

Transcript of remarks by Secretary for Justice on national security law

\*\*\*\*\*

Following is the transcript of remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at a media session after attending a radio programme today (June 6):

Reporter: You said the Department of Justice (DoJ) is still responsible for future prosecutions if the national security law is in place. Does that mean it will co-operate with the national security agency? Can you explain more on the aspect of retrospectivity? What is the exceptional case?

Secretary for Justice: I will answer the last question first. At the moment, nobody has seen the draft of the legislation, so it is not possible to say what is going to happen there. Insofar as retrospectivity is concerned, as a matter of principle, criminal charges are not to be made retrospectively, and therefore there ought not be retrospective effect when the law is legislated. However, there is always some exception. The exception arises in relation to treaty and customary international law. But there are generally very small amount of situations.

In respect of the role of the DoJ, under Article 63 of the Basic Law, the DoJ is responsible for all criminal prosecution matters without any interference. Therefore, we will make our decision in relation to prosecution, whether or not to prosecute and ultimately to take charge of the prosecution matter in court, in accordance with evidence, the law and the Prosecution Code. This is how we are going to do it. Relevant law enforcement agencies will pass us the file, and probably the Police will be the law enforcement agency. We will have the file and then we will look at it, just as in any other normal way.

(Please also refer to the Chinese portion of the transcript.)

Ends/Saturday, June 6, 2020