

**Subcommittee on the Six Orders Made under Section 49(1A)
of the Inland Revenue Ordinance and Gazetted on 2 October 2015**

**List of follow-up actions arising from the discussion
at the meeting on 27 October 2015**

Orders relating to the Faroes and Greenland

1. Given that the Kingdom of Denmark ("Denmark") has sovereignty over the Faroes and Greenland, the Administration was requested to provide the Subcommittee with legal opinion of the Department of Justice on the constitutional status/legal capacity for the Faroes and Greenland to enter into Tax Information Exchange Agreements ("TIEAs") on their own with the Hong Kong Special Administrative Region ("HKSAR").
2. As a clear definition of the term "jurisdiction" is not provided in the relevant Orders and on the consideration that Denmark has sovereignty over the Faroes and Greenland, members were concerned whether HKSAR's tax information exchanged with these two countries pursuant to relevant TIEAs would be disclosed to Denmark. The Administration was requested to advise the Subcommittee of the domestic legislation/mechanism of the Faroes and Greenland that could preclude such disclosure.

Arrangements for Tax Examinations Abroad

3. In relation to Article 6 of OECD model TIEA agreement which provides for the arrangement for tax examinations abroad, the Administration was requested to provide an analysis on whether the inclusion of such provisions in TIEAs is becoming an international trend; and

Handling of requests for exchange of tax information

4. In respect of a Bermuda Court of Appeal judgement on the case of *The Minister of Finance v Bunge Limited* [2013] CA(BDA)4 CIV, the Administration was requested to advise the Subcommittee of:

- (a) the provisions regarding the disclosure of information to the affected persons in the existing comprehensive agreements for avoidance of double taxation/TIEAs signed between HKSAR and other jurisdictions, and the relevant provisions of the Inland Revenue (Disclosure of Information) Rules (Cap. 112BI) ("the Disclosure Rules") ; and
- (b) the Administration's views on the applicability of the judgement of the case to HKSAR and the related implications on the Disclosure Rules.

Council Business Division 1
Legislative Council Secretariat
28 October 2015