



NOTE DE TRAVAIL

GROUPE D'EXPERTS SUR LES MARCHANDISES DANGEREUSES (DGP)

VINGT-TROISIÈME RÉUNION

Montréal, 11 – 21 octobre 2011

**Point 1 : Élaboration, s'il y a lieu, de propositions d'amendement de l'Annexe 18 — Sécurité
du transport aérien des marchandises dangereuses**

**RETRAIT DE L'ÉTAT DE SURVOL
DU PROCESSUS DE DÉROGATION**

(Note présentée par la Secrétaire)

SOMMAIRE

(Faute de ressources, seuls le sommaire et l'appendice ont été traduits.)

La présente note contient une proposition d'amendement de l'Annexe 18 qui faciliterait le processus de dérogation en ce qui concerne l'État de survol.

Suite à donner par le DGP : Le DGP est invité à convenir de la proposition d'amendement présentée en appendice.

1. INTRODUCTION

1.1 Discussion on the difficulties encountered by shippers or operators when attempting to obtain an exemption from the State of Overflight was first raised at the eleventh meeting of the DGP in 1987 (DGP/11). It was most recently discussed at the Working Group of the Whole Meeting in Auckland (DGP-WG/09, 4 to 8 May 2009, paragraph 3.5.1.3 refers) when it was suggested that it is virtually impossible to predict which States a flight may overfly due to the increasing use of autonomous aircraft navigation with consequential discussions at DGP/22 (DGP/22-WP/100, paragraph 1.4 refers), the DGP Working Group of the Whole Meeting in Abu Dhabi (DGP-WG/10, 7 to 11 November 2010) (DGP/23-WP/3, paragraph 3.1.4 refers) and the DGP Working Group of the Whole Meeting in Atlantic City (DGP-WG/11, 4 to 8 April 2011) (DGP/23-WP/3, paragraph 3.1.1 refers).

1.2 During the various meetings, members have been reminded of the rights of States above their territory as contained in Article 35 b) of the Chicago Convention:

Article 35

Cargo restrictions

- a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.
- b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

1.3 Recognizing that the retention by a State of sovereignty over its airspace is a fundamental tenet of the Convention whilst at the same time knowing that the State of Overflight might have less interest in the granting of an exemption than the other States concerned, the Secretariat proposes that standard 2.1.4 be amended to allow a State of Overflight a specified time period to consider the request. To aid discussion, a thirty day time period is suggested. However, should the State not respond within this period, acceptance of the request would be deemed to have been granted. Of course, should the State respond, the standard procedure would follow. This would therefore permit any State of Overflight interested in a specific request for an exemption to review that request and thereby not relinquish any degree of sovereignty over its airspace whilst, at the same time, not delay exemption requests simply due to lack of involvement in the process.

APPENDICE

**TEXTE DE L'AMENDEMENT 10 DES
NORMES ET PRATIQUES RECOMMANDÉES
INTERNATIONALES
SÉCURITÉ DU TRANSPORT AÉRIEN DES MARCHANDISES DANGEREUSES
ANNEXE 18
À LA
CONVENTION RELATIVE À L'AVIATION CIVILE INTERNATIONALE**

(...)

CHAPITRE 2. CHAMP D'APPLICATION

2.1 Champ d'application général

(...)

2.1.4 Pour l'État de survol, si aucun des critères régissant l'octroi des dérogations n'est pertinent, une dérogation peut être accordée uniquement sur la base de la conviction qu'un niveau équivalent de sécurité du transport aérien a été obtenu. L'État de survol donnera suite à la demande de dérogation dans un délai de 30 jours. En l'absence de réponse dans ce délai, la demande de dérogation sera jugée avoir été acceptée.

(...)

— FIN —