

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1813/17-18(02)

Ref : CB2/BC/4/17

**Bills Committee on  
Conservation of Antarctic Marine Living Resources Bill**

**Background brief prepared by the Legislative Council Secretariat**

**Purpose**

This paper provides background information on the Conservation of Antarctic Marine Living Resources Bill ("the Bill") and gives a brief account of the discussion held by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the Administration's proposal to implement in Hong Kong the Convention on the Conservation of Antarctic Marine Living Resources ("CCAMLR") and its Conservation Measures ("CMs")<sup>1</sup>.

**Background**

2. CCAMLR is an international convention entered into force in 1982 with the objective of conserving Antarctic marine living resources. The Commission for the Conservation of Antarctic Marine Living Resources ("the Commission"), established under CCAMLR, regulates activities associated with the rational utilization and management of the marine living resources in the Convention Area<sup>2</sup> and adopts a set of CMs to support the conservation of Antarctic marine living resources and the management of fisheries in the Southern Ocean.

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<sup>1</sup> CMs may set out the requirements on compliance with the conservation of various species under CCAMLR, gear regulations, data reporting, research and experiment, environmental protection, etc. They will be updated and expanded from time to time. As at end-March 2018, there were a total of 69 CMs.

<sup>2</sup> Convention Area is defined in clause 2 of the Bill as the area south of 60° south latitude and the area between that latitude and a line joining several stated points along parallels of latitude and meridians of longitude.

3. Currently, there are a total of 36 Contracting Parties (comprising 25 members and 11 acceding states) committed to be bound by CCAMLR and its CMs. The People's Republic of China acceded to CCAMLR in 2006. According to Article 153 of the Basic Law, the application to the Hong Kong Special Administrative Region ("HKSAR") of international agreements to which the People's Republic of China is a party shall be decided by the Central People's Government ("CPG"), in accordance with the circumstances and needs of HKSAR, and after seeking the views of the HKSAR Government.

4. One of the species being regulated under CCAMLR is toothfish. Toothfish, including Antarctic toothfish (*Dissostichus mawsoni*) and Patagonian toothfish (*Dissostichus eleginoides*), are highly sought after and traded internationally (under different common names such as Chilean seabass or white cod) as a table fish in some overseas countries. This makes toothfish resources experiencing significant levels of exploitation and illegal, unreported and unregulated fishing ("IUU fishing"). According to the Legislative Council ("LegCo") Brief (File Ref: FH CR 1/2576/18) issued by the Food and Health Bureau and the Agriculture, Fisheries and Conservation Department in June 2018 ("the LegCo Brief"), some Contracting Parties to CCAMLR have expressed concerns about the lack of regulation over the trading of toothfish in Hong Kong and have requested HKSAR to consider implementing the Catch Documentation Scheme for toothfish<sup>3</sup> under CCAMLR. Subsequently, CPG, upon consultation with the HKSAR Government, has agreed in principle to extend the application of CCAMLR to HKSAR.

5. After the extension of CCAMLR to HKSAR, both CCAMLR and its CMs will be binding on HKSAR. However, as Hong Kong has no fishing vessel operating in the Convention Area and will unlikely have any in the future, the HKSAR Government will implement CCAMLR and only those six CMs (see **Appendix I**) relevant to Hong Kong.

## **The Bill**

6. The Administration introduced the Bill into LegCo on 4 July 2018. According to the LegCo Brief, the Bill mainly seeks to provide for the implementation of CCAMLR (including CMs adopted under CCAMLR) and to provide for related matters. The Secretary for Food and Health will be empowered to make regulations to provide for the implementation details. The key features of the Bill are set out in paragraph 5 of the LegCo Brief.

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<sup>3</sup> The Commission adopted CM10-05 "Catch Documentation Scheme for *Dissostichus* spp." in May 2000.

7. Subject to the passage of the Bill, two Regulations are to be made to respectively:

- (a) regulate the trading (including import, export and re-export) of toothfish by way of a licensing system. Trading of toothfish will be prohibited unless it is accompanied by an import/export/re-export licence issued by the Director of Agriculture, Fisheries and Conservation ("DAFC"). Appeals against decisions of DAFC on licensing matters can be made to the Administrative Appeal Board<sup>4</sup>; and
- (b) empower DAFC to inspect fishing vessels carrying toothfish or Antarctic marine living resources and deny entry of vessels to Hong Kong waters engaged in IUU fishing activities.

### **Relevant discussion held by the Panel**

8. The Panel was consulted on the legislative proposal at the meeting on 10 April 2018. Members' major views and concerns are summarized below.

#### Impact on the trade and the magnitude

9. While supporting the proposed extension of CCAMLR to HKSAR, some members were concerned about the impact of the regulatory control on the trade. Enquiring about the annual trade volume of toothfish in Hong Kong, members sought information on whether the imported toothfishes were for local consumption or re-export to other countries/places and whether toothfish constituted a significant proportion of the total consumption of fisheries produce in Hong Kong.

10. According to the Administration, the annual volume of toothfish imports between 2011 and 2015 was in the range of 455 to 1 093 tonnes. Toothfish only constituted a small proportion of the fish produce traded in Hong Kong and accounted for less than 1% of the total consumption of fish produce. However, Hong Kong was becoming one of the major importing economies of toothfish. To contribute to the international concerted efforts in the protection and sustainable use of Antarctic marine living resources, the Administration decided to extend the application of CCAMLR to Hong Kong by enacting a new piece of legislation and introducing a licensing regime regulating the trading of toothfish.

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<sup>4</sup> Amendment to the Schedule of the Administrative Appeal Board Ordinance (Cap. 442) will be required.

11. The Administration further advised that in formulating the regulatory framework, it had consulted and secured the support of relevant stakeholders (including trading companies, importers, wholesalers and retailers of seafood, representatives of relevant trade and catering associations, environmental concern groups and other advisory bodies). The trade generally considered that the proposed control would not cause significant burden on their operation. They, however, hoped that the licence application procedures would be simple and user-friendly. To allow time for the trade to adapt to the new licensing regime, a grace period of six months would be proposed.

### Scope of the new legislation

12. Some members were concerned about the rapid depletion of the Antarctic krill resources as a result of the strong commercial interest in krill products (e.g. krill oil). An enquiry was raised as to whether CCAMLR effected regulation on Antarctic krill, and if yes, whether the Administration had any plan to extend the scope of the new legislation, if it was enacted, to regulate the trading of Antarctic krill in accordance with CCAMLR. There was a suggestion that the Administration should promote the adoption of/substitution by sustainable alternative products so as to ease the demand for krill products.

13. According to the Administration, CCAMLR had in place CMs regulating the harvesting of Antarctic krill in the Convention Area whereby a catch quota was set for each fishery, so as to fulfill the management objectives of balancing conservation and rational use of living resources and maintaining existing ecological relationships. Those CMs did not cover the trading of Antarctic krill. According to the Commission, the annual catch volume of Antarctic krill in the Convention Area had not reached the ceiling of the catch limit. The Administration would continue to keep in view the development of CCAMLR. If, in the future, other CMs adopted by the Commission were relevant to HKSAR, the Administration would consider if their implementation in Hong Kong was required.

### **Relevant papers**

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

**Conservation Measures (“CMs”) Relevant to  
the Hong Kong Special Administrative Region**

- (a) **CM 10-03** - “Port inspections of fishing vessels carrying Antarctic marine living resources”, which sets out requirements in respect of the entry and inspections of fishing vessels carrying toothfish or other Antarctic marine living resources;
- (b) **CM 10-04** - “Automated satellite-linked Vessel Monitoring Systems (“VMS”)”, which sets out requirements in respect of the installation of satellite-linked vessel monitoring devices and monitoring of the movements of such vessels, and the use of VMS data in compliance and inspection purposes;
- (c) **CM 10-05** - “Catch Documentation Scheme for *Dissostichus* spp.”, which provides for a basis for identifying the origins of toothfish imports and determining if the toothfish were caught in accordance with the requirements of relevant CMs;
- (d) **CM 10-06** - “Scheme to promote compliance by Contracting Party vessels with CCAMLR conservation measures”, which aims to draw up a monitoring list to keep track of vessels of Contracting Parties (“CPs”) that have engaged in IUU fishing activities;
- (e) **CM 10-07** - “Scheme to promote compliance by non-Contracting Party<sup>1</sup> vessels with CCAMLR conservation measures”, which aims to draw up a monitoring list to keep track of vessels of Non-Contracting Parties that have engaged in IUU fishing activities; and
- (f) **CM 10-08** - “Scheme to promote compliance by Contracting Party nationals with CCAMLR conservation measures”, which requires CPs to take measures to verify if any of its nationals has engaged in IUU fishing activities and measures to prevent such illegal activities.

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<sup>1</sup> Non-Contracting Parties (“NCP”) means a state not formally associated with the CCAMLR. Some states have chosen to be a cooperating NCP to voluntarily implement the CDS.

## Appendix II

### Relevant papers on Conservation of Antarctic Marine Living Resources Bill

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	10.4.2018 (Item VII)	<u>Agenda</u> <u>Minutes</u>  Administration's follow-up paper (LC Paper No. <u>CB(2)1320/17-18(01)</u> )

Council Business Division 2  
Legislative Council Secretariat  
13 July 2018