



WORKING PAPER

**DANGEROUS GOODS PANEL (DGP)
WORKING GROUP MEETING (DGP-WG/17)**

Montreal, 24 to 28 April 2017

Agenda Item 1: Development of proposals, if necessary, for amendments to Annex 18 — *The Safe Transport of Dangerous Goods by Air*

REVISION TO THE APPLICABILITY OF ANNEX 18

(Presented by D. Brennan)

SUMMARY

This working paper proposes a revision to Annex 18 to more clearly identify the provisions of dangerous goods training for personnel employed by all entities in the supply and additionally to reinforce that dangerous goods training also applies to personnel employed by entities that only process, handle and accept general cargo.

Action by the DGP-WG: The DGP is invited to revise Annex 18 as shown in the appendix to this working paper.

1. INTRODUCTION

1.1 This working paper continues the process of closing the safety gap that was opened when the ICAO Legal Bureau provided an opinion that dangerous goods training may not be mandatory for freight forwarder personnel who are only handling cargo.

1.2 At the sixteen working group meeting of the Dangerous Goods Panel (DGP-WG/16, Montreal, 17 to 21 October 2016), a paper was submitted, DGP.WG/16-WP/13 refers, that proposed the establishment of a small working group to review the applicability of Annex 18 and to develop proposed revisions to Annex 18 to include freight forwarders, cargo terminal operators and ground handling agents. The purpose of the review and revision was to clearly specify that employees of freight forwarders that do not knowingly process or handle dangerous goods be subject to the provisions for dangerous goods training.

1.3 The background for the paper to DGP-WG/16 is that the DGP, in 2003 at DGP/19, took a clear decision to require dangerous goods training for employees of freight forwarder by including into Part 1;3.1.1 of the Technical Instructions a definition for “freight forwarder”. Freight forwarders were

then added to Part 1;4.1.1 as being subject to the provision of initial and recurrent dangerous goods training programmes and freight forwarder personnel were included into Table 1-4 to identify that the dangerous goods training requirements applied to all personnel employed by a freight forwarder who processed or handled cargo, i.e. both declared dangerous goods as well as cargo ostensibly not containing dangerous goods.

1.4 At the time of adopting these changes the view of the DGP was that requiring dangerous goods training for freight forwarder personnel that processed or handled cargo added another level of potential detection of undeclared dangerous goods before the cargo was offered to the operator for carriage. This additional opportunity for detecting and removing undeclared dangerous goods from air transport was seen as particularly important as much of the cargo offered to the freight forwarder by the shipper was consolidated with consignments of cargo from other shippers and loaded into unit load devices before being offered to the operator.

1.5 However, the opinion provided by the ICAO Legal Bureau in late 2015 cast doubt on the enforceability through Annex 18 of the dangerous goods training provisions in the Technical Instructions. With the changes proposed to Part 1, Chapter 4 to introduce a competency-based approach to dangerous goods training and the deletion of Table 1-4, as set out in Attachment 4 to the 2017-2018 edition of the Technical Instructions there was concern that dangerous goods training for freight forwarder personnel processing or handling cargo would lose the visibility that currently exists and may be seen as not required.

1.6 It is understood that some States doubt that they can regulate, through Annex 18 and the Technical Instructions, entities that do not handle or process dangerous goods. Other States have a view that if an entity is in the possession of cargo that contains a substance or article that meets the classification criteria as a dangerous goods, then by definition they are now handling dangerous goods. Whilst the goods were not offered for air transport as dangerous goods in a manner that complied with the Technical Instructions, the entity is now one that is subject to Annex 18 through the act of handling those dangerous goods.

1.7 If the employees are not provided with appropriate dangerous goods training so that they are aware of marks or labels on cargo, or of information in documentation that may indicate the presence of dangerous goods not prepared and offered in accordance with the Technical Instructions, then these employees will not know that the “undeclared” dangerous goods must be removed from transport to prevent a potential issue inside an aircraft.

1.8 For these reasons it is believed that dangerous goods training must apply to all employees of all entities downstream of the shipper to ensure that all persons who process or handle any cargo or mail to be able to identify and remove from air transport items that are suspected of containing dangerous goods when not so declared.

1.9 Additionally, the Technical Instructions has imposed a training requirement upon freight forwarders that handle only general cargo, since 2005. The issue that has emerged is whether that obligation has an enforceable head of power through Annex 18. The proposal in this paper is one of formalising and codifying the framework that supports a widespread an endemic practice that functions in the interests of aviation safety.

1.10 If the proposal to include other entities within Annex 18 is not supported, then there must be a removal of the training requirements from the Technical Instructions. This, in turn, would result in a retrograde impact on aviation safety.

2. **ACTION BY THE DGP-WG**

2.1 The DGP-WG is invited to revise Annex 18 as set out in the appendix to this working paper.

APPENDIX

PROPOSED AMENDMENT TO CHAPTER 1 OF ANNEX 18

INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES

CHAPTER 1. DEFINITIONS

...

Flight crew member. A licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period.

Freight forwarder. A person or organization who offers the service of arranging the transport of cargo by air.

...

CHAPTER 10. TRAINING PROGRAMMES

10.1 Establishment of training programmes

10.1.1 Initial and recurrent dangerous goods training programmes shall be established and maintained ~~in accordance with the Technical Instructions~~ by or on behalf of:

- a) shippers of dangerous goods, including packers and persons or organizations undertaking the responsibilities of the shipper;
- b) operators;
- c) ground handling agencies which perform, on behalf of the operator, the act of accepting, handling, loading, unloading, transferring or other processing of cargo or mail;
- d) ground handling agencies located at an airport which perform, on behalf of the operator, the act of processing passengers;
- e) agencies, not located at an airport, which perform, on behalf of the operator, the act of checking in passengers;
- f) freight forwarders;
- g) agencies engaged in the security screening of passengers and crew and their baggage and/or cargo or mail; and

h) designated postal operators.

10.1.2 In order to prevent the entry into air transport of dangerous goods as cargo or mail not prepared in accordance with the Standards and Recommended Practices of this Annex and the detailed provisions of the Technical Instructions, initial and recurrent dangerous goods training programmes shall be established and maintained by or on behalf of entities other than a), d) or e) above that do not process, handle or accept dangerous goods.

10.2 Approval of training programmes

10.2.1 Dangerous goods training programmes for operators shall be approved by the appropriate authority of the State of the Operator.

Note.— Dangerous goods training programmes are required for all operators regardless of whether or not they are approved to transport dangerous goods.

10.2.2 Dangerous goods training programmes for designated postal operators shall be approved by the civil aviation authority of the State where the mail is accepted by the designated postal operator.

10.2.3 **Recommendation.**— *Dangerous goods training programmes required for entities other than operators and designated postal operators should be approved as determined by the appropriate national authority.*

Note 1.— See 11.4 for dangerous goods by mail.

Note 2.— See 4.2.2 of Annex 6 — Operation of Aircraft, Part I — International Commercial Air Transport — Aeroplanes for surveillance of operations by a foreign operator.

...

— END —