

Speaking notes by SJ at LegCo Finance Committee Special Meeting

Following are the speaking notes of the Secretary for Justice, Mr Wong Yan Lung, SC, at the Legislative Council Finance Committee Special Meeting to examine the Estimates of Expenditure 2006-07 today (March 16) (English translation):

Chairman and Members, good afternoon,

The Department of Justice has an important mission, which is to uphold the rule of law, to provide efficient and effective legal service to the Government and to maintain and improve the present legal system. Our work is delivered through five programmes, namely: Prosecutions, Civil, Legal Policy, Law Drafting and International Law. I would like to highlight some of our major areas of work in these five programmes to help put our estimates of expenditure for 2006-07 in context.

Programme 1 - Prosecutions

Article 63 of the Basic Law provides that the Department of Justice shall control criminal prosecutions, free from any interference. In the year ahead, we will continue to prosecute cases firmly and fairly, in accordance with our established and published prosecution policy guidelines. Public expectations of prosecutors are high, and we shall further promote the standards of prosecution.

Recent developments in case law have refined the ambit of the duty of disclosure imposed upon those involved in the conduct of cases. The Prosecutions Division is liaising with the law enforcement agencies to ensure that their internal guidelines conform to the requirements of the law and adequately reflect the latest legal developments. This exercise is proceeding apace.

Prosecutors in different places must work constructively together to promote high standards of criminal justice, and to counter transnational crime in all its forms. Through our membership of the International Association of Prosecutors, we will contribute directly to prosecutorial thought and action at the global level.

Programme 2 – Civil

The Civil Division provides litigation support and advisory services to Government bureaux and departments as may be required on a wide range of civil law issues. In 2005 we experienced a challenging year in terms of volume and complexity of work.

On the Civil Litigation side, we expect the trend of increasing workload will continue in 2006. During 2005, 1,258 civil proceedings were brought by the Government, and 1,345 civil proceedings were brought against the Government. Major litigation handled in the year included judicial review proceedings raising constitutional law and human rights issues, common law claims in connection with Civil Service Regulations, highly complex Government rent appeals and insider dealing inquiries. Many of these cases will continue into 2006, and we expect that 2,727 new civil proceedings of varying complexity will arise in 2006.

Turning to the advisory side, the workload is expected to remain at the same level of 2005. Some of the more significant projects involving commercial elements and requiring substantial legal advice in the year included the implementation of the Hong Kong Disneyland, the proposed merger of the two railway corporations, the proposed development of the West Kowloon Cultural District and the cruise terminal, as well as the proposed Hong Kong-Zhuhai-Macao bridge. The demand for legal advice and requests for drafting and vetting of commercial documents in relation to those projects will continue in 2006. Other matters, including amendments to the Companies Ordinance, the revision and extension of the Scheme of Control Agreements with the two power companies, etc. will also require significant legal inputs in 2006.

Programme 3 – Legal Policy

The Closer Economic Partnership Arrangement (CEPA) III took effect on 1 January this year. It enables practitioners to enjoy greater flexibility in forming associations with Mainland law firms and, subject to certain exceptions, to maintain their practice in Hong Kong while simultaneously practising as lawyers in the Mainland. The legal professional bodies acknowledge that CEPA has had a positive impact on their provision of legal services in the Mainland. The Department will continue to work closely with the legal profession on the implementation of CEPA and on further liberalisation of the Mainland legal services market. I also have plans to visit Beijing to discuss with the Ministry of Justice and other relevant departments further steps that can be taken to enhance mutual legal understanding between Hong Kong and the Mainland.

I am pleased to inform members that two of our projects, which are the consultancy study in respect of the demand for and supply of legal and related services and the bilingual community legal information website, have been progressing smoothly. We are also preparing draft amendments to the Arbitration Ordinance, and taking steps to implement the Law Reform Commission's proposals regarding domicile and privity of contract.

Programme 4 – Law Drafting

In terms of the volume of legislation published in the Gazette, the output of the Law Drafting Division grew considerably in 2005. The total number of pages (both in English and Chinese) of bills and subsidiary legislation gazetted rose from 2,796 in 2004 to 3,484 in 2005. We expect a slight increase in the numbers of bills and of subsidiary legislation gazetted in 2006.

Continuing effort will be made to help our draftsmen to enhance their law drafting skill. Our in-house mentorship programme, where six directorate counsel each take on two or three non-directorate counsel as his or her mentors, is an ongoing initiative. In the past year, two Senior Government Counsel were attached to the legislative drafting offices in the UK and Canada in order to gain wider drafting experience. Funds have been reserved for a couple of similar attachments in 2006-07.

Programme 5 – International Law

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 and transfer of sentenced persons.

Expenditure

Our financial provision for the whole Department for 2006-07 is \$879.6M which is 2.7% (or \$23M in dollar terms) higher than our revised estimated expenditure for 2005-06 (which is \$856.6M). We will endeavour to provide a cost effective service within this financial provision.

We will continue our practice of briefing out cases to private sector lawyers if deemed necessary and appropriate. Our total provision for briefing-out expenditure in 2006-07 is \$165.6M. This represents a 4.5% increase (or \$7.2M in dollar terms) over the corresponding revised estimates of \$158.4M for 2005-06.

Staffing

Despite the general civil service recruitment freeze, we have obtained special approval to conduct an exercise in 2005 to recruit Government Counsel. We have just made offers to the 22 selected candidates, and we look forward to welcoming them later in the year. We will organise a familiarisation programme to help the newly recruited Government Counsel to settle into their jobs. Ongoing training programmes will be provided to them and to existing counsel to sharpen their professional skills.

Conclusion

I hope I have given you an overview of the major work in the Department in the coming year. My colleagues and I will be pleased to provide any further information Members may require on our estimated expenditure for 2006-07.

Thank you.

Ends/Thursday, March 16, 2006

NNNN