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

22 May 2020

Dear Ms CHAN,

**Matters relating to the Permanent Set-up and Staffing Proposals  
of the Air Accident Investigation Authority (AAIA)**

I refer to your letter dated 4 May 2020 regarding Hon WU Chi-wai's request for further information about the permanent set-up and staffing proposals of the Air Accident Investigation Authority (AAIA). I am authorised to reply as follows.

**A. Time of submitting the proposals to the Finance Committee (FC) and  
the proposed transitional arrangement (Re Questions 1 and 3(a))**

We obtained the FC's approval in July 2017 for the creation of the time-limited non-civil service position of Chief Inspector of Accidents (which was later renamed Chief Accident and Safety Investigator, CASI) up to 31 March 2020<sup>1</sup>. The Administration filled the post in September 2018 through open recruitment, and formally established AAIA. During the Administration's consultation with the Legislative Council (LegCo), some Members had diverse views as to the need for a permanent AAIA, and the

<sup>1</sup> Relevant paper of the Establishment Subcommittee is available at:  
<https://www.legco.gov.hk/yr16-17/english/fc/esc/papers/e17-02e.pdf>

number of full-time investigators, etc., but Members generally agreed that the Administration should review and determine the long-term organisational set-up of AAIA in light of its actual operational experience, including staffing provision. We would like to properly determine AAIA's long-term organisational set-up and ranking of the personnel in an objective manner. Therefore, as and when AAIA had been in operation for a reasonable period, a review was conducted and the associated internal deployment of resources was completed within 2019.

The CASI and Deputy CASI positions of AAIA are directorate positions, which may only be created upon FC's approval. We have been pressing full steam ahead with the above-mentioned review and internal resources deployment, with a view to putting forward proposals for FC's consideration as soon as practicable. The discussion of the staffing proposals by the LegCo Panel on Economic Development (ED Panel) was originally scheduled for 20 January 2020. The agenda item had to be deferred as there was insufficient discussion time for other items. Subsequently the ED Panel cancelled its meetings of February and March due to the outbreak of COVID-19. In the end, our proposals were not discussed until the meeting in April. We will continue to press ahead with the relevant work, with a view to securing FC's support for our proposals within this legislative council session.

Also, Hon WU enquired about why the Administration had not exercised its delegated power to create a supernumerary directorate position for not more than six months under Section 8 of the Public Finance Ordinance and continued to hire the former CASI. In accordance with the provision concerned, FC has delegated certain powers concerning the creation of positions to the Financial Secretary. These include the creation of supernumerary **civil service** directorate positions for not more than six months to meet temporary or other needs. As the former CASI was employed on time-limited **non-civil service** directorate terms as approved by FC in 2017. He was not a civil servant referred to under Section 8 of the Public Finance Ordinance; and as such the said supernumerary **civil service** directorate positions for not more than six months are not applicable to the CASI position concerned. Therefore, subsequent to the expiry of the time-limited directorate non-civil service position the FC approved in 2017 on 31 March 2020, any arrangements to re-create or extend the position concerned should only be proceeded as approved by the FC.

Following the lapse of the time-limited, non-civil service CASI position on 31 March 2020, the most experienced, non-directorate investigator in the existing team of AAIA is leading AAIA temporarily. Upon FC's approval of the proposed posts, we will proceed with an open recruitment

exercise for the CASI position. Since the exercise will take time, a prolonged gap between the creation of the CASI position and the filling of it would be detrimental to the work of AAIA. We therefore must devise the proposed transitional arrangement to ensure that AAIA can continue to be led by a suitably experienced and competent and relatively more senior person in the interim. Taking into account the job nature similarity and comparable requirement of expertise and professional experience, the most suitable grade/rank for creating the supernumerary post is Assistant Director-General of Civil Aviation (ADGCA). The post is named ADGCA solely for pegging at an existing grade/rank within the civil service. It is to be created in THB and the person to fill this post will report directly to the Secretary for Transport and Housing (STH). He/she will not have any line of command, direct or indirect, to anyone in the Civil Aviation Department (CAD) whatsoever. The performance appraisal of the post-holder concerned will be done by STH, or senior management member of THB designated by STH, which is exactly the same reporting arrangement of the former CASI. To avoid any perceived conflict of interests or implications on the impartiality of AAIA, the CAD officer identified for the supernumerary ADGCA post concerned will not be given the option to return to CAD after taking up the time-limited post. As the above arrangement is merely transitional, there is no need to fill a Deputy CASI post with yet another officer to be identified from CAD; the CASI to be recruited could then select his/her deputy through open recruitment.

Having balanced the above-mentioned limitations and factors, we consider the currently proposed transitional arrangement the only practical and feasible option. Given the robust organisational and legislative framework of AAIA clearly embedded in the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B), we strongly believe that the statutory independence of AAIA will not be affected by this transitional arrangement.

#### **B. Posting arrangement and staff promotion mechanism within the Authority (Re Question 2)**

The guidance of the International Civil Aviation Organization (ICAO) does not expressly preclude countries/regions from deploying experts from the civil aviation regulatory authorities to fill some posts of the accident investigation authorities, except for the post of the Chief Inspector. Most importantly, AAIA is segregated from the regulator which is responsible for overseeing airworthiness, aircraft operation and maintenance, licencing, air traffic control, and airport operation, thereby safeguarding its independence<sup>2</sup>.

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<sup>2</sup> ICAO Doc 9756 "Manual of Aircraft Accident and Incident Investigation" - Part 1

As for the posting and promotion mechanism for non-directorate inspectors within AAIA, we will identify suitable civil servants to fill the posts in accordance with the established internal procedures. Should posting of officers to AAIA be required from among the civil service, we will consider carefully the prevailing expertise mix of AAIA and the availability of talents in the market, and allow AAIA the maximum possible degree of flexibility to recruit from the industry and retain the required talents, in order to meet its operational needs. Our goal is to establish a team comprising a mix of non-civil service positions in AAIA while allowing it some flexibility in maintaining a few civil service posts to cater for specific operational needs. We believe that having professionals from outside the civil service who could bring in new expertise and thinking, working hand-in-hand with experienced civil servants from professional disciplines relating to accident/incident investigation, would best serve AAIA's operational needs and interests.

### **C. Recruitment process and criteria for CASI and Deputy CASI**

(Re Questions 3(a) and (c))

As far as the CASI and Deputy CASI non-civil service positions are concerned, we will kick-off relevant open recruitment process once the proposals are passed by FC, such as drawing up detailed job and qualification requirements.

According to the ICAO's guidance, only persons who possess a certain level of professional civil aviation experience, e.g. those who were/ are current pilots or aircraft maintenance personnel, aircraft engineers, qualified personnel in the field of airline operations, airworthiness, air traffic control or civil aviation management, etc. can take part in an accident investigation. They must also have undergone training in accident investigation techniques. In our open recruitment of CASI, we will require applicants to possess professional aviation knowledge in areas such as civil aviation legislation, aircraft operation, aircraft engineering, air traffic control, airport operations, airline management and/or safety management, etc.. Also, applicants need to possess many years of practical experience in spearheading investigation of civil aviation accidents, and some experience in administrative management. The requirements are similar for Deputy CASI, except that the number of years of experience required may be relatively fewer. Persons who are interested in applying for these non-civil service posts will compete fairly and equally on the same set of standards and requirements. No one will enjoy any privileges even if they are working in or have worked in CAD and/or AAIA.

For the time-limited CASI position approved by FC in July 2017, the position could only be filled 14 months later in September 2018. As a matter of fact, an open recruitment of a senior position concerned will inevitably take a relatively long time, especially if the selected person has to end an existing employment, or even relocate to Hong Kong, prior to joining. With the experience gained from the previous exercise, we will endeavour to expedite the recruitment of the CASI position.

#### **D. Concluding remarks**

Our policy objective has been very clear, i.e. to establish a permanent AAIA independent of CAD. We have already amended Cap. 448B in 2018 to establish AAIA's independence and statutory duties and powers. We look forward to FC's early support for our proposals, such that AAIA can continue to be led by an experienced and capable officer. The Administration will, as and when required, review all arrangements concerning AAIA based on its operational experience to ensure its continued compliance with ICAO requirements.

Yours sincerely,

( Ms Joyce CHAN )  
for Secretary for Transport and Housing

c.c. Air Accident Investigation Authority