



DANGEROUS GOODS PANEL (DGP)

TWENTY-FIFTH MEETING

Montréal, 19 to 30 October 2015

Agenda Item 6: Resolution, where possible, of the non-recurrent work items identified by the Air Navigation Commission or the panel:

6.1: Development of a global framework for the sharing of dangerous goods incident and accident information

REPORT OF THE DANGEROUS GOODS PANEL WORKING GROUP ON REPORTING

(Presented by B. Firkins)

SUMMARY

The DGP working group on reporting met in Rio de Janeiro, Brazil in August 2015. The DGP is invited to note the progress of the working group in:

- a) reviewing and considering amendments to Annex 18, Chapters 1, 11 and 12; and
- b) developing a rationale to dangerous goods occurrence reporting.

The DGP is invited to provide comment and feedback, to further guide the working group.

1. INTRODUCTION

1.1 The Dangerous Goods Panel Working Group on Reporting met in Rio de Janeiro in August 2015; primarily to advance the work from several previous ad-hoc working groups on occurrence reporting.

1.2 A review of Annex 18, Chapters 11 and 12, which form the “Head of Authority” for the material in the Technical Instructions and the Supplement, led to a conclusion that a more thorough reworking of these chapters was required.

1.3 The group identified that Annex 18 should be amended to incorporate, and benefit from contemporary developments, such as safety management systems.

1.4 The nomenclature around dangerous goods occurrences; particularly with terms that appeared in the Technical Instructions, but not in Annex 18, lead to a need to better categorise and define certain terms which would be applicable through Annex 18, the Technical Instructions and the Supplement. There was also discussion and review of reporting requirements set out in other ICAO Annexes, with the aim of any changes to Annex 18 and the Technical Instructions being done with the aim of achieving a degree of consistency with the other Annexes. To this end, it was determined that “Dangerous Goods Occurrences” was the appropriate collective noun for Dangerous Goods Accidents and Incidents, with some discussion as to whether other dangerous goods events should be similarly captured.

1.5 Comparison with Annex 13 received considerable attention; in particular, the occasions when an occurrence is currently captured under existing Annex 18/Technical Instructions; but is not captured under Annex 13.

1.6 Discussion focussed on the types of events that should be reported, and what it was expected of States in receiving that information. It was felt that many events which were of a minor (discrepancy) nature, should be managed by the operators within their safety management system. The group still has some work ahead in settling terminology, particularly those instances of a minor nature; and the manner and degree of reporting of those events, by operators, to the relevant competent authority. For operators which do not have a safety management system, then it was considered that reports should continue to be made to the competent authority.

1.7 The group considered it important that the Supplement reflect the rationale to dangerous goods occurrence reporting. The current draft rationale is contained at paragraph 2.1.1 of this paper and is likely to be further revised at subsequent working groups, into a more cogent and complete proposal, for the Supplement.

1.8 The current drafting work on Annex 18 is contained at Appendix A.

1.9 The Working Group felt that it had gone significantly beyond the goals and agenda that had been put forward at DGP-WG/15. The proposals to amend Annex 18 are more substantial than initially intended, yet there is still having a significant body of work to complete. For this reason, the group considered that the preferred approach was to inform the panel of its progress, to solicit questions and feedback from panel members, advisors and observers not involved with the working group.

1.10 The working group will continue to meet and further refine the proposal for Annex 18, the Supplement and the Technical Instructions, over the forthcoming biennium.

2. MATERIAL TO BE INCLUDED IN THE SUPPLEMENT TO THE TECHNICAL INSTRUCTIONS

2.1 Rationale for dangerous goods occurrence reporting

2.1.1 The DGP Working Group on Reporting listed the following points as rationale for dangerous goods occurrence reporting and suggested that it be included with the guidance material on reporting being developed for inclusion in the Supplement to the Technical Instructions:

- a) so that an investigation by a relevant authority can establish the cause and take action to prevent a recurrence, wherever possible. In particular, any weakness or error in the Technical Instructions has to be identified (source: Technical Instructions);
- b) to prevent the recurrence of dangerous goods accidents and incidents (source: Annex 18);
- c) to prevent the recurrence of instances of undeclared or misdeclared dangerous goods in cargo (source: Annex 18);
- d) for improving aviation safety (source: Annexes 13 and 19)
- e) so that proper and timely preventive actions can be taken and aviation safety improved (Annexes 13 and 19)
- f) to correct conditions that compromise safety and/or to change policies and regulations;
- g) to facilitate the effective analysis of information on actual or potential safety deficiencies and to determine any preventive actions required (source: Annex 13)
- h) for the analysis of data on hazards, their consequences in operations and the assessment of the safety risks will enable the State to prioritize inspections, audits and surveys toward areas of greater safety concern or need (source: Annex 19)
- i) to facilitate the free exchange of information on actual and potential safety deficiencies
- j) to aid in effectively determining whether there is a need for modification of dangerous goods regulations and practices. This can only be effective if dangerous goods accidents and incidents, and discoveries and undeclared or misdeclared dangerous goods in cargo, are investigated, reported and analysed (source: Supplement)

2.2 Reporting of undeclared and misdeclared dangerous goods

2.2.1 The DGP Working Group on Reporting suggested that guidance material for operators in relation to reporting of undeclared or misdeclared dangerous goods in cargo be developed. The following guiding text was developed:

In instances of undeclared or misdeclared dangerous goods in cargo and [minor] incidents, it is envisaged that operators will manage occurrence enquiries and the education of their clients, documenting the results in their safety management system and providing periodic report to the State of the Operator. Where the operator does not have an SMS, then a report is to be made in accordance with the detailed provisions of the Technical instructions

In instances of dangerous goods occurrences discovered in cargo, the operator shall respond to all enquiries related to the occurrence investigation, educate the concerned personnel, retain records of the occurrence investigation and related enquiries as part of the operator's safety management system, and submit periodic reports to the State of the operator. Where the operator does not have an SMS, then a report is to be made in accordance with the detailed provisions of the Technical instructions

2. ACTION BY THE DGP

2.1 The DGP is invited to note the work of the working group on reporting.

APPENDIX A

AMENDMENTS UNDER DEVELOPMENT TO ANNEX 18

CHAPTER 1. DEFINITIONS

When the following terms are used in this Annex, they have the following meanings:

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The following draft amendments to definitions are provided for discussion by DGP/25. Whether or not they are necessary in Annex 18 will be determined after guidance on reporting is developed for States.

Dangerous goods accident. ~~An~~ A dangerous goods occurrence associated with and related to the transport of dangerous goods by air, not necessarily occurring on board an aircraft, which results in fatal or serious injury to a person or major property or environmental damage.

Dangerous goods incident. ~~An~~ A dangerous goods occurrence, other than a dangerous goods accident, associated with and related to the transport of dangerous goods by air, not necessarily occurring on board an aircraft where:

[a] a person which results in is injured to;

b) there is property or environmental damage;]

c) there is fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained. ~~Any;~~

d) there are undeclared or misdeclared dangerous goods discovered in cargo or mail; or

e) any other occurrence relating to the transport of dangerous goods ~~which~~ seriously jeopardizes the aircraft or its occupants ~~is also deemed to constitute a dangerous goods incident.~~

With regard to the following new definition for dangerous goods discrepancy, opinions of the DGP Working Group on Reporting differed as to whether improper loading and dangerous goods not appearing on a NOTOC would be considered a discrepancy. DGP/25 is invited to discuss.

[Dangerous goods [discrepancy]. An event other than a dangerous goods occurrence, associated with and related to the transport of dangerous goods by air, not necessarily occurring on board an aircraft, where:

a) dangerous goods are discovered in passenger or crew baggage when not permitted by the Technical Instructions;

b) dangerous goods are discovered to have been loaded on an aircraft when not in accordance with the Technical Instructions; or

- c) dangerous goods are discovered to have been carried without information having been provided to the pilot-in-command as required by the Technical Instructions.]

Dangerous goods occurrence. A dangerous goods occurrence is:

- a) a dangerous goods accident; or
- b) a dangerous goods incident.

The DGP Working Group on Reporting developed the following draft definitions for “undeclared” and “misdeclared” dangerous goods but thought they may be more appropriate as guidance in the Supplement to the Technical Instructions rather than as new definitions in Annex 18. The DGP is invited to discuss.

The definition of ‘misdeclared’ requires further refinement so that it more clearly describes a deliberate attempt by a shipper to describe the contents as something other than they actually are.

[Undeclared dangerous goods. Dangerous goods offered for air transport without:

- a) documentation required by the Technical Instructions; and
- b) any of the marks and [hazard] labels required by the Technical Instructions.

Misdeclared dangerous goods. Dangerous goods offered for air transport where:

- a) the documentation required by the Technical Instructions does not align with the contents of the packagings; or
- b) the marks or labels applied to the packages are not in accordance with the provisions of the Technical Instructions for the substances or articles contained in the packagings.]

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CHAPTER ~~12~~11. DANGEROUS GOODS ACCIDENT AND INCIDENT REPORTING

Note.— In addition to the provisions of this chapter, other provisions relative to the promotion of dangerous goods accident and incident prevention by collection and analysis of safety data and by a prompt exchange of safety information, as part of the State safety programme (SSP), are included in Annex 19 — Safety Management and, to this effect, are applicable to this Annex. Further guidance is contained in the Safety Management Manual (SMM) (Doc 9859).

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This is the same as note under Chapter 8 title in Annex 13..

MORE INFORMATION ON VOLUNTARY REPORTING SYSTEM TO BE ADDED TO THIS
CHAPTER

REPLACE CURRENT CHAPTER 12 (NOW CHAPTER 11) WITH THE FOLLOWING

Based on Annex 19, Chapter 5:

11.1 Each State shall include dangerous goods [occurrence] reporting as part of the mandatory reporting system required by Annex 19 to facilitate collection of information on actual or potential safety deficiencies.

11.2 Each State's mandatory reporting system shall facilitate the effective analysis of information on actual or potential safety deficiencies obtained and determination of any actions required for the enhancement of safety.

{Should the following section limited to cargo and
mail only (no baggage) or should we utilize a term
different than [occurrence]:

11.3 Each State's mandatory reporting system shall include a requirement for the operator to report to the appropriate [national] authority of the State where the [occurrence] is discovered and the State of the Operator.

DGP/25 is invited to consider whether the following recommendation should be a Standard and whether it should be limited to air transport.

11.3.1 **Recommendation.**— Each State's [mandatory] reporting system [should] include a requirement for entities other than operators to report to the appropriate [national] authority of the State where the [occurrence] is discovered.

11.4 If a State, in the analysis of the information contained in its [mandatory] reporting system, identifies safety matters considered to be of interest to other States, that State [shall] forward such safety information to them as soon as possible.

[11.5 This section can be deleted since identified safety concerns should be reported to other States regardless of the origination of the report. {When States should report to other States}.]

11.6 When States shall report to ICAO [Can be better established and determined upon more discussion with the group.]

11.7 When States should report to ICAO

Not looked at yet:

11.2 Each Contracting State shall mandate in its established procedures that an operator must report any occasion when undeclared or misdeclared dangerous goods are discovered in cargo. 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. Reports on such instances shall be made in accordance with the detailed provisions of the Technical Instructions.

[CHAPTER ~~11~~12. COMPLIANCE]

Title of chapter to be reconsidered (e.g. “Dangerous goods Safety oversight/surveillance etc.”)

The following note is same as under Chapter title in Annex 13:

Note.— In addition to the provisions of this chapter, other provisions relative to the promotion of dangerous goods accident and incident prevention by collection and analysis of safety data and by a prompt exchange of safety information, as part of the State safety programme (SSP), are included in Annex 19 — Safety Management and, to this effect, are applicable to this Annex. Further guidance is contained in the Safety Management Manual (SMM) (Doc 9859).

Proposed amendments based on Annex 19, Appendix I, paragraph 7

~~11.1~~12.1 ~~Inspection systems~~Surveillance obligations

12.1.1 Each Contracting State shall ~~establish inspection, surveillance and enforcement procedures~~ implement documented surveillance processes, by defining and planning inspections, audits and monitoring activities on a continuous basis, to proactively assure that ~~for all entities performing any function prescribed in its regulations for air transport of dangerous goods with a view to achieving compliance with those regulations~~ continue to meet the established regulatory requirements.

The following Standard assumes that there will be a definition for dangerous goods occurrences, which would include accidents, incidents, undeclared, misdeclared and other non-compliance. Whether or not to maintain the same philosophy of keeping one Standard for incidents and accidents and a separate one for undeclared/misdeclared to be considered.

12.1.2 With the aim of preventing recurrences of dangerous goods occurrences, each Contracting State shall establish procedures for investigating and compiling information of such dangerous goods occurrences, by all entities performing any function prescribed in its regulations for air transport of dangerous goods by air which occur in its territory and which involve the transport of dangerous goods originating in or destined for another State.

Recommendation.— The management of dangerous goods occurrence reporting and investigation, [in the instances of undeclared or misdeclared dangerous goods in cargo] [or other discrepancies] should be conducted by operators, through the application of their safety management system.

Note 1.— It is envisaged that these procedures would include provisions for:

- *inspecting dangerous goods consignments prepared, offered, accepted or transported by the entities referred to in ~~11.1~~12.1;*
- *inspecting the practices of the entities referred to in ~~11.1~~12.1; and*
- *investigating alleged violations ~~resolving safety issues~~ (see ~~11.3~~12.3).*

Note 2.— Guidance on dangerous goods inspections and enforcement may be found in the Supplement to the Technical Instructions (Part S-5, Chapter 1 and Part S-7, Chapters 5 and 6).

~~11.2~~12.2 Cooperation between States

~~12.2.1 Recommendation.~~—Each Contracting State ~~should~~ shall participate in cooperative efforts with other States ~~concerning violations of dangerous goods regulations~~, with the aim of eliminating ~~such violations unsafe practices and non-compliance with the Technical Instructions~~.

Text struck out below will be considered for incorporation in the Supplement to the Technical Instructions as guidance material. Annex 19, 5.4 to be considered

~~12.2.2 Each State's~~ Cooperative efforts could shall include coordination of investigations of [dangerous goods occurrences], non-compliance with the Technical Instructions and enforcement actions; ~~exchanging information on a regulated party's compliance history; joint inspections and other technical liaisons, exchange of technical staff, and joint meetings and conferences. Appropriate information that could be exchanged include safety alerts, bulletins or dangerous goods advisories; proposed and completed regulatory actions; incident reports; documentary and other evidence developed in the investigation of incidents; proposed and final enforcement actions; and educational/outreach materials suitable for public dissemination.~~

Proposed amendments based on Annex 19, Appendix I, paragraph 8.1

~~11.3~~12.3 Penalties Resolution of safety issues

~~11.3.1~~12.3.1 Each Contracting State shall ~~take such measures as it may deem appropriate to achieve compliance with its dangerous goods regulations including the prescription of appropriate penalties for violations~~ use a documented process to take appropriate corrective actions, up to and including enforcement measures, to resolve identified safety issues.

~~11.3.2~~12.3.2 **Recommendation.**— ~~Each Contracting State should take appropriate action to achieve compliance with its dangerous goods regulations, including the prescription of appropriate penalties for violations~~ corrective actions, up to and including enforcement measures, to resolve identified safety issues, when information about a violation is received from another Contracting State, such as when a consignment of dangerous goods is found not to comply with the requirements of the Technical Instructions on arrival in a Contracting State and that State reports the matter to the State of Origin.

The DGP Working Group on Reporting concluded that this chapter was not an appropriate place for paragraph 11.4 below. The group recommends that a separate group consider the over-all structure of Annex 18 and that a more suitable place in Annex 18 for paragraph 11.4 be considered by that group.

11.4 Dangerous goods by mail

11.4.1 The procedures of designated postal operators for controlling the introduction of dangerous goods in mail into air transport shall be approved by the civil aviation authority of the State where the mail is accepted.

Note 1.— In accordance with the Universal Postal Union (UPU) Convention, dangerous goods are not permitted in mail, except as provided for in the Technical Instructions.

Note 2.— The Universal Postal Union has established procedures to control the introduction of dangerous goods into air transport through the postal services (see the UPU Parcel Post Regulations and Letter Post Regulations).

Note 3.— Guidance for approving the procedures established by designated postal operators to control the introduction of dangerous goods into air transport may be found in the Supplement to the Technical Instructions (Part S-1, Chapter 3).

[11.4.2 The procedures of designated postal operators shall be subject to surveillance by the civil aviation authority of the State where the mail is accepted.]

— END —