

For discussion on
16 March 2005

Legislative Council Panel on Economic Services

Public Cargo Working Area Berths Allocation Arrangement

Purpose

This paper briefs Members on and seeks their support for the proposed arrangement to re-allocate the berths in the existing eight Public Cargo Working Areas (PCWAs) by restricted tender on the expiry of the existing Berth Licence Agreement (BLA) on 31 July 2005.

Proposal

2. It is the Government's policy to maintain an open and transparent tendering system to ensure that potential bidders are treated equally. The norm for disposing of Government's interests is by way of open tender to avoid giving unfair advantage to certain bidders over others. In line with this policy, it is the long-term objective of the Administration to allocate the right of using PCWA berths by open tender. However, having regard to the special nature of the PCWA as a unique mode of cargo handling in Hong Kong and the possible impacts of open tender on the port and the community at large, it is considered not opportune to introduce open tender for the next berth allocation exercise when the BLAs expire in July 2005. The Administration proposes to continue the existing arrangement for re-allocating the PCWA berths :

- (a) by restricted tender for the existing operators for a period of 3 years; and then
- (b) dispose of the unallocated berths after the exercise in (a) above by way of open tender.

Background

3. PCWAs were established by statutory authority in 1974 under the Port Control (Cargo Working Areas) Ordinance (Cap. 81) and its subsidiary legislation to regulate the use of seafront for handling cargo across the seawall. The first PCWA was established in Wan Chai in 1974 to accommodate

pre-existing operators of cargo handling activities. We now have eight PCWAs at various locations.

4. PCWAs are paved areas set aside for cargo working. They occupy fenced waterfront sites varying in width from 30-50 metres with an alongside water depth of not more than 5 metres. PCWAs are designed to cater for direct transfer or short stay cargoes from small coasters and local barges/vessels. Their design differs from that of a modern container terminal, mid-stream depot and river trade terminal.

5. Under Cap. 81 and its subsidiary legislation and prior to 1996, berths were allocated to users by way of a daily berthing permit system on a first-come-first-served basis. In 1995, the Director of Audit (D of A) recommended, inter alia, that the right of using PCWA berths should be allocated by an open and competitive bidding process.

6. After considering the Audit Report, the Public Accounts Committee (PAC) urged the Administration to expedite PCWA management reform and to consult the PCWA operators “with a view to devising an open, fair and economically viable system for the allocation” of berths in PCWAs. An extract of the PAC recommendations are at **Annex 1**.

7. In 1996, the Marine Department (MD) began consultation with PCWA operators to proceed with the PAC recommendations and the progress was reported to the PAC quarterly. Concerned that their small businesses would not be able to compete with major port operators if an open tender was adopted, the PCWA operators strongly opposed to an open tender system.

Management Reform

8. Following discussions at the meetings of the Legislative Council Panel on Economic Services held in May, June and November 1996, the Government agreed that in order not to cause any major disruption to the livelihood of the existing operators and their employees, who had been engaged in the trade for many years, the PCWA management reform should be introduced in a gradual manner.

9. The MD then reported to PAC and proposed to reform the management of PCWAs by phases as follows:

- Phase 1 - (a)** allocation of the majority of the berthing spaces by restricted tender to existing operators for a period of two to three years; and

- (b) allocation of the remaining berthing spaces by open tender also for a period of two to three years.

Phase 2 - allocation of berthing spaces by open tender for a period of three years or more.

Phase 3 - contracting out of the site management and allocation of berthing spaces by open tender.

The First Tender Exercise

10. To implement Phase 1 of the Reform, the Government entered into extensive consultations and lengthy negotiations with the operators. It was eventually agreed that implementation of the management reform should proceed initially by using restricted tender to allocate the PCWA berths with reserve prices set based on the prevailing revenue levels under the former permit system.

11. The first tender exercise was conducted at the end of 1997, with the following criteria:

- (a) tenderers restricted to existing PCWA operators;
- (b) length of berth tendered restricted to not longer than that being used; and
- (c) the PCWAs were grouped into four regions (i.e. New Territories, Kowloon West, Kowloon East and Hong Kong Island), and location of berth tendered restricted to within the same region.

Berths were allocated for a term of 3 years from 1 February 1998 to 31 January 2001. The monthly fee was adjusted annually according to fluctuations of the Government Consumption Expenditure Deflator for the duration of the tenancy.

12. Due to a lack of interest in the berths of the Chai Wan PCWA and Sheung Wan PCWA, the two PCWAs were closed after the tender exercise.

13. In the last Quarterly Progress Report submitted in July 1998, PAC was informed of the latest position of the Management Reform and was advised that the effectiveness of Phase 1 of the Reform would be reviewed in early 2000 before the way forward was decided.

Operating Area Permit

14. At the same time, the Government continued to pursue the PCWA management reform process and carried out two studies on the management of the land side operation of PCWAs in early 1998. The objective of the studies was to improve the land side management system. The first study was undertaken by a Working Group led by MD, comprising representatives of the PCWA operators and related trade associations. The other study was conducted by a consultancy firm under the auspices of the Business and Services Promotion Unit's "Helping Business Program". Acting on the recommendations of the studies, an Operating Area Permit (OAP) system was introduced on 1 May 1999 to replace the host of permits required for land side activities. The OAP allowed a berth tenant, through payment of a monthly fee, to use the working apron adjacent to his/her berth.

The Second Tender Exercise

15. Before the expiry of the BLAs in 2001, a review of Phase 1 of the Reform was conducted in 2000 to map out the way forward for the next tender exercise. Having taken into account the prevailing situation and all relevant factors, in particular the prevailing economic downturn then, and after consulting the trade and relevant government bureaux/departments, another restricted tender exercise was carried out and successful tenderers were awarded a new agreement for another 3-year period. This helped the trade to get through the difficult time during the Asian financial crisis. Nevertheless, the tender was further opened up by:

- (a) combining the two Kowloon regions into one region;
- (b) relaxing the restriction on the maximum length of a berth that a tender may bid for by standardizing the lengths of all the berths to multiples of 4 metres; and
- (c) unallocated berths were disposed of by way of open tender.

16. In this exercise, the reserve price level was set at the same level as the 1997 tender, having regard to the economic downturn then. A total of 174 berths were allocated through restricted tenders. Sixteen berths which were not bid for in that exercise were subsequently allocated in two rounds of open tenders.

17. The Government closed Wan Chai PCWA in 2003 for the Central Reclamation Phase III. In order to accommodate displaced operators, the MD

refurbished the closed Chai Wan PCWA. The Wan Chai PCWA was closed in October 2003 and displaced operators were reprovisioned to a reopened Chai Wan PCWA.

18. In light of the adverse economic situation in 2003, PCWA operators requested to extend the BLAs for one year from 1 February 2004 to 31 January 2005. In order not to undermine the viability of their business, the extension was given.

Present Position

19. Currently, there are 8 PCWAs¹ in the territory:

New Territories -	Tuen Mun PCWA Rambler Channel PCWA
Kowloon -	Stonecutters Island PCWA ² New Yaumatei PCWA Kwun Tong PCWA Cha Kwo Ling PCWA
Hong Kong Island -	Chai Wan PCWA ³ Western District PCWA

Details of each PCWA are shown at **Annex 2**.

20. At present, there are 182 berths available with various lengths in the 8 PCWAs. Of these, 149 berths are occupied while the remaining 33 are vacant.

PCWA Operators

21. In general, the existing PCWAs are engaged in trades that are dependent upon the availability of low-cost berths and cargo-handling space. Different groups in our community are reliant on some of these cargo handling activities to provide a wide range of essential services.

22. Various types of cargo are handled by different operators in the 8 PCWAs. The PCWA operators can be broadly grouped into 5 categories

¹ The Sheung Wan PCWA and Chai Wan PCWA were closed after the tender exercise in 1997.

² The Stonecutters Island PCWA was opened in 1999 to replace the Tsuen Wan PCWA which was closed for development.

³ The Chai Wan PCWA was reopened in October 2003 to accommodate the operators displaced from the Wan Chai PCWA that was closed.

according to the major types of cargo handled by them: outlying island trade, general cargo, recyclable materials, bulk materials and containers. The trades engaged by the 149 operating berths are analysed in **Annex 3**.

Outlying Island Trade

23. At present, there are 8 outlying island boat operators who provide the daily necessities and other cargo transportation services to offshore communities at a relatively low cost using their vessels. They advance that they would not be able to compete in an open tender for PCWAs berths and will likely have to cease operation. Consequently, the cargo transportation needs of the outlying islands, especially those of daily necessities like fresh produce will have to be met at possibly higher costs.

General Cargo

24. About one-third of the existing operators handle breakbulk general cargo. This trade has diminished considerably in the last two decades with the advent of containerization to a level now where only essential breakbulk that cannot be adapted to containers are handled in PCWAs. This trade is still needed as some river trade ports and intra-region ships continue to perform a role in the transport chain in the Pearl River Delta. Whilst further gradual phasing out of this trade is likely, any abrupt change in costs caused by open tender would result in considerable disruption to this trade.

Recyclable Materials

25. Another one-third of the existing operators handle recyclable materials (22 operators). Until designated facilities are established for vessels to load and export recyclable materials, these operators should be allowed to continue operations in the PCWAs. Otherwise, much of the present annual sea-borne low-cost export of recyclable materials, including some 0.6 million tonnes of paper and other recyclables, will cease to be viable. Hong Kong is facing an acute waste problem as the existing landfills are depleting and recycling will help alleviate pressure on our landfills. The PCWA plays an important role in downstream processing and transfer of recyclable materials, and is the important export outlet for recyclables. The continued availability of berths at a reasonable charge is an essential element in this trade. Not only will this help with waste disposal, these activities will also provide job opportunities that cannot be relocated out of Hong Kong.

26. The operators engaged in the recycling trade met with the Environment, Transport and Works Bureau (ETWB) recently and expressed

their concerns that they would be driven out of business should they be required to compete in open tender with other trades that had higher profit margins. ETWB is also concerned that should the recycling trade be squeezed out, the waste they are currently collecting would have no outlet and would end up in the landfill sites.

Bulk Cargo

27. The situation of the 12 bulk cargo operators is similar to that of recycling operators in that if they are displaced from the PCWAs, the present sea-borne transportation of the commodities will not be viable, with ensuing increase in the cost of commodities such as the 150 000 tonnes of edible oil consumed annually in the territory, and sand and aggregates for the construction industry.

Container Trade

28. The remaining one-third of the existing PCWA operators handle containers. The container trade in the PCWAs serves an essential supplementary role for low cost products in the overall operation of Hong Kong's container port. The existing PCWA operators are able to handle empty containers as well as to serve most intra-region ships unsuited to larger facilities. They also serve low-cost vessels from relatively smaller river trade ports, with small shipments of only a few containers at a time.

29. The existing container operators in the PCWAs are mostly small or family-type setups. If the cost of using PCWA berths is increased or PCWA berths become unavailable, they will likely cease to operate in the container trade.

Site Specific Operations

30. The existing 8 PCWAs are located in different locations of the territory to serve local needs and to distribute and collect goods in the region. This will save transportation cost and reduce road traffic in the territory. For instance, the recycling operators utilize the Tuen Mun PCWA, Kwun Tong PCWA and Chai Wan PCWA for exporting recyclables, so that they do not have to transport the recyclables across the harbour or to a single point for export. Another example is the distribution of Chinese dry seafood products by the operators at the Western District PCWA to the Western District retail shops and fresh fruits and vegetables from the wholesale market nearby to the outlying islands.

Impacts of Open Tender on Employment and Related Trades

31. Workers directly related to cargo activities in PCWAs are drivers of cargo vehicles, workers on land to stow cargo, clerks in container offices in PCWAs to handle cargo document, workers in barges to handle lifting gears, and workers in tugs to tow barges, etc. In February 2004, it was estimated that some 9 000 people were employed in all PCWAs. Added to this are the workers in the associated trades, and hence the total number of employees is considerably higher. Their livelihoods are particularly susceptible to fundamental changes in the trade.

32. If the existing operators are displaced by more competitive operators in high volume long haul international trades, who can afford higher fees for PCWA berths as a buffer for their peak period operations and other ancillary purposes, there will be detrimental effects on employment and on certain sectors of the community as explained above.

33. In gist, if an open tender is introduced for allocating PCWA berths:

- (a) the cost will be pushed up and there will be displacement of existing operators from PCWAs. As mentioned above, certain trades depend on the continued availability of berths at a reasonable charge;
- (b) any abrupt change in costs will cause considerable disruption to the trades in PCWA, which include the general cargo, recyclables, and bulk cargo trades;
- (c) the livelihood of the work force engaged in PCWA trade/operation will be seriously affected as they may not be able to work in other trades; and
- (d) the existing trades or services provided in PCWAs may be displaced as the new comers may engage in other trades.

Views of the Stakeholders

34. While the PCWA operators has accepted the management reform and co-operated with the MD in the implementation of new measures, they have all along objected strongly to the idea of open tender which they feel would threaten their livelihood. The Economic Development and Labour Bureau has met the PCWA operators and their associations to listen to their views on the berth allocation arrangement. Apart from requesting the continuation of the

restricted tender arrangement, they also suggested that the tenure of the agreement should be for 5 years which would enable them to invest and upgrade their equipment to enhance productivity. They have also requested a lowering of the base tender price and monthly fees.

The Administration's Assessment

35. We consider that careful consideration should be given to the current case taking into account its impact on the trade and employment as well as the possible impact on the operation of the port. The provision of relatively low-cost services by existing PCWA operators adds to the diversity and is a distinct feature of Hong Kong's cargo handling industry. The proposed restricted tender in paragraph 2 is recommended because it provides a degree of certainty particularly for those operators engaged in handling goods to outlying islands, sand and aggregates, waste paper, recyclable materials, and household general cargo, to continue their business so that this essential mode of cargo operation will not be disrupted. The jobs provided by these operators will also be safeguarded.

36. A number of PCWAs in may have to be relocated due to the future development plan of Southeast Kowloon. As the development plan is presently a subject of consultation, it is considered appropriate to keep the tenure of the agreement at 3 years at this stage. We will closely monitor the situation and make suitable arrangements.

37. Subject to the Panel's support of our recommendation, we will make a submission to PAC to explain the proposed arrangements.

Advice Sought

38. Members' advice and support are invited to the proposal described in paragraph 2 above.

Economic Development and Labour Bureau
8 March 2005

Recommendation
of Public Account Committee on PCWAs (1996)

In considering the Director of Audit's Report No. 25, the Public Account Committee urged the Administration “to expedite its current review, in consultation with the PCWA operators, with a view to devising an open, fair and economically viable system for the allocation of berthing spaces in PCWAs. Moreover, the new system should be capable of:

- (a) removing the irregular and unlawful activities currently in existence;
- (b) improving the efficiency and utilization of the under-performed PCWAs;
and
- (c) preventing monopolization of the cargo handling trade”.

Date of Operation & Location of PCWA

PCWA	Berth Length (m)	Berth Width (m)	Gazetted Land Area (m²)	Date of Operation	Location
<i>Tuen Mun</i>	616	50	33,000	08/96	11, Hoi Wah Road, Tuen Mun, N.T.
<i>Rambler Channel</i>	1,036	30	41,100	01/82	3, Wing Shun Street, Kwai Chung, N.T.
<i>Stonecutters Island</i>	672	50	(22,700)* 35,559**	(01/99)* 01/00**	16, Ngong Wan Road, Stonecutters Island
<i>New Yaumatei</i>	1,212	50	67,800	09/93	38, Hoi Fai Road, Tai Kok Tsui, Kowloon
<i>Kwun Tong</i>	892	30	29,100	08/78	100, Hoi Bun Road, Kwun Tong, Kowloon
<i>Cha Kwo Ling</i>	920	50	39,400	03/89	210, Cha Kwo Ling Road, Cha Kwo Ling, Kowloon
<i>Chai Wan</i>	592	50	21,200	10/03	73 Sheung On Street, Chai Wan, Hong Kong
<i>Western District</i>	1,052	50	40,200	04/81	Junction of Hill Road at Connaught Road West, Western District, H.K.
Total	6,992		307,359		

* Phase I operation

** Full operation

Public Cargo Working Areas
Berths by Trade

PCWA	Number of berths for respective trade									
	Container	Bulk Material			Recyclable Waste Material			Breakbulk General Cargo	Outlying Island Trade	Total Berths
		<i>Sand and aggregate</i>	<i>Edible Oil</i>	<i>Plasticizer*</i>	<i>Paper</i>	<i>Metal</i>	<i>Plastic</i>			
<i>Tuen Mun</i>	7	2	0	0	1	1	0	3	0	14
<i>Rambler Channel</i>	9	5	0	2	0	0	0	7	0	23
<i>Stonecutters Island</i>	8	0	0	0	0	0	0	4	0	12
<i>New Yaumatei</i>	14	0	0	0	0	2	0	10	2	28
<i>Kwun Tong</i>	5	0	1	0	10	0	1	3	0	20
<i>Cha Kwo Ling</i>	10	0	0	0	0	1	0	6	0	17
<i>Chai Wan</i>	0	0	0	0	6	0	0	5	0	11
<i>Western District</i>	1	0	2	0	0	0	0	15	6	24
Total	54	12			22			53	8	149

* Chemical for manufacturing glue.