

立法會
Legislative Council

LC Paper No. CB(2)1052/12-13(03)

Ref : CB2/SS/5/12

**Subcommittee on
Frontier Closed Area (Amendment) Order 2013 and
Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013**

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper summarizes past discussions held by the Panel on Security ("the Panel") and the Subcommittee on Frontier Closed Area (Amendment) Order 2011 ("the Subcommittee") on issues relating to the reduction in the coverage of the Frontier Closed Area ("FCA").

Background

2. Following a review of the coverage of FCA in 2006, the Administration announced in January 2008 that the coverage of FCA would be substantially reduced from about 2 800 hectares to about 400 hectares. The reduced FCA would comprise the re-aligned boundary patrol road ("BPR") and the land to its north, the boundary-crossing facilities, Sha Tau Kok ("STK") town, the Starling Inlet, and parts of Mai Po.

3. According to the Administration, in order to implement the reduced coverage of FCA while maintaining the integrity of the boundary, it needs to construct a secondary boundary fence ("SBF") along BPR. The FCA reduction is implemented in three phases in accordance with the progress of different parts of the SBF construction works.

4. The construction works of SBF and new sections of BPR have been divided into four sections as follows -

	<u>Section</u>	<u>Construction Period</u>
(1)	Mai Po to the Lok Ma Chau Control Point Section	1 st quarter 2010 - 3 rd quarter 2011

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|-----|--|--|
| (2) | Lok Ma Chau Control Point to Ng Tung River Section | 1 st quarter 2010 -
4 th quarter 2012 |
| (3) | River Indus (Ng Tung River) to Lin Ma Hang Section | 1 st quarter 2012 -
1 st quarter 2015 |
| (4) | Lin Ma Hang to Sha Tau Kok Section | 4 th quarter 2009 -
3 rd quarter 2011 |

The required construction works started in the fourth quarter of 2009 and are expected to be completed in the first quarter of 2015.

5. The first stage of the FCA reduction, covering sections 1 and 4, i.e. the "Mai Po to Lok Ma Chau Control Point Section" and the "Lin Ma Hang to Sha Tau Kok Section", was implemented on 15 February 2012. Consequently, more than 740 hectares of land have been excised from FCA. A subcommittee was formed to study the Frontier Closed Area (Amendment) Order 2011 ("the Amendment Order 2011") which sought to specify the reduced boundaries of the FCA after completion of the construction works for sections 1 and 4.

6. The second stage of the FCA reduction covers the section between Lok Ma Chau Boundary Control Point and River Indus. According to the Administration, the construction works for this section, i.e. section 3 have been substantially completed. The third stage, covering the rest of the boundary from River Indus to Lin Ma Hang, is scheduled for implementation in 2015.

The Frontier Closed Area (Amendment) Order 2013

7. Under section 36 of the Public Order Ordinance (Cap. 245) ("POO"), the Chief Executive may, where he reasonably believes that it is necessary for the protection of national security or public safety, or the protection of public order or public health, by order declare any area or place to be a closed area. Under section 38 of POO, any person who enters or leaves a closed area without a permit or contravenes any condition to which such permit is subject shall be guilty of an offence and shall be liable on summary conviction to a fine of \$5,000 and to imprisonment for two years.

8. Pursuant to section 36 of POO, the Frontier Closed Area Order (Cap. 245 sub. leg. A) ("the FCA Order") was made on 7 September 1984 and the current coverage of FCA is specified in the Schedule to the FCA Order.

9. The Frontier Closed Area (Amendment) Order 2013 ("the Amendment Order") is made by the Chief Executive under section 36 of POO to implement the second stage of FCA reduction. It substitutes the Schedule and plans to the FCA Order to specify the reduced boundaries of the FCA after completion of the construction of SBF between the Lok Ma Chau Boundary Control Point and River Indus.

The Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013

10. The Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013 ("the Amendment Notice") is made by the Commissioner of Police under section 38A(1) of POO to amend the Schedule to the Frontier Closed Area (Permission to Enter) Notice (Cap. 245 sub. Leg. H) ("the Notice"). The Notice provides for, among other things, the classes of persons permitted to enter FCA without closed area permits ("CAP"). Such classes of persons include cross-boundary vehicle drivers and passengers entering FCA using specified routes. As the Amendment Order changes the FCA boundary, the Amendment Notice introduces consequential amendments to the corresponding references to FCA in the Notice.

Members' deliberations

Security of the reduced FCA

11. When the Panel was briefed on the relevant financial proposals on the construction works of SBF and new sections of BPR and primary boundary fence ("PBF"), concerns were raised about the security of the reduced FCA and the policing strategy for the reduced FCA. Some members enquired whether the Administration would adopt any strategy to combat cross-boundary crimes such as drugs trafficking, smuggling, human trafficking and trafficking of parallel goods in view of the reduction of FCA coverage.

12. According to the Administration, the proposed FCA coverage under the revised alignment would cover only BPR and the land to its north, the Starling Inlet plus the areas with boundary-crossing facilities. 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 deploy frontline police officers, including Quick Reaction Force, to deal with any incidents that occurred along the boundary.

13. Members were also advised that the Police manpower deployed at BPR would not be reduced after the reduction of the coverage of FCA. It would continue to adopt measures to prevent illegal immigrants from entering Hong Kong and combat cross-boundary criminal activities in FCA. The Police would also conduct risk assessment of the visitor and traffic flow of the areas concerned, and strengthen the crime prevention knowledge of local residents through the assistance of the rural committees.

14. Members of the Subcommittee had sought information on the fencing of the reduced boundaries of FCA after the completion of the construction works for sections 1 and 4, given that the construction works for sections 2 and 3 were not yet completed. The Administration advised that to implement the reduced coverage of FCA while maintaining the integrity of the boundary, it would construct a SBF along BPR and new sections of BPR and PBF at certain sections, thereby enclosing the road and ensuring that PBF and BPR would be protected from deliberate or inadvertent interference. PBF and SBF would be erected along the northern and southern curbs of the re-aligned BPR respectively, except in some parts of Sha Tau Kok which are fenced off topographically. Signage would be erected in the vicinity where appropriate. After the Amendment Order 2011 came into operation, any persons who wished to visit the released area would no longer be required to hold valid CAPs. The Police would continue to deploy its resources and manpower flexibly to ensure boundary security and integrity.

Releasing of STK town

15. Some members were concerned about the decision to keep STK town within the reduced FCA. There was a view that it was unreasonable to isolate STK town and to require people to apply for CAPs for visits to the town. The Administration was required to provide the Panel with a timetable for releasing STK town from FCA.

16. In the light of increasing cross-boundary students crossing the boundary through Chung Ying Street in STK, some members enquired whether the Administration would consider establishing a proper boundary control point in Chung Ying Street. The Administration advised members 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 FCA restrictions at STK town. The Administration was aware of the local community's request for opening up STK town to tourists on a limited scale and would continue its discussion with the local community on the issue.

17. The Administration further advised members that it had studied the suggestion of local residents to open a side gate at the STK Boundary Control Point to cross-boundary students so that they could walk through a bridge above Shenzhen River to the Mainland side. As there was only a narrow path designed for maintenance purpose on the bridge above the Shenzhen River, the Administration considered it too dangerous for such students to use the path for crossing the boundary. Nevertheless, the Administration would continue its communication with local residents on the cross-boundary arrangements for such students.

Land acquisition

18. According to the Administration, only the construction works for the "Ng Tung River to Lin Ma Hang Section" (section 3) required land acquisition. The proposed construction works was published in the Gazette in May 2010 by the Security Bureau, and no objection was received in respect of the construction works for SBF and the new section of BPR and PBF to the northwest of Lin Ma Hang.

19. Members noted that the construction works for the re-provision of BPR and PBF as well as the entrusted construction works for SBF between Ping Yuen River and Pak Fu Shan along the re-provisioned BPR would be undertaken by the Drainage Services Department ("DSD"). The proposed construction works were published in the Gazette in August 2010 by DSD, and a total of eight objections were received. Members were advised that two of the objections were related to access to the local residents' lots and the Administration had assured them that their access would be maintained. One was related to the reprovisioning of an existing boundary wall for the house of a resident and the Administration had agreed to the reprovisioning request. The remaining five were related to land compensation rate and the Administration had conveyed their views to the Executive Council for decision.

Opening up of FCA

20. Some members were concerned whether the timetable for the reduction of FCA could be advanced and whether there was any plan for opening up FCA totally.

21. According to the Administration, as the construction works relating to the reduction of FCA was delayed due to environmental and land resumption requirements, the Administration would seek to expedite the works. It was too early to consider opening up FCA totally.

Relevant papers

22. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
29 April 2013

**Relevant papers on
construction of a Secondary Boundary Fence arising
from the reduced coverage of the Frontier Closed Area**

Committee	Date of meeting	Paper
Legislative Council	3.12.1997	<u>Official Record of Proceedings (Question 5)</u>
Legislative Council	14.2.2001	<u>Official Record of Proceedings (Question 3)</u>
Legislative Council	12.12.2001	<u>Official Record of Proceedings (Question 17)</u>
Legislative Council	6.2.2002	<u>Official Record of Proceedings (Question 5)</u>
Legislative Council	12.2.2003	<u>Official Record of Proceedings (Question 8)</u>
Legislative Council	15.10.2003	<u>Official Record of Proceedings (Question 8)</u>
Legislative Council	16.6.2004	<u>Official Record of Proceedings (Question 1)</u>
Legislative Council	22.6.2005	<u>Official Record of Proceedings (Question 2)</u>
Legislative Council	2.11.2005	<u>Official Record of Proceedings Pages 282 - 343 (Motion on comprehensively developing the border area)</u>
Legislative Council	7.6.2006	<u>Official Record of Proceedings (Question 8)</u>
Legislative Council	15.11.2006	<u>Official Record of Proceedings (Question 8)</u>

Committee	Date of meeting	Paper
Legislative Council	20.6.2007	<u>Official Record of Proceedings (Question 4)</u>
Panel on Security	19.2.2008 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	14.5.2008	<u>Official Record of Proceedings (Question 2)</u>
Panel on Security	5.5.2009 (Item V)	<u>Agenda</u> <u>Minutes</u>
Public Works Subcommittee	3.6.2009	<u>Minutes</u> <u>PWSC(2009-10)31</u>
Finance Committee	19.6.2009	<u>Minutes</u> <u>FCR(2009-10)25</u>
Legislative Council	19.1.2011	<u>Official Record of Proceedings (Question 17)</u>
Panel on Security	3.5.2011 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	18.5.2011	<u>Official Record of Proceedings (Question 18)</u>
Legislative Council	1.6.2011	<u>Official Record of Proceedings (Question 20)</u>
Legislative Council	22.6.2011	<u>Official Record of Proceedings (Question 3)</u>
Subcommittee on Frontier Closed Area (Amendment) Order 2011	13.1.2012	<u>Report</u>