

**Twelve-month Report on Implementation of  
the Accountability System for Principal Officials**

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## ***A. Introduction***

This report accounts for the implementation of the accountability system for Principal Officials 12 months after its introduction.

2. At the Finance Committee meeting on 14 June 2002, we agreed to put to the Legislative Council (LegCo) Panel on Constitutional Affairs a progress report on various aspects of the implementation of the accountability system six months after its introduction. We also agreed that the six-month report would be followed by a further report 12 months after implementation of the accountability system.

3. The six-month report was forwarded to the Panel on Constitutional Affairs in January 2003 and discussed at the Panel's meeting on 17 February 2003.

## ***B. A New System of Governance***

4. Since reunification, we have witnessed a major change in our constitutional development under the principle of “One Country, Two Systems” with Hong Kong people governing Hong Kong and enjoying a high degree of autonomy. We now have a Chief Executive who is elected in accordance with the provisions of the Basic Law and who has, upon entering office, assumed a political role. For a territory which, for over a hundred years, had an Administration comprising primarily career civil servants, this change was novel and brought with it higher expectations on the performance of the Government.

5. The top tier of officials in the Government are expected to be responsible not only for policy formulation and policy implementation. They are also expected to promote and defend Government policies. Senior civil servants found themselves having to perform in effect both political and administrative functions. The public expect the top tier of officials in the Government to be fully accountable for their policies. Some political commentators pointed out that senior civil servants had been put in an impossible position as a result of having to front up for Government’s policies and to explain and defend such policies on the one hand, and having to maintain the civil service’s political neutrality on the other.

6. We recognised the need to bring about changes in the light of such developments and public concerns and aspirations. We also noted that public demand and expectations on the way Principal Officials should be held accountable for policies were not consistent with the established appointment and removal system of the civil service. There was a need to define clearly the powers and responsibilities of Principal Officials as well as their role in formulating and implementing Government policies. There was also a need for a compatible system of

appointment for Principal Officials.

7. It was against this background that the accountability system for Principal Officials was introduced on 1 July 2002 with a view to enhancing the accountability of Principal Officials for their respective policy portfolios. The specific objectives are as follows :

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

## **The political tier**

8. Implementation of the accountability system is an important change in Hong Kong's system of Government. It marks the creation of

a political tier at the top of the Government. In accordance with the Basic Law, Principal Officials are nominated by the Chief Executive and appointed by the Central People's Government. They serve co-terminus with the Chief Executive who recommended their appointment. Under this system, we now have a team of Principal Officials who share with the Chief Executive a common goal to develop Hong Kong into a world class city and to work in the best interests of Hong Kong. Collectively, they have to address public demands and face public pressure. They have to ensure that their policies meet public expectations and are in the long term interests of Hong Kong.

9. The new system is consistent with the relevant provisions of the Basic Law under which the Chief Executive is the head of the Hong Kong Special Administrative Region (HKSAR). He leads the Government of the Region and is accountable to the Central People's Government and HKSAR in accordance with the provisions of the Basic Law. Principal Officials under the accountability system work under the leadership of the Chief Executive. The Government of the HKSAR will continue to be accountable to LegCo in accordance with Article 64 of the Basic Law: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.

### **Enhancing accountability**

10. Consequent upon the creation of this new tier, there is now clear demarcation of responsibilities between politically appointed Principal Officials and politically neutral civil servants. We now have a team of politically appointed Principal Officials at the top underpinned by a team of permanent, professional, meritocratic, honest and politically neutral civil servants headed by Permanent Secretaries in the bureaux. Both tiers have their distinct roles and responsibilities. The team of

Principal Officials at the top assume political responsibility, while the team of civil servants focus on assisting the Principal Officials in policy formulation, policy implementation and delivery of service to the public. The public can now clearly identify the political team and individual Principal Officials who are responsible for specific policy portfolios and hold them accountable for the success and failure of policies and policy outcome.

### **The politically neutral civil service**

11. At the same time, with the clear separation of the political and administrative tiers, members of the civil service can now focus on their role as civil servants. They are no longer expected to bear political responsibility. The foundation of a permanent, professional, meritocratic, honest and politically neutral civil service has been strengthened and the integrity of the civil service system, which forms part of Hong Kong's cherished institutions, has been preserved.

### **The widened pool of candidates for appointment as Principal Officials**

12. The introduction of the accountability system has widened the pool of candidates for appointment as Principal Officials. We now have a team of Principal Officials drawn from the civil service, the academia, and the business sectors. We also have Principal Officials who are well established professionals in their respective fields. Candidates with political party backgrounds can be considered. Henceforth, any future Chief Executive will have to form his or her own team of Principal Officials who are prepared to share political responsibility and to serve the people of Hong Kong under his or her leadership. The pool of candidates is no longer restricted to civil servants. Committed, capable, and competent persons, within and outside the civil service, can join the top echelon of Government.



Having a wider pool of candidates can only be beneficial to the better governance of Hong Kong.

### **Better coordination**

13. In parallel with the introduction of the accountability system, changes were brought about in the appointment of Members of the Executive Council (ExCo). All Principal Officials have been appointed onto ExCo<sup>1</sup>.

14. Compared with the situation prior to 1 July 2002, Principal Officials now have a more direct, comprehensive and thorough understanding of the policy objectives and directions of the Government including those outside the purview of their respective policy portfolios. This is both conducive to prioritising the policy agenda as well as ensuring better allocation of Government resources. On issues that cut across various bureaux, Principal Officials' direct participation in the decision-making process engenders better coordination in policy formulation and implementation.

### **Enhanced cooperation between the Executive and the Legislature**

15. Apart from better cooperation and coordination in ExCo, implementation of the accountability system has also enhanced cooperation between the Executive and the Legislature. Principal Officials have worked closely with LegCo on major policy issues. Major policies and decisions have been made public in the first instance in LegCo. Examples include the recommendations of the Task Force on Population Policy and the strategy conceived by Team Clean both

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<sup>1</sup> In addition to all Principal Officials under the accountability system, the Chief Executive also appointed the leaders of two major political parties, one trade union leader and two professionals onto ExCo on 1 July 2002. One of them has since resigned from ExCo in connection with matters relating to the enactment of legislation to implement Article 23 of the Basic Law.

spearheaded by the Chief Secretary for Administration, and the Government's new policies on land and housing supply. This goes to demonstrate the importance Principal Officials attach to working with LegCo. Principal Officials, apart from attending LegCo meetings on Wednesdays, have also made an effort to attend important sessions of LegCo Panels.

### **Community aspirations**

16. Principal Officials have placed importance on communicating with the public and have, as appropriate, adjusted their policies in the light of public reactions. (See paragraph 27 for examples.) They have also worked closely with Members of LegCo to ensure that Government policies meet the needs of their constituencies. These efforts notwithstanding, we acknowledge that further work needs to be done to deepen understanding of community aspirations and to better reflect them in the course of policy formulation.

### **An evolving system of governance**

17. The introduction of the accountability system has strengthened the structure of the Government as a whole and has placed us in a better position to face the challenges ahead. However, as a new system of governance, the accountability system is still evolving and will continue to undergo change. There is room for improvements to be made in the light of experience in the years ahead. We believe that we have taken an important step in the right direction. That said, we certainly recognise that we need to make greater efforts to communicate with the public so that we can take community views more fully into account in the formulation of policies. We are also very much committed to further strengthening our working relationship with LegCo, so that we can grasp more fully public opinion. (See also paragraph 62.)

## *C. New Structure and Process of Public Administration*

### **Policy Agenda**

18. Soon after the new team of Principal Officials were appointed, they developed new policy initiatives. Within six months, the Government published the Policy Agenda to set the priorities for the following 18 months to coincide with the term of the current LegCo. The Policy Agenda sets out in clear and succinct terms the basis on which the new team will organise their work and the direction in which the Government and the whole community will make a concerted effort.

19. The Policy Agenda outlines policy initiatives to restructure the economy, to reduce unemployment, to enhance the quality of our workforce, to improve our environment, and to bring about a new style of governance. More specifically, we will boost Hong Kong's role in the Pearl River Delta, promote sectors that generate higher value for our economy, provide more job opportunities, formulate measures to restore our fiscal balance, tackle pollution problems and encourage optimal use of resources, and maintain a small but responsive and responsible Government. These, and other initiatives, represent a pragmatic and proactive response of the new team to the expectations and aspirations of the community.

### **Policy Committee**

20. Following the introduction of the accountability system, a Policy Committee co-chaired by the Chief Secretary for Administration and the Financial Secretary and comprising all politically appointed

Principal Officials was established. This provides a forum for considering policy proposals before they are submitted to ExCo, coordinating and harmonising policy proposals which cut across different policy areas, and coordinating the timing for policies to be rolled out. Participation of the full team of politically appointed Principal Officials in the Policy Committee has helped to ensure that policy proposals are cogent and coherent, that the implications have been thoroughly considered, and that there is broad consensus amongst the Principal Officials. In parallel, Principal Officials also consult closely the Non-official Members of ExCo in the process of policy formulation.

## **Allocation of resources**

21. Another major change introduced under the accountability system is the adoption of an “envelope” approach for allocation and control of resources. This approach provides politically appointed Principal Officials with clear parameters on the operating resources available to them while at the same time gives them greater flexibility in managing the resources in their respective “envelopes”. Given this approach, Principal Officials can better implement policies according to their own priorities while having regard to the pace and direction of the Government as a whole.

## **Policy Address and Budget**

22. The past 12 months also saw the change in timing for the Chief Executive to deliver his Policy Address from October to January, thus reducing the time gap between the Policy Address and the announcement of the Budget. As the Policy Address and Budget processes are closely inter-related, narrowing the time gap between the two improves the coordination and interaction between the formulation of programmes and policies and preparation for the Budget. This

facilitates more informed and comprehensive consultations with LegCo and the community. This has also enabled more timely reflection of the Policy Address' priorities and policies in the ensuing Budget. Under the new arrangement, key priorities announced in the 2003 Policy Address can be and have been reflected in the 2003-04 Estimates and the Medium Range Forecast up to 2007-08.

## *D. How the Accountability System Operates*

23. The manner in which the Government has taken initiatives to cope with economic restructuring and to create employment illustrates that under the accountability system the Government can act decisively to meet the needs of the community. The Government is pursuing a series of long term measures to strengthen our economic cooperation with the Mainland and has taken immediate steps to promote Hong Kong's economic recovery after the subsiding of Severe Acute Respiratory Syndrome (SARS).

24. On long term measures, the Mainland and Hong Kong Closer Economic Partnership Arrangement has now been signed.

25. On immediate measures taken in the wake of SARS, the Chief Executive has designated the Chief Secretary for Administration to set up a dedicated team to develop and take forward proposals for entrenching a high level of public and environmental hygiene commensurate with Hong Kong's status as a world city. (See also paragraph 37.)

26. The Chief Executive has also designated the Financial Secretary to coordinate a package of relief measures to help the community tide over the difficulties caused by the outbreak of SARS and to revive our economy. The package, with a total maximum cost of \$11.8 billion, includes waiver of rates payments, reduction of water and sewage charges, reduction of trade effluent surcharges, salaries tax rebate, commercial rent concession, creation of new jobs and training places, introduction of a relief loan guarantee scheme, and measures to further control the disease and revive the economy. In respect of creating

employment and training opportunities, there is a \$432 million programme to provide 21,500 short-term jobs and training places, and an additional \$715 million package to create 32,000 temporary jobs and training places for the youth and the middle-aged. Together with some 19,000 places provided under the on-going Youth Pre-employment Training Programme, Youth Work Experience and Training Scheme, and the new Graduate Employment Training Scheme, a total of 72,500 jobs and training opportunities would be created to ease unemployment.

## **Taking public opinion into account**

27. During the course of the past 12 months, in rolling forward the Policy Agenda and in implementing policy initiatives, Principal Officials have worked closely with LegCo, have taken on board public opinion, and have responded to community concerns. As appropriate, policies have been fine-tuned in the light of public opinion. The following instances are illustrative examples.

(a) **Population Policy**

In early 2003, after taking into account views from different sectors, including LegCo Members, we came up with a number of wide-ranging recommendations across many sectors to improve the quality of Hong Kong's manpower resources and our standard of living, and to ensure the long-term competitiveness of our economy.

(b) **Cross Boundary Arrangements**

After taking into account public opinion on 24-hour passenger clearance and assessing the likely socio-economic impact, the HKSAR Government and the Mainland authorities implemented 24-hour passenger clearance at the

Lok Ma Chau / Huanggang Boundary Control Point with effect from 27 January 2003. This service is welcomed by the public. Besides, through active cooperation with the Mainland, cross-boundary cargo flow improved significantly in the past year.

(c) **Budget**

We conducted a series of consultations with various sectors, including the political parties, in formulating the budget proposals. The March Budget has reflected their views and presented a strategy to balance the budget in the medium term, as well as to reduce the size of the Government.

(d) **Legal Services**

As part of a continuing process to promote Hong Kong as a legal services centre, we consulted the legal profession on matters relating to the Closer Economic Partnership Arrangement with the Mainland.

(e) **Security**

Following extensive and thorough discussion with the legislature, we have enacted a number of important security-related legislations over the past twelve months. These include the United Nations (Anti-Terrorism Measures) Ordinance, the Prevention of Child Pornography Ordinance, and the Registration of Persons (Amendment) Ordinance 2003 which implements the HKSAR Smart Identity Card scheme. We have also put in train a few major initiatives as part of Government's overall effort to revive the economy after consultation with the relevant sectors, i.e. implementation of the Admission Scheme for Mainland



Talents and Professionals with effect from 15 July 2003, introduction of the Capital Investment Entrant Scheme scheduled for September 2003, and opening up of the Sha Tau Kok pier for tourism development which will be launched later this year.

(f) **Home Affairs**

After taking into account views collected during public consultation or extensive discussions with interested parties, we have put in place electoral arrangements for the 2003 rural elections, enacted legislation for regulating soccer betting, and announced that we will legislate against racial discrimination.

(g) **Health & Welfare**

We put forth proposals to make deflationary adjustment to Comprehensive Social Security Assistance payments. These proposals had broad community support. We also revised the fees and charges in the public health care system in order to better target subsidies for those in genuine need and to reduce misuse of public medical services. An enhanced fee waiver mechanism was introduced in parallel to ensure that no one would be denied adequate medical care due to lack of means.

(h) **Education & Manpower**

We have regular meetings with various stakeholders, including the universities, major school sponsoring bodies, school councils and professional organisations for discussion on various issues, for example resources, legislation for school-based management and the Action Plan to Raise

Language Standards in Hong Kong. Their views are taken into account as far as possible in finalising our proposals.

(i) **Environment, Transport & Works**

We are working with the Guangdong Authorities on the application of emissions trading in the reduction of air pollution in the Pearl River Delta. We also promulgated the Nature Conservation Policy for Hong Kong for public consultation. On infrastructure, the Deep Bay Link has just entered into the construction stage and we are pursuing the construction of a bridge joining Lantau, Macau and Zhuhai.

(j) **Civil Service**

We have upheld and promoted the integrity, efficiency, professionalism and political neutrality of the civil service. In tandem with the Government's efforts to control its operating expenditure and in response to calls in the community and LegCo, we have taken steps to further modernise the management of the civil service, to reduce the size of the civil service establishment, to restore civil service pay to the 1997 levels and to review various civil service allowances.

(k) **Housing, Planning & Lands**

In view of widespread public concern over the state of the property market, we announced a comprehensive policy statement on housing in November 2002. These measures, formulated after wide consultation with the stakeholders, political parties and academics, have broad support in the community.

(l) **Financial Services & the Treasury**

We have, in collaboration with the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited, drawn up a Corporate Governance Action Plan for 2003 with a view to enhancing Hong Kong's corporate governance standards so as to further our status as an international financial centre. In the light of the economic impact of SARS on the industry and on consumers, we have adjusted downwards the rates of proposed increases in First Registration Tax for vehicles. This received LegCo's support.

(m) **Economic Development & Labour**

As part of the initiatives to ease unemployment, we spearheaded the creation of 72,500 jobs and training opportunities. This is being implemented with the involvement of non-government organisations and community organisations, and with the support of trade unions and LegCo. We have also been working closely with the tourism trade in launching the comeback campaign to revive the tourism industry and local consumption.

(n) **Commerce, Industry & Technology**

We consulted the manufacturing and services sectors and took into account their views expressed in our discussions with the Mainland on the Closer Economic Partnership Arrangement. The Arrangement signed at the end of June 2003 enjoys wide support among LegCo Members and chambers of commerce.

(o) **Constitutional Affairs**

To address concerns raised by LegCo and District Councils regarding the drastic and significant population growth in new towns, we made proposals to increase ten elected seats in three districts for the 2003 District Councils elections. In response to proposals made by various political parties and independent candidates previously, we made proposals to provide partial financial support to candidates standing in LegCo elections (at \$10 per vote). We have commenced internal research into constitutional developments beyond 2007 and are taking note of views expressed in the community on this subject.

## **SARS and specific incidents**

28. A report on the accountability system would not be complete without mentioning a few high profile incidents which have put the accountability system to the test.

(a) **The Penny Stocks Incident**

29. The Penny Stocks incident was the first incident which put the accountability system to the test, soon after the birth of the new system. As soon as the impact of the Consultation Paper on Proposed Amendments to the Listing Rules Relating to Initial Listing and Continuing Listing Criteria and Cancellation of Listing Procedures was felt, the Government took speedy and decisive moves in consultation with the Securities and Futures Commission and the Stock Exchange of Hong Kong, to stabilise the stock market by withdrawing the controversial proposals from the consultation paper. An inquiry into the incident was also instigated.

30. Notwithstanding such speedy remedial action, and despite the fact that the Panel of Inquiry on the Penny Stocks Incident concluded that the Secretary for Financial Services and the Treasury (SFST) had not failed in the discharge of his responsibilities, SFST readily accepted the political role he was expected to assume and the political responsibility he was expected to shoulder. After reflecting on the matter, he made a public apology for such an incident occurring under his policy portfolio. The way he responded in the face of public pressure demonstrated the force of the accountability system in action.

31. At the same time, this incident demonstrated the clear delineation of roles and responsibilities between Principal Officials and senior civil servants. It is the role and responsibility of senior civil servants to provide Principal Officials with the best administrative support, but it is for Principal Officials to face the political pressure and to defuse such pressure.

**(b) The Car Purchase Incident**

32. The purchase of a car by the Financial Secretary prior to the announcement of the Government's decision to raise the First Registration Tax for motor vehicles was another major political incident since the introduction of the accountability system. This incident has been debated thoroughly in the community as well as in LegCo, including detailed discussions at the Panel on Constitutional Affairs and two motion debates in LegCo.

33. As far as the working of the accountability system is concerned, the Chief Executive made a decision and issued a formal criticism to the Financial Secretary. The Financial Secretary accepted the criticism and apologised publicly for his gross negligence. Prompt

action can be, and has been, taken to respond to public concern. The turn of events demonstrated the force of the media and public scrutiny.

34. Separately, the Independent Commission Against Corruption has conducted an investigation into the case. The Department of Justice will decide, in accordance with Article 63 of the Basic Law, and in line with established prosecution policy, whether there should be a prosecution.

35. There are three aspects worth noting under the Penny Stocks and the Car Purchase incidents. Firstly, in both incidents, the Principal Officials were prepared to bear the political responsibility and apologised to the public. They have acted in a manner which is consistent with their role as politically appointed officials. Secondly, in the Penny Stocks incident, civil servants have not been asked to shoulder political responsibility. Thirdly, in the Car Purchase incident, the Code for Principal Officials under the Accountability System has been accepted by the public as the basis for measuring the behaviour and conduct of Principal Officials against public expectations. The Code serves as a useful yardstick for all concerned.

**(c) The outbreak of SARS**

36. The outbreak of SARS in Hong Kong in the past few months has brought an enormous challenge to the Government, a heavy blow to the health sector and a disastrous impact on Hong Kong's economy. The virus is completely new to the world and of which we had very little knowledge. Fighting it has not been easy. Nevertheless, competent and dedicated medical professionals, researchers and carers have joined together to help Hong Kong through this enormously challenging experience. The Health, Welfare and Food Bureau liaised with local and overseas experts to identify the virus and the source of the infection as well as to work out measures to control its spread. The Hospital

Authority coordinated the operation of the different hospitals under its auspices, and issued guidelines on the prevention of the spread of the virus and on the best ways to save the lives of those infected. Thanks to the concerted effort of the whole community, the public officers involved and particularly frontline health care personnel, the situation has been brought under control. Dr David Heymann, Executive Director of Communicable Diseases of World Health Organisation (WHO), has acknowledged Hong Kong's transparency in dealing with the disease and in providing the WHO with necessary and updated information. The WHO lifted its travel advisory against non-essential travel to Hong Kong on 23 May 2003. Hong Kong was removed from the list of infected areas on 23 June 2003.

37. Team effort was brought into play in the face of this immense challenge. Under the leadership of the Chief Executive, each Principal Official contributed to tackling the crisis in his or her own sphere. The Chief Secretary for Administration's Office put together contingency measures for SARS-related scenarios and challenges. A dedicated team, Team Clean, has been set up and has enlisted support from various departments and worked out a package of short-term measures to improve the level of cleanliness in Hong Kong. The Chief Secretary for Administration will oversee the effectiveness of these measures and, with the help of the Team, establish a sustainable, cross-sectoral approach to make Hong Kong a clean and health-conscious city. As mentioned in paragraph 26 above, the Financial Secretary's Office worked out a series of measures to help our community tide over the economic difficulties and to revive our economy. The Department of Justice provided dedicated teams of lawyers to serve Team Clean and to give legal advice on the enforcement of the Quarantine and Prevention of Disease Ordinance and different aspects of fighting SARS.

38. The various bureaux also played their part :

- (a) the Commerce, Industry and Technology Bureau acted on behalf of our industries to safeguard their interests in the face of discriminatory measures taken overseas against Hong Kong businessmen under the pretext of the virus;
- (b) the Housing, Planning and Lands Bureau quickly initiated action for the inspection of the drainage systems in both private and public residential buildings;
- (c) the Education and Manpower Bureau coordinated measures to prevent students from contracting the virus in schools and acted on behalf of Hong Kong students when discriminatory measures were taken by some overseas education institutions;
- (d) the Civil Service Bureau liaised closely with departmental management to ensure that proper measures were taken to protect staff from being affected;
- (e) the Home Affairs Bureau and the Police assisted the Department of Health in the isolation, evacuation and disinfection operations of Block E, Amoy Gardens. The Bureau also coordinated community efforts in district clean-ups and successfully secured the agreement of the Irish authorities for Hong Kong to take part in the Special Olympics World Summer Games 2003;
- (f) the Security Bureau mobilised disciplined forces which, together with the auxiliary services (the Auxiliary Medical Service and the Civil Aid Service), provided assistance by



manning isolation camps, conducting temperature checks at boundary control points, and tracing contacts of patients;

- (g) the Economic Development and Labour Bureau, in addition to coordinating a short-term jobs and training places programme to ease unemployment, also administered a \$3.5 billion SARS Loan Guarantee Scheme to assist the most affected sectors;
- (h) the Environment, Transport and Works Bureau (ETWB) worked in collaboration with the Health, Welfare and Food Bureau in the investigation into the possible environmental routes of transmission of the SARS virus at Block E of Amoy Gardens (the ETWB findings i.e. transmission of virus through the sewerage system of the building, were supported by the investigators from the WHO);
- (i) the Financial Services and the Treasury Bureau assisted in procuring medical supplies such as face masks; and
- (j) the Constitutional Affairs Bureau made arrangements for evacuating from Taiwan Hong Kong tourists who were suspected to have come into close contact with the virus.

39. The Chief Executive has stated that in coping with SARS, the Government moved from being initially reactive to becoming proactive and eventually took control of the situation. He announced on 15 May 2003 the setting up of an Expert Committee, comprising international and local professionals and experts, to review the work of the Government in the management and control of the outbreak. The Expert Committee will also examine and review the capabilities and structure of the healthcare system in Hong Kong and the organisation and operation of the Department of Health and the Hospital Authority in the

prevention and management of infectious diseases such as SARS. Having regard to the experience gained in the recent SARS outbreak, the Expert Committee will identify lessons to be learnt, and make recommendations on areas of improvements. To further dispel public misunderstanding, the Chief Executive announced on 17 July that the Secretary for Health, Welfare and Food, Dr E K Yeoh would no longer be the chairman of the Committee. The two groups of the Committee will be directly accountable to the Chief Executive for their work. The two chairpersons will submit the Report of the Expert Committee directly to the Chief Executive in September. The findings and recommendations of the Committee will be made public. The Government's objective is to put in place by winter measures to better prepare our system for any future outbreaks.

**(d) Legislative proposals for implementing Article 23 of the Basic Law**

40. In September 2002, we launched proposals to fulfil our constitutional duty of enacting legislation to implement Article 23 of the Basic Law to protect national security. In January 2003, following careful consideration of over 100,000 submissions received during the consultation period, we announced nine major clarifications of the proposals to define more tightly the scope of the offences and to strengthen human rights protection. The National Security (Legislative Provisions) Bill was introduced into LegCo on 26 February 2003. In June 2003, after taking into account views expressed by LegCo Members, business sectors, legal and other professions, the media and the community at large, a number of amendments to the legislative provisions were announced and accepted at the Bills Committee.

41. In the light of the concern expressed by members of the public who took to the streets on 1 July 2003, a critical review was conducted covering all core issues. On 5 July 2003, the Chief Executive

announced the decision to introduce significant and important amendments to the three most controversial areas of the Bill in order to further allay the concerns of the public. The decision was to :

- (a) delete the provision whereby a local organisation subordinate to a Mainland organisation which has been banned by the Central Authorities on security grounds could be proscribed by the Secretary for Security, if the proscription is necessary and proportionate in the interests of national security;
- (b) introduce “public interest” as an exception for unauthorised and damaging disclosure of certain official information, in order to alleviate the concerns of the public, particularly those of the media; and
- (c) delete the provision which confers on the police a power to enter and search premises without court warrant in an emergency situation.

Our original proposals were already in compliance with the human rights obligations under the International Covenant on Civil and Political Rights applicable to Hong Kong and represented a significant improvement from existing legislation. The proposals were refined and further liberalised upon the above-mentioned clarifications. With the three amendments proposed on 5 July 2003, the Bill will compare very favourably with any similar legislation in other common law jurisdictions in terms safeguarding of fundamental rights and freedoms.

42. Many members of the community considered that the Government had responded positively to their concerns. However, there continued to be a call for deferral of resumption of the LegCo process

beyond 9 July 2003. On 6 July 2003, the Liberal Party issued a statement asking the Government to defer the resumption of second reading of the Bill, and at the same time announced that its Party chairman had tendered his resignation from ExCo. On 7 July 2003 the Government decided, after careful deliberations, to defer the resumption of the second reading debate of the Bill and to step up our efforts to explain the amendments to the community. The Chief Executive indicated on 17 July that the Government had decided it would be necessary to put forward the Bill to the whole community for consultation again. Based on the foundation of the legislative work already done, this consultation exercise would be even more extensive than the previous one. The Government would compile a full text of the Bill incorporating all the amendments proposed by the Government and discuss this with LegCo Members at the Bills Committee. Meanwhile, we would reopen our dialogue with the public and concerned organisations to listen to their views. The purpose of this round of consultation would be to win the maximum understanding and support of the community as a whole for this legislation. The schedule of the entire legislative process as we move forward would depend very much on how the consultation developed.

43. These developments show that we are prepared to heed public sentiments, to adjust our position in the light of public opinion and to take into account views expressed by Members of LegCo.

**(e) Resignation of Principal Officials**

44. On 25 June 2003, Mrs Regina Ip tendered her resignation as Secretary for Security on personal grounds. The Chief Executive accepted her resignation on 16 July 2003. He has recommended to the

Central People's Government the removal of Mrs Ip from the post of Secretary for Security, in accordance with Article 48(5) of the Basic Law.

45. On 16 July 2003, Mr Antony Leung tendered his resignation as Financial Secretary. The Chief Executive accepted his resignation. He has recommended to the Central People's Government the removal of Mr Leung from the post of Financial Secretary, in accordance with Article 48(5) of the Basic Law.

## *E. Outcome of Various Reviews*

46. In the course of discussing the accountability system, we undertook to conduct various reviews. These include :

- (a) a review of the working relationship between bureaux and departments;
- (b) a review on the number and ranking of Permanent Secretaries;
- (c) a review on the posts of Administrative Assistant;
- (d) a review on the measures taken to make the introduction of the accountability system cost-neutral;
- (e) a review of the role and functions of statutory and advisory bodies;
- (f) a review of the statutory powers and functions of the Chief Secretary for Administration and the Financial Secretary;
- (g) a review of the division of responsibilities between the Financial Secretary and SFST, and the related issue of the definition of “Financial Secretary” under the Interpretation and General Clauses Ordinance (Cap. 1); and
- (h) a review of the system of declaration of investments and interests by Principal Officials.

Most of the reviews set out above have been completed. Details are set out in Annexes A to H.

## **Organisational review and cost savings**

47. The merger of the former Education Department and Education and Manpower Bureau, and that of the former Housing Bureau and Housing Department took place on 1 January 2003. The merger of the Government Land Transport Agency, the Government Supplies Department, and the Printing Department into the new Government Logistics Department, subsuming the Official Languages Agency into the Civil Service Bureau, and the merger of the Labour Branch of the Economic Development and Labour Bureau and the Labour Department took effect on 1 July 2003. Through these reorganisation exercises, together with other streamlining and cost-saving exercises, we have identified a net deletion of 18 directorate posts and 146 non-directorate posts. The savings realised or identified from the deletion of directorate posts amounted to \$46.398 million in terms of full annual average staff cost and that from deletion of non-directorate posts amounted to \$64.760 million. The total savings realised or identified so far have amounted to \$111.158 million. The savings arising from deletion of directorate posts alone are already in excess of the \$42.228 million incurred when the accountability system was introduced on 1 July 2002.

48. Apart from the reorganisations above which have already taken effect, a more comprehensive review of the Housing Department is being conducted and is expected to be completed before the end of 2003. The Environment, Transport and Works Bureau is also planning to merge the Civil Engineering Department (CED) and the Territory Development Department (TDD) into a new Department in 2004. As regards the Education and Manpower Bureau, it will conduct a review on its structure in two years' time to examine whether there is scope for further savings.

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

49. On 8 April 2003, the Home Affairs Bureau issued a consultation paper on the review of the role and functions of advisory and statutory bodies for public comments. After considering the views gathered during the consultation exercise, the Home Affairs Bureau will, in a few months' time, prepare and publish a report on the review.

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

50. We have completed a review to examine whether those statutory powers and functions which are currently vested in the Chief Secretary for Administration and the Financial Secretary but which fall clearly within the policy portfolio of a Director of Bureau should be transferred to the latter to enable him or her to assume full responsibility and authority in managing his or her statutory functions and policy portfolios. The respective Directors of Bureau will work out their implementation timetables and present proposals to LegCo in due course.

## **Review of division of responsibilities between FS and SFST**

51. Information on the responsibilities of the Financial Secretary and SFST was made public on 27 June 2003 to delineate more clearly the roles and responsibilities of these two positions in relation to financial affairs. This enables the public to understand more clearly the division of responsibilities between the Financial Secretary and SFST.



## **Review on declaration of interests**

52. We have reviewed the requirements on declaration of investments and interests by Principal Officials in the light of views expressed and have introduced certain changes. Henceforth, Principal Officials will be required to complete the relevant declarations within 14 days upon taking up office and the subsequent annual declarations will be completed within 14 days from 1 July. Principal Officials will also be required to declare additional information in respect of land or buildings held by them for public inspection. Where they have an interest in a private company, local or offshore, the nature of business of the company will also be declared for public inspection. Any such interest in private companies may only be held with the approval of the Chief Executive. Hitherto, the Chief Executive has only approved the holding of such interests in private companies by Principal Officials for owning private vehicles, real estate, club memberships, and personal investments where there is no conflict of interest with their official duties. This will continue to be the broad approach.

## **Issues to be pursued**

53. There are a number of issues on which we will pursue and revert to LegCo, as appropriate. These include :

- (a) the review of the role and functions of statutory and advisory bodies;
- (b) the review of statutory powers and functions of the Chief Secretary for Administration and the Financial Secretary; and
- (c) the review of the remuneration for the third term Chief Executive.

## *F. Conclusion*

54. Implementation of the accountability system is an important step forward in our constitutional development. It has brought about a new system of governance and introduced a fundamental change to Hong Kong's public administration.

55. There is now a political team led by the Chief Executive to account to the people of Hong Kong for the governance of Hong Kong. The community can see clearly the political team and individual Principal Officials who are responsible for specific policy issues. These Principal Officials have to feel the pulse of the community and take community sentiments fully into account in formulating policies. They have to ensure that their policies reflect the concerns and expectations of the people. They have to be receptive and responsive to the views of the community and to adjust Government policies in the light of public reaction. They would also have to be prepared to assume political responsibility for issues falling within their portfolios. They are the officials who ultimately will be held accountable for the success and failure of their policies.

56. Under the new arrangements, senior civil servants no longer have to bear the brunt of political pressures as they did prior to 1 July 2002. The appointment of the slate of Permanent Secretaries has institutionalised and strengthened the continued existence of the professional, meritocratic, honest and politically neutral civil service in Hong Kong.

57. Unlike the civil service system, the design of the accountability system allows flexibility for Principal Officials to shoulder political responsibility and thereby alleviate public pressure as necessary.

Compared with the previous system whereby Principal Official positions were filled by civil servants, under which any misconduct would need to be handled in accordance with the civil service disciplinary mechanism and civil servants were not in a position to shoulder political responsibility, the present system represents an improvement.

58. According to the Basic Law, the Chief Executive is the head of the HKSAR and of the HKSAR Government. These are the constitutional roles conferred upon him by the Basic Law. When major political incidents occur, the Chief Executive will consider all relevant factors, including the long term interests of Hong Kong, the overall circumstances of the case and public sentiments, before deciding whether a politically appointed Principal Official should face criticism, make a public apology or leave office.

59. Views have been expressed that it would be more appropriate for the accountability system to be introduced only after the Chief Executive is elected through universal suffrage. However, we consider that it is feasible to introduce the accountability system through political appointments in the prevailing circumstances of Hong Kong. Although we have not yet attained universal suffrage, the institutions in Hong Kong are highly open and transparent. We have an elected legislature and a free press. The design of the accountability system is to subject the Principal Officials to the scrutiny of LegCo, the media and the public. The Basic Law also provides for a mechanism of checks and balances between the executive and legislative authorities. The HKSAR Government would not, and could not, act unilaterally. We need the support and cooperation of LegCo before any financial or legislative proposals can be implemented.

## Looking ahead

60. Every open society around the world needs a group of people who are willing to come forth to shoulder the political responsibility for the governance of the community, address the demands of the people and respond to public aspirations. In 2002, we adopted the accountability system. Henceforth, any future Chief Executive will need to form a political team of Principal Officials, as part of his or her ExCo, to account to the people of Hong Kong collectively for the governance of the HKSAR. This is the most significant long term implication of adopting the accountability system.

61. In overall terms, the accountability system represents an important step in the right direction. However, we clearly recognise that the operation of the accountability system in the past year has not been entirely smooth. The march on 1 July has conveyed several important messages. We clearly recognise that the public has dissatisfaction about our governance, that what the HKSAR Government has done falls short of public expectations, and that we need to further improve on our communication with the public and LegCo.

62. We will learn from the incidents in the past year and strive for improvements. The HKSAR Government will improve on the existing arrangements of canvassing public opinions and communicating with the public, with a view to strengthening the links with different quarters of the community and ensuring our policies are more in tune with public aspirations. Towards this end, the Chief Executive indicated on 17 July that we would meet various political parties, major sectors of the community, the media and opinion leaders regularly. We would keep in touch with citizens through various means to listen to their views directly. We would actively strive to open channels of discussion and to engage professional and committed persons in various advisory and

statutory committees and organisations. Through these institutionalised and effective channels, they would make positive contributions to the Government's policies and to our governance.

63. As with other new systems of governance, the development of the accountability system is an evolving and evolutionary process. As we seek to fine-tune the system and improve on our governance, we will listen carefully to the views expressed within and outside the Government. We will consolidate on our experience and ensure that our system and our governance move ahead with the times.

# *Review of the working relationship between bureaux and departments*

We undertook to review the working relationship between bureaux and departments within 12 months after the introduction of the accountability system. In connection with this, we have also reviewed the organisational set-up in bureaux and departments. The overall direction of the review is to streamline the structure, to merge and integrate similar functions being performed by bureaux and departments, to make better use of resources, and to enhance the efficient and effective implementation of policy and delivery of service to the public.

2. In considering whether or not to effect any reorganisation of bureaux and departments, due regard has been given to the following :

- (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.

3. All 11 Directors of Bureau have undertaken the relevant reviews. The details are set out in the following paragraphs.

## **Education and Manpower Bureau**

4. Having reviewed the scope of responsibilities and staffing establishment of both the Education and Manpower Bureau (EMB) and the former Education Department (ED), the Secretary for Education and Manpower (SEM) decided to merge EMB with the former ED so as to ensure better synergy between policy formulation and implementation and to reduce duplication of efforts. The merger took effect on 1 January 2003, with the major objectives of :

- (a) ensuring better achievement of policy intentions;
- (b) having clearer delineation of responsibility and accountability at each level;
- (c) empowering staff and eliminating double-handling of work; and
- (d) facilitating communication and consistency across divisions.

5. Following the merger, the Permanent Secretary for Education and Manpower now directly oversees the operations of the Bureau as well as the former ED. She is responsible for its day-to-day management and provides direct oversight of both policies and operational matters. The hierarchy of the new EMB has been flattened to achieve better integration and 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. As pointed out in the relevant Establishment Subcommittee (ESC) paper, the reorganisation has resulted in annual savings in staff cost of \$14.194 million, due to the net deletion of five civil service and one non-civil service directorate posts, offset by the creation of one directorate post through upgrading.

6. SEM will review the directorate structure of the Bureau 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 initiatives aimed at improving the quality of education in Hong Kong and the need to strengthen our professional support to schools for the education and curriculum reforms, SEM will redeploy any further savings arising from the reorganisation to achieve such objectives.

## **Housing, Planning and Lands Bureau**

7. Following the reorganisation of the former Housing Bureau and Housing Department, the new Housing Department came into being on 1 January 2003 and the Permanent Secretary for Housing, Planning and Lands (Housing) has since assumed the functions of Director of Housing as well. The reorganisation has achieved the following major objectives :

- (a) removal of overlap in duties – all overlap in duties identified between the former Housing Bureau and the Housing Department were 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.

As pointed out in the relevant ESC paper, the reorganisation itself has resulted in a deletion of seven directorate posts and 20 non-directorate



posts, and creation of three directorate posts. Even after taking into account the creation of another three directorate posts in the Bureau for urban renewal, building safety, and land registration work, there is still a net deletion of one directorate post and 20 non-directorate posts. The net savings in terms of full annual average staff cost as a result of the deletion of directorate and non-directorate posts are \$3.167 million and \$15.260 million respectively.

8. A more comprehensive review of the Housing Department is being conducted with a view to delayering its organisational structure and streamlining its work. This review is expected to be completed before the end of 2003<sup>2</sup>.

## **Financial Services and the Treasury Bureau**

9. The Financial Services and the Treasury Bureau (FSTB) put forward proposals to merge the Government Land Transport Agency (GLTA), the Government Supplies Department, and the Printing Department into a new Government Logistics Department for better efficiency and economy. The new Government Logistics Department came into being on 1 July 2003. Together with the merger, there are also initiatives to streamline the establishment. These initiatives include the adjustment of the size of the GLTA pool of vehicles to align with the expected service demand, and the disbandment of the ID Card Unit in the Printing Department upon introduction of the SmartCard ID cards.

10. As pointed out in the relevant ESC paper, through the merger and other streamlining initiatives, eight directorate posts were deleted and seven new directorate posts created. There will also be a net deletion of 59 non-directorate posts. The net savings in terms of full

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<sup>2</sup> On 25 June 2003, the Housing Department announced proposals to reduce 27 directorate posts and its establishment by 30% in the next few years.

annual average staff cost as a result of the deletion of directorate and non-directorate posts are \$3.54 million and \$22.93 million respectively.

11. Apart from the merger outlined in paragraph 9 above, FSTB also critically reviewed the staffing position in the Bureau and the departments under its purview. With reorganisation and re-engineering of the work process of the Landlord and Tenant Services Division in the Rating and Valuation Department, coupled with the Government's intention to remove the security of tenure provisions for domestic tenancies, the Principal Valuation Surveyor (D1) post heading the Division was deleted. Separately, FSTB created one new directorate post in the Bureau to serve as Administrative Assistant to the Secretary for Financial Services and the Treasury. As noted in the relevant ESC paper, the two changes together required net additional cost of \$0.244 million in terms of full annual average staff cost. This cost of \$0.244 million has been offset by the \$3.54 million savings in directorate posts noted in paragraph 10 above, resulting in net savings in FSTB's directorate posts of \$3.296 million.

## **Civil Service Bureau**

12. The Civil Service Bureau (CSB) implemented Phase One of its reorganisation on 1 November 2002 by reorganising its internal structure and devolving more human resources management responsibility to bureaux and departments. The exercise has enabled bureaux and departments to assume greater ownership in the management of their staff, accelerated the decision-making process, and achieved better use of manpower resources. As compared with March 2002, the Bureau has reduced its establishment by about 10% or 34 non-directorate posts by mid-2003, representing net savings of about \$9.502 million in terms of full annual average staff cost.

13. After reviewing the working relationship between CSB and the Official Languages Agency (OLA) and the scope for further streamlining in the organisation structure, the Secretary for the Civil Service considered that there was scope for rationalising the work within OLA and between OLA and the Chinese Language Officer teams in bureaux and departments. The working relationship between OLA and CSB could also be further streamlined by subsuming OLA under CSB with a view to achieving economies in operation and maximising the use of resources.

14. The change, under Phase Two of CSB's reorganisation, took place on 1 July 2003. As pointed out in the relevant ESC paper, two directorate posts and 23 non-directorate posts were deleted, and one new directorate post created. The net savings in terms of full annual average staff cost as a result of the deletion of directorate and non-directorate posts are \$2.147 million and \$10.57 million respectively.

## **Commerce, Industry and Technology Bureau**

15. The Secretary for Commerce, Industry and Technology had reviewed the working relationship of the two branches in the Commerce, Industry and Technology Bureau (viz. Commerce and Industry Branch (CIB) and Information Technology and Broadcasting Branch) and their respective executive departments, and considered that there was scope to rationalise and streamline the work of branches and their departments. As a result, the following changes were effected :

- (a) the transfer of the responsibilities for multilateral and regional commercial relations and other related responsibilities from CIB to the Trade and Industry Department to avoid duplication of work and efforts;

- (b) the implementation of some minor revision and redistribution of responsibilities between the two Deputy Secretaries and four Principal Assistant Secretaries in CIB; and
- (c) the deletion of one Administrative Officer Staff Grade C (AOSGC) (D2) post (departmentally designated as Assistant Commissioner (Council)) in the Innovation and Technology Commission.

16. The above organisational changes were implemented on 1 July 2003. As pointed out in the relevant ESC paper, one directorate post and seven non-directorate posts were deleted. The net savings in terms of full annual average staff cost as a result of the deletion of directorate and non-directorate posts are \$2.472 million and \$5.191 million respectively.

## **Home Affairs Bureau**

17. The executive departments under the purview of the Home Affairs Bureau include the Home Affairs Department and the Leisure and Cultural Services Department. The Home Affairs Department oversees district administration, whereas the Leisure and Cultural Services Department provides leisure and cultural services. Given the nature of work of these two departments, the Secretary for Home Affairs did not consider it appropriate to merge any of these two departments with the Bureau.

18. That said, the Home Affairs Bureau had reviewed the responsibilities of the Principal Assistant Secretaries in the Bureau and considered that one AOSGC (D2) post could be deleted by rationalising and redistributing the duties of the post to other D2 officers in the Bureau

and in the Home Affairs Department. As pointed out in the relevant ESC paper, the savings, in terms of full annual average staff cost, is \$2.472 million.

## **Economic Development and Labour Bureau**

19. The Secretary for Economic Development and Labour, after reviewing the scope of responsibilities and the staffing establishment of both the Labour Branch of the Economic Development and Labour Bureau and the Labour Department, decided to merge these two organisations with a view to streamlining the organisational structure. By delayering policy making functions at senior directorate level, the merger has facilitated integration in formulating and implementing labour policies and brought about better efficiency and economy.

20. The new organisation, which retains the corporate title of Labour Department, came into being on 1 July 2003. Under the new Labour Department, the Permanent Secretary for Economic Development and Labour (Labour) also assumes the role and functions of the Commissioner for Labour. As pointed out in the relevant ESC paper, three directorate posts were created, largely offset by the deletion of three directorate posts. The additional cost in terms of full annual average staff cost is \$93,000. In addition, three non-directorate posts were deleted, resulting in savings of \$1.307 million in full annual average staff cost.

## **Constitutional Affairs Bureau**

21. The Secretary for Constitutional Affairs had reviewed the Registration and Electoral Office under his purview and did not consider it appropriate to merge it with the Bureau. Separately, the Bureau had reviewed critically its staffing and organisation structure with a view to

making better use of available resources. The review concluded that there was room for streamlining the current establishment by redistribution of duties among some of the officers in the Bureau. As a result, one net directorate post of Principal Assistant Secretary was deleted bringing about savings, in terms of full annual average staff cost, of \$2.472 million.

## **Security Bureau**

22. The Security Bureau had also reviewed the executive departments under its purview. It was not considered appropriate to merge any of the departments with the Bureau. That said, the Commissioner of Police, in an effort to streamline the staff structure and enhance efficiency, had deleted six Chief Superintendent of Police (PPS 55) posts, one in each of the six Police regions. These posts were designated for the administration function in the regions, including financial management, community relations and staff discipline. A trial scheme ran for some time without filling these posts, and confirmed that no adverse impact would result on the overall operation and efficiency of the six Police regions.

23. Separately, the Director of Immigration needed to retain a supernumerary post of Chief Systems Manager (D1) for a period of three years from 1 November 2003 to 31 October 2006. The post was needed to provide dedicated support at the directorate level in the planning, management and co-ordination of information technology related activities for the implementation of projects under the Updated Information Systems Strategy. As pointed out in the relevant ESC papers, the two changes together resulted in net savings, in terms of full annual average staff cost, of \$10.928 million.

## **Environment, Transport and Works Bureau**

24. ETWB is evaluating the existing division of functions and working relationship between the Bureau and relevant departments in the transport and environment portfolios with respect to their respective roles in the planning of policies and delivery of service. ETWB has not recommended any changes for the time being.

25. For the works portfolio, having taken into account the functions and workload of the works departments and pattern of the development of Hong Kong in the coming years, ETWB considers it appropriate to merge CED and TDD into a new Department to meet the future development needs of Hong Kong. The amalgamation will also offer opportunities for significant savings, particularly at senior and managerial levels, to be achieved as a result of the integration of administrative and support functions of the two Departments. The new Department will be in place in 2004.

26. In the meantime, ETWB had reviewed the manpower resources within its own Bureau and concluded that three directorate posts could be deleted and two directorate posts would need to be created. As pointed out in the relevant ESC paper, the net savings in terms of full annual average staff cost amounted to \$2.991 million.

## **Health, Welfare and Food Bureau**

27. In the case of the Health, Welfare and Food Bureau (HWFB), the Bureau had embarked on a review to identify opportunities for streamlining the organisational structure of the Bureau and the relevant executive departments. Given the outbreak of SARS in Hong Kong in the past few months, the Secretary for Health, Welfare and Food

considered that priority should be given to implementing appropriate strategy and measures to deal with this problem swiftly and effectively. Whilst there is no plan at this stage for major reorganisation involving HWFB and the relevant executive departments, delayering and re-engineering options will continue to be examined and implemented as appropriate.

28. Meanwhile HWFB had examined its own establishment and considered that one post of Senior Principal Executive Officer (D2) which has been vacant for some time, could be deleted. This post was created in the Elderly Services Division and the duties have already been absorbed by two existing Principal Assistant Secretaries in the Bureau. As the arrangement has worked well, the Secretary for Health, Welfare and Food has concluded that the post could be deleted. The deletion would result in savings, in terms of full annual average staff cost, of \$2.352 million.



### ***Review on the number and ranking of Permanent Secretaries***

On the introduction of the accountability system, there were 16 Permanent Secretary posts ranked at Administrative Officer Staff Grade A1 (D8) level. The Permanent Secretaries are the most senior civil servants in the bureaux underpinning the Directors of Bureau. The duties and portfolios of 11 of these Permanent Secretary posts were essentially the same as the respective Directors of Bureau prior to 1 July 2002, and the only change required was the retitling of these posts to reflect their new positions in the set-up under the accountability system. Five other Permanent Secretary 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 pending realignment of functions and duties as substantive adjustments in their functions and duties as compared to their original schedules of responsibilities was envisaged. These five posts were:

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

- (e) Permanent Secretary for Economic Development and Labour (Labour).

The Administration undertook not to extend these five supernumerary posts beyond 12 months unless with the endorsement of ESC and the approval of the Finance Committee (FC). In the context of the reviews on the working relationship between bureaux and departments, individual Directors of Bureau had also further considered the number and ranking of the Permanent Secretary posts under their respective purview.

2. All 11 Directors of Bureau have completed their reviews on the number and ranking of Permanent Secretary posts within their bureaux having regard to the following principles set by the Secretary for the Civil Service:

- (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 administrative skills.

3. They have concluded that there is a need to retain all 16 Permanent Secretary posts. As regards the ranking, nine Directors of Bureau confirmed the need to retain their Permanent Secretary posts at Administrative Officer Staff Grade A1 (D8) level. The Secretary for Constitutional Affairs and the Secretary for Security have temporarily re-ranked their respective Permanent Secretary posts at Administrative Officer Staff Grade A (D6) level, pending a further review in the light of experience in consultation with the Secretary for the Civil Service.

4. As regards the five Permanent Secretary posts which were created under delegated authority, the current position is as follows :

- (a) with the merger of EMB and the former ED with effect from 1 January 2003, the post of Permanent Secretary for Education and Manpower has been established on a permanent basis;
- (b) HWFB has obtained approval to make permanent the post of Permanent Secretary for Health, Welfare and Food at the ESC and FC meetings on 11 June 2003 and 27 June 2003 respectively;
- (c) the Economic Development and Labour Bureau has obtained approval to make permanent the post of Permanent Secretary for Economic Development and Labour (Labour) at the ESC and FC meetings on 11 June 2003 and 27 June 2003 respectively;
- (d) ETWB has obtained approval to make permanent the post of Permanent Secretary for the Environment, Transport and Works (Environment and Transport) at the ESC and FC meetings on 11 June 2003 and 27 June 2003 respectively; (following a review of the organisation and division of work within ETWB, the 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)); and

- (e) following the redistribution of duties mentioned in (d) above, the Permanent Secretary for the Environment, Transport and Works (Transport and Works) has taken on substantially the same functions and duties as the former Secretary for Works. The post has been re-titled as Permanent Secretary for the Environment, Transport and Works (Works) accordingly.

### *Review on the posts of Administrative Assistants*

Under the accountability system, each Director of Bureau is provided with his or her own private office, comprising an Administrative Assistant (AA) ranked at AOSGC (D2) / non-civil service position at D2-equivalent and other non-directorate staff. The AA posts were initially created as supernumerary posts under delegated authority.

2. All Directors of Bureau have now obtained the approval of ESC and FC for the creation of permanent posts for their respective AAs. These posts, as well as the non-directorate posts, continue to be funded by way of redeployment of staff resources within the relevant bureaux and departments.

### *Cost neutrality*

The net additional full annual staff cost in connection with the implementation of the accountability system when it was introduced on 1 July 2002 amounted to \$42.228 million. In the course of discussing the accountability system, we undertook to effect sufficient savings within 12 months to make the introduction of the accountability system a cost neutral exercise. We also undertook to offset the additional cost of \$42.228 million by staff savings at the directorate level.

2. Since implementation of the accountability system, we have been making good progress in identifying savings. Through various reorganisation exercises and other streamlining and staff cost-saving exercises as detailed in Annex A, we have identified a net deletion of 18 directorate posts and 146 non-directorate posts. The savings realised or identified from the deletion of directorate posts amounted to \$46.398 million in terms of full annual average staff cost and that from the deletion of non-directorate posts amounted to \$64.76 million. The total savings realised or identified so far have amounted to \$111.158 million. Details on the creation and deletion of directorate posts after implementation of the accountability system are set out in ESC paper ECI (2003-04)2.

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

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 the implementation of the accountability system and would revert to LegCo on the outcome and findings of the review.

#### **Education Commission**

2. As reported in the six-month report, SEM has reviewed the roles of the Education Commission and the Board of Education and had decided to merge the two to achieve better synergy. The integration took effect on 28 February 2003, the day the Education Reorganization (Miscellaneous Amendments) Ordinance 2002 was gazetted. Following the integration, the Education Commission took on the additional role of advising on matters relating to early childhood and school education.

#### **Housing Authority**

3. Following the enactment of the Housing (Amendment) Ordinance 2003, the Secretary for Housing, Planning and Lands (SHPL) has been appointed Chairman of the Housing Authority ex officio with effect from 1 April 2003. This has enabled the integration of the operations of the Housing Authority into the Government's overall policy process. At the same time, it allows SHPL to take full responsibility for all aspects of the formulation and implementation of housing policy.

## **Other bodies**

4. Other than the Education Commission, the Board of Education and the Housing Authority, there are at present about 500 advisory and statutory bodies in the public sector. On 8 April 2003, the Home Affairs Bureau issued a consultation paper on the review of the role and functions of advisory and statutory bodies for public comments. After considering the views gathered during the consultation exercise, the Home Affairs Bureau will, in a few months' time, prepare and publish a report on the review.



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

In the course of discussing the accountability system, the Administration undertook to review the statutory powers and functions currently vested in the Chief Secretary for Administration (CS) or the Financial Secretary (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 relevant Directors of Bureau.

2. In conducting the review, the basic principle is that powers and functions which clearly fall within the policy portfolio of a Director of Bureau, or those the exercise of which will enable the relevant Director of Bureau to better carry out his or 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 or FS.

3. The review, spearheaded by the Director of Administration, has now been completed. The statutory powers and functions to be transferred to the relevant Directors of Bureau, or to continue to be vested in CS or FS, have been identified. As these statutory powers and functions cut across a large number of ordinances and wide range of policy portfolios, responsible Directors of Bureau will work with the Department of Justice on their implementation timetables, with a view to taking over identified powers and functions from CS or FS as soon as possible and incorporating any proposed changes into their respective legislative programmes as appropriate.

***Review of division of responsibilities  
between FS and SFST***

We have undertaken to review 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).

2. Pursuant to this review, information on the responsibilities of FS and SFST has been publicised on 27 June 2003 to delineate more clearly the roles and responsibilities of these two positions in relation to financial affairs.

3. FS shall be responsible for the following areas :

- (a) the monetary system;
- (b) the Exchange Fund;
- (c) the public finance;
- (d) the financial system; and
- (e) the status of Hong Kong as an international financial centre.

4. As regards the first two of these, FS shall be responsible for determining the monetary policy objective and the structure of the monetary system of Hong Kong, and shall exercise control over the Exchange Fund as provided for in the Exchange Fund Ordinance (Cap. 66). As also provided for in that Ordinance, FS has appointed the

Monetary Authority (MA) to assist him in the performance of his functions under the Ordinance. For the purpose of clarity and transparency, FS has further defined (by way of an exchange of letters with MA) the relationship between him and MA in discharging his responsibilities in these two and other relevant areas.

5. As regards the public finance, the financial system and Hong Kong's status as an international financial centre, FS shall be responsible for determining the policy objectives at a macro level. SFST shall be responsible for formulating specific policies to achieve such objectives and for overseeing their implementation through the regulatory authorities and other organisations as appropriate.

6. SFST is thus the Principal Official who has primary responsibility for ensuring the effective discharge of our responsibilities in the three areas set out in paragraph 5 above. In performing this function, he shall liaise and consult with other relevant parties within and outside the Government. As the custodian of policies in these areas, SFST is expected to bring to FS's attention any matters which come to his attention and which necessitate any action on FS's part pursuant to statutory powers vested in FS or otherwise. In exercising such powers, FS would seek the advice of SFST as he deems appropriate.

7. SFST has a specific responsibility for the efficient functioning of our financial system. Where this requires regulation, the regulatory authorities shall exercise their powers and discharge their functions independently in accordance with the respective statutes. SFST is expected to safeguard that independence. Where the law requires them to consult, or seek approval from, FS, SFST is expected, if requested by FS, to advise him.

8. SFST shall, in accordance with traditional practice, after seeking FS's policy guidance as appropriate and approval by the Chief Executive in Council, be responsible for introducing legislative proposals into LegCo in respect of all five areas referred to in paragraph 3, with the exception set out in paragraph 9 below.

9. FS shall have responsibility for the preparation of the Government's budget, assisted by SFST, his staff and such other officials as FS deems appropriate. This responsibility will include the introduction of the Appropriation Bill into LegCo. Thereafter, the day-to-day management of the public finance shall be the responsibility of SFST.

10. Under the Interpretation and General Clauses Ordinance (Cap. 1), the term "Financial Secretary" means both FS and SFST, unless there is a contrary intention in the relevant legislation. In the interests of transparency and for the avoidance of doubts, there is a need to set out the circumstances where SFST may exercise statutory powers vested in FS by virtue of this particular provision. In this regard, the Government's intention is that only those statutory powers and functions relating to the public finance, including those provided under the Public Finance Ordinance (Cap. 2) and the Financial Secretary Incorporation Ordinance (Cap. 1015), may be exercised and performed by SFST. This is essentially the same as the position before 1 July 2002, when such powers and functions were exercised and performed by the former Secretary for the Treasury. This will enable SFST, *inter alia*, to give administrative directions and instructions for the control and management of the public finance and to make changes to the approved estimates of expenditure, subject to such conditions, exceptions and limitations as may be specified by the legislature.

11. In the other areas for which SFST has primary responsibility, notwithstanding the broad definition of “Financial Secretary” which includes SFST in Cap. 1, FS should reserve to himself all powers and functions, which have not been specifically delegated. However, as mentioned above, he would look to SFST for advice as he deems appropriate in exercising such powers or performing such functions.

### *Review on declaration of interests*

The Panel on Constitutional Affairs, at its meetings on 9 July 2002, 7 October 2002 and 21 October 2002 discussed matters relating to the prevention of conflict of interest. In the course of the discussions, some Members expressed the view that the existing arrangements for the declaration of investments and interests by Principal Officials under the accountability system require improvement in certain respects. We have considered the views expressed carefully, and set out in the following paragraphs the results of our review.

2. At present, Principal Officials are required, upon appointment and thereafter annually, to file declarations on their investments and interests; such declarations are made available for public inspection on request<sup>3</sup>. The declarations include the following information:

- (a) land and buildings;
- (b) proprietorships, partnerships or directorships;
- (c) shareholdings of 1% or more of the issued share capital in any company;
- (d) any gift, advantage, payment, sponsorship or material benefit received by the Principal Official or his or her spouse from any organisation, person or government other than the

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<sup>3</sup> In addition, Principal Officials are required to file more detailed declarations to the Chief Executive.

HKSAR Government which in any way relates to his or her office as Principal Official; and

- (e) affiliation with any political party.

## **Aspects considered**

### **Timing**

3. There were concerns that Principal Officials assumed office prior to completing their declarations of interests. It was suggested that this might cause embarrassment to the Government if it was subsequently discovered that a Principal Official's private investments or interests were in conflict with his or her official duties. We agree that this is a valid concern. However, we should recognise that it may not be practical in all cases to require a Principal Official to complete his or her declaration of investments and interests before he or she is recommended for appointment by the Central People's Government or before he or she takes office.

4. Considering that :

- (a) a newly appointed ExCo Member and a newly promoted or appointed senior civil servant are normally given a few weeks to make the necessary declarations, and
- (b) a new LegCo Member is required to furnish to the LegCo Clerk the particulars of his or her registrable interests within 14 days from the date of his or her becoming a new Member,

henceforth Principal Officials will be required to complete the relevant declarations within 14 days upon taking up office. The subsequent

annual declarations will be completed within 14 days from 1 July (i.e. before 15 July each year).

### **Information on land and buildings**

5. Some Panel Members considered that Principal Officials should be required to declare, for public inspection, information on the nature and use of the land or buildings (in addition to declaring its location as is currently required) held by them. We see a case for disclosing information which would provide transparency without compromising privacy. Therefore, the following information in respect of land or buildings will be declared for public inspection :

- (a) location of the land or buildings with details down to the city or district level, for example, a house in Richmond, British Columbia, Canada or a flat in Eastern District, Hong Kong Island, Hong Kong;
- (b) nature of the land or buildings, i.e. whether it is for residential, commercial, industrial, agricultural or other purposes;
- (c) use of the land or buildings, i.e. whether it is for self-occupation, occupation by relatives, leasing out, other use or vacant; and
- (d) percentage of interest held in the land or buildings.

### **Interest in companies**

6. There were views expressed that Principal Officials should not be allowed to hold company directorships.



7. Under Clause 5.5 of the Code for Principal Officials under the Accountability System (“the Code”), Principal Officials are not allowed to engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice, unless the written consent of the Chief Executive has been obtained. The consent of the Chief Executive is likely to be given where a Principal Official is appointed to the relevant board of directors in his or her official capacity or in connection with his or her private family estate.

8. The underlying principle in Clause 5.5 of the Code is to ensure that no conflict of interest, real or perceived, arises between the directorships held by Principal Officials and their public duties. At the same time, due regard should be given to the need for flexibility in respect of those Principal Officials who, for reasons of connection with private family estate, etc. may need to retain company directorships.

9. Company directorships currently held by Principal Officials mainly belong to two categories: directorships held in their official capacity and directorships in private companies whose sole business is to hold properties, cars, club membership, etc. Thus far, no problem has arisen. In view of this, we do not intend to change the requirement in respect of holding company directorships.

10. However, to increase transparency, the nature of business of the private companies in which Principal Officials have an interest, as director, shareholder, or in any other capacity, will be disclosed for public inspection.

## **Companies in “tax shelter” jurisdictions**

11. Some Panel Members questioned the propriety of Principal Officials using companies in “tax shelter” jurisdictions, such as the British Virgin Islands (BVI), to hold investments and/or assets, as these companies are less transparent than local companies.

12. The Code does not prohibit Principal Officials from holding shares in such offshore companies and we do not see a case for prohibiting them from doing so. However, we feel that as in the case of local companies, Principal Officials should be asked to disclose, for the purpose of public inspection, the nature of business of the BVI or other offshore companies in which they have an interest.

## **Liabilities**

13. Some Panel Members pointed out that as police officers were required to declare their indebtedness, the same requirement should apply to Principal Officials.

14. Having regard to the nature of duties of police officers, applicants who might be offered employment, re-employment or further employment with the Hong Kong Police Force are required to declare their financial obligations. Other police officers are not required to declare such information. Neither are other civil servants required to report their debts or liabilities except in certain specified circumstances such as in the case of applications for salary advance, insolvency or bankruptcy.

15. Prospective Principal Officials have to undergo thorough and comprehensive integrity checks before they are nominated for

appointment as Principal Officials. The checks include an assessment of their financial position. Moreover, Principal Officials are bound by their employment contract not to borrow money at interest other than from licensed money-lenders, banks or deposit-taking companies. They are required to abide by the same provisions in the Prevention of Bribery Ordinance (Cap. 201) as any other government officer. We consider the existing monitoring arrangements effective and adequate. Therefore, we do not intend to change the existing requirement. If and when it comes to light that any such liabilities are putting a Principal Official in a real or apparent conflict of interest situation, he or she will be required to report it as soon as possible. (Clause 5.4 of the Code provides that Principal Officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties. By virtue of this clause, Principal Officials are required to report to the Chief Executive any liabilities which might influence, or appear to influence, their judgement in the performance of their duties.)

## **Trusts**

16. Some Panel Members raised concern about family trusts. They were concerned whether such arrangements would adequately serve to prevent conflict of interest and to maintain public trust and confidence in the Principal Officials concerned. There were suggestions that only blind trusts (i.e. where the settlor gives control of his or her investments to the trustee and has no knowledge of the identities of the contributors to the trust fund nor of the interests held by the trust) should be allowed, but not family trusts.

17. The purpose of Principal Officials putting their assets in a trust is to avoid conflict of interest. As long as the trustee does not directly or indirectly seek or receive advice or direction from the Principal Official in connection with the management of the trust assets,

and the Principal Official concerned would not in any way be involved in the management of the trust, this would avoid any conflict of interest. Therefore, we do not intend to change the present arrangement.

### **Relationship with previous employers**

18. Some Panel Members expressed concern about the relationship between Principal Officials and their former employers.

19. Clause 5.1 of the Code provides that Principal Officials should avoid putting themselves in a position where they might arouse suspicion of dishonesty, unfairness or conflict of interest. Clause 5.2 of the Code requires Principal Officials to observe the principles of fairness and impartiality in discharging their duties. Clause 5.3 of the Code stipulates that Principal Officials should refrain from handling cases with actual or potential conflict of interest. In addition, Principal Officials are bound by the employment contract not to undertake any service, task or job or do anything which may reasonably be considered to conflict or compete with their official duties.

20. We believe that these general provisions are adequate. It would not be possible to prescribe all individual circumstances. Principal Officials would need to exercise their discretion and ensure that there is no conflict of interest having regard to the general principles set out in the Code.

### **Interests of dependent adult children**

21. One Panel Member opined that the need for Principal Officials to declare the interests of their dependent adult children should be considered.

22. Principal Officials are required to declare investments and interests that are held in the name of their spouse, children or any other persons or companies but are actually acquired on their account or in which they have a beneficial interest. Further, Principal Officials are bound by the Code to ensure that no actual or potential conflict arises between their public duties and their private interests (Clause 1.2(7)). These requirements should provide sufficient safeguards against Principal Officials making use of their public office to benefit themselves or their family members. Bearing in mind privacy considerations, we do not consider there is a case to require Principal Officials to declare the investments and interests of their children. Therefore, we do not intend to introduce new requirements in this regard.