

**For discussion on  
6 March 2003**

**Legislative Council Panel on Security**

**Cross-border Fishing and Criminal Activities of Mainland Fishing Vessels**

**Purpose**

Concern has been expressed about the activities of Mainland fishing vessels in Hong Kong waters. This paper seeks to brief Members on the laws that have particular relevance to such activities and the enforcement actions by the relevant Government departments.

**Relevant Laws**

2. The following laws are specifically relevant to the activities of Mainland vessels in Hong Kong waters –

*Immigration Ordinance (Cap. 115)*

3. All vessels, including fishing vessels, entering Hong Kong waters are required to undergo immigration clearance upon entry at any of the three designated anchorages. The exceptions are vessels which are in transit in outer waters of HKSAR or are granted exemption by Immigration Department.

4. When a vessel enters Hong Kong waters, it is either “in transit” or “arrival”. The definition of “in transit” as adopted by international practice is “not engaged in any activities such as loading or discharging cargo, replenishing fuel or provisions, anchoring, berthing, etc. while the vessel is in the waters of Hong Kong.” All Mainland fishing vessels entering Hong Kong (as opposed to in transit) has to go through immigration examination. Immigration clearance is performed upon entry of such vessels.

*Shipping and Port Control Ordinance (Cap. 313)*

5. Under regulation 6A of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A), the owner or his local agent or the master of Mainland vessels should send a Pre-Arrival Notification (PAN) to the Director of Marine 24 hours before the intended entry of the vessel into the Hong Kong waters. In addition, under regulation 22(1), when a vessel (including Mainland vessels) arrives in the waters of Hong Kong, the owner or his agent or the master of the vessel should within 24 hours after such arrival, report at the office of the Director of Marine with the required documents.

*Fisheries Protection Ordinance (Cap. 171)*

6. The Fisheries Protection Ordinance (Cap. 171) prohibits destructive fishing practices such as electrofishing, fishing with explosives, poisons, dredging or suction devices. In the interest of sustainable development of our fishing industry and conservation of fisheries resources in local waters, we are working on a proposal to establish a fishing licence programme in Hong Kong. Implementation of this licensing programme will require amendments to the Fisheries Protection Ordinance.

*Marine Parks Ordinance (Cap. 476)*

7. Fishing is strictly prohibited in a marine reserve under the Marine Parks and Marine Reserves Regulation. Regulation 3 also prohibits fishing in a marine park without a permit granted under regulation 17(3).

*Other Relevant Ordinances*

8. Moreover, natural vegetation in Hong Kong is protected under the Forests and Countryside Ordinance (Cap. 96), and the Country Parks Ordinance (Cap. 208). Under section 21 of the Forests and Countryside Ordinance, it is an offence to cut grass, fell or damage any trees or plants on Government land without lawful authority. Section 8 of the Country Parks and Special Areas Regulations also prohibits unauthorised cutting, picking or uprooting of plants within country parks and special areas. Persons found stealing natural vegetation in Hong Kong (including Buddhist pines) may also be charged under section 9 of the Theft Ordinance (Cap. 210) where appropriate.

## Situation in Hong Kong Waters

9. The general law and order situation in Hong Kong waters remains stable with low levels of reported crime. A total of 111 cases were reported in 2002 compared to 125 cases for 2001, representing a decrease of 11.2%. An increase in theft cases, however, was noted from fish culture zones with seven cases in 2002 compared to three cases in 2001. The Police are also aware of the theft of Buddhist pines from the Sai Kung East Country Park by Mainlanders operating from high-speed sampans. Appropriate enforcement actions are taken by the Police and a total of six cases were detected in 2002.

## Enforcement

### Police

10. The Marine Police are responsible for maintaining law and order in Hong Kong waters. The Police deploy a daily average of 60 vessels to patrol Hong Kong waters, which includes 17 major patrol launches. If any person on a Mainland vessel within Hong Kong waters is found to have committed any offence under the Hong Kong laws, the Police will investigate and take appropriate enforcement action. Assistance will be sought from the Police's Mainland counterparts where necessary.

11. Mainland vessels which do not have proper immigration clearance and are found in Hong Kong waters will be instructed to leave or refused entry under the Immigration Ordinance. The number of "Entry Refusal Notice" issued by the Marine Police in the past 3 years to Mainland vessels (including fishing vessels) with authorization by the Commissioner of Police under section 57 of the Immigration Ordinance is as follows:

<b>Year</b>	<b>Mainland Fishing Vessels</b>	<b>Mainland Sea Urchin Vessels</b>	<b>Mainland Trading Vessels</b>
<b>2000</b>	-	154	3,223
<b>2001</b>	212*	93	2,070
<b>2002</b>	282	79	2,734

\* Figures collected from June 2001

## Immigration Department

12. Currently, Immigration Department is equipped with 7 immigration launches for immigration control within the harbour. Apart from conducting immigration clearance at the 3 approved immigration anchorages, viz. the Eastern Immigration Anchorage, the Western Immigration Anchorage and the Tuen Mun Immigration Anchorage, spot checks on vessels are also conducted to detect immigration evaders within Hong Kong waters, mainly at shelters and cargo handling areas.

The number of “Entry Refusal Notices” served by Immigration Department to Mainlanders under section 11 of the Immigration Ordinance is as follows:

<b>Year</b>	<b>Mainland Fishing Vessels</b>	<b>Mainland Trading Vessels</b>	<b>Others</b>
<b>2000</b>	364	2,451	459
<b>2001</b>	275	1,280	484
<b>2002</b>	342	1,603	263

## Marine Department

13. Patrol officers of the Marine Department have randomly inspected vessels in the Hong Kong waters so as to ensure marine safety and compliance with the marine legislation. In 2002, the Marine Department conducted more than 23,000 inspections to vessels in Hong Kong waters. Two-thirds of them were conducted on board Mainland vessels.

## Agriculture, Fisheries and Conservation Department (AFCD)

14. To combat illegal fishing activities of Mainland vessels in marine parks and reserve, AFCD’s Marine Parks Wardens conduct patrols in these areas on a daily basis in irregular hours, including night patrols. Regular patrols are also carried out in Hong Kong waters to enforce against destructive fishing activities. The AFCD and the Police had also held joint operations against illegal felling or stealing of trees including Buddhist pines.

## **Way Forward**

15. All departments concerned will continue to take enforcement actions against any unlawful activities taking place in Hong Kong waters.

**Security Bureau**  
**February 2003**

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