



WORKING PAPER

DANGEROUS GOODS PANEL (DGP)

TWENTY-THIRD MEETING

Montréal, 11 to 21 October 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

INCIDENT REPORTING

(Presented by J. McLaughlin)

SUMMARY

This paper proposes a more comprehensive approach to incident reporting under the Technical Instructions.

Action by the DGP: The DGP is invited to consider incorporating some or all of the proposed amendments related to incident reporting as presented in the appendix to this working paper.

1. INTRODUCTION

1.1 All parties involved in the dangerous goods transportation safety system, including both States and regulated entities, have a vested safety interest in learning of incidents that are associated with dangerous goods in air transport within their State. Without a comprehensive knowledge of incidents, deficiencies in regulations, operations, or other processes are likely to persist. As the Forward to Technical Instructions states:

Dangerous goods accidents and incidents have to be reported 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.

1.2 The DGP Working Group of the Whole Meeting in Abu Dhabi (DGP-WG/10, 7 to 11 November 2010) discussed the need for States to have a shipper oversight program consistent with the risk that shippers present in the dangerous goods transportation safety system (DGP/23-WP/2, paragraph 3.1.3 refers). The subject of shipper oversight was also raised at the spring working group meeting (DGP-WG/11, Atlantic City, 4 to 8 April 2011) during discussions on State approaches to shipper oversight and competency frameworks (DGP/23-WP/3, paragraphs 3.1.2 and 3.5.6 refer). One

common element of these discussions, especially with respect to allocating inspector resources, is the need for States to be aware of shippers already known to have offered dangerous goods shipments associated with air transport incidents. This knowledge can appropriately influence the priority in which States assess compliance of the dangerous goods shippers.

1.3 The DGP may wish to consider the operator-centric incident reporting requirements currently prescribed by the Technical Instructions. Current incident reporting requirements in Part 7 are only required to be reported by operators. To more comprehensively address the goals articulated in paragraphs 1.1 and 1.2, this paper proposes to mandate incident reporting beyond the operator's possession or responsibility for the dangerous goods. That is, once offered for air transport, reporting dangerous goods incidents is proposed to be mandatory — inclusive of those transportation functions which occur prior to operator acceptance. Notably, this proposal would ensure other transportation entities such as freight forwarders are subject to incident reporting. When an incident is discovered prior to operator acceptance or when the shipment is outside the operator's span of control, such information is no less significant for regulators.

1.4 While this paper is not intended to address State requirements, Annex 18 does contain relevant Standards and recommendations for sharing incident reports with other States. This approach appears to be both permitted and supported by Annex 18. Applicable provisions of Annex 18 include:

11.2 Cooperation between States

Recommendation.— *Each Contracting State should participate in cooperative efforts with other States concerning violations of dangerous goods regulations, with the aim of eliminating such violations. Cooperative efforts could include ... incident reports; documentary and other evidence developed in the investigation of incidents; proposed and final enforcement actions; ...*

12.1 With the aim of preventing the recurrence of dangerous goods accidents and incidents, each Contracting State shall establish procedures for investigating and compiling information concerning such accidents and incidents which occur in its territory and which involve the transport of dangerous goods originating in or destined for another State. Reports on such accidents and incidents shall be made in accordance with the detailed provisions of the Technical Instructions.

12.2 **Recommendation.**— *With the aim of preventing the recurrence of dangerous goods accidents and incidents, each Contracting State should establish procedures for investigating and compiling information concerning such accidents and incidents which occur in its territory other than those described in 12.1. Reports on such accidents and incidents should be made in accordance with the detailed provisions of the Technical Instructions.*

12.3 With the aim of preventing the recurrence of instances of undeclared or misdeclared dangerous goods in cargo, each Contracting State shall establish procedures for investigating and compiling information concerning such occurrences which occur in its territory and which involve the transport of dangerous goods originating in or destined for another State. Reports on such instances shall be made in accordance with the detailed provisions of the Technical Instructions.

12.4 **Recommendation.**— *With the aim of preventing the recurrence of instances of undeclared or misdeclared dangerous goods in cargo, each Contracting State should establish procedures for investigating and compiling information concerning such occurrences which occur in its territory other than those described in 12.3. Reports on such instances should be made in accordance with the detailed provisions of the Technical Instructions.*

1.5 Part 7;4.6 of the Technical Instructions is proposed to remain unchanged. These operator reporting requirements are in the context of emergency response to accidents and serious incidents.

1.6 In furtherance of the DGP's collective efforts to enhance shipper oversight, undeclared and misdeclared hazardous materials are proposed to be subject to the same reporting requirements as incidents. Aside from incidents, a significant number of undeclared shipments are discovered through the normal course of screening (operator, security, and/or customs).

APPENDIX

PROPOSED AMENDMENTS TO THE TECHNICAL INSTRUCTIONS

PROPOSAL 1:

Part 1

GENERAL

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Chapter 7

INCIDENT AND ACCIDENT REPORTING

7.1 Each person in physical possession of a dangerous good at the time an incident or accident is discovered is required to follow notification procedures in the State where the incident or accident is discovered. Dangerous goods not offered for air transport are not subject to this requirement.

Note.— This includes incidents involving dangerous goods that are not subject to all or part of the Technical Instructions through the application of an exception or of a special provision (e.g. an incident involving the short circuiting of a dry cell battery that is required to meet short circuit prevention conditions in a special provision of 3;3).

7.2 For purposes of this chapter, the discovery of undeclared dangerous goods or misdeclared dangerous goods not ascertainable at the time of the operator's acceptance offered for transport by air shall also be considered incidents.

7.3 Additional operator requirements are provided in Part 7.

PROPOSAL 2:

Part 1

GENERAL

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Chapter 7

INCIDENT AND ACCIDENT REPORTING

7.1 Each person in physical possession of a dangerous good at the time an incident or accident is discovered is required to follow notification procedures in the State where the incident or accident is discovered. Dangerous goods not offered for air transport are not subject to this requirement.

Note.— This includes incidents involving dangerous goods that are not subject to all or part of the Technical Instructions through the application of an exception or of a special provision (e.g. an incident involving the short circuiting of a dry cell battery that is required to meet short circuit prevention conditions in a special provision of 3:3).

7.2 For purposes of this chapter, the discovery of undeclared dangerous goods or misdeclared dangerous goods not ascertainable at the time of the operator's acceptance offered for transport by air shall also be considered incidents.

7.3 Additional operator requirements are provided in Part 7.

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Part 7

OPERATOR'S RESPONSIBILITIES

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Chapter 4

PROVISION OF INFORMATION

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4.5 REPORTING OF UNDECLARED OR MISDECLARED DANGEROUS GOODS

4.5.1 An operator must report any occasion when undeclared or misdeclared dangerous goods are discovered in cargo or mail. 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.

4.5.2 The discovery of undeclared dangerous goods or misdeclared dangerous goods not ascertainable at the time of the operator's acceptance that are offered for air transport shall also be considered incidents.

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