



民航處
CIVIL AVIATION
DEPARTMENT

香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

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8 April 2019

Ms Shirley CHAN
Clerk to Panel on Economic Development
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Ms CHAN,

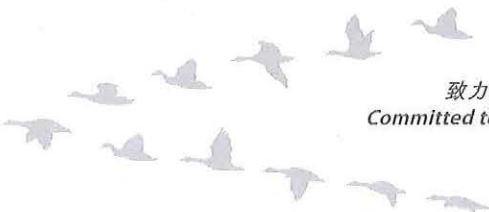
Issues Related to Flight Operations Safety and Prohibition of B737 MAX Aircraft Operations by the Civil Aviation Department

I refer to your letter dated 15 March 2019 to the Secretary for Transport and Housing. Regarding the request by the Hon LUK Chung-hung to discuss at the Panel on Economic Development the flight operations safety and prohibition of B737 MAX aircraft operations by the Civil Aviation Department (CAD), our response is set out as follows.

CAD's regulation over airline operations

The CAD is committed to ensuring that the air transport system of Hong Kong is maintained at the highest safety standard through formulating and implementing appropriate measures and taking timely actions. Hong Kong has all along been complying with the standards and requirements established by the International Civil Aviation Organization (ICAO). The safety management system of aviation activities in Hong Kong has been developed in strict compliance with ICAO's standards, and implemented in the local context by means of relevant legislation and CAD's guidance documents.

According to the Annex to the Convention on International Civil Aviation, the aviation authority of the State of Design (SoD) shall confirm the continued airworthiness of the aircraft type, while the aviation authority of the State of Registry (SoR) shall be responsible for overseeing the safe operations of the aircraft registered in the State. Based on the information provided by the SoD regarding the continued airworthiness of the aircraft type, the SoR shall establish detailed safety regulations to govern the safe operation of aircraft.



According to the Air Navigation (Hong Kong) Order 1995 (Cap 448C) (AN(HK)O), an aircraft registered in Hong Kong shall not fly on any flight for the purpose of public transport, otherwise than under and in accordance with the terms of an air operator's certificate (AOC) granted to the operator of the aircraft, certifying that the holder of the certificate is competent to operate its aircrafts safely. CAD will take into account the AOC applicant's capabilities in various aspects, including his previous conduct and experience, equipment, organisation, staffing, maintenance and other supporting arrangements, etc, and will only issue an AOC to the applicant when it is satisfied that the applicant could conduct safe operations. AOC holder must operate its flight in accordance with the conditions set out in the AN(HK)O and Air Operator's Certificates Requirements Document¹ (CAD360).

Generally speaking, CAD will conduct routine inspections on AOC operators. These inspections include flight inspections, inspections on maintenance, documents inspections, training inspections, inspection visits at out-stations, inspections on examiners, etc. The routine surveillance programme on the operator focuses on aviation activities identified at a higher risk level, which is determined on the basis of previous inspection findings and data on operational safety. If required, CAD may step up their oversight on the operator with unscheduled inspections. In addition, to ensure that the expected safety standard can be achieved, CAD will conduct annual review to ensure the operational capability of an operator continues to meet the expected safety standards in terms of its management structure and organisation, facilities and equipment, training, maintenance and other operational support arrangements, etc. It is the operator's primary obligation to furnish CAD with any amendments made to the operations manual, while CAD is entitled to request the operator to amend its operations manual for the purpose of ensuring aviation safety.

CAD's considerations in prohibition of B737 MAX aircraft operations

Air transport is an international activity. It involves different stakeholders within and outside Hong Kong (including the authorities from different countries, passengers, airlines and aircraft manufacturers etc), and is governed by the aforesaid international standards and requirements. Therefore, we must approach with care and caution and make holistic consideration when handling the related arrangements, including the prohibition of B737 MAX aircraft operations.

¹ http://www.cad.gov.hk/english/publications_cad360.html.

Given that the accident involving Ethiopian Airlines B737 MAX 8² aircraft on 10 March 2019 (Hong Kong time, the same below) is the second serious accident involving B737 MAX aircraft within five months, CAD has taken immediate follow-up actions after knowing the accident. The relevant work is two-folds. Externally, CAD has taken the initiative to communicate with the Federal Aviation Administration (FAA) of the United States, the SoD of B737 MAX aircraft, to comprehend the safety situation of the aircraft type concerned. In addition, CAD has been closely liaising with other civil aviation authorities to comprehend the arrangement towards the B737 MAX 8 aircraft registered in their countries. Internally, CAD has immediately checked whether local airlines have operated any B737 MAX aircraft, with a view to grasping the situation in Hong Kong. When taking the aforesaid follow-up actions, CAD has been prudent in taking relevant issues into consideration and adopting appropriate arrangements in accordance with the information collected.

As a first step, CAD confirmed on 11 March that there is neither B737 MAX 8 nor other B737 MAX aircraft registered in Hong Kong before the accident involving Ethiopian Airlines B737 MAX 8 aircraft and at present. In addition, no application of aircraft registration for the B737 MAX aircraft has been received by the CAD, and none of the airlines registered in Hong Kong is operating any B737 MAX aircraft in Hong Kong.

As for aircraft not registered in Hong Kong, CAD noted that the Civil Aviation Administration of China and the Directorate General of Civil Aviation of Indonesia had requested all airlines of their countries to temporarily suspend commercial operations³ of B737 MAX 8 aircraft respectively on the same day (i.e. 11 March). CAD also confirmed that only SpiceJet of India and Globus Airlines of Russia used B737 MAX aircraft to operate flights to and from Hong Kong International Airport at that time. After grasping the situation, CAD has immediately contacted the two airlines concerned to understand their aircraft assignments and whether they will suspend the flight operations by B737 MAX aircraft.

² B737 MAX aircraft is the latest model of B737 series, and there are MAX 7, MAX 8, MAX9 and MAX 10 in the series. Currently, FAA has only certified B737 MAX 8 and B737 Max 9.

³ The two countries only temporarily suspended the commercial operations of B737 MAX 8 aircraft of all airlines of their countries. B737 MAX 8 and other B737 MAX aircraft registered in other countries can still operate within their airspace.

On the other hand, CAD has been closely liaising with the FAA. On 11 March 2019, the FAA issued a notification to civil aviation authorities worldwide and confirmed the continued airworthiness of B737 MAX aircraft, and the Ethiopian authority announced that both the Flight Data Recorder and the Cockpit Voice Recorder (commonly known as “Black Box”) were found. The two recorders should be able to provide essential data for establishing the cause of the accident. Nevertheless, CAD has kept on requesting the FAA to provide additional information. In the early hours of 13 March, the FAA replied that no further information could be provided.

After considering the aforesaid situation independently and prudently (including the unlikelihood of obtaining and grasping further information from FAA), the CAD decided to take the initiative, as a precautionary measure, to announce that, with effect from 6 pm that day, the operations of all B737 MAX aircraft into, out of and over Hong Kong were to be prohibited until further notice⁴, with a view to ensuring aviation safety and protecting the public. On the other hand, the CAD has contacted the two airlines, SpiceJet and Globus Airlines, on the arrangements of the temporary prohibition. Both airlines have expressed their full cooperation and would continue to provide services with other aircraft models/types to minimise impacts on passengers as requested by CAD.

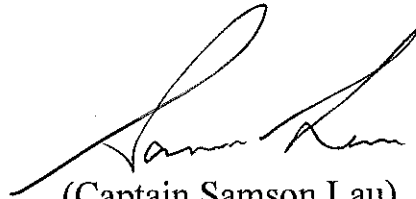
On 14 March, the United States finally grounded B737 MAX 8 and B737 MAX 9 aircraft, prohibiting the operations of the aforesaid types of aircraft by the United States’ operators, and the operations of B737 MAX aircraft in the airspace of the United States. Canada, Taiwan, Japan and Russia, etc have also made similar grounding arrangements on the same day.

As mentioned in CAD’s replies to the media and its press releases, CAD has always put aviation safety as the top priority and has been actively following up on this matter. As the nature and circumstances of incidents vary, the CAD will continue to handle the issue with care and take actions in due course in accordance with the requirements stipulated in the International Civil Aviation Convention, and having regard to the circumstances of the individual cases and the information available at the time, with a view to protecting public interest and safety, and maintaining Hong Kong as an international aviation hub.

⁴ See press release <https://www.info.gov.hk/gia/general/201903/13/P2019031300495.htm?fontSize=1>

During the temporary prohibition, CAD will continue to closely monitor the developments and closely liaise with the FAA and other relevant authorities, and will review the temporary prohibition in due course.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Samson Lau', written in a cursive style.

(Captain Samson Lau)
for Director-General of Civil Aviation

c.c. Secretary for Transport and Housing
(Attn.: Principal Assistant Secretary for Transport and Housing
(Transport) 9)