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**Panel on Environmental Affairs**

**Meeting on 15 December 2009**

**Updated background brief on banning of commercial fishing in marine parks  
prepared by the Legislative Council Secretariat  
(position as at 9 December 2009)**

**Purpose**

This paper sets out the background to the proposal to ban commercial fishing in marine parks, and gives a brief account of the views and concerns expressed by the Panel on Environmental Affairs (the Panel).

**Introduction**

2. Marine park and reserve are designated sea areas for the protection and conservation of marine environment. There are currently four marine parks<sup>1</sup> and one marine reserve<sup>2</sup> in Hong Kong to protect and conserve its diverse marine organisms, including hard corals, mangroves and Chinese white dolphins, among others. The designation and management of these protected areas are mainly provided under the Marine Parks Ordinance (Cap. 476) (MPO) and the Marine Parks and Marine Reserve Regulations (Cap. 476A) (MPMRR).

3. Under the current legislative framework, fishing is prohibited in the marine reserve. However, the Director of Agriculture, Fisheries and Conservation is empowered to, as the Authority, issue fishing permits under section 17 of MPMRR to local residents and *bona fide* fishermen for carrying out fishing activities in marine parks. At present, some 100 and 380 valid fishing permits have been issued to local residents and *bona fide* fishermen respectively for fishing activities in marine parks under section 17 of MPMRR. Fishing activities carried out by the latter group of permit holders are in general treated as commercial fishing activities. Permit holders are required to renew their fishing permits once every two years and permits not renewed will no longer be valid.

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<sup>1</sup> The four marine parks are Hoi Ha Wan Marine Park, Yan Chau Tong Marine Park, Sha Chau and Lung Kwu Chau Marine Park and Tung Ping Chau Marine Park.

<sup>2</sup> The marine reserve is Cape'D Aguilar Marine Reserve.

## **Banning of commercial fishing in marine parks**

4. In order to protect and conserve marine habitats and resources, a ban on fishing in marine protected areas is a very common fishing control measure used in other countries. It has been proved in countries, such as Barbados, Kenya, New Caledonia, New Zealand, the Philippines, that a fishing ban within marine protected areas can help protect marine habitats and recovery of fisheries resources. Moreover, after the marine protected areas are relieved of fishing pressure, there will be increase in fisheries resources not only within the protected areas, but also to the adjacent waters, hence bringing benefits to the overall marine environment.

5. The Agriculture, Fisheries and Conservation Department (AFCD)'s in-house fish monitoring programme in marine parks shows that, at present, marine parks in Hong Kong have a slightly better fisheries resources when compared with that of the non-protected reference sites. Furthermore, the no-fishing core areas in Tung Ping Chau Marine Park show a progressive increase in finfish biomass from 2005 onwards. The Administration believes that reducing fishing efforts inside marine parks would help rehabilitate the fisheries resources inside the marine parks and could benefit the adjacent waters in long-run.

6. To realize the benefits of the ban on commercial fishing in marine parks, the Administration proposes to amend section 17 of MPMRR such that the Authority will stop issuing new permits or renewing the existing permits to *bona fide* fishermen for fishing in marine parks. However, the ban will not apply to fishing by local residents in marine parks. It is because under their permits, their fishing is primarily confined to cage trapping, hand lining and hand netting only. These kinds of fishing activities, unlike those commercial scale fishing conducted by *bona fide* fishermen, are in small scale and conducted sporadically which will have limited impacts on marine habitats.

## **Consultation**

7. In the light of the Panel's concern about the lack of consultation with the affected fishermen, the Administration has consulted and discussed with the relevant fishermen associations. The latter have indicated that the Government should put in place suitable measures, such as ex-gratia allowance (EGA), to alleviate the impact that the proposed ban would bring to them. In this connection, the Administration would make reference to the established mechanism of providing EGA to fishermen who are affected by marine development works (the amount would be equivalent to the notional value of seven years' fish catch in the affected waters). Consideration would also be given to setting up an inter-departmental Working Group to handle all EGA applications submitted by fishermen who are affected by the ban.

## **Major concerns raised by the Panel**

8. The proposal to ban commercial fishing in marine parks was discussed at the Panel meetings on 21 January and 23 November 2009. While supporting the need to

protect and conserve marine resources, members were disappointed that the Administration had failed to consult the affected fishermen despite repeated requests from the Panel. According to Mr WONG Yung-kan, the Member returned from the Functional Constituency of Agriculture and Fisheries, the affected trade was unaware of the proposed EGA which was contrary to the Administration's paper (LC Paper No. CB(1) 392/09-10(03)) which stated that the relevant fishermen association had been consulted. In this connection, members considered it necessary for the Administration to set out in a paper the views collected from the consultation, the basis upon which the proposed EGA was arrived at (particularly the notional value of seven years' fish catch in the affected waters).

9. Some members found it hard to accept that the Administration should disallow commercial fishing by *bona fide* fishermen on the one hand, and allow hand netting by local residents, which was equally destructive, on the other. They opined that the proposed ban had not been well thought out. Unlike overseas countries which imposed strict restrictions on the size of fish and other marine organisms that could be caught, there lacked a comprehensive package of measures to protect the fishery resources in Hong Kong. The Administration was requested to review the coverage of the ban to ascertain the feasibility of prohibiting the types of fishing rather than the types of persons. Concerted efforts from different departments were also required to combat illegal fishing.

### **Latest development**

10. To gauge public views on the proposed ban, members considered that the affected fishermen and interested parties should be invited to express their views at the next Panel on 15 December 2009..

### **Relevant papers**

Information paper provided by the Administration for the Panel on Environmental Affairs meeting on 21 January 2009

<http://www.legco.gov.hk/yr08-09/english/panels/ea/papers/ea0121cb1-605-6-e.pdf>

Minutes of the Panel on Environmental Affairs meeting on 21 January 2009

<http://www.legco.gov.hk/yr08-09/english/panels/ea/minutes/ea20090121.pdf>

Information paper provided by the Administration for the Panel on Environmental Affairs meeting on 23 November 2009

<http://www.legco.gov.hk/yr09-10/english/panels/ea/papers/ea1123cb1-392-3-e.pdf>