

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 an increase in the basis for calculating the ex-gratia allowance for fishermen affected by marine works projects-

- (a) from seven years to 11 years' notional value of fish catch in the affected area in respect of marine works resulting in a permanent loss of fishing grounds; and
- (b) from three years to five years' notional value of fish catch in the affected area in respect of marine works resulting in a temporary loss of fishing grounds.

PROBLEM

The package of ex-gratia allowance (EGA) for fishermen affected by marine works projects carried out in Hong Kong waters was last reviewed and approved by the Finance Committee (FC) in 2000. We need to review the elements of the existing EGA package in view of changes in the operating environment faced by fishermen in the last decade.

/PROPOSAL

PROPOSAL

2. The Secretary for Food and Health proposes to enhance the multiplier of the EGA formula for fishermen affected by marine works projects–

- (a) from seven years to 11 years' notional value of fish catch in the affected area in respect of marine works resulting in a permanent loss of fishing grounds; and
- (b) from three years to five years' notional value of fish catch in the affected area in respect of marine works resulting in a temporary loss of fishing grounds.

3. All other arrangements for the EGA package for fishermen approved by the FC in 2000 will remain unchanged. The current arrangements and our proposals are set out in columns (A) and (B) of Enclosure, respectively.

Encl.

JUSTIFICATION**The existing EGA package**

4. The existing formula for calculating EGA payable to fishermen affected by marine works projects was endorsed by FC *vide* FCR(2000-01)46. At present, the EGA payable to eligible fishermen affected by marine works projects is calculated on the basis of a notional value (the total value of fish catch from an affected area)¹ of –

- (a) seven years' fish catch in respect of marine works projects resulting in a permanent loss of fishing grounds (primarily due to reclamation operations); and
- (b) three years' fish catch in respect of marine works projects resulting in a temporary loss of fishing grounds (primarily due to sand dredging or mud disposal operations).

Further EGA payments may be granted to fishermen affected by successive marine works projects (such as sand dredging or mud disposal operations) at the same location where three years have elapsed since the completion of the last works projects.

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¹ The notional value of fish catch in the affected area is calculated based on the data from the Port Survey conducted by the Agriculture, Fisheries and Conservation Department (AFCD) in 1989/91, and adjusted with fish price movement since then based on the data collected by AFCD.

The review

5. Fishermen have recently raised with the Government that the current EGA package was inadequate in assisting them to manage and adapt to the ever-dwindling operating environment due to a loss of fishing grounds. The Administration generally shares the view that fishermen impacted by marine works are indeed facing more difficulties when seeking to relocate their fishing activities.

6. First, the size of the local fishing ground is decreasing due to our infrastructure development in the last decade. It is expected to further diminish upon completion of planned marine works projects in future. When examining the impact brought to capture fishermen by marine works projects, we note that in general the scale of individual marine works projects planned for the next few years is bigger and more complex than those in the past. Fishing in alternative areas close to their homeports is not always a practical choice anymore. It is expected that affected fishermen would have to travel further afield from their homeports to alternative fishing grounds in Hong Kong waters and some might have to compete with their Mainland counterparts in the South China Sea in order to make a living. Secondly, the average age of local fishing vessels has increased over the last decade and older vessels may not be fit for fishing further afield from their homeports. Thirdly, greater expenses would also be incurred for their relocation due to the increasing operating costs (e.g. increase in fuel price) in recent years.

Proposed increase in the basis for calculating the EGA for fishermen

7. When conducting this review, we draw comparison to the permanent loss of fishing ground resulted from the trawl ban, for which EGA is payable to the affected trawler fishermen. The FC approved in June 2011 *vide* FCR(2011-12)22 that the EGA payable in the trawl ban exercise would be determined on the basis of the 1989/91 Port Survey, to be adjusted by the fish price movement, with a multiplier of 11 years' notional fish catch value. This new multiplier was derived as a result of many rounds of consultation with a wide range of fishermen groups. We consider the new multiplier for the trawl ban exercise an appropriate benchmark for marine works which result in permanent loss of fishing grounds. Any suggestions for a multiplier more than 11 years are considered unjustified as the nature of the impact between the two on fishermen should be similar².

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² Although individual marine works projects mainly affect localised areas, the cumulative loss of fishing grounds due to marine works projects since the last EGA review in 2000 and the new projects to commence in the coming years (including six large-scale projects scheduled to start at Western waters in the next three years) is expected to have a significant impact on fishermen. The limited navigational range of their vessels has constrained fishermen' ability to fish in other areas as an alternative to their homeport. Against the background of the fast-depleting fisheries resources, the possible adverse impact on these small inshore fishing vessels as a result of marine works will be very manifest.

8. Similar hardship would be experienced by fishermen during a temporary loss of fishing grounds, albeit to a lesser degree. In order to maintain the relativity of the EGA payable to fishermen for the permanent versus temporary loss of fishing grounds, we propose that the multiplier for the latter be adjusted from three years' to five years' notional value of fish catch. EGA payable to affected fishermen due to a temporary loss of fishing ground would remain at around 40% of that for a permanent loss of fishing grounds after the proposed adjustment.

FINANCIAL IMPLICATIONS

9. Based on known major public marine works projects commencing in the next five years, we estimate that if the proposals in paragraph 2 above are adopted, the maximum EGA payable under the proposed new formula to affected fishermen would amount to \$59.6 million in total, i.e. an increase of about 62% or \$22.8 million as compared to the EGA amount derived from the existing formula.

EFFECTIVE DATE

10. Subject to the approval of FC, the proposals set out in paragraph 2 above will be introduced with effect from 1 April 2011. This will allow fishermen affected by projects which commenced on or after 1 April 2011 to also benefit from the outcome of the review.

PUBLIC CONSULTATION

11. In the course of the review, the Food and Health Bureau (FHB) and AFCD have met with the fishermen to listen to their views on the current EGA mechanisms. Officials of FHB and AFCD, together with representatives from other bureaux and departments responsible for marine works, have also conducted site visits and held talks with fishermen groups. Fishermen groups have asked the multiplier be increased from seven years to 15 years' notional value of fish catch in respect of marine works resulting in a permanent loss of fishing grounds. For marine works resulting in a temporary loss of fishing grounds, they are of the view that the multiplier should be equivalent to the whole construction period plus the seabed recovery period after completion of works. Towards the end of the review, AFCD has explained to fishermen groups the rationale for adjusting the multiplier for permanent and temporary loss of fishing grounds to 11 and five years respectively. The current proposals are broadly agreeable to the trade. We also consulted the Legislative Council Panel on Food Safety and Environmental Hygiene about the proposals on 13 March 2012. Members supported the proposals.

BACKGROUND

12. Fishermen are not entitled to statutory compensation when they lose their habitual fishing grounds permanently or temporarily due to marine works projects as they have no legal rights over the waters where they habitually fish. Recognising 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 in an amount proportional to the notional value of annual fish catch from the affected waters, subject to certain eligibility criteria (e.g. their homeport must be associated with the affected fishing grounds). An inter-departmental working group will be set up to determine the eligibility and apportionment criteria for the relevant EGA exercise.

13. In view of fishermen’s concern about the inadequacy of the current EGA package in assisting them to re-establish themselves due to a loss of fishing grounds, we have conducted an EGA review. We believe that the proposals set out in paragraph 2 above represent a reasonable package that could address the concerns of fishermen.

Food and Health Bureau
April 2012

Ex-gratia Allowances (EGA) for Fishermen Affected by Marine Works Projects in Hong Kong Waters

	(A) Existing arrangements (based on FCR(2000-01)46 approved by Finance Committee on 1 December 2000)	(B) Proposed new arrangements
1. Multiplier in the formula for calculating EGA	(a) 7 years' fish catch for permanent loss of fishing grounds. (b) 3 years' fish catch for temporary loss of fishing grounds.	(a) 11 years' fish catch for permanent loss of fishing grounds. (b) 5 years' fish catch for temporary loss of fishing grounds.
2. Basis for calculating the notional value of fish catch	1989-91 Port Survey data (supplemented by other relevant fisheries data obtained by Agriculture, Fisheries and Conservation Department).	No change.
3. Loss caused by successive works at the same location	Further EGA may be granted to fishermen affected by successive marine works operations at the same location where three years have elapsed since the completion of the last works for which EGA was already granted.	No change.
