

DECISION AND REASONS FOR DECISION

FISHERMEN CLAIMS APPEAL BOARD (TRAWL BAN)

CASE NO. SW0051

Between

LI TAK SHING (李德勝)

Appellant

and

THE INTER-DEPARTMENTAL WORKING GROUP

Respondent

FISHERMEN CLAIMS APPEAL BOARD (TRAWL BAN)

CASE NO. SW0057

Between

CHENG CHI HUNG (鄭志雄)

Appellant

and

THE INTER-DEPARTMENTAL WORKING GROUP

Respondent

(Consolidated by Direction of Fishermen Claims Appeal Board (Trawl Ban) on
15 January 2015)

Date of Hearing: 27 March 2015

Date of Last Written Submissions : 26 May 2015

Date of Decision and Reasons for Decision: 29 July 2015

DECISION AND REASONS FOR DECISION

Introduction

1. Case number SW0051 is an appeal from Mr. LI Tak Shing ("**Mr. Li**") against the decision of the Inter-departmental Working Group ("**IWG**") dated 30 November 2012¹ (i) categorizing the trawler owned by Mr. Li in respect of his application for *ex gratia* allowances ("**EGA**") payable to eligible trawler owners affected by the trawl ban² as an "eligible trawler which generally did not operate in Hong Kong waters" and (ii) granting a lump sum EGA of HK\$150,000 to Mr. Li ("**the Li Decision**").
2. Case number SW0057 is an appeal from Mr. CHENG Chi Hung ("**Mr. Cheng**") against the decision of the IWG dated 30 November 2012³ similarly (i) categorizing the trawler owned by Mr. Cheng in respect of his application for EGA payable to eligible trawler owners affected by the trawl ban⁴ as an "eligible trawler which generally did not operate in Hong Kong waters" and (ii) granting a lump sum EGA of HK\$150,000 to Mr. Cheng ("**the Cheng Decision**").
3. The Li Decision and the Cheng Decision are hereinafter collectively referred to as "**the IWG Decisions**".
4. Mr. Li and Mr. Cheng (collectively "**the Appellants**") exclusively paired up with each other in conducting fishing operation by their trawlers (collectively "**Pair Trawlers**") as pair trawlers⁵.
5. The Fishermen Claims Appeal Board (Trawl Ban) ("**the Board**")

¹ Mr. Li's Hearing Bundle pp 80-81

² As explained below

³ Mr. Cheng's Hearing Bundle pp 90-100

⁴ As explained below

⁵ P40 of both Mr. Li's and Mr. Cheng's Hearing Bundle

consolidated the Appellants' two appeals (collectively "**the Appeals**") as they involved common questions of law and facts. The parties consented to the consolidation. The Appeals were therefore heard together on 27 March 2015.

The Trawl Ban and the EGA

6. According to Paragraph 3 of Food and Health Bureau Paper dated 29 January 2013 ("**FHB Paper**")⁶, 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 ("**the Trawl Ban**") 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.
7. The Finance Committee ("**FC**") of LegCo also approved in June 2011 a one-off assistance package to trawler owners affected by the Trawl Ban, which included making EGA to affected trawler owners for permanent loss of fishing grounds arising from the Trawl Ban ("**EGA Package**")⁷.

The Policy and Guiding Principle

8. The policy and guiding principles underlying the EGA Package are set out in FC Paper FCR (2011-12) 22 ("**FC Paper**")⁸.
9. According to Paragraph 12 of the FC Paper, 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 Ban⁹.

⁶ Mr. Li's Hearing Bundle p 169; and Mr. Cheng's Hearing Bundle p 185

⁷ Para. 3 of FHB Paper : Mr. Li's Hearing Bundle p 169; and Mr. Cheng's Hearing Bundle p 185

⁸ Para. 7 of FHB Paper : Mr. Li's Hearing Bundle p 170; and Mr. Cheng's Hearing Bundle p 186

⁹ FHB Paper : Mr. Li's Hearing Bundle p 148; and Mr. Cheng's Hearing Bundle p 167

10. Owners of inshore trawlers which operated wholly or partly in Hong Kong waters were expected to be most affected when the Trawl Ban took effect as they would lose their fishing grounds in Hong Kong waters. They would receive a greater amount of EGA than owners of larger trawlers¹⁰.
11. Owners of larger trawlers which generally did not operate in Hong Kong waters were also affected by the Trawl Ban since they would lose the option to trawl in Hong Kong waters in the future. However, as the impact of the Trawl Ban on them was far much less when compared with owners of inshore trawlers, an owner of larger trawler is only granted a lump sum EGA of HK\$150,000¹¹.

IWG's Grounds in Support of the IWG Decisions

12. IWG's grounds in support of the IWG Decisions may be summarized as follows :
 - a) The length of each Pair Trawlers was 31.9 metres. According to statistical data of Agriculture, Fisheries and Conservation Department ("AFCD") on the operation of trawlers of different types and lengths, a 31.9-metre pair trawler generally did not operate in Hong Kong waters¹².
 - b) The Pair Trawlers were capable of fishing in waters further offshore. Each of the Pair Trawlers had a total engine power of 794.49 kw and total fuel tank capacity of 39.29m³. Generally such vessels principally operated outside Hong Kong waters¹³.

¹⁰ Paras. 5 to 10 of FC Paper : Mr. Li's Hearing Bundle pp 146-147; and Mr. Cheng's Hearing Bundle pp 165-166

¹¹ Paras 9 and 10 of FC Paper : Mr. Li's Hearing Bundle p 147; and Mr. Cheng's Hearing Bundle p 166

¹² P13 of both Mr. Li's and Mr. Cheng's Hearing Bundle

¹³ P3 of both Mr. Li's and Mr. Cheng's Hearing Bundle

- c) According to AFCD's field validation surveys conducted at the major typhoon shelters in Hong Kong in 2011 ("**Homeport Survey**"), the Pair Trawlers were seldom observed moored in typhoon shelters in Hong Kong other than during the Chinese New Year and the fishing moratorium (each observed 5 times only)¹⁴. This indicates that none of the Pair Trawlers was based in Hong Kong as its main homeport and they seldom or generally did not operate in Hong Kong waters.
- d) In AFCD's boat patrols in Hong Kong waters from 2009 to 2011 ("**Boat Patrol Survey**"), none of the Pair Trawlers was found operating in Hong Kong waters. This indicates that they seldom or generally did not operate in Hong Kong waters¹⁵.
- e) Each of the Appellants held a fishing permit issued by the relevant Mainland authorities. This indicates that each of the Pair Trawlers was allowed to operate in Mainland waters.
- f) The evidence submitted by each of the Appellants was insufficient in establishing his allegation that his pair trawler spent 15% fishing time in Hong Kong waters¹⁶.

The Appellants' Grounds of Appeal

13. The Appellants' grounds of appeal, which are almost identical, may be summarized as follows :

- a) The Pair Trawlers spent 40% fishing time in Hong Kong waters and should therefore be categorized as inshore trawlers ("**the 40%**

¹⁴ Mr. Li's Hearing Bundle pp 14 and 96; and Mr. Cheng's Hearing Bundle pp 14 and 115

¹⁵ Mr. Li's Hearing Bundle pp 14, 99 and 101; and Mr. Cheng's Hearing Bundle pp 14, 118 and 120

¹⁶ P40 of both Mr. Li's and Mr. Cheng's Hearing Bundle. In the EGA application form, each of the Appellants claimed that his pair trawler spent 15% fishing time in Hong Kong waters. In the appeal application form, each of the Appellants changed such claim from 15% to 40% : P3 of both Mr. Li's and Mr. Cheng's Hearing Bundle

Ground”)¹⁷.

- b) It was fishermen’s convention to fish at places where fishes assembled without distinguishing between inshore and non-inshore trawling. Only a layman would draw such a distinction on their modus operandi (“**the Modus Operandi Ground**”)¹⁸.
- c) The Pair Trawlers had a wooden rather than a steel hull. They were rather old with a vessel age of 28. The Appellants themselves were rather old with Mr. Li aged 61 and Mr. Cheng aged 58. Due to the above constraints, the Pair Trawlers were already gradually operating inshore (“**the Age and Structure Ground**”)¹⁹.
- d) The Appellants would permanently lose the opportunity to operate in Hong Kong waters as a result of the Trawl Ban (“**the Deprivation Ground**”)²⁰.

14. The Board also noted that each of the Appellants somehow elaborated his grounds in a letter dated 14 February 2013²¹ and a written statement²², dated 24 March 2014 in the case of Mr. Li, and dated 25 March 2014 in the case of Mr. Cheng.

The Appeal Hearing

15. At the appeal hearing on 27 March 2015 (“**the Appeal Hearing**”):

- a) The Appellants conducted the appeal in person, through his authorized representative Mr. Cheung (張錦義) (“**Mr. Cheung**”) in the case of Mr. Cheng.

¹⁷ P3 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

¹⁸ P3 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

¹⁹ P4 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

²⁰ P8 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

²¹ P8 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

²² Mr. Li’s Hearing Bundle p 259; and Mr. Cheng’s Hearing Bundle p 278

- b) IWG conducted the appeal through their representatives Dr. So Chi-ming and Ms. Louise Li.
- c) Neither the Appellants nor IWG called any witness.
- d) Apart from reiterating their grounds of appeal as set out in paragraphs 13 and 14 above, the Appellants stressed that it was unfair for them to receive only a sum of HK\$150,000 EGA each whilst certain trawler owners received more than HK\$4 million (**“the Unfairness Ground”**) each. They also expressed their grievances that the Trawl Ban deprived them of the right to trawl in Hong Kong waters, and that some trawler owners still engaged in illegal trawling after receiving EGA in several million dollars (**“the Grievances Ground”**).

16. At the conclusion of the Appeal Hearing on 27 March 2015, the parties were given an opportunity to file further written submissions in support of their case, with the Appellants given the right of last word. The Board expressly reserved its right to fix a further oral hearing if it considered necessary. IWG submitted supplemental submissions on 24 April 2015. By letter dated 26 May 2015, the Appellants responded that they had no supplemental submissions to submit. The Board subsequently considered that no further oral hearing was necessary.

10% Average Fishing Time Spent in Hong Kong Waters

17. In considering the Appeals, the Board had to determine what distinguished an inshore trawler from a larger trawler. The FHB Paper referred to inshore trawlers as trawlers “with at least 10% average fishing time spent in Hong Kong waters”. It referred to larger trawlers which generally did not operate in Hong Kong waters as trawlers “with less than 10% average

fishing time spent in Hong Kong waters”²³.

18. The IWG adopted the above 10% average fishing time in Hong Kong waters as the requirement to qualify as an inshore trawler (“**the Threshold Requirement**”) in assessing EGA applications. The Appellants did not challenge the Threshold Requirement.
19. The Board noted that the Threshold Requirement is based on statistical data from 2005-2010 obtained from fisheries surveys conducted by AFCD²⁴. The Threshold Requirement is consistent with the FC Paper which referred to inshore trawlers as trawlers “which operate wholly or partly in Hong Kong waters”²⁵. The Board considers that the Threshold Requirement is reasonable and appropriate.

Further Discussions

20. As admitted by the IWG during the Board’s questioning, the Homeport Survey alone did not carry much weight since the Pair Trawlers were anyway observed 5 times each, though not frequently. Only when a trawler was observed less than 4 times that the IWG would consider it to be probably a larger trawler which generally did not operate in Hong Kong waters²⁶. It is the IWG’s case that since the Pair Trawlers were observed less than 17 times each in the Homeport Survey, such survey was still a relevant factor in support of the IWG Decisions. The Board noted that AFCD conducted a total of 34 times’ surveys at the Pair Trawlers’ homeport in Shau Kei Wan²⁷ from January to November 2011, and considers it appropriate to still give some though not substantial weight to the Homeport

²³ Paragraph A(i) in Annex III of FHB Paper : Mr. Li’s Hearing Bundle p 176; and Mr. Cheng’s Hearing Bundle p 195

²⁴ Paragraph A(i) in Annex III of FHB Paper : Mr. Li’s Hearing Bundle p 176; and Mr. Cheng’s Hearing Bundle p 195

²⁵ Paragraph 5 of and Item A(c) of Enclosure 1 to FC Paper : Mr. Li’s Hearing Bundle pp 146 and 153; and Mr. Cheng’s Hearing Bundle pp 165 and 172

²⁶ Paragraph 46 of IWG paper : Mr. Li’s Hearing Bundle p 125; and Mr. Cheng’s Hearing Bundle p 144

²⁷ Mr. Li’s Hearing Bundle p 96; and Mr. Cheng’s Hearing Bundle p 116

Survey.

21. The Board also noted that the Pair Trawlers was each manned by a local crew of two members and six Mainland deckhands employed through the Mainland Fishermen Deckhands Scheme (“MFDS”)²⁸. When questioned by the Board that the operation of the Pair Trawlers in Hong Kong waters was therefore not restricted, the IWG tried to water down the significance of this factor by submitting that the Mainland deckhands’ role in Hong Kong was not in fishing but in loading and unloading the fish catch in the fish markets in Hong Kong. The Appellants themselves did not mention MFDS in support of the Appeals both in their papers filed or during the Appeal Hearing. They also did not follow up with the Board’s questioning of the IWG based on MFDS. The Board therefore considers it appropriate to just give some, but not substantial, weight to the fact that the operation of the Pair Trawlers in Hong Kong waters was unrestricted.
22. As to the 40% Ground, the IWG responded that there was insufficient objective evidence in support of the Appellants’ claim that the Pair Trawlers spent 40% fishing time in Hong Kong waters. The IWG also relied on the previous inconsistent statement made by each of the Appellants in his EGA application form of December 2011 that his pair trawler spent 15% (rather than 40%) fishing time in Hong Kong waters (“**the Inconsistent Percentage**”)²⁹. During the Appeal Hearing, the IWG further submitted that the Appellants stated 15%, which was slightly above 10%, in the EGA application form possibly because they were aware of the Threshold Requirement.
23. The Appellants, on the other hand, submitted that they initially did not understand what was meant by “percentage of dependence on Hong Kong waters”. The Board accepted that the Appellants might not understand what was meant by “percentage of dependence on Hong Kong waters” and

²⁸ P14 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

²⁹ Pp 15 and 21 of both Mr. Li’s and Mr. Cheng’s Hearing Bundle

offered them an opportunity to explain the Inconsistent Percentage during the Appeal Hearing. Regrettably, the answer from the Appellants was not entirely satisfactory. Mr. Cheung answered on behalf of the Appellants that the percentage of dependence on Hong Kong waters in 2009 might be 15% and the percentage of dependence on Hong Kong waters in 2011 might be 40%. However, the EGA application form and the appeal application form were submitted by the Appellants in December 2011 and January 2014 respectively³⁰. Therefore, the timing given in such answer does not match with the dates of the above application forms. Mr. Cheung also submitted that the Appellants were wrongly guided by AFCD into making mistake in filling in the forms. However, the Appellants did not provide particulars as to how, when and under what circumstances they were wrongly guided. Such submission is therefore very much a bare assertion.

24. Of course, the Board is mindful that either 15% or 40% would satisfy the Threshold Requirement. Indeed, any percentage of fishing time in Hong Kong waters at or above 10% would satisfy the Threshold Requirement.
25. The Board has to consider all the submissions and evidence together before deciding on the 40% Ground as it relates to the credibility of the parties. Our conclusion is made towards the end of this Decision.
26. As to the Modus Operandi Ground, the IWG submitted that it was against the statistical data of AFCD. The IWG submitted that according to AFCD's statistical data, different type, length, hull design and structure of trawlers would result in different modus operandi and different percentage of fishing time in Hong Kong waters. Although the Appellants were unable to put forward particulars in support of the Modus Operandi Ground, as it is very much a credibility issue like the 40% Ground, the Board would similarly consider all the submissions and evidence together before deciding on the Modus Operandi Ground towards the end of this Decision.

³⁰ Pp 40 and 3 of both Mr. Li's and Mr. Cheng's Hearing Bundle

27. As to the Age and Structure Ground, the Board noted that each of the Appellants had written a letter to the Board dated 14 February 2013 ("the Letter")³¹. In the Letter, each Appellant stated that :

- a) Several tens of years ago his earlier generation was all fishermen in small fishing boats operating in inshore waters.
- b) Due to the change of era and social developments, as well as the reduction of fish catch in inshore waters, developing offshore fishing was a compelled choice.
- c) Now that he was getting old, offshore operation facing strong wind and big wave could not be sustainable long-term.
- d) Returning to inshore operation was his last step to take.
- e) Now that the government imposed the Trawl Ban, he and other fishermen had permanently lost the opportunity to operate in Hong Kong waters and the government should give them reasonable compensation.

28. When asked by the Board whether the Appellants had already taken the last step to return to inshore operation, Mr. Cheung answered that should be the case (應該有行). When asked by the Board when that last step was taken, initially Mr. Cheung did not give an answer. When the question was repeated by the Board again, Mr. Cheung then answered that the step could be taken any time if it was permissible to take such step. Following Mr. Cheung's above answers, Mr. Li answered that he had already taken the last step. When Mr. Li was asked by the Board when the last step was taken by him, he answered that he would like to do it now but AFCD would arrest him. In short, the Appellants were unable to provide a clear answer as to when the last step to return to inshore operation was taken. Quite the contrary,

³¹ P 8 of both Mr. Li's and Mr. Cheng's Hearing Bundle

their responses and answers casted doubt on whether such step had in fact been taken.

29. According to information provided by the Appellants in their appeal application form³², it also appears that their offshore trawling was not conducted far away from Hong Kong waters. It was conducted in places rather close to Hong Kong waters like Wanshan (萬山), Dangan (担桿) and Lingding (伶仃). Such operation would therefore be less demanding on the physical strength of both the trawlers and those manning them than offshore trawling far away from Hong Kong waters.
30. Since the Age and Structure Ground is also related to the question of credibility, the Board would similarly consider all the submissions and evidence together before deciding on it towards the end of this Decision.
31. The Deprivation Ground is dealt with in paragraphs 5 and 10 of the FC Paper³³. The EGA Package is implemented exactly for the purpose of compensating trawler owners, like the Appellants, for the loss of opportunity to trawl in Hong Kong waters permanently. A sum of HK\$1,190 million is allocated for EGA payments to inshore trawler owners. Another sum of HK\$110 million is allocated for EGA payments to larger trawler owners. The Deprivation Ground has no merits.
32. As to the Unfairness Ground, suffice it to say that the EGA payment of HK\$150,000 to an owner of larger trawler which generally did not operate in Hong Kong waters, and a EGA payment of around a million to several million dollars, depending on the types of the inshore trawlers, to an owner of an inshore trawler, is set in the FC Paper, having taken into account the estimated impact on the different trawler owners as a result of the Trawl Ban. The Board may not have jurisdiction to challenge the FC Paper. Even if it does, the Board finds no unfairness in the allocation stated therein.

³² P 41 of both Mr. Li's and Mr. Cheng's Hearing Bundle

³³ Mr. Li's Hearing Bundle pp 146 and 147; and Mr. Cheng's Hearing Bundle pp 165 and 166

33. As to the Grievances Ground, the Board fully appreciates that the lack of enforcement against illegal trawling is very frustrating, especially if such illegal trawling is conducted by a trawler owner who has already received several million dollars in EGA payment. However, inadequate or ineffective enforcement is a different issue unrelated to the merits of the Appeals. Save that the Board takes this opportunity to urge the relevant authorities including AFCD to step up enforcement action against illegal trawling, the Board finds that the Grievances Ground is irrelevant to the Appeals.
34. Coming back to the credibility issue, the Board noted that each of the Appellants has submitted documentary evidence in support of his appeal³⁴. It includes fuel and ice replenishment records, sale of fish catch records, employment of local and Mainland deckhands records, Mainland deckhand arrival records, and also repair records (in the case of Mr. Cheng).
35. Whilst the Board fully understands that it is very difficult for the Appellants, who probably did not have the habit nor the need to keep records, to produce complete or satisfactory records, the records produced by the Appellants are rather piecemeal. Further, in the case of Mr. Cheng, most of the records submitted are dated after 31 December 2012 indicating that they are documents generated after the Trawl Ban has already come into operation. Therefore, the documentary evidence submitted by the Appellants is only of little probative value.
36. Apart from the Inconsistent Percentage, there is also an inconsistency between the Appellants themselves as to the location of their inshore trawling operation within Hong Kong waters ("**the Inconsistent Location**"). According to Mr. Li, it was conducted at locations 14 and 19 of the plan annexed to the appeal application form³⁵. However, according to Mr. Cheng, it was conducted at locations 17 and 19³⁶. The Appellants were given an

³⁴ Mr. Li's Hearing Bundle pp 260 to 283; and Mr. Cheng's Hearing Bundle pp 279 to 286

³⁵ Pp 41 and 47 of Mr. Li's Hearing Bundle

³⁶ Pp 41 and 47 of Mr. Cheng's Hearing Bundle

opportunity to explain the Inconsistent Location. Mr. Cheung explained that it was because the Pair Trawlers were moving and not stationary during trawling operation. However, in that case location 18 which lied between location 17 and 19 should also have been listed by Mr. Cheng. Mr. Cheung was unable to provide a further explanation to explain why location 18 was not listed by Mr. Cheng.

37. In addition to the Homeport Survey, the IWG also relies on the Boat Patrol Survey, and the length and offshore capability of the Pair Trawlers in support of the IWG Decisions. Whilst the IWG's evidence is only circumstantial, it does have some probative value for the Board to draw a reasonable and definite inference in support of the IWG Decisions. AFCD's statistical data provides a proper foundation for such an inference to be drawn.
38. The Board spotted an inconsistency between Table M-2³⁷ (table showing average fishing time in Hong Kong waters of pair trawlers according to their length) and Table S-3³⁸ (table showing total number of eligible inshore trawlers according to their type and length) prepared by IWG. In the 29-34 metres pair trawlers categories there are a total of 29 eligible inshore trawlers shown in Table S-3. By definition of the Threshold Requirement, those 29 trawlers spent at least 10% fishing time in Hong Kong waters. Such large number (29) of eligible inshore trawlers does not sit well with the extremely low percentage (ranging from 0.10% to 1.45%) shown in Table M-2 for the same 29-34 metres pair trawlers categories.
39. By its supplemental submissions of 24 April 2015, IWG sought to persuade the Board to accept that Table M-2 is reliable since it was based on the 2005 to 2010 fishery production data collected by AFCD (the 2005 data was based on the 2006 -2007 Port Fishery Survey; and the 2006 – 2010 data was based on the Quarterly Fishery Production Survey conducted from 2006 to 2010).

³⁷ Mr. Li's Hearing Bundle p 222; and Mr. Cheng's Hearing Bundle p 241

³⁸ Mr. Li's Hearing Bundle p 256; and Mr. Cheng's Hearing Bundle p 275

IWG further submitted that Table M-2 is reliable because a high sampling rate (38% for 2005 and 7% for 2006 – 2010) was adopted and the survey data covered a continuous and lengthy period of 6 years.

40. On the other hand, Table S-3 only represents the findings from IWG.
41. By their letters of 26 May 2015, the Appellants confirmed that they had no further submissions to make in response to IWG's supplemental submissions.
42. Although IWG has not reconciled the apparent inconsistency between Table M-2 and Table S-3, the Board is satisfied that Table M-2 is supported by objective data from AFCD. The Board also accepts that the high sampling rate, and the continuous and lengthy period of data collection support the reliability of Table M-2. The inconsistency shows that Table S-3 may not be reliable. However, it may not show that Table M-2 is not reliable.
43. The extremely low percentage (ranging from 0.10% to 1.45%) shown in Table M-2 for the 29-34 metres pair trawlers categories means that there should be less eligible inshore pair trawlers than 29 as shown in Table S-3. One possible reason is because IWG had been too lenient in assessing pair trawlers of the 29-34 metres categories. Therefore, some ineligible pair trawlers were treated by IWG as eligible in the 29-34 metres categories. However, that does not assist the Appellants' case.
44. All in all, having carefully considered all the submissions and evidence from the parties, and their answers given during the appeal hearing, the Board considers that there is insufficient evidence to show that the Threshold Requirement was met. The Board also finds that the case of the IWG is more credible than the case of the Appellants. The 40% Ground, the Modus Operandi Ground and the Age and Structure Ground are not accepted by the Board.

Conclusion

45. There is insufficient evidence to overturn the IWG Decisions. The Appeals are therefore dismissed with no order as to costs.

Date of hearing : 27 March 2015

Heard at : Conference Room 2, Ground Floor, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong

(Signed)

Mr FEE Chung Ming, Johnny, JP
Chairman

(Signed)

Mr CHAN Wai Chung
Member

(Signed)

Miss Nancy CHAN
Member

(Signed)

Ms HUI Ming Ming, Cindi
Member

(Signed)

Miss KUNG Ching Yee, Athena
Member

The Appellant (Case No. SW0051), Mr. Li Tak Shing.

The Appellant (Case No. SW0057), Mr. Cheng Chi Hung (absent).

The Appellant's Authorized Representative (Case No. SW0057), Mr. Cheung (張錦義).

Dr. So Chi-ming, Fisheries Officer (Sustainable Fisheries)1, AFCD, representative on behalf of the IWG.

Ms. Li Wai-hung, Senior Fisheries Officer (Sustainable Fisheries)(Ag.), AFCD, representative on behalf of the IWG.

Ms. Teresa Wu, Legal Advisor to the Board.