

## **ITEM FOR FINANCE COMMITTEE**

### **CAPITAL WORKS RESERVE FUND**

#### **HEAD 701 - LAND ACQUISITION**

#### **Ex-gratia allowances for fishermen affected by marine works projects in Hong Kong waters**

Members are invited to approve -

- (a) a new ex-gratia allowance for fishermen affected by marine works projects causing a permanent loss of fishing grounds calculated on the basis of a notional value of seven years' fish catch in the affected area; and
- (b) the payment of an ex-gratia allowance to fishermen affected by successive marine works projects at the same location where three years have elapsed since the completion of the last works project.

### **PROBLEM**

The current basis for calculating ex-gratia allowances (EGA) payable to fishermen for fish losses caused by works carried out in Hong Kong waters was adopted in May 1993. We need to review the package.

### **PROPOSAL**

2. To take into account the different types of marine works projects being undertaken in Hong Kong waters and the possibly repetitive nature of sand dredging or mud disposal works at the same location, we propose to -

/(a) .....

- (a) introduce a new EGA for fishermen based on a notional value (total value of annual fish catch from an affected area) of seven years' fish catch in respect of projects resulting in a **permanent** loss of fishing grounds (primarily due to reclamation projects);
- (b) retain the existing EGA based on three years' fish catch in respect of projects resulting in a **temporary** loss of fishing grounds (primarily due to sand dredging or mud disposal projects); and
- (c) permit the payment of further EGA to fishermen affected by **successive** marine works projects (such as sand dredging or mud disposal projects) at the same location where three years have elapsed since the completion of the last works.

3. The current arrangements for calculating EGAs for fishermen and our recommendations are set out respectively at columns (A) and (B) of the

Encl.

Enclosure.

## JUSTIFICATION

### Formula for calculating EGA

4. At present, the payment of EGA to eligible fishermen affected by marine works projects makes no difference between the permanent loss (primarily due to reclamation projects) and the temporary loss (primarily due to sand dredging or mud disposal projects) of fishing grounds. As projects resulting in the permanent loss of fishing grounds have a more deleterious impact on the fishing industry than those which result in a temporary loss only, we recommend that a higher EGA should be paid for the former. We propose that the EGA payable to eligible fishermen affected by marine works projects resulting in the **permanent** loss of fishing grounds should be based on a notional value of seven years' catch. We intend to retain the present basis for calculating EGA, namely, a notional value of three years' fish catch, for fishermen affected by the **temporary** loss of fishing grounds caused by implementation of marine works projects.

### Loss caused by successive works at the same location

5. At present, we only grant EGA **once** in respect of a specific fishing ground affected by successive marine works projects (primarily sand dredging or mud disposal works). This does not take into account the impact on fishermen who are affected by repeated works. As it may take some three years for fishing grounds to recover after the completion of a works project, we consider it reasonable to allow further EGA to be granted if three years have elapsed since the completion of the last marine works project at the same location.

/Effective .....

**Effective Date**

6. If approved, the proposals set out in paragraph 2 above will take effect as from 15 March 2000, which was the commencement date of the most recent EGA registration exercise.

**CONSULTATION**

7. We consulted the fishermen representatives and initially proposed to raise the number of years of fish catch for the calculation of EGA for the permanent loss of fishing grounds from three years to six years. The fishermen felt this was inadequate. We also consulted the Legislative Council Panel on Health Services on 13 November 2000 and Members supported the fishermen's request for a further increase. Taking into account Members' views, we now propose to increase the basis for calculating EGAs to seven years' fish catch. We believe the proposed increase from three to seven years' fish catch should go a long way towards meeting the fishermen's requests.

8. Neither the Panel nor the fishermen's representatives raised any objection to our proposal to pay EGAs to fishermen affected by successive projects at the same location.

**FINANCIAL IMPLICATIONS**

9. Subject to Members' approval of the proposals set out in paragraph 2 above, we estimate that the total EGAs payable to fishermen between 15 March 2000 and April 2003 will increase from \$70.5 million to \$115.8 million, i.e. an increase of about 64.3%.

**BACKGROUND INFORMATION**

10. Fishermen are not entitled to statutory compensation when marine works extinguish their habitual fishing grounds permanently or temporarily as they have no legal rights over the waters where they habitually fish. Recognizing that affected fishermen may suffer a reduction of income and may incur extra expenses in relocating their activities to fishing grounds elsewhere, they may be granted EGA equivalent to the notional value of three years' fish catch in Hong Kong waters, subject to meeting certain eligibility criteria (e.g. their homeport must be associated with the affected fishing area).

11. Fishermen groups have suggested that the existing EGA package should be enhanced. We believe the new proposals set out in paragraph 2 above are an appropriate and reasonable package. It should be noted that EGA is a form of assistance to help fishermen re-establish themselves over a transitional period. We consider that the multiplier of seven years' catch, which is more than twice the existing one, is a marked improvement over the existing arrangement.

12. We will continue to use the 1989-91 Port Survey data as the basis for calculating EGA for fishermen. In 1996-97, the then Agriculture and Fisheries Department commissioned a consultancy study to ascertain, among other things, the state of fish resources and fishing operations in Hong Kong waters, the reasons leading to the decline in fish catch, and the ways to set the fishing industry back on a sustainable path. The study concluded that over-fishing and development had contributed to a decline in fish catch but the impact of each of these two factors could not be precisely quantified or apportioned. Consequently, we do not intend to use the findings of the 1996-97 study as the basis for calculating EGA.

13. Some fishermen have also requested us to dispense with the homeport system for registering inshore fishing vessels (those below 15 metres in length) and allowing all fishing vessels to register for EGA payment arising from marine works. We believe that the homeport system provides an objective means to identify fishermen being affected by a particular marine works project and see no justification for any change. Given that longer fishing vessels, which exceed 15 metres, can fish outside Hong Kong waters, they should not be eligible for EGA unless they can demonstrate that they habitually fish within Hong Kong waters. In response to fishermen's request, arrangement for a registration exercise for these longer vessels will be made in January 2001. We also intend to give the fishermen claims appeal board some flexibility in dealing with appeal cases which cannot meet the 15 metres criterion. We are also considering ways to enhance the transparency of the appeal board procedures.

**Ex-gratia Allowances (EGA) for Fishermen**

	<b>(A)</b>  <b>Existing arrangements (based on FCR(93-94)25 approved by Finance Committee on 7 May 1993)</b>	<b>(B)</b>  <b>Proposed new arrangements</b>
1. Formula for calculating EGA	Loss of fishing grounds (e.g. due to reclamation): 3 years' fish catch.	(a) Permanent loss: 7 years' fish catch. (b) Temporary loss: 3 years' fish catch.
2. Basis for calculating the notional value of fish catch	(a) Fishing vessels not longer than 15 metres: 1989-91 Port Survey (on fish catch, fishing efforts etc.) data are used. (b) Fishing vessels longer than 15 metres: Agriculture, Fisheries and Conservation Department's relevant fisheries data.	(a) No change to existing arrangements. (b) No change to existing arrangements.
3. Loss caused by successive works at the same location	EGA is paid once only in connection with marine works at a specific location.	Further EGA may be granted where a period of 3 years has elapsed since the completion of works for which the last EGA was granted in connection with marine works at a particular location.