

Legislative Council Panel on Commerce and Industry

Electronic Advance Road Cargo Information

This paper informs Members of –

- (a) the Government's proposal to implement an electronic customs clearance system for road cargoes ("the proposed electronic system");
- (b) the latest regional and international developments which underline the need for early implementation of the proposed electronic system; and
- (c) the Government's current thinking on the legal provisions that are required to underpin the proposed electronic system.

BACKGROUND

2. Hong Kong has the electronic infrastructure for customs clearance of cargoes carried by different modes of transport, except the road mode. At present, customs clearance of road cargoes is done manually. At existing land boundary control points (LBCPs), a truck driver has to stop twice - first at an Immigration kiosk and then a Customs kiosk. At the latter kiosk, he delivers a paper manifest to a Customs officer who will, with the help of a computerized intelligence system, determine on the spot whether physical inspection is necessary.

3. We have been consulting the industry on a proposal to secure and facilitate the flow of cross-boundary road cargoes, riding on the concept of electronic advance cargo information (e-ACI).

THE PROPOSED ELECTRONIC SYSTEM

4. Having regard to the need to maintain Hong Kong's competitiveness as an international trading centre (please see paragraphs 8 to 9) and the outcome of consultation with industry stakeholders (paragraphs 10 to 13), the Government proposes to roll out an electronic system for customs clearance of road cargoes along the following lines –

(a) Workflow :

- (i) a **shipper** or an agent acting as a shipper provides a pre-defined set of cargo information¹ to the Customs and Excise Department (C&ED) electronically before the cargo enters or exits Hong Kong by truck; and
- (ii) the **driver** of a laden truck or his agent reports to C&ED at least 30 minutes before his truck arrives at a LBCP the reference number(s) of the consignment(s) concerned received from the shipper(s) and his vehicle registration number. Upon arrival at a LBCP, the driver drops into a collection box (placed at the Immigration kiosk) a paper manifest to fulfill his existing legal responsibility of submitting a cargo manifest as a carrier.

- (b) Funding arrangement : the Government intends to fund the operation of the proposed electronic system in full, without charging the users.

In devising the workflow as set out in (a) (ii) above, we have considered obviating the need for truck drivers to submit paper manifests but do not find it appropriate or practical to do so at this juncture for the reasons set out in the Annex.

5. With the proposed electronic system, Customs officers could conduct risk profiling on every cargo consignment and determine whether a truck needs to be inspected in advance. As a result of the improved quality of risk assessment, all cross-boundary trucks, except those that are selected for inspection, would enjoy seamless customs clearance at the LBCP (i.e. the truck driver will only need to stop once for Immigration clearance at a LBCP kiosk, instead of twice under the existing procedure).

6. Moreover, C&ED will have more room to formulate measures that will further facilitate the passage of transshipment cargoes which involve inter-modal transfer. With proper interface between the proposed electronic system and other existing electronic customs clearance systems for air and water-borne cargoes, one-stop customs

¹ The information to be included in an e-ACI submission for road cargo contains 8 data fields, i.e. those data most essential for customs clearance purpose. These cargo data include: number of package/quantity, description of package, description of articles in each package, name and address of consignor, name and address of consignee, and expected departure/arrival date.

clearance could be achieved. For example, instead of going through Customs inspections twice at both the LBCP and the airport under the existing procedure, air-land transshipment cargoes may only be subject to inspection at either one of the Customs control points.

7. The Mainland Customs has since 2003 put in place an electronic customs clearance infrastructure similar to our proposed electronic system. With road cargoes from the Mainland accounting for about one-third of the goods entering Hong Kong in terms of value, the proposed electronic system will provide the necessary platform for the two Customs administrations to formulate measures that would help expedite cargo movement between the Mainland and Hong Kong via the land boundary.

NEED FOR EARLY IMPLEMENTATION

8. The following regional and international developments underline the need for implementing the proposed electronic system early –

- (a) the World Customs Organization² (WCO) adopted in June 2005 the “Framework of Standards to Secure and Facilitate Global Trade” (FoS) for enhancing the security of the international supply chain and facilitating legitimate trade. Over 80% of WCO members, including all advanced economies and our important trading partners³ already signed a letter of intent to implement the FoS. In November 2005, Hong Kong declared its intention to implement the FoS. One core requirement of the FoS is the provision of e-ACI for all modes of transport to Customs authorities in time for adequate risk profiling;
- (b) regional initiatives among our major trading partners which ride on e-ACI and other key customs standards enshrined in the FoS are emerging. Coupled with the application of modern technology to ensure the integrity of cargo flow, the participating customs authorities will be able to provide more speedy clearance of cargoes at their control points; and

² The WCO is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of customs administrations. Membership of the WCO comprises 170 customs administrations which, together, process 90% of international trade. Hong Kong has been a WCO member since 1987.

³ These WCO members include China, the United States, all member states of the European Union, Canada, Australia, New Zealand, Japan, Korea, Singapore, Brazil, India, South Africa, etc.

- (c) the Minister of Commerce Bo Xilai of the Central People's Government announced, at the 18th APEC Ministerial Meeting on 16 November 2006, China's vision that APEC should strive to achieve electronic customs clearance at the checkpoints of all APEC economies by 2010.

9. Should Hong Kong fail to roll out the proposed electronic system in time, overseas Customs authorities may impose more stringent clearance requirements on goods coming from or passing through Hong Kong. There may also be diversion of transshipment cargoes away from Hong Kong.

CONSULTATION WITH STAKEHOLDERS

10. In developing the proposed electronic system, we have consulted industry stakeholders involved in the handling of cross-boundary road cargoes, including a number of associations and companies of cross boundary truck drivers, Chambers of Commerce (namely, the Chinese General Chamber of Commerce, the Chinese Manufacturers' Association of Hong Kong, the Federation of Hong Kong Industries, the Hong Kong General Chamber of Commerce and the Indian Chamber of Commerce), the Hong Kong Shippers' Council, the Hong Kong Association of Freight Forwarding and Logistics Limited, the Hong Kong Logistics Association, and major express couriers. The majority of these stakeholders have indicated in-principle support for or no in-principle objection to the proposed electronic system on the understanding that –

- (a) the industry will not be required to pay service charges for making e-ACI submissions;
- (b) the penalty for failure to provide e-ACI in time shall be commensurate with the nature of non-compliance; and
- (c) there should be a reasonable transitional period for the industry to adjust their modus operandi.

11. We are mindful that the new cargo information reporting requirements may pose problems to some stakeholders. Specifically, some small and medium enterprises (SMEs) without the in-house IT system for making electronic submissions may find it uneconomical to acquire the necessary IT capability, due to their low and infrequent cargo

declaration pattern. The Administration intends to make available workstations at designated locations for the staff of SMEs to key in the necessary cargo information for electronic submissions free of charge.

12. A group of practitioners in the logistics sector has expressed concerns that their just-in-time freight operations will be adversely affected by the 30-minute lead time requirement as they may not be able to make last-minute amendments to their cargo information. Consequently, their main competitive edge would be eroded. We consider the 30-minute lead time requirement⁴ practicable, as the required cargo data should have been readily available to shippers prior to their taking delivery of goods. We shall continue to explain to them that Hong Kong's overall competitiveness as an international trading centre would be compromised if the proposed electronic system is not rolled out in time, and that some measures that would help facilitate cargo movements across the boundary could only be implemented with the proposed electronic system.

13. Noting the outcome of our public consultation as set out in paragraphs 10 - 12, the Hong Kong Logistics Development Council⁵ pledged support at its meeting on 7 December 2006 for rolling out the new e-ACI submission requirement as well as early implementation of the proposed electronic system, on the understanding that there would be a reasonable transitional period for stakeholders to adjust their modus operandi before full migration to the use of the electronic service.

LEGISLATIVE PROPOSAL

14. The Government is now preparing the necessary amendments to the Import and Export Ordinance (Cap. 60) to provide a legal basis for the new cargo information reporting requirements under the proposed electronic system.

15. Specifically, we intend to provide, in the legislation, statutory obligations for shippers and truck drivers to comply with the new

⁴ The relevant cut-off time for advance submission of cargo data in the Mainland is two hours and the cut-off time advocated by the WCO is no more than one hour.

⁵ The Hong Kong Logistics Development Council is an advisory body which comprises business leaders and experts from both big international companies to small and medium-sized enterprises in the logistics sector, as well as representatives of major logistics organizations and trade associations (such as the Hong Kong Shippers' Council, the Hong Kong Association of Freight Forwarding & Logistics Limited, the Hong Kong Container Terminal Operators Association Limited, the Hong Kong Logistics Association, etc.).

reporting requirements as set out in paragraph 4(a). In formulating the penalty provisions, we shall endeavour to ensure that the level of penalty will be commensurate with the nature of non-compliance. As the existing statutory requirements for truck drivers to submit manifests remain unchanged, we do not consider it necessary to impose imprisonment penalty for technical breaches of the law (e.g. failure to provide the specified information in time or in accordance with the specified manner). In case of non-compliance related to the smuggling of prohibited articles, we intend to set the penalty level on par with existing smuggling offences to deter illicit activities. We shall provide, in the legislation, appropriate defence or exemption provisions on justifiable grounds.

16. We also plan to provide for a transitional period of reasonable length, during which the new mode of submitting electronic information of road cargoes in advance will be optional. In determining the length of the transitional period, we shall seek to strike a balance between the need to allow sufficient time for the stakeholders concerned to adjust their operational practice to meet the new reporting requirements, and the benefits that early implementation of the proposed electronic system would bring to Hong Kong.

17. Having regard to the emerging customs standards as set out in paragraph 8(a), we shall review and, if necessary, amend the existing enabling provisions in Cap. 60 to ensure that there will be sufficient regulation-making powers to require the submission of e-ACI in respect of different modes of transport other than the road mode in future. Such powers will only be invoked when the conditions are ripe and after thorough consultation with the stakeholders concerned.

WAY FORWARD

18. Subject to Members' views and having regard to the lead time required for preparing the amendment bill, securing funds and developing the electronic infrastructure, we aim to put in place the proposed electronic system in 2009. We plan to introduce the amendment bill into the Legislative Council in the second quarter of 2007. We shall set up a User Consultation Group to collate the views of industry stakeholders on the legislative proposal as well as the detailed operational arrangements under the proposed electronic system.

ADVICE SOUGHT

19. Members are invited to note the Administration's proposal to roll out the proposed electronic system (please see paragraph 4) and the main features of the legislative proposal to implement the proposed electronic customs clearance system (paragraphs 14 to 17). Any views that Members may have will be duly taken into account when we work out the draft legislative amendments to Cap. 60.

**Commerce, Industry and Technology Bureau
January 2007**

Submission of Road Cargo Manifests

We consider that, pending the introduction of an electronic manifest system for road cargoes, it would not be appropriate or practical to obviate the submission of paper manifests by truck drivers at this juncture for the following reasons –

- (a) the cargo information to be submitted in advance under the proposed electronic system will only contain data that are essential for customs clearance purpose (i.e. data in 8 of the 17 fields in a road cargo manifest). While the cargo information in the remaining data fields are not time critical, they are still required by the Government for other purposes such as compilation of trade statistics; and
- (b) like carriers of other modes of transport, a truck driver is responsible under the existing law for submitting road cargo manifests to the Government. If we were to remove this legal requirement on truck drivers (and instead require shippers to submit the cargo information in the remaining data fields to the Government through the proposed electronic system), we envisage insurmountable enforcement difficulty.

2. Having regard to the IT readiness of truck drivers, we do not intend to introduce electronic manifest system for road cargoes at this stage. We shall keep in view stakeholders' disposition and pursue the implementation of the system as and when conditions are ripe. We shall also adopt a modular IT infrastructure so that the proposed electronic system as set out in paragraph 4 of the paper will be scalable to cater for the implementation of the electronic road cargo manifest system in the longer term.