



NOTA DE ESTUDIO

GRUPO DE EXPERTOS SOBRE MERCANCÍAS PELIGROSAS (DGP)

VIGESIMOTERCERA REUNIÓN

Montreal, 11 - 21 de octubre de 2011

Cuestión 1 del orden del día: Formulación de propuestas de enmienda del Anexo 18 — *Transporte sin riesgos de mercancías peligrosas por vía aérea, si se consideran necesarias*

CONSIDERACIONES SOBRE EL ESTADO DE SOBREVUELO EN EL PROCESO DE OTORGAMIENTO DE DISPENSAS

(Nota presentada por J. McLaughlin)

Por falta de recursos, sólo se ha traducido el resumen

RESUMEN

En esta nota se propone un enfoque para que el DGP aborde el tema de los explotadores que sobrevuelan espacio aéreo territorial cuando transportan mercancías peligrosas para las que se requieren dispensas.

Medidas recomendadas al DGP: Se alienta al DGP a considerar el enfoque descrito dado que continúan las deliberaciones acerca de los requisitos aplicables a los explotadores que sobrevuelan un Estado cuando transportan mercancías peligrosas conforme a las dispensas que figuran en las Instrucciones Técnicas. Si se logra consenso en el DGP, se sugiere que la secretaria transmita la propuesta al Grupo de expertos sobre operaciones y los expertos en asuntos jurídicos, de la OACI, antes de someter el asunto a la consideración de la Comisión de Aeronavegación (ANC).

1. INTRODUCTION

1.1 The DGP has had ongoing discussions over the subject of the overflight of States and requirements for operators transporting dangerous goods under exemptions to the Technical Instructions. These discussions have attempted to reconcile State sovereignty interests with feasibility concerns voiced by operators. Discussions at DGP/22 and at the Working Group of the Whole Meeting in Auckland, New Zealand (DGP-WG/09, 4 to 8 May 2009) on “Guidance on the Removal of State of Overflight from the Exemption Process” and “Removal of State of Overflight from Exemption Process” (DGP/22-WP/100, paragraph 1.4 and DGP/22-WP/3, paragraph 3.5.1.3 refer), respectively, offer insights from both perspectives. At DGP-WG/11 (Atlantic City, 4 to 8 April 2011), the Secretary indicated that she would consult with ICAO legal experts and present a new paper on this issue at DGP/23. To allow the DGP sufficient time to consider the proposal within this paper prior to October, this paper has been submitted prior to review of the Secretary’s paper.

1.2 If consistent with the constraints outlined by ICAO legal experts, the DGP may wish to consider a proposal with provisions similar to those outlined in paragraph 1.3. As this issue touches on sovereignty issues agreed to under the Chicago Convention and other (bilateral) diplomatic agreements, a consensus approach is essential. The consensus should be not only amongst DGP members, but with other panels, and ultimately within the ANC.

1.3 One approach intending to acknowledge the interests of both States and operators could be to place the primary responsibility of the exemptions process on States of Origin, transit, and destination. The operator's interaction would be primarily with these States. Once exemptions are issued to the civil operators by the States of Origin, any State in which there will be a landing during transit, and the destination State, operators would then request expedited exemption from States potentially subject to overflight. Overflight States would then be permitted a finite period of time to review the request. In the absence of requests for additional information, clarification, and/or outright denial, overflight permission would be implied.

1.4 As this process evolves over time, issues of concern to overflight States would be identified (to the extent this is not the case already) and could be addressed at the outset by the operator in their requests to States of Origin, transit, and destination. In other words, when an overflight State denies a request on specific grounds, the operator would be able to address these concerns in their initial exemption requests going forward.

1.5 In conversations with air traffic management experts, it appears that concerns that such a policy would limit autonomous aircraft navigation over continental airspace are premature. Established fixed track navigation will likely continue for at least another decade.

1.6 In future discussions, the DGP may wish to consider the prerogatives of States who are not included on a flight plan, but who are considered to be diversion points in case of weather or emergency.