

**SJ's Opening Statement at
the Special Meeting of Finance Committee
to examine the Estimates of Expenditure 2010-11
on 24 March 2010 (11:55 a.m. – 1:25 p.m.)**

Chairman and Members,

Thank you, Chairman and Members. I believe members are familiar with the work of the Department of Justice which is delivered through five programmes areas, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. The estimated expenditure of the Department amount to \$1,009.9M in 2010-11. Let me highlight some of our major activities in the coming financial year.

Programme 1 - Prosecutions

2. The Prosecutions Division will continue to enhance the rule of law and prosecute cases firmly and fairly and in accordance with published prosecution policy guidelines. We are mindful that prosecutors must at all times apply the highest levels of professionalism. In the light of the increasing workload and complexity of cases, the Prosecutions Division, under the leadership of our new Director of Public Prosecutions, is critically examining the work practices with a view to improving both the quality of work and efficiency of the Division.

3. During the year, new counsel will report duty and they will receive intensive training in all aspects of prosecutorial responsibility. At the same time, our programme of continuing legal education for existing prosecutors will be tailored to deal with current trends and issues. All prosecutors will be constantly reminded of the high standards expected of them and the important task they perform as ministers of justice.

Programme 2 – Civil

4. The Civil Division provides litigation support and advisory services to various Government bureaux and departments as may be required on a wide range of civil law issues. The experience we had in 2009 was no less challenging in terms of the volume, complexity and urgency of the tasks we performed. We also witnessed the implementation of the Civil Justice Reform and its impacts on all litigators especially with

the operation of the new Practice Direction issued by the Judiciary in relation to the use of mediation since 2 January 2010.

5. We expect that judicial review proceedings raising constitutional law and human rights issues will continue to remain as the focus of challenges in litigation against the government. In the coming financial year, the full-fledged dedicated team will be in place to provide legal support in matters arising from claims or legal proceedings under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. The workload of the civil advisory front will also remain heavy taking into account the need to advise on many on-going and new policy initiatives.

Programme 3 – Legal Policy

7. The Department of Justice will continue to facilitate the development of Hong Kong into a regional centre for legal services and dispute resolution. In the coming financial year, we will work closely with the Bill Committee scrutinising the Arbitration Bill with a view to seeking its early enactment. The Bill seeks to unify the domestic and international arbitration regimes on the basis of the UNCITRAL (United Commission on International Trade Law) Model Law. We hope that the second reading debate of the Bill can be resumed before the end of 2010.

8. As an alternative means of dispute resolution, mediation is taking root in Hong Kong. The development of mediation should be neutered and facilitated and the Department of Justice will continue its facilitative role in this regard. We are now consulting the public on the 48 recommendations made by the Working Group on Mediation. Subject to the outcome of the public consultation exercise which will be completed in May 2010, we will seek to implement the recommendations with a view to facilitating the more effective and extensive application of mediation in both commercial disputes and those at the community level.

9. We would also seek to maximise the opportunities to promote our legal services to targeted service users. The Expo 2010 will be launched in Shanghai in May 2010. This will be an excellent opportunity to demonstrate Hong Kong's achievements and vision. The Department of Justice will collaborate with various Hong Kong legal professional bodies to organize a one-day forum in Shanghai on 6 July 2010 to reach out to our

targeted services users including Mainland enterprises and lawyers and to present to them Hong Kong's attributes as a leading legal services and dispute resolution centre.

10. On the legislative front, we propose to introduce further amendments to the Legal Practitioners Ordinance in 2010 to enable solicitors in Hong Kong to practise in limited liability partnerships (LLP), we would also propose to introduce a Matrimonial Proceedings and Property (Amendment) Bill into the Legislative Council, the Bill would aim to empower Hong Kong courts, in certain circumstances, to deal with ancillary relief matters after recognition of a foreign decree of divorce.

Programme 4 – Law Drafting

11. The Law Drafting Division will continue to provide professional drafting and advisory service on demand by the policy Bureaux.

12. We are enhancing the accessibility of legislation by taking steps to make the English and Chinese texts more readable and comprehensible. These include measures to simplify the language and to promote greater uniformity and consistency in its use, the adoption of a gender-neutral drafting policy and improvements to the appearance of our legislation.

13. A feasibility study on the establishment and maintenance of a verified and authenticated electronic database of Hong Kong legislation has been completed in January 2010. We are considering the recommendations of the feasibility study.

Programme 5 – International Law

14. In the coming year, the International Law Division will continue to provide advice on international law issues, negotiate international agreements or contribute as legal advisers in negotiations and handle requests for international legal co-operation to bring benefits to the HKSAR. We will also continue to handle and co-ordinate requests to and from the HKSAR concerning surrender of fugitive offenders, mutual legal assistance, transfer of sentenced persons and international child abduction cases.

15. In the past year, our counsel have participated actively in the work of the Hague Conference on Private International Law ("Hague Conference") as members of the Chinese delegation. We will continue to contribute to the work of the Hague Conference especially in the Asia Pacific Region. We would also explore additional ways to strengthen regional cooperation including the possibility of establishing a regional office of the Hague Conference in the HKSAR.

Expenditure

16. As mentioned earlier on, the financial provision for the whole Department for 2010-11 is \$1,009.9M which is 3.7% (or \$35.8M in dollar terms) higher than our revised estimated expenditure for 2009-10 (which is \$974.1M). This increase is mainly due to the filling of vacancies and net creation of 37 posts to cope with increasing demand for legal services. I would like to take this opportunity to thank LegCo Members for supporting the creation of two permanent DPGC posts, respectively in the Prosecutions and Civil Divisions, with effect from 1 April 2010. We would also be seeking Members' support for the creation of a time limited contract directorate post to facilitate the further development of mediation. With these and the non-directorate posts that we would be creating in the coming financial year, the Department would be well placed to rise up to the work challenges.

17. We will continue our practice of briefing out cases to private sector lawyers where appropriate. Our total provision for briefing-out expenditure in 2010-11 is \$199.8M, which is 3.3% higher than the corresponding 2009-10 revised estimates of \$193.4M.

Staffing

18. In 2009, 20 new Government Counsel have joined the Department. We are conducting another Government Counsel recruitment exercise to fill existing and anticipated vacancies and we expect the new recruits to join the Department in the latter part of the year.

Conclusion

19. The above outlines the major work in the Department in the coming financial year. My colleagues and I will be pleased to provide further information.

20. Thank you.