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Chairman of the House Committee  
Legislative Council  
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### **Proposed Priority in the Scrutiny of Bills by Members**

I am writing to suggest Members accord priority to the scrutiny of the Public Officers Pay Adjustments (2004/05) Bill and the Boundary Facilities Improvement Tax Bill.

#### **Public Officers Pay Adjustments (2004/05) Bill**

The Public Officers Pay Adjustments (2004/05) Bill was introduced into the Legislative Council on 23 May 2003. It provides the legislative backing for the Civil Service pay reductions that are to take effect from 1 January 2004 and 1 January 2005 respectively.

Members would appreciate that there is public expectation for the Administration to take necessary steps to implement its decision on Civil Service pay reduction with certainty and in good time. It is therefore essential for the relevant Bills Committee to commence operation as soon as possible to ensure that the Bill could be enacted within the current calendar year for timely implementation of the first stage Civil Service pay adjustment on 1 January 2004. On this premise, we recommend that first priority be accorded to the Bill.

Members were once concerned that scrutiny of the Bill before

the conclusion of the judicial review applications on the lawfulness of the Civil Service pay adjustment of 2002 might risk wasting LegCo resources in case the applications were upheld. In this connection, Members might be aware that the Court of First Instance (CFI) has recently heard the two lead cases out of the five relevant applications and handed down the judgment on them on 10 June 2003. The CFI has dismissed both applications for judicial review and ruled that the Public Officers Pay Adjustment Ordinance (POPA Ordinance), which implements the pay reduction of 2002, has not breached any individual articles of the Basic Law that were argued before it.

Now that the CFI has dismissed the two lead applications, we hope that it will be possible for the Bills Committee to be established as soon as possible to examine the Bill. The Administration intends to move the resumption of the Second Reading Debate on the Bill after the conclusion of the Bills Committee's deliberations. We have been advised that there is no legal impediment to the Administration proceeding to move the resumption of the Second Reading Debate on the Bill before the outcome of the three pending cases is known and any appeal from the CFI's judgment is concluded. When the POPA Ordinance was enacted, the Government had been advised that it was consistent with the relevant provisions of the Basic Law, despite suggestions to the contrary. At present, the law is as stated by the CFI. The Government has been advised that the present Bill is consistent with the Basic Law and that advice receives support from the CFI ruling. There is no principle of law or legal policy that prevents the Legislative Council from considering a bill when the legal position is unclear and, following enactment, there is a presumption of validity. If pending court proceedings were automatically a ground for delaying the enactment of a bill, the litigation process could be used to impede the Legislative Council in its consideration of legislation which is essential for the well-being of Hong Kong.

### **Boundary Facilities Improvement Tax Bill**

The Boundary Facilities Improvement Tax Bill was introduced into the Legislative Council on 11 June 2003. It seeks to impose a Boundary Facilities Improvement Tax on persons departing from Hong Kong by land and sea.

The proposed Boundary Facilities Improvement Tax was first

announced in the 2002-03 Budget for implementation in the 2003-04 financial year. It is expected to generate additional revenues of \$1 billion per year for the financing of the boundary facilities improvement works. In view of the prevailing budgetary situation, it is essential for the Bill to be enacted and the new tax implemented as soon as possible. We therefore recommend that priority be accorded to the Bill as well.

I should be grateful if you would put forward our above suggestion for Members' consideration at the coming House Committee meeting on 13 June 2003.

( Andrew H Y Wong )  
Director of Administration