



DANGEROUS GOODS PANEL (DGP)

TWENTY-NINTH MEETING

Montréal, 13 to 17 November 2023

Agenda Item 9: Coordination with other panels
9.1: Flight Operations Panels (FLTOSP)

IMPROPER APPLICATION OF DEFINITION FOR PASSENGER AIRCRAFT

(Presented by the Secretary)

SUMMARY

This information paper provides feedback from airworthiness and operations experts on proposed amendments to the definition for passenger aircraft considered by the DGP.

1. BACKGROUND

1.1 The twenty-seventh meeting of the Dangerous Goods Panel (DGP/27, Montréal, 16 to 20 September 2019) developed recommendations to amend the definition for passenger aircraft in Annex 18 — *The Safe Transport of Dangerous Goods by Air* and the Technical Instructions (see paragraph 8.1.1 of the DGP/27 Report). The recommendations were made to address inconsistencies with how the definition was applied internationally when determining who could be on board a cargo aircraft carrying “cargo aircraft only” dangerous goods. The panel also developed a recommendation to request the Flight Operations Panel (FLTOSP) to consider guidance for operators on the carriage of persons, other than flight crew, on freighter aircraft for incorporation in the *Procedures for Air Navigation Services — Aircraft Operations* (Doc 8168) or another suitable document.

1.2 DGP/27 supported the amendment, but flight operations experts opposed determining who could be on board an aircraft through a definition in Annex 18 because this was an operational issue under Annex 6. The Air Navigation Commission did not support the amendment because it did not consider the rationale for modifying the definition for passenger aircraft to be relevant to the Annex 18 provisions it supported. It concluded that the operational impact from distinguishing between passenger and cargo aircraft should be addressed in the context of Annex 6 — *Operation of Aircraft*. The Air Navigation Commission requested that the Secretariat develop a short-term solution to address the inaccurate interpretation and use of the definition and tasked the Flight Operations Panel Safe Carriage of Goods Specific Working Group (FLTOSP-SCG-SWG) with addressing the broader issue. The

Secretariat subsequently developed guidance which was published on the ICAO public site (<https://www.icao.int/safety/OPS/OPS-Normal/Pages/Personsonboard.aspx>). However, panel members did not see the guidance as a solution. The issue was not yet on the work programme of the FLTOPSPS-SCG-SWG, so the problem remained.

1.3 In the absence of a solution, a new amendment was proposed to the DGP Working Group Meeting in 2023 (DGPWG/23, Rio de Janeiro, 15 to 19 May 2023) which deleted the definitions for passenger and cargo aircraft in Annex 18. It was suggested the definitions were not needed in the Annex because neither term was referred to in it. It was proposed that the definition for cargo aircraft and an amended version of the definition for passenger aircraft remain in the Technical Instructions, on the basis that they were referred to extensively in that document and were needed to differentiate between what was permitted on each type of aircraft. The proposed amendment to the definition for “passenger aircraft” was intended to provide operators with more flexibility in determining who was considered a passenger and therefore who could be on board a cargo aircraft transporting dangerous goods forbidden on a passenger aircraft. It included a provision for an operator to allow any person on board provided this was permitted within the conditions approved by the appropriate national authority. There were no strong objections to the intent of the proposal, but it was agreed that the Secretary would obtain feedback from flight operations experts given their objection to the DGP/27 recommendation to amend the definition.

2. **FEEDBACK ON AMENDMENT PROPOSED TO DGP-WG/23**

2.1 Flight operations experts within the Secretariat support deleting the definitions from Annex 18. However, they also propose deleting the definitions from the Technical Instructions and to instead include provisions explaining whether an operator can transport “cargo aircraft only” dangerous goods on an aircraft. They maintain that the dangerous goods provisions should not be prescribing who is permitted on board cargo aircraft as this is an operations/airworthiness issue. Determining who can be on board an aircraft based on definitions in the Technical Instructions could therefore conflict with operations/airworthiness requirements. It is noted that a similar subject was discussed at the eighteenth meeting of the DGP (DGP/18, Montréal, 15 to 25 October 2001) with a similar outcome, as described in the following extract from the report of the discussions:

EXTRACT FROM DGP/18 REPORT:

2.2.9 Persons Carried on Board Cargo Aircraft

The working group discussed a clarification concerning persons allowed on board cargo aircraft. It was observed that the definition for cargo aircraft in Annex 18 was purely to dictate the types of dangerous goods which could be carried on board. A number of members confirmed it should not be interpreted as overriding the pertinent airworthiness requirements for passenger aircraft, e.g if an aircraft had a cargo aircraft airworthiness certificate and air operator certification (AOC)¹, not all the persons identified through the Annex 18 definition of passenger aircraft could be carried. It was further pointed out that in order to safeguard the rights of both the passenger and operator, tickets were issued by operators as a standard practice. There was no support for making any change to the existing definition for cargo aircraft.

¹ Referring to an “cargo aircraft airworthiness certificate” appears to be an error in the DGP/18 Report. The example might be better described by stating: “depending on the conditions of the airworthiness certificate and air operator certification (AOC), not all persons identified through the Annex 18 definition of passenger aircraft could be carried”.

3. **PROPOSED WAY FORWARD**

3.1 The panel is invited to consider deleting the definitions for passenger aircraft and cargo aircraft from both Annex 18 and the Technical Instructions and developing criteria, through coordination with airworthiness and operations experts, for determining if an operator can transport dangerous goods on an aircraft packed in accordance with a packing instruction identified under column 12 and within the quantity limits identified under column 13 on an aircraft.

— END —