

**For discussion
on 25 May 2009**

Legislative Council Panel on Economic Development

Proposed Legislative Amendments Relating to the Carriage of Dangerous Goods by Air

Purpose

This paper seeks Members' views 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 Organization (ICAO)¹ for the safe transport of dangerous goods (DG)² by air.

Background

ICAO Standards

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

¹ ICAO was established by the Convention on International Civil Aviation and is the world's most important organization in the field of civil aviation. At present, it has 190 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 According to the Technical Instructions issued by ICAO, DG in the context of air transport include explosives, compressed gas, flammable liquids, flammable solids, oxidizing substances, toxic substances, infectious substances, radioactive material and corrosives, etc.

Local Legislation

3. The Chicago Convention applies to Hong Kong. The TIs made under the Convention are given effect through two pieces of local subsidiary legislation made by the Chief Executive in Council (“CE in Council”), i.e. –

- (a) Air Navigation (Dangerous Goods) Regulations, as Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap 448C); and
- (b) Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap 384A).

The former generally regulates the DG operations of airlines and airport authorities whereas the latter regulates the shippers and freight forwarders in the proper handling of DG before offering them for air transport.

The New Edition of the TIs

4. The new edition of the TIs (i.e. the 2009-2010 edition) was published in December 2008 by ICAO. Most of the changes covered by the new TIs are technical and textual in nature. The more significant changes aim to –

- (a) revise airlines’ cargo acceptance requirements to clarify the requirements for the checking of DG to be performed by the airlines;
- (b) centralize the provisions for DG shipped under excepted quantities³ in the same chapter of the TIs for ease of reference;
- (c) require the airlines to report incidents involving DG that are allowed to be shipped as general cargo in accordance with the special provisions of the TIs;

³ DG shipped and packed in excepted quantities are DG packed in very small quantities which do not have to comply with the normal requirements in the TIs.

- (d) clarify that DG carried for medical use by a patient during flight, including those that form part of the permanent equipment of the aircraft when it has been adapted for specialized use (i.e. air ambulances⁴), can be carried by air ambulances without complying with the general requirements on such DG; and
- (e) clarify the requirement of DG information to be provided to passengers to prevent DG from being carried by them.

Amendments to Local Legislation

5. The two sets of Regulations referred to in paragraph 3 above will need to be amended to give the new requirements legal effect and to align the DG standards of Hong Kong with specifications given under the new TIs.

6. Since the new TIs have not introduced any substantially new requirements, there will be no major change in workload of the DG Office in the Civil Aviation Department (CAD), which is responsible for enforcing the two sets of Regulations. Hence, the proposed legislative amendments will have no financial or staffing implications.

Consultation

7. CAD has consulted the Technical Sub-Committee of the Aviation Development Advisory Committee and the local air cargo stakeholders including the Hong Kong Association of Freight Forwarding and Logistics Limited, the Hong Kong Shippers' Council, the Board of Airlines Representatives and the Airport Authority on the new TIs. They generally support the proposed amendments.

Legislative Timetable

8. Subject to the approval of the CE in Council, we will submit the relevant legislative amendments to the Legislative Council for approval through the normal negative vetting process in the fourth quarter of 2009.

⁴ Air ambulances are flights for the specific carriage of sick or injured persons.

Views Sought

9. Members' views are invited on the legislative amendment proposals to implement the new TIs.

Transport and Housing Bureau
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