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Working Party on Customs Questions
affecting Transport

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**INTERNATIONAL CONVENTION ON THE
HARMONIZATION OF FRONTIER CONTROLS OF GOODS, 1982
("HARMONIZATION CONVENTION")**

Preparation of a new Annex on efficient border crossing procedures

**Obligations and responsibilities of the carriers of perishable foodstuffs
in approved ATP vehicles**

Transmitted by Transfrigoroute International

A. BACKGROUND

1. The carriers of perishable foodstuffs in ATP vehicles have the same responsibilities as all other road haulage contractors and, in addition, specific obligations and responsibilities due to the nature of the cargoes.

B. OBLIGATIONS OF ATP CARRIERS

2. A perishable foodstuff is a foodstuff of which the initial hygienic quality and/or commercial properties are preserved longer if it is kept permanently at a constant temperature, also while been transported, which differs from the ambient temperature and is lower than the latter in order to preserve the wholesomeness of the foodstuff.

3. It should be noted that this definition can be extended to certain other products liable to deterioration of agricultural origin, such as cut flowers which are loaded in ATP vehicles. It highlights two fundamental criteria which carriers are obliged to respect:

- The link between the transport temperature and the wholesomeness of the foodstuffs.
- The link between the temperature and the duration of the marketing.

I. Wholesomeness of the cargo

4. The carrier is obliged to ensure the preservation of the state of wholesomeness of the cargo from the time it is accepted until its delivery to the consignee.

(a) At the time of loading

5. The vehicle body must be in a clean state so that the microbial risks (due in particular to pathogenic germs), the physical risks and the chemical risks may be controlled.

6. The goods must be loaded at the required temperature (prescribed temperature or contractual temperature, as entered in the transport documents).

(b) During transport

7. The cargo must be kept at the required temperature which means that the refrigerated vehicle must work normally permanently, including during stops. This obligation is, in particular, important when it is a matter of refrigerated goods of animal origin.

II. Duration of marketing

8. The duration of the marketing of a perishable foodstuff depends on its nature, its packaging and the required temperature at which it is kept. One of the objectives of trade is that the remaining period available for retail sale and the use of perishable foodstuffs by consumers in a good, wholesome state should be as long as possible. That is why ATP carriers are obliged to transport loads of perishable foodstuffs in the shortest time. Every unjustified delay may be the cause of serious harm.

C. RESPONSIBILITIES OF ATP CARRIERS

9. Starting out from the definition of perishable foodstuffs, it is possible to deduce four arguments, which can lead to the carrier's criminal or financial responsibility.

I. Argument with respect to the maintenance of wholesomeness

10. Certain perishable foodstuffs in a good hygienic state when the load is accepted, which are kept too long or (and) at an unusually high temperature, can become toxic and thus unsuitable for consumption.

II. Argument with respect to the maintenance of commercial qualities

11. If the term of the marketing of the perishable foodstuffs is unusually prolonged and/or if the temperature is abnormally high, quite apart from the health risk, their properties and (or) their commercial value will be reduced on account of the loss of nutritional qualities (of vitamins, for example) and (or) organoleptic qualities (change in colour and appearance, modification in taste and aroma, etc.) and (or) loss of mass (withering, decay, mildew, etc.).

III. Argument with respect to the protection of the environment

12. The obligation to keep the refrigerating machine in operation, even while the vehicle is stopped, lead locally to an increase in air pollution with the discharge of CO₂ by the motor of the refrigerating machine (contribution to the greenhouse effect) and the emission of noise that may be judged as being excessive. The noise made by the refrigerating machine of a semi trailer is around 65 to 70 decibels. There may be incompatibility between the technical obligation to keep the refrigerating machine running and local regulations stipulating the stoppage of any engines in order to reduce the noise nuisance.

IV. Commercial argument

13. Apart from the financial impact of waiting times (salary, amortisation, fuel, etc.), every unjustified delay in delivery can be a cause of damage or dispute when it is a matter of just-in-time transport (no stock), as is the case with supermarkets.

D. CONCLUSION

14. The obligations and responsibilities of the carriers of perishable goods in ATP vehicles justify keeping the duration of control formalities when crossing frontiers to a minimum.
