

**DANGEROUS GOODS PANEL (DGP)**

**NINETEENTH MEETING**

**Montreal, 27 October to 7 November 2003**

**ADDITIONAL COMMENTS FROM AVSEC PANEL MEMBERS AND  
OBSERVERS**

(Presented by the Secretary)

**1. INTRODUCTION**

1.1 AVSEC Panel members and observers were invited to review DGP/19-WP/37 and to answer the questions which were contained in Attachment C. In addition to the comments presented in IP/3, the following comments have been received.

**2. ADDITIONAL COMMENTS FROM AVSEC PANEL MEMBERS AND OBSERVERS**

**2.1 S. Li, China (Hong Kong S.A.R.)**

**Can Annex 17 be expanded to include shippers? What would be the implications for such an expansion?**

The concept of Regulated Agents in Annex 17 and the Security Manual is for the regulatory authority to regulate the airlines and cargo agents rather than the shippers due their size of population. It will be impossible to regulate the DG shippers who are, in the case of Hong Kong, in vast number. Expansion to include shippers will require the Hong Kong Civil Aviation Department to apply considerable resources in regulation.

**Can Annex 17 be expanded to require cargo operators of cargo aircraft carrying dangerous goods to apply specific UN security requirements? What would be the implications of such an expansion?**

The UN requirements are for the prevention of DG against misuse and theft by terrorists hence in my opinion it is a security issue and the Annex 17 is the more appropriate place to accommodate the provisions. The implications of implementing the requirements depend on the volume of DG being handled in each country. For Hong Kong, the resources for implementing such requirements will be massive.

**If the UN security requirements were to be incorporated into Annex 18 and/or the Technical Instructions for the Safe Transport of Dangerous Goods by Air, do you anticipate any problems?**

As mentioned in Question 1, the requirements are more security related therefore in the first place it is not appropriate to be in the Annex 18 and TI. Nevertheless, the Hong Kong Government will include the UN security requirements to the relevant local legislation/requirement if required.

**Do you see a potential for overlap and conflict? If yes, please describe and make suggestions as to how this could be resolved or minimized.**

The implementation of the UN security requirements is a new arena in security. There should not be overlap.

**Additional comments on the ICAO proposal to require security of DG in transport:**

The proposal of the DGP is for protection of DG, in particular high consequence DG, from theft and misuse by terrorists. This can be regarded as protection against unlawful interference. Such measure will enhance security.

If this is considered to be the direction, whether the provision is in Annex 17 or 18 does not matter, since in the end of the day the provision will only have local legal effect when the State transforms it into legislation. In fact many provisions in various ICAO Annexes are inter-related e.g. the installation of cockpit doors in the wake of 911 is security related but its requirement is in Annex 6. Nevertheless if the provision is incorporated in the Technical Instructions it may cause technical problems in enacting legislation. From my point of view the proposal is more security related thus the Annex 17 should be the more appropriate document to accommodate it.

The proposal intends to create a system similar to the Regulated Agent Regime to ensure only authorised shippers and cargo agents (i.e who can provide sufficient security and have training) to ship DG. In countries where the number of shippers and cargo agents is limited the regulatory work could be accordingly limited. However for countries which have large number of players the work to be done by the regulatory authority will be massive. The balanced approach can be on a risk management basis whereby only shippers and agents who handle high consequence DG will be regulated. Low risk DG such as perfume, magnetic substance etc. will not be subject to control but those DG that could pose chemical, biological and nuclear threats will be brought under control. In so doing we can concentrate our resources to manage the high risks.

**3.1 P. Kirk, United Kingdom**

The UK AVSEC Panel member supports the views set out in DGP/19-WP/38.

**Can Annex 17 be expanded to include shippers?**

Although we believe it could, as per Paragraph 2 of DGP/19-WP/38, we question the need to do this.

**What would be the implications of such an expansion?**

As a European State, subject to the requirements of ADR and RID, we would in any case, regulate shippers in all modes so this has no particular implications for us. However, we can appreciate that this may well have implications for other States.

**Can Annex 17 be expanded to require cargo operators of cargo aircraft carrying dangerous goods to apply the specific UN security requirements?**

We believe an expansion would be appropriate and would fall within the scope of the objectives of Annex 17.

**What would be the implications of such an expansion?**

Implications would include the delivery of the UN Model Regulation's objectives. The UK already has a comprehensive air cargo security regime, including cargo aircraft.

**If the UN security requirements were to be incorporated in Annex 18 and/or Technical Instructions do you anticipate any problems?**

Yes, we would anticipate problems with the above. The position is set out fully in Paragraph 3 of DGP/19-WP/38. We would expect those States, where the exercise of safety and security regulation is carried out separately, to experience similar problems.

**Do you see a potential for overlap and conflict? If yes, please describe and make suggestions as to how this could be resolved or minimised.**

Yes. The separate pieces of legislation for safety and security would overlap as would the duties of the regulators responsible for same. The problems could be resolved or minimised by the adoption of the UN Regulation into Annex 17.

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