

立法會
Legislative Council

LC Paper No.CB(4)257/19-20(05)

Ref : CB4/PL/EDEV

Panel on Economic Development
Meeting on 20 January 2020

Background brief on the set-up and staffing establishment of
Air Accident Investigation Authority

Purpose

This paper provides background information on the set-up and staffing establishment of the Air Accident Investigation Authority ("AAIA"). It also summarizes the major views and concerns expressed by Members on relevant matters in previous discussions.

Background

2. In Hong Kong, civil aviation accident investigation is conducted in accordance with the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B) with reference to the requirements of International Civil Aviation Organization ("ICAO") requirements in this respect. ICAO stipulates its Standards and Recommended Practices on the manner of civil aviation accident investigation in "Annex 13 to the Convention on International Civil Aviation – Aircraft Accident and Incident Investigation" ("Annex 13"). Hong Kong, being part of China which is one of the Contracting States of ICAO, has an obligation to comply with the Standards set by ICAO on the investigation of civil aviation accidents.

3. Previously, under Cap. 448B, the Chief Executive ("CE") was the authority for appointing the Chief Inspector of Accidents ("CIA"), who was responsible for the investigation of civil aviation accidents and serious incidents which occur in Hong Kong or which involve Hong Kong-registered aircraft outside Hong Kong. Over the years, the Director-General of Civil Aviation ("DGCA") was appointed by CE as CIA.

For each investigation of accident or serious incident, CIA would assign a dedicated team for the investigation work. Generally speaking, each investigation team comprised a number of qualified Inspectors of Accidents temporarily deployed from different divisions in the Civil Aviation Department ("CAD"), among whom one would be the Investigator-in-Charge. Usually, the Inspectors would work on the investigations on a part-time basis.

4. In February 2016, ICAO amended Annex 13 to, among others, require Contracting States to establish an independent air accident investigation authority, i.e. the investigation authority should be independent from the state aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation. The new requirement has become applicable since November 2016 and ICAO recommended Contracting States to implement this new requirement by the end of October 2018.

5. On 27 March 2017, the Administration consulted the Panel on Economic Development on its proposals to (i) establish an independent AAIA; (ii) create a supernumerary CIA non-civil service post (equivalent to the rank of D2) for three years with immediate effect upon approval of the Finance Committee ("FC") up to 31 March 2020 to lead the independent AAIA and spearhead civil aviation accident investigation; and (iii) make corresponding amendments to Cap. 448B to confer on the independent AAIA and CIA the statutory powers to execute their duties.

6. Under the Administration's proposals, the new independent AAIA would be fully segregated from CAD's organizational structure and would come under the direct purview of the Transport and Housing Bureau. Investigations of accidents or serious incidents would be led by a full-time CIA who would no longer be DGCA or other serving officers of CAD. CIA would be appointed by CE under Cap. 448B and directly accountable to the Secretary for Transport and Housing. This arrangement could ensure the neutrality of AAIA vis-a-vis CAD, and the impartiality and credibility of investigation findings. CIA would be underpinned by six full-time professional support staff members to expedite the investigation process. The proposed duties of the CIA post and the proposed organization chart of the independent AAIA are set out in **Appendices I and II** respectively.

7. The relevant staffing proposal was endorsed by the Establishment Subcommittee and approved by FC on 14 June and 19 July 2017 respectively. A subcommittee was formed on 16 June 2017 to scrutinize the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 and Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 ("the

Subcommittee") which aimed to establish an AAIA independent from CAD for undertaking civil aviation accident investigations. The Subcommittee supported the amendment regulation and amendment order.

8. On 10 September 2018, the Government announced the appointment of the new CIA to head the new AAIA.

Major concerns expressed by Members

9. Members in general supported the establishment of an AAIA independent from CAD to ensure independence and impartiality in civil aviation accident investigations. However, some Members raised concern on the manpower provision and mode of operation of the independent AAIA proposed by the Administration. They questioned whether the independent AAIA warranted having seven full-time staff under CIA, and whether an ad hoc set-up (i.e. one to be convened as and when required) could also serve the purpose.

10. The Administration explained that AAIA had to ensure its readiness for investigation and fulfillment of requirements of Cap. 448B at all times, similar to other emergency services, as and when an accident or serious incident occurred. The new AAIA had to be able to attend to the scene immediately to collect evidence and conduct other investigation-related tasks. Thus, a permanent set-up was essential. A permanent set-up was also in line with the practice in other developed aviation jurisdictions. Besides, it was expected that AAIA would be fully engaged in handling the outstanding investigations to be passed on from CAD for follow-up, while handling other key tasks e.g. the on-going review of Cap. 448B to comply with the latest standards in Annex 13. The set-up of AAIA, including the staffing provision, would be reviewed before the expiry of the three-year period on 31 March 2020 in the light of actual experience.

11. In response to Members' enquiry about the number of civil aviation accidents investigations previously conducted by CAD, the Administration advised that since it took time to complete an investigation of civil aviation accident, in any given year, there were ongoing investigations carried forward from the preceding year or earlier. In the previous five years from 2012 to 2017, the actual numbers of investigations conducted by CAD per annum ranged from 8 to 13. As of the end of June 2017, there were 12 ongoing cases. Taking past experience of CAD, the investigation of each accident required six to seven Inspectors, and three to four persons for the investigation of serious incidents, all participating on a part-time basis. An investigation instigated by an overseas investigation authority requiring

CAD's participation was normally taken care of by one Inspector on a part-time basis. The annual numbers of investigations conducted by CAD and Inspectors involved from 2012 to 2017 are set out in **Appendix III**.

12. Noting that the new AAIA would be a permanent set-up, some Members enquired about why the post of CIA was not a permanent one. Some Members were concerned about whether the proposed remuneration package for the CIA post would be competitive enough to attract persons with the right calibre and professional background. The Administration advised that the arrangement of a non-civil service directorate post of up to 31 March 2020 would allow flexibility for the Government to review whether the manpower establishment of the newly set up independent AAIA suited the actual operational needs and determine the long-term staff establishment in due course. Given the job requirements and the wide areas of expertise required of CIA, the local pool of talents possessing the relevant experience and competence could be rather limited. To widen the pool of candidates and to give the Government the flexibility to recruit from overseas if necessary, the Administration thus proposed that the CIA position be appointed on non-civil service terms.

Latest development

13. At the Panel meeting on 20 January 2020, the Administration will seek the Panel's views and endorsement on the permanent set-up and staffing proposals of AAIA. The existing time-limited post of CIA will expire on 31 March 2020.

Relevant papers

14. A list of relevant papers available on the Legislative Council Website (<http://www.legco.gov.hk>) is in **Appendix IV**.

Appendix I

Proposed Job Description of the Chief Inspector of Accidents Position

Rank : Non-civil service position equivalent to the rank of D2

Responsible to : Secretary for Transport and Housing

Aim of the Position –

The proposed Chief Inspector of Accidents (CIA) will be tasked to lead and supervise the independent air accident investigation authority established under the Transport and Housing Bureau and direct the civil aviation accident investigation work and safety management work. The ultimate objective of the work of the authority, led by CIA, is to enhance and promote civil aviation safety.

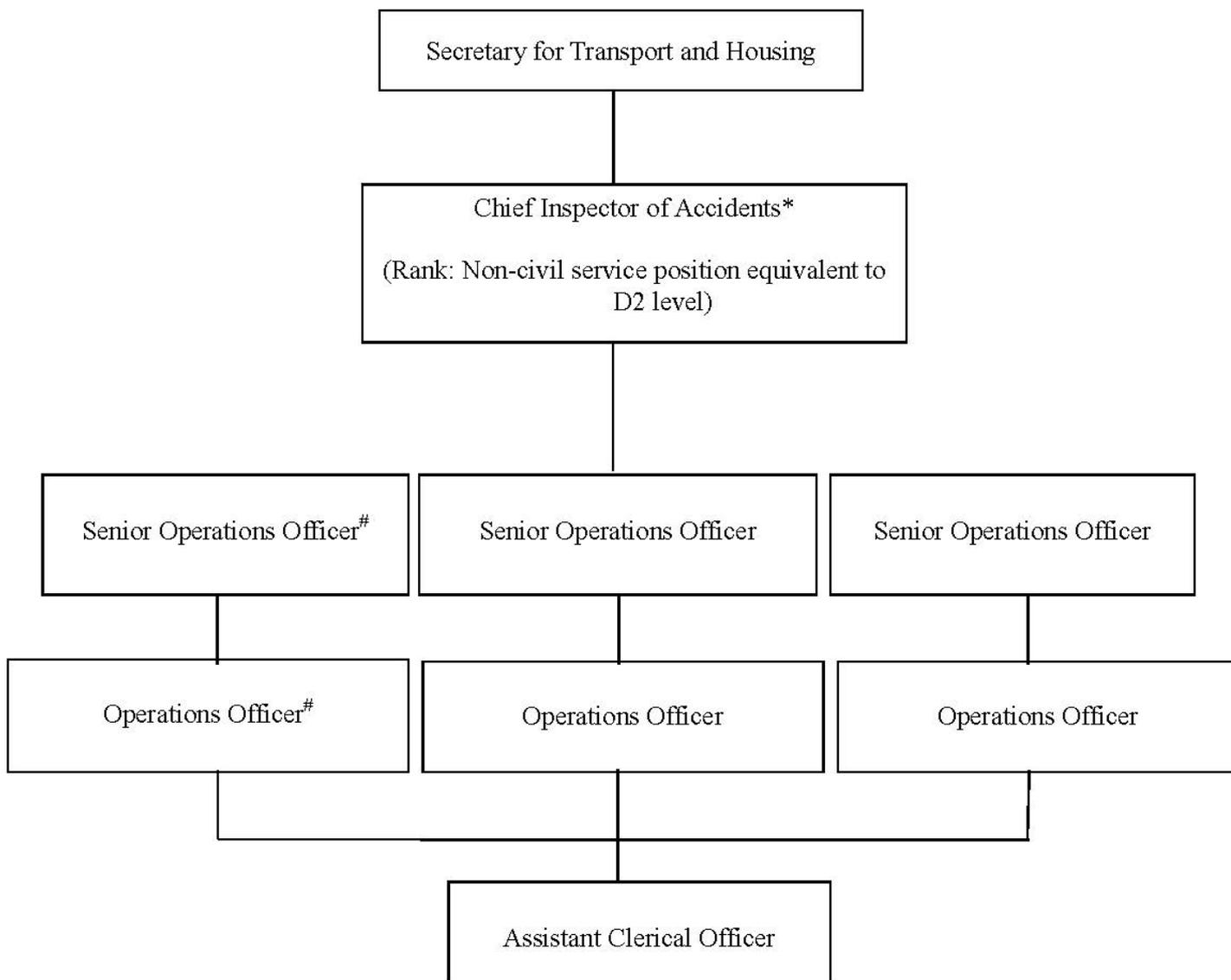
Main Duties and Responsibilities –

1. To investigate all civil aviation accidents and serious incidents which occur in Hong Kong or those which occur outside its territory but involve aircraft under its registry. The main responsibilities include investigating the causes of accidents, preservation of evidence of accidents and disposing of aircraft concerned, etc.;
2. To prepare and submit investigation reports to the Chief Executive, stating the circumstances and causes of accidents/serious incidents and making safety recommendations to prevent recurrence of accidents;
3. To lead and manage the air accident investigation authority, including staff deployment, staff training, procurement and maintenance of investigation equipment, facility maintenance and record management, etc., as well as to formulate strategies and measures to enhance accident investigation and safety management procedures;
4. To collect, protect and analyse relevant aviation safety information and data with a view to identifying potential safety hazards, to disseminate aviation safety messages to the industry and to co-ordinate the relevant education work;
5. To supervise the reporting (e.g. progress of investigation, information relating to the accident investigation) to be made to the bereaved/victims' families or survivors;

6. To provide support and professional advice to overseas air accident investigation authorities when necessary (e.g. when aircraft registered in Hong Kong are involved in accidents or serious incidents occurred overseas); and
7. On behalf of the Hong Kong Special Administrative Region Government, to participate in international organisations or activities in relation to air accident investigation and aviation safety and maintain close liaison with international organisations on relevant issues.

Source: Enclosure 1 to EC(2017-18)2

Proposed Organisation Chart of the Independent Air Accident Investigation Authority, Transport Branch, Transport and Housing Bureau



* Non-civil service position of Chief Inspector of Accidents proposed to be created in this paper.

Posts currently under the Accident Investigation Office of the Civil Aviation Department. The post incumbents will be deployed to the independent air accident investigation authority under the Transport and Housing Bureau.

Source: Enclosure 2 to EC(2017-18)2

Appendix III

The annual numbers of investigations conducted by CAD and Inspectors involved from 2012 to 2017

	2012	2013	2014	2015	2016	2017 (As of June)
No. of Investigations*	8	12	10	11	13	12
No. of Inspectors**	33	43	25	21	26	33

* The figures include newly instituted investigations and ongoing ones; they cover the investigations instituted by the CAD and those instituted by overseas investigation authorities that require CAD's participation.

** CAD Inspectors participate on a part-time basis. Each Inspector may participate in more than one investigation.

Source: LC Paper No. ESC143/16-17(01)

List of relevant papers

Issued by	Meeting date/ Issue date	Paper
Panel on Economic Development	27 March 2017 (Item IV)	Administration's paper Administration's follow-up paper Minutes
Establishment Subcommittee	14 June 2017 (EC(2017-18)2)	Administration's paper Submission from Hon CHU Hoi-dick (Chinese version only) Administration's follow-up paper Minutes
Finance Committee	19 July 2017 (FCR(2017-28)22)	Administration's paper Minutes
Subcommittee on Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 and Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017	27 September 2017	Legislative Council Brief Legal Service Division Report Report