

**For Discussion
on 23 June 2003**

Legislative Council Panel on Economic Services

Proposed Amendments to the Air Navigation (Dangerous Goods) Regulations and the Dangerous Goods (Consignment by Air) (Safety) Regulations

Introduction

This paper informs Members of our proposals to amend two sets of Regulations in order to effect the latest international standards in the transport of dangerous goods (DG) by air.

Background

2. To ensure aviation safety, the International Civil Aviation Organization (ICAO)¹ sets out requirements regarding the transport of DG² by air. These requirements regulate matters such as the classification, packaging, marking, loading and consignment of DG. The general requirements are set out in Annex 18 to the Convention on International Civil Aviation (the Chicago Convention). Detailed provisions are contained in the “Technical Instructions for the Safe Transport of Dangerous Goods by Air” (TI) which are updated and published by ICAO biennially. Members were consulted on the last updating exercise in June 2001 vide panel paper CB(1)1542/00-01(03), and we have amended the relevant Regulations with Members’ support.

3. In general, the requirements regarding the transport of DG by air cover the following aspects :

- (a) DG are divided into classes according to the nature of hazard. Some DG are too dangerous to be carried by air. Others may

¹ ICAO was established by the Convention on International Civil Aviation and is the world’s most important organisation in the field of civil aviation. At present, it has 188 Contracting States and China is one of them. Its objectives are to promote the development of international civil aviation in a safe and orderly manner, and to ensure that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

² DG include explosives, flammable liquids and solids, oxidizing substances, toxic and infectious substances, radioactive materials and corrosives, etc.

be carried subject to conditions (e.g. by freighters but not in the bellyhold of passenger aircraft);

- (b) DG must be properly packed. While there may be a choice in the selection of packaging, the quantity of DG which can be put into a package is strictly controlled for safety reasons;
- (c) there are marking requirements to ensure that packages containing DG can be readily recognized with suitable display of warnings;
- (d) DG must be properly loaded on aircraft e.g. segregation of incompatible DG;
- (e) there are requirements for the reporting of DG incidents in order to help identify any room for improvement in the existing safety control arrangements; and
- (f) training is regarded as an important element in ensuring compliance with the relevant safety requirements.

ICAO leaves it to members to determine in what manner the TI should be implemented and enforced locally. Taking into account the need for translating the requirements of the TI into local legislation or administrative measures, there is usually a gap between the effective date of the new standards set by ICAO and the actual date of implementation by various authorities.

4. As the Chicago Convention is applied to Hong Kong, we have to take necessary measures to comply with the requirements in the TI. This is achieved by making direct references to the TI provisions in two sets of local regulations, viz

- i) the Air Navigation (Dangerous Goods) Regulations (AN(DG)R) made under Article 44 of the Air Navigation (Hong Kong) Order 1995 (AN(HK)O) (Cap. 448 sub. leg. C); and
- ii) the Dangerous Goods (Consignment by Air) (Safety) Regulations (DG(CAS)R) made under the Dangerous Goods (Consignment by Air) (Safety) Ordinance (Cap. 384 sub. leg. A).

New Technical Instructions

5. CAD received the 2003-2004 edition of the TI (the new TI) from ICAO in February this year. The new TI came into effect on 1 January 2003. They set out the responsibilities of concerned parties including shippers, freight forwarders and airlines in the transport of DG by air, and are divided into eight parts -

- (a) general provisions;
- (b) classification of DG;
- (c) DG list and limited quantities exceptions;
- (d) packing instructions;
- (e) shipper's responsibilities;
- (f) packaging nomenclature, marking requirements and tests;
- (g) operator's responsibilities; and
- (h) provisions concerning passengers and aircrew.

6. When compared with the 2001-2002 edition, there are only minor changes which are all technical in nature. These changes are described in the following sections.

New definition of DG

7. In the new TI, the definition of DG is revised to include those articles or substances which are capable of posing a risk to the environment in addition to those posing a risk to health, safety and property. The new definition also removes the ambiguity of defining a "significant risk" by replacing the term with "a risk".

Exempting the carriage of medical aid to patient

8. Certain DG, including medical aid to a patient, carried on an aircraft are exempt from the provisions of the TI. The new TI clarifies that the exemption of medical aid is applicable only when approval has been obtained from the operator to load it on aircraft. It also clarifies that the exemption is applicable only to medical aid carried for patient's use and not for other passengers.

Provision of DG information to pilot-in-command

9. The new TI specifies that DG information must be prepared before the departure of aircraft. The information itself must be provided in a written or printed format to the pilot-in-command. The DG information must

also be readily available to the pilot-in-command during flight and accessible to the aerodromes of last departure and next scheduled arrival point.

Proposed Amendments and Implementation

10. To bring the two Regulations in line with the new international standards in the transport of DG as soon as possible, we have to update the references to the TI in the AN(DG)R and DG(CAS)R to reflect the 2003-2004 edition. Amendment to the TI references in the AN(DG)R requires the approval of the Chief Executive in Council while amendment to the TI references in the DG(CAS)R requires the approval of the Director-General of Civil Aviation.

11. The proposed amendments are currently in preparation. Amendment of the DG(CAS)R is expected to be gazetted in August 2003 while that of AN(DG)R in October 2003, subject to approval by the Chief Executive in Council. They will come into operation on the day when they are gazetted.

12. Since the new TI have not introduced any substantially new requirements, there will be no major change in workload of the DG Office in CAD which is responsible for the enforcement of the two sets of Regulations. Hence, the proposed legislative amendments will have no financial or staffing implications.

Consultation

13. ICAO had taken into account the views of the industry and relevant experts when preparing the new TI. In fact, the industry has already adopted the new requirements and incorporated them into its handbook, viz the International Air Transport Association (IATA) Dangerous Goods Regulations. We do not expect the industry to have difficulty following the new TI, which represent the new international standards.

14. The Aviation Advisory Board (AAB), which includes representatives from shippers, airlines and freight forwarders, was consulted on our proposal at its meeting on 16 June 2003. AAB members supported the proposal.

Views Sought

15. Members' views are invited on our proposal to amend the AN(DG)R and DG(CAS)R to follow the requirements of the new TI.

**Civil Aviation Department
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