



WORKING PAPER

**DANGEROUS GOODS PANEL (DGP)
MEETING OF THE WORKING GROUP OF THE WHOLE**

Auckland, 4 to 8 May 2009

Agenda Item 5: Resolution, where possible, of the non-recurrent work items identified by the Air Navigation Commission or the panel

5.2: Exemptions

EXEMPTIONS AND APPROVALS

(Presented by G A Leach)

SUMMARY

The working group is invited to discuss the existing material in Annex 18, the Technical Instructions and the Supplement in respect of exemptions and approvals, with a view to producing guidance to States.

1. INTRODUCTION

1.1 At WG08, DGP-WG/08-WP/40 raised the issue of State of Origin approval primarily in respect of whether such approval alone should be sufficient for the transport by air of some dangerous goods. This issue is discussed further in DGP-WG09-WP/19. Also referred to in the paper was the different amounts of guidance which exists in Annex 18 and the Technical Instructions concerning the granting of exemptions and approvals, i.e. the circumstances under which exemptions can be granted is stated but there is no equivalent text for approvals. The working group supported further discussion of this issue and this working paper is offered as a thought starter.

1.2 Exemptions

1.2.1 Annex 18 and the Technical Instructions states three circumstances under which an exemption can be granted, but each one begs questions:

- a) a) *in cases of extreme urgency* — urgent to who and because of what? e.g. is it because a lack of foresight on the part of the applicant or a lucrative opportunity to ship dangerous goods at short notice; or is it for more justifiable reasons such as famine relief or other life saving activities;
- b) *when other forms of transport are inappropriate* — why would other forms of transport be inappropriate? Is it because of speed which again might be necessary

because of a late application; or is it to address a genuine emergency; or possibly because carriage by air would offer greater security;

- c) *when full compliance with the Technical Instructions is contrary to the public interest* — the public interest of who?

1.2.2 For exemptions, both Annex 18 and the Technical Instructions state that every effort has to be made to achieve an overall level of safety in transport, which is equivalent to the level of safety provided by these Instructions. This raises two questions:

- a) For some substances in the Supplement, no packing instruction or maximum net quantity is stated, so what would be an equivalent level of safety for such substances?
- b) If something is "forbidden" and thus cannot be carried (in normal circumstances), what equivalence is expected? Perhaps 1;1.1.2 of the Technical Instructions could be reviewed to distinguish between:
 - 1) when something which is normally permitted is allowed to be transported in a different but equally safe way to the Technical Instructions (e.g. when an inner packaging not listed in a packing instruction is used); and
 - 2) when something is forbidden under normal circumstances.

1.2.3 Obtaining exemptions from all States concerned can be a very lengthy time process and perhaps the time has come to review the need for the State of Overflight to be involved.

1.2.4 It is understood that the ICAO audits of States has shown a lack of understanding by many of the conditions under which exemptions should be granted and it is suggested this situation could be significantly improved with the production of clear guidance in the Supplement.

1.3 Approvals

1.3.1 As stated previously in DGP-WG/08-WP/40, neither Annex 18, the Technical Instructions or the Supplement contain any information or guidance regarding when approvals under A1, A2 etc should be granted. It is suggested the following issues could be discussed:

- a) What should a State consider prior to granting a State of Origin approval?
- b) Should dangerous goods subject to an A2 approval be restricted to cargo aircraft only?
- c) How far does the validity of State of Origin approvals extend (the subject of another working paper)?
- d) As with exemptions, what equivalence is required (in respect of a level of safety), particularly when some dangerous goods do not have packing instructions assigned to them on the Supplement.

2. ACTION BY THE DGP-WG

2.1 The DGP-WG is invited to discuss the issue raised in this paper with a view to providing guidance to States in respect of what is required of them when granting exemptions and approvals.

— END —