



TRANSPORTATION APPEAL TRIBUNAL OF CANADA

Citation: *Avtronics Radio Technology 2009 Inc. v. Canada (Minister of Transport)*,
2022 TATCE 36 (Review)

TATC File No.: Q-4588-18

Sector: Aviation

BETWEEN:

Avtronics Radio Technology 2009 Inc., Applicant

- and -

Canada (Minister of Transport), Respondent

[Official English translation]

Heard by: Videoconference on February 1 and 2, 2022

Before: Franco Pietracupa, Member

Rendered: July 11, 2022

REVIEW DETERMINATION AND REASONS

Held: Pursuant to subsection 7.1(7) of the *Aeronautics Act*, the Transportation Appeal Tribunal of Canada confirms the Minister of Transport's decision to suspend the applicant's approved maintenance organization certificate on the grounds that the applicant ceased to fulfil the conditions subject to which the document was issued.

I. BACKGROUND

[1] On January 21, 2020, Transport Canada (TC) issued a Notice of Suspension (Notice) to the applicant, Avtronics Radio Technology 2009 Inc. (Avtronics), notifying the company of the decision to suspend its approved maintenance organization (AMO) certificate, no. 10-90, issued on January 28, 2015. The suspension came into effect on February 10, 2020.

[2] Appendix A of the Notice sets out the reason for the suspension, which reads as follows:

Avtronics Radio Technology 2009 Inc. does not meet the conditions for issuance of an Approved Maintenance Organization (AMO) certificate as stipulated in subsections 573.02(1) and 573.01(2) of the Canadian Aviation Regulations (CAR). More specifically, Avtronics Radio Technology 2009 Inc. does not have a Maintenance Policy Manual (MPM) required pursuant to subsection 573.10(1) of the CAR that contains information to ensure efficiency of the AMO's maintenance policies, dealing with the subjects set out in Standard 573 – *Approved Maintenance Organizations*.

[3] More specifically, Avtronics did not maintain its maintenance policy manual (MPM) as required pursuant to subsection 573.10(1) of the *Canadian Aviation Regulations (CARs)*. On February 3, 2020, a request for review was filed by the applicant's representative, Mr. Yves G  n  reux, the accountable executive and person responsible for maintenance (PRM) for Avtronics.

[4] Prior to the hearing, this case benefitted from the Case Management Conference held by the Transportation Appeal Tribunal of Canada (Tribunal), wherein both parties met before a Tribunal member to discuss the issues and what evidence would be expected. This practice has streamlined hearings by narrowing the focus and making sure the parties are ready to proceed.

[5] The review hearing was conducted on February 1 and 2, 2022. On April 19, 2022, TC sent the Tribunal a copy of Avtronics' AMO certificate issued on April 14, 2022. On April 28, 2022, the Tribunal invited the parties to provide written comments on the issuance of this certificate by May 4, 2022.

[6] On April 28, 2022, the Minister of Transport (Minister) provided comments and indicated that a decision was not necessary given that the certificate had been issued but that TC would leave it to the Tribunal's discretion. The applicant did not make any comments directly on the issuance of the certificate.

[7] The hearing was concluded and the Tribunal has heard the evidence presented by the parties. Therefore, it will issue its determination based on the evidence provided during the hearing, which took place before the issuance of the certificate dated April 14, 2022.

II. ANALYSIS

A. Issue

[8] The Tribunal must determine whether the Minister's decision to suspend the applicant's AMO certificate was justified.

B. Legal framework

[9] The provision that allows the Minister to suspend the applicant's AMO certificate is paragraph 7.1(1)(b) of the *Aeronautics Act*, which provides that the Minister may decide to suspend, cancel or refuse to renew a Canadian aviation document on the grounds that the applicant "ceases to meet the qualifications necessary for the issuance of the document or to fulfil the conditions subject to which the document was issued".

[10] The Minister's decision to suspend the applicant's AMO certificate is discretionary, and demonstrating the justification for that decision, on a balance of probabilities, rests with the Minister. After a review hearing, the Tribunal member may confirm the Minister's decision or refer the matter back to the Minister for reconsideration pursuant to subsection 7.1(7) of the *Aeronautics Act*.

[11] Part V Airworthiness, Subpart 573 Approved Maintenance Organizations, section 573.01 and subsections 573.02(1), 573.10(1) and 573.10(6) of the *CARs* are the provisions at issue and read as follows:

573.01 (1) An applicant for an approved maintenance organization (AMO) certificate or for an amendment of an AMO certificate that is in effect shall make an application in the form and manner specified in Standard 573 —*Approved Maintenance Organizations*.

(2) An applicant referred to in subsection (1) shall submit to the Minister with the application a copy of its maintenance policy manual (MPM) required pursuant to subsection 573.10(1).

573.02 (1) The Minister shall issue to a maintenance organization that demonstrates that it meets the requirements of this Subpart an approved maintenance organization (AMO) certificate authorizing the maintenance of specified aeronautical products or the provision of specified maintenance services.

573.10 (1) An approved maintenance organization (AMO) certificate holder shall establish, maintain and authorize the use of a maintenance policy manual (MPM) that contains information to ensure the efficiency of the AMO's maintenance policies, dealing with the subjects set out in Standard 573 —*Approved Maintenance Organizations*.

573.10 (6) An AMO certificate holder shall amend its MPM when instructed to do so by the Minister, where the MPM does not

(a) meet the requirements of this Subpart; or

(b) contain policies or procedures that are sufficiently detailed to demonstrate that the AMO's quality assurance program meets the requirements of these Regulations.

C. Chronology of events

[12] The Minister adduced evidence from 50 exhibits and a single witness, Mr. Sylvain Chartier, a TC inspector and the dedicated principal maintenance inspector (PMI) for Avtronics. The applicant was represented by Mr. Génereux, who chose not to testify during the review but submitted eight exhibits.

[13] In reviewing the evidence submitted by both parties, it becomes apparent that the Tribunal must set forth a clear understanding of the chronological timeline from the initial issues and concerns with the applicant's AMO certificate to the conclusion by the Minister to suspend it on January 21, 2020. Although issues raised from the Minister date back to 2014 (Exhibit M-1),

the timeline of evidence and testimony, for me, begins with the onsite inspection by TC of Avtronics on March 27 and 28, 2017, and the subsequent findings concerning the applicant's MPM. (See Timeline Matrix Table A.)

[14] A chronological submission of evidence was entered by Mr. Chartier detailing the issues that were found non-compliant with Avtronics' MPM. He explained that during an onsite process inspection (PI) of the company on March 27 and 28, 2017, carried out by himself and Inspector Sylvain Melançon, several anomalies were raised (Exhibit M-3) concerning the certification practices for emergency locator transmitter (ELT) battery maintenance and replacement work. An ELT is a critical component of an aircraft.

[15] This PI resulted in TC issuing finding form no. 571-01 to Avtronics on March 30, 2017 (Exhibit M-5), in which a non-compliance was detected concerning paragraph 571.02(1)(a) of the *CARs*. In essence, the company had performed maintenance on an ELT unit using parts, i.e., a battery pack, that was not specified for the unit as per the operational manual of the ELT.

[16] The Minister's witness went on to explain that Avtronics was informed in writing on April 20, 2017 (Exhibit M-6), that during the PI, three non-compliances were found and described in finding forms no. 571-02, 573-01 and 573-02. Finding form no. 571-02 relates to the non-compliance of subsection 571.10(1) of the *CARs*, finding form no. 573-01 relates to the non-compliance of subsection 573.10(1) of the *CARs* and finding form no. 573-02 relates to the non-compliance of subsection 573.04(2) of the *CARs*. The letter indicated that a corrective action plan (CAP) was to be submitted to TC within 30 days. A detailed explanation of what a CAP must include was also provided to the applicant.

[17] After reviewing the finding forms, the applicant submitted a CAP to TC for review on May 19, 2017 (Exhibit M-10). In a letter dated June 5, 2017 (Exhibit M-11), TC informed the applicant that the CAP for finding no. 571-01 had been found acceptable. The letter also mentioned that a follow-up onsite inspection would take place within a few months.

[18] Mr. Chartier testified that the CAP submitted by the applicant for findings no. 571-02, 573-01 and 573-02 was found to be unacceptable. He went on to explain that a second letter dated June 5, 2017, sent to the applicant (Exhibit M-12) explains the reasons why the CAP had to be resubmitted by June 13, 2017. The Minister argued that the CAP lacked information and processes in the root cause analysis of issues found to be non-compliant during work conducted at the facility.

[19] A second version of the CAP was submitted for review on June 15, 2017 (Exhibit M-13). In a letter dated June 27, 2017 (Exhibit M-14), TC advised the applicant that the CAP submitted to rectify the non-compliances found in March 2017 was deemed unacceptable. Again, the issue centred on missing information and processes having to do with the MPM. The letter also specified that a new CAP had to be submitted by July 4, 2017. Mr. Chartier testified that a follow-up visit to the premises of the applicant's business location was conducted on June 27, 2017 (Exhibit M-15). This visit confirmed that there were still issues and an amended or updated MPM to ensure compliance was to be submitted to TC for review.

[20] A third version of the CAP was submitted for review on July 4, 2017 (Exhibit M-16). Exhibit M-17, which was entered as evidence by Mr. Chartier, is a letter from TC to Mr. Généreux dated July 19, 2017. It specified that, after reviewing the amended MPM, the CAP changes proposed by the applicant were deemed unacceptable because of issues with the formatting and content in relation to the quality assurance program (QAP). The applicant was provided with a resubmission date of the CAP of July 26, 2017.

[21] A fourth version of the CAP was submitted for review on July 25, 2017. The Minister introduced Exhibit M-19, a letter dated August 10, 2017, informing the applicant that the CAP for the remaining three findings was deemed acceptable. Again, the applicant was advised that an onsite visit would be planned in the upcoming months. Mr. Chartier testified that these visits were important in assuring that the accepted CAP was properly integrated and implemented by the company as it was approved by TC.

[22] Mr. Chartier explained that an email was sent to the applicant on September 11, 2017 (Exhibit M-21), requesting evidence of the implementation of the recently approved CAP. The applicant provided this information on September 14, 2017 (Exhibit M-22).

[23] The Minister's witness testified that he informed the applicant by email on November 15, 2017 (Exhibit M-23), that certain elements of the CAP approved by TC were in fact missing from the MPM. For example, the "purchase order audit checklist form" could not be located. Mr. Généreux sent the documents on November 30, 2017 (Exhibit M-24). Mr. Chartier testified that on review of the documents, he sent a request on January 10, 2018 (Exhibit M-25), to Avtronics for an onsite visit. Several proposed dates were not suitable to either TC or Mr. Généreux. Finally, on March 7, 2018, Mr. Chartier was able to conduct an onsite visit to follow up on the four findings from the PI in March of 2017.

[24] Mr. Chartier testified that the March 7, 2018, onsite visit resulted in several findings that were shared with the applicant (Exhibit M-26) and that various discrepancies specific to the MPM were detected. Again, it was found that certain corrective actions required related to findings no. 571-01, 571-02, 573-01 and 573-02 were still non-compliant in the applicant's MPM. Most issues dealt with the QAP within the company. Mr. Chartier explained to Mr. Généreux that the company's internal audits and quality control processes were either ineffective or nonexistent. These shortcomings would need to be rectified and documented within the MPM. A follow-up visit would be planned to ensure compliance.

[25] The Minister's witness went on to explain that an email sent by him on June 28, 2018 (Exhibit M-27), reiterated to Mr. Généreux the need to provide proof that the earlier approved CAP had been properly integrated within the company in order to address the issues raised during the March 2018 onsite visit. Mr. Généreux acknowledged the email but responded that he was busy with work at this time and that he would review the CAP during the following week.

[26] Mr. Chartier submitted Exhibit M-28, which contains an email dated October 30, 2018, in which he once again requested proof of the implementation of the CAP following the March 2018 onsite visit. Mr. Généreux replied requesting some time to review and understand the CAP and the issues that TC had identified. Mr. Chartier recommended an in-person meeting at

Avtronics to help resolve this matter. An onsite meeting was then scheduled for November 8, 2018.

[27] During the November 8, 2018, visit, non-compliances related to finding no. 571-01 were found. A letter dated November 28, 2018, from TC (Exhibit M-30) stated that the applicant would need to provide a CAP addressing these shortcomings within 30 days. Due to upcoming vacations and holiday closures, Mr. Généreux requested an extension. The submission date was pushed back to February 1, 2019.

[28] On April 4, 2019, TC issued a letter to Avtronics (Exhibit M-32) stating that the proposed MPM, amendment 10, submitted by Mr. Généreux was unacceptable as it did not meet the requirements of Standard 573.10 and as a result, under subsection 573.10(9) of the *CARs*, TC did not approve the applicant's MPM, amendment 10. A detailed gap analysis was provided to Mr. Généreux and a resubmission of the MPM amendment was requested.

[29] Mr. Chartier testified that an email dated May 15, 2019 (Exhibit M-33), was sent to the applicant requesting his company's "QAP audit forms," for the 2018 audit. He also elaborated that an earlier letter was sent on May 6, 2019, requesting the same information. The applicant responded on May 26, 2019, and informed Mr. Chartier that these forms would be sent.

[30] On May 28, 2019, TC informed Avtronics by letter (Exhibit M-35) that its submitted MPM did not comply with the requirements under Subpart 573 of the *CARs*. Specifically, Mr. Chartier testified that a review of the company's recent internal audit records demonstrated that the QAP was ineffective in identifying and resolving non-compliances. TC asked the applicant to amend its MPM for the reasons set out in Annex A of the letter. Mr. Généreux was given until June 30, 2019, to resubmit a corrected MPM, amendment 10, and was informed that failure to comply may result in the revocation of the MPM.

[31] On August 14, 2019, a PI of Avtronics was requested by TC (Exhibit M-36), in part to review the company's QAP. The proposed timeframe was the week of September 9, 2019. The PI was conducted on October 9, 2019, by Mr. Chartier and non-compliances were again found and findings no. 573-01 and 573-02 were again issued. A letter detailing these findings was issued on October 24, 2019 (Exhibit M-37), and Mr. Généreux was given 30 days to submit a CAP. A CAP was sent to TC on November 24, 2019 (Exhibit M-38).

[32] Mr. Chartier explained that the submitted CAP by Avtronics was reviewed and found to be unacceptable as it contained non-compliances related to findings no. 573-01 and 573-02 regarding the QAP. By letter dated December 5, 2019 (Exhibit M-39), Mr. Généreux was given until December 12, 2019, to resubmit an acceptable CAP. Mr. Généreux requested an extension due to travel constraints. An additional seven days were approved by TC (Exhibit M-40).

[33] On January 2, 2020, a revised CAP was sent to TC for review and approval (Exhibit M-42). On January 21, 2020, Avtronics was informed by letter (Exhibit M-43) that its AMO certificate no. 10-90 was suspended. Avtronics no longer met the conditions for issuance of the certificate set out under sections 573.01 and 573.02 of the *CARs*. Specifically, Avtronics did not maintain its MPM as required pursuant to subsection 573.10(1) of the *CARs*.

D. Was the Minister's decision to suspend the applicant's AMO certificate justified?

[34] The Notice of Suspension dated January 21, 2020, states that the Minister decided to suspend Avtronics' AMO certificate since the company no longer met the conditions for its issuance as set out in subsections 573.01(2) and 573.02(1) of the *CARs*. The Tribunal must determine, on a balance of probabilities, whether the Minister's decision to suspend the applicant's AMO certificate was justified. Furthermore, the Tribunal must also determine if the Minister's decision was fair, reasonable and in accordance with all the evidence to support the decision.

[35] The Minister submitted at the hearing that the applicant's MPM was not maintained as required pursuant to subsection 573.10(1) and did not contain all the information required to ensure efficiency of its maintenance policies dealing with the subjects set out in Standard 573 – Approved Maintenance Organizations. The Minister's evidence focused mostly on the timeline starting from the initial PI carried out in March 2017.

[36] There is no dispute from either side that Avtronics' AMO certificate was valid at the time of the PI in March 2017.

[37] In my view, what is important to the Tribunal's review of the Minister's decision to suspend the applicant's AMO certificate is the following:

- a. Did Avtronics cease to meet the qualifications necessary for the issuance of the AMO certificate or to fulfil the conditions subject to which the document was issued?
- b. Was the Minister's decision to suspend the applicant's AMO certificate justified, fair and reasonable?

(1) *Did Avtronics cease to meet the qualifications necessary for the issuance of the AMO certificate or to fulfil the conditions subject to which the document was issued?*

[38] To answer this question, the chronology of events established in the section above and Timeline Matrix Table A will assist me in understanding the period of approximately 30 months between the March 2017 PI visit and the AMO certificate suspension in January 2020.

[39] Let me start by stating that the issuance of an AMO certificate is a privilege and not a right. For Avtronics to continue to exercise this privilege, it had to uphold the requirements for the certificate.

[40] Subsection 573.10(1) of the *CARs* provides that an AMO certificate holder must establish, maintain and authorize the use of an MPM that contains information to ensure the efficiency of the AMO's maintenance policies, dealing with the subjects set out in Standard 573 – Approved Maintenance Organizations. The TC publication TP 14308: *Maintenance Policy Manuals Guidelines* (Exhibit R-2) defines an MPM as follows:

A Maintenance Policy Manual (MPM) is a description of how an organization intends on complying with the Canadian Aviation Regulations (CARs). The MPM is a Transport Canada approved document that is an acceptable method of complying with the regulations, and, in many ways, can be viewed as a contract between the two parties....

[41] Essentially, the Minister's argument can be traced back to the initial PI in March 2017. This visit by TC raised multiple flags with regard to the operation of the company (Exhibit M-6). As per testimony from Mr. Chartier, a gap in quality assurance related to a battery installation and maintenance release process at Avtronics was detected. This was the result of an issue with the MPM concerning CARs Standard 573, paragraph 573.10(1)(m) which requires that an MPM contain "a detailed description of the quality assurance program".

[42] TC's Notice of Suspension letter dated January 21, 2020 (Exhibit M-43), also included an appendix describing how the applicant's MPM does not meet the CARs, including, among others, requirements under Standard 573, paragraphs 573.10(1)(h), 573.10(1)(m), 573.10(1)(r), 573.10(1)(s), 573.10(1)(u) and 573.10(1)(v).

[43] Mr. Généreux chose not to testify. However, during the cross-examination of the Minister's witness, Mr. Généreux raised the issues he had with the standardization of inspections between the various PMIs, as well as issues relating to the MPM having already been approved with no concerns until Mr. Chartier's PI visit in March 2017. At no time during the cross-examination did the applicant raise issues with the non-compliance findings. His submission of multiple CAPs in attempting to resolve the non-compliances confirms his acceptance of the various issues raised with the MPM.

[44] For me to continue, I believe it is imperative that we clearly understand what an MPM is on an operational level based on the evidence and testimony provided by Mr. Chartier. As the TC publication TP 14428: *Maintenance Policy Manuals Checklist* (Exhibit R-3) shows, the MPM must reflect AMO certificate holders' means of compliance with CARs subsection 573.10(1). The MPM must provide TC a "checklist" regarding how the company is operating specifically with respect to its AMO certificate.

[45] The MPM is a living, evolving document. Exhibit R-5 shows the evolution of the applicant's MPM and lists its amendments dating back to April 2002. As the list shows, at least 19 amendments are listed. Testimony from the Minister's witness clarified that these changes could be of a single page or more.

[46] The last approved version of the MPM, amendment 9, had a revision date of July 31, 2014 (Exhibit R-4). However, the MPM must continue to meet the regulatory standards as set out under subsection 573.10(1), even when it has been previously approved. It must be updated not only when regulations change, but also when internal processes within a company change or when gaps in quality assurance occur. In other words, the MPM must reflect actual regulatory practices and current regulations.

[47] Standard 573, subsection 573.10(6) of the CARs states the following:

Where a MPM no longer meets the requirements of this part, whether through a change in the requirements, a change in the organization or its activities, or through an inadequacy shown to exist by verification inspections conducted under the quality assurance program, or any other reason that affects the manuals conformity to requirements, the certificate holder is responsible to prepare and have approved an amendment to its MPM.

[48] After the PI in March 2017, TC found four non-compliances issued as findings no. 571-01, 571-02, 573-01 and 573-02. In response to each finding, a CAP must be submitted to TC for

review. As testified by Mr. Chartier, the applicant was provided with detailed information and guidance regarding the contents of a CAP (Exhibit M-6), which must include the following:

- a. a factual review of the finding
- b. a root cause analysis of any factors that may have contributed to the finding
- c. proposed corrective actions to mitigate the identified root causes
- d. a timeline for implementation of each of the corrective actions
- e. managerial approval of the CAP

[49] The MPM must, as per the requirements for the issuance of the AMO certificate, be updated, relevant and contain an accurate description on how an organization intends to comply with the CARs. In considering the issues of non-compliance raised and documented by the Minister with regard to the applicant's MPM, several deficiencies of its QAP were flagged as far back as March 2017.

[50] As shown in the chronology of events in the section above and Timeline Matrix Table A, these issues remained up until the suspension of the applicant's AMO certificate in January 2020. The evidence presented leads me to conclude that although several CAPs were proposed and one was finally accepted by TC, in regard to the company's QAP, the actual implementation and execution of the agreed-to plan was unacceptable when verified by TC. At this point, Avtronics ceased to meet the qualifications necessary for the issuance of the AMO certificate and thus did not fulfil the conditions subject to which the document was issued.

(2) *Was the Minister's decision to suspend the applicant's AMO certificate justified, fair, and reasonable?*

[51] Based on evidence and testimony heard, I have no doubt that Avtronics ceased to meet the qualifications necessary for the issuance of the AMO certificate or to fulfil the conditions subject to which the document was issued. The evidence and testimony provided demonstrate that although the applicant's MPM had been approved as far back as April 2002, a PI visit in March 2017 and subsequent PI visits did uncover multiple non-compliances.

[52] During cross-examination of the Minister's witness, the applicant centred his arguments on the fact that his MPM, up to amendment 9, had been approved (Exhibits R-5 and R-6) without any issues with previous TC inspectors.

[53] Concerns with adequate support and guidance from the PMI, Mr. Chartier, were also raised by the applicant during cross-examination. They include:

- a. lack of guidance as to the required corrective action needed
- b. lack of timely communication and standardization between TC PMIs
- c. lack of shared responsibility for the MPM between the operator and TC

[54] As shown in the chronology of events above and Timeline Matrix Table A, multiple attempts to rectify the non-compliances identified by TC were drawn out over a period of at least 30 months. During this period, several CAPs were submitted and not accepted, and when a CAP

was finally accepted by TC, the subsequent follow-up visit to ensure the implementation of the proposed solution produced unsuccessful results or more findings of non-compliances. As mentioned, an MPM is an evolving and living document that must be updated, changed or modified to meet current TC standards or changes to regulatory standards. The MPM specific to Avtronics is a prime example, having gone through nine previous amendments. For the Tribunal, the MPM in March 2017 was non-compliant. The evidence and testimony also show a pattern of multiple attempts to ensure compliance.

[55] The critical question for the Tribunal centres on the issue of justification of TC's decision. After careful consideration of relevant exhibits and testimony, I have found that the Minister was successful in proving justification leading to the suspension. At the core, the applicant's QAP was flagged as far back as March 2017.

[56] Evidence shows that since March 2017, multiple extensions were requested by the applicant and granted by TC, as seen in these seven letters issued on the following dates:

- May 3, 2017 (Exhibit M-7)
- May 26, 2019 (Exhibit M-34)
- July 6, 2018 (Exhibit M-27)
- August 20, 2019 (Exhibit M-36)
- October 30, 2018 (Exhibit M-28)
- December 10, 2019 (Exhibit M-41)
- December 26, 2018 (Exhibit M-31)

[57] In considering the delays and extensions during this period, my role is not to determine whether they are warranted or not. Most of the requests for extensions came from the applicant for various reasons ranging from workload, vacations, telecommunication interruptions, a mailbox having been moved, to simply requiring more time. The Tribunal notes that despite the delays, there were genuine attempts by TC to resolve the issues with the MPM and its QAP.

[58] I would also add that the evidence demonstrates that all applicable supporting documents, work aids and assistance were provided to the applicant in order to ensure compliance. It is my position that the Minister, after multiple attempts by TC to rectify the issues with the applicant's MPM, was justified in suspending the AMO certificate.

[59] Another critical question for the Tribunal centres on the issue of fairness of TC's decision. After careful consideration of relevant exhibits and testimony, I have found that the Minister was successful in proving fairness leading to the suspension.

[60] Regarding the guidance and support from TC, the applicant has raised issues as to the role of TC throughout the process of attempting to address the non-compliances raised by TC. TC's role centres on setting policies and programs to promote safe, secure, efficient and environmentally responsible transportation.

[61] I believe that TC must be impartial and unbiased, all the while providing the necessary support to all Canadian transportation companies, operators and individuals.

[62] TC cannot be equal partners with Canadian aviation operators while undertaking enforcement activities on others. In this case, TC had to act initially as a reference and support entity to ensure compliance to the existing *CARs*. I believe it has. Multiple examples in testimony and evidence submitted during this period from March 2017 to January 2020 demonstrate the resolve put forth from the various TC inspectors who tried to support Avtronics and specifically Mr. Généreux. TC explained when, where and how to implement and execute corrections and revisions to an MPM through a CAP by providing materials such as works aids, non-compliance grids and transport publications. Detailed emails with explanations were provided, as can be seen in the documents issued on the following dates:

- April 20, 2017 (Exhibit M-6)
- May 4, 2017 (Exhibit M-8)
- May 10, 2017 (Exhibit M-9)
- June 5, 2017 (Exhibit M-12)
- June 27, 2017 (Exhibit M-14)
- July 19, 2017 (Exhibit M-17)
- November 15, 2017 (Exhibit M-23)
- March 7, 2018 (Exhibit M-26)
- June 28, 2017 (Exhibit M-27)
- November 28, 2018 (Exhibit M-30)
- April 4, 2019 (Exhibit M-32)
- May 28, 2019 (Exhibit M-35)
- October 24, 2019 (Exhibit M-37)
- December 5, 2019 (Exhibit M-39)

[63] The MPM is not a shared responsibility between TC and the operator. The responsibility belongs to the AMO certificate holder and, as such, the company must make all reasonable efforts to ensure the MPM is up to date. TC is responsible for the periodic inspections to ensure that the MPM meets all regulatory requirements under the *CARs* and for approving any changes to the MPM. The MPM, through its many amendments, must be updated and improved and ensure that it reflects the best practices in the operator's maintenance protocols, procedures and quality assurance. Any shortcomings in the manual, either found during PI or following an incident or accident, need to be addressed and corrected in a timely manner.

[64] I sincerely believe Mr. Généreux made all attempts to resolve the issues concerning the QAP that is embedded in his MPM. Through the numerous CAPs submitted and based on the evidence shown, the resolutions proposed over more than 30 months since TC's findings were either non-compliant, or when accepted, the applicant was unable to ensure they could be implemented into the day-to-day operation of the company.

[65] Finally, regarding fairness, the suspension in January 2020 also provided steps for the applicant to take to have its AMO certificate reinstated. The actual effective date of the suspension was February 10, 2020. Also noted was that during the period from March 2017 to January 2020, the AMO certificate remained in force. I believe, from the evidence and testimony presented, that the Minister acted in good faith and fairness throughout this period.

[66] During the cross-examination of the Minister's witness, Mr. Généreux raised concerns with regard to the decision to suspend the AMO certificate. As mentioned, no issues were raised

with the non-compliance findings, but he argued that these findings did not warrant a suspension of the AMO certificate.

[67] I respectfully disagree. The various issues centred on gaps in quality assurance stemming from an accident in 2017 (Exhibit M-1) and the installation of a non-standard battery for the ELT. The subsequent PI revealed multiple flaws within the company's MPM.

[68] In this case, Timeline Matrix Table A which details the correspondences between the applicant and TC starting from the initial non-compliances in March 2017 up to the ultimate suspension of the AMO certificate in January 2020 provides a clear timeline of the Minister's attempt to resolve the matter prior to the suspension. The evidence shows that technical and administrative support and guidance were offered to the applicant at multiple times in an effort to remedy the non-compliance issues within the MPM.

[69] During a period of over 30 months, the attempts to try to rectify these issues proved to be unsuccessful as per testimony from Mr. Chartier. This is despite the support provided by the PMI to the applicant in his attempt to amend the manual. The Minister, based on the evidence, attempted to compel Avtronics to update its MPM to ensure, among other findings, that the gap in quality assurance be properly rectified within the company and its MPM. The Minister has proven that the escalation of non-compliance findings, as well as the extended period provided to the applicant to remedy the situation, justified the decision in January 2020 to suspend the AMO certificate.

E. Conclusion

[70] I have found the evidence and testimony offered by the Minister's witness, Mr. Chartier, to be clear, credible and fact-based. I also find that the applicant's representative, Mr. G  n  reux, acted in good faith in his attempt to understand the various issues and concerns with his MPM. He submitted multiple CAPs, but the requirement to implement them once accepted proved to be difficult. Based on the evidence provided, the Minister did provide support and guidance as to the steps to take to correct the non-compliance issues raised.

[71] The applicant was afforded multiple opportunities to address the issues. As well, and based on the evidence I received, supporting documentation was provided to Mr. G  n  reux as to how to properly address the non-compliance issues that were found during the onsite PIs. He was unable to adequately satisfy the requirements to ensure compliance of the MPM.

[72] After careful consideration and based on the evidence provided and testimony heard, I have come to the conclusion that, on a balance of probabilities, the Minister's decision to suspend the applicant's AMO certificate in January 2020 due to the fact that its operating MPM was not compliant as required pursuant to subsection 573.10(1) of the *CARs* was justified, fair and reasonable.

III. DETERMINATION

[73] Pursuant to subsection 7.1(7) of the *Aeronautics Act*, the Transportation Appeal Tribunal of Canada confirms the Minister of Transport's decision to suspend the applicant's approved

maintenance organization certificate on the grounds that the applicant ceased to fulfil the conditions subject to which the document was issued.

July 11, 2022

(Original signed)

Franco Pietracupa
Member

Appearances

For the Minister:

Martin Forget

For the Applicant:

Yves Généreux

TIMELINE MATRIX TABLE A

Note: The list serves as a timeline matrix **ONLY** and does **NOT** contain each email trail that may have been submitted between the deadlines set by the respondent and applicant.

DATE	CORRESPONDENCE TYPE	ISSUES	REQUEST / DELAYS	AUTHOR	ONSITE VISIT
March 27, 2017	Transport Canada Internal	ELT Batteries	Information Request	Sylvain Chartier Sylvain Melançon	Yes
March 28, 2017	Transport Canada Internal	Non-Compliance 571.01	30 Days for a CAP	Sylvain Chartier Sylvain Melançon	Yes
March 30, 2017	Transport Canada Finding Form Internal	Non-Compliance 571.02(1)(a)	N/A	Sylvain Chartier	No
April 20, 2017	Transport Canada Letter	Non-Compliance 571-02, 573-01, 573-02	30 days for CAP Requested by Transport Canada	Jean-Marc Caron	No
May 3, 2017	Telephone Record Internal	Delay not Met for CAP 571-01	Requirement to submit a CAP	Sylvain Chartier	No
May 7, 2017	Email from Applicant	CAP submitted 571-01	N/A	Yves G��n��reux	No
May 10, 2017	Transport Canada Letter	Transport Canada PI Letter	CAP Not Acceptable Deadline May 17, 2017	Jean-Marc Caron	No
June 5, 2017	Transport Canada Letter	Transport Canada PI Letter	CAP 571-01 ONLY Acceptable – Onsite Inspection to follow	Jean-Marc Caron	No
June 5, 2017	Transport Canada Letter	Transport Canada PI Letter	CAP Not Acceptable 571- 02, 573-01 and 573-02 Deadline June 13, 2017	Jean-Marc Caron	No
June 15, 2017	Email for Applicant	CAP submitted for 571-02, 573- 01, 573-02	N/A	Yves G��n��reux	No
June 27, 2017	Transport Canada Letter	Transport Canada PI Letter March 2017	CAP Not Acceptable 571- 02, 573-01 and 573-02 Deadline July 4, 2017	Jean-Marc Caron	No
August 10, 2017	Transport Canada Letter	Non-Compliance PI March 2017	CAP Accepted for PI March 2017	Jean-Marc Caron	No
September 11, 2017	Email from Transport Canada to Applicant	Evidence of 571- 01 implemented	CAP had been approved June 5, 2017	Sylvain Chartier	No
September 14, 2017	Email Applicant to Transport Canada	MPM Submitted	Implementation of 571-01	Yves G��n��reux	No
November 15, 2017	Email Transport Canada to Applicant	Evidence of 571- 01 not complete in MPM	As soon as possible	Sylvain Chartier	No

DATE	CORRESPONDENCE TYPE	ISSUES	REQUEST / DELAYS	AUTHOR	ONSITE VISIT
November 30, 2017	Email Applicant to Transport Canada	Resubmitted MPM re 571-01	N/A	Yves Généreux	No
January 10, 2018	Email Transport Canada to Applicant	Evidence of 571-01 not complete in MPM	Request Onsite Visit	Sylvain Chartier	No
March 7, 2018	Transport Canada Internal	Follow-up 571-01, 571-02, 573-01, 573-02	Onsite- multiple issues found	Sylvain Chartier Marco Bellefeuille	Yes
June 28, 2018	Email Transport Canada to Applicant	Awaiting CAP for 571-01, 573-01, 573-02	To be determined by TC	Sylvain Chartier Jean-Marc Caron Yves Généreux	Yes (TC office)
July 6, 2018	Email Applicant to Transport Canada	Unable to comply due to workload	Require time to review	Yves Généreux	No
October 30, 2018	Email Transport Canada to Applicant	No follow up re CAP	Requested In July 2018	Sylvain Chartier	No
October 30, 2018	Email Applicant to Transport Canada	Require more information	Request delay	Yves Généreux	No
October 31, 2018	Email Transport Canada to Applicant	Meeting requested re CAP	Proposed date/ time for onsite visit	Sylvain Chartier	No
November 28, 2018	Letter Transport Canada to Applicant re Onsite Visit November 8, 2018	Non-Compliance 571-01	Must Submit a CAP in 30 days	Jean-Marc Caron	No
December 24, 2018	Email Applicant to Transport Canada	Requesting Delay	Unable to comply Vacation/Holidays	Yves Généreux	No
January 2, 2019	Email Transport Canada to Applicant	Extension to delay	New deadline February 1, 2018	Jean-Marc Caron	No
April 4, 2019	Letter Transport Canada to Applicant	MPM Amendment 10 non-compliance	Issues with 573-10,	Sylvain Chartier	No
May 6, 2019	Letter Transport Canada to Applicant	Quality Assurance Audit Checklist 2018	Required in 14 days. Possible enforcement action	Sylvain Chartier	No
May 26, 2019	Email Applicant to Transport Canada	Letter not Received	Audit Forms sent	Yves Généreux	No
May 28, 2019	Letter Transport Canada to Applicant	MPM non-compliance 573 CAR	Amend MPM by June 30, 2019	Sylvain Chartier	No
August 14, 2019	Email Transport Canada to Applicant	Requesting a PI week of September 9, 2019	PI onsite visit	Manon Lanthier	No

DATE	CORRESPONDENCE TYPE	ISSUES	REQUEST / DELAYS	AUTHOR	ONSITE VISIT
August 20, 2019	Email Transport Canada to Applicant	PI visit. Applicant unable.	Confirmed week of October 7, 2019	Sylvain Chartier	No
October 24, 2019	Letter Transport Canada to Applicant	Non-Compliance 573-01, 573-02	Must Submit a CAP within 30 days	Jean-Marc Caron	Yes
November 25, 2019	Email Applicant to Transport Canada	CAP Submitted	None Requested	Yves Généreux	No
December 5, 2019	Letter Transport Canada to Applicant	CAP 573-01, 573-02 non-compliant	Resubmit by December 12, 2019	Jean-Marc Caron	No
December 7, 2018	Email Applicant to Transport Canada	Request delay	Limited Email Service	Yves Généreux	No
December 10, 2019	Email Transport Canada to Applicant	Requested denied	File forwarded to Enforcement	Jean-Marc Caron	No
January 2, 2020	Email Applicant to Transport Canada	MPM submitted		Yves Généreux	No
January 21, 2020	Letter Transport Canada to Applicant	Notice of Suspension of AMO		Françoise Dehaye	No

QUALITY ASSURANCE PROGRAM	
M-36 Letter October 24, 2019	PI October 9, 2019, QAP, issues with audit records did not contain all occurrences and did not capture all non-compliances raised on May 28, 2019 (573.09(1)). 30 days to submit CAP.
M-39 Letter TC-Applicant December 5, 2019	December 5, 2019, CAP not accepted. CAP submitted does not capture scope of the problem within the QAP. Must be resubmitted by December 12, 2019.
M-41 Email Applicant-TC December 10, 2019	Delay requested.
M-25 Email TC-Applicant January 9, 2018	QAP audits requested for 2017 and when will the 2018 be carried out. Delay requested.
M-48 Matrix TC April 4, 2019	MPM review. Amendment 10 refused April 4, 2019. The QAP does not have follow-up procedures ensuring the corrective actions are effective (573.10(1)(m)). Resubmit on June 30, 2019.
M-33 Letter TC-Applicant May 6, 2019	Request for QAP audit checklist for 2018. Failure to comply can be dealt by enforcement procedures.
M-23 Email TC-Applicant November 15, 2017	Missing checklist form for purchase audits.
M-17 Letter TC-Applicant July 19, 2017	PI March 23, 2017. The corrective action for the QAP to verify effectiveness of the QAP checklist sheet does not have a timeline. Nor does the QAP checklist have a timeline for implementation. New CAP to be submitted by July 26, 2017.
M-10 CAP Submitted Applicant May 19, 2017	CAP submitted re: QAP not having a QAP control check sheet. QAP checklist to be amended to reflect new production document. Will be completed within 90 days.
M-11 Letter TC-Applicant June 5, 2017	CAP accepted. Follow-up required to ensure implementation MPM.