



DANGEROUS GOODS PANEL (DGP)

TWENTY-SECOND MEETING

Montréal, 5 to 16 October 2009

Agenda Item 2: Development of recommendations for amendments to the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284) for incorporation in the 2011-2012 Edition

APPLICATION OF THE TERM “CARGO”

(Presented by D. Brennan)

SUMMARY

This paper proposes that the use of the term “cargo” within Part 7 of the Technical Instructions be clarified to identify that it includes “mail” and “stores”.

Action by the DGP: The DGP is invited to amend the definition in Part 1;3.1. and to amend the text of Part 7;4.5 of the Technical Instructions as presented in the Appendix.

1. INTRODUCTION

1.1 Over the last two meetings of the DGP-WG there has been discussion with respect to the term “cargo” and how to ensure that for requirements such as the written information to the pilot-in-command, incident reporting, etc., that dangerous goods that may be in “mail” or “stores”, which are not “cargo” as defined, are adequately addressed.

1.2 The solution initially proposed at DGP-WG/08 was to establish a new definition for “cargo” that would only apply to the Technical Instructions and that would specifically include “stores”. The difficulty with this proposal was that it would introduce two different definitions for the same term within ICAO standards, as the current definition of “cargo” in the Technical Instructions comes from Annex 9 – *Facilitation*.

1.3 A second approach submitted at DGP-WG/09 was to include “stores” and/or “mail” into selected provisions in Part 7 to identify that the specific provision applied to “stores” and “mail”, as applicable.

1.4 While there was some support for this proposal there was some concern that there were more instances than identified where the provisions should be made applicable to mail and/or stores.

1.5 Following DGP-WG/09 an evaluation has been made of all instances where the word “cargo” appears to determine if there is a need to expand the application to include mail and stores. A search of the Technical Instructions identifies that there are 751 instances of the word “cargo”. The vast majority of these are in association with “aircraft” and so do not present a problem.

1.6 Of the remainder many appear in Part 1;4 where the training provisions have already been revised to include mail and stores. The majority of those left appear in Part 7. In considering these, simply adding “mail and stores” to every instance of “cargo” is one option, although it makes many of the provisions very clumsy and at times the word “mail” may not be applicable.

1.7 A more simple and elegant option was to make a single reference at the start of Part 7 to identify that for the purposes of Part 7, unless otherwise identified, the term cargo includes mail and stores. However, in discussion for the preparation of this working paper there was concern expressed that as a “Note” has no legal status, that the note would not really solve the problem

1.8 In addition, the search of the Technical Instructions identified two other instances where the current definition of cargo appears to have unintended consequences. That is in Special Provisions A9 and A69. Here the wording of the special provisions except the identified commodities from the provisions of the Technical Instructions, but only when shipped as “cargo”. This use of cargo would then mean that technically when shipped as “stores” the commodities are subject to the provisions of the Technical Instructions.

1.9 Based on these concerns and in discussion with members of the ICAO Secretariat it was determined that there does not appear to be any legal impediment to having a definition for “cargo” in the Technical Instructions that is both specific to the Technical Instructions and which differs from the definition of “cargo” as set out in Annex 9.

1.10 It is therefore proposed that the definition of “cargo” in Part 1;3.1 be revised to remove reference to “stores” and to make reference that the definition is specific to the Technical Instructions. To ensure that there is no confusion with the application of “stores” as permitted by Part 1;2.2.1 it is also proposed to add a reference in the definition of “stores” to identify that stores transported as replacements or which have been removed for replacement for those articles and substances permitted according to Part 1;2.2.1 must be treated as “cargo”.

1.11 In addition it is proposed to add “mail” into the reporting provisions for undeclared or misdeclared dangerous goods as set out in part 7;4.5. Including mail in the reporting at this point will identify instances where dangerous goods are detected in mail.

APPENDIX

Part 1

GENERAL

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Chapter 3

GENERAL INFORMATION

Parts of this Chapter are affected by State Variation BE 1; see Table A-1

3.1 DEFINITIONS

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Cargo. For the purposes of these Instructions, Any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

Note. — This definition differs from the definition for “cargo” given in Annex 9 – Facilitation.

Stores (supplies). a) Stores (supplies) for consumption; and b) Stores (supplies) to be taken away.

Stores (supplies) for consumption. Goods, whether or not sold, intended for consumption by the passengers and the crew on board aircraft, and goods necessary for the operation and maintenance of aircraft, including fuel and lubricants.

Stores (supplies) to be taken away. Goods for sale to the passengers and the crew of aircraft with a view to being landed.

Stores that meet the classification as dangerous goods and which are transported in accordance with Part 1:2.2.2 or Part 1:2.2.3 are considered as “cargo”.

Part 7

OPERATOR'S RESPONSIBILITIES

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Chapter 4

PROVISION OF INFORMATION

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4.5 REPORTING OF UNDECLARED OR MISDECLARED DANGEROUS GOODS

| An operator must report any occasion when undeclared or misdeclared dangerous goods are discovered in cargo [or mail](#). Such a report must be made to the appropriate authorities of the State of the Operator and the State in which this occurred. An operator must also report any occasion when dangerous goods not permitted under 8;1.1.1 are discovered in passengers' baggage. Such a report must be made to the appropriate authority of the State in which this occurred.

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