

For discussion
on 29 November 2005

Legislative Council Panel on Economic Services

Proposed Legislative Amendments to Implement Relevant Standards of the International Civil Aviation Organisation regarding the Carriage of Dangerous Goods by Air

Introduction

This paper briefs Members on the Government's proposal to amend two sets of subsidiary legislation to give effect to the latest standards promulgated by the International Civil Aviation Organisation (ICAO) governing the transport of dangerous goods (DG)¹ by air.

Background

ICAO Standards

2. To ensure aviation safety, ICAO promulgates, under the Convention on International Civil Aviation (the Chicago Convention), requirements regarding the transport of DG by air. These requirements regulate matters such as the classification, packing, marking, labelling and loading of DG consignments on board aircraft as well as training requirements for air cargo personnel. They are set out in the "Technical Instructions for the Safe Transport of Dangerous Goods by Air" (TIs). The TIs are normally updated and published by ICAO biennially.

Implementing Legislation in Hong Kong

3. The Chicago Convention is applied to Hong Kong. The TIs made under the Convention are given effect through two local subsidiary legislation, viz -

¹ DG include explosives, gases, flammable liquids and solids, oxidizing substances, toxic and infectious substances, radioactive material and corrosives, etc.

- (a) the Dangerous Goods (Consignment by Air) (Safety) Regulations (DG(CAS)R); and
- (b) the Air Navigation (Dangerous Goods) Regulations (AN(DG)R), as Schedule 16 to the Air Navigation (Hong Kong) Order 1995.

The DG(CAS)R regulate the checking and preparation of DG by shippers and freight forwarders, whereas (AN(DG)R regulate the carriage of DG by airlines.

New Edition of the Technical Instructions

4. The 2005-2006 edition of the TIs (the new TIs) came into effect on 1 January 2005. It will remain valid until 31 December 2006 or such time as and when it is replaced by another new edition. When compared with the 2003-2004 edition, the new TIs introduce over 200 technical and textual changes. The more substantive changes aim to -

- (a) introduce a definition for “freight forwarders”. Such persons are defined as persons or organisations who offer the service of arranging the transport of goods by air;
- (b) amend the classification of infectious substances in line with standards adopted by the World Health Organisation;
- (c) introduce more stringent and detailed requirements for the transport of refrigerated liquefied gases;
- (d) align the labelling requirement for radioactive material with the latest standards of the International Atomic Energy Agency; and
- (e) impose a new requirement that all freight forwarders involved in the processing, handling, storage or loading of any cargo should have received proper DG handling or awareness training upon employment. The requirements extend to personnel not dealing directly with DG, so as to tackle the problem of DG hidden inside general cargo consignments.

Proposed Amendments and Industry Compliance

5. Since the Chicago Convention is applied to Hong Kong, we have the obligation to implement the new TI requirements. We therefore propose

to amend the DG(CAS)R and the AN(DG)R to give effect to the new TIs. The amendment exercise will further enhance the safe carriage of DG by air and bring our regulatory framework in line with the latest international standards.

6. We do not envisage any major difficulty for airlines, shippers and freight forwarders in complying with the new TIs. When preparing the new TIs, ICAO fully consulted the aviation industry and relevant experts. Following the issue of the new TIs, the International Air Transport Association (IATA) has already incorporated the new provisions into the industry handbook, i.e. IATA Dangerous Goods Regulations, 46th edition, 2005.

7. The local freight forwarding industry indicated that they would have no difficulty in training all their 300 odd staff who handle DG by the time the new TIs are implemented in Hong Kong. However, they would require more time to establish and complete the training programme for around 20,000 staff not directly dealing with DG. We therefore propose to introduce the statutory training requirements for all personnel in this amendment exercise, but the requirement in respect of those personnel not directly dealing with DG would only be brought into effect at a later stage, through a separate commencement notice, when the concerned personnel have received proper training. Meanwhile, CAD will work closely with the freight forwarding industry on the training arrangements to ensure full compliance with the new TIs by the industry.

Consultation

8. We have consulted the Technical Sub-Committee of the Aviation Development Advisory Committee and the Hongkong Association of Freight Forwarding and Logistics. They are generally supportive of the proposed amendments. We are separately consulting the airline industry and the shippers on the proposal.

Legislative Timetable

9. We intend to introduce the proposed amendments into the Legislative Council for negative vetting within the current legislative session.

Views Sought

10. Members' views are invited on our proposal to amend the DG(CAS)R and AN(DG)R to implement the new TIs.

Economic Development and Labour Bureau
22 November 2005