

立法會
Legislative Council

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**Report of the Subcommittee on Closed Area
(Hong Kong Ministerial Conference of World Trade Organization) Order**

Purpose

This paper reports on the deliberations of the Subcommittee on Closed Area (Hong Kong Ministerial Conference of World Trade Organization) Order.

The Order

2. The Order, made under section 36 of the Public Order Ordinance (Cap. 245) (POO), declares certain areas in Wan Chai and Admiralty as delineated as “Land Closure” and “Sea Closure” during the period from 6:00 pm on 12 December 2005 to 5:00 am on 19 December 2005 for the Sixth Ministerial Conference (MC6) of the World Trade Organization (WTO) to be held in Hong Kong from 13 to 18 December 2005. Entry into these closed areas will only be allowed with permission from the Commissioner of Police. The commencement date of the Order is 2 December 2005.

3. The Order covers the meeting venue, i.e. the Hong Kong Convention and Exhibition Centre (HKCEC) and its vicinity, the Tamar Site, and the connecting roads and bridges. As the HKCEC is built along the waterfront and accessible by sea, the closed area also covers the sea side around the HKCEC Peninsula.

The Subcommittee

4. At the House Committee meeting on 14 October 2005, Members formed a subcommittee to study the Order. Under the chairmanship of Hon Miriam LAU, the Subcommittee has held four meetings, including three meetings with the Administration. The membership list of the Subcommittee is in **Appendix I**.

5. At the Council meeting on 9 November 2005, a motion, moved by the Chairman, to extend the scrutiny period to 30 November 2005 was passed.

Deliberations of the Subcommittee

Setting up of the closed area for the MC6 under section 36 of the POO

6. Some members have asked for the reasons for setting up the closed area under section 36 of the POO for the MC6. They have pointed out that a number of international/large scale events, such as the Handover Ceremony and the Fortune Global Forum in 2001, had been held in Hong Kong in the past. Restricted access zones established on these occasions were not under the POO, but under other legal provisions, such as the Police Force Ordinance (Cap. 232) and the Road Traffic (Traffic Control) Regulations (Cap. 374G).

7. The Administration has explained that in considering the most appropriate legal vehicle to use in a specific situation, account should be taken of the objective(s) to be achieved and the circumstances of the case. It is also necessary to ensure that statutory powers are used for their true purposes. In the case of the MC6, public order and public safety grounds necessitated the setting up of a closed area for the following reasons -

- (a) while most of the protesters, estimated to be about 3 000 from Hong Kong and about 7 000 from overseas according to the latest Police intelligence, are expected to be peaceful and law-abiding, some may use disruptive or violent methods, as has been seen in previous WTO Ministerial Conferences and other major international events. The public order and public safety risk for the MC6 has been assessed to be “high”, and is on the high side of the spectrum within the “high” rating;
- (b) the environs of the meeting present obvious focal points for violent protest or wanton damage by radical protesters;
- (c) the possibility of terrorist action during the MC6, with participants from countries subject to higher terrorist threat, cannot be ruled out. The current terrorist threat level is assessed to be “moderate”; and
- (d) unlike previous international events held in Hong Kong, the duration of the MC6 is long (six days), the number of participants and support personnel is large (about 21 000), its themes are the most contentious; and the overall terrorist threat globally has increased.

8. The Administration has further explained why other legislative provisions used in previous international events are, by comparison, less appropriate for the MC6. For instance, the Road Traffic (Traffic Control) Regulations would only enable the closure of roads in the area, but traffic control, and not public order, would have to be the predominant reason. The Shipping and Port Control

Ordinance (Cap. 313) would enable the closure of waters off the venue, but only in the interest of safety and not on public order grounds. The Administration has also pointed out that the Police Force Ordinance requires the Force to take lawful measures to prevent injury to life and property, to regulate processions and assemblies, to preserve order in public places and in the waters of Hong Kong, etc. However, such provisions can only be invoked in response to circumstances justifying the use of the powers, and not for closing off an area well in advance.

9. The Administration considers that a closed area set up under section 36 of the POO represents a comprehensive scheme that allows land closure, road closure and sea closure in one go, thereby minimising the chance of confusion. The advance establishment of a closed area under section 36 of the POO would also allow members of the public to make alternative plans for work and school well in advance of the implementation of the closed area.

10. Some members remain unconvinced of the reasons given by the Administration for setting up the closed area under section 36 of the POO for the MC6. They have requested the Administration to provide the risk assessment of previous international/large scale events held in Hong Kong, as well as the basis for assessing the current public safety and public order threat level for the MC6 to be “high” and of a terrorist attack to be “moderate”.

11. The Administration has advised that no international/large scale events previously held in Hong Kong have had the same characteristics as the MC6 in respect of the risk to public order, public safety and terrorist attack calling for a preventative response so far in advance of the event. The Administration has further advised that it is the international practice that intelligence, which is invariably highly sensitive, be kept strictly confidential by the receiving end. Hence, the Administration does not consider it appropriate to disclose the Police intelligence concerning the likely actions to be taken by radical protesters during the MC6 period to the Subcommittee, even at a closed meeting as suggested by a member.

12. A member has asked whether the Administration could give an undertaking that it would apply the same set of criteria as set out in paragraphs 7 to 9, and take into account the judgment delivered by the Court of Final Appeal on the case of *LEUNG Kwok-hung & Others v. HKSAR* in applying the POO in restricting the right of peaceful assembly, when invoking section 36 of the POO to make a closed area order in future.

13. The Administration has responded that it would not lightly invoke section 36 of the POO to make a closed area order. In deciding whether to make a closed area order under section 36 of the POO, due consideration would be given to the characteristics of the event and the prevailing circumstances. Reference had been made and would certainly continue to be made to past experience in invoking section

36 of the POO and to the judgments delivered by the Court of Final Appeal in the cases of *LEUNG Kwok-hung & Others v. HKSAR* and *YEUNG May Wan & Others v. HKSAR* prior to applying the POO to restrict the right of peaceful assembly.

Compensation

14. A member has asked whether persons adversely affected by the making of a closed area order under section 36 of the POO would be compensated.

15. The Administration has advised that the POO does not provide for the payment of compensation where closed area orders are necessary. Public interest in the protection of public safety and public order prevails over hardship, if any, to private interests resulting from the making of the closed area order. As a matter of legal principle, in the absence of an express statutory provision providing for the payment of compensation to persons affected by the making of closed area order, there is no legal obligation to pay compensation to entities so affected.

Closed area around the HKCEC

16. The Subcommittee notes that the closed area around the HKCEC, which is less than about 1 km² in area, is very modest compared to recent overseas large scale events of comparable nature. The Subcommittee has enquired about the rationale for the coverage of the closed area.

17. The Administration has explained that this is to minimise inconvenience to the general public as far as possible on the one hand, and accomplish the purpose of protecting public safety and public order on the other. For instance, closure at HKCEC Phase I covers only the basement to the 7th floor, and the carpark below the podium adjacent to the Grand Hyatt Hotel has been excluded. Similarly, the two hotels, i.e. Grand Hyatt Hotel and Renaissance Harbour View Hotel, one serviced apartment block, i.e. Convention Plaza Apartment, and the Office Tower of the Convention Plaza near HKCEC will also be excluded from the closed area. Footbridges with direct access to the closed area will have to be closed, whereas those not leading to the closed area, such as the footbridge between the Great Eagle Centre and the Convention Plaza Office Tower, will not be affected.

Demonstration areas

18. Some members have asked whether consideration could be given to allowing a small group of protesters, say, five persons, to enter the Conference venue to stage protests and/or present petitions to the delegates of the MC6, after passing a security check to make sure that they do not carry with them any dangerous devices.

19. The Administration has advised that to maintain law and order during the MC6 period, only holders of accreditation badges as well as those other individuals

who have been granted permission by the Commissioner of Police will be allowed to enter or leave the closed area during the closure period. Moreover, there is no guarantee that protesters will not act violently or obstructively against the participants of the MC6 once they are inside the Conference venue, albeit without any dangerous devices. The Administration will continue to maintain a dialogue with non-governmental organisations (NGOs) as well as any other groups, both locally and from overseas, in the run-up to and during the MC6, with a view to facilitating their exercise of the freedom of expression and conduct of orderly and peaceful demonstration activities. The Administration has identified the Wan Chai Sports Ground and the Wan Chai Public Cargo Working Area, both close to the HKCEC, as possible designated public activity areas for the MC6.

20. A member has asked whether overseas protesters are aware of the laws they have to observe when staging demonstrations in Hong Kong.

21. The Administration has advised that its Ministerial Conference Coordination Office has met with NGOs based in Geneva (where the WTO Secretariat is based) in March and June this year to apprise them of the measures the Hong Kong Government would take to facilitate the work of NGOs and the freedom of expression in a lawful, peaceful and orderly manner. Response from these NGOs is positive.

Impact of the closed area during the MC6 period on road traffic

22. The Subcommittee notes the following special traffic arrangements in Wan Chai North during the MC6 period -

- (a) suspension of bus termini, bus stops, taxi stands, coach parking spaces, loading bays and on-street parking spaces, including the Wan Chai Ferry Pier Public Transport Interchange outside the Great Eagle Centre and the one off Golden Bauhinia Square;
- (b) diversion of all bus routes passing via Harbour Road and Convention Avenue to Gloucester Road; truncation of all bus routes terminating at Wan Chai Ferry Pier and the Golden Bauhinia Square to Hennessy Road;
- (c) suspension of regular ferry services on Wan Chai - Hung Hom route and Wan Chai - Tsim Sha Tsui route; and
- (d) suspension of sightseeing cruises from Wan Chai operated by the New World First Ferry Services Ltd, and deletion of the en-route stopping point at Wan Chai for the sightseeing cruises operated by the "Star" Ferry Co. Ltd.

23. The Subcommittee also notes that under the above traffic arrangements, 30 bus routes will have to be diverted and about 22 000 bus commuters each day who usually board or alight at the bus stops/termini in Wan Chai North will have to use the bus stops along Gloucester Road and Hennessy Road. Separately, about 24 000 ferry passengers from Tsim Sha Tsui and Hung Hom will need to use alternative ferry services to Central and change for other transport modes to Wan Chai.

24. In view of the impact of the special traffic arrangements required during the MC6 period, members have urged the Administration to ensure that the public is well apprised of these arrangements well in advance to avoid unnecessary chaos. As vehicles presently passing through Harbour Road, Lung Wui Road and Convention Avenue will be diverted to Gloucester Road during the MC6 period, some members have expressed concern that this would impede traffic flow along Gloucester Road.

25. The Administration has advised that it will publicise the traffic and transport arrangements and acquaint the travelling public with them well in advance of the MC6. During the MC6 period, every effort will be made to ensure effective coordination of traffic management measures, respond to unanticipated incidents, and disseminate information through the mass media and other suitable means.

26. The Administration has further advised that through traffic of about 1 200 vehicles (each bound) per hour, which otherwise would pass through Harbour Road, Lung Wui Road and Convention Avenue, will be diverted to Gloucester Road. The Administration, however, expects that with extensive publicity, advising motorists to avoid passing through Wan Chai as far as possible, and also suggesting commuters to use public transport, there would be a reduction in the traffic flow along Gloucester Road during the MC6 period. Given the experience of major events such as the Lions Club International Convention Parade held in June this year, it is estimated that even after absorbing the through traffic diverted from Wan Chai North, the traffic volume of Gloucester Road is expected to remain more or less the same as that on normal days.

27. To help divert road traffic from the Causeway Bay and Wan Chai area and the Cross-Harbour Tunnel during the MC6 period, the Administration has secured the agreement of the franchisees of Western Harbour Crossing and Eastern Harbour Crossing to provide 14% to 25% concessions on tolls for private cars, taxis and goods vehicles from 13 to 18 December 2005.

Security arrangements

28. Some members have pointed out that given the scale and nature of the MC6, the Administration should prepare for all possible contingencies. Past WTO Ministerial Conferences and some large scale international events in recent years had attracted vigorous demonstrations, some of which had unfortunately resulted in

violence and damage to properties as was evidenced during MC3 in Seattle in 1999. Sometimes even peaceful and non-violent protests could result in blockades and disruption to the public.

29. The Administration has advised that the Police will prepare for all possible contingencies. It will formulate a comprehensive manpower deployment plan to cater not only for the MC6 commitments but also to maintain the general watch and ward coverage. The plan will be refined on a continuous basis to reflect the updated assessment of threats and information on other major commitments, such as crowd control events, closer to the time of the MC6. To ensure maximum availability of manpower, a number of resources management measures will be enforced, most notably the leave restriction for all frontline officers, immediately before and during the MC6 period. Other Government bureaux and departments concerned are also proceeding with the preparation for the MC6 on all fronts. For instance, departmental contingency plans are being updated and various drill exercises have been and would continue to be conducted in the run-up to the event. The Administration will continue to proactively reach out to the businesses, building management companies, etc. in the neighbourhood of the HKCEC, brief them on the MC6 and discuss with them on what measures they may wish to adopt in the run-up to and during the MC6 period.

Recommendations

30. Some members consider that an opportunity should be provided at a Council meeting for Members to express their views and concerns about the security and public order issues relating to the MC6 and for the Administration to respond to Members' views and concerns. The Subcommittee recommends that the Chairman, Hon Miriam LAU, should move a motion for adjournment under Rule 16(4) of the Rules of Procedure at the Council meeting on 23 November 2005, for the purpose of debating the security and public order issues relating to the MC6. The proposed wording of the motion is in **Appendix II**.

31. The Subcommittee also recommends that the House Committee's support be sought for the President's leave to dispense with the seven days' requisite notice period for the motion.

Consultation with the House Committee

32. The Subcommittee consulted the House Committee on 18 November 2005 and obtained its support for the recommendations in paragraphs 30 and 31.

18 November 2005

**Subcommittee on Closed Area
(Hong Kong Ministerial Conference of World Trade Organization) Order**

Membership List

Chairman Hon Miriam LAU Kin-ye, GBS, JP

Members Hon LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Daniel LAM Wai-keung, BBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung
Hon WONG Ting-kwong, BBS

(Total : 17 Members)

Clerk Miss Mary SO

Legal adviser Miss Kitty CHENG

Date 21 October 2005

2005 年 11 月 23 日(星期三)
立法會會議席上
劉健儀議員提出的休會待續議案

“本會現即休會待續，以就下述事項進行辯論：有關世界貿易組織第六次部長級會議的保安及公共秩序事宜。”

(Translation)

**Motion for Adjournment
to be moved by Hon Miriam LAU
at the Legislative Council meeting
of Wednesday, 23 November 2005**

“That this Council do now adjourn for the purpose of debating the following issue: Security and public order issues relating to the Sixth Ministerial Conference of the World Trade Organization.”