



# The Cathay Pilots Union

Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
Hong Kong, SAR China

Email: [admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)

Web: <http://www.cathaypilotsunion.org>

Ms Alice Tai Yuen-ying, Justice of Peace  
The Ombudsman  
30/F  
China Merchants Tower  
Shun Tak Centre  
168-200 Connaught Road  
Central  
Hong Kong

25<sup>th</sup> May 2008

By Email only: [complaints@omb.gov.hk](mailto:complaints@omb.gov.hk)

Dear Madam

## Complaint and Request for Assistance

**Introduction.** The Cathay Pilots Union (CPU) is a Hong Kong registered trade union representing the interests of Hong Kong professional air transport pilots. Our complaint concerns the Director-General of Civil Aviation (DGCA) and the Civil Aviation Department (CAD) and is relevant to our members as they are directly affected by decisions and recommendations of the DGCA and the CAD.

**Complaint.** The CAD is mandated by Law to ensure compliance with the Air Navigation (Hong Kong) Order 1995, Cap. 448C (ANO). The CPU has written to the DGCA and the CAD on several occasions over the last 9 months seeking an explanation on two specific issues relating to flight safety and the avoidance of fatigue in aircrew. Attached are letters and emails between the CPU and the CAD concerning Reserve and Minimum Rest. The CAD has chosen *not* to address these issues presented by the CPU on behalf of its members despite direct relevance to the ANO, which the CAD is empowered to regulate.

These two specific issues are technically complex. CPU representatives would be grateful of the opportunity to meet to explain the detail should you so desire.

**Affiliation.** The CPU is neither a member organisation of the Hong Kong Airline Pilots Association nor the International Federation of Airline Pilots Associations. Therefore, references and referrals to these other organisations by the CAD in the attached correspondence are not relevant to the concerns raised.



## The Cathay Pilots Union

**Summary.** It is reasonable that a registered trade union representing airline pilots in Hong Kong will ask the CAD, as regulator, to interpret issues concerning compliance with the ANO. The CAD has chosen not to answer legitimate questions concerning the ANO. The CPU respectfully requests your assistance in achieving a proper response to the questions put.

Yours sincerely

The CPU Preparatory Committee

Cc Mr Lee Cheuk-yan, LegCo [yanlee@hkctu.org.hk](mailto:yanlee@hkctu.org.hk)

Att



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Web: <http://www.cathaypilotsunion.org>

The Director-General of Civil Aviation  
ATTN: Chief of Flight Standards  
Mr. LIU Chi Yung, Victor  
10/F, Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road  
Lantau  
Hong Kong

10<sup>th</sup> September 2007

By Email Only: [vcyliu@cad.gov.hk](mailto:vcyliu@cad.gov.hk)

Dear Mr Liu

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

Please find attached 2 recent occurrences of rostering by Cathay Pacific Airways. In both cases, management confirmed that these were within the provisions of the CPA AFTLS.

We would appreciate your interpretation of both cases. Furthermore, we seek your clarification on how these operations can conform to the provisions of the CPA Operations Manual and CAD 371.

A handwritten signature in black ink, appearing to be "S. Tang", is written over a light blue circular stamp.

Yours sincerely

The CPU

Attachment



# The Cathay Pilots Union

ATTACHMENT TO CAD LETTER DATED 10<sup>th</sup> September 2007

## CASE 1 - RESERVE CALL OUT FOR ULTRA LONG RANGE OPERATION

Pattern:

Pilot commences reserve block and called out on Day 3 after 5h14m duty for a ULR to Europe. Time between call out and duty recommencing = 11h41m. Time between reserve start and FDP end = 30h25m.

Day	Duty	Start (HKT)	End (HKT)	Total Duty*
1	R	06:00	18:00	12:00
2	R	11:00	18:00	7:00
3	R CX293 HKGFCO	06:00	11:14	05:14
4	STD 00:05	22:55	12:55	14:00

## Case 2 - ROSTERED DUTY FOLLOWING POSITIONING FLIGHT

Pattern:

Pilot commences reserve block and immediately called out for London operation followed by Positioning sector with less than Minimum Rest at outport. Commences reserve on Day 4 following 16h40m rest period.

Day	Duty	Start (HKT)	End (HKT)	Total Duty*
1	R3B 251 HKGLHR STD 23:55	18:00	18:04	00:04
2			13:15	14:30
3	254 LHRHKG PX STD 05:35	04:35	18:20	13:45
4	R2B	1100	2300	12:00
5	R2B	1100	2300	12:00
6	G			

*\*Note: Total Duty times as calculated by CPA*

Un t i t l e d

----- Original Message -----

From: <ops@cad.gov.hk>

To: "The Cathay Pilots Union." <admin@cathaypilotsunion.org>

Sent: Monday, September 10, 2007 4:14 PM

Subject: Re: CPA AFTLS

- > Acknowledge receipt of the letter in respect of the above named subject.
- >
- > Thank you.
- >
- > Anka LO
- > Secretary to C,FS

Un t i t l e d

----- Original Message -----

From: <akkl o@cad. gov. hk>

To: <admi n@cathaypi l o t s u n i o n. o r g>

Sent: Tuesday, September 18, 2007 10: 55 AM

Subject: Letter to HKALPA

>  
> Letter to President HKALPA is attached for your information.  
>  
> Regards  
>  
> Anka LO  
> Secretary to Chief, Flight Standards  
> HKCAD  
>  
>  
> (See attached file: Letter to HKALPA. pdf)



# The Cathay Pilots Union

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The Director-General of Civil Aviation  
ATTN: Chief of Flight Standards  
Mr. LIU Chi Yung, Victor  
10/F, Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road  
Lantau  
Hong Kong

2<sup>nd</sup> October 2007

By Email Only: [vcyliu@cad.gov.hk](mailto:vcyliu@cad.gov.hk)

Dear Mr Liu

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

Thank you for your email dated 18<sup>th</sup> September noting that you have forwarded our letter to HKALPA. There has perhaps been some confusion. The Cathay Pilots Union is a Registered Trade Union in Hong Kong in its own right. We are not affiliated or associated with HKALPA and they do not represent our members or our members' interests in any way.

Our letter dated 10<sup>th</sup> September requests clarification of some cases of rostering that we regard as questionable and contrary to the provisions of the CPA Operations Manual and CAD 371.

The HKCAD regulates the ANO and has the responsibility and accountability for the proper interpretation of these provisions. It is therefore *your* interpretation and clarification that we seek.

Yours sincerely

A handwritten signature in black ink, appearing to be "S. Tang", written over a light blue circular stamp.

The CPU



# The Cathay Pilots Union

*Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
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Web: <http://www.cathaypilotsunion.org>

The Director-General of Civil Aviation  
Mr. LO Shung Man, Norman, AE, JP  
46th Floor  
Queensway Government Offices  
66 Queensway  
Hong Kong

12<sup>th</sup> November 2007

By Email Only: [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)  
[ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)

Dear Mr Lo

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

Please find attached our two previous letters dated 10<sup>th</sup> September and 2<sup>nd</sup> October. We still have not received a reply.

We would appreciate your response by 23<sup>rd</sup> November.

Yours sincerely

The CPU

----- Original Message -----

**From:** [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)  
**To:** [The Cathay Pilots Union.](#)  
**Cc:** [ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk) ; [jtclau@cad.gov.hk](mailto:jtclau@cad.gov.hk)  
**Sent:** Monday, November 12, 2007 9:55 AM  
**Subject:** Re: CPA AFTLS

This is to acknowledge receipt of your letters. My colleagues in FSAD is dealing with the concerned issues and will revert in deal course.

Regards,

Norman

"The Cathay Pilots Union."  
<[admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)>

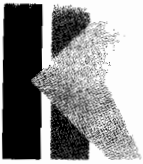
2007/11/12 上午 09:49

To <[nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)>

cc <[ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)>

"The Cathay Pilots Union." <[admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)>

Subject Re: CPA AFTLS



香港特別行政區政府  
民航處

Civil Aviation Department

The Government of the Hong Kong Special Administrative Region  
飛行標準及適航部 Flight Standards and Airworthiness Division

香港大嶼山香港國際機場駿運路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Hong Kong International Airport, Lantau, Hong Kong

檔案編號 OUR REF.

來函編號 YOUR REF.

電話 TEL.

圖文傳真 FAX.

航空專用電訊  
AFTN

(149) in A/OPS/CPA/7

2769 7643

2362 4250

VHHHYAYC

16 November 2007

The Cathay Pilots Union  
1/F, 9B Nga Yiu Tau  
Sai Sha Road  
Sai Kung  
New Territories  
Hong Kong

Dear Sir,

**Cathay Pacific Airways Approved Flight Time Limitation Scheme  
(CPA AFTLS)**

Your e-mail to the Director General Civil Aviation dated 12<sup>th</sup> November 2007 refers.

You record you have not received a reply to your e-mail dated 10<sup>th</sup> September 2007, however in your e-mail dated 2<sup>nd</sup> October 2007 you acknowledge receipt of our letter to HKALPA (copied to you by e-mail).

The recognised procedure regarding crew rostering communications, as outlined in CAD 371 paragraph 3.7, is for the crew member, in the first instance, to submit his/her question in writing to the company concerned. However, in the event the crew member is not satisfied with the written reply from the company then the crew member may submit the details in writing to the CAD for further review. The submission must clearly state why the crew member is of the opinion that there has been a contravention of the company's AFTLS and which therefore impacted on the avoidance of fatigue.

In view of the foregoing please follow the above procedure and revert to the undersigned accordingly.

Finally, it would be appreciated if you would forward the names of the post holders within the CPU as the signature block in your e-mail is not legible, consequently we are unaware with whom we are corresponding.

Yours faithfully,

(Captain M S Davis)

Chairman, FTLWG  
for Director-General of Civil Aviation

cc DGCA  
DDGCA  
General Manager Flying, Cathay Pacific Airways Limited  
President, Hong Kong Airline Pilots' Association  
File A/OPS/ALP/1

MSD/al

致力於安全及有效率的航空系統 Committed to a Safe and Efficient Air Transport System



# The Cathay Pilots Union

Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
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The Director-General of Civil Aviation  
ATTN: Chief of Flight Standards  
Mr. LIU Chi Yung, Victor  
10/F, Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road  
Lantau  
Hong Kong

6<sup>th</sup> December 2007

By Email Only: [vcyliu@cad.gov.hk](mailto:vcyliu@cad.gov.hk)  
Cc: [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)  
[ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)

Dear Mr Liu

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

Thank you for your reply, dated 16<sup>th</sup> November reference (149) in A/OPS/CPA/7, to our letter dated 2<sup>nd</sup> October that responded to our original query dated 10<sup>th</sup> September.

Our request for your interpretation already followed communications with the Company. Their response to our Case 1 was "*it's legal*" and their response to our Case 2 ended:

*.... submitted the circumstances of this case to the HKCAD for review. They have informed me that the Company interpretation is sound, and in their view is following the spirit and letter of the AFTLS and HKCAD371.*

We understand from your letter that you need further amplification on why there may have been a contravention of the provisions relating to the avoidance of fatigue. Please see the attachment.

The material concludes:

- The Cathay Pilots Union believes that the new reserve provisions in the current CPA AFTLS are contrary to both the CAD 371 "Avoidance of Fatigue in Aircrews" provisions and, moreover, the Air Navigation Order.



## The Cathay Pilots Union

- The Cathay Pilots Union believes that using Normal Rest to comply with the limitations of Table R “Minimum Required Rest Period” following ULR is contrary to the current CPA AFTLS, the CAD 371 “Avoidance of Fatigue in Aircrews” provisions and, moreover, the Air Navigation Order.

Yours sincerely

for The CPU

Att



# The Cathay Pilots Union

## ATTACHMENT TO CAD LETTER DATED 6<sup>th</sup> DECEMBER 2007

### CASE 1 - RESERVE CALL OUT FOR ULTA LONG RANGE OPERATION

#### Pattern:

Pilot commences reserve block and called out on Day 3 after 5h14m duty for a ULR to Europe. Time between call out and duty recommencing = 11h41m. Time between reserve start and FDP end = 30h25m.

Day	Duty	Start (HKT)	End (HKT)	Total Duty*
1	R	0600	1800	12:00
2	R	1100	1800	7:00
3	R CX293 HKGFCO	0600	1114	5:14
		2255		(grey period=11:41)
4	STD 0005		1255	14:00

Time from Reserve Start to FDP End= 30:25

#### Amplification:

In December 2004, CAD approved a new AFTLS for Cathay Pacific Airways. One notable feature was that it included radically revised reserve provisions. Previously, reserve took account of an individual's WOCL by varying the maximum allowable FDP according to the time of reporting for duty. Furthermore, the maximum useful time on reserve was limiting because the FDP started once having been on reserve for 4 hours (the "4-hr clock"). This practice followed extensive scientific evidence and operational experience in the UK (CAP371) and was further refined in CAD371. Another fatigue-reducing feature was that the minimum required rest period between duties was normally 12 hours.

The new trial practice introduced a "grey period" between call-out and duty re-start, when the crew member is expected to report for duty within 2¼ hours of call-out. It was expected that the maximum duty from reserve start would have been:

$$=12 \text{ (maximum reserve)} + 2\frac{1}{4} \text{ (travelling time)} + 18 \text{ (ULR FDP)} = 32\frac{1}{4} \text{ hours.}$$

However, the new AFTLS does not specify 2¼ hours as the maximum time between call-out and reporting for duty, neither does it specify that the minimum rest time between reserve end and a subsequent FDP should remain 12 hours. In other words, the "grey period" extends to anytime between 2¼ and 12 hours. What this



# The Cathay Pilots Union

means in practice is that a crew member effectively operates 24 hours' reserve blocks over a 6-day period and is unable to plan to rest properly prior to *any* FDP.

The Cases below show examples, including the extreme, of not having the "grey period" properly limited in the CPA AFTLS.

## Case 1a - "Reasonable" Maximum ULR Reserve

Day	Duty	Start (HKT)	End (HKT)	Total Duty
1	R	0600	1800	12:00
2	R	1100	1800	7:00
3	R CX123 HKGABC	0600  1215	1000	4:00 (grey period=2:15)
4			0400	15:45
Time from Reserve Start to FDP End=				22hrs

This example shows a ULR operation following a reserve call-out as per the previous AFTLS. As the maximum allowable ULR FDP is 18 hours and the FDP "clock" commences after 4 hours on reserve, then the maximum allowable ULR duty period will always be 22 hours.

## Case 1b - "Extreme" ULR Reserve

Day	Duty	Start (HKT)	End (HKT)	Total Duty
1	R	0600	1800	12:00
2	R	1100	1800	7:00
3	R	0600	1759	11:59 (grey period=11:59)
4	CX123 HKGABC	0558	2358	18:00
Time from Reserve Start to FDP End=				41:58

This shows a ULR after a call-out at the extremes of the maximum reserve and the maximum "grey period". If the grey period was 1 minute longer then it would count as a Minimum Rest of 12 hours. Hence, under the new AFTLS, the maximum period between reserve start and FDP end is extended from 22 to 42 hours.



# The Cathay Pilots Union

## Case 1c - "Interim" ULR Reserve

Day	Duty	Start (HKT)	End (HKT)	Total Duty
1	R	0600	1800	12:00
2	R	1100	1800	7:00
3	R CX123 HKGABC	0600  2200	1400	8:00 (grey period=8:00)
4			1600	18:00

Time from Reserve Start to FDP End= 34hrs

This example shows a ULR callout after an interim arbitrary 8 hours on reserve followed by a "grey period" of 8 hours. The total time from start to end is 34 hours. This case is similar to the Case 1 - the originally queried Reserve-HKG-FCO flight. What this example shows is that any combination of reserve and "grey period" can combine so that a crew member is effectively on 24 hours' reserve: if the crew member starts reserve at 0600L he can be called to operate at 0600L the next day - or any time before. In other words, one cannot plan adequate rest prior to an FDP because the crew member can be called out to operate an FDP that can end anything up to 42 hours later.

## Case 1d - "Interim" Regional Reserve

Day	Duty	Start (HKT)	End (HKT)	Total Duty
1	R	0600	1557	09:57 (grey period=7:18)
2	CX412/PX HKGICN	2315		
3			0342	
	CX873 ICNHKG	0818	1157	12:42

Time from Reserve Start to FDP End= 29:57

This case is an actual example flown in 2006 and demonstrates that the problem in planning adequate pre-flight rest is not confined to ULR operations. A regional pilot commenced reserve, was called out after nearly 10 hours and had to wait more than 7 hours before commencing the FDP. He then positioned to ICN, waited 4½ hours on the ground before returning to HKG. As he started reserve early in the morning he could reasonably have expected to operate a Normal Operation in accordance with Table A. He would have planned his pre-duty rest accordingly. However, he was then given significantly less than a Minimum Rest Period prior to



## The Cathay Pilots Union

reporting for duty to position and operate. He operated throughout his WOCL without the opportunity for proper rest for over 30 hours.

Under the previous AFTLS, he would have run out of maximum Flight Duty Period at 2100 local - some 2 ¼ hours before he actually reported for duty!

### Assessment:

CAD371 "The Avoidance of Fatigue in Aircrews" stipulates that:

- *The objectives of an FTL Scheme are to ensure that crew members are adequately rested at the beginning of each flight duty period (FDP), and that the duration and timing of individual duty periods will enable them to operate to a satisfactory level of efficiency and safety in all normal and abnormal situations {Para 2.1};*
- *Operators must ensure that all personnel involved in the application of their approved FTL Scheme appreciate the relationship between the frequency and pattern of rostered flight duty periods, rest periods and days off... Comprehensive guidance and instructions shall be included in the Operations Manual or other relevant document, for the benefit of all staff concerned with the preparation and day-to-day management of rostering and scheduling. {Para 3.2};*
- *It is the responsibility of the operator to prepare duty rosters sufficiently in advance to provide the opportunity for crews to plan adequate pre-duty rest {Para 3.8};*
- *In order to gain approval of an FTL scheme an operator shall construct the scheme within the provisions set out in this document {CAD371} ("the standard provisions") {Para 5.1}.*
- *... operators are required to construct their schemes in accordance with the standard provisions... operators may apply to incorporate variations from the standard provisions in their FTL Scheme. Approval to do so will only be given where an operator can show that despite the variation the level of protections against fatigue will at least be equivalent to that provided by the operator {Para 6.1}; and,*
- Reserve, or standby, is defined {Para 7.6} as a Duty. A crew member is either undergoing a Rest Period or a Duty Period. Reserve Duty cannot be counted as a suitable Rest Period.

Consequently, the current AFTLS is not constructed within the standard provisions of CAD371 (Para 5.1), which is a requirement to gain proper approval.

Assuming that a Variation has been granted to CPA, we are not aware of any additional fatigue protections that have been added to counter the loss of the "4-hour clock"; nor are we aware of any further specialist medical advice that supersedes the medically-approved CAD371. Therefore, there is no equality in the



## The Cathay Pilots Union

levels of fatigue protections provided; once again, the current AFTLS does not comply with the requirements of CAD371 (Para 6.1) to gain proper approval.

Furthermore, the *Air Navigation Order (Hong Kong) Order 1995* {"AN(HK)O"} states:

*An operator of an aircraft shall not cause or permit any person to fly therein as a member of its crew if he knows or has reason to believe that that person is suffering from, or, having regard to the circumstances of the flight to be undertaken, is likely to suffer from, such fatigue while he is so flying as may endanger the safety of the aircraft or of its occupants.*

Company personnel are required to be conversant with the management of the avoidance of fatigue (CAD 371 Para 3.2). Clearly, the examples {Cases 1b-1d above} provide inadequate opportunity for crews to plan adequate pre-duty rest on a continual call-out basis - effectively 24-hour reserve. Flight crew are more likely than not to suffer from fatigue in those patterns.

### Conclusion:

The Cathay Pilots Union believes that the new reserve provisions in the current CPA AFTLS are contrary to both the CAD 371 "Avoidance of Fatigue in Aircrews" provisions and, moreover, the Air Navigation Order.



# The Cathay Pilots Union

## Case 2 - ROSTERED DUTY FOLLOWING POSITIONING FLIGHT

### Pattern:

Pilot commences reserve block and immediately called out for London operation followed by a Positioning sector with less than Minimum Required Rest at outport. Commences reserve on Day 4 following 16h40m rest period.

Day	Duty	Start (HKT)	End (HKT)	Total Duty*
25 Apr	R3B 251 HKGLHR STD 2355	1800  2245	1804	00:04
26 Apr			1315	14:30
27 Apr	254 LHRHKG PX STD 05:35	0435	1820	13:45
28 Apr	R2B	1100	2300	12:00
29 Apr	R2B	1100	2300	12:00
30 Apr	G			

*\*Note: Total Duty times as calculated by CPA*

### Amplification:

The pilot concerned communicated with the Company and the sequence of correspondence was:

### Pilot:

On Saturday 28th April, I had several discussions with Crew Control and the Duty Operations Manager relating to Minimum Required Rest Periods, specifically the minimum Rest Period in London prior to my return Positioning Flight. My calculation is that a Sleep Opportunity was required to comply with Minimum Rest.

1. Please specify the Minimum Required Rest Period in London following my FDP and prior to Positioning.
2. Please explain your calculation to help me understand.

### CPA:

Answers are as follows:

1. Minimum Required Rest Period = Nil
2. A Rest Period is not required prior to Positioning other than in compliance with maximum Cumulative Duty Hours limitations.  
Please refer to AFTLS 20.2



# The Cathay Pilots Union

Note: However, you did receive a Rest Period in LON prior to PXing back. A Physiological Rest is required at some stage after the HKG-LON operating sector, but this can be given at any time before the next FDP. You received Normal Rest in LON, and Physiological Rest on return to HKG. Refer AFTLS 16.2

## Pilot:

Thank you for your reply of 3<sup>rd</sup> May explaining how the Company interprets and applies the AFTLS. Unfortunately, I am still at variance with your interpretation especially on your Point (2). Furthermore, I believe that the AFTLS is clear and unambiguous, as is its intent, especially regarding Rest. I have included provisions from the AFTLS for ease of reference.

My interpretation of the pattern is different:

- A. It was a Normal Operation throughout. Therefore, I conclude that more Rest was required prior to commencing Reserve on Saturday 28<sup>th</sup> April.
- B. However, in the alternative - if your interpretation is correct and Physiological Rest was required - I again conclude that more Rest was required prior to commencing Reserve on Saturday 28<sup>th</sup> April.

We do agree that a Rest Period is not required prior to Positioning *{AFTLS 7.26: a Rest Period is only required prior to an FDP}*. We also agree that a Minimum Required Rest Period was not given in LON prior to Positioning.

## Case A

My starting point is that AFTLS 20.4 is applicable because Positioning followed a FDP.

1. A minimum Rest Period would be one that permits the pilot to operate a FDP. In that case, Physiological Rest would have been required *{AFTLS 7.19 & 22 Table R}*.
2. As the Rest Period in LON was not Physiological Rest then Positioning followed a FDP with less than a minimum Rest Period. Hence, it is deemed to be one continuous Duty Period. *{AFTLS 20.4}*.
  - Your "Note" to your Answer 2 says that Normal Rest was received in LON. Normal Rest cannot be applicable as the Local Time difference is 7 hours from Hong Kong. *{AFTLS 7.17, 22.5 Table R}*.
  - Normal Rest would not have permitted the pilot to operate a FDP. Therefore, again, AFTLS 20.4 applies.
3. As the return to Hong Kong was one continuous Duty Period, the total Duty Period was 43hr 42min from Actual Report until ATA on blocks plus 30 minutes.
4. There was no time difference between the place(s) (Hong Kong) where the Duty Period started and finished.
5. Therefore, I conducted a Normal Operation *{AFTLS 7.16, 7.38}*.
6. Prior to the next FDP I would need Normal Rest *{AFTLS 7.17}*.
7. The Minimum Required Rest Period would be *"the longer of the length of the preceding Duty Period..." = 43 hr 42min {AFTLS 22.5 Table R}*.
8. The earliest Report for an FDP would have been 14.09 HKT on Sunday 29<sup>th</sup> April, which is after the commencement of reserve at 11.00HKT Saturday 28<sup>th</sup> April.



# The Cathay Pilots Union

## Case B

My starting assumption is that your interpretation is correct: *"Physiological Rest is required at some stage after the HKG-LON operating sector, but this can be given at any time before the next FDP...Refer AFTLS 16.2."*

1. My logic above (Case A 1-3) still applies.
2. Assume that prior to the next FDP I would need Physiological Rest.
3. The Minimum Required Rest Period would be *"the longest of the length of the preceding Duty Period..."* = 43 hr 42min {AFTLS 22.5 Table R - less than 72 hours}.
4. The earliest Report for an FDP would have been 14.09 HKT on Sunday 29<sup>th</sup> April, which is after the commencement of reserve at 11.00HKT Saturday 28<sup>th</sup> April.

The crux in either case is the application of AFTLS 20.4; as you concede in your Answer 1 that Minimum Required Rest was not given in London then AFTLS 20.4 applies. Accordingly, in either event, I conclude that I would not have been able to operate a flight if I had been called out from Reserve on 28/29<sup>th</sup> April 2007. I would be grateful if you could advise me of any errors in my methodologies.

### References:

#### AFTLS:

#### 7. DEFINITIONS

##### 7.7 Duty Period

Any continuous period during which a crew member is required to carry out Duty. It starts and finishes in accordance with the provisions specified in 8.

##### 7.16 Normal Operation

Any operation other than an Ultra Long Range operation.

##### 7.17 Normal Rest

A Rest Period required after the completion of a Duty Period where the Local Time difference between the places where the Duty Period started and finished is less than six hours.

##### 7.19 Physiological Rest

A Rest Period normally required after the completion of a Duty Period where the Local Time difference between the places where the Duty Period started and finished is six hours or more.

##### 7.20 Positioning

The practice of transferring crew members from place to place as passengers in surface or air transport at the behest of the Company.

##### 7.26 Rest Period

A period of time before starting a Flight Duty Period which is designed to give crew members adequate opportunity to rest before a flight.

##### 7.32 Sleep Opportunity

A period which provides the opportunity to take at least eight consecutive hours of horizontal rest in Suitable Accommodation.

##### 7.38 Ultra Long Range Operation

An operation by a Two Crew Aircraft requiring three or more pilots involving a time difference of six hours or more between the places where the Duty Period starts and finishes.



# The Cathay Pilots Union

## 16. ULTRA LONG RANGE OPERATIONS

16.2 Flight Crew members will be afforded Physiological Rest in accordance with Table "R" after completing a Duty Period involving a time difference of six hours or more between the places where the Duty Period started and finished, and prior to the commencement of the next FDP.

## 20. POSITIONING

20.4 When Positioning follows a FDP with less than a minimum Rest Period taken between the FDP and Positioning, this will be deemed to be one continuous Duty Period.

## 22. REST PERIODS

22.5 Minimum required Rest Periods will be in accordance with Table "R".

Table "R"

Minimum Required Rest Period		
<b>Normal Rest</b>	<b>Physiological Rest</b> <sup>Note 5</sup>	
Local Time difference between the places where the preceding Duty Period started and finished is <b>less than six hours</b>	Local Time difference between the places where the preceding Duty Period started and finished is <b>six hours or more</b>	
	Rest starts <b>less than seventy two hours</b> after the start of the Duty Period that resulted in becoming Unacclimatised	Rest starts <b>seventy two hours or more</b> after the start of the Duty Period that resulted in becoming Unacclimatised
The longer of <ul style="list-style-type: none"> <li>• the length of the preceding Duty Period <sup>Note 1, Note 2</sup></li> <li>• twelve hours <sup>Note 3</sup></li> </ul>	The longest of <ul style="list-style-type: none"> <li>• the length of the preceding Duty Period <sup>Note 2</sup></li> <li>• fourteen hours</li> <li>• a period sufficient to allow a Sleep Opportunity <sup>Note 4</sup> within the period 2200 to 0800 <b>Home Base Local Time</b></li> </ul>	The longest of <ul style="list-style-type: none"> <li>• the length of the preceding Duty Period <sup>Note 2</sup></li> <li>• fourteen hours</li> <li>• a period sufficient to allow a Sleep Opportunity <sup>Note 4</sup> within the period 2200 to 0800 <b>Local Time at place of Rest</b></li> </ul>
	OR as an alternative	
	The longer of <ul style="list-style-type: none"> <li>• the length of the preceding Duty Period <sup>Note 2</sup></li> <li>• thirty four hours</li> </ul>	



# The Cathay Pilots Union

## CPA:

I have studied your paper, but my position remains unchanged.

I will admit that both CAD371 and our own AFTLS could do with some clarification of this particular issue; if nothing else it would save a lot of time dealing with this type of query. One problem is that 16.2 is in a separate section from the section on Rest Periods. It would be clearer if it were appended as a note to Table R. However, its position in the document does not diminish its validity.

It states, quite categorically, that a physiological rest is required after a Duty Period involving a time difference of six or more hours, but only before the next FDP, and not necessarily immediately after the end of the Duty Period involving the time zone crossing. By considering two different scenarios in your paper, I assume that you concede this point, since in your scenario B you make the assumption that this is indeed the case. However, in scenario B, you go on to suggest that unless the Rest Period immediately after the Duty is a Physiological Rest, it cannot be considered a Rest Period at all. I cannot agree with this.

The definition of a Rest Period is "a period of time before starting a Flight Duty Period which is designed to give crew members adequate opportunity to rest before a flight." Therefore the period of time between the end of your HKG-LHR FDP and the positioning sector back to HKG is not in the strictest sense, a Rest Period. However, and here is the crux of the matter, if we took that approach then periods of rest between sim duties and ground duties would not be subject to the rules on rest, because technically they are not Rest Periods either. Of course, as you will be aware, we give Normal Rest between such duties. This is a long-established and accepted practice. If it were to be challenged, which it has not been because it works to the interest of pilots, we would be forced to go to the HKCAD to review the definition of a Rest Period, and some of the rules surrounding Rest.

In your case, I reiterate that a period satisfying the rules on Normal Rest was given between the operated flight and the positioning sector, and therefore the positioning sector is classed as a separate duty from the operated flight.

As in all cases of dispute over the AFTLS, besides considering whether the letter of the rules has been adhered to, I also ask myself whether the Company position is reasonable from a common sense point of view. In this particular case you performed an operating duty of around 14:30, had a period free from all duty of around 15:30, during which you were provided with hotel accommodation, then positioned back to HKG involving approximately 13 hours in, I assume, a FCL seat, and then had a period free of all duty of about 16:30 which included a sleep opportunity in your normal body clock time, before commencing Reserve. I do not think that anyone could consider this to be unreasonable or unduly arduous.

For confirmation, and avoidance of doubt, I have submitted the circumstances of this case to the HKCAD for review. They have informed me that the Company interpretation is sound, and in their view is following the spirit and letter of the AFTLS and HKCAD371.

## Pilot:

Thanks for that. It seems to be somewhat complicated by the fact that you have not explained or mentioned AFTLS Para 20.4 at all.

Please could you clarify how the Company and CAD interpret and apply Para 20.4?

## CPA:

I believe that I have already explained. If a normal rest is achieved, then 20.4 does not apply.



# The Cathay Pilots Union

## Assessment:

CAD371 "The Avoidance of Fatigue in Aircrews" stipulates that:

- *The approved FTL Scheme applies to all crew members on board the aircraft and not merely those carried to meet the minimum crew requirements set out in Part V of the Order {Para 1.4};*
- *The objectives of an FTL Scheme are to ensure that crew members are adequately rested at the beginning of each flight duty period (FDP), and that the duration and timing of individual duty periods will enable them to operate to a satisfactory level of efficiency and safety in all normal and abnormal situations {Para 2.1};*
- *Operators are required by law to take all reasonable steps to ensure that the provisions of their approved FTL Scheme are complied with {Para 3.1};*
- *An operator with an extensive east-west route network should ensure, by the application of sensible physiological rostering practices, that his crews are not exposed during duty cycles to unnecessary circadian rhythm disruption {Para 3.4};*
- *Factors to be considered when constructing crew rosters should include:*
  - ❖ *the undesirability of alternating day/night duties;*
  - ❖ *the effect of consecutive flights through, or ending within, the window of circadian low;*
  - ❖ *the effect of consecutive transmeridian flights; {Para 3.6};*
- *Individuals crew members shall ensure that they are not in breach of their company's approved FTL scheme {Para 4.4}; and,*
- *No person shall act as a member of the crew of an aircraft registered in Hong Kong or of a foreign registered leased aircraft to which an operator's scheme applies, if the individuals know, or suspect, that their physical or mental condition renders them temporarily unfit so to act {Para 4.7};*

It is difficult to see how this pattern, as proposed by CPA, complied with the above CAD 371 provisions.

Furthermore, there is a clear requirement In Law for the provisions of an AFTLS to be complied with. The definition of Normal Rest is equally clear and unambiguous: it does not apply, nor has it ever applied, to operations in excess of 6 time zones. Yet the Operator summarises his earlier arguments by stating - apparently on

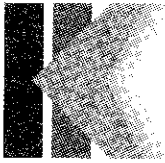


## The Cathay Pilots Union

behalf of the Civil Aviation Department - that Normal Rest complies with Minimum Rest Requirements for Ultra Long Range Operations. Consequently, we believe that this interpretation of the provisions is contrary to the requirement in Law.

### Conclusion:

The Cathay Pilots Union believes that using Normal Rest to comply with the limitations of Table R "Minimum Required Rest Period" following ULR is contrary to the current CPA AFTLS, the CAD 371 "Avoidance of Fatigue in Aircrews" provisions and, moreover, the Air Navigation Order.



香港特別行政區政府

民航處

Civil Aviation Department

The Government of the Hong Kong Special Administrative Region

飛行標準及適航部 Flight Standards and Airworthiness Division

香港大嶼山香港國際機場駿運路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Hong Kong International Airport, Lantau, Hong Kong

檔案編號 OUR REF.

來函編號 YOUR REF.

電話 TEL.

圖文傳真 FAX.

航空專用電訊  
AFTN

(2) in A/OPS/CPA/7 V

2769 7230

2362 4250

VHHHYAYC

10 January 2008

The Cathay Pilots Union  
1/F, 9B Nga Yiu Tau  
Sai Sha Road  
Sai Kung  
New Territories  
Hong Kong

Dear Sir / Madam,

**Cathay Pacific Airways  
Approved Flight Time Limitation Scheme (CPA AFTLS)**

Your e-mail dated 6<sup>th</sup> December 2007 refers.

CAD's comments are as follows:

**1. Reserve Duty.**

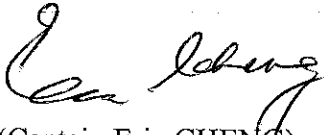
- a) The Reserve (Standby) provisions in the Cathay Pacific Airways AFTLS dated January 2005 were discussed in detail with the airline and the current President of the HKAOA in late 2004.
- b) A trial period was agreed, and subsequent to this successful trial the Reserve procedures as currently outlined in the said AFTLS were retained.
- c) I must also advise you that CAD has reviewed the latest reserve duty procedures outlined by other regulatory authorities and for information neither the UK CAA nor the Australian CASA have retained the "4 Hour" rule within their 'standby' procedures.

**2. Rostered Duty Following Positioning Flight.**

- a) From the end of duty on the 26 April and the commencement of the Positioning flight on the 27 April the crew member had in excess of 15 hours rest.
- b) The crew member then positioned, from London to Hong Kong.

- c) The crew member then had a further rest period in excess of 16 hours prior to commencing reserve duty.
- d) The crew member therefore had two rest periods, which included a physiological rest period, albeit the two rest periods were separated by a positioning flight, prior to commencing his/her reserve duty.
- e) It is therefore considered that Cathay Pacific Airways and the crewmember concerned have complied with CAD 371 paragraphs 2.1 and 4.2, and Articles 54 and 55 of the HK(AN)O.

Yours sincerely,



(Captain Eric CHENG)  
Acting Chief, Flight Standards  
for Director-General of Civil Aviation

cc DGCA  
DDGCA  
President, HKALPA  
President, HKAOA  
General Manager Aircrew, Cathay Pacific Airways Limited  
Chairman, FTLWG

EC/al



# The Cathay Pilots Union

Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
Hong Kong, SAR China

Email: [admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)

Web: <http://www.cathaypilotsunion.org>

The Director-General of Civil Aviation  
Mr. LO Shung Man, Norman, AE, JP  
46th Floor  
Queensway Government Offices  
66 Queensway  
Hong Kong

20<sup>th</sup> February 2008

By Email Only: [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)  
[ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)

Dear Mr Lo

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

We are in receipt of your Acting Chief Flight Standards' reply, dated 10<sup>th</sup> January.

Our previous correspondence exhaustively explained why:

- the new reserve provisions in the current CPA AFTLS are contrary to both the CAD 371 "Avoidance of Fatigue in Aircrews" provisions and, moreover, the Air Navigation Order, and
- using Normal Rest to comply with the limitations of Table R "Minimum Required Rest Period" following ULR is contrary to the current CPA AFTLS, the CAD 371 "Avoidance of Fatigue in Aircrews" provisions and, moreover, the Air Navigation Order.

### Reserve Duty

In our previous letter (Section "Assessment" - Page 6), we explained why the new reserve provisions do not comply with either your own CAD 371 or the AN(O). Unfortunately, the response from your Department does not address the regulatory concerns we raise.

### Rostered Duty Following Positioning Flight

In our previous letter (Section "Assessment" - Page 13), we explained why the rostered duty did not comply with the operator's AFTLS, your own CAD 371 or the



## The Cathay Pilots Union

AN(O). The response from your Department has not attempted to address our explanation but merely stated an opinion. By raising his query with the operator, it is evident that the individual crew member complied with his responsibilities under CAD 371 Para 4.2. However, you have not clarified how the other provisions have been complied with.

There is a further related issue. One of the General Conditions for the issuance of Air Operators' Certificates is that every flight under that certificate shall be conducted in accordance with the relevant provisions of the operations manual as approved by your Department. By scheduling a crew member outside the Minimum Required Rest Period stipulated in Table R, the operator is not complying with its AOC. Please can you clarify the CAD's position on this?

### Summary

The Cathay Pilots Union respectfully requests that you address the issues raised in our previous letters and explain how the two respective duties comply with the provisions relating to the avoidance of fatigue in aircrew.

Yours sincerely

for The CPU



香港特別行政區政府

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Civil Aviation Department

The Government of the Hong Kong Special Administrative Region

飛行標準及適航部 Flight Standards and Airworthiness Division

香港大嶼山香港國際機場駿運路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Hong Kong International Airport, Lantau, Hong Kong

檔案編號 OUR REF.

來函編號 YOUR REF.

電話 TEL.

圖文傳真 FAX.

航空專用電訊  
AFTN

(16) in A/OPS/CPA/7

2769 7230

2362 4250

VHHHYAYC

21 February 2008

The Cathay Pilots Union  
1/F, 9B Nga Yiu Tau  
Sai Sha Road  
Sai Kung  
New Territories  
Hong Kong

Dear Sir / Madam,

**Cathay Pacific Airways**  
**Approved Flight Time Limitation Scheme (CPA AFTLS)**

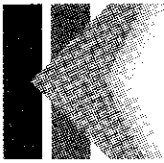
Reference is made to your letter to the Director-General of Civil Aviation dated 20 February 2008 on the above subject. We shall revert to you in due course.

Yours faithfully,

(Clara WONG)  
for Director-General of Civil Aviation

cc File A/OPS/ALP/1

MSD/al



香港特別行政區政府

民航處

Civil Aviation Department

The Government of the Hong Kong Special Administrative Region

飛行標準及適航部 Flight Standards and Airworthiness Division

香港大嶼山香港國際機場駿運路2號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Hong Kong International Airport, Lantau, Hong Kong

檔案編號 OUR REF.

來函編號 YOUR REF.

電話 TEL.

圖文傳真 FAX.

航空專用電訊  
AFTN

(17) in A/OPS/CPA/7

2769 7230

2362 4250

VHHHYAYC

19 March 2008

The Cathay Pilots Union  
1/F 9B Nga Yiu Tau  
Sai Sha Road  
Sai Kung  
New Territories  
Hong Kong

Dear Sir/Madam,

**Cathay Pacific Airways Approved Flight Time Limitation Scheme  
(CPA AFTLS)**

Your email to the DGCA Hong Kong, dated 20<sup>th</sup> February 2008 refers.

Please be advised that CAD's previous correspondence on the above subject has addressed your queries. I have also requested the Chairman of the Flight Time Limitations Working Group to convey your view to the President of the HKALPA who represents the majority of Hong Kong airline pilots. If you have any further views on this FTL subject, please address them to the President of HKALPA.

Lastly I must inform you that the use of a person's name (personal data) for a purpose other than the purpose for which the data were to be used at the time of the collection of the data, and in the absence of the prescribed consent of the person, contravenes the data protection for principle 3 under the Personal Data (Privacy) Ordinance (CAP 486). You are therefore required to omit the name of the undersigned if you wish to post the letter in your union website.

Yours sincerely,

(Captain Eric CHENG)  
Acting Chief, Flight Standards  
for Director-General of Civil Aviation

cc Director-General of Civil Aviation  
Captain P Walker, General Manager Aircrew, Cathay Pacific Airways Limited  
Captain D Newbery, President, Hong Kong Airline Pilots' Association  
File A/OPS/ALP/1

EC/al



# The Cathay Pilots Union

Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
Hong Kong, SAR China

Email: [admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)

Web: <http://www.cathaypilotsunion.org>

The Director-General of Civil Aviation  
ATTN: Acting Chief of Flight Standards  
Captain Cheng Lam-yuen, Eric  
10/F, Commercial Building  
Airport Freight Forwarding Centre  
2 Chun Wan Road  
Lantau  
Hong Kong

1<sup>st</sup> April 2008

By Email Only: [elycheng@cad.gov.hk](mailto:elycheng@cad.gov.hk)

Cc: [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)

[ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)

[jtclau@cad.gov.hk](mailto:jtclau@cad.gov.hk)

Dear Captain Cheng

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

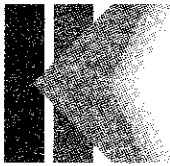
Thank you for your reply dated 19<sup>th</sup> March 2008 reference (17) in A/OPS/CPA/7.

Our advice is that the PD(P)O does not apply to letters from a government department such as the CAD. Would you kindly share any advice you have to the contrary as we believe it is our right to continue to post letters to and from the CAD on The CPU website?

Yours sincerely

A handwritten signature in black ink, appearing to be "S. Cheng", written in a cursive style.

The CPU Preparatory Committee



**民航處 Civil Aviation Department**

飛行標準及適航部 Flight Standards and Airworthiness Division

香港大嶼山香港國際機場駿運路 2 號機場空運中心商業大樓十樓  
10th Floor, Commercial Building, Airport Freight Forwarding Centre, 2 Chun Wan Road, Hong Kong International Airport, Lantau, Hong Kong.

檔案編號 OUR REF.	來函編號 YOUR REF.	電話 TEL.	圖文傳真 FAX.	航空專用電訊 AFTN
(29) in A/OPS/CPA/7 V		(852) 2769 8460	(852) 2362 4250	VHHHYAYC

24 April 2008

The Cathay Pilots Union  
1/F 9B Nga Yiu Tau  
Sai Sha Road  
Sai Kung  
New Territories  
Hong Kong

Dear Sir,

**Cathay Pacific Airways Flight Time Limitation Scheme  
(CPA AFTLS)**

I write in response to your letter of 1 April 2008 to our Acting Chief, Flight Standards. For this letter I have consulted our legal advisor.

The Personal Data (Privacy) Ordinance (Cap 486) does not have provisions excluding its application to "letters from a government department".

You are put on notice that our officer does not consent to your disclosure of his personal data, i.e. his name and surname, for purposes other than identifying him for the letter of 19 March 2008. You are therefore required to omit the name and surname of all CAD officers before your publishing of our letters (including this one) on your webpage.

Yours faithfully,

(Simon Chean)

for Director-General of Civil Aviation

c.c. DGCA  
DDGCA  
File A/OPS/ALP/1

SC/sc



# The Cathay Pilots Union

Registered Office: 1/F 9B Nga Yiu Tau, Sai Sha Road, Sai Kung, New Territories,  
Hong Kong, SAR China

Email: [admin@cathaypilotsunion.org](mailto:admin@cathaypilotsunion.org)

Web: <http://www.cathaypilotsunion.org>

Mr LO Shung Man, Norman, AE, JP  
The Director-General of Civil Aviation  
46th Floor  
Queensway Government Offices  
66 Queensway  
Hong Kong

25<sup>th</sup> May 2008

By Email Only: [nsmlo@cad.gov.hk](mailto:nsmlo@cad.gov.hk)  
Cc: [ykleung@cad.gov.hk](mailto:ykleung@cad.gov.hk)

Dear Mr Lo

## Cathay Pacific Airways Approved Flight Time Limitation Scheme (CPA AFTLS)

Thank you for your Department's reply dated 24<sup>th</sup> April 2008 reference (29) in A/OPS/CPA/7 V.

We note that you have not explained how the two respective duties comply with the provisions relating to the avoidance of fatigue in aircrew and therefore we do not understand how those duties comply with the Air Navigation Order.

Yours sincerely

The CPU Preparatory Committee