

立法會
Legislative Council

LC Paper No. CB(2)1419/08-09(05)

Ref : CB2/PL/SE

Panel on Security

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 5 May 2009**

Frontier Closed Area

Purpose

This paper summarizes past discussions by Members on the Frontier Closed Area (FCA).

The FCA Policy

2. In view of the considerable border activities and the increasing number of illegal immigrants from the Mainland after the Second World War, the Government introduced the FCA policy in 1951. Under the FCA policy, certain areas between the populated territory of Hong Kong and the then Sino-British border was declared to be the FCA to provide a buffer zone to help the security forces to maintain the integrity of the boundary between Hong Kong and the Mainland and to combat illegal immigration and other cross boundary criminal activities.

3. The FCA was first defined statutorily in June 1951 by way of a Government Gazette Notice. The FCA was extended to its present boundary in May 1962, with a total area of about 2 800 hectares of land which covers North District and the northeast part of Yuen Long. The northern boundary of the FCA runs along the 35km-long land boundary between the Hong Kong Special Administrative Region (HKSAR) and the Mainland, and is demarcated by a perimeter fence and a boundary road. The southern boundary of the FCA runs roughly parallel to the land boundary and includes all the waters of Starling Inlet. The current delineation of the southern boundary of the FCA has been determined to a large extent by reference to the topography, road and infrastructure network and access to Police support facilities. The FCA boundary cuts across major public roads at strategic positions which enable the Police to exercise effective control at the most vulnerable points which could be exploited by illegal immigrants and criminals. Access to the FCA is controlled by the Police through the issuance of Closed Area Permits based on actual needs to enter the FCA.

Discussions by Legislative Council Panels on policies and coverage of the Frontier

Closed Area

Meetings of the Panel on Security held in May 1999 and May 2002

4. At the meeting of the Panel on Security on 13 May 1999, the Administration informed members that it had reviewed the FCA policy and coverage in 1998. The findings of the review confirmed that abolition of the FCA and lifting the restriction of access to the boundary area would make it more difficult for illegal immigration, smuggling and cross-boundary crimes to be detected, thereby negating the effectiveness and efficiency of the law enforcement agencies and jeopardizing the boundary control. The review also indicated that the coverage of the FCA was appropriate.

5. On members' question of whether package tours would be allowed to visit Chung Ying Street so as to boost the tourism industry in Hong Kong, the Administration advised that given the need for vigorous anti-illegal immigration efforts, it was not an appropriate time for opening up Chung Ying Street to tourists.

6. At the meeting of the Panel on Security on 2 May 2002, the Administration reiterated the need for the FCA as an integral part of the package of coordinated measures for ensuring effective boundary control. The Administration pointed out that the physical, legal and administrative controls embodied under the FCA policy had greatly facilitated Police operations for intercepting illegal immigrants and Customs' efforts in combating smuggling.

7. Members did not raise objection to the need to retain the FCA as a buffer zone to facilitate effective operations against illegal immigration, smuggling and other cross-boundary crimes. Some members, however, expressed doubt about the need for such a wide coverage of the FCA. These members suggested that the coverage be reviewed, and that the restrictions on business activities in the FCA be relaxed to promote the economic development of the area. Hon Mrs Selina CHOW considered that, as the historical background of Chung Ying Street had made it an area of attraction, the possibility of developing tourism in Chung Ying Street should be explored.

8. The Administration informed the Panel that while there was a need to retain the FCA for security reasons, there was room for a review of the FCA coverage. The Administration also informed the Panel that the Commissioner for Tourism was studying the suggestion of developing green tourism in the North District with the District Officers of North District and Tai Po District and the Hong Kong Tourism Board. The results of the study were expected to be available after the summer of 2002. Members urged the Administration to expedite the study of the development potential of the FCA.

9. As regards the possibility of developing Chung Ying Street, the Administration said that boundary-related issues aside, Chung Ying Street was a narrow street of about 250 metres long and three to six metres wide forming part of the boundary between HKSAR and the Mainland, and it had no physical barrier or control point facilities. There would be serious security concerns if large number of visitors were admitted to the area. The Administration advised that while it had no plan to open up Chung Ying

Street to tourists, specific development proposals within the FCA could be explored, provided that security concerns were properly addressed.

Meeting of Panel on Planning, Lands and Works in February 2002

10. At the meeting of the Panel on Planning, Lands and Works (renamed as Panel on Development starting from the 2007-2008 legislative session) on 1 February 2002, the development of the FCA was raised in the discussion of "Hong Kong 2030 : Planning Vision and Strategy", a study intended for providing a long-term land use-transport-environmental planning framework to guide the development of Hong Kong over the next 30 years. Regarding the need for maintaining the integrity of the boundary, the Administration advised that it was essential for the FCA to continue to serve as a buffer zone for security function. It was also necessary to ensure that the opening up of the FCA would not dilute this function.

11. The Administration stressed that while opportunity was taken to consult the public on whether the FCA should be developed, the opening up of the FCA should not dilute the status of HKSAR under the principle of "one country, two systems". The Administration also informed the Panel that some parts of the FCA, such as the Wetland near Mai Po in the west, burial grounds and hilly area, were unsuitable for development.

12. While appreciating the need for the FCA to serve the security function, some members considered that the size of the FCA could be reduced, so that part of the land in the FCA could be released for development.

Review of the Frontier Closed Area

Study on the coverage of the Frontier Closed Area

13. In his 2005-2006 Policy Address, the Chief Executive stated that as the illegal cross-border activities were in check because of co-operation between Hong Kong and Shenzhen, the Administration would review the boundary of the closed area and examine the possibility of reducing the FCA coverage to release the land for better use and development.

14. On 7 September 2006, the Administration announced the results of the FCA review, the recommendations arising from the review and the plan to implement those recommendations. The review concluded that with appropriate security enhancement measures, the objective of maintaining boundary security might still be achieved with the FCA coverage substantially reduced. The Administration proposed to construct a secondary boundary fence along the southern edge of the existing boundary patrol road (BPR) to ensure that the BPR and the existing primary boundary fence were protected from deliberate or inadvertent interference. Having secured the BPR, all the land south of the existing BPR could be excised from the FCA. This meant that the FCA coverage could be reduced to a narrow strip of road, with only the BPR and areas to its north (including the Lok Ma Chau Loop and Hoo Hok Wai area), the Starling Inlet plus the areas with points of crossing the boundary (i.e. the boundary control points and the

Sha Tau Kok (STK) town) remaining within the FCA. If the proposal was implemented, the FCA land coverage would be reduced from about 2 800 hectares to about 800 hectares.

Public consultation on the review results

15. Between September and November 2006, the Administration consulted the relevant parties, including Heung Yee Kuk, Town Planning Board, Advisory Council on the Environment, North District Council, Yuen Long District Council, and Ta Kwu Ling, Sha Tau Kok, Sheung Shui, and San Tin Rural Committees on the results of the FCA review. It also consulted green groups and the Planning Sub-Committee of the Land and Building Advisory Committee on the future development of the land to be released.

16. According to the Administration, while the local community generally welcomed the proposed reduction of the FCA coverage, there were views suggesting that -

- (a) the STK town should be excised from the FCA to facilitate the development of the town;
- (b) the STK public pier should be used for access to the outer islands and the east coasts of the Northern New Territories to facilitate development of eco-tourism in the area;
- (c) individual villages and private land should be wholly excised from the FCA, and the proposed secondary boundary fence should be located as far away from the nearby residences as possible;
- (d) the construction of the proposed secondary boundary fence should be dispensed with in certain areas; and
- (e) the FCA should be reduced in phases before the completion of the entire secondary boundary fence.

17. As regards the future development of the area to be released from the FCA, some considered that the rural environment and the natural setting of the area, in particular the areas of high ecological value, should be preserved. On the other hand, suggestions were made for developing the area for such uses as boundary shopping centre, special industrial uses, residential development and eco-tourism.

Finalized plan for reducing the coverage of the Frontier Closed Area

18. Taking into account the comments and views received during the consultation exercise conducted in late 2006, the Administration announced on 11 January 2008 its decision to further reduce the FCA coverage to about 400 hectares.

19. In essence, the Administration decided to excise the Lok Ma Chau Loop (with a land area of about 100 hectares) and the adjacent Hoo Hok Wai (with a land area of about 300 hectares) from the FCA. With the exclusion of these two areas from the FCA, the entire villages of Tak Yuet Lau and Ha Wan Tsuen would be released from the closed area, thus meeting the aspirations of the local community. In addition, two patches of land northwest of Lin Ma Hang Village and north of Pak Fu Shan respectively would be excised from the FCA in response to suggestions from the rural community. With regard to the request for the exclusion of the STK town from the FCA, given the security risks associated with the lack of proper boundary control point facilities and a physical barrier to delineate the boundary between Hong Kong and the Mainland at Chung Ying Street, as well as continued smuggling activities and illegal immigration at STK, the Administration considered it necessary to maintain the FCA restrictions in the town. However, the FCA boundary at STK would be pushed northwards up to the entrance to the STK town (i.e. the location of 'Gate One').

20. According to the Administration, the new FCA would be implemented in phases. Taking into account the local topography and the works programme involved, the construction of the new secondary boundary fence would be split into four sections. Subject to funding approval by the Finance Committee, the Administration anticipated that the construction of sections 1 and 4 (covering the areas from Mai Po to the Lok Ma Chau Control Point and from Lin Ma Hang to STK respectively) would be completed around the end of 2010, section 2 (from the Lok Ma Chau Control Point to Ng Tung River) the third quarter of 2011, and section 3 (from Ng Tung River to Lin Ma Hang) around the end of 2012.

21. The coverage of the FCA was specified in the Frontier Closed Area Order (Cap. 245A) pursuant to section 36(1) of the Public Order Ordinance (Cap. 245). The Administration advised that it would amend Cap. 245A to stipulate the commencement of the new statutory FCA boundary in phases to tie in with the completion of the construction works for the four sections.

22. For the land to be excluded from the FCA, the Planning Department had embarked on a study to examine the development potential and the constraints of the land to be released, and to formulate a planning framework for the preparation of statutory town plans to guide the conservation and development of the land based on the principle of sustainable development before the new FCA boundary came into effect. The study was scheduled to be completed in mid-2009.

Discussion of the Panel on Security regarding the finalized plan for reducing the coverage of the Frontier Closed Area

23. At the Panel meeting on 19 February 2008, some members expressed concern about the security of the reduced FCA, and enquired whether there would be any buffer zone to the south of the BPR. They also enquired about the policing strategy for the reduced FCA.

24. The Administration advised that the proposed FCA coverage under the revised alignment would cover only the BPR and the land to its north, the Starling Inlet plus the areas with boundary-crossing. The Police would continue to deploy its resources and

manpower flexibly to ensure boundary security and integrity, having regard to its topography and the changing needs of the policing environment in the boundary area. The Police would continue to make use of the effective boundary fence protection system, coupled with the advanced detection devices and a centralized boundary command centre, and deploy frontline police officers, including Quick Reaction Force, to deal with any incidents that occurred along the boundary.

25. Some members were concerned about the decision to keep the STK town within the reduced FCA. They took the view that it was unreasonable to isolate the STK town and to require people to apply for Closed Area Permits for visits to the town. These members requested that the Administration should provide the Panel with a timetable for releasing the STK town from the FCA before submitting the funding proposal for construction of the proposed secondary boundary fence and associated works.

26. Some members expressed concern that as the proposed reduction of the coverage of FCA would be implemented in phases, the opening up of the part of FCA near Lo Wu Station would fall under the last phase. They considered that the part of FCA near Lo Wu Station should be opened up in the first phase so that different forms of transport, including school coaches, could access Lo Wu Station. They were also of the view that the proposed reduction of FCA should be implemented at one go rather than in phases.

27. The Administration responded that given the security risks associated with the lack of proper boundary control point facilities and a physical barrier to delineate the boundary between Hong Kong and the Mainland at Chung Ying Street, it was necessary to maintain the FCA restrictions at the STK town. The Administration was aware of the local community's request for opening up the STK town to tourists on a limited scale and would continue the discussion with the local community on the issue. To take forward the construction of the proposed secondary boundary fence and associated works, the Administration would need to complete the necessary steps required under the relevant legislation, such as conducting an environmental impact assessment in accordance with the Environmental Impact Assessment Ordinance (Cap. 499). The section of the works covering Lo Wu would necessitate land resumption. Thus, a phased approach was recommended to expedite the process of reducing the FCA coverage.

Latest development

28. The Administration plans to seek funding approval from the Finance Committee for the first phase of the works covering the construction of the secondary boundary fence and new sections of the primary boundary fence and the BPR arising from the reduction of the FCA coverage. It will brief the Panel on Security on the details and estimated costs of the works project on 5 May 2009.

Relevant motion moved and questions raised at Council meetings

29. A list of motion/questions relating to FCA moved/raised at Council meetings since the First Legislative Council is in the **Appendix**. The Official Records of Proceedings of relevant Council meetings are available on the LegCo website at <http://www.legco.gov.hk>.

Relevant papers

30. Members may wish to refer to the following minutes of meetings and papers for further details of the discussions -

Minutes

- (a) Minutes of the meeting of the Panel on Security held on 13 May 1999 [LC Paper No. CB(2)2538/98-99];
- (b) Minutes of the meeting of the Panel on Planning, Lands and Works held on 1 February 2002 [LC Paper No. CB(1)1372/01-02];
- (c) Minutes of the meeting of the Panel on Security held on 2 May 2002 [LC Paper No. CB(2)2434/01-02];
- (d) Minutes of the meeting of the Panel on Security held on 19 February 2008 [LC Paper No. CB(2)1749/07-08];

Papers

- (e) Administration's paper for the meeting of the Panel on Security on 13 May 1999 entitled "Policy on the Closed Area and Closed Area Permit" [LC Paper No. CB(2)1860/98-99(01)];
- (f) Administration's paper for the meeting of the Panel on Security on 2 May 2002 [LC Paper No. CB(2)1713/01-02(06)];
- (g) Administration's response dated 8 October 2002 on the timetable on the study led by the Commissioner for Tourism regarding the tourism potential of the Frontier Closed Area [LC Paper No. CB(2)30/02-03(01)];
- (h) Information paper provided by the Administration in September 2006 on "Review of the Frontier Closed Areas" [LC Paper No. CB(2)3000/05-06(01)];
- (i) Information paper provided by the Administration in February 2007 on "Review of the Frontier Closed Areas - Result of Public Consultation" [LC Paper No. CB(2)1156/06-07(01)]; and
- (j) Information paper provided by the Administration in January 2008 on "Review of the Frontier Closed Areas" [LC Paper No. CB(2)818/07-08(01)].

31. The above minutes and papers are also available on the website of the Legislative Council (<http://www.legco.gov.hk>).

Council Business Division 2
Legislative Council Secretariat
27 April 2009

**Relevant motion and questions moved/raised at Council meetings
on Frontier Closed Area**

Council meeting on 3 December 1997

At the Council meeting on 3 December 1997, Hon LAU Kong-wah raised a question on the coverage of the FCA.

Council meeting on 14 February 2001

2. At the Council meeting on 14 February 2001, Hon CHAN Yuen-han asked a question on access control and development plans of Chung Ying Street.

Council meeting on 12 December 2001

3. At the Council meeting on 12 December 2001, Hon HO Chung-tai raised a question on the development of land in the FCA.

Council meeting on 6 February 2002

4. At the Council meeting on 6 February 2002, Hon YEUNG Yiu-chung raised a question about illegal immigrants intercepted within the FCA.

Council Meeting on 12 February 2003

5. At the Council meeting on 12 February 2003, Hon LAU Wong-fat asked a question on whether the Administration would consider relaxing the various restrictions imposed on the FCA.

Council Meeting on 15 October 2003

6. At the Council meeting on 15 October 2003, Hon LAU Wong-fat asked a question on the Administration's review of the coverage of the FCA.

Council Meeting on 16 June 2004

7. At the Council meeting on 16 June 2004, Hon James TIEN raised a question on the opening up of the Sha Tau Kok FCA.

Council Meeting on 22 June 2005

8. At the Council meeting on 22 June 2005, Hon James TIEN raised a question on the review coverage of the entire FCA.

Council Meeting on 2 November 2005

9. At the Council meeting on 2 November 2005, Hon WONG Ting-kwong moved a motion on "Comprehensively developing the border area". Hon SIN Chung-kai moved amendment to the motion. The motion as amended by Hon SIN Chung-kai was carried.

Council Meeting on 7 June 2006

10. At the Council meeting on 7 June 2006, Hon Daniel LAM raised a question on the opening up of the FCA.

Council Meeting on 15 November 2006

11. At the Council meeting on 15 November 2006, Hon LI Kwok-ying raised a question on the refusal to issue Closed Area Permits.

Council Meeting on 20 June 2007

12. At the Council meeting on 20 June 2007, Hon CHEUNG Hok-ming raised a question on the coverage of the FCA.

Council Meeting on 14 May 2008

13. At the Council meeting on 14 May 2008, Hon CHEUNG Hok-ming raised a question on FCA.

14. The above motion and questions/replies are available at the website of the Legislative Council (<http://www.legco.gov.hk>).