

**For discussion
on 3 May 2011**

Legislative Council

**Subcommittee on Fisheries Protection
(Specification of Apparatus) (Amendment) Notice 2011**

**Ex-gratia Allowance for Trawler Owners,
Voluntary Buying out of Trawler Vessels and
One-off Grants to Local Deckhands Affected by the Trawl Ban**

PURPOSE

This paper briefs Members on the details of the proposed scheme in respect of the granting of ex-gratia allowance (EGA) to trawler owners and one-off grants to local deckhands affected by the trawl ban, as well as the voluntary buy-out arrangements for trawler vessels (the Scheme).

2. The paper also covers the scope of other assistance which the Administration will be rendering to the trade as a result of the trawl ban, and provides other information as requested by Members at the meeting of 13 April 2011.

BACKGROUND

3. The Chief Executive announced in his 2010-11 Policy Address that the Government will implement a basket of management measures including banning trawling in Hong Kong waters through legislation to restore our seabed and the depleted fisheries resources as early as possible. To assist the fishermen affected by the trawl ban, the Government proposes to bundle the trawl ban with the introduction of the Scheme.

4. The background and justifications of the proposals have been provided in the Legislative Council (LegCo) brief on a ban on trawling activities in Hong Kong waters at **Annex I**. The Administration also briefed the LegCo Panel on Food Safety and Environmental Hygiene (the Panel) about the policy initiative at its meeting of 15 October 2010, and the legislative proposals to take forward the trawl ban and other fisheries management measures at its meeting of 8 March 2011. The relevant Panel papers are at **Annex II and III** respectively. Members of the Panel also heard the views of fishermen and other stakeholders on the trawl ban and other fisheries management measures at a special Panel meeting with deputations on 15 March 2011. While most Members of the Panel and most of the fishermen bodies supported the trawl ban in principle, they emphasised the need to adequately address the livelihood of affected fishermen. Some fishermen bodies were concerned about the amount of EGA and the eligibility criteria for EGA. Members of the Panel and fishermen bodies requested the Government to provide the details of the Scheme as early as possible.

5. To take forward the trawl ban, the Government introduced the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011 into LegCo on 30 March 2011. A Subcommittee on Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011 (the Subcommittee) has been established to scrutinise the Notice. In parallel, we have worked out the details of the Scheme, taking into account the views of Members of the Panel and the Subcommittee as well as the trade. The details of the Scheme are set out in the ensuing paragraphs.

THE SCHEME

6. The proposed Scheme includes –
- (a) EGA for the affected trawler owners for permanent loss of fishing grounds arising from the trawl ban;
 - (b) buying out of the affected trawler vessels for those trawler owners who volunteer to surrender their vessels; and

- (c) one-off grants to assist the affected local deckhands employed by the trawler owners who volunteer to surrender their trawler vessels at (b) above.

(a) EGA

Inshore trawlers

7. For inshore trawlers which operate wholly or partly in Hong Kong waters, their owners are most affected as they will lose their fishing grounds in Hong Kong waters. We estimate that there are about 400 such vessels. The effect is not dissimilar to the permanent loss of fishing ground resulted from marine works projects, for which EGA is payable to affected fishermen. The EGA for affected inshore trawler owners will therefore be determined by drawing reference to the formula for calculating EGA payable to fishermen affected by marine works projects. Under the existing formula endorsed by the Finance Committee of LegCo on 1 December 2000, the EGA for fishermen affected by marine works projects resulting in permanent loss of fishing grounds in Hong Kong waters is the notional value of seven years' fish catch in the affected area derived from the Port Survey conducted by the Agriculture, Fisheries and Conservation Department (AFCD) in 1989/91.

8. During our consultation with the trade, owners of inshore trawlers opined that the amount of EGA derived from the existing formula for calculating EGA for fishermen affected by marine works projects was inadequate to address the plight of local fishermen affected by the trawl ban. We are aware that unlike past marine works projects which affected localised areas of Hong Kong waters only, the trawl ban would cover the entire Hong Kong waters. The affected fishermen would have to travel further afield, if they wish, to continue fishing. When they fish in Mainland waters, they will moreover be subject to more stringent management measures there e.g. fishing moratorium and closed area in shallow waters along the coastline. The impact on fishermen arising from the trawl ban will therefore be more significant than that due to marine works projects.

9. After considering the above factors and upon further engagement with the fisheries sector, we believe there is a case, on the basis of the 1989/91 Port Survey to be adjusted by the fish price movement, to enhance the multiplier of the EGA formula from seven years to 11 years' notional fish catch value in calculating the EGA for inshore trawler owners affected by the trawl ban.

10. The total amount of EGA derived from the above enhanced formula will be fully disbursed to, and apportioned amongst, the successful applicants in accordance with the decisions of the inter-departmental working group (IWG) to be formed for the trawl ban exercise. The EGA payable to individual trawler owners will depend on the number of successful applications as well as other apportionment criteria such as vessel type, vessel length, engine power, equipment on board, the percentage of time spent on trawling, and/or production in Hong Kong waters.

Larger trawlers

11. Apart from the most affected inshore trawlers, we estimate that there are about 700 larger trawlers which generally do not operate in Hong Kong waters. However, owners of these larger trawlers are concerned that after the trawl ban, they would lose the option to trawl in Hong Kong waters under the following circumstances –

- (a) during the annual fishing moratorium in the South China Sea;
- (b) when their vessels age to the extent that they are not fit for deep sea fishing further afield; and
- (c) if the Mainland authorities impose more stringent fisheries management measures in the South China Sea in future, forcing them to return to Hong Kong waters for operation.

12. We have noted the concerns of these larger trawlers. Given that these larger trawlers would lose the opportunity to move back to Hong Kong waters for trawling in future, we consider that their demand for EGA as reflected during the consultation should also be addressed. However, as the impact of the trawl ban on them is far much less when

compared with inshore trawlers, these larger trawlers accept that a lump sum EGA would be appropriate. In deciding on the amount of the lump sum, we have taken into account the need to maintain relativity with inshore trawlers which will be directly impacted. We propose that a lump sum EGA of \$150,000 be given in respect of each larger trawler, if the relevant application is successful.

Aggregate total EGA

13. The aggregate total EGA payable to inshore trawlers and larger trawlers together with contingency is estimated to be \$1,400 million. The basis for estimating the total EGA is at **Annex IV**. The actual EGA payable to individual trawler owners will be determined by the IWG.

IWG

14. Similar to the method for determining the EGA for fishermen affected by marine works projects, we will set up an IWG comprising the AFCD and other relevant departments including the Marine Department to handle all matters relating to the processing of EGA applications from trawler owners affected by the trawl ban. The IWG has been an effective and well-established mechanism for determining the eligibility criteria and apportionment of EGA for marine works projects. A Fishermen Claims Appeal Board, comprising non-official members, will be set up where necessary for processing appeals by the appellants against decisions of the IWG.

15. The IWG will work out the eligibility criteria and apportionment criteria, having regard to the views from fishermen representatives. The guiding principle is that the EGA to be apportioned to different groups of claimants should be proportional to the impact caused by the trawl ban. The IWG may inspect vessels, conduct surveys or adopt other necessary measures to assist them to assess claims filed by applicants. The actual amount of EGA to be awarded to individual claimants of inshore trawlers would be determined by the IWG having regard to their eligibility and factors such as those set out in paragraph 10 above. For reference purpose, the apportionment criteria and the estimated range of EGA payable to owners of different types of affected trawlers is at **Annex V**.

(b) Voluntary buying out of trawlers

16. The majority of trawler owners have relevant Mainland permits to fish in Mainland waters, and may continue their operations on the Mainland after the implementation of trawl ban in Hong Kong waters. Some may choose to leave the trade for good, in which case they may no longer need their trawlers. We propose to invite EGA claimants to indicate in their EGA applications whether they would surrender their vessels to the Government. The buyout scheme would be voluntary. Owners of trawlers can decide in the light of their own circumstances whether they would surrender their vessels to the Government or make their own arrangements to sell their vessels in the market. The buy-out price of individual vessels to be offered will be the estimated current value to be determined by the IWG and will vary according to the type, length, age and equipment / gear of the vessel. The IWG will also make reference to the valuation provided by an independent marine surveyor as necessary in determining the buy-out price. We estimate that the buy-out prices would range from about \$0.13 million for an old, small wooden-hull stern / shrimp trawler, about \$1.1 million for a medium-sized stern / shrimp trawler in the middle of its serviceable life, to about \$3.5 million for a newer, large hang trawler. These indicative estimates are for reference only and the actual buy-out price for each surrendered vessel will depend on a detailed valuation. It is estimated that about \$240 million would be required for the voluntary buying out of some 400 trawlers.

17. The surrendered trawlers will be retained and scrapped by the Government to ensure that fishing effort is removed from Hong Kong waters. We are mindful of the environmental concern relating to disposal of the surrendered vessels. We will make reference to the relevant guidelines on dismantling of vessels and recycling of materials in an environmentally responsible and safe manner. As part of the fisheries management measures, the AFCD will use some of the surrendered trawlers as artificial reefs, which are conducive to enhancing the rehabilitation of the fisheries resources in Hong Kong waters. Furthermore, if suitable vessels can be identified, the AFCD plans to collaborate with non-governmental organisations and fishermen organisations to convert some vessels for pilot recreational fisheries

programmes.

(c) One-off grants to local deckhands

18. We anticipate that some local deckhands would be temporarily unemployed before they can get another employment as a result of the cessation of trawling operations. We propose to provide a one-off grant to each local deckhand employed by the trawler owners who take part in the buy-out scheme stated in paragraphs 16 to 17 above to assist them to tide over this transition period. Drawing reference to the 2008 buy-out scheme for the poultry trade, we propose to offer a one-off grant of \$34,000 to each affected local deckhand, which is equivalent to about three months of the average salary of a worker. We estimate that about 1 000 local deckhands will be eligible for the one-off grants, and an estimate of about \$34 million would be required for the purpose. The preliminary eligibility criteria for the one-off grants to local deckhands are at **Annex VI**.

19. Although some fishermen bodies have requested to raise the one-off grant to more than three months of salary of a worker, we consider the proposed amount appropriate after drawing reference to the buy-out scheme for the poultry trade in 2008. Furthermore, the trawl ban was announced in October 2010 and is scheduled to take effect from end of 2012 at the earliest. Thus, the local deckhands would have more than two years from the announcement of the initiative to prepare themselves and look for new employment. The AFCD and the Employee Retraining Board will organise suitable training programmes to assist them to switch to other fisheries related or other employment.

RELATED TRADES

20. Representatives of related trades (e.g. fish collectors, ice supply and vessel repair) have requested that EGA be granted to them as they would also be impacted by the trawl ban. After carefully assessing the effect of the trawl ban on these trades, we consider that there are insufficient justifications in support of their requests, mainly because the remaining fishing vessels will continue to generate ancillary service

requirements on related trades. We therefore do not consider the impact of the trawl ban on them to be significant. In fact, as a result of the trawl ban, we expect there to be increased activities of fish collectors as some trawlers which at present operate mainly in Hong Kong waters may travel further afield to operate in the South China Sea and thus will need the services of fish collectors and ice suppliers to transport the fish catches back to Hong Kong and keep them fresh. Vessels operating further afield may moreover require increased repair and maintenance service.

21. The ban on trawling activities in Hong Kong waters will affect the supply (from inshore trawlers) of trash fish as feed for mariculture. However, the supply can easily be substituted by those from other sources, e.g. purse seiners. Furthermore, the AFCD will continue to promote the use of pellet feed which is more efficient, environmentally friendly and stable in supply. The AFCD will also assist mariculturists in sourcing and purchasing feed.

OTHER ASSISTANCE

22. The AFCD will be introducing a special training programme to equip those who give up their operations so as to assist them (both the vessel owners and the local deckhands) to switch to other sustainable fisheries related operations such as marine fish culture and recreational fishing.

23. In 2010, the AFCD has launched, in collaboration with local fishermen and eco-tourism companies / non-governmental organisations, a pilot scheme of fisheries ecotourism in Sai Kung and north-eastern New Territories to help fishermen venture into ecotourism. The pilot scheme provides marine-based guided tours which cover the culture and practices of fisherman communities as well as the ecological and geological features of Hong Kong. So far, over 70 fishermen have been trained in the pilot scheme. The AFCD is exploring opportunities to embark on similar collaboration in other districts with a view to extending the scheme to such areas.

24. The AFCD is also following up with relevant Bureaux / Departments to review the moratorium on issue of new licence for

mariculture operations, and to study the expansion and rotation of fish culture zones to facilitate the switching of fishermen from trawling to mariculture.

25. Affected trawler fishermen may apply to the Fisheries Development Loan Fund for low interest loans for switching to sustainable fisheries operations using selective fishing methods and other fisheries related fishing operations. We are reviewing the mechanism, terms and eligibility of the Loan Fund with a view to better meeting the requirements of the fisheries sector, in particular trawler fishermen affected by the trawl ban. We will be consulting the trade on this.

26. Given some trawler fishermen have expressed interest in venturing further afield to Mainland waters after the trawl ban, we have already started liaison with the relevant Mainland authorities with a view to gathering the required information and facilitating the development of new operations or new fishing grounds in which fisheries resources are still being developed in Mainland waters. Information regarding the latest visit by the Food and Health Bureau (the FHB) and the AFCD to Guangzhou in April 2011 is at **Annex VII**.

OTHER ISSUES

27. In response to Members enquiries at the first Subcommittee meeting, the Administration has also prepared the following information

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- (a) measures to strengthen law enforcement against illegal fishing by non-local fishing vessels at **Annex VIII**; and
- (b) response to a proposal to impose new regulation on mesh size in fishing nets at **Annex IX**.

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

28. We estimate that the Scheme together with other measures would involve \$1,726.8 million, with about \$1,400 million for payment of the

EGA to the affected trawler fishermen in view of the permanent loss of fishing grounds, about \$240 million for the voluntary buying out of some 400 trawlers, and about \$34 million for providing one-off grants to some 1 000 local deckhands employed by the trawler fishermen who take part in the voluntary buy-out scheme. We also estimate that about \$52.8 million would be required for implementing measures conducive to marine conservation and replenishment of fisheries resources as well as providing a special training programme for the affected trawler fishermen and local deckhands. The actual expenditure of the above items will depend on actual EGA payable to individual trawler owners to be determined by the IWG, the number and type of vessels surrendered under the voluntary buy-out scheme, and any other justifiable adjustments, e.g. adjustment to one-off grants according to the prevailing wage levels at the time of disbursement or increasing contingency to meet support-worthy cases allowed by the FCAB. Additional manpower, if any, required for implementing and enforcing the trawl ban will be sought in accordance with the established mechanism.

TIMETABLE

29. We issued a LegCo Brief on the subsidiary legislation on the trawl ban on 23 March 2011, gazetted the subsidiary legislation on 25 March 2011 and introduced it into LegCo on 30 March 2011 for negative vetting. The negative vetting period will expire on 18 May 2011. Subject to the legislative progress, we will seek funding approval for the Scheme from the Finance Committee of LegCo before the end of the 2010-11 legislative session.

30. Subject to the negative vetting of the subsidiary legislation and funding support from LegCo, we plan to roll out the scheme for buying out of trawlers coupled with EGA and assistance to affected local deckhands around late 2011, and provide a one year transition period before the trawl ban comes into operation in late 2012 at the earliest. Affected trawler fishermen would have a period of more than two years from the announcement of the initiative to consider and prepare for ceasing their trawling operations in Hong Kong waters, and switching to sustainable fisheries operations.

CONSULTATION

31. Since the Panel meeting of 8 March 2011, the FHB together with the AFCD have conducted further consultation with fishermen, fishermen groups, academics and environmentalists to hear their views on the trawl ban and the Scheme.

32. Most of the comments received point to support for the trawl ban, except that fishermen groups expressed worry about their livelihood, as well as concern about how the EGA would be worked out and the amount they will get. Many were keen to see an enhancement to the amount of the EGA over and above what they could get under the existing formula for the EGA for marine works projects. There was a general agreement that the EGA should be granted fairly and only to trawler owners affected by the trawl ban, and the EGA should be proportional to the impact on them.

33. Green groups and academics welcomed the initiative to ban trawling in Hong Kong waters and the management measures to control fishing effort in Hong Kong waters. While they urged for their early implementation, some also requested the Government to address the livelihood of affected fishermen.

WAY FORWARD

35. Members are invited to note and advise on the contents of this paper in respect of the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
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