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Working Party on the Transport of Perishable Foodstuffs

Seventy-fourth session

Geneva, 8-12 October 2018

Item 2 of the provisional agenda

**Round table discussion on ways of improving
the functioning of the Working Party**

Round table discussion for the further improvement of WP.11

**Transmitted by the Chair of the informal working group for the
improvement of the methods of work of WP.11**

Summary

Executive summary: To improve the methods of working within the WP.11 it was decided to enhance the effectiveness and the functioning of the Working Party. For the round table discussion, to be held on the first day of the seventy-fourth session, it is foreseen to discuss main issues which will achieve this objective. The working group has developed this paper, which contains relevant discussion points. Agreement on these points and their implementation will help to achieve these objectives.

Action to be taken: Discuss and reach consensus on the topics raised on this paper.

Related documents: None

I. Introduction

1. At its seventy-third session (10-13 October 2017) the Working Party on the Transport of Perishable Foodstuffs (WP.11) decided to meet on an additional day of the next session in October 2018 for a round table discussion with the objective to improve the methods of work of the Working Party to bring ATP into line with both technological and political and

economic developments and to keep it up to date as the instrument and warrantor for high quality products and health protection worldwide.

2. This paper serves as basis for the discussion and contains major points which needs to be reflected and fruitfully discussed and decided in order to achieve the above mentioned goals.

3. The mandate given to the informal working group by the Working Party was clearly defined as follows:

- a. *Identify and discuss topics that need attention to keep the ATP up to date.*
- b. *Identify and discuss ways to further improve the functioning and effectiveness of WP.11.*
- c. *Elaborate draft documents for discussion at a round table at the beginning of the seventy-fourth session of WP.11.*

4. This document serves as a general document and it is intended to be used for the round table discussion. Each topic can be discussed and adopted by the Working Party independently.

II. Proposal

5. Identification of discussion- topics that need attention to keep the ATP up to date.

(a) Agree on a clear definition of the scope of the ATP including an opening clause/extension clause to provide flexibility to extend the scope of application if necessary.

(b) Include in the agreement a definition of "perishable foodstuffs".

(c) Agree on general definitions (in particular "perishable foodstuffs", "quality/safety"; "definition of delimitation")

(d) Agree on the elaboration of a list of goods covered by the scope of application. (see Dangerous Goods List (Table A) of ADR)

(e) To examine best practices and learned lessons from the work of other Working Parties. (Joint Meetings / Harmonization Meetings

Collaborate closely with the other subsidiary bodies of ITC, particularly the World Forum for Harmonization of Vehicle Regulations (WP.29), the Working Party on Road Transport (SC.1), the Working Party on Rail Transport (SC.2) and any other relevant ECE body on matters of common interest relating to the transport of perishable foodstuffs such as the Working Party on Agricultural Quality Standards (WP.7);

(f) Creation of informal working groups for topics in which expert knowledge is required (i.e. technical requirements for cooling systems/control systems, etc.)

Informal working groups discussing and improving certain issues. Regarding certain issues where in-depth experts-knowledge is required, it is useful and best practice in other Working Parties to create informal working groups which meet outside the plenary during the session and develop concrete proposals to resolve particular specific technical issues or issues that become known during the plenary meeting.

The agenda and the mandate for these informal working groups are given by the Working Party. Documents are presented in plenary and the Working Party might decide to send the document to be discussed in an informal working group.

After the meeting the informal working group re-joins the session of WP. 11, presenting their results/proposals, which are discussed and adopted by WP.11.

During the meetings of Working Parties dealing with the transport of dangerous Goods there are the “Tanks working group” or the “Standard working group”

(g) Check in general the significance of ISO standards for ATP (is referencing useful or deliberate contrary development of standard – keep in mind:

- Relation to global transport chain/multimodal Transport
- Might an involvement of ISO-delegation in the discussion process be necessary?
- Commission to develop standards).

(h) Check establishment of a permanent standard working group, which would revise and update the standards that are referenced or may be referenced in the ATP

(i) Achieve a common understanding, that the agreement is the instrument and warrantor for high quality products and health protection worldwide. Only by being up to the economic, technological and political developments will keep /make it attractive in order to increase the number of contracting parties globally and to achieve a greater geographical coverage of the standards of ATP. It is important to understand that nowadays other regions intend to lead the development of standards. So the Contracting Parties might wish to keep the role of proactively improve the standards of the transport of perishable foodstuff.

(j) Agree on the change of the cycle of meetings per year by having shorter meetings ex. twice a year (3 days /2 days). Advantage is the development of proposals by keeping discussion more stringent and present for participants.

(k) Agree on an extension of the cycle of amendments to two years, so that all amendments agreed on during the last two years enter into force simultaneously, and dates for new ATP versions are foreseeable (for example the 1 January of every second year).

6. Identification of discussion-topics of ways to further improve the functioning and effectiveness of WP.11.

(a) Agree on the increase of the numbers of adopted amendments by

- (i) Taking the responsibility of negotiating the proposal with other contracting parties in advance before submitting the proposals.
- (ii) Creation of informal working groups (if required) with the mandate to elaborate highly technical proposals;
- (iii) Non-unanimity in the voting system

(b) Agree on the effective use of the communication instruments

- (i) Informal Documents

Informal documents should be used as a means of written discussion in advance of a meeting.

These documents are

- submitted for information purposes and contain specific commentaries, suggestions or additional information concerning a formal document included in the agenda and are helpful to prepare discussions and know parts of argumentation regarding a specific topic already in advance.

- not translated and only available in one of the official languages as submitted,
- require no decision from the Working Party; and
 - are intended to correct errors in existing texts,
 - clarify the interpretation of existing texts; or
 - could also contain the report of an informal working group.

The author of an informal document shall indicate clearly the title of his communication, the official document to which it refers, where relevant, and the agenda item under which it should be considered.

(ii) Official Documents

- Issues to be formally decided within the session by vote or consensus.
- Content should be a fundamental issue, which is intended to lead to the change of text; either an editorial change or a change which is, in the eyes of the submitting delegation necessary due to technical development or other reasons.
- Interpretation in all official languages
- Time Schedule (to be submitted 3 months in advance)
- Content to be specified in a simple manner. References to the historic background should be used when possible.
- Authors should keep in mind all related points raised in previous discussions on the topic and have a clear idea on the points in which consensus is possible and points that need additional consideration in order to reach consensus. This information should be clearly included in the document.
- History of discussion is to be kept in mind.
- Documents could be accepted by the Working Party in general but modified in certain points by a further informal paper resulting from a lunch time working group.

If papers are not accepted the submitting Contracting Party will get an explanation in the report, usually with the remark to come back with a modified document, taking into account all comments made during the session. This helps to keep the discussion open and to bring forward the issue.

(iii) Discussion in meeting

- Keeping in mind the content of a solution-oriented discussion-process.
- Knowing and reflecting the different points and argumentation in advance.
- Willingness of a consensus-based development under acceptance of self-reflected and compromised solution.
- Unification of different objectives under equalised legal basis.
- Find new ways of compromising and negotiating with other Contracting Parties to increase the number of proposals of amendments adopted at each session.

(iv) Multilateral Agreements /Bilateral agreements

- Elaborate a common instrument which take into account climatic differences among contracting parties, e.g. include in the proposal several options for different outside temperature, include in the ATP certificate the range of outside temperature for which the special equipment is certified, etc.
- Increase the use of Multilateral Agreements
- Discuss also the modification of Article 7 of the agreement to a more flexible drafting to make better use of the possibility of multilateral agreements, taking into account the main temperature requirement e.g.

“The Contracting Parties reserve the right to enter into bilateral or multilateral agreements to the effect that provisions applicable to special equipment, more particularly by reason of special climatic conditions, ~~be more stringent than be different than those prescribed in this Agreement provided that compliance with the provisions applicable to the temperatures at which certain foodstuffs are required to be carried is not impaired.~~ Such provisions shall apply only to international carriage between Contracting Parties which have concluded bilateral or multilateral agreements as referred to in this article. Such agreements shall be transmitted to the Secretary-General of the United Nations, who shall communicate them to Contracting Parties to this Agreement which are not signatories of the said agreements. Multilateral agreements establishing conditions less stringent than the ones of this Agreement can have a maximum duration of 5 years and cannot be renewed.

(c) Decision-making procedure within the ATP itself

As many other delegations in the past, the informal working group considers useful to reconsider the change of unanimity rule in the ATP Agreement once again. As the Working Party has already decided to vote in favour of the changement of the unanimity rule in the rules and procedures, it seems logical and stringent to also change the Art. 18 par. 4,5 and 8 of the agreement. For this purpose, two alternative texts are proposed:

Alternative A

To reproduce the proposal last tabled by the delegation of Belgium, the working party may agree on the following:

“4. If an objection to the proposed amendment to the Articles to this Agreement is stated or at least three objections are stated to the proposed amendment to the Annexes to this Agreement in accordance with the terms of paragraphs 2 and 3 of this article, the amendment shall be deemed not to have been accepted and shall be of no effect.

5. If no objection to the proposed amendment to the Articles to this Agreement has been stated or less than three objections have been stated to the proposed amendment to the Annexes to this Agreement when a majority of votes are in favour, in accordance with paragraphs 2 and 3 of this article, the amendment shall be deemed to have been accepted on the date specified below:

...

8. Independently of the amendment procedure laid down in paragraphs 1 to 6 of this article, the annexes and appendices to this Agreement may be modified by agreement between the competent administrations of all the Contracting Parties or if less than three objections have been stated to the proposed amendment. If the administration of a Contracting Party

has stated that under its national law its agreement is contingent on special authorization or on the approval of a legislative body, the consent of the Contracting Party concerned to the modification of an annex shall not be deemed to have been given until the Contracting Party has notified the Secretary-General that the necessary authorization or approval has been obtained. The agreement between the competent administrations may provide that, during a transitional period, the old annexes shall remain in force, wholly or in part, concurrently with the new annexes. The Secretary-General shall specify the date of the entry into force of the new texts resulting from such modifications.”.

Alternative B

Include into ATP agreement the same restrictions that apply for other UN agreements (see for example ADR):

“4. In accordance with the terms of paragraphs 2 and 3 of this article, the amendment shall be deemed not to have been accepted and shall be of no effect if:

- an objection to the proposed amendment to the Articles to this Agreement is stated*
- at least one-third of the Contracting Parties, or five of them if one third exceeds that figure, object to the proposed amendment to the Annexes to this Agreement.*

5. In accordance with paragraphs 2 and 3 of this article, the amendment shall be deemed to have been accepted if

- no objection to the proposed amendment to the Articles to this Agreement has been stated*
- less than one-third of the Contracting Parties, or five of them if one third exceeds that figure, object to the Annexes to this Agreement and a majority of votes are in favour,*

on the date specified below:

...

8. Independently of the amendment procedure laid down in paragraphs 1 to 6 of this article, the annexes and appendices to this Agreement may be modified by agreement between the competent administrations of all the Contracting Parties or if less than one-third of the Contracting Parties, or five of them if one third exceeds that figure, object to the proposed amendment. If the administration of a Contracting Party has stated that under its national law its agreement is contingent on special authorization or on the approval of a legislative body, the consent of the Contracting Party concerned to the modification of an annex shall not be deemed to have been given until the Contracting Party has notified the Secretary-General that the necessary authorization or approval has been obtained. The agreement between the competent administrations may provide that, during a transitional period, the old annexes shall remain in force, wholly or in part, concurrently with the new annexes. The Secretary-General shall specify the date of the entry into force of the new texts resulting from such modifications.”.

Justification

The proposals for discussion are necessary and useful to achieve the objective to improve the methods of work of the WP to bring ATP into line with both technological and political and economic developments and to keep it up to date as the instrument and warrantor for high quality products and health protection worldwide.
