

立法會
Legislative Council

LC Paper No. CB(1)294/20-21

(These minutes have been seen
by the Administration)

Ref : CB1/SS/2/20

**Subcommittee on Three Pieces of Subsidiary Legislation Relating to the
Commissioning of Heung Yuen Wai Boundary Control Point**

**Minutes of first meeting
on Friday, 30 October 2020, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon KWONG Chun-yu (Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon Alvin YEUNG
Hon LAU Kwok-fan, MH

[According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being members of the Legislative Council on 30 July 2020.]

Public officers attending : Agenda Item II
Security Bureau

Mr Parson LAM
Principal Assistant Secretary for Security D

Mr Oliver LAM
Assistant Secretary for Security D4

Commerce and Economic Development Bureau

Ms Ivy CHAN
Principal Assistant Secretary for Commerce and
Economic Development (Commerce & Industry)⁴

Customs and Excise Department

Ms Ida NG
Assistant Commissioner (Boundary and Ports)

Immigration Department

Mr Benson KWOK
Assistant Director (Control)

Transport Department

Mr Eric WAN
Principal Transport Officer/New Territories 2

Clerk in attendance : Mr Desmond LAM
Chief Council Secretary (1)³

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Ms Connie HO
Senior Council Secretary (1)³

Mr Boris LAM
Senior Council Secretary (A)²

Mr Terence LAM
Council Secretary (1)³

Miss Zoe YIP
Clerical Assistant (1)³

I. Election of Chairman

Mr James TO, the Member who had the highest precedence among members of the Subcommittee present at the meeting, presided at the election of the chairman of the Subcommittee. Mr TO invited nominations for the chairmanship of the Subcommittee.

2. Mr KWONG Chun-yu was nominated by Mr Alvin YEUNG and the nomination was seconded by Mr WU Chi-wai. Mr KWONG accepted the nomination.

3. Mr LAU Kwok-fan was nominated by Mr Abraham SHEK. As the nomination was not seconded by any member, Mr James TO declared that the nomination was invalid in accordance with the election procedure.

4. There being no other nomination, Mr KWONG Chun-yu was elected Chairman of the Subcommittee. Mr KWONG then took the chair.

5. Members agreed that it was not necessary to elect a deputy chairman.

II. Meeting with the Administration

- | | |
|------------------------------|---|
| (L.N. 155 of 2020 | -- Closed Area (Heung Yuen Wai Boundary Control Point) Order (Commencement) Notice |
| L.N. 156 of 2020 | -- Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2020 |
| L.N. 157 of 2020 | -- Import and Export (Electronic Cargo Information) (Amendment) Regulation 2018 (Commencement) Notice |
| File Ref: NCR 3/1/16 S/F(U)G | -- Legislative Council Brief issued by the Customs and Excise Department in respect of L.N. 156 of 2020 |

- LC Paper No. LS118/19-20 -- Legal Service Division Report on subsidiary legislation gazetted on 21 August 2020
- LC Paper No. CB(1)66/20-21(01) -- Marked-up copy of Schedule 1 to the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance prepared by the Legal Service Division (Restricted to members only)

Relevant papers

- File Ref: SBCR 2/1/2098/13 -- Legislative Council Brief issued by the Security Bureau (paragraphs 1 and 2, 5 to 10 and 18 to 21 refer to the Closed Area (Heung Yuen Wai Boundary Control Point) Order)
- File Ref: CITB CR 89/14/21/1 -- Legislative Council Brief issued by the Commerce and Economic Development Bureau in respect of the Import and Export (Electronic Cargo Information) (Amendment) Regulation 2018)

6. The Subcommittee deliberated (Index of proceedings attached at **Annex**).

Follow-up actions to be taken by the Administration

7. The Administration was requested to inform the Subcommittee –
- (a) of the number of non-compliant cases detected by the Customs and Excise Department since the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) came into operation; the value of the currency and bearer negotiable instruments involved; and the penalty imposed on non-compliant cases;
 - (b) regarding the current average daily vehicular traffic using the Heung Yuen Wai ("HYW") Boundary Control Point ("BCP"), of the respective numbers of those arriving/departing HYW BCP through (i) HYW Highway; and (ii) other local roads in the vicinity which included but not limited to Lin Ma Hang Road;

- (c) of the details of parking fee levels of the public car parks in HYW BCP and a comparison of the parking fee levels of other public car parks in the vicinity;
- (d) of the target customers of the public car parks in HYW BCP and how the prescribed parking fee levels could encourage such target customers to use the public car parks; and
- (e) of the transport facilities and infrastructures which were required to be constructed/upgraded in the Mainland so as to tie in with the planning principle of "East-in-East-out; West-in-West-out", and the relevant works progress.

8. The Administration was also requested to consider arranging a site visit to HYW BCP to facilitate members' understanding of its operation, including the overall layout, building designs, road designs, customs, immigration and quarantine arrangement and traffic arrangement.

(Post-meeting note: The Administration's response was issued to members on 10 November 2020 (LC Paper No. CB(1)120/20-21(02)).)

III. Any other business

Invitation of views

9. Members agreed that it was not necessary to invite the public and relevant organizations to give oral representations or written submissions on Closed Area (Heung Yuen Wai Boundary Control Point) Order (Commencement) Notice (L.N. 155 of 2020), Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2020 (L.N. 156 of 2020) and Import and Export (Electronic Cargo Information) (Amendment) Regulation 2018 (Commencement) Notice (L.N. 157 of 2020) ("the three Notices").

Legislative timetable

10. The Subcommittee completed the scrutiny of the three Notices. Both the Administration and the Subcommittee would not propose amendments to the three Notices.

11. The Subcommittee noted that the Chairman would move a motion at the Council meeting of 4 November 2020 to extend the scrutiny period of the three Notices to the Council meeting of 2 December 2020. If the scrutiny period was extended, the deadline for giving notice to move amendments to the three Notices would be 25 November 2020, and the Chairman would report the deliberations of the Subcommittee to the House Committee on 20 November 2020.

(Post-meeting note: The motion to extend the period for amending the three Notices was passed at the Council meeting of 4 November 2020.)

12. The Subcommittee also agreed that subject to any views members might have on the Administration's response to the follow-up actions at the meeting, the Chairman would decide whether a further meeting was necessary.

(Post-meeting note: The Secretariat had received no views from members in this respect by the set deadline on 11 November 2020.)

13. There being no other business, the meeting ended at 12:23 pm.

Council Business Division 1
Legislative Council Secretariat
1 December 2020

**Proceedings of the first meeting of
the Subcommittee on Three Pieces of Subsidiary Legislation Relating to the
Commissioning of Heung Yuen Wai Boundary Control Point
on Friday, 30 October 2020, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Election of Chairman			
000000 – 000548	Mr James TO Mr Alvin YEUNG Mr WU Chi-wai Mr KWONG Chun-yu Mr Abraham SHEK	<u>Election of Chairman</u> Mr KWONG Chun-yu was elected Chairman of the Subcommittee.	
Agenda Item II – Meeting with the Administration			
000549 – 000742	Chairman	Opening remarks by the Chairman.	
000743 – 001138	Chairman Administration	Briefing by the Administration on (a) Closed Area (Heung Yuen Wai Boundary Control Point) Order (Commencement) Notice; (b) Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2020; and (c) Import and Export (Electronic Cargo Information) (Amendment) Regulation 2018 (Commencement) Notice ("the three Notices").	
001139 – 001521	Chairman Mr James TO Administration	In response to Mr James TO's enquiry, the Administration advised that relevant government department(s) had arranged the relevant trades, including the transport and logistics trades, to visit the Heung Yuen Wai ("HYW") Boundary Control Point ("BCP") before its commissioning. Mr James TO then suggested that the Administration should consider arranging a site visit to HYW BCP to facilitate members' understanding of its operation, including the overall layout, building designs, road designs, customs, immigration and quarantine arrangement and traffic arrangement of the HYW BCP.	The Administration to take follow-up action as required in paragraph 8 of the minutes.
001522 – 001839	Chairman Mr James TO Administration	In response to Mr James TO's enquiry on the statistics on enforcement of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629), the Administration advised that the Customs and Excise Department ("C&ED") had implemented	

Time marker	Speaker	Subject(s)	Action required
		<p>a grace period of three months since the commencement of Cap. 629 that written warnings were issued as far as appropriate to persons who were found in breach of the declaration/disclosure requirements for the first time. After that, 203 non-compliant cases were detected (including 191 cases relating to travellers and 12 cases relating to cargo consignments) for the period from 16 October 2018 to 30 September 2020.</p>	
001840 – 002414	Chairman Mr LEUNG Yiu-chung Administration	<p>Noting that certain zones located at HYW BCP had been designated as a closed area under the Public Order Ordinance (Cap. 245) ("Closed Area"), Mr LEUNG Yiu-chung sought details of the application criteria for the closed area permit and the general permission for specified categories of persons to enter or leave the Closed Area.</p> <p>The Administration advised that the Commissioner of Police had made in 2018 the Heung Yuen Wai Boundary Control Point Closed Area (Permission to Enter) Notice ("the HYW BCP Notice") under section 38A of Cap. 245 to grant general permission to cross-boundary drivers, passengers and travellers for entering or leaving the Closed Area at HYW BCP. Separately, persons with genuine need, including those who lived or worked within the closed area, etc., might apply for a closed area permit.</p> <p>In response to the enquiry from Mr LEUNG Yiu-chung, the Administration advised that enforcement agencies would take into account all relevant facts and circumstances of each case in deciding whether a person was a genuine traveller eligible for the general permission under the HYW BCP Notice to enter or leave the Closed Area at HYW BCP.</p> <p>The Administration also advised that HYW BCP would provide both passenger and vehicular clearance between Hong Kong and the Mainland in the long run. However, in view of the Coronavirus Disease 2019 ("COVID-19") epidemic, HYW BCP was not yet open for cross-boundary private cars, cross-boundary coaches and cross-boundary hire cars under the regular quota, as well as passenger clearance</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>services. Only the cargo clearance facilities for use by cross-boundary goods vehicles had been open since 26 August 2020.</p>	
002415 – 002945	<p>Chairman Mr WU Chi-wai Administration</p>	<p>Mr WU Chi-wai sought confirmation as to whether the area shown on Plan 1 in Schedule 3 to the Closed Area (Heung Yuen Wai Boundary Control Point) Order ("the Order") referred to the area delineated and shown edged blue on the location map in Schedule 1 to the Order. The Administration replied in the affirmative.</p> <p>Noting that there was a pedestrian subway connecting the Passenger Terminal Building ("PTB") and Lin Ma Hang Road, and that there were residential settlements in the vicinity of HYW BCP, Mr WU Chi-wai enquired whether HYW BCP had been suitably fenced off to prevent anyone (especially those who lived in the nearby areas) from entering into the Closed Area by accident.</p> <p>The Administration advised that similar to all other BCPs, HYW BCP had been fenced off to prohibit unauthorized entry into the Closed Area. Moreover, the pedestrian subway in question was actually connected to the public transport interchange ("PTI") which was not part of the Closed Area. There was no residential settlement within the boundary of HYW BCP.</p>	
002946 – 004136	<p>Chairman Mr CHAN Hak-kan Administration</p>	<p>Mr CHAN Hak-kan referred to the concerns raised by the transport and logistics trades on inadequate weaving length at some of the bends in the areas of HYW BCP after their site visit to HYW BCP arranged by the Administration, and enquired about the Administration's follow-up actions.</p> <p>The Administration advised that the public transport operators were generally content with the layout and configuration of PTI whereas the logistics trade was concerned about the road curve for long vehicles at one of the road bends within the cargo clearance area. The Administration explained that the road access within the cargo clearance area was in fact in compliance with the applicable road design requirements. Yet, having regard to the trade's concerns on the particular road bend in the area,</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>the Administration had carried out further corresponding enhancement work. The general responses received from the trade about the improvement work were positive.</p> <p>Mr CHAN Hak-kan conveyed the views and concerns of a number of Executive Committee members of a Rural Committee that upon commissioning of HYW BCP, the volume of goods vehicle traffic using the local roads in the vicinity might increase rapidly, thus posing dangers to other road users. As such, Mr CHAN enquired about the impact of such traffic demand on local roads and enquired about the current average daily vehicular traffic using HYW BCP as well as the respective numbers of those arriving/departing HYW BCP through (a) HYW Highway; and (b) other local roads in the vicinity which included but not limited to Lin Ma Hang Road.</p> <p>The Administration advised that upon commissioning of cargo clearance facilities of HYW BCP in August 2020, the average daily cross-boundary goods vehicles using HYW BCP was about 450 (both directions) recently, with the highest daily traffic flow (both directions) of about 620 recorded in a single day. While the Administration had been encouraging the trade to use HYW BCP, it was expected that cross-boundary goods vehicles travelling between Hong Kong and the eastern part of Guangdong would be more willing to use HYW BCP.</p> <p>The Administration further advised that vehicles could make use of HYW Highway to and from HYW BCP without passing through the local road network in the North District. The construction of the connection roads had actually improved the existing road network in the North District as a whole and was beneficial to the local residents. Local residents could now travel to the urban areas via the new connecting roads instead of solely relying on Sha Tau Kok Road.</p> <p>Mr CHAN Hak-kan enquired about the public transport arrangements upon the commissioning of the passenger clearance services at HYW</p>	<p>The Administration to take follow-up action as required in paragraph 7(b) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>BCP.</p> <p>The Administration advised that the Transport Department had drawn up the local public transport arrangements for HYW BCP to serve travellers to and from different districts in Hong Kong. Upon commissioning of the passenger clearance services, commuters might make use of the local public transport services, including three new franchised bus routes, one short-working green minibus route, taxis and non-franchised buses, to travel to and from PTI at HYW BCP. Apart from public transport, travellers might also access HYW BCP by private cars and made use of the public car parks or the pick-up/drop-off area in PTB.</p>	
004137 – 004446	Chairman Mr James TO Administration	<p>Mr James TO enquired about the number of non-compliant cases detected by C&ED since Cap. 629 came into operation; the value of the currency and bearer negotiable instruments ("CBNIs") involved; and the penalty imposed on non-compliant cases.</p> <p>The Administration advised that a total of 23 warning letters (including 20 cases relating to travellers and three cases relating to cargo consignments) were issued during the three-month grace period. After that, 203 non-compliant cases were detected (including 191 cases relating to travellers and 12 cases relating to cargo consignments) for the period from 16 October 2018 to 30 September 2020. Majority of the non-compliant traveller cases involved CBNIs with a value below HK\$500,000. As regards penalty, out of the total of 203 non-compliant cases detected, 190 cases from travellers discharged their liability according to Cap. 629 by making a payment of HK\$2,000. The remaining 13 cases (including one traveller case and 12 cases relating to cargo consignments) were dealt with through criminal prosecution. The penalties imposed for cases with court proceedings completed ranged from HK\$3,000 to HK\$16,000.</p>	The Administration to take follow-up action as required in paragraph 7(a) of the minutes.
004447 – 005335	Chairman Mr James TO Administration	In response to Mr James TO's enquiry, the Administration advised that the area delineated and coloured blue on the Inset of Plan 1 contained in Schedule 3 to the Order referred to	

Time marker	Speaker	Subject(s)	Action required
		<p>the Closed Area declared under the Order. Other areas not coloured blue on that plan would remain non-closed area. In other words, PTI in the ground floor of PTB had not been designated as closed area.</p> <p>Noting that there were public car parks available in PTB, the Chairman and Mr James TO enquired about the parking fee levels and a comparison of the parking fee levels of other public car parks in the vicinity. Mr TO enquired about the target customers of the public car parks in HYW BCP and how the prescribed parking fee levels could encourage such target customers to use the public car parks.</p> <p>The Administration replied that the Government Property Agency had already appointed a contractor to operate the public car parks. There were 415 parking spaces for private cars. These parking spaces would be available for hire on an hourly, evening and daily basis. The hourly charge was HK\$10/hour. The parking fees for night parking (from 6pm to 8am) and daily parking (24 hours) were HK\$60 and HK\$80 respectively. Half of these parking spaces would be available for online booking at discounted rates. The discounted hourly rate was HK\$9/hour. The discounted parking fee for night parking and daily parking were HK\$55 and HK\$70 respectively.</p> <p>The Administration remarked that the passenger clearance services and the public car parks at HYW BCP would be open to the public at a later stage.</p> <p>The Administration further advised that the public car parks at HYW BCP remained non-closed area such that they would not be restricted for cross-boundary travellers. Having said that, it was anticipated that the public car parks at HYW BCP would mainly serve passengers using non-cross boundary private cars.</p>	<p>The Administration to take follow-up action as required in paragraph 7(c) and (d) of the minutes.</p>
005336 – 010217	Chairman Mr WU Chi-wai Administration	Mr WU Chi-wai recalled that the Administration had said that HYW BCP would help re-distribute the cross-boundary traffic among the crossings in the eastern part of the territories. As such, he	

Time marker	Speaker	Subject(s)	Action required
		<p>urged the Administration to set clear policy direction for phasing out Sha Tau Kok BCP and to draw up the relevant implementation criteria so that the sites currently designated as Frontier Closed Area surrounding Sha Tau Kok BCP could be released for new town development.</p> <p>The Administration advised that it would continue to closely monitor the passenger and vehicular flows of all BCPs and review from time to time the needs and merits of rationalizing and consolidating the functions of existing BCPs. The Administration would also take into account other relevant planning considerations before drawing any conclusion.</p> <p>Noting that HYW BCP, by connecting to the Shenzhen Eastern Corridor, would shorten the distance between Hong Kong and the eastern part of Guangdong and Fujian, Mr WU Chi-wai requested the Administration to provide information on the transport facilities and infrastructures which were required to be constructed/upgraded in the Mainland so as to tie in with the planning principle of "East-in-East-out; West-in-West-out", and the relevant works progress. He also enquired about the Administration's latest forecast on vehicle traffic across HYW BCP subsequent to the implementation of the policy of "emptying the cage for new birds" in Guangdong and the continuous transformation and upgrading of the industries in the Pearl River Delta Region.</p> <p>The Administration advised that the planning principle of "East-in-East-out; West-in-West-out" was a medium to long term strategy. Under such planning principle, the two sides had been implementing various projects. For example, the Shenzhen side commenced the reconstruction of the Huanggang Port and would cease the provision of cargo clearance service at the Huanggang Port so as to divert the freight traffic to the HYW BCP in the east and the Shenzhen Bay BCP in the west respectively. Besides, the Chief Executive announced in the 2019 Policy Address the plan to extend the operating hours of the Shenzhen Bay BCP to 24 hours to meet the operational needs of the cross-boundary goods vehicles.</p>	<p>The Administration to take follow-up action as required in paragraph 7(e) of the minutes.</p>

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration further advised that apart from transport facilities and infrastructures, there was also a need to provide sufficient ancillary facilities at the Shenzhen side of HYW BCP and Shenzhen Bay BCP for supporting cargo declaration and clearance. The Administration would keep close contact with the relevant Shenzhen authorities in this regard and would convey the trade's views for their consideration of implementing facilitation measures as necessary.</p>	
010218 – 010821	Chairman Administration	<p>Chairman expressed concern about the safety of HYW Highway as the highway had a sharp bend near HYW BCP. He asked whether the Administration had plans to carry out any road improvement work.</p> <p>The Administration clarified that the logistics trade was concerned about the road curve for long vehicles at one of the road bends within the cargo clearance area, rather than HYW Highway. The road access within the cargo clearance area was in compliance with the applicable road design requirements. Yet, having regard to the trade's concerns on the particular road bend in the area, the Administration had carried out further corresponding enhancement work. The general responses received from the trade about the improvement work were positive.</p> <p>The Chairman was keen to ensure that the nine clearance kiosks for goods vehicles and the two vehicular bridges crossing Shenzhen River at HYW BCP could meet the traffic demand during clearance peak hours.</p> <p>The Administration advised that due to the site constraints, the distance between the clearance kiosks for goods vehicles and the vehicular bridges crossing Shenzhen River in HYW BCP was relatively shorter than that in other BCPs. The vehicle holding areas in HYW BCP were also comparatively smaller than that in other BCPs. Notwithstanding the above, HYW BCP had been operating smoothly since its commissioning and the Police would closely monitor the areas and help maintain a smooth traffic flow.</p>	

Time marker	Speaker	Subject(s)	Action required
010822 – 011526	Chairman Mr James TO Administration	<p>In response to Mr James TO's enquiry on the quota system for cross-boundary private cars using HYW BCP, the Administration advised that Guangdong-Hong Kong cross-boundary private cars under regular quota could enter or leave the Mainland using only the designated BCPs. The Hong Kong and Guangdong Governments agreed to issue 2 200 new quota for HYW BCP, comprising 2 000 and 200 quota for Hong Kong and Mainland cross-boundary private cars respectively.</p> <p>Mr James TO said that as HYW Highway had provided a direct vehicular access between Tai Po and the North District, he was of the view that cross-boundary vehicles would likely make use of HYW Highway to and from HYW BCP without passing through the at-grade roads in the vicinity. He nevertheless suggested that in order to minimize the traffic impact on the local roads, the Administration should promote the use of HYW Highway to and from HYW BCP by way of sending driving guides to (a) those who had made online reservations for the car parking spaces at HYW BCP; and (b) Guangdong-Hong Kong cross-boundary private cars owners holding valid Closed Road Permits for using HYW BCP.</p> <p>The Administration advised that driving guides were available on the website of Transport Department. The cross-boundary freight trade was also briefed on the road networks to and from HYW BCP and the customs clearance route during their visit to HYW BCP prior to its commissioning so as to familiarize the trade with the road conditions thereat. Together with the provision of clear signage along HYW Highway, it was expected that most of the drivers would access HYW BCP via HYW Highway.</p>	
011527 – 011603	Chairman	<p><u>Invitation of views</u></p> <p>Members agreed that it was not necessary to invite public views on the three Notices.</p>	
Clause-by-clause examination of the three Notices			
011604 – 011737	Chairman Administration	<u>Closed Area (Heung Yuen Wai Boundary Control Point) Order (Commencement) Notice</u>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2020</u></p> <p>Members raised no question.</p>	
011738 – 013739	Chairman Mr Frankie YICK	At 12:00 noon, the Chairman ordered that the meeting be suspended for 15 minutes to enable Subcommittee members who were members of the Panel on Information Technology and Broadcasting to attend the meeting of the Panel concurrently held in Conference Room 2 for election of the Chairman of the Panel.	
013740 – 013827	Chairman Administration	<p><u>Import and Export (Electronic Cargo Information) (Amendment) Regulation 2018 (Commencement) Notice</u></p> <p>Members raised no question.</p>	
013828 – 014150	Chairman Mr James TO	Extension of the scrutiny period, legislative timetable and meeting arrangement.	