



ICAO

**EIGHTH MEETING OF THE ASIA PACIFIC ACCIDENT
INVESTIGATION GROUP (APAC-AIG/8)***(Wednesday, 21 October 2020 on Virtual Platform)***Agenda Item 5: Regional cooperation****UPDATE ON THE PERMANENT SET-UP AND STAFFING OF
THE AIR ACCIDENT INVESTIGATION AUTHORITY (AAIA) IN HONG KONG***(Presented by Hong Kong Special Administrative Region of the People's
Republic of China (HKSAR))***SUMMARY**

This paper provides an update on the permanent set-up and staffing of AAIA, since its establishment in September 2018.

1. INTRODUCTION

1.1 The People's Republic of China is one of the 193 Contracting States of the International Civil Aviation Organization (ICAO). Being a Special Administrative Region of the People's Republic of China, Hong Kong is obliged to handle matters in relation to investigations of civil aviation accidents and incidents in accordance with Annex 13 to the Convention on International Civil Aviation - Aircraft Accident and Incident Investigation (Annex 13).

1.2 Prior to the establishment of AAIA, investigations of air accidents and incidents were conducted by a pool of officers with suitable qualifications and expertise in the Civil Aviation Department (CAD) assigned by the Director-General of Civil Aviation (DGCA) in his then capacity as the Chief Inspector of Accidents under the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448 sub. leg. B) (the Regulations).

1.3 Back in 2017, in order to comply with the Annex 13 requirement on establishing an accident investigation authority independent of the State aviation authorities and other entities that could interfere with the conduct or objectivity of an investigation, the Transport and Housing Bureau (THB) of the HKSAR Government (the Government) sought approval from the Legislative Council (LegCo) for establishing AAIA and the creation of the non-civil service (NCS) directorate position designated as Chief Accident and Safety Investigator (CASI). It was initially a time-limited set-up to allow flexibility to review and determine its long-term organisational structure in light of actual operational needs and experience. AAIA initially commenced operation in September 2018 with the expiration date of 31 March 2020. A review for the long-term arrangement was carried out only after AAIA having been in operation for a reasonable period and the review was conducted and completed within 2019.

1.4 In tandem with the establishment of AAIA, the Regulations were amended to transfer the relevant powers vested in DGCA to CASI. It also makes clear that CASI, together with the Inspectors (accident and safety investigators), is the accident investigation authority in Hong Kong under THB, and CASI is directly accountable to the Secretary for Transport and Housing (STH)¹.

¹ Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448 sub. leg. B) version date 13.12.2018

1.5 The Regulations were also amended to the effect that CASI must cause all air accidents and serious incidents to be investigated in accordance with ICAO's requirements, as opposed to the previous arrangement when the DGCA could decide whether to cause an investigation into an incident or accident.

1.6 Towards the lapse of the time-limited approval on 31 March 2020, THB worked on securing the necessary approval from the legislature for the creation of the permanent CASI and Deputy CASI positions to strengthen the organisational structure of AAIA. Amid the COVID-19 pandemic outbreak and competing staffing proposals from other Government Bureaux/Departments, it managed to table AAIA proposals at the last Establishment Sub-Committee (ESC) meeting of the legislative year, and ultimately obtained LegCo's support for the abovementioned permanent posts of AAIA in July 2020, as well as transitional arrangements before those permanent directorate posts are filled through open recruitment.

2. DISCUSSION

ADMINISTRATIVE PROCESS

2.1 In Hong Kong, the creation of directorate posts within the Government require approval of the Finance Committee (FC) of LegCo. According to established procedures, for THB to obtain the said approval, it had to first consult LegCo's Economic Development (ED) Panel, and then the ESC, before recommendation to FC for approval of the proposal. Meanwhile, legislators had the opportunity to express their concerns, and equally, THB could elucidate their policy intention.

2.2 In July 2020, some four months after the lapse of the time-limited AAIA setup, LegCo approved the permanent establishment of the CASI position, and creation of a permanent Deputy CASI position to assist the former, such that the renewal or extension of their contracts in future need not go through the legislature again. To allow greater flexibility for AAIA to recruit the most suitable persons with the required calibre from a wider pool of candidates, including overseas and local aviation experts, both positions which are at directorate grades will be appointed on non-civil service (NCS) terms. This could also ensure that AAIA will be led by the most suitable persons with relevant up-to-date knowledge of air accident and incident investigation in the light of the ever-evolving industry developments and circumstances.

2.3 From policy formulation, resource allocation, effective communications internally with fellow Government Bureaux/Departments and externally with LegCo and the industry, to implementation of the plans by going through all the relevant LegCo panel and committees, the professional administrators of THB played a key role in the establishment of AAIA. Their continuous support provides the foundation for the successful operation and development of AAIA.

TRANSITIONAL ARRANGEMENTS

2.4 Presently, THB is initiating an open recruitment exercise for the CASI and Deputy CASI posts. Based on the experience in the recruitment of the previous time-limited CASI post, which took 14 months, the open recruitment of such senior positions, particularly involving overseas candidates, will inevitably take a relatively long time. There is a gap between the creation of the permanent CASI position and the filling of it, and a prolonged period of vacancy at the leadership position will be detrimental to the work of AAIA. To ensure that AAIA would continue to be led by a suitably experienced and competent person, it is considered most essential to identify an existing senior civil servant in the government with relevant accident and safety investigation experience to fill the position on an interim basis. As a matter of fact, senior civil servants with the most relevant experiences are from CAD which was responsible for air accident investigations prior to AAIA's establishment.

Such arrangement will ensure that AAIA continues to function at the highest international standards during the gap period.

2.5 This arrangement was the only practical solution available which could both meet ICAO's standard and provide the necessary stop-gap before completion of the open recruitment of the NCS CASI position. The officer to be selected to fill the time-limited CASI position shall continue to report directly to STH in accordance with the Regulations. To avoid any perceived conflict of interests or implications on AAIA's impartiality, the candidate so identified will not be given the option to return to CAD after the NCS CASI position is substantially filled through open recruitment. Given the robust organisational and legislative framework of AAIA clearly embedded in the Regulations, we are certain that the functional independence of AAIA will not be affected under the transitional arrangement. This transitional arrangement has been scrutinised and endorsed by LegCo in July 2020, and was reported to the ICAO.

NON-DIRECTORATE GRADE STAFF SUPPORT

2.6 CASI and Deputy CASI will be supported by five permanent civil service posts (i.e. two Senior Accident and Safety Investigators (SASI), two Accident and Safety Investigators and one clerical staff). To enable AAIA to be equipped with the right mix of professionals and considering the diverse and dynamic nature of air accident and incident investigations, depending on operational needs up to three additional investigator(s), equivalent to the rank of SASI may be recruited on NCS terms. Presently, these three NCS positions have been filled up by professionals from different aviation disciplines such as ATC, flight operations and avionics.

2.7 With respect to ICAO guidelines, our goal is to establish a team comprising a mix of non-civil service positions in AAIA while allowing some flexibility in maintaining a few civil service posts to cater for specific operational needs. We believe that, under the leadership of CASI identified through open recruitment and with the support of professionals from outside the civil service who could bring in new expertise and fresh ideas, working hand-in-hand with aviation professionals from the civil service experienced in accident/incident investigation, would best serve AAIA's operational needs and long-term interests.

LATEST DEVELOPMENTS OF AAIA

Memorandum of Understanding between AAIA and CAD

2.8 A memorandum of understanding between AAIA and CAD was signed in April 2020. In recognition of AAIA as the independent accident investigation authority of Hong Kong, it clearly demarcates the responsibilities of AAIA in air accident and incident investigations and the roles of the CAD in supporting AAIA's work with reference to ICAO's guidance and in enhanced collaboration in air accident prevention and communication between the two entities. It helped to standardise and institutionalise certain aspects of work between AAIA and CAD, including notification of occurrences and information sharing, with the objective of facilitating the investigation process by AAIA while maintaining their independence and capacity to perform their respective roles and responsibilities, as reflected under the Civil Aviation Ordinance (Cap. 448) of the HKSAR.

Establishment of an Expert Panel

2.9 Also in April 2020, an expert panel was established for the purpose of offering advice to AAIA on air accident and incident investigations. Up to September 2020, five experts comprising renowned aviation professionals and leading members of the local academia, all independent from the government, had agreed to join the expert panel under the over-arching principle of no perceived conflict of interest. These experts would be invited to give advice on areas of their expertise as and when necessary. However, they would not be directly involved in the investigation work per se.

3. ACTION BY THE MEETING

3.1 The Meeting is invited to note the much strengthened permanent set-up and staffing complement of AAIA in Hong Kong, China.

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