

LEGISLATIVE COUNCIL BRIEF

The Secretary for Food and Health submits the following note for Members' information -

Title of the Note

Date of Gazette

Fisheries Protection (Specification of Apparatus)
(Amendment) Notice 2011

25 March 2011

LEGISLATIVE COUNCIL BRIEF

Fisheries Protection Ordinance (Cap. 171)

Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011

INTRODUCTION

Pursuant to regulation 4A of the Fisheries Protection Regulations (Cap. 171 sub. leg. A), the Director of Agriculture, Fisheries and Conservation (DAFC) has made the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011 (“the Amendment Notice”), at **Annex**, to specify trawling devices as a class of apparatus for the purpose of prohibiting its use for fishing activity in Hong Kong waters.

BACKGROUND AND JUSTIFICATIONS

2. In the 2010-11 Policy Address, the Chief Executive announced that the Government will implement a package of fisheries management measures, including banning trawling in Hong Kong waters through legislation in order to restore our seabed and marine resources as early as possible.

3. A consultancy study carried out by the Agriculture, Fisheries and Conservation Department (AFCD) in 1998 has revealed that 12 of the 17 evaluated fish species were heavily over-exploited, while the remaining five were fully exploited. Local catch composition had shifted from mainly large, slow-growing and high-value species to small, fast-growing and low-value species. Many of the once commercially important and abundant species are now rare in Hong Kong waters or have disappeared from commercial catches altogether.

4. The capture fisheries sector in Hong Kong comprises approximately 3 900 fishing vessels, of which about 1 100 are trawlers while the remaining are mostly sampans and small fishing boats engaged in inshore fishing. Some 400 of the trawlers operate partly or wholly in Hong Kong waters and the rest are larger vessels which operate further afield in the South China Sea. The estimated total engine power of these some 400 trawlers accounts for roughly 80% of the total engine power of the fishing fleet operating in Hong Kong waters, which is nearly double of the environmentally sustainable level according to a study conducted by the Chinese Academy of Fishery Science in 2006. The study estimated in 2006 that fisheries production of Hong Kong waters was 30% higher than the maximum sustainable yield and the total engine power of fishing vessels were 93% higher than the maximum sustainable effort.

5. Hong Kong waters are important fish spawning and nursery grounds, supporting a wide diversity of fishes, crustaceans, mollusks, corals and other marine species. However, the non-selective nature of trawling operations capturing fish of all sizes particularly in inshore waters, irrespective of their commercial and ecological value, and its damaging effect to the seabed, are detrimental to the marine ecosystems. Over the years, these operations have led to a continuous decline in the quantity, species diversity and size of marine organisms and deterioration of the marine environment.

6. Against this background, the Committee on Sustainable Fisheries (“the Committee”) was established by the Government in December 2006 to study the long term goals, the direction and feasible options for the sustainable development of the local fisheries industry. In its report submitted for Government’s consideration in April 2010, the Committee has recommended, inter alia, a ban on trawling in Hong Kong waters.

7. The benefits of the proposed trawl ban include –

(a) marine conservation

A ban on trawling activities would bring the harmful depletion to an immediate halt and enable the marine ecosystems to be gradually rehabilitated to an ecologically sustainable level. Not only would

the species with commercial value return to Hong Kong waters, those of ecological value such as corals and sea turtles would also benefit from a less disturbed and better marine environment. As a matter of fact, a ban on trawling activities in inshore waters is a common fisheries management practice worldwide.

(b) sustainable development

The cessation of trawling activities in Hong Kong waters would substantially reduce the total engine power of fishing vessels operating in local waters by roughly 80% (from 270 000 kilowatts to 64 000 kilowatts) and fish catch in local waters by more than 40% (from 26 700 tonnes to 14 700 tonnes). It would effectively restructure the local fishing industry into a more sustainable one. Slow-growing fish and species of high value would be allowed to grow and reproduce in Hong Kong waters. Availability of sustainable stocks of high-value species in Hong Kong waters would in turn improve cost efficiency and the operating environment for the fisheries industry, thereby enhancing the vibrancy of the trade and livelihood of practitioners.

(c) supply of marine fish

The ban on trawling activities in local waters would improve the quantity and quality of catch in Hong Kong waters in the long run. A simulation study by the University of British Columbia in Canada estimated that if measures including controlling the growth of the fishing fleet, banning trawling in Hong Kong waters and other fisheries management measures were implemented, Hong Kong fisheries resources and the catch value per unit fishing effort would be 50% and 70% higher respectively in 25 years' time than if no such measures were taken.

(d) eco-tourism

A diversified and healthy marine environment would attract local and overseas tourists to engage in activities such as recreational

fishing, scuba diving and eco-tourism in Hong Kong which has a deep root in fishing heritage.

8. To sum up, the trawl ban as well as other fisheries management measures would help conserve the marine diversities and fisheries resources, recover and maintain a marine environment of good quality and endowed with rich marine resources, and bring the fishing industry back to a sustainable path in the long term.

LEGISLATIVE FRAMEWORK

9. Regulation 4A of Fisheries Protection Regulations (Cap. 171 sub. leg. A) prohibits the use for the purpose of fishing any apparatus of a class or description specified by the DAFC by notice published in the Gazette. The DAFC has so specified three classes of apparatus. They are :

- any apparatus that produces or transmits electricity and that operates in water either alone or in conjunction with a net; and is capable of capturing or stunning fish.
- any suction device that operates on the seabed; and is capable of capturing fish.
- any dredging device that operates with a net or receptacle; is towed on the seabed; and is capable of capturing fish.

Any person who contravenes regulation 4A shall be guilty of an offence and liable to a maximum fine of \$200,000 and six months' imprisonment.

THE AMENDMENT NOTICE

10. The Amendment Notice at the [Annex](#) amends the Fisheries Protection (Specification of Apparatus) Notice (Cap. 171 sub. leg. B) to add another item (i.e. trawling devices) to the list of classes of apparatus the use of which for fishing is prohibited.

LEGISLATIVE TIMETABLE

11. The legislative timetable is as follows –

Publication in the Gazette	25 March 2011
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Tabling at the Legislative Council	30 March 2011
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12. Subject to negative vetting, the Amendment Notice shall come into operation on 31 December 2012.

IMPLICATIONS OF THE PROPOSAL

13. The Amendment Notice will not affect the current binding effect of the Fisheries Protection Ordinance (Cap. 171) and its subsidiary legislation. It is in conformity with the Basic Law, including the provisions concerning human rights, and

14. Regarding environmental implications, inshore trawl ban has been adopted by many countries and places to conserve fisheries resources. The initiative will allow the restoration of the marine habitats, which will in turn promote the diversity of marine life and safeguard the ecological integrity of our marine environment.

15. Sustainability assessment has revealed that the banning of trawling in Hong Kong waters would help enhance marine conservation and this is beneficial to marine biodiversity and the fisheries industry in the long run. It is therefore conducive to the sustainability principle of maintaining the biodiversity of Hong Kong. Additional manpower, if any, required for implementing and enforcing the trawl ban will be sought in accordance with the established mechanism.

16. Nevertheless, the proposal would impact on the livelihood of trawler fishermen who would lose part of their fishing grounds. Subject to approval

by the Finance Committee, the package of assistance would help to alleviate the said impact -

- (a) ex-gratia allowance payments for the trawler owners affected for permanent loss of fishing grounds arising from the 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.

17. An applicant for the buy-out scheme must as at 13 October 2010 –

- (a) own a trawler and hold a valid certificate of ownership and operating licence of a Class III vessel issued by the Marine Department (MD) under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation in respect of the trawler, and at the time of application, is still the owner of the trawler; or
- (b) hold an approval-in-principle letter for construction of a Class III vessel issued by the MD and submit a document proving that the vessel under construction is a trawler, and at the time of application, is still the owner of the trawler.

The eligibility criteria for the one-off EGA are the same as the buy-out scheme and the applicant is still the owner of the vessel at the time of EGA registration. As for the one-off grants, applicants must be a local deckhand and must, at the time of application, provide evidence proving that he/she has already been employed to work as at 13 October 2010 on the trawler joining the above-mentioned buy-out scheme. We will set up an inter-departmental working group to process the eligible applications based on the relevant criteria.

18. A special training programme will also be introduced to the trawler fishermen who give up their operations with a view to equipping them (both the vessel owners and the local deckhands) with the skill and knowledge for

switching to other sustainable fisheries related operations.

PUBLIC CONSULTATION

19. We consulted the Legislative Council Panel on Food Safety and Environmental Hygiene on 8 March 2011. Most Members who spoke at the meeting supported the trawl ban initiative but they were generally concerned about the impact on the livelihood of fishermen. Some Members requested more information on the proposed package relating to the ex-gratia allowance payments for affected trawler owners, the buy-out prices of trawler vessels surrendered voluntarily, and the one-off grants for affected local deckhands. A special Panel meeting was also held on 15 March 2011 to hear views from deputations. Environmental groups and some fishermen groups supported the trawl ban, while the other fishermen groups expressed worry about their livelihood.

20. We have also consulted the advisory committees under the Agriculture, Fisheries and Conservation Department, umbrella fishermen bodies, and fishermen representatives / individual fishermen in major home ports (including Aberdeen, Tai Po, Castle Peak, Cheung Chau, Shau Kei Wan and Sai Kung). Most members of the committees and fishermen representatives have generally supported the trawl ban initiative. However, some of them have expressed concern about the implementation details of the measures for affected trawler owners and local deckhands in paragraph 16. A few have requested the Government to consider providing trawler fishermen with the option of continuing trawling in Hong Kong waters.

21. Green groups and academics welcome the trawl ban initiative, and have urged the Government to see to its early implementation.

PUBLICITY

22. Targeted publicity will be arranged for affected fishermen. A spokesman will be available to answer media and public enquiries.

ENQUIRIES

23. For enquiries, please contact Miss Diane Wong, Principal Assistant Secretary for Food and Health (Food) 2, at 2973 8232.

Food and Health Bureau
23 March 2011

Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011

(Made by the Director of Agriculture, Fisheries and Conservation under regulation 4A of the Fisheries Protection Regulations (Cap. 171 sub. leg. A))

1. Commencement

This Notice comes into operation on 31 December 2012.

2. Fisheries Protection (Specification of Apparatus) Notice amended

The Fisheries Protection (Specification of Apparatus) Notice (Cap. 171 sub. leg. B) is amended as set out in section 3.

3. Schedule amended

The Schedule, after item 3—

Add

- “4. Any apparatus, whether operated manually or mechanically, which is intended to be used to drag or tow a net on the seabed or through the water column in a bag shape by one or more vessels to capture fish by straining them from the water.”.



Director of Agriculture, Fisheries and
Conservation

16/3/2011

Explanatory Note

This Notice amends the Fisheries Protection (Specification of Apparatus) Notice (Cap. 171 sub. leg. B) to add another item to the list of classes of apparatus the use of which for fishing is prohibited.