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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information and summarizes past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on ban trawling in Hong Kong waters.

Background

2. The Chief Executive announced in the 2010-2011 Policy Address on 13 October 2010 the Administration's plan to ban fish trawling in Hong Kong waters through introducing legislation into the Legislative Council ("LegCo") in the 2010-2011 session. To address the livelihood problems faced by the affected fishermen, the Administration would launch a voluntary trawler buyout scheme for eligible trawler fishermen ("the Scheme"). The Scheme includes:

- (i) payment of an ex-gratia allowance ("EGA") to owners of the affected trawlers;
- (ii) introducing a voluntary buyout scheme to purchase the trawlers from the affected owners; and
- (iii) payment of a one-off grant to help local deckhands employed by owners of trawlers joining the buyout scheme.

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

3. The Fisheries Protection Regulations (Cap. 171 sub. Leg. A) prohibit

destructive fishing activities, which include the use of explosive, toxic substance, electricity, dredging and suction devices for fishing. Regulation 4A prohibits the use for the purpose of fishing any apparatus of a class or description specified by the Director of Agriculture, Fisheries and Conservation ("DAFC") in the Schedule to the Fisheries Protection (Specification of Apparatus) Notice (Cap. 171 sub. Leg. B). To take forward the trawl ban initiative, DAFC specified trawling devices as an item in the Schedule by notice published in the Gazette on 25 March 2011. The Amendment Notice will come into operation on 31 December 2012.

Deliberations of the Panel

4. After the announcement of the trawl ban initiative by the Chief Executive in his 2010-2011 Policy Address, the Panel was briefed at its meeting on 15 October 2010 on the implementation of the proposal to ban trawling activities in local waters. At the meeting on 8 March 2011, the Administration updated the Panel on the progress in taking forward the policy initiative of introducing a trawl ban and gave an overview on other complementary fisheries management measures to be introduced in the 2010-2011 session.

5. Some members expressed support for the trawl ban. However, they were concerned about the livelihood of trawler fishermen and other related trades. Concerns were also raised over the current basis for calculating EGA payable to the affected fishermen and the Government's buyout price of an individual vessel. There was a view that the EGA payment should cover the notional value of 15 years' fish catch in the affected area, and should apply to the loss of fishing grounds caused by marine works projects as well as the proposed trawl ban. The Administration explained that in determining the fish catch for the calculation of EGA for affected trawler vessel owners, due consideration would be given to the type, design and length of the trawler vessel which would affect their capture production. On whether the affected fishermen's years of engagement in trawling and the issue of inheritance would be taken into account when calculating the EGA payment for individual fisherman, the Administration advised that the operating licence of vessels issued by the Marine Department could not be inherited. The Administration would adopt a lenient approach in calculating EGA.

6. As regards the buyout price for the trawler vessels, the Administration advised that apart from the market price, reference would be made to the valuation provided by independent marine surveyors in calculating the Government's buyout price of a voluntarily surrendered trawler vessel. The Administration assured members that there would be continuous discussion

with the fisheries trade on the principle to be adopted in calculating EGA and determining the buyout price. However, the payments would vary among individual trawler owners due to various factors, such as whether the trawler vessel in question was wholly or partly fishing within Hong Kong waters and whether the trawler owners would surrender their vessels to the Government.

7. There was a call for providing adequate support to the affected trawler fishermen for switching to other sustainable fisheries operations. According to the Administration, it would continue discussion with the affected fishermen who wished to stay in the fisheries trade in order to better understand their preference among the options of turning to aquaculture; converting their vessels for recreational fishing; and switching to other fisheries operations (i.e. inshore fishing using selective fishing methods, fishing in the Mainland waters or offshore fishing). Affected fishermen could also apply to the Fisheries Development Loan Fund for low interest loan for switching to sustainable fisheries operations and other fisheries related operations.

8. Members enquired whether consideration would be given to providing trawler fishermen with the option of continuing trawling in local waters during specified periods and in designated areas. The Administration responded in the negative and explained that it would be difficult to delineate a designated area for trawling given the already small area of Hong Kong waters. Concentrating the non-selective fishing effort in a designated area would also lead to a great impact on the marine environment and the fisheries resources in that area.

9. A question was raised as to whether a mechanism for mediation/arbitration would be established with a view to resolving disputes between the affected fishermen and the Administration over the Scheme. According to the Administration, an interdepartmental working group comprising relevant departments would be set up to handle all matters relating to the processing of EGA applications from the affected fishermen. A Fishermen Claims Appeal Board, comprising non-official members, would also be set up where necessary for processing appeal cases by the affected trawler owners to ensure that decisions of the interdepartmental working group relating to EGA complied with Government policy.

10. The Panel held a special meeting on 15 March 2011 to receive views from 42 deputations/academics on the proposed trawl ban. While some deputations/academics supported the trawl ban, some other deputations expressed grave concerns about the implementation details of the Scheme. Members requested the Administration to provide further details of the compensation package to the affected fishermen.

Relevant papers

11. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Relevant papers on ban trawling in Hong Kong waters

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	11.5.2010 (Item VI)	Agenda Minutes CB(2)1472/09-10(06)
Panel on Food Safety and Environmental Hygiene	15.10.2010 (Item I)	Agenda CB(2)50/10-11(01)
Legislative Council	28.10.2010	Official Record of Proceedings Pages 128 - 132, 186 - 188 and 231 - 232
	15.12.2010	Official Record of Proceedings Pages 69 - 72
Panel on Food Safety and Environmental Hygiene	8.3.2011 (Item IV)	Agenda CB(2)1197/10-11(03) CB(2)1197/10-11(04)
Panel on Food Safety and Environmental Hygiene	15.3.2011 (Item I)	Agenda CB(2)1197/10-11(03) CB(2)1197/09-10(04) CB(2)1240/10-11(01)

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