



WORKING PAPER

**DANGEROUS GOODS PANEL (DGP)
MEETING OF THE WORKING GROUP OF THE WHOLE**

Atlantic City, United States, 4 to 8 April 2011

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 2013-2014 Edition

2.1: Part 1 — General

**DEFINITIONS FOR THE TERMS ‘UNDECLARED’ AND ‘MISDECLARED’
DANGEROUS GOODS**

(Presented by G A Leach)

SUMMARY

This paper proposes the addition of definitions for the terms ‘undeclared’ and ‘misdeclared’ to aid the operators with the development of protocols to ensure compliance with reporting requirements.

Action by the DGP-WG is in paragraph 2.

1. INTRODUCTION

1.1 The Technical Instructions contain a number of references to “undeclared” or misdeclared” dangerous goods, e.g. Tables 1-4 and 1-5 (Content of training course), Part 7;1.1.2 (Acceptance procedures) and Part 7;4.5 which states ‘An operator must report any occasion when undeclared or misdeclared dangerous goods are discovered in cargo or mail...’. However, the Technical Instructions do not explain what is meant by the terms ‘undeclared’ and ‘misdeclared’.

1.2 Part 5;1.1 of the ICAO Technical Instructions states ‘Before a person offers any package or overpack of dangerous goods for transport by air that person must ensure that: ... d) the dangerous goods transport document has been properly executed and the *declaration* signed...’. Part 5; 4.1.6.1 subsequently states ‘The dangerous goods transport document must include a certification or *declaration* that the consignment is acceptable for transport...’; it then goes on to specify the text for this certification i.e. “I hereby *declare* that the contents of this consignment.....”

1.3 Since the only references in the Technical Instructions to a declaration relate to the dangerous goods transport document it seems reasonable to suggest that dangerous goods are

“undeclared” if they are not accompanied by such a document. It is understood that this interpretation may not be shared by all, with some believing that the presence of a hazard warning label or the marking of a UN number “declares” to the operator that the package contains dangerous goods. If that is so it is suggested this would place an operator in a difficult position from an enforcement point of view if they were to inadvertently carry a labelled or marked package without an accompanying transport document, i.e. it could be argued that since the goods were declared to them (by the label or marking) the operator should not have carried them. It is suggested this would place an unreasonable burden on the operator.

1.4 With regard to “misdeclared” dangerous goods it is suggested this term could refer to two scenarios. Firstly dangerous goods which have been declared as something they are not, e.g. a substance described as Packing Group III when in fact it is Packing Group I, or as a substance which is permitted on passenger aircraft when in fact it is restricted to carriage on cargo aircraft only could be described as “misdeclared”. Secondly, if any non-compliance with the Technical Instructions was discovered after the (declared) goods had been carried then clearly there had been a mis-declaration, because the declaration would have been signed to confirm that the goods were “in all respects in proper condition for transport....”

1.5 It is suggested the Technical Instructions would benefit from the addition of appropriate definitions for “undeclared” and “misdeclared” dangerous goods.

2. ACTION BY THE DGP-WG

2.1 The DGP-WG is invited to add the following definitions to Part 1; 3.1:

...

Undeclared dangerous goods. Dangerous goods offered for transport by air without being accompanied by a dangerous goods transport document; information applicable to the consignment provided in electronic form; or where permitted, by alternative documentation.

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

a) they are incorrectly described on the dangerous goods transport document, such that had they been correctly described, they would not be have been acceptable for carriage; or

b) they are found, after the acceptance check required by 7;1.3, not to have complied with the Technical Instructions.

“Note – Non-compliances with the Technical Instructions found during an acceptance check are not required to be reported, although an operator may choose to do so if an issue of significance (e.g. incorrect use of packaging) is detected.”

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— END —