

**For Information
on 5 February 2013**

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

**Ex-gratia Allowance for Trawler Vessel Owners
Affected by the Trawl Ban**

PURPOSE

The purpose of this paper is to brief Members on the progress made in disbursing ex-gratia allowance (EGA) to trawler vessel owners affected by the trawl ban.

2. This paper also elaborates on certain matters of concern to EGA applicants, including the procedures for processing applications, the criteria adopted in vetting applications, the apportionment of EGA among inshore trawlers, and the appeal arrangements etc.

BACKGROUND

3. The Chief Executive announced in his 2010-11 Policy Address that the Government would implement a basket 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. The legislation for the trawl ban was passed by the Legislative Council (LegCo) in May 2011 and came into effect on 31 December 2012. The Finance Committee (FC) of LegCo also approved in June 2011 a “one-off assistance package to trawler vessel owners, local deckhands and fish collector owners affected by the trawl ban and other related measures” (the “assistance package”), which included making ex-gratia payments to affected trawler vessel owners for permanent loss of fishing grounds arising from the trawl ban (FC Paper FCR(2011-12)22) (**Annex I**).

The Inter-departmental Working Group

4. In August 2011, the Administration set up an inter-departmental working group (“IWG”) to handle applications for assistance. The IWG comprises representatives from the Agriculture, Fisheries and Conservation

Department (AFCD), the Marine Department, and the Home Affairs Department. The Department of Justice and the Independent Commission Against Corruption also advise the IWG on legal matters and corruption prevention. Enclosure 1 of the FC Paper FCR(2011-12)22 sets out the eligibility criteria that an applicant has to meet. Based on it, the IWG has worked out the eligibility criteria and other relevant requirements for EGA applications. These criteria and requirements are specified in the “Guidance Notes for Registration” (**Annex II**, in Chinese) distributed to all applicants. The IWG disseminated the information to stakeholders through the following channels:

- briefing sessions were held in major fishing ports in Hong Kong (including Aberdeen, Shau Kei Wan, Cheung Chau, Tuen Mun, Tai Po and Sai Kung) through which we briefed applicants, representatives of fishermen organisations and relevant parties on the eligibility criteria, related requirements and registration procedures for application for EGA;
- notices were posted at locations frequented by fishermen, including local wholesale fish markets, fisheries offices, marine offices, district offices, etc. The notices were also uploaded to AFCD’s website;
- copies of the “Guidance Notes for Registration” were made available in offices of fishermen organisations for distribution;
- posters and pamphlets were displayed/distributed at locations frequented by fishermen;
- posters were displayed in advertising light-boxes at bus stops in various districts where the major fishing ports are located; and
- a telephone hotline was set up for handling enquiries.

5. The IWG carried out registration of EGA applicants from December 2011 to February 2012, during which a total of 1 117 applications were received. Immediately following the completion of registration, the IWG started the processing of applications according to established procedures.

6. In September 2012, the IWG largely completed its preliminary assessment of the EGA applications and informed the applicants of the initial outcome. Applicants were also informed that they could provide

justifications or make oral representations to the IWG if they disagreed with the preliminary decisions. Having processed the representations, the IWG started in November 2012 to notify applicants by batches of the formal outcome. Some successful applicants had since collected their EGA. The IWG has issued 1 103 notifications to applicants as at 25 January 2013. There are still 14 applications for which a decision is pending due to various reasons (such as awaiting the provision of further information or documents from the applicant).

Types of Ex-gratia Allowance

7. The policy and guiding principles underlying the assistance package are set out in FC Paper FCR(2011-12)22.

8. Owners of inshore trawlers which operate wholly or partly in Hong Kong waters are most affected when the trawl ban takes effect as they will lose their fishing grounds in Hong Kong waters; and hence they will receive a greater amount of EGA. According to FC Paper FCR(2011-12)22, a total amount of \$1,190 million of EGA will be apportioned amongst eligible inshore trawler owners. Enclosure 2 to FC Paper FCR(2011-12)22 sets out the estimated range of EGA payable to different types of inshore trawlers which operate in Hong Kong waters. The figures therein are indicative estimates intended for reference, rather than definitive statements about the upper or lower limit of the EGA payment.

9. The EGA payable to individual trawler vessel owners will depend on the number of successful applications (the greater the number of successful applications, the lesser will be the average amount of EGA payable to each applicant) as well as other apportionment criteria determined by the IWG (as outlined in paragraph 18 below).

10. For larger trawlers which generally do not operate in Hong Kong waters, the impact of the trawl ban on them is much smaller when compared with inshore trawlers. This being the case, a lump sum EGA of \$150,000 will be disbursed to each eligible owner of such larger trawlers.

PROCEDURES FOR PROCESSING APPLICATIONS

11. Apart from determining whether an applicant is eligible for EGA, the IWG also has to take a view on how the vessel under application should be categorised, i.e. whether it is an inshore trawler or a larger trawler.

12. On the date of registration, applicants are required by the IWG

to supply relevant information and to present the vessel under application for inspection. To facilitate comprehensive assessment, the applicant is required to sign a consent form on the date of registration, authorising the IWG or department(s) concerned (e.g. AFCD) to obtain from other departments or third parties any information in relation to his application.

13. The IWG processed each application on the basis of the information provided by the applicant and other information relating to the application, including details of vessel inspection on the date of registration and information obtained from other departments/organisations. The IWG then determined whether the applicant met all the eligibility criteria and related requirements for application for EGA.

14. The work flow that was gone through in processing the applications included preliminary assessments by technical (Fisheries Supervisor or relevant grades) and professional (Fisheries Officer) grade officers, and reviews by a Senior Fisheries Officer. Some complicated cases were considered in depth by a team comprising one Senior Fisheries Officer and two Fisheries Officers. For special types of cases, the IWG also made reference to the views of the Fishermen Advisory Group comprising fishermen and parties related to the fisheries industry. IWG members other than those from AFCD performed random checks on some cases to ensure that the processing of applications complied with the procedures and criteria set down by the IWG. All recommendations related to the processing of applications were submitted to the IWG for deliberation and decision.

Assessment of inshore trawlers and larger trawlers

15. When taking a view on how the trawler vessel under application should be categorised¹, the IWG would consider all relevant data and information related to the application before making a professional judgement. The data and information considered include:

- (i) the particulars of the vessel such as its type, length, hull structure and design;
- (ii) the number and the capacity of the engine(s), and the number of net gear used, etc;
- (iii) information about the vessel as captured by the local licence

¹ That is, whether the vessel under application is:
(a) an inshore trawler which operates wholly or partly in Hong Kong waters; or
(b) a larger trawler which generally does not operate in Hong Kong waters.

and/or Mainland documentation;

- (iv) the number of deckhands working on board the vessel and their identity;
- (v) frequency at which the vessel was seen moored in typhoon shelters and the seasonal pattern, as borne out by AFCD's field validation surveys at the major typhoon shelters in Hong Kong in 2011;
- (vi) the frequency at which the vessel was seen navigating or operating in Hong Kong waters and the seasonal pattern, as borne out by AFCD's patrols in Hong Kong waters from 2009 to 2011;
- (vii) means of fuel and ice replenishment pertaining to the vessel;
- (viii) means of sales and volume of fish catch; and
- (ix) other relevant information, including information provided by the applicant and information on the applicant or his vessel obtained by the IWG from other sources.

The IWG believes that the above information and data empirically reflect the operation pattern of trawler vessels in Hong Kong waters. How the information and data were used when processing individual cases is illustrated in **Annex III**.

16. At the time of notifying the applicants in writing of the preliminary decisions on their applications, the IWG gave a clear account of the key information and factors considered. If the applicants disagreed with the preliminary decisions, they could provide justifications or make representations to the IWG within two weeks from the date of the issue of the letter. The IWG made a formal decision after it had considered the justifications and representations of the applicants (if any). This arrangement provided an opportunity for the applicants to further substantiate their claims, and for the IWG to better understand the operations of the subject vessels, in the interest of facilitating informed decision-making. The IWG received over 300 submissions or representations from applicants who disagreed with the IWG's preliminary decisions. Having considered thoroughly the justifications or information provided by these applicants and other information relating to their applications, the IWG revised the preliminary decisions on 15 cases whereby the subject vessels, hitherto categorised as larger trawlers in the preliminary

assessment, were re-categorised as inshore trawlers. As at 25 January 2013, 269 vessels had been categorised by the IWG as inshore trawlers.

Criteria for apportionment of EGA to eligible inshore trawlers

17. As has been stated in paragraph 8 above, the total EGA of \$1,190 million is to be apportioned amongst owners of eligible inshore trawler vessels. The amount of EGA payable to individual trawler vessel owners will depend on the number of successful applications (i.e. the greater the number of successful applications, the lesser will be the average amount of EGA payable to each application) as well as other apportionment criteria determined by the IWG.

18. According to the guiding principles in FC Paper FCR(2011-12)22, the amount of EGA payable to individual applicants should be proportional to the impact of the trawl ban on each of them. As such, the IWG had taken the following factors and information into consideration when determining how the EGA should be apportioned amongst eligible applicants in terms of relativity:

- (i) the IWG used the type (pair trawlers, stern trawlers, shrimp trawlers, hang trawlers, etc.) and length of eligible inshore trawlers as the basic apportionment criteria for EGA. The type and length of a trawler vessel empirically reflect its operation pattern in Hong Kong waters; and
- (ii) the IWG determined the relative ratio of EGA payable to trawlers of different types and lengths according to the production value of catch and the profitability of the trawlers. In doing this, the IWG made reference to the statistical data for 2005-2010 obtained from the fisheries surveys conducted by AFCD, which included the production value of catch in Hong Kong waters by trawlers of different types and lengths, and the profitability of trawlers of different types.

19. Having considered other relevant information which reflects the dependence of the vessels on Hong Kong waters, the IWG categorised inshore trawlers into two tiers:

- highly dependent on Hong Kong waters for trawling operations (higher tier); and

- not mainly dependent on Hong Kong waters for trawling operations (lower tier).

20. When determining the EGA apportionment ratio for higher and lower tier inshore trawlers, the IWG had made reference to the statistical data for 2005-2010 obtained from the fisheries surveys conducted by AFCD, including the difference in the length of fishing time spent by different types of trawlers in Hong Kong waters (expressed in percentage terms). Professional advice (e.g. the views of the Fishermen Advisory Group) had also been taken into account.

21. After careful consideration of the relevant factors, information and professional views, the IWG took the view that the following ratios should apply when apportioning the EGA between inshore trawlers in the higher and lower tiers:

Type of vessel / category	Relative ratio of EGA payable as compared to the amount (100%) payable to higher tier trawlers of the same type and same length
Pair trawlers / Stern trawlers (lower tier)	20%
Hang trawlers (lower tier)	49%
Shrimp trawlers (lower tier)	43%
Special cases:	
Shrimp trawlers – also used for non-trawling activities for substantial amount of time	30%
Shrimp trawlers – productivity lower than that of trawlers of the same type and similar length	13% or 20%

22. In assessing whether the subject inshore trawler vessel belongs to the higher or lower tier in terms of their dependence on Hong Kong waters, the IWG will fully consider all relevant information mentioned in paragraph 15 above. For applicants with vessels that had been preliminarily assessed as inshore trawlers, the IWG will also invite them to furnish information or evidence to support the length of fishing time spent in Hong Kong waters as declared at the time of application.

APPLICATION RESULTS

23. The IWG has largely completed processing the EGA applications except the 14 applications for which a decision is pending as mentioned in paragraph 6 above. Starting from November 2012, the IWG issued by batches 1 103 letters to inform applicants of the results. Some successful applicants have already collected the EGA payments. **Annex IV** gives further details about the number and different types of applicants issued with EGA, as well as the range of EGA for inshore trawlers. Moreover, the IWG had decided to retain, at this stage, 30% of the total amount of the EGA due to owners of inshore trawler vessels, thereby providing room to cover possible successful appeal cases as may be determined by the Fishermen Claims Appeal Board. After the Board has handled all the appeal cases, the IWG will apportion the remaining funds to all eligible inshore trawler vessel owners according to the decision of the Board and the apportionment criteria.

24. After informing applicants of the results in writing, the IWG had organised four briefing sessions in the major fishing ports, including Aberdeen, Cheung Chau, Tuen Mun and Shau Kei Wan in mid-January 2013, for the purpose of explaining to the applicants the assessment criteria for EGA, apportionment of EGA to inshore trawlers and the appeal arrangements.

APPEALS

25. The Fishermen Claims Appeal Board (FCAB) for the trawl ban was set up on 5 November 2012. The FCAB comprises one non-official Chairman and four non-official members. According to its terms of reference, the FCAB will decide whether the IWG's decisions comply with the government policy, and are fair and reasonable (in the public law sense) to the applicants. **Annex V** gives the membership of the FCAB and its terms of reference. During the briefing sessions, the IWG received views pertaining to the appeal arrangements. These views have been reflected to the FCAB.

WAY FORWARD

26. As at 25 January 2013, the FCAB has received 567 appeal applications. As some fishermen have requested relaxing the deadline for lodging appeals, the FCAB announced on 28 January 2013 that the Board appreciated the long-term impact of the trawl ban on fishermen's livelihood,

and noted the unique tradition of the fishing community whereby most fisherfolk would return to and stay in Hong Kong around the Lunar New Year period, during which time they could handle the filing of appeals in person. As such, the FCAB had decided that an applicant who has received notification of result could file his/her appeal on or before 28 February 28 2013. The FCAB will meet soon to discuss its future work plan.

CONCLUSION

27. Members are invited to note the content of this paper.

**Food and Health Bureau
Agriculture, Fisheries and Conservation Department
29 January 2013**

**For discussion
on 10 June 2011**

FCR(2011-12)22

ITEM FOR FINANCE COMMITTEE

HEAD 22 – AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT

Subhead 700 General non-recurrent

New item “One-off assistance package to trawler vessel owners, local deckhands and fish collector owners affected by the trawl ban and other related measures”

Members are invited to approve the creation of a new commitment of \$1,726.8 million for –

- (a) making ex-gratia payments to affected trawler owners for permanent loss of fishing grounds arising from a statutory trawl ban;
- (b) buying out affected inshore trawler vessels from trawler owners who voluntarily surrender their vessels;
- (c) providing one-off assistance to affected local deckhands employed by the affected inshore trawler owners and affected fish collector owners; and
- (d) implementing measures to support marine conservation and replenishment of fisheries resources, and launching a special training programme for affected trawler fishermen and local deckhands.

PROBLEM

We need to provide one-off assistance to trawler owners, local deckhands and fish collector owners who may be affected by a ban on trawling in Hong Kong waters and implement necessary related measures. The trawl ban aims to restore our seabed and the depleted fisheries resources as early as possible.

PROPOSAL

2. The Secretary for Food and Health proposes to create a new commitment of \$1,726.8 million for a one-off assistance scheme and other related measures on (a) making ex-gratia payments to affected trawler owners for permanent loss of fishing grounds arising from the trawl ban; (b) buying out affected inshore trawler vessels from trawler owners who voluntarily surrender their vessels; (c) providing one-off assistance to affected local deckhands employed by the affected inshore trawler owners who voluntarily surrender their vessels under the buy-out scheme or dispose of their vessels through other means, as well as affected fish collector owners; and (d) implementing measures to support marine conservation and replenishment of fisheries resources, and launching a special training programme for affected trawler fishermen and local deckhands, to help them switch to sustainable fisheries-related or other sea-related operations, as set out in paragraphs 5 to 19 below.

JUSTIFICATION

3. The fisheries resources in Hong Kong waters have been over-exploited and the catch of the fisheries sector, if maintained at the current level, would not be sustainable. It is considered that the non-selective nature of trawling operations capturing fish of all sizes irrespective of their commercial and ecological value is damaging the seabed, detrimental to the marine ecosystems, and has an adverse impact on the catch value of the fisheries sector in the longer run. Immediate action to ban the trawling activities in Hong Kong waters is therefore necessary to halt the rapid depletion of our fisheries resources and massive destruction of marine life. Otherwise, the damage to our marine ecosystems will soon become irreversible.

4. The Chief Executive announced in his 2010-11 Policy Address that the Government would implement a basket of management measures including banning trawling in Hong Kong waters through legislation in order to restore our seabed and marine resources as early as possible. To provide one-off assistance to fishermen affected by the proposed statutory trawl ban, we propose to introduce the scheme detailed in paragraphs 5 to 17 below. The eligibility criteria for the scheme are at Enclosure 1.

THE ONE-OFF ASSISTANCE SCHEME

(a) Ex-gratia Allowance (EGA)

Inshore trawlers

5. For inshore trawlers which operate wholly or partly in Hong Kong waters, their owners will be most affected when the statutory trawl ban takes effect 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 paid to affected fishermen. The EGA for affected inshore trawler owners will therefore be determined by drawing reference to the formula¹ for calculating EGA payable to fishermen affected by marine works projects.

6. 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 will cover the entire Hong Kong waters. The affected fishermen will have to travel further afield, if they wish, to continue trawling. If they fish in Mainland waters, they will be subject to more stringent management measures

¹ According to the existing formula endorsed by the Finance Committee of the Legislative Council (Finance Committee) 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.

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.

7. After considering the above factors and upon further engagement with the fisheries sector, we propose to enhance the multiplier of the EGA formula from seven years to 11 years' notional fish catch value² in calculating the EGA for inshore trawler owners affected by the trawl ban, i.e. –

A notional value of 11 years' fish catch in Hong Kong waters by all trawlers based on the data from the Port Survey conducted by the AFCD in 1989/91 and adjusted with fish price movement since then:

$$\begin{aligned} & \$66.3 \text{ million (fish catch)} \times 11 \text{ (years)} \times 1.63 \text{ (fish price movement)} \\ = & \$1,189 \text{ million} \\ & \text{(say } \mathbf{\$1,190 \text{ million)}} \end{aligned}$$

8. 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 an 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

9. 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 will lose the option to trawl in Hong Kong waters under the following circumstances –

² Assessed on the basis of the 1989/91 Port Survey, to be adjusted to reflect fish price movements.

- (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 imposes more stringent fisheries management measures in the South China Sea in future, forcing them to return to Hong Kong waters for operation.

10. We have noted the concerns of these larger trawler owners. Given that these larger trawler owners will lose the opportunity to move back to Hong Kong waters for operation 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 trawler owners 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, i.e. –

$$\begin{aligned} & \text{Lump sum payment of \$150,000 for larger trawlers:} \\ & \$150,000 \times 700 \text{ (vessels)} \\ = & \$105 \text{ million} \\ & \text{(say \$110 million)} \end{aligned}$$

IWG

11. Similar to the method for determining the EGA for fishermen affected by marine works projects, we will set up an IWG comprising representatives from the AFCD and other relevant departments including the Marine Department to handle all matters relating to applications received under the one-off assistance scheme. 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 (FCAB), comprising non-official members, will be set up where necessary for processing appeals by the affected fishermen against decisions of the IWG.

12. The IWG will work out the eligibility and apportionment criteria, having regard to the views from fishermen representatives. The guiding principle is that the EGA apportioned to different groups of claimants should be proportional to the impact on them 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 8 above. For reference purpose, the apportionment criteria and the estimated range of EGA payable to owners of different types of affected trawlers are at Enclosure 2.

(b) Voluntary buying out of inshore trawlers

13. The majority of inshore 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. Others 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 vessel buy-out 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.

14. The buy-out price of individual vessels 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.

15. 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**

16. 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. To assist them to tide over this transition period, we propose a one-off grant to each local deckhand employed by the affected inshore trawler owners who take part in the voluntary buy-out scheme as stated in paragraphs 13 to 15 above or dispose of their vessels through their own arrangements. 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.

17. 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 on 31 December 2012. 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.

(d) **Fish Collector Owners**

18. We estimate that there are some 400 fish collectors³ in Hong Kong, the majority of which collect fish from fishing vessels operating in the Mainland waters. There is no readily available documentary evidence to help identify inshore fish collectors which have hitherto been serving only inshore trawlers. In view of this, we consider it appropriate to assess if any bona fide fish collectors would be affected by the trawl ban after it has been implemented, and if so, to what extent. Depending on the outcome of our assessment, consideration can be given to rendering those who are genuinely affected with assistance to help them stay in the business or switch to other sustainable sea-related trade. An option which can be explored is to grant a one-off subsidy to inshore fish collector owners who can prove that they had been mainly serving inshore trawlers prior to the trawl ban and who take up loan schemes administered by the AFCD for upgrading their fish collectors or switching to sustainable fisheries-related or other sea-related operations. The IWG will examine the merit of individual application for this one-off subsidy.

MEASURES TO SUPPORT MARINE CONSERVATION AND REPLENISHMENT OF FISHERIES RESOURCES AND A SPECIAL TRAINING PROGRAMME

19. In addition to the proposed scheme as detailed in paragraphs 5 to 18 above, the AFCD will also –

- (a) implement measures to support marine conservation and replenishment of fisheries resources, such as setting up and maintaining a temporary anchorage area for the surrendered vessels, converting some of the surrendered trawlers into artificial reefs, disposal of other trawlers in an environmentally friendly manner, stock assessment of fisheries resources, deployment of artificial reefs with specially designed materials and fish fry restocking programme; and

³ Fish collector owners are those who use their vessels to gather fish from fishing vessels which got their catch either from Hong Kong waters or further afield. Fish collectors would then transport the catch to fish wholesalers either in Hong Kong or on the Mainland. Fish collectors' service is required because not all fishermen would wish to undertake the journey to the wholesalers for fuel and time efficiency reasons.

- (b) launch a special training programme for the affected trawler fishermen and local deckhands to help them switch to sustainable fisheries- related or other sea-related operations.

FINANCIAL IMPLICATIONS

20. We propose a new commitment of \$1,726.8 million for the proposed scheme and other measures detailed in paragraphs 5 to 19 above. The breakdown of the estimates is as follows –

	\$ million
(a) EGA payments to inshore trawler owners	1,190
(b) EGA payments to larger trawler owners	110
(c) Voluntary buying out of inshore trawlers	240
(d) One-off grants to assist affected local deckhands employed by the affected inshore trawler owners who voluntarily surrender their vessels under the buy-out scheme or dispose of their vessels through other means; and one-off subsidy to inshore fish collector owners who mainly serve inshore trawlers prior to the trawl ban and who take up loan schemes administered by the AFCD	44
(e) Implementation of measures to support marine conservation and replenishment of fisheries resources, and a special training programme for the affected trawler fishermen and local deckhands	52.8
(f) Contingency ^{note}	90
Total	<u>1,726.8</u>

Note: Items covered under the contingency include expenditure to cover inflation-related adjustment, appeals allowed by the FCAB and any other bona fide cases approved by the IWG under the one-off assistance scheme.

21. The actual expenditure of the above items will depend on the amount of 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 by the Director of Agriculture, Fisheries and Conservation as the controlling officer, e.g. adjustment to one-off grants according to the prevailing wage levels at the time of disbursement or contingency to meet support-worthy cases allowed by the FCAB.

WAY FORWARD

22. We introduced the subsidiary legislation on the trawl ban into LegCo on 30 March 2011 for negative vetting. The subsidiary legislation was passed upon expiry of the negative vetting period 18 May 2011. Subject to funding support from the Finance Committee, 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 on 31 December 2012. Affected trawler fishermen will 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 if they wish.

PUBLIC CONSULTATION

23. After announcement of the trawl ban initiative in October 2010, the Administration has conducted extensive consultation. 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 are 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 is 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.

24. The Administration also briefed the Legislative Council Panel on Food Safety and Environmental Hygiene (the Panel) about the policy initiative, and the legislative proposals to take forward the trawl ban and other fisheries management measures at its meetings of 15 October 2010 and 8 March 2011. 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. At its meeting of 17 May 2011, the Panel was consulted on details of the scheme and information on the scope of other assistance rendered to the trade as a result of the trawl ban. Such information was also presented to the Sub-Committee established to scrutinise the subsidiary legislation on the trawl ban on 3 May 2011. Members supported the trawl ban initiative but they urged the Administration to address the needs of the related trades.

Food and Health Bureau
June 2011

**One-off assistance package to trawler vessel owners and local deckhands
affected by the trawl ban**

Eligibility Criteria for Applicants

(A) EGA

The eligibility criteria are to be determined by an inter-departmental working group (IWG) established before the commencement of the registration for applying for EGA. Only applicants who can meet the criteria are eligible for the EGA. The criteria should include the following:

- (a) the applicant must be the owner of a trawler vessel which is used for fishing only and not engaged in other commercial activities as at 13 October 2010, and at the time of application is still the owner of that trawler;
- (b) the applicant must be the holder of 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 (Cap. 548D) in respect of the trawler vessel on or before 13 October 2010; or has obtained an approval-in-principle letter for construction of a Class III vessel issued by the MD on or before 13 October 2010, and submit a document proving that the vessel under construction is a trawler vessel;
- (c) where the application is in respect of an inshore trawler, the trawler vessel in the application must wholly or partly fish within Hong Kong waters;
- (d) the applicant must provide the trawler vessel and fishing gear for inspection during registration;
- (e) the particulars of qualified coxswain and engineer operator of the vessel must be provided for registration; and
- (f) other criteria as determined by the IWG.

(B) Voluntary buying out of inshore trawlers

The applicant must be eligible for the EGA in (A) (c) above.

(C) One-off grants for local deckhands

- (a) The applicant must be a local deckhand employed by the owner of an affected inshore trawler vessel who take part in the voluntary buy-out scheme in (B) above or dispose of their vessels through their own arrangements, 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 above-mentioned trawler vessel, and has remained working on the above-mentioned trawler vessel until the owner of the above-mentioned trawler vessel has submitted an application for the scheme;
- (b) the applicant must make a declaration on his/her employment status to support his claim in his/her employment on the trawler vessel;
- (c) the applicant must submit a declaration by his/her employer confirming the his/her employment record;
- (d) the applicant should as far as practicable provide relevant documentary evidence (e.g. Mandatory Provident Fund records, employment contracts, salary payment records, etc.) to support his claim in his/her employment on the trawler vessel; and
- (e) the actual eligibility criteria are subject to the deliberation of the IWG.

**Apportionment Criteria and Ballpark Estimate of EGA
Payable to Eligible Trawler Fishermen**

- The actual EGA payable to individual trawler owners would be subject to the deliberation of the inter-departmental working group for the trawl ban exercise to be set up.

- There are about 1 130 trawlers of different types in Hong Kong (580 pair trawlers, 160 stern trawlers, 350 shrimp trawlers and 40 hang trawlers). Trawlers of various types and lengths have different modes of operation and spend different amount of time in Hong Kong waters for production -
 - (a) stern trawlers and shrimp trawlers are of vessel length above 10 metres. Within this group, the larger vessels have better navigational capability and tend to spend a larger portion of time operating outside Hong Kong while their smaller counterparts operate mainly in Hong Kong waters due to navigational capability and equipment limitations;

 - (b) pair trawlers are of vessel length above 20 metres, and the majority operate outside Hong Kong and only a small number (the smaller ones) fish in Hong Kong waters; and

 - (c) although hang trawlers are of vessel length above 20 meters, they spend relatively longer time fishing in Hong Kong waters due to their special mode of operation which is usually confined to coastal waters.

(A) Inshore trawlers

- Eligible trawlers therefore will be categorised by vessel type and vessel length. Different types of vessels would receive different amounts of EGA and the amounts will also vary with vessel length. The inter-departmental working group may take into account other factors, such as engine power and equipment on board, in adjusting the amounts of EGA payouts for individual vessels. The relative differences in the

estimated annual production values in Hong Kong waters of these trawlers will form the basis for apportioning the EGA to eligible vessel owners of different categories. The estimated ranges of EGA payable to different types of inshore trawlers which operate mainly in Hong Kong waters are (only indicative estimate for reference purposes):

	<u>EGA*</u> <u>(\$ million per vessel)</u>
Stern trawlers :	1.9 – 2.3
Shrimp trawlers :	0.9 – 3.5
Hang trawlers :	3.5 – 5.5
Pair trawlers :	1.5 – 2.0

* There are a few small silver shrimp trawlers which are estimated to receive a lower amount of EGA than any of the above ranges due to their smaller catch as compared with any of the above groups.

(B) Larger trawlers

- A lump sum EGA of \$150,000 is proposed to be given in respect of each larger trawler, if the relevant application is successful.

登記須知

因禁止拖網捕魚而向受影響拖網漁船船東 發放特惠津貼

政府已為「因禁止拖網捕魚而向受影響的拖網漁船船東及其僱用的本地漁工提供的一次過援助」成立跨部門工作小組（以下簡稱「工作小組」）。工作小組將於今年 12 月 7 日至 2012 年 2 月 29 日，為受影響的拖網漁船船東辦理申請特惠津貼及申請參加近岸拖網漁船自願回購計劃的登記手續。符合下述登記資格的拖網漁船船東可於預約的時間到指定的地點辦理登記手續。

(一) 重要注意事項

1. 工作小組可在登記時及處理有關上述申請個案的過程中，不時要求申請人及相關人士提供資料或文件作為處理申請之用。
2. 申請人有責任向工作小組提供有關的資料或文件，作為處理該宗申請之用。若申請人不提供有關的資料或文件，工作小組可能無法完成處理該宗申請。
3. 申請人或其拖網漁船的船長或捕魚作業人員如故意虛報任何資料、故意提供虛假文件或資料、或故意歪曲或隱瞞事實，申請人除會喪失申請資格外，還可能會被檢控。
4. 將進行的登記工作，只屬辦理有關申請的步驟，政府及有關機構不會就該工作作出任何承諾。此外，任何人士不得因獲被接納其登記或申請而認為有權領取任何特惠津貼。政府會考慮每宗申請個案的個別情況，並會將申請結果個別通知各申請人。
5. 相關的申請人與政府部門進行任何事務往來時，均不得向該政府部門的成員或職員提供利益。

(二) 預約登記（派籌）日期

1. 欲登記申請特惠津貼的拖網漁船船東（申請人），請於下列日期、時間及地點，親自或委派代表前往領取預約登記確認書：

<u>日期</u>	<u>時間</u>	<u>地點</u>
2011 年 11 月 28 日（星期一）	上午 9:15 至下午 12:30 下午 1:30 至 5:00	香港仔漁業及海事分處 香港仔石排灣道 100 號 A
2011 年 12 月 5 - 6 日（星期一至二）		
2012 年 1 月 4 日（星期三）		
2012 年 1 月 9 - 10 日（星期一至二）		

日期	時間	地點
2011年11月29日(星期二) 2011年12月7日(星期三) 2012年1月5日(星期四) 2012年1月12日(星期四)	上午9:15至下午12:30 下午1:30至5:00	屯門海事分處 屯門三聖街15號
2011年11月30日(星期三) 2011年12月8日(星期四) 2012年1月3日(星期二) 2012年1月11日(星期三)	上午9:15至下午12:30 下午1:30至5:00	筲箕灣魚類批發市場 聯絡員辦事處 筲箕灣亞公岩譚公廟道
2011年12月1日(星期四) 2011年12月9日(星期五) 2012年1月6日(星期五) 2012年1月13日(星期五)	上午9:15至下午12:30 下午1:30至5:00	長洲魚站聯絡員辦事處 長洲海傍街83B二樓
2011年12月2日(星期五)	上午9:15至下午12:30	大埔魚類批發市場 聯絡員辦事處 大埔三門仔漁安街1號
2011年12月2日(星期五)	下午1:30至5:00	西貢魚類批發市場 聯絡員辦事處 西貢海傍街18-20號

2. 申請人或其代表前往領取預約登記確認書時，必須就其相關的拖網漁船出示以下文件的正本或影印本：
 - (a) 由海事處發出的擁有權證明書、有效運作牌照及有效驗船證明書；及
 - (b) 由內地有關部門發出的粵港澳流動漁船戶口簿及漁業捕撈許可證（如適用）。
3. 若相關漁船的擁有權證明書、運作牌照及驗船證明書上的資料顯示申請人不符合資格申請特惠津貼，申請人可能會被拒絕發出預約登記確認書。
4. 申請人或其代表須提供負責操作上述拖網漁船的船長及輪機操作員（如適用）的姓名。
5. 為有效安排派發預約登記確認書的工作，工作小組每天將會派發約 160 張預約登記確認書。除在上述指定日期外，申請人或其代表可於辦公時間內，到漁農自然護理署總部（地址：九龍長沙灣道 303 號長沙灣政府合署 8 樓）或香港仔漁業及海事分處（地址：香港仔石排灣道 100 號 A 2 樓）預約登記。

(三) 登記日期

1. 工作小組將於今年 12 月 7 日 至 2012 年 2 月 29 日，為受影響的拖網漁船船東辦理申請特惠津貼及申請參加近岸拖網漁船自願回購計劃的登記手續。符合下述登記資格的拖網漁船船東可於預約的時間到指定的地點辦理登記手續。
2. 個別申請人的實際登記日期、時間及地點會在派發預約登記確認書時決定，並會記錄在每個申請人的預約登記確認書上。申請人必須按照在預約登記確認書上所定的預約登記日期和時間，前往指定地點辦理登記手續。

(四) 登記資格及相關要求

申請特惠津貼

1. 申請人必須符合下述所有資格：
 - (a) 申請人須於 2010 年 10 月 13 日或之前擁有拖網漁船，以及於申請時仍擁有該拖網漁船；
 - (b) 上述拖網漁船必須符合以下條件：
 - (i) 其設計及裝備只用作拖網捕魚；
 - (ii) 只用作拖網捕魚而並沒有用作其他商業活動；及
 - (iii) 符合《商船（本地船隻）條例》（第 548 章）及其附屬法例中船隻在香港運作的相關要求；
 - (c) 申請人須於 2010 年 10 月 13 日或之前，持有由海事處根據《商船（本地船隻）（證明書及牌照事宜）規例》（第 548D 章）對上述拖網漁船發出的有效第 III 類別船隻擁有權證明書及運作牌照；
 - (d) 申請人須於 2010 年 10 月 13 日或之前，持有由海事處根據《商船（本地船隻）（安全及檢驗）規例》（第 548G 章）對上述拖網漁船發出的有效驗船證明書；及
 - (e) 若申請人於 2010 年 10 月 13 日或之前並不擁有拖網漁船，則申請人須於 2010 年 10 月 13 日或之前持有由海事處向其發出的建造第 III 類別船隻原則上批准通知書，並提交文件證明根據該原則上批准通知書建造的船隻是拖網漁船。申請人於登記當日須擁有按照上述原則上批准通知書而建造的拖網漁船，而其申請必須同時符合上述資格（b）與及下述有關登記時須符合的要求。
2. 申請人於登記時須符合下述要求：
 - (a) 申請人須於登記當日持有由海事處根據《商船（本地船隻）條例》（第 548 章）及其附屬法例對上述拖網漁船發出的有效擁有權證明書、運作牌照及驗船證明書；

- (b) 申請人須提供於 2010 年 10 月 13 日至登記當日操作上述拖網漁船的船長的資料。上述拖網漁船的船長必須持有由海事處根據《商船（本地船隻）條例》（第 548 章）發出的適當而有效的船長本地合格證明書，證明其具備資格操作上述船隻。除操作上述拖網漁船外，該名船長不應同時受僱及擔任為其他申請有關的拖網漁船或其他漁船的船長或其他工作人員；
- (c) 如申請人的拖網漁船除船長外須有輪機操作員操作，申請人須提供於 2010 年 10 月 13 日至登記當日操作上述拖網漁船的輪機操作員的資料。上述拖網漁船的輪機操作員必須持有由海事處根據《商船（本地船隻）條例》（第 548 章）發出的適當而有效的輪機操作員本地合格證明書，證明其具備資格操作上述船隻。除操作上述拖網漁船外，該名輪機操作員不應同時受僱及擔任為其他申請有關的拖網漁船或其他漁船的輪機操作員或其他工作人員；
- (d) 申請人須提供上述拖網漁船並帶備所有日常作業使用的捕魚用具及設備，於指定的時間及地點接受工作小組查驗；及
- (e) 申請人須授權工作小組的成員政府部門就申請人的申請向任何政府部門或其他有關團體/人士作出查詢及/或核實資料，並須授權及同意該等政府部門或團體/人士向工作小組及上訴委員會提供任何及所有與申請有關的資料。

申請參加近岸拖網漁船自願回購計劃

3. 申請人必須符合下述所有資格：

- (a) 申請人須為被工作小組認定符合資格領取上述的特惠津貼的人士；及
- (b) 申請人擁有的拖網漁船須全部或部分時間在香港水域作業。

(五) 登記當日須辦理的手續

申請特惠津貼

1. 申請人在已預約登記的當日，須辦理以下手續：

- (a) 出示有效的預約登記確認書；
- (b) 在填寫申請特惠津貼的登記表格前簽署同意書（見附件一）；
- (c) 填寫申請特惠津貼的登記表格；
- (d) 提供申請特惠津貼登記所需要的文件及資料；
- (e) 就登記表格上已填寫的資料及其他由申請人提供的文件及資料作出相關的法定聲明；及
- (f) 提供與其申請相關的拖網漁船到指定的地點，並帶同所有日常作業使用的捕魚用具及設備給工作小組一併查驗。若申請人無法於登記當日帶同拖網漁船給工作小

組查驗，申請人必須與工作小組預約其他時間，盡快帶同拖網漁船以及負責操作的船長和輪機操作員（如適用），到指定的地點接受工作小組查驗及查核。

申請參加近岸拖網漁船自願回購計劃

2. 合資格登記申請特惠津貼的申請人若為近岸拖網漁船船東，可以同時表明是否申請參加近岸拖網漁船自願回購計劃。在登記工作完成後，若工作小組在考慮申請人的個案後認定其符合有關資格，工作小組會接納申請人參加近岸拖網漁船自願回購計劃，並會安排為其辦理下一步的申請手續。

(六) 登記當日須帶備的文件及資料

申請特惠津貼

1. 申請人在已預約登記的當日，必須帶同下列各項：
 - (a) 有效的預約登記確認書；
 - (b) 下列文件的正本及影印本各一份：
 - (i) 海事處簽發的船隻擁有權證明書、有效運作牌照及有效驗船證明書；
 - (ii) 有效的船長本地合格證明書及有效的輪機操作員本地合格證明書（如適用）；
 - (iii) 申請人及其提名的船長和輪機操作員的香港身份證（如適用）；
 - (iv) 申請人所提名的捕魚作業人員的香港身份證（如適用）；
 - (v) 申請人住址證明（例如：最近三個月內的電費單、水費單等）；
 - (vi) 申請人的粵港澳流動漁船戶口簿、漁業捕撈許可證（如適用）；
 - (vii) 由海事處於 2010 年 10 月 13 日或之前向申請人發出的建造第 III 類別船隻原則上批准通知書（如適用）；及
 - (viii) 其他由申請人提供支持申請的相關證明文件或資料（如適用）。
 - (c) 申請人的拖網漁船及所有日常作業的捕魚用具及設備。

申請參加近岸拖網漁船自願回購計劃

2. 合資格登記申請特惠津貼的申請人若為近岸拖網漁船船東，在表明欲申請參加近岸拖網漁船自願回購計劃時，申請人暫時無須帶備任何文件或資料。在登記工作完成後，若工作小組在考慮申請人的個案後認定其符合有關資格，工作小組會接納申請人參加近岸拖網漁船自願回購計劃，並會安排為其辦理下一步的申請手續。

(七) 登記當日須親身前來辦理手續的人士

申請特惠津貼

1. 在已預約登記的當日須前來辦理手續的人士：
 - (a) 申請人必須親身前來登記；
 - (b) 如申請人的拖網漁船並非由申請人本人操作，申請人須聯同他所提名的船長及輪機操作員（如適用）親身前來登記；
 - (c) 如申請人同意由船長或其他捕魚作業人員提供與該宗申請有關的捕魚作業資料，申請人須聯同他所提名的船長或捕魚作業人員親身前來登記。

申請參加近岸拖網漁船自願回購計劃

2. 合資格登記申請特惠津貼的申請人若為近岸拖網漁船船東，祇需其本人於登記時同時表明是否決定參加近岸拖網漁船自願回購計劃。

(八) 上訴

1. 如申請人對工作小組的決定有任何不滿，可以書面形式於指定日期內向獨立於工作小組的上訴委員會提出上訴。
2. 上訴委員會將於適當時間成立以處理個別上訴個案。有關上訴的安排及程序會在適當時間公布。

(九) 其他事項

1. 申請人必須按照預約登記確認書上的預約登記時間前往指定地點辦理登記手續。如申請人在領取預約登記確認書後有需要更改登記時間或地點，須盡快與漁農自然護理署（漁護署）聯絡（電話：2150 7087）以便作出其他安排。
2. 如申請人未有按照預約登記確認書上指定的時間前往指定地點辦理登記手續，而又未有通知漁護署另作安排，將被視作自動放棄申請。
3. 所有提交的相關文件或資料，必須自備影印副本於登記當日呈交以作記錄。
4. 如所提供的個人資料日後有任何更改，請立即通知漁護署（電話：2150 7087）。
5. 倘在登記當日上午七時前天文台發出紅色或黑色暴雨警告信號或發出三號或以上熱帶氣旋警告信號，當日的登記便會自動取消。申請人可致電 2150 7087 另行安排登記日期。

(十) 查詢

如有任何查詢，請在辦公時間內聯絡下列人士：

部門	聯絡人	電話號碼
漁農自然護理署	林淑芬小姐	2150 7087
海事處	施培成先生	2513 5379

跨部門工作小組¹

2011 年 11 月

¹ 為「因禁止拖網捕魚而向受影響的拖網漁船船東及其僱用的本地漁工提供的一次過援助」而成立的跨部門工作小組

Assessment of Inshore Trawlers and Larger Trawlers

(A) Data and information which can reflect the operations of trawler vessels in Hong Kong waters

(i) Particulars of a vessel such as its type, length, hull structure and design

- According to the statistical data for 2005-2010 obtained from fisheries surveys conducted by the Agriculture, Fisheries and Conservation Department (AFCD), the average span of fishing time spent in Hong Kong waters by trawler vessels of different types and lengths is as follows:

Vessels with at least 10% average fishing time spent in Hong Kong waters (inshore trawlers)	Trawlers with less than 10% average fishing time spent in Hong Kong waters (larger trawlers which generally do not operate in Hong Kong waters)
Pair trawlers of vessel length not exceeding 26m	Pair trawlers of vessel length exceeding 26m
Stern trawlers of vessel length not exceeding 26m	Stern trawlers of vessel length exceeding 26m
Shrimp trawlers of vessel length not exceeding 27m	Shrimp trawlers of vessel length exceeding 27m
Trawlers of traditional hull type	Trawlers with steel hull type
Hang trawlers	

(ii) Number and capacity of engines, the type and number of net gear used etc.

- Trawlers with more engines and higher total engine power can operate in waters further offshore. In general, they spend less time or do not operate in Hong Kong waters.
- Trawlers (shrimp trawlers) using more sets of trawl nets (shrimp trawl nets) generally spend less time or do not operate in Hong Kong waters.

(iii) Information about the vessel as captured by the local licence and Mainland documents

- If a vessel does not hold a valid operating licence issued by the Marine Department for an extended period, it indicates that the vessel is not allowed to operate in Hong Kong waters during the period.
- If a vessel does not hold a fishing permit issued by the relevant Mainland authorities, it indicates that the vessel is not allowed to operate in Mainland waters outside Hong Kong. It is more likely for the vessel to be operating in Hong Kong waters.

(iv) Number of deckhands working on board the vessel and their identity

- If a vessel is mainly manned by local crew or Mainland deckhands employed through the Mainland Fishermen Deckhands Scheme (MFDS), it indicates that the operation of the vessel in Hong Kong waters is not restricted.
- If a vessel is mainly manned by Mainland deckhands directly employed in the Mainland without Hong Kong entry visas, it indicates that the operation of the vessel in Hong Kong waters is restricted.

(v) Frequency at which the vessel is seen moored in typhoon shelters and the seasonal pattern, as borne out by AFCD's field validation surveys at the major typhoon shelters in Hong Kong in 2011

- An inshore trawler operating wholly or partly in Hong Kong waters usually moors in Hong Kong as the main homeport. The vessel therefore moors more frequently in local typhoon shelters and is more frequently sighted in the surveys.
- A trawler which generally does not operate in Hong Kong waters usually moors less frequently or does not moor in local typhoon shelters, except during Chinese New Year or the fishing moratorium in South China Sea. It is thus less frequently sighted or never sighted in the surveys.

(vi) Frequency at which the vessel is seen navigating or operating in Hong Kong waters and the seasonal pattern, as borne out by AFCD's boat patrols in Hong Kong waters from 2009 to 2011

- If a vessel is sighted navigating or operating in Hong Kong waters numerous times, it indicates that the vessel is more likely to be operating wholly or partly in Hong Kong waters.
- If a vessel is not sighted navigating or fishing in Hong Kong waters, it indicates that the vessel is more likely to be operating less frequently or generally does not operate in Hong Kong waters.

(vii) Means of fuel and ice replenishment pertaining to the vessel

- If the fuel and ice replenishment records of a vessel show frequent replenishment in Hong Kong, it indicates that the vessel is more likely to be operating wholly or partly in Hong Kong waters.
- If the fuel and ice replenishment records of a vessel shows that it seldom or does not replenish in Hong Kong, it indicates that the vessel is more likely to be operating less frequently or generally does not operate in Hong Kong waters.

(viii) Means of sales and volume of fish catch

- If the record of sales of fish catch shows that a vessel frequently sells a significant amount of its catch in Hong Kong (such as through a wholesale fish market of the Fish Marketing Organisation), it indicates that the vessel is more likely to be operating wholly or partly in Hong Kong waters.
- If the record of sales of fish catch shows that a vessel seldom or does not sell its catch in Hong Kong, it indicates that the vessel is more likely to be operating less frequently or generally does not operate in Hong Kong waters.

(ix) Other relevant information, including information provided by the applicant and information obtained by the IWG from other sources

- Information on the applicant or in relation to the vessel under application obtained by the IWG from other departments or third parties (including those within and

outside Hong Kong).

- Information provided by the applicant at the time of application or during interviews or information and evidence provided by the applicant during his representation.

(B) Sample cases

Three cases are cited below to illustrate how the IWG has analysed and taken into account the relevant data and information, for the purpose of determining whether or not the vessel under application is an inshore trawler which operates wholly or partly in Hong Kong waters. Since the details of individual cases are unlikely to be identical in all aspects, the factors considered and the weight attached to relevant factors might well vary. The assessment criteria and benchmarks cited in the cases below may not be entirely applicable to all cases.

Case 1

Type of vessel:	Pair trawler
Length:	About 42 metres
Hull structure and design:	Steel structure and modern design
Total engine power:	About 1 400 kW
Total fuel tank capacity:	About 330 m ³

According to AFCD's statistical data on the operation of trawlers of different types and lengths, a 42-metre steel hull pair trawler generally does not operate in Hong Kong waters. Besides, this vessel has a total engine power of 1,400 kw and total fuel tank capacity of 330 m³, suggesting that it is most likely to be operating in waters further offshore outside Hong Kong.

According to the records of AFCD's field validation surveys conducted at the major typhoon shelters in Hong Kong in 2011, the vessel was rarely observed (2 times only) moored in typhoon shelters other than during the Chinese New Year and the fishing moratorium. This indicates that the vessel is not based in Hong Kong as its main homeport and operates in water regions further away from Hong Kong. In AFCD's boat patrols in Hong Kong waters from 2009 to 2011, the vessel was not found operating in Hong Kong waters. Furthermore, the vessel is manned by a local crew of two members and eight Mainland deckhands directly employed in the Mainland who do not hold Hong Kong entry visas, indicating that its operation in Hong Kong waters is restricted. Therefore, it should well be a vessel that generally does not operate in Hong Kong waters.

Having analysed and considered fully all the data and information above, the IWG has decided to categorise the vessel in this case as **a larger trawler which generally does not operate in Hong Kong waters.**

Case 2

Type of vessel:	Shrimp trawler
Length:	About 20 metres
Hull structure and design:	Wood structure and modern design
Total engine power:	About 187 kW
Total fuel tank capacity:	About 6 m ³

According to AFCD's statistical data on the operation of trawlers of different types and lengths, a 20-metre shrimp trawler generally operates partly in Hong Kong waters. Besides, as this vessel has a total engine power of 187 kW and a total fuel tank capacity of 6 m³, it indicates that the vessel is less likely to be operating in waters further offshore.

According to the record of AFCD's field validation surveys conducted at the major typhoon shelters in Hong Kong in 2011, the vessel was frequently observed (as many as 35 times) moored in typhoon shelters other than during the Chinese New Year and the fishing moratorium. This indicates that the vessel is based in Hong Kong as its main homeport and generally spends more time operating in Hong Kong waters. In AFCD's boat patrols in Hong Kong waters from 2009 to 2011, the vessel was sighted numerous times operating in Hong Kong waters. The vessel is manned by a local crew of two members and three Mainland deckhands employed through the MFDS, indicating that its operation in Hong Kong waters is not restricted.

Having analysed and considered fully all the data and information above, the IWG is satisfied that the vessel is an inshore trawler which is highly dependent on Hong Kong waters for its trawling operation. As such, the IWG has decided to categorise the vessel in this case as **an inshore trawler of the higher tier in terms of the dependence on Hong Kong waters.**

Case 3

Type of vessel:	Pair trawler
Length:	About 28 metres
Hull structure and design:	Wood structure and modern design
Total engine power:	About 630 kW
Total fuel tank capacity:	About 26 m ³

According to AFCD's statistical data on the operation of trawlers of different types and lengths, a 28-metre pair trawler generally does not operate in Hong Kong waters. Furthermore, as this vessel has a total engine power of 630 kW and a total fuel tank capacity of 26 m³, it indicates that the vessel is capable of fishing in waters further offshore. In AFCD's boat patrols in Hong Kong waters from 2009 to 2011, the vessel was not found operating in Hong Kong waters.

However, according to the records of AFCD's field validation surveys conducted at the major typhoon shelters in Hong Kong in 2011, the above vessel was frequently observed (18 times) moored in typhoon shelters other than during the Chinese New Year and the fishing moratorium. This indicates that the vessel is based in Hong Kong as its main homeport and generally spends more time operating in Hong Kong waters. Besides, the vessel is manned by a local crew of two members and four Mainland deckhands employed through the MFDS, indicating that its operation in Hong Kong waters is not restricted.

Having analysed and considered fully all the data and information above, and based on the records of AFCD's field validation surveys and the status of the deckhands on board the vessel, the IWG is satisfied that the vessel is an inshore trawler which operates partly in Hong Kong waters. However, in view of the type, length, engine power and fuel tank capacity of the vessel as well as the AFCD's boat patrols record, the IWG has taken the view that the vessel is an inshore trawler which is not mainly dependent on Hong Kong waters for its operation. As such, the IWG has decided to categorise the vessel in this case as **an inshore trawler of the lower tier in terms of dependence on Hong Kong waters.**

**Summary of Results for EGA Applications
(As at 25 January 2013)**

(A) Breakdown of cases

	Type of fishing vessel / Number of cases [^]						Total
	Pair trawler	Stern trawler	Shrimp trawler	Hang trawler	Silver shrimp trawler	Others	
Eligible larger trawlers	479	63	150	12	0	4	708 [^]
Eligible inshore trawlers	68	30	117	30	11	13	269 [^]
Subtotal of eligible applications	547	93	267	42	11	17	977 [^]
Ineligible applications	-	-	-	-	-	-	125 [^]
Others (including a withdrawn application and 14 applications being processed*)	-	-	-	-	-	-	15
Total							1 117

Number of appeal cases: 567

[^] Cases with the IWG's formal decision

* Including cases for which oral representations have been made / documentary evidence submitted and the IWG's further action is required, and cases in which the applicants have been requested by the IWG to furnish further information or to provide their vessels for inspection by the Marine Department

(B) Range of EGA amounts for owners of eligible inshore trawler vessels

(i) Highly dependent on Hong Kong waters for operation (Higher tier)

Type of inshore trawler	Number of cases [^]	EGA Amount (\$ million)
Pair trawlers	14	3.4 - 4.8
Stern trawlers	20	3.0 - 3.6
Shrimp trawlers	99	2.1 - 4.5
Hang trawlers	22	4.5 - 6.4
Silver shrimp trawlers	11	0.4 - 1.4
Sub-total	166	

(ii) Not mainly dependent on Hong Kong waters for operation (Lower tier)

Type of inshore trawler	Number of cases [^]	EGA Amount (\$ million)
Pair trawlers	54	0.7 - 1.0
Stern trawlers	10	0.6 - 0.7
Shrimp trawlers	18	1.9 - 2.0
Hang trawlers	8	1.9 - 3.3
Sub-total	90	

(iii) Special cases

Type of inshore trawler	Number of cases [^]	EGA Amount (\$ million)
Trawlers used for non-trawling activities for a substantial amount of time	10	1.3 - 1.4
Trawlers of productivity lower than that of trawlers of the same type and similar length	2	0.6 - 0.8
Trawlers using different types of trawling methods	1	2.3
Sub-total	13	

Total number of cases[^]	269
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[^] Cases with the IWG's formal decision

Fishermen Claims Appeal Board for Trawl Ban

List of Members

- (1) Chairman
Ms. Tennesy HUI Mei-sheung
- (2) Members
Miss Nancy Chan
Miss Cindi Hui Ming-ming
Mr. William Lee Ka-chung
Dr. Paul Shin Kam-shing

Terms of Reference

With reference to the ex-gratia allowance (EGA) and a one-off grant under the one-off assistance package¹ approved by the Finance Committee on 10 June 2011 –

* To see that the criteria established by the IWG for processing and/or vetting applications for the EGA comply with the government policy, and are fair and reasonable (in the public law sense) to the applicants.

* To see that the IWG's decisions on eligibility and the amount of EGA granted comply with the government policy and are fair and reasonable (in the public law sense) to the applicants.

* To examine any new or additional information/evidence provided by the appellants (or their representatives) who have lodged an appeal against

¹ This package includes :-

- (a) Ex-gratia allowance (EGA) payments to inshore trawler owners;
- (b) EGA payments to larger trawler owners; and
- (c) One-off grants to assist affected local deckhands employed by the affected inshore trawler owners who voluntarily surrender their vessels under a buy-out scheme offered by the Agriculture, Fisheries and Conservation Department or dispose of their vessels through other means.

the IWG's decisions or by the relevant departments, and to consider the relevance of and the weight to be given to such information/evidence.

* To consider whether to uphold the IWG's decisions on the appellants' cases or to revise the decisions, and to determine the type and amount of EGA payable to the appellants, as appropriate².

² This FCAB would be able to confirm, revoke, vary in such manner as it thinks fit, or substitute its own decision for the IWG's decision.