

Legislative Council Panel on Commerce and Industry

The Government Electronic Trading Services

PURPOSE

This paper briefs Members on the proposed arrangements for the provision of Government Electronic Trading Services (GETS) after the expiry of the current service contracts in December 2009¹.

BACKGROUND

2. To promote electronic commerce, improve efficiency and maintain Hong Kong's competitiveness as an international trading centre, the Government introduced GETS in 1997. GETS refer to the front-end electronic services operated by the services providers appointed by the Government for the trading community to submit six commonly used trade documents² to the government departments concerned for purposes of customs control, trade declaration, trade control and statistics compilation. Service providers are responsible for collecting data electronically from traders/ carriers, confirming their identity, validating and transmitting the data to the Government's backend systems. To cater for the needs of some traders, they are also required to provide services for converting paper into electronic submissions for transmission to the Government.

3. After briefing this Panel in 2001, the Government negotiated a non-exclusive contract with the then sole service provider in the GETS market, Tradelink Electronic Commerce Limited (Tradelink), and decided to appoint up to two additional service providers through open tender.

¹ The current five-year contracts with the two GETS service providers have provided flexibility for contract extension for up to two years. The Government has extended these contracts by 12 months to the end of 2009 to allow sufficient time for implementing the recommendations arising from the GETS review.

² These documents are (a) import and export declaration, (b) dutiable commodities permit, (c) electronic manifest, (d) certificate of origin, (e) production notification and (f) notifications under the Textile Trader Registration Scheme.

The contract was awarded in 2003 to one qualified bidder. The second service provider, Global e-Trading Services Limited (Global), commenced the provision of GETS for three types of trade documents by phases since January 2004. The Government downsized its shareholdings in Tradelink from 42.5% to 12.3% during its initial public offering exercise in 2005.

4. The total transaction volume of GETS documents in 2006 amounted to about 22 million and the estimated revenue of GETS market was about \$300 million. Import and export declaration accounts for over 90% of the total in terms of both transaction volume and revenue.

REVIEW

5. We have recently completed a review as the basis for determining the mode of service delivery in the GETS market post 2009.

Benefits

6. Since the introduction of GETS and competition in the market, we have witnessed the emergence of a critical mass of regular users of electronic services (about 60,000 traders/carriers) and the following benefits to the trading community -

- (a) cost savings in terms of obviating the need for traders/ carriers to print, deliver and store million sheets of paper per year;
- (b) higher efficiency (in terms of longer operating hours for electronic submissions and shorter processing time) and better customer services (in terms of faster response time and improved support services) at competitive service charges;
- (c) availability of more value-added services (e.g. web portals for traders to access online trade-related information, electronic interface with other logistics services, and IT application to streamline business operation).

7. GETS also enable the government departments concerned to streamline their processing of cargo data and share the necessary information among them, thereby enhancing the overall efficiency of cargo clearance, trade statistics compilation and import and export licensing control.

8. Coupled with the efforts of the Government and the private sector to promote and apply information and communications technology on other fronts, Hong Kong has stayed at the top end of the world league in terms of electronic application and readiness³.

Mode of service delivery post 2009

9. Having regard to the policy objectives of upholding the “Big Market and Small Government” principle, maintaining a reliable and sustainable service and ensuring fair and effective competition, we consider that the current business model which allows the participation of multiple private service providers should continue for the next contract period.

10. We also intend to introduce improvement measures in the following broad areas :

- (a) Standardization and harmonization of trade data : we plan to standardize the format of data fields among the most commonly used documents, with first priority to import and export declaration and road cargo information, by making reference to the Customs Data Model of the World Customs Organization⁴. This is to maximize the potential of customs facilitation and to minimize traders’ data input efforts through inheritance of data

³ In its 2007 report on e-readiness, the Economist ranks Hong Kong top in the Asia Pacific region, and fourth in the world (after Denmark, the United States and Sweden). In a report compiled by APEC on paperless trading in APEC economies in 2005, Hong Kong and Singapore were both ranked “advanced stage” in terms of realization of paperless trading.

⁴ The WCO is an independent inter-governmental body whose mission is to enhance the effectiveness and efficiency of customs administrations. Membership of the WCO comprises 171 customs administrations which process 90% of international trade.

among the relevant trade documents submitted at different stages⁵ of the trading cycle;

- (b) Enhancement of openness and interoperability of the IT infrastructure : we plan to upgrade the IT infrastructure of GETS, with a view to improving data portability for traders, maintaining high level system performance in anticipation of future demand, and maximizing users' choice of service providers in those transactions involving multiple parties;
- (c) Improvement of the regulatory framework : building on the existing regulatory framework (which we presented to the Panel in June 2004), we intend to add several new pro-competition measures in the next GETS contracts. In doing so, we seek to strike a balance between the needs to ensure that the prevailing fair competition principles are upheld and that service reliability and innovation would not be compromised. The key features of the proposed regulatory regime post 2009 are set out in Annex.

11. As was the case in 2001, we intend to allow room for appointing, subject to the response of the market, up to 3 service providers. As regards contract duration, we are inclined to provide a longer period (than the existing contract of 5 years), so that successful tenderers will have more room to absorb the additional costs that may arise from new improvement measures while maintaining quality services at competitive prices.

PUBLIC CONSULTATION

12. In examining the future development of GETS and before drawing up the improvement measures set out in paragraph 10 above, we have gauged the views of industry stakeholders⁶ in such areas as user experience; the business model of private service providers; and the

⁵ Road cargo information is to be submitted before import/ export, while import and export declaration is to be submitted within 14 days after import/ export.

⁶ These include Chambers of Commerce, associations of shippers, carriers, freight forwarders and the Customer Liaison Groups of the government departments operating the backend system of GETS.

provision of value added services. Industry representatives in general welcomed the introduction of competition in the GETS market and its beneficial effect on service charges. Some considered that the quality of service in GETS had improved in recent years, particularly in the areas of customer support and the provision of value-added services. That notwithstanding, they considered that there was some room for improvement. Some pointed out that to save the data input efforts, the Government should ensure that data submitted by the industry for one trade document could be re-used for the preparation of other trade documents as far as practicable. Others considered that improvement should be made to the portability of trade data when they switched service providers and to the variety of value-added services provided by the service providers.

13. In particular, we have organized briefing sessions to consult major Chambers of Commerce as well as associations of shippers and logistic service providers on the proposal concerning standardization of trade data format to enable traders to re-use data, as it may have an impact on their modus operandi. They have indicated support for this proposal. Subject to Members' views on the improvement measures outlined in paragraph 10 above, we shall debrief the key stakeholders concerned on the whole package of improvement measures which have largely been drawn up on the basis of their views.

FINANCIAL AND STAFFING IMPLICATIONS

14. We estimate that the upgrading of the Government's back-end systems will incur a total non-recurrent cost of about \$9 million⁷. The additional recurrent cost is negligible and will be absorbed by the departments concerned. There will be no additional staffing implication for implementing these improvement measures.

⁷ Service providers will be required to modify their front-end systems at their own costs, to deliver the system up-grading mentioned in paragraph 10(a) and (b) above.

WAY FORWARD

15. We plan to invite an open tender in early 2008, with a view to appointing the service providers in mid 2008. This will allow about 18 months for them to modify existing systems or build new systems in accordance with the technical requirements to be prescribed in the tender document.

Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
November 2007

**Key Features of the Proposed Regulatory Regime
of the GETS Market post 2009**

[New pro-competition provisions under consideration are printed in *bold italics*. The rest are provisions in the existing GETS contracts, which were presented to the Panel on Commerce and Industry in June 2004.]

- (a) Non-exclusive nature of service agreements : the Government reserves the right to introduce new service provider(s) for the provision of GETS in respect of any individual trade document.
- (b) Contractually binding service fee levels : service providers are required to abide by the fee levels to which they have committed for the provision of different services in their respective service agreements with the Government. They may charge below these levels in serving the trading community.
- (c) Prohibition against restraint of trade : service providers are forbidden from engaging in any conduct which would prevent, restrict, discourage or restrain competition in relation to the provision of GETS. *We plan to enhance this general provision having regard to prevailing fair competition principles, so as to deter a service provider from engaging in conduct which has the purpose or effect of substantially lessening competition. A sunset provision will be included to cease this general provision upon the commencement of the new competition legislation.*
- (d) Prohibition against cross-ownership : a service provider is not allowed to hold 15% or more of the shares of another service provider and that service provider must not be subsidiaries of the same company's associates or associated person.
- (e) Price freeze mechanism : if a service provider becomes the only service provider in the GETS market as a result of the withdrawal of its competitors at any time during the contract period, it must adopt

the prevailing prices and discount packages for that particular service for a specified period of time, so that the Government could proceed to carry out a tender exercise for appointing new service provider(s).

- (f) Protection of consumer choice : service providers are required to make each service independently available for subscription. *We plan to add the following requirement : when offering fixed term contracts, service providers should give their clients the choice of opting for a formula that embraces the concept of “fair compensation” when calculating the amount of charges payable in the event of early termination of contract (i.e. the amount of compensation should be proportionate to the expected profit accrued to the service provider).*

- (g) Information disclosure requirement : service providers are required to publish their service charges. They may also be required to supply information to the Government for ensuring their compliance with the provisions of the service agreements. *We plan to introduce a mechanism to monitor discounts and related information on a regular basis with a view to forestalling predatory pricing.*

- (h) Sanctions against non-compliant conduct : if the Government considers that a service provider has engaged in any conduct that contravenes the contract provisions, the Government may require the service provider to cease and desist from such conduct and/or direct it to take steps to rectify the situation. The service provider may make representations to the Government within a prescribed period. If the Government is not satisfied with the representations and the differences cannot be resolved within a prescribed timeframe, either party may institute legal proceedings. In case of any fundamental breach of the contract by a service provider, the Government has the right to terminate the service contract with the service provider concerned. *We intend to institute arbitration as an option for resolving disputes and stipulate that if the parties concerned agree to adopt arbitration, the arbitrator’s decision shall be final and binding. We are also considering appropriate remedies available to the Government for a breach of the contract.*