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DANGEROUS GOODS PANEL (DGP) WORKING GROUP ON LITHIUM BATTERIES

SECOND MEETING

Montréal, 7 to 11 April 2014

Agenda Item 1: Mitigating risks associated with the carriage of lithium metal batteries

COMPLIANCE AND AWARENESS

(Presented by Rapporteur of Break-Out Session on Compliance and Awareness)

REVISION NO. 1

1. INTRODUCTION

1.1 The break-out group that looked into compliance and awareness considered the matter from both individual aspects (compliance versus awareness) and where compliance and awareness performed complementary functions. The functions were also considered from the perspectives of domestic and international regulatory effectiveness. Suggestions were also presented of how States that are active in dangerous goods programmes can assist and encourage those States which are perceived as being less effective — usually due to lack of financial, technical knowledge or staffing resources.

2. ENCOURAGING GREATER LEVELS OF VOLUNTARY COMPLIANCE

2.1 The common view was that an effective means was to push compliance back down the supply chain towards the manufacturer. Several States commented upon the effectiveness of encouraging a “know your customer/stakeholder” approach. The example is that regulators should know their operators and work with those operators to achieve high standards and compliance. For example, when regulators are conducting compliance or safety oversight visits of operators, in addition to looking at the dangerous goods training programme, the procedures for accepting dangerous goods, etc. they should also look at how operators identify and work with their key freight forwarders and establish that the freight forwarders have trained employees and a process for managing and controlling the entry of dangerous goods in the transport chain and, more importantly, how they have processes for detecting and screening out hidden and misdeclared dangerous goods.

2.2 Similarly, the operators are then encouraged to apply a similar approach to their forwarders — how does the forwarder know their shippers, that the shipper has trained employees, access to proper classification and safety data sheets, UN specification packaging etc. One example of this approach is that sales and marketing personnel of a freight forwarder are also trained in dangerous goods awareness, and when visiting a new or prospective client, asks about dangerous goods and for a quick tour of the warehouse facility. If there is any indication that there is the potential for dangerous goods to be sent with that forwarder, then a Category 6 trained supervisor from the freight forwarder will conduct a follow-up inspection to satisfy both the forwarder and the shipper that any dangerous goods are properly prepared.

3. REGULATORY SURVEILLANCE

3.1 Similar lessons which could be learned from the cargo security programme were using regulated air cargo agents and the ability to track back through the customs documentation for the origins of shippers and types of things that might be dangerous goods and worth further follow-up. Whilst customs descriptions are provided as late as possible to uplift and not facilitate pre-emptive investigation, historical records for trends and selective targeting of shippers with high volumes/high risk descriptions would assist.

3.2 It was acknowledged that following the ICAO Universal Safety Oversight Audit Programme (USOAP) audits of States in 2008, there were many States which did not conduct any regulatory oversight of freight forwarders, shippers, ground handling agents or training organisation. For States where there was a current lack of technical knowledge or comfort in these areas, it is important to build upon the recent experience gained in overseeing and regulating designated postal operators and to ensure that guidance is provided in the Supplement to States. Such guidance would include a programme for the regulator to learn about the industry which they intend to conduct sampling and oversight; communication programs; sampling; managing of detected breaches; continuing education; and follow-up compliance inspection programs. These would be targeted at major industry participants and focussed on improving current safety standards, building a rapport with the industry and providing de-identified summaries of the top five to ten findings to the whole of the industry. A programme such as this reduces the number of people who are operating in “unintentional non-compliance”. This then enables the scarce regulatory resources to be more effectively targeted on those who choose to operate with “Intentional non-compliance”.

3.3 It was suggested that a proposed IATA lithium battery workshop, tentatively planned for November 2014 in Guangzhou, China would be an ideal opportunity for ICAO to invite regulators along and to learn more about lithium batteries, the UN 38.3 tests that are required, examples of completed test reports and to provide an opportunity for less-experienced regulators to engage with and learn from the experiences of others. This would also provide an opportunity for regulators to gain insight into a large manufacturing State. Furthermore, lessons could be learned and used to formulate a programme of ICAO focussed States-of-significant-battery-manufacturing safety oversight assessments.

4. ACCESS TO EVIDENCE OF BATTERY AND MANUFACTURER COMPLIANCE

4.1 It was also proposed that regulators ought to be seeking more evidence that the requirements of the UN 38.3 tests and the quality management programme requirements in Part 2;9.3.1 of the Technical Instructions are being carried out by manufacturers. A similar issue with the UN 38.3 tests is the difficulty in obtaining test reports or evidence that batteries meet those tests including encouraging

manufacturers to provide data sheets several years after manufactures of a brand/type has ceased particularly as the item may have a shelf life of ten or more years. Thoughts in this area include encouraging or requiring that where batteries are to be shipped by aircraft, then there must be a test report/safety data sheet/accreditation of the quality management Program posted on the internet. Another suggestion was to use various State “product safety” laws whereby the lithium batteries cannot be sold if the test reports are not available or not on hand.

5. RAISING GENERAL AWARENESS

5.1 Discrete awareness programs included how to provide effective outreach to the general public: whilst airlines usually provide some dangerous goods information on their website, passengers find it difficult to navigate to. Regulators providing dangerous goods information on their websites are perceived as being more accurate and reliable. Furthermore, they reduce the number of phone enquiries and free up regulatory resources which can be used more effectively.

5.2 The United Kingdom Civil Aviation Administration (CAA) has created a You-Tube video as a communication channel to their stakeholders.

5.3 The topic of whether resources should be targeted at lithium metal batteries alone or at all lithium batteries was considered. It was felt that the real problem is hidden and misdeclared dangerous goods and that any programmes should be dealing with both lithium metal and lithium ion batteries

5.4 Closer co-operation

5.5 Identifying areas of overlap and creating synergies and speaking with one voice was also identified as being a necessary factor in improving safety. Examples were:

- a) consistent and common information between ICAO/IATA and State regulators so that requirements for shipping lithium batteries if taken from the ICAO or IATA websites should not necessarily result in penalties (any offence against State legislation might be more a matter of unintentional non-compliance);
- b) the AVSECP/DGP task force — opportunities for closer co-operation and streamlined training (some States require that employees complete two courses — one for security and one for dangerous goods, yet both courses would have some common material; and sometimes the information in the security course might be out-of-date and confusing. A cited example was the material provided in DGP-WG/LB/2-WP/7 Attachment A to Appendix 12. Which has the potential to be out of date before it is published. And if the attachment is not updated at least biennially in conjunction with the Technical Instructions.
- c) One State cited the co-operation between their postal authority, customs and dangerous goods inspectors. Packages are selected on the basis of concerns by customs (usually drugs and firearms) and are opened by postal workers. Where hidden dangerous goods are discovered; then the postal authority quarantines the item and manages the dangerous goods occurrence in accordance with their procedures. Trends in discovery are reported to the regulator for targeted awareness programs. Similarly, cases involving significant safety concern or indicating intentional non-compliance may be referred to the Regulator or escalated to the State Police Force.

6. **IMPLEMENTATION**

6.1 Given the lead time required to organize a seminar/industry visits to coincide with the potential IATA lithium battery forum in November 2014, and the opportunity to bring regulators and dangerous goods inspectors to Guangzhou, there ought to be a small working group to assist with the development of a programme.

6.2 A number of initiatives can be delivered through regulatory guidance material and should be prepared for incorporation into the next edition of the supplement to the Technical Instructions.

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