



**WORKING PAPER**

**DANGEROUS GOODS PANEL (DGP)  
WORKING GROUP MEETING (DGP-WG/16)**

**Montreal, 17 to 21 October 2016**

**Agenda Item 1: Development of proposals, if necessary, for amendments to Annex 18 — *The Safe Transport of Dangerous Goods by Air***

**REVIEW AND REVISION TO THE APPLICABILITY OF ANNEX 18**

(Presented by D. Brennan)

**SUMMARY**

This working paper proposes a review of and revision to Annex 18 to recognise that there are entities in the air cargo supply chain in addition to shippers and operators. It is proposed that these other entities be defined and formally recognised to ensure that States bring these entities into national regulations.

**Action by the DGP-WG:** The DGP-WG is invited to establish a small working group to review the applicability of Annex 18 and to develop proposed revisions to Annex 18 to include freight forwarders, cargo terminal operators and ground handling agents. Based on revisions proposed to Annex 18 there may also need to be revisions proposed to the Technical Instructions.

**1. INTRODUCTION**

1.1 Annex 18 was first developed in the late 1970s based on a request by Contracting States for an internationally agreed set of provisions governing the safe transport of dangerous goods by air. The first edition of Annex 18 was adopted by the ICAO Council in June 1981 and became applicable as of 1 January 1984.

1.2 Annex 18 has been revised and amended by the DGP regularly since the adoption of the 1<sup>st</sup> edition. The current 4<sup>th</sup> edition includes Amendment 12, which was adopted and became applicable as of 12 November 2015.

1.3 The basic content and structure of Annex 18 has not changed however. Annex 18 in its 1<sup>st</sup> edition only addressed two entities as being involved in the transport of dangerous goods as cargo, shippers and operators. The same applies in the current edition of Annex 18, it is only shippers and operators that have formal responsibilities for the carriage of dangerous goods as cargo.

1.4 In the late 1970s this view of the air cargo system was largely correct. Many shippers contracted directly with the operator for the carriage of their cargo and most operators performed all of the functions at an airport with respect to the acceptance, loading and unloading of dangerous goods as cargo. Freight forwarders acting as intermediaries between the shipper and the operator did exist, but typically acted on behalf of the operator in selling cargo services for the operator to the shipper.

1.5 Today the situation has changed dramatically. Freight forwarders act almost exclusively as the shipper's agent to arrange for the carriage of air cargo. The freight forwarder/operator relationship is as principle to principle and most operators have no direct contact with, or knowledge of, the shipper whose cargo they transport.

1.6 The activities of the operator have also changed over the last 40 years. Most operators no longer perform all of the functions at an airport with respect to dangerous goods acceptance, loading and unloading of the aircraft. Indeed some operators no longer perform any of these functions, with all of this work being contracted out to ground handling agents.

1.7 Annex 18 though makes no reference to freight forwarders or ground handling agents or to any responsibilities that should be applied to these entities. On that basis States have no mandated obligation to ensure that the personnel employed by these entities have been provided with appropriate dangerous goods training. States are also not obligated to undertake any surveillance or perform oversight of these entities with respect to compliance with the provisions of Annex 18 and the Technical Instructions. This gap between the requirements set out in Annex 18 and the real world creates significant safety issues.

1.8 The DGP attempted to address part of this safety gap in 2003 at DGP/19 when the DGP adopted into Part 1;3.1.1 a definition for "freight forwarder". Freight forwarders were added to Part 1;4.1.1 as being subject to the provision of initial and recurrent dangerous goods training programmes, and freight forwarder personnel were included into Table 1-4 to identify that the dangerous goods training requirements applied to all personnel employed by a freight forwarder who processed or handled cargo.

1.9 The DGP was very clear at the time of adopting these changes that requiring dangerous goods training for freight forwarder personnel that processed or handled cargo added another level of potential detection of undeclared dangerous goods before the cargo was offered to the operator for carriage. This additional opportunity for detecting and removing undeclared dangerous goods from air transport was seen as particularly important as much of the cargo offered to the freight forwarder by the shipper was consolidated with consignments of cargo from other shippers and loaded into unit load devices before being offered to the operator.

1.10 At the time of adopting the definition of freight forwarder and the requirements for dangerous goods training for freight forwarders the DGP sought the opinion of the ICAO Legal Bureau on the ability of the Technical Instructions making freight forwarders that only handle cargo subject to the provisions on dangerous goods training. The preliminary view of the ICAO Legal Bureau was that that the Technical Instructions could address any persons who may be involved in the transport of dangerous goods. That could be interpreted as including staff who did not normally accept dangerous goods, but who should nevertheless be on the lookout for dangerous goods travelling as normal cargo.

1.11 As the DGP is aware as a result of the work of the training working group to introduce competency-based dangerous goods into the Technical Instructions, a formal opinion was sought from the ICAO Legal Bureau as to whether or not entities, other than operators, not knowingly involved with handling dangerous goods (e.g. freight forwarders handling general cargo) fell within the scope of Annex 18.

1.12 The opinion provided by the ICAO Legal Bureau to the DGP at DGP/25 in October last year was that Annex 18 was applicable to all international civil aircraft operations, therefore entities involved with knowingly introducing dangerous goods into the aviation system and those entities defined in the Annex would fall within its scope. Freight forwarders were not defined in Annex 18, but in the opinion of the ICAO Legal Bureau could be considered within its scope by virtue of the surface transport provisions in paragraph 2.6 of Annex 18. This provision however is only a recommendation and is not legally enforceable.

1.13 This opinion provided by the ICAO Legal Bureau last year undermines the efforts by the DGP to enhance safety by requiring freight forwarder personnel only handling general cargo to be provided with mandatory dangerous goods training. This should be addressed through revisions to Annex 18 to make specific mention of freight forwarders.

1.14 Ground handling agents cover the entire spectrum in terms of size and scope of operation. There are a number of very large, multinational ground handling agents that perform all of the tasks at an airport on behalf of many operators. These ground handling agents perform cargo acceptance, passenger and baggage handling and aircraft loading. There are other ground handling agents that are single airport entities that only perform cargo acceptance, but do so on behalf of almost all airlines operating from that airport and others, particularly at a smaller airport that only contract with a single airline.

1.15 The main issue with ground handling agents is around the recognition of the ground handling agent's dangerous goods training programme and operational procedures. Ground handling agents are contracted by individual airlines to perform some or all of the operator's responsibilities as set out in Part 7 of the Technical Instructions.

1.16 The Technical Instructions in the introduction to Part 7 identifies that a ground handling agent may carry out some or all of the operator's responsibilities, however, the ground handling agents are subject to the provisions of Part 7.

1.17 What is not identified is whether the ground handling agent can develop and apply their own operational procedures for the acceptance and handling of dangerous goods and other cargo. In addition, some States take the view that the dangerous goods training for ground handling agent personnel must be provided by the operator to which the ground handling agent is contracted.

1.18 Where there is a 1:1 relationship of ground handling agent to airline this is entirely appropriate. However, there are situations where a ground handling agent may handle 30 or more operators at a single location. In this instance expecting the ground handling agent's personnel to receive 30 different dangerous goods courses every two years is simply impractical for all concerned. Here it would be far more practical to require that the ground handling agent must have their own dangerous goods training programme approved by the national aviation authority of the State in which the ground handling agent operates.

## 2. ACTION BY THE DGP-WG

2.1 The DGP-WG is invited to establish a small working group to review the applicability of Annex 18 and to develop proposed revisions to Annex 18 to include freight forwarders, cargo terminal operators and ground handling agents. Based on revisions proposed to Annex 18 there may also need to be revisions proposed to the Technical Instructions.

2.2 Some potential considerations are:

2.2.1 The adoption into Annex 18 of definitions for “freight forwarder”, possibly the one from Part 1;3.1.1 of the Technical Instructions, and for “ground handling agent”;

2.2.2 Identification and assignment of responsibilities for these entities, e.g. should a freight forwarder be required to perform a pre-acceptance check of the dangerous goods transport document and of packages and overpacks prior to offering the dangerous goods to the operator? Should the provisions set out in Part 7;4.8 and in Part 7;6 also be made applicable to freight forwarders?

2.2.3 Review and approval of dangerous goods training programmes of freight forwarders and ground handling agents, e.g. should the dangerous goods training programme of a ground handling agent be subject to the review and approval by the appropriate national authority of the State in which the ground handling agent operates? Can an operator that contracts with this ground handling agent use this State approval as therefore recognition that the contracted ground handling agent’s dangerous goods training programme meets the requirements of the operator’s approved dangerous goods training?

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