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Panel on Economic Development
Meeting on 24 November 2008

Background brief on Re-allocation of Berths
in Public Cargo Working Areas

Purpose

This paper provides background information on the arrangement for re-allocation of berths in public cargo working areas (PCWAs) and summarizes Members' concerns on related issues.

Background

2. 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. PCWAs are designed to cater for direct transfer or short stay cargoes from small coasters and local barges/vessels. In general, PCWAs are engaged in trades that are dependent upon the availability of low-cost berths and cargo-handling space. According to the information provided by the Administration in 2005, the PCWA operators can be broadly grouped into 5 categories according to the major types of cargo handled by them: outlying island trade, general cargo, recyclable materials, bulk materials and containers.

3. Prior to 1998, berths were allocated to users on a first-come-first-served basis under a daily berthing permit system. In 1995, the Director of Audit recommended, inter alia, that the right of using PCWA berths should be allocated by an open and competitive bidding process. The Public Accounts Committee (PAC) urged the Government 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.

4. After consulting PCWA operators and the former Panel on Economic Services¹ (ES Panel), the Government agreed that in order not to cause any major

¹ The Panel on Economic Services was renamed as the Panel on Economic Development from the 2007-2008 session.

disruption to the livelihood of the then existing operators who had been in the trade for many years, the PCWA management reform should be introduced in a gradual manner. Consequently, in 1998, the berths were allocated through a restricted tender to incumbent PCWA operators by way of Berth Licence Agreements (BLAs) for a term of three years until 2001. Unallocated berths were then disposed of by open tender. In view of the then prevailing economic situation, the Administration conducted another restricted tender exercise in 2001 and subsequently extended the BLAs in 2004 for 18 months to July 2005.

5. The former ES Panel was in support of the Administration's proposal to continue adopting restricted tender to re-allocate the berths first to the existing PCWA operators upon the expiry of their BLAs on 31 July 2005. Some Panel members urged the Administration to carry out a comprehensive review on PCWA management and work out the long term arrangement having regard to past experience, in order not to cause abrupt changes at every three-year interval to the trade.

The Administration's proposal for re-allocation of the PCWA berths

6. In view of the expiry of BLAs in July 2008 and taking into account PAC's recommendation and the advice of the ES Panel, the Administration had mapped out a proposal on phased implementation of the open tendering of the PCWA berths for consultation with the industry. The major features of the proposal are as follows:

- (a) Berths at the five PCWAs at Stonecutters Island, Tuen Mun, Rambler Channel, Western District and Chai Wan would be disposed of by open tender for a term of three years; and
- (b) Berths at the other three PCWAs at Kwun Tong (KT), Cha Kwo Ling (CKL) and Yaumatei would be allocated through restricted tender opened to existing operators of the respective PCWAs holding a valid BLA, also for a term of three years.

7. The Administration consulted PCWA operators and the related trade associations in January 2008. They had raised objections to the open tender policy and expressed concern on the increased competition brought by the policy, which would increase the costs of operation and might lead to loss of low-skill jobs provided at the PCWAs. The operators suggested extending the existing BLAs for another term of five years. In early March 2008, the Administration again met with the Joint Alliance of PCWA operators and the related trade associations. PCWA operators maintained their objection. Taking into account the concern of operators and the industry, the economic contribution of the PCWA operators and the possible social and employment impact, the Administration agreed to consider scaling back the phased implementation of open tender and put forward a revised proposal to dispose berths at three, instead of five, PCWAs (i.e. Chai Wan, Western District and Rambler Channel PCWAs) by open tender. There was however still

no consensus on this scaled back proposal. The Joint Alliance maintained their objection to any open tender.

Members' views and concerns

Open tender policy for PCWA berths

8. At the meeting of the Panel on Economic Development held on 17 March 2008, while upholding the principle of fair competition in the process of re-allocation of PCWA berths, members shared the small operators' concerns that they might be priced out of the market by bigger players offering higher bidding prices.

9. Panel members urged the Administration to re-examine the proposal taking into account the concerns of the trade. They suggested that consideration be given to continuing the previous arrangement for allocation of PCWA berths through restricted tender to incumbent operators first, to be followed by open tenders for remaining unallocated berths.

Long term arrangement for the allocation of PCWA berths

10. To alleviate the industry's anxiety over uncertainties of future arrangements for PCWA berths, Panel members considered that the Administration should work out the long term arrangement for the allocation of berths at PCWAs, including identifying suitable land for PCWA operations. The Administration should also re-provision existing operators before ceasing operation of any PCWAs to safeguard the interests of existing operators and their employees.

11. Hon CHAN Kam-lam conveyed at the meeting on 17 March 2008 the strong objection of local residents on the continued operation of the KT and CKL PCWAs. He urged the Administration to take the views of KT District Council into account and balance the interests of local residents and the trade when working out future plans for the two PCWAs.

12. Hon Alan LEONG raised an oral question on PCWA-related issues at the meeting of the LegCo on 25 June 2008. The Administration was urged to consider withdrawing its plan to extend the operation period of the KT and CKL PCWAs so as to vacate the land immediately for building a waterfront promenade, and to address the nuisance caused by the operations at the two PCWAs to nearby residents.

Latest development

13. Taking into consideration members' views, concerns of the PCWA operators and the industry, as well as the possible social and employment impacts, the Administration decided in April 2008 to further reduce the number of PCWAs

the berths of which would be put out for open tender, from three to two, namely the Western District and Chai Wan PCWAs. Berths at the other six PCWAs would be allocated by restricted tender to existing operators holding a valid BLA at the respective PCWAs.

14. The Government would implement its plan to decommission the KT and CKL PCWAs in 2011 to make way for development projects. After August 2008, the Administration would make available the vacant berths at part of the KT PCWA for the development of a waterfront promenade. The affected operators would be accommodated through voluntary migration to the vacant berths arising from natural wastage in other PCWAs.

15. The Administration will update Panel members on the results of the re-allocation of berths in PCWAs at the meeting to be held on 24 November 2008.

References

16. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
18 November 2008

Background brief on Re-allocation of Berths in Public Cargo Working Areas

List of relevant papers

Panel/Committee	Date	Paper
Panel on Economic Services	16 March 2005	<p>Administration's paper on Public Cargo Working Area berths allocation arrangement LC Paper No. CB(1)1062/04-05(05) http://www.legco.gov.hk/yr04-05/english/panels/es/papers/es0316cb1-1062-5e.pdf</p> <p>Minutes of the meeting http://www.legco.gov.hk/yr04-05/english/panels/es/minutes/es050316.pdf</p>
Panel on Economic Development	17 March 2008	<p>Administration's paper on progress report on industry consultation on arrangement for re-allocation of berths in Public Cargo Working Areas LC Paper No. CB(1)1049/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/es/papers/edev0317cb1-1049-1-e.pdf</p> <p>Submission on arrangement for re-allocation of berths in Public Cargo Working Areas from the Joint Alliance of PCWA operators (Chinese version only) LC Paper No. CB(1)1067/07-08(01) http://www.legco.gov.hk/yr07-08/chinese/panels/es/papers/edev0317cb1-1067-1-c.pdf</p> <p>Submission from Ms YU Lai-fan, member of Islands District Council on arrangement for re-allocation of berths in PCWAs (Chinese version only) LC Paper No. CB(1)1076/07-08(01) http://www.legco.gov.hk/yr07-08/chinese/panels/es/papers/edev0317cb1-1076-1-c.pdf</p> <p>Minutes of the meeting http://www.legco.gov.hk/yr07-08/english/panels/es/minutes/ev080317.pdf</p>

Panel/Committee	Date	Paper
		<p>Submission from the Joint Alliance of PCWA operators dated 20 March 2008 (Chinese version only) LC Paper No. CB(1)1133/07-08(01) http://www.legco.gov.hk/yr07-08/chinese/panels/es/papers/edev0317cb1-1133-1-c.pdf</p> <p>Administration's paper on arrangement for re-allocation of berths in Public Cargo Working Areas (Follow-up paper) LC Paper No. CB(1)1248/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/es/papers/edev0317cb1-1248-1-e.pdf</p> <p>Submission from a group of members of Kwun Tong District Council on arrangement for re-allocation of berths in Public Cargo Working Areas dated 30 April 2008 LC Paper No. CB(1)1482/07-08(01) http://www.legco.gov.hk/yr07-08/chinese/panels/es/papers/edev0317cb1-1482-1-c.pdf</p> <p>Administration's response to a submission from a group of members of Kwun Tong District Council on arrangement for re-allocation of berths in Public Cargo Working Areas (Follow-up paper) LC Paper No. CB(1)1690/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/es/papers/edev0317cb1-1690-1-e.pdf</p>
Council Meeting	25 June 2008	<p>LegCo question raised by Hon Alan LEONG on nuisance caused to Kwun Tong residents by Public Cargo Working Areas, scrap metal recovery factory and refuse transfer station (Hansard p.34) http://www.legco.gov.hk/yr07-08/chinese/counmtg/floor/cm0625-confirm-ec.pdf (English version not yet available)</p>