

# WP.11/2009/65/INF.5

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## ECONOMIC COMMISSION FOR EUROPE

### INLAND TRANSPORT COMMITTEE

#### Working Party on the Transport of Perishable Foodstuffs

Sixty-fifth session  
Geneva, 27-30 October 2009  
Item 7 of the provisional agenda

#### Passages from old documents which may be of relevance to items currently under discussion

#### Note by the secretariat

In response to questions posed by one delegation, the secretariat has looked into old WP.11 documents for indications of the original intentions of WP.11 regarding the definition of "perishable foodstuffs", the sea crossing and other issues. Any passages which seem relevant are reproduced below the question with an indication of the symbol and the date of the document in which they were found.

#### **1) Can you find documents which clarify the meaning of "perishable foodstuffs". (Art. 1)**

**At this moment the range of foodstuffs is limited to those which can make people sick or die when consuming them perished. However in the text of the treaty the word "perishable" relates only to the word "foodstuffs" and by doing so cannot be the reason for the limitation of the range.**

**However the limitation of the range of foodstuffs seemed to be very clear to our predecessors.**

*Source: The "Survey on Transport of Perishable Foodstuffs" (E/ECE/TRANS/WP.11/1, 2 May 1949) issued at the first session of WP.11), uses the following definition:*

"What should the term "perishable foodstuffs" be taken to mean:

All animal or vegetable products are generally perishable in varying degrees. For the present study, however, it has been thought best to limit the designation "perishable foodstuffs" to foodstuffs – in most cases directly consumable – characterized by their natural freshness, their vitamin content and by the fact that they can be consumed in their original state without any other treatment than, possibly, ordinary cooking.

Fruit and vegetables, freshly caught fish, meat of newly slaughtered animals, eggs collected as soon as possible after laying, cream straight from the separator and butter straight from the churn are all perishable foodstuffs which call for consumption immediately after procurement or production, at their peak of freshness. If left to themselves in normal atmospheres and at normal temperatures, these foodstuffs, within a matter of hours, become a prey to mould, fermentation and decay by reason of their cellular structure and the texture of their vegetable or animal tissues, with the result that their smell and subsequently their taste very soon renders them unfit for any form of consumption; hence the term "perishable foodstuffs".

When these foodstuffs are not immediately consumed, however, their edibility can be prolonged by various preservation methods and they can still be marketed on a large scale for consumption purposes. Of these methods, refrigeration calls for special mention. If a perishable foodstuff is stored under atmospheric conditions specially regulated in regard to humidity and temperature, its natural qualities can be maintained for a period varying from several days to several months without any effect on the product's physical, chemical and biological characteristics.

Hence, with the aid of the refrigeration industry, all perishable foodstuffs can be kept fresh either by chilling, freezing or quick (deep) freezing.

In the two former cases, the foodstuffs are put in cold storage without any prior treatment which might affect their internal structure, or even, in many cases, their outward appearance. In the case of quick (deep) freezing, such as would require them to be subjected to temperatures well below their freezing point, industrial treatment of some kind may need to be applied.

Whatever the form of refrigeration, however, one essential condition must always be observed: only sound and fresh products must be treated. Cold is not a restorative agent: it is a physical agent which merely stabilizes quality over a period of time."

*Source: Resolution No. 193 adopted on 13 December 1957 by the Inland Transport Committee, Annex, Appendix 1 contains the following definitions:*

"Annex – Appendix 1  
DEFINITION OF PERISHABLE FOODSTUFFS

1. General definition of perishable foodstuffs

Perishable foodstuffs are foodstuffs which, by reason of their physical, chemical and biological instability and, possibly, of the reduction in temperature that they have undergone, are sensitive to atmospheric conditions and particularly to temperature; such foodstuffs require special precautions in the chain of operations from production to consumption in order to prevent or limit the deterioration they may suffer.

2. Fresh foodstuffs

Foodstuffs which have not received any treatment that might alter their natural condition: their temperature, which is always that of their freezing point or higher, may be either that of the outside atmosphere or that to which they have been brought by thermal treatment (cooling or, in the case of bananas and pineapples, warming).<sup>1</sup>

3. Frozen foodstuffs

Foodstuffs which have been subjected to a refrigeration process to reduce their temperature to -7°C or lower and which, in order to retain the condition of frozen foodstuffs, must be kept at a temperature of -7°C or lower, but above -18°C.

4. Deep-frozen foodstuffs

Foodstuffs which have been subjected to a refrigeration process to reduce their temperature to -18°C or lower (-20°C for fish and concentrated fruit juices) and which, in order to retain the condition of deep frozen foodstuffs, must be kept at a temperature of -18°C or lower (-20°C for fish and concentrated fruit juices)."

**2) Can documents be retrieved which answer the question why transport by inland waterways is not included. The agreement is now applicable only to transport by road and rail (Art 3 para 1).**

**A possibility is that when drafting the original agreement transport by inland waterways was not existent. Now in the time of containerization and change to less polluting means of transport, inland waterway transport is a fact. The exclusion may cause uneven competition between the modes of transport and risks for public health outside the EU.**

*Source: In the "Survey on Transport of Perishable Foodstuffs" (E/ECE/TRANS/WP.11/1, 2 May 1949) issued at the first session of WP.11), the following is stated regarding inland waterways:*

"Inland Waterways

Except in a small number of cases, the tonnage and value of perishable foodstuffs carried by inland waterways are not very great.

Mention should however be made of the idea, conceived at the beginning of the last war, of thermally insulating a number of barges and of using them, with or without refrigerating equipment, for the conveyance and storage of certain frozen products.

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<sup>1</sup> This category also includes, as exceptions, certain foodstuffs such as bacon and smoked fish which, although they have received treatment (smoking or salting) that has altered their original natural conditions, nevertheless remain perishable in the sense of the general definition of perishable foodstuffs.

At the same time, other types of craft, specially designed for inland water traffic, were constructed for the purpose of transporting large quantities of quick (deep) frozen products, particularly on the Danube and the Oder. For traffic of this kind, constancy of temperature is the sole major consideration and speed of transport is of minor importance.

This traffic does not appear to have survived the war period though it is reported that one highly insulated barge is in operation on the Rhine."

**3) It is not clear what was intended by the wording "sea crossings" (Art 3, para 1).**

**A definition is missing. Is the crossing of a wide river or an estuary, which can be contain fresh and salt water depending on the tide, be also a sea crossing? Is the Channel Tunnel between France and the United Kingdom a sea crossing or the bridge between Denmark and Sweden?**

**4) The above-mentioned sea crossings within the scope of the agreement are limited to 150 kilometres. (Art. 3, para 2)**

**It is not clear why this specific distance was chosen!**

**Is 150 km because of being the longest sea crossing between the early contracting parties (Netherlands and United Kingdom, United Kingdom and Ireland), because additional cooling/freezing on transport vehicles on board of ships was not possible or was there a conflict in marine legislation at that time?**

*Source: Report of the Working Party on its twenty-first session, 20 July 1967 (TRANS/WP11/164, paras. 39 – 41)*

"39. The United Kingdom Government requested that the phrase "... of less than 150 km ..." should be deleted, as most of the sea crossings between the United Kingdom and the Continent exceeded 150 km.

40. The Working Party noted that, if accepted, the United Kingdom proposal would be tantamount to making the Agreement applicable to ocean shipments without any limitation as to distance, whereas the authors of the Agreement had in mind merely ocean shipments over short distances, linking up with land transport operations.

41. It was recalled that ,generally speaking the competence of the Inland Transport Committee did not extend to ocean transport. However, the Committee could in certain cases study questions concerning ocean transport provided that it did so in consultation with the competent specialized agency – in the present instance the Inter-Governmental Maritime Consultative Organization (IMCO)."

*Source: Report of the Working Party on its twenty-second, 25 October 1967 (TRANS/WP11/167 para.13)*

"13. The Working Party considered the case where a sea crossing, as envisaged, between an island and a mainland country of whose territory the island formed part was more than 150 km long. It took the view that such cases might be settled through unilateral declarations, by the Contracting Parties concerned, specifying the sea crossings to which the Agreement would apply..."

*Source: Report of the Working Party on its twenty-fifth session, 24 April 1969 (TRANS/WP11/174, para.13)*

"13. After a thorough examination of the various aspects of the problems involved, the Working Party unanimously decided that

(a) land crossings by container, preceded or followed by one or more sea crossings, other than those referred to in article 3, paragraph 2, should not be subject to the provisions of the Agreement. For this purpose, an extra article (new article 5 – see para. 22 of this report) has been added to Chapter III of the draft Agreement.

(b) Except in the case of the sea crossings referred to in article 3, paragraph 2, land/sea/land transport, with or without reloading of the goods at the end of the sea crossing(s) should not be subject to the provisions of the Agreement if the land transport operations in question are not in themselves of an international nature.

(c) In view of (a) and (b) above, it was no longer necessary to treat sea crossings "between the United Kingdom and the Continent of Europe across the Channel and the North Sea" as land transport operations."

*Source: Report of the Working Party on its 24<sup>th</sup> session, 16-20 December 1968 (TRANS/WP11/172, para.25), i.e. just before the adoption of the Agreement*

"25. The Working Party considered whether, as a result of the wording it had previously adopted for this paragraph, the Agreement might not be applicable to excessively long sea crossings (for example, intermediate sea crossings between Greece or Sicily and the United Kingdom), whereas the initial amendment to this paragraph had been intended to make the Agreement applicable to sea crossings of over 150 km linking Channel or North Sea ports with United Kingdom ports."

**5) There is confusion on the application of the two class limits for insulation in Article 1 Annex 1. Is the mentioned insulation factor (K-coefficient) applicable to new equipment only or also to equipment which is in use?**

**There is discussion as to whether these values were to be respected during the lifetime of the equipment or only when new. The text gives no reason for assumptions that in use higher or worse figures were allowed for equipment in use nor is it stated that it is not allowed. Our predecessors felt very confident that**

**during the lifetime higher or worse values could be allowed, probably because they knew the origin of this provision.**

No relevant information found.

**6) What was the intention of the wording “registered or recorded” in Annex 1, Appendix 1 article 4.**

**Only in the first paragraph of art 4 is it stated Registered AND recorded. In the other places this wording is used it says “registered OR recorded”.**

**Which one is correct “AND” or “OR”. At this moments some contracting parties do require a combination of national vehicle registration and ATP Certificate issued by the same country while others issue ATP Certificates for vehicles with foreign vehicle registration. Was the wording “registered or recorded” used to express both ways?**

No relevant information found.