

立法會
Legislative Council

LC Paper No. CB(2)887/11-12

(These minutes have been
seen by the Administration)

Ref : CB2/BC/1/11

Bills Committee on Fisheries Protection (Amendment) Bill 2011

**Minutes of the first meeting
held on Tuesday, 20 December 2011, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP
Hon WONG Yung-kan, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon CHAN Hak-kan
Hon Alan LEONG Kah-kit, SC

Members absent : Hon Abraham SHEK Lai-him, SBS, JP
Hon Albert CHAN Wai-yip

Public Officers attending : Item II

Ms Kitty CHOI, JP
Deputy Secretary for Food and Health (Food) 1
Food and Health Bureau

Miss Diane WONG Shuk-han
Principal Assistant Secretary for Food and Health (Food) 2
Food and Health Bureau

Dr SO Ping-man
Assistant Director (Fisheries)
Agriculture, Fisheries and Conservation Department

Mr Mickey LAI Kin-ming
Senior Fisheries Officer (Management)
Agriculture, Fisheries and Conservation Department

Mr SUEN Wai-chung
Senior Assistant Law Draftsman (Professional
Development)
Department of Justice

Ms Carmen CHAN Ka-man
Government Counsel
Department of Justice

Clerk in Attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in Attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Candice LAM
Senior Council Secretary (2) 4

Miss Maggie CHIU
Legislative Assistant (2) 4

Action

I. Election of Chairman

Mr Fred LI, the Member who had the highest precedence in the Council among members of the Bills Committee present at the meeting presided over the election of Chairman of the Bills Committee. He invited nominations for chairmanship.

2. Mr Tommy CHEUNG was nominated by Mr Vincent FANG and the nomination was seconded by Dr Joseph LEE. Mr CHEUNG accepted the nomination.

3. There being no other nomination, Mr Fred LI declared Mr Tommy CHEUNG elected as Chairman of the Bills Committee.

Action

II. Meeting with the Administration

[The Bill, Legislative Council Brief, LC Paper Nos. LS5/11-12 and CB(2)628/11-12(02) to (03)]

4. The Bills Committee deliberated (index of proceedings attached at **Annex**).
5. The Bills Committee requested the Administration to -
 - (a) take into account members' views and advise on the applicability of Schedule 2 to the Bill;
 - (b) consider introducing arrangements for the transfer of engine power of local fishing vessels under the registration system; and
 - (c) advise whether leisure fishing along the harbour promenade would be within the scope of the long title of the Bill.
6. The Bills Committee agreed that the next meeting would be held on 20 January 2012 from 2:30 pm to 5:30 pm to receive views from deputations. Representatives from the Marine Department and Marine Police should also be invited to attend the next meeting.

III. Any other business

7. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
26 January 2012

**Proceedings of the first meeting of the
Bills Committee on Fisheries Protection (Amendment) Bill 2011
on Tuesday, 20 December 2011, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Election of Chairman</i>			
000054 - 000143	Mr Fred LI Wah-ming Mr Vincent FANG Dr Joseph LEE Mr Tommy CHEUNG	Election of Chairman.	
<i>Agenda item II – Meeting with the Administration</i>			
000144 - 000833	Chairman Mr WONG Yung-kan	Opening remarks. Date of the next meeting to receive views from deputations.	
000834 - 002238	Administration Chairman	Briefing by the Administration on the objective and the salient features of the Fisheries Protection (Amendment) Bill 2011 ("the Bill").	
002239 - 003316	Mr WONG Yung-kan Administration Chairman	Concerns raised by Mr WONG Yung-kan - (a) as compared with some 5 000 to 6 000 local fishing vessels, including sampans, licensed by the Marine Department ("MD"), it was not clear how many fishing vessels were actually operating in Hong Kong waters. Currently, some local fishing vessels were actually owned by Mainlanders but with the licence held in the name of Hong Kong residents, not to mention their engaging in activities in depleting the local fishing resources; (b) it was observed that some owners of local fishing vessels had hired divers to capture fish. These acts were considered to be detrimental to the marine environment. The fisheries industry expressed concern whether such fishing activities would be permissible under Schedule 2 to the Bill, if so, whether this would depart from the intent of the Bill to conserve fisheries resources; and (c) it was unfair to blame local fishermen for their fishing practices and activities leading to a depletion of local fisheries resources.	

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		<p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) the Bill aimed to, among others, require owners of local fishing vessels to register their vessels, if they were to be used for fishing in Hong Kong waters. Upon the Bill coming into operation, Mainland fishing vessels and, for that matter, all other non-local fishing vessels as well, would be prohibited from engaging in fishing in Hong Kong waters; (b) permissible fishing activities with the use or aid of vessels other than non-local fishing vessels in Hong Kong waters would be specified in Schedule 2 to the Bill; (c) Schedule 2 to the Bill sought to strike a balance between regulating fishing activities in Hong Kong waters and exempting recreational fishing activities from the regulation. In light of the concerns of the fisheries industry, the Administration would further gauge the stakeholders' views and consider whether any amendment to Schedule 2 was needed. The Administration was of the view that the output of recreational fishing by means of a line operated by hand was far less than that of commercial fishing using fishing vessels. 	
003316 - 004054	Mr Vincent FANG Administration Chairman	<p>Mr Vincent FANG's concerns -</p> <ul style="list-style-type: none"> (a) details of the registration system; (b) rationale for capping the engine power of registered fishing vessels; and (c) recreational fishing activities should be allowed. To help the fisheries industry develop recreational fishing and to protect fish fry, the Administration should step up education to encourage the public not to take fish below a certain size from the waters of Hong Kong. <p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) the registration system for local fishing vessels was simple, under which an owner of a local fishing vessel who possessed a valid operating licence issued by MD on or before the commencement of the Bill could apply for registration; 	

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		<p>(b) upon registration, the number of fishing vessels and the total engine power of these vessels would be capped. This was premised on the fact that the current fishing effort had already far exceeded (over 100%) the maximum sustainable yield and the optimal fishing effort as assessed by experts. Limiting the number of fishing vessels and maintaining an appropriate level of fishing effort were vital to bringing the fisheries industry back to a sustainable path; and</p> <p>(c) to protect fish fry and spawning fish, the Administration proposed to designate Fisheries Protection Areas ("FPAs") in Hong Kong waters. Appropriate fisheries management measures would be introduced in FPAs, which might include restricting the capture of fish species of certain sizes.</p> <p>Mr Vincent FANG's concern whether hiring divers to capture fish was within the scope of permitted fishing activities as specified in Schedule 2, irrespective of whether the fishing methods used were detrimental to the fisheries resources.</p> <p>The Administration advised that it would take into account members' views and consider the applicability of Schedule 2 to the Bill.</p> <p>The Administration advised on issues of concern raised by members earlier that -</p> <p>(a) joint enforcement action was taken by the Marine Police and the Agriculture, Fisheries and Conservation Department ("AFCD") to combat fishing in Hong Kong waters by Mainlanders illegally entering into Hong Kong; and</p> <p>(b) the entry of Mainlanders into Hong Kong waters to fish without entry permits would be in breach of the Immigration Ordinance.</p>	Admin
004055 - 005147	Chairman Administration	<p>The Chairman's concern that the proposals to limit the number of fishing vessels and restrict newcomers would give rise to an appreciation in value of the existing local fishing vessels and provide an incentive for owners of Mainland vessels to apply for local operating licences prior to the enactment of the Bill.</p> <p>The Administration advised that -</p>	

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		<p>(a) the fisheries resources had already been much depleted and the proposed fisheries management measures to be implemented, according to a study, would only increase local fisheries resources by about 50% in 25 years. As the industry was in a very difficult situation, it did not envisage limiting new entrants would attract speculation; and</p> <p>(b) operating licences were issued by MD to local vessels, which classified vessels into different types including fishing vessels, and the proposed registration system was applicable to all existing local fishing vessels with valid operating licences. The requirement of having a valid operating licence issued by MD would limit registration eligibility to local vessels only.</p> <p>The Chairman's concern about the feasibility of future upgrading of engine power and replacement of engines of fishing vessels after the total engine power of registered fishing vessels had been capped.</p> <p>The Administration explained that upgrading of engine power of a registered fishing vessel was possible by making application for combining the engine power of not more than two existing registered fishing vessels, though it was a commercial decision of the owners.</p>	
005148 - 011022	Mr TAM Yiu-chung Chairman Administration	<p>Mr TAM Yiu-chung's concern about whether fish collectors used for transportation of catch could apply for registration.</p> <p>The Administration advised that the Bill would require owners of local fishing vessels to register their vessels, and that only local fishing vessels used for fishing in Hong Kong waters could apply for registration. The applicant must be able to provide the vessel concerned for the inspection of the Director of Agriculture, Fisheries and Conservation ("DAFC") on request. The proposed section 18 in the Bill provided for refusal of registration by DAFC if the vessel concerned was not made available for inspection upon request or DAFC was not satisfied that the vessel was designed and equipped to be used primarily for fishing. The Bill would provide a transitional period of 12 months from the commencement of the legislation for existing local fishing vessels to register with DAFC. For cases where the fishing vessels were used for</p>	

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		<p>both fishing and transportation of catch, the vessel owners could have time to decide to use the vessels for fishing or transportation purpose. Application for replacement of registered vessels could also be made after registration.</p> <p>The Chairman's concern about the criteria adopted by MD for issuing operating licence under the Merchant Shipping (Local Vessels) Ordinance and the cooperation between AFCD and MD in maintaining the registration system.</p> <p>The Administration clarified that in processing the application for an operating licence and renewal of licence, MD would primarily consider the safety and seaworthiness of the vessel. Upon the Bill coming into force, DAFC would obtain the relevant information regarding the vessels concerned from MD for the purpose of the registration system. To facilitate better understanding of the cooperation and the joint enforcement actions of the departments concerned in respect of fishing by vessels in Hong Kong waters, members considered that representatives of MD and Marine Police should be invited to attend the next meeting.</p> <p>Mr TAM Yiu-chung's concern if fishing by non-local fishing vessels would be allowed to enter FPAs and the cost of releasing fish fry in FPAs.</p> <p>The Administration responded that -</p> <ul style="list-style-type: none"> (a) the designation of FPAs and prohibition of fishing with non-local fishing vessels in Hong Kong waters were responding to the calls from the fisheries industry to help restore fisheries resources in Hong Kong waters; (b) the exact locations of and the management measures in FPAs would be worked out after further consultation with the fisheries industry and the stakeholders; and (c) the cost of releasing fish fry would be dependent on various factors such as species and sizes of the fish fry, the number to be released, etc. The Administration was considering the details of the restocking plan. 	
011023 - 011452	Chairman Administration	The Chairman's concern about the impact of the Bill on local fishermen fishing in Mainland	

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		<p>waters if non-local fishing vessels were not allowed to fish in Hong Kong waters, and whether it was in order to prohibit Mainland fishing vessels from fishing in Hong Kong waters.</p> <p>The Administration explained that-</p> <ul style="list-style-type: none"> (a) the boundary of Hong Kong waters was clearly defined; and (b) fishing vessels would require valid fishing permits issued by the relevant Mainland authority for fishing in the Mainland waters. These permits had specified sea areas where these vessels could operate. Hong Kong fishing vessels operating in Mainland waters would also need to apply for a valid permit from the relevant Mainland authority, and many were already in possession of such permits. 	
011453 - 012211	Mr CHAN Hak-kan Chairman Administration	<p>Mr CHAN Hak-kan's concerns -</p> <ul style="list-style-type: none"> (a) in the event that the actual total engine power of all registered fishing vessels had exceeded the optimal level, whether and how the Administration would deal with the exceeded engine power; (b) whether limiting new entrants would give rise to speculation of registered fishing vessels; and (c) the lead time for the deployment of artificial reefs to achieve the intended results. <p>The Administration advised that -</p> <ul style="list-style-type: none"> (a) the Administration had no intention to proactively reduce the total engine power of local fishing vessels, but to contain the total engine power of these vessels, with a view to bringing it to an optimal level through natural wastage; (b) as the first step, trawling would be banned in Hong Kong waters with effect from 31 December 2012, and secondly, the number of local fishing vessels and the total engine power of these vessels would be limited so as to enable the marine environment to rehabilitate; (c) as the fisheries industry required specialized 	

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		<p>skills and investment, the Administration did not envisage the registration exercise would give rise to speculation of registered fishing vessels ; and</p> <p>(d) artificial reefs had been deployed in certain areas for some time and the results were proven effective. AFCD was collecting updated information in this respect.</p>	
012212 - 015433	Mr WONG Yung-kan Chairman Administration	<p>Concerns raised by Mr WONG Yung-kan -</p> <p>(a) the Administration should set up a working group comprising representatives of the fisheries industry to identify suitable locations for the deployment of artificial reefs;</p> <p>(b) the fisheries industry expressed grave concern about the impact of the Bill on their livelihood;</p> <p>(c) specified percentage of proceeds from reclamation should be contributed to marine conservation;</p> <p>(d) the experts' advice on fishing effort referred to by the Administration was outdated;</p> <p>(e) a number of Mainland fishing vessels, which were dilapidated, were operating in Hong Kong waters. Owners of these vessels could easily hire Hong Kong residents to act as owners of these vessels and apply for registration as local fishing vessels. Non-local fishing vessels should not be allowed to apply for registration;</p> <p>(f) issues relating to the purchase of engine power from fishing vessel owners should be studied;</p> <p>(g) it was unlikely for ocean-going trawling operators to come back to Hong Kong waters to pursue their fishing business. Nevertheless, they should be accepted for registration and ex-gratia allowance for trawlers should be provided when they were banned from operating in Hong Kong waters;</p> <p>(h) sampans should be within the meaning of local fishing vessels under the registration system;</p>	

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		<p>(i) leisure fishing along the harbour promenade should require a fishing permit;</p> <p>(j) the Administration should keep the relevant Mainland authorities abreast of the introduction of the Bill;</p> <p>(k) Hong Kong should have a sustainable fisheries policy. More training and manpower development for the fisheries industry should be provided; and</p> <p>(l) it remained unclear as to whether engaging divers to capture fish was permissible under Schedule 2 to the Bill.</p> <p>The Administration responded that -</p> <p>(a) the issue of regulating leisure fishing along the harbour promenade was not the primary objective of the Bill. Whether various types of recreational fishing should require permits would need to be further studied from other policy angles;</p> <p>(b) the primary objective of the Bill was to conserve fisheries resources for a sustainable development, including the introduction of a registration system for existing local fishing vessels. Under the proposed registration system, DAFC would not entertain any applications for registration except for the registration of former trawlers after the 12-month period. In line with the policy for the trawl ban, the new section 21 of the Bill provided for the registration of former trawlers;</p> <p>(c) the registration exercise would be applicable to local fishing vessels operating in Hong Kong waters only. For Mainland vessels or vessels operating in the Mainland waters, the owners/operators would have to abide by the Mainland law. As far as the Bill is concerned, Mainland fishing vessels would not be allowed to fish in Hong Kong waters, not even in the modes prescribed in Schedule 2 to the Bill;</p> <p>(d) AFCD currently maintained an updated database on various types of local fishing vessels including trawlers;</p> <p>(e) the Administration maintained a close communication with the relevant Mainland</p>	

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		<p>authorities and the fisheries industry, and would provide assistance to fishermen who planned to switch from trawling to other modes of operations;</p> <p>(f) the Administration would consult the fisheries industry on the proposed locations for deployment of artificial reefs and the designation of FPAs, and the fisheries management measures to be introduced in FPAs; and</p> <p>(g) the Administration was not in a position to provide a response to Mr WONG's suggestion in (c) above.</p>	
015434 - 015622	Chairman ALA10	<p>The Chairman's enquiry as to whether leisure fishing along the harbour promenade would be within the scope of the long title of the Bill.</p> <p>ALA's advice that the long title of the Bill stipulated that it aimed to, among others, regulate fishing within the waters of Hong Kong. This would be a policy consideration for the Administration as to whether it would regulate leisure fishing along the harbour promenade, which was within the waters of Hong Kong.</p>	
015623 - 020551	Mr WONG Yung-kan Chairman Administration	Mr WONG Yung-kan's view that the proposed regulation of fishing fell short of the request of the fisheries industry. Mr WONG's enquiry whether the total number of local fishing vessels could be allowed to increase if the total engine power of registered fishing vessels had decreased eventually.	
020552 - 020603	Chairman Mr WONG Yung-kan Administration	<p>The Chairman's concern whether engine power of fishing vessels was transferable and whether new entrants would be permissible after the total engine power of registered fishing vessels had decreased to a level below the cap on engine power.</p> <p>The Administration advised that all existing local fishing vessels (about 5 000 vessels) including trawlers would be eligible for registration. The maximum number of fishing vessels to be registered and the engine power of these vessels were estimated on the assumption that all the existing fishing vessels would apply for registration. Trawler owners would be provided with an option of registering a non-trawler by modifying the existing trawlers or by acquiring a new vessel. It would take a long time for the engine power of registered fishing vessels to be</p>	

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		reduced to the optimal level. The Administration agreed to provide responses to the following - (a) consideration on the arrangements for transfer of engine power of registered fishing vessels under the registration system; and (b) whether leisure fishing along the harbour promenade would be within the scope of the long title of the Bill.	Admin

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