



NOTA DE ESTUDIO

GRUPO DE EXPERTOS SOBRE MERCANCÍAS PELIGROSAS (DGP)

VIGESIMOTERCERA REUNIÓN

Montreal, 11 - 21 de octubre de 2011

Cuestión 2 del orden del día: **Formulación de recomendaciones sobre las enmiendas de las *Instrucciones Técnicas para el transporte sin riesgos de mercancías peligrosas por vía aérea (Doc 9284)* que haya que incorporar en la edición de 2013-2014**

NOTIFICACIÓN DE INCIDENTES

(Nota presentada por J. McLaughlin)

Por falta de recursos, sólo se ha traducido el resumen y el apéndice

RESUMEN

En esta nota se propone adoptar un enfoque más amplio con respecto a la notificación de incidentes, en el marco de las Instrucciones Técnicas.

Medidas recomendadas al DGP: Se invita al DGP a considerar la incorporación de algunas o todas las enmiendas propuestas relativas a la notificación de incidentes, según se presenta en el apéndice de esta nota de estudio.

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).

APÉNDICE

ENMIENDAS PROPUESTAS DE LAS INSTRUCCIONES TÉCNICAS

PROPUESTA 1:

Parte 1

GENERALIDADES

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Capítulo 7

NOTIFICACIÓN DE INCIDENTES Y ACCIDENTES

7.1 Toda persona en cuya posesión física se descubra una mercancía peligrosa al ocurrir un incidente o accidente debe cumplir con los procedimientos de notificación del Estado en el que se constata el incidente o accidente. Las mercancías peligrosas que no se presentan para el transporte por vía aérea no están sujetas a este requisito.

Nota.— Se incluyen los incidentes relacionados con mercancías peligrosas que no estén sujetas a todas o a algunas de las Instrucciones Técnicas mediante la aplicación de una excepción o de una disposición especial (p. ej., un incidente causado por el cortocircuito de una batería de pila seca requerida para cumplir con las condiciones de prevención de cortocircuitos establecidas en una de las disposiciones especiales de 3.3).

7.2 A los fines de este capítulo, se considera también como incidente el hallazgo de mercancías peligrosas no declaradas o mal declaradas que no es posible verificar durante la aceptación por el explotador y que se presentan para su transporte por vía aérea.

7.3 En la Parte 7 se especifican requisitos adicionales.

PROPUESTA 2:**Parte 1****GENERALIDADES**

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Capítulo 7**NOTIFICACIÓN DE INCIDENTES Y ACCIDENTES**

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Parte 7**OBLIGACIONES DEL EXPLOTADOR**

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Capítulo 4**SUMINISTRO DE INFORMACIÓN**

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**4.5 NOTIFICACIÓN DE MERCANCÍAS PELIGROSAS NO DECLARADAS
O MAL DECLARADAS**

4.5.1 Todo explotador debe también notificar cualquier ocasión en que se descubran en la carga o en el correo mercancías peligrosas no declaradas o mal declaradas. Dicha notificación debe dirigirse a las autoridades que corresponda del Estado del explotador y del Estado en el cual esto haya ocurrido. El explotador debe notificar además cualquier ocasión en que se descubran en el equipaje de los pasajeros mercancías peligrosas no permitidas de acuerdo con lo establecido en 8;1.1.1. Dicha notificación debe dirigirse a las autoridades que corresponda del Estado en el cual esto haya ocurrido.

4.5.2 Se considera también como incidente el hallazgo de mercancías peligrosas no declaradas o mal declaradas que no es posible verificar durante la aceptación por el explotador y que se presentan para su transporte por vía aérea.