policies and to coordinate advice on education at all levels, the role of BoE has been called into question from time to time. There is considerable duplication in the work of EC and BoE, as the same issues are often discussed at both BoE and EC meetings.

51. SEM has reviewed the roles of EC and BoE. The duplication has become more serious with the implementation of the education reform. SEM therefore favours merging EC and BoE. The integration is expected to take effect in early 2003. Following the integration of EC and BoE, EC will continue to play its present role and, in addition, advise on operational matters relating to early childhood and school education.

52. Separately, SHPL has introduced into LegCo for scrutiny amendments to the Housing Ordinance to enable SHPL to become the Chairman of the Housing Authority (HA) and the Bureau is reviewing the committee structure of the HA. As regards the statutory bodies under the remit of the Planning and Lands Branch, SHPL considers that their current roles and functions appropriate and so no change is required at this stage.

53. Other than EC, BoE and HA, there are at present about 600 statutory and advisory bodies. Broadly speaking, the statutory and advisory bodies perform the following functions:

- (a) to advise and make recommendations to Government on fundamental livelihood issues (e.g. transport, social welfare, medical care);
- (b) to advise and make recommendations to Government on specialised and technical subjects (e.g. radiological protection, the safe operation

of high speed craft and the development of a certain industry or occupation);

- (c) to perform executive functions in the delivery of public goods and services in accordance with the powers conferred by the respective Ordinances (e.g. Hospital Authority, Housing Authority);
- (d) to serve as registration/disciplinary boards for professionals and occupations (e.g. Engineers Registration Board);
- (e) to issue licences in accordance with the respective Ordinances (e.g. Liquor Licensing Board);
- (f) to consider applications for grants and other matters relating to charitable trust funds (e.g. Board of Trustees of the Sir Edward Youde Memorial Fund);
- (g) to handle appeals and complaints in accordance with the respective Ordinances (e.g. Administrative Appeals Board); and
- (h) to play an advisory and liaison role in ensuring that the Government can best serve district needs (e.g. Area Committees).

54. Following implementation of the accountability system, we intend to rationalise the working relationship between bureaux/departments and statutory and advisory bodies. It is also necessary to ensure that we tap the best talents and advice from a wide spectrum of the community and maintain a free flow of opinion and innovative ideas. The review is spearheaded by Home Affairs Bureau.

### **Statutory powers and functions of CS and FS**

55. In the course of discussing the accountability system, the Administration undertook to review the statutory powers and functions currently vested in CS and FS to see if some of these functions should continue to be vested in CS or FS, or if such functions should be transferred or delegated to the Directors of Bureau taking charge of the respective policy portfolios.

56. In conducting the review, the basic principle is that powers and functions which clearly fall within the policy portfolios of a Director of Bureau or those the exercise of which will enable the relevant Director of Bureau to better carry out his/her responsibilities under the accountability system will be transferred to the Director of Bureau concerned. Otherwise, the powers and functions will continue to be vested in CS and FS.

57. The review is underway and any necessary legislative amendments will be introduced by relevant bureaux into LegCo for approval.

58. As regards the division of responsibilities between FS and SFST and the related issue of the definition of “Financial Secretary” in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), the Financial Services and the Treasury Bureau has conducted a review of legislation under its purview. The aim is to inform the LegCo Panel on Financial Affairs of the outcome of the review in the first quarter of 2003.

### **Declaration of investments and interests**

59. Since implementation of the accountability system on 1 July 2002, the Panel on Constitutional Affairs has had discussions on the system of declaration of investments or interests by principal officials under the accountability system as well as by Members of the Executive Council. Views were exchanged on a number of issues relating to the declaration system. In the course of the discussion, some Members suggested that the Administration should implement measures to improve the transparency of the declaration system, such as requiring principal officials to disclose liabilities, partners and shareholders of foreign companies or British Virgin Islands (BVI) companies used for holding financial interests/assets, resign from company directorships which are held in the personal capacity and ensure that trusts set up by principal officials are controlled and operated in such a way that all matters concerning the investment, management and disposal of the trust assets are left entirely with the trustees.

60. The declaration system now in force is adopted largely from that which is applicable to senior civil servants ranked at D8. The declaration system for incumbent Executive Council members is the same as that for the previous



Executive Council members. These declaration systems have been in place for years and have proven to be effective.

61. In deciding what information should be made available for public inspection, we need to strike a balance between public interest on the one hand and the legitimate privacy rights of the individual principal officials on the other. Besides, imposing overly-stringent restrictions on principal officials might deter competent persons from accepting appointment as principal officials and serving the people of Hong Kong.

62. The Administration have explained our position in response to questions raised by Members relating to the declaration of investments and interests by principal officials and Executive Council Members. We remain of the view that the declaration systems currently in place are appropriate. We will review the systems in the light of experience and in the context of the 12-month report on the implementation of the Accountability System for Principal Officials.

## **CONCLUDING REMARKS**

63. The accountability system has been implemented for six months. We will continue to monitor progress, learn from experience and as necessary fine tune the relevant arrangements to improve the system. The Administration will provide a further report 12 months after the implementation of the accountability system.