

**For discussion
on 27 May 2019**

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 proposed legislative amendments to implement the latest standards promulgated by the International Civil Aviation Organization ("ICAO") for the safe transport of dangerous goods ("DG") by air in Hong Kong.

BACKGROUND

International Standards

2. According to the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("TIs") 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 materials, corrosives, etc. To ensure aviation safety, ICAO has developed a set of provisions governing the transport of DG by air under Annex 18 to the Convention on International Civil Aviation (“Chicago Convention”). These provisions regulate matters such as the classification, packing, marking, labelling and loading of DG on board aircraft, and other matters such as training requirements for related aviation personnel. The detailed specifications are set out in the TIs which are updated and published by ICAO biennially. Annex 18 to the Chicago Convention stipulates that the Contracting States shall take necessary action to comply with the provisions in the TIs.

Local Legislation

3. ICAO is a specialised agency of the United Nations established under the Chicago Convention in 1944. At present, it has 193 Contracting States and China is one of them. China recognises the international rights and obligations arising from the Chicago Convention and its associated regulations, and these rights and obligations are also applicable to Hong Kong. The requirements of the TIs are given legal effect through two pieces of local subsidiary legislation, viz -

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

4. DG(CAS)R regulate shippers and freight forwarders in respect of the proper handling of DG before offering them for air transport, whereas AN(DG)R regulate aircraft and airport operators in relation to the transport of DG.

5. Whenever an updated edition of the TIs is published by ICAO, the Civil Aviation Department (“CAD”) will review the new requirements promulgated therein, and pursue necessary amendments to the above two pieces of subsidiary legislation in order to keep Hong Kong’s regulatory regime in line with the ICAO requirements. On the last occasion, the TIs were issued in December 2016, and the amended subsidiary legislation came into effect from March 2018 to reflect the latest requirements at the time.

THE LATEST EDITION OF TIs

6. The latest edition of the TIs (i.e. the 2019-2020 edition) was issued by ICAO in November 2018. Major changes that require legislative amendments are summarised in paragraphs 7 to 9 below.

(a) Revised definition of DG

7. The definition of DG¹ has been refined. The word ‘risk’ is replaced with ‘hazard’ to better reflect the correct use of ‘hazard’ in place of ‘risk’, where ‘hazard’ refers to the inherent properties of a substance or

¹ In the latest edition of the TIs, “DG” are “*articles or substances which are capable of posing a ~~risk~~ hazard to health, safety, property or the environment and which are shown in the list of dangerous goods in the Technical Instructions or which are classified according to those Instructions*”.

article that has the potential to do harm to persons, property or the environment, and ‘risk’ refers to the likelihood that the harm may occur. Consequent upon this change, aircraft and airport operators, shippers and freight forwarders shall review and update their DG handling procedures and relevant manuals as appropriate.

(b) Provisions for DG carried by passengers and crew

8. Passengers and crew are forbidden to carry DG on board an aircraft unless the DG are permitted and specified in the TIs. Part 8 of the TIs, which specify the types of DG that passengers and crew may carry on board an aircraft, has been substantially restructured. The provisions and restrictions are re-categorised into different tables and sections to enhance readability. Part 8 of the TIs has also incorporated new types of DG introduced due to technological advancement, including, for example, smart luggage with built-in lithium battery.

(c) Provisions for cargo containing DG

9. The latest edition of the TIs has also incorporated some changes to the technical requirements for the safe transport of DG by air, including the classification, packing, marking and labelling of certain kinds of DGs. Taking lithium batteries as an example, there is a new segregation requirement in packing lithium batteries such that no other inflammable items should be packed together with the lithium batteries.

AMENDMENTS TO LOCAL LEGISLATION

10. To give legal effect to the latest requirements of the TIs in the local context, DG(CAS)R and AN(DG)R will need to be amended. Among other amendments that are required, we need to update the definition of TIs by replacing the reference to “2017-2018 edition” of the TIs with “2019-2020 edition” in the DG(CAS)R and AN(DG)R. The legislative amendments are targeted to take effect immediately upon completion of the legislative process by the first quarter of 2020.

CONSULTATION

11. In the meantime, the international air transport industry is already operating in accordance with the latest requirements of the TIs in handling the transport of DG by air. The International Air Transport Association (“IATA”) has updated its Dangerous Goods Regulations (“DGR”) with effect from 1 January 2019 to promulgate the latest amendments to the TIs. The IATA DGR is the globally recognised reference for transporting DGs by air. It is an established industry practice that in handling DG, aircraft and airport operators, shippers and freight forwarders will adhere to the IATA DGR. Airlines would not accept non-compliant DG for air carriage due to safety consideration of aircraft operations.

12. Locally, CAD has already published ICAO’s amendments on its website and has also written to stakeholders to provide details of the amendments. Furthermore, CAD has briefed the air cargo industry accordingly, and put into practice the latest requirements administratively.

The stakeholders have been following the new TIs which have already been incorporated into the IATA DGR since 1 January 2019. The legislative amendment proposal detailed above is to formalise and localise the requirements of the TIs.

ADVICE SOUGHT

13. Members are invited to support the proposed legislative amendments to implement the latest edition of the TIs.

Transport and Housing Bureau
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