

# 立法會

## *Legislative Council*

LC Paper No. CB(2)1621/14-15(06)

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### **Panel on Food Safety and Environmental Hygiene**

#### **Information note prepared by the Legislative Council Secretariat for the meeting on 9 June 2015**

#### **Implementation of the trawl ban**

To take forward the trawl ban, the Administration introduced the Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011 to the Legislative Council on 30 March 2011 to provide for prohibiting the use of trawling devices for fishing in Hong Kong waters<sup>1</sup>. The trawl ban came into operation on 31 December 2012. Any person who contravenes the trawl ban is liable on conviction to a maximum fine of \$200,000 and imprisonment for up to six months.

2. To address the livelihood problems faced by the fishermen affected by the trawl ban, the Finance Committee ("FC") approved at its meeting on 11 June 2011 the Administration's funding proposal of \$1,726.8 million for implementing "One-off assistance package to trawler vessel owners, local deckhands and fish collectors affected by the trawl ban and other related measures" (LC Paper No. FCR(2011-12)22)<sup>2</sup>. The one-off assistance package comprised four components as follows -

- (a) providing ex-gratia allowance ("EGA") to affected trawler owners for permanent loss of fishing ground arising from the trawl ban, including (i) a total amount of \$1,190 million to be fully disbursed

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<sup>1</sup> The deliberations of the Subcommittee on Fisheries Protection (Specification of Apparatus) (Amendment) Notice 2011 were detailed in its report submitted to the House Committee meeting on 13 May 2011 (LC Paper No. CB(2)1717/10-11).

<sup>2</sup> The Panel on Food Safety and Environmental Hygiene ("the Panel") was briefed by the Administration on the progress made in disbursing the assistance package at its meeting on 5 February 2013. Subsequently, the Panel was updated on the progress made in disbursing the assistance package via the Administration's information papers issued in June 2013, and January and July 2014 [LC Paper Nos. CB(2)1493/12-13(01), CB(2)644/13-14(01) and CB(2)1993/13-14(01)].

to, and apportioned among, inshore trawlers; and (ii) a lump sum of \$150,000 for each larger trawler;

- (b) providing a total amount of \$240 million for buying out affected inshore trawler vessels from trawler owners who voluntarily surrender their vessels;
- (c) providing a one-off grant of \$34,000 to each affected local deckhands; and
- (d) providing EGA of \$90,000 to each eligible fish collector owner to cushion off the difficulties faced by them during their migration to other mode of operation, and an interest subsidy (capped at \$30,000) for payment of the interest of the loan<sup>3</sup> taken up by the owner of an eligible fish collector.

The eligibility criteria for applicants of the one-off assistance package and the apportionment criteria and estimate of EGA payable to eligible trawler fishermen are set out in the **Appendix**.

3. According to the Administration's reply to a written question raised by Hon WU Chi-wai on the enforcement of the trawl ban at the Council meeting of 3 December 2014, up to October 2014, the Agriculture, Fisheries and Conservation Department ("AFCD") had made a total of 13 200 patrols in Hong Kong waters for the enforcement of the trawl ban, and instituted 25 prosecutions (including five cases against Mainlanders) involving trawling in Hong Kong.

4. In its reply to a written question raised by Hon Steven HO on the processing of appeal cases concerning allowances and grants related to the trawl ban raised at the Council meeting of 28 January 2015, the Administration advised that EGA amounting to \$941.3 million had been paid out from the total amount of \$1,726.8 million approved by FC. The Fishermen Claims Appeal Board ("FCAB") had received 858 appeal applications. To ensure that the appeal process was completed within a reasonable time frame, the Administration had expanded FCAB to a pool of five Chairmen and 20 members, and appointed three additional legal advisers in mid 2014. It was FCAB's plan to conduct hearings on 32 cases in the first stage and the remaining

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<sup>3</sup> The subsidy was limited to off-setting the interest of one loan. According to the Administration, since fish collectors severely affected by the trawl ban were mainly smaller vessels with lower engine power, the loans taken up by them would unlikely exceed \$1 million. Assuming a loan amount of \$1 million and a loan tenure of 14 years (which was the maximum loan tenure under the Fisheries Development Loan Fund and the longest among the various loan funds), a one-off interest subsidy capped at \$30,000 would cover close to 50% of the interest incurred.

800 or so appeal cases in the second stage<sup>4</sup>. As of January 2015, FCAB had conducted nine cases in the first stage.

5. According to the Administration's reply to Members' initial written questions during the examination of the Estimates of Expenditure 2015-2016, AFCD had earmarked \$13.1 million and 18 staff for enforcement against illegal trawling in 2015-2016.

Council Business Division 2  
Legislative Council Secretariat  
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<sup>4</sup> According to the Administration, the 32 cases in the first stage were extracted from a cross-section of the appeal cases based on vessel type (i.e. stern trawlers, pair trawlers, hand trawlers and shrimp trawlers) and classification (i.e. inshore trawlers (upper tier), inshore trawlers (lower tier), larger trawlers which generally did not operate in Hong Kong waters, and ineligible trawlers) with a view to covering all the parameters and criteria that had been taken into consideration in the assessments of the Inter-departmental Working Group which was set up to handle matters relating to applications received from parties affected by the trawl ban. During the second stage, FCAB would hear the remaining appeal cases in a sequence that accorded with the date on which the appeal was lodged.

### **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.

*Source : Enclosure 1 to FCR(2011-12)22 provided by the Administration*

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**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.

*Source : Enclosure 2 to FCR(2011-12)22 provided by the Administration*

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**One-off Assistance to Fish Collector Owners  
Affected by the Trawl Ban**

**Eligibility Criteria for Applicants**

The eligibility criteria are to be determined by the Interdepartmental Working Group (IWG) set up to handle all matters in relation to applications received under the one-off assistance scheme to trawler vessel owners, local deckhands and fish collector owners affected by the trawl ban. Only applicants who can meet the criteria are eligible for the assistance. The criteria should include the following:

- (i) the applicant must be the owner of a fish collector which is used for fish collecting purpose 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 vessel;
- (ii) 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 under the Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548D) in respect of the fish collector on or before 13 October 2010; or has obtained an approval-in-principle letter for construction of a Class III vessel issued by the Marine Department on or before 13 October 2010, and submit a document proving that the vessel under construction is a fish collector;
- (iii) the applicant must provide the fish collector and equipment on board for inspection during registration;
- (iv) the particulars of qualified coxswain and engine operator of the fish collector (if applicable) must be provided for registration;
- (v) the applicant must be a successful applicant of a loan scheme administered by the Agriculture, Fisheries and Conservation Department;
- (vi) the applicant must be able to provide documentary proof to the satisfaction of the IWG that his fish collector had been



mainly serving inshore trawlers prior to the trawl ban, and has been genuinely affected by the trawl ban; and

(vii) other criteria as determined by the IWG.

2. The applicant is also required to provide any other information in relation to his application as may be requested by the IWG.

*Source : Annex to LC Paper No. CB(2)1993/13-14(01) provided by the Administration*