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## Economic Commission for Europe

### Inland Transport Committee

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

##### Sixty-eighth session

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Items 5 (b) and 7 of the provisional agenda

#### Proposals of amendments to the ATP: New proposals and Scope of ATP

### Amendments to article 3 of ATP regarding the introduction of a definition of perishable foodstuffs

#### Transmitted by the Government of the Russian Federation

##### *Summary*

**Executive summary:** Under article 3 of ATP, the scope of the current Agreement applies only to the carriage of the types of quick (deep)-frozen, frozen and chilled perishable foodstuffs referred to in annexes 2 and 3 of ATP.

Clearly, in order to improve the conditions for preserving quality during carriage — a fundamental objective of the Agreement — the scope of ATP can and should be extended to apply to the carriage of any perishable foodstuffs.

To extend the scope of ATP, “perishable foodstuffs” needs to be defined in the text of the Agreement.

**Action to be taken:** Propose for discussion by the Working Party a definition of perishable foodstuffs and its placement in ATP.

**Related documents:**

1. Annex 4, “Rules on the carriage of perishable goods” of the Agreement on International Railway Freight Communications (SMGS);
2. Russian Federation health and epidemiological rules and standards, SanPiN 2.3.2.1324-03 “Hygiene requirements pertaining to the shelf life and storage conditions of foodstuffs”;
3. Rules on the carriage of perishable goods by rail, approved by Ministry of Transport Order No. 37 of 18 June 2003 (registered with the Ministry of Justice on 19 June 2003, No. 4762).

## Introduction

1. On numerous occasions, Russian specialists have encountered a problem, as the Contracting Parties to ATP have different interpretations of the term “perishable foodstuffs”, used in the Agreement.

2. The differing interpretations of the term prevent an effective discussion of proposals to extend the scope of ATP to perishable foodstuffs not currently listed in annexes 2 and 3. This specifically has blocked progress for several years in discussions on the inclusion of a new annex on the carriage of fresh fruit and vegetables.

3. In the view of the Russian Federation, a definition of perishable foodstuffs should be included in ATP for the following reasons:

- As stated above, annex 3 of ATP does not contain a complete list of chilled perishable foodstuffs. There is no mention of sour cream, cottage cheese, cheese from sheep’s milk (bryndza); mayonnaise, other sauces, hard, soft, salty and processed cheeses containing rennet; eggs and egg mixture, grape wines, wines of other fruits and berries, champagne, non-alcoholic beverages, conserved fruits ready for consumption (as referred to in annex 3, footnote 5, of ATP), margarine, spreads, melted fat blends; baking, cooking or confectionery fats; pasteurized and sterilized fruit and vegetable juices; pasteurized beer; hot- and cold-smoked fish, as well as salted fish, in particular herring, and many other foodstuffs. Additions are therefore required to the list of chilled perishable foodstuffs which may be carried in the special equipment to be used for such carriage.
- Annex 3 of ATP refers only to the maximum air temperatures allowed in special equipment during the carriage of chilled foodstuffs. Appropriate values should also be added for the minimum air temperature, since to maintain the quality of chilled foodstuffs, both in storage in general and during transportation, it is specifically the range of allowed temperatures that is critical.
- There is inconsistency between the list of frozen perishable foodstuffs in annex 2 and the list of chilled perishable foodstuffs in annex 3. Whereas perishable foodstuffs carried in a chilled state are listed in annex 3 by name, those in a frozen state (at temperatures significantly below freezing) are referred to in annex 2 only in terms of their thermal state (except for ice cream, fish, fish products, molluscs, crustaceans, butter and concentrated fruit juice) as frozen or quick(deep)-frozen.

It is clear that unless a definition of perishable foodstuffs is added, the problems mentioned above will persist in the future, calling into question whether ATP is actually relevant to the carriage of the perishable foodstuffs it nominally covers.

Adding a definition of perishable foodstuffs in ATP will avoid the need to list specific perishable foodstuffs in the Agreement and to regularly update and/or revise such a list, in line with the following:

- The carriage of perishable foodstuffs is one stage of the storage process and the temperature of perishable foodstuffs during transportation must not go beyond the storage temperature limits stipulated in relevant standards on foodstuffs (“an unbroken cold chain” from production to sale is one of the basic tenets of the International Institute of Refrigeration).
- The carriage of perishable foodstuffs is only one contributing factor in the storage process and in the need to subsequently sell the goods. To carry such goods, cargo owners and consignors must have special transport equipment compliant with the temperature conditions required under the relevant instruments (or standards). The

classification of types and classes of special transport equipment and the norms and requirements pertaining to them have been drawn up and set out in ATP for this very reason.

It would therefore be appropriate to exclude from annexes 2 and 3 of ATP the specific names of perishable foodstuffs and the requirements governing their carriage temperatures. When choosing a type and class of special transport equipment and the temperature conditions in its cargo space, a cargo owner must comply with the standards for that cargo at the given time of year. This principle is already found in annexes 2 and 3 of ATP:

- In annex 2 of ATP, most perishable foodstuffs are designated solely by their thermal state; the requirements for their storage temperature conditions, and accordingly for their carriage, are explicitly regulated by the appropriate standards
- Sections III and VI of annex 3 of ATP establish that the temperature may be set at a level “indicated on the label and/or on the transport documents”

4. Russian specialists have found a definition of a term akin to perishable foodstuffs in only one international document – annex 4, entitled “Rules on the carriage of perishable goods”, of the Agreement on International Railway Freight Communications (SMGS), which reads: “*Perishable goods’ refers to goods which during carriage require measures (cooling, heating, ventilation) to protect them from the effect of high or low temperatures, or particular care or maintenance.*”

5. That, notwithstanding, definitions of the term may well be found in the national legislations of Contracting Parties to ATP.

6. Russian legislation includes the following definitions:

Under the health and epidemiological rules and standards, SanPiN 2.3.2.1324-03 “Hygiene requirements pertaining to the shelf life and storage conditions of foodstuffs”: “*Foodstuffs are considered perishable if they require special temperature or other conditions and regulations to preserve their quality and safety, without which they undergo irreversible change detrimental to consumer health or leading to spoilage.*”

Under the Rules on the carriage of perishable goods by rail: “*Perishable goods’ refers to goods which, during carriage by rail, require protection from the effect of the high or low temperatures of the ambient air, or particular care or maintenance during transit.*”

It is clear that perishable foodstuffs and perishable goods are synonyms in this context.

7. Given, on the one hand, that international regulatory instruments lack a definition of perishable foodstuffs, and on the other hand, the need to extend the scope of ATP, there is clearly a need to introduce a definition of the term in the text of ATP itself.

8. The Russian Federation has therefore prepared a proposal to be discussed by participants of the Working Party on the Transport of Perishable Foodstuffs (WP.11) as an informal document, with the aim of drawing up an official proposal in the future.

## Proposals

9. Add the following paragraph to article 3 of ATP:

3. “*Perishable*” in this Agreement refers to foodstuffs requiring temperature conditions to preserve their quality and safety during storage and carriage, without which they undergo irreversible change detrimental to consumer health or leading to spoilage.

*The temperature conditions shall be established by the cargo owner or consignor on the basis of the standards or documentation requirements of the producer of the perishable*

*foodstuffs or the requirements indicated on the product's markings (its label), and shall be indicated in the transport documents.*

10. In article 3 of ATP, change the numbering so that old paragraph 3 becomes new paragraph 4.

## **Justification**

11. In the definition of perishable foodstuffs provided in paragraph 9 of this informal document, reference is made only to compliance with temperature conditions during the carriage of perishable foodstuffs, as there is no intention to use ATP for any other purpose.

12. The Russian specialists have taken into account the need to maintain the quality and safety of perishable foodstuffs at every stage – from production to the moment the goods are sold to the consumer. In this case, carriage has to be considered as one of the stages of the product's storage. As a consequence, if the producer of the perishable foodstuffs has set no requirements for temperature conditions for the carriage of the perishable foodstuffs in the standards or documentation, and there are none in the markings (or on the label), the corresponding requirements for the storage of the perishable goods must be applied, either as set out in the standards or documentation or in the markings (on the label).

13. Maintaining the quality of perishable foodstuffs is intimately related with the safety of such goods. With spoilage and diminished quality, they may not only lose their properties to a greater or lesser extent; they can also become dangerous for humans as pathogenic bacteria develop. In other words, safety is only possible by maintaining quality, and the same set of measures is required for both. When defining perishable foodstuffs, the Russian specialists have thus addressed both concepts — quality and safety — as they are inextricably linked.

## **Costs**

14. No costs. No new requirements are introduced for the carriage of perishable foodstuffs apart from those mentioned in the producer's standards and documentation, or the requirements indicated on the markings (or the label). Compliance with these is the carrier's responsibility.

## **Feasibility**

15. The proposed amendments will create better conditions for achieving the main objectives of ATP and expanding its scope in the future.

## **Enforceability**

16. Use of the proposed definition of perishable foodstuffs will make it possible to identify both the need to use special transport equipment to carry goods of a certain kind and also the type of equipment required. The Russian specialists are of the view that on the one hand, this will allow a new more flexible approach to extending the scope of ATP, foregoing the need for tables of temperature values in annexes 2 and 3, and, on the other hand it will ensure strict compliance with quality and safety requirements for perishable foodstuffs on the basis of producers' standards and documentation or markings on the product (or the label).