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Secretary for Financial Services and the Treasury
(Attn : Mr Tommy Yuen, Prin AS(Tsy)(I))
Financial Services and the Treasury Bureau
The Treasury Branch
5/F, East Wing
Central Government Offices
Hong Kong

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BY FAX

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Dear Mr Yuen,

**Proposed Resolution under
section 3(1) of the Loans Ordinance (Cap. 61)**

We are scrutinising the legal and drafting aspects of the proposed resolution. We should be grateful for your clarification of the following points.

According to paragraph 2 of the Financial Secretary's draft speech (attached to the proposed resolution), the Government intends to raise a loan of up to \$20 billion by the issuance of bonds. However, the means of raising the loan is not specified in the proposed resolution. Would it be desirable to specify the means to raise the loan in the proposed resolution? (c.f. the resolution relating to the recent offering of "Five Tunnels and One Bridge" (L.N. 26 of 2004))

According to section 3(1) of the Loans Ordinance, the Government may enter into an agreement with the lender. Section 3(3) of the Ordinance requires a copy of such agreement to be tabled in the Legislative Council. Section 3(4) of the Ordinance, however, empowers the Financial Secretary to exercise his discretion to exclude from the application of subsection (3) any agreement which relates to the issue of bonds, etc. Would a copy of the loan agreement be tabled in the Legislative Council under section 3(3) of the Ordinance? Or would the Financial Secretary intend to exercise his discretion under section 3(4) of the Ordinance to exclude the agreement from the application of section 3(3)? In the case that the Financial

Secretary exercises his discretion under section 3(4) of the Loans Ordinance, what factors or matters he would take into consideration in reaching his decision?

Most grateful for your reply, in both languages, to reach us by **26 April 2004**.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

c.c. Department of Justice
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