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Working Party on the Transport of Perishable Foodstuffs

Seventieth session

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Item 5 (a) of the provisional agenda

Proposals of amendments to ATP: Pending proposals

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:** There is no definition of the term “perishable foodstuffs” in ATP, which deals with the international carriage of perishable foodstuffs and the special equipment to be used for such carriage.
- Action to be taken:** Propose for discussion by the Working Party a definition of the term “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. At the sixty-ninth session of WP.11, the Russian Federation submitted working document ECE/TRANS/WP.11/2013/8, proposing that participants should take up for consideration a definition of “perishable foodstuffs”, which is lacking in ATP.

During the discussion of the proposal by the Russian Federation, many countries found it stood to reason that a definition of “perishable foodstuffs” should be included in ATP. However, although some countries in fact endorsed defining the term, they expressed their disagreement with including a definition in ATP, as they were concerned that a definition of “perishable foodstuffs” in ATP would widen the scope of ATP and increase related costs (2 of the 18 countries present voted against the proposal: the Netherlands and the United States of America).

It should be recalled that, at the same session, the Russian Federation had also submitted working document ECE/TRANS/WP.11/2013/7, with proposals to extend the requirements of ATP to all perishable foodstuffs intended for human consumption and requiring specific temperature conditions during storage and carriage, without exception, not just the “certain” perishable foodstuffs referred to in the heading of chapter II of ATP and listed in annexes 2 and 3 to ATP. The participants at the sixty-ninth session of WP.11 therefore considered ECE/TRANS/WP.11/2013/8, which concerned only whether to include a definition of “perishable foodstuffs” in ATP, together with and in the context of ECE/TRANS/WP.11/2013/7.

Given that there were no objections to the definition of “perishable foodstuffs” proposed by the Russian Federation, it is once again submitting a working document with a definition of the term at the seventieth session of WP.11.

2. The Russian Federation considers that, as the proposal to define “perishable foodstuffs” and the proposal to extend the scope of ATP to all perishable foodstuffs without exception are in no way linked, they should be taken up separately rather than in the context of each other.

Essentially, the definition of the term does not depend on whether the definition covers all perishable foodstuffs or only some of them. While the term “perishable foodstuffs” is mentioned numerous times in ATP, the requirements of ATP extend to only some of them.

Regardless of whether or not the scope of ATP is extended to all perishable foodstuffs in the future, a definition of the term must be contained in ATP, even if the term applies only to the perishable foodstuffs referred to in annexes 2 and 3 of ATP.

Any document in which a term is mentioned must contain a definition of the term. Otherwise, it would be unclear why one requirement or another would be necessary for an object referred to by a given term if it is not known what the object is.

It is the notion of an object (a physical body, a phenomenon, etc.) that provides its definition. A definition is a statement that conveys the meaning, nature and principal features of something. For example, a definition of thermometer would indicate that it is an instrument for measuring temperature.

The Russian experts hope that including a definition of “perishable foodstuffs” in ATP will enable the Contracting Parties to ATP to understand and apply the term unambiguously.

3. A definition of “perishable foodstuffs” is given in the following documents:

Annex 4, entitled “Rules on the carriage of perishable goods”, of the Agreement on International Railway Freight Communications (SMGS) of the Organization for Cooperation between Railways, of which 20 out of its 27 members are also Contracting

Parties to ATP (Albania, Azerbaijan, Belarus, Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Poland, Republic of Moldova, Romania, Russian Federation, Slovakia, Tajikistan, Ukraine and Uzbekistan), as follows: “*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*”;

The 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”: “*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 (regulatory act of the Russian Federation): “*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 the context of this issue.

The experts from the Russian Federation believe that definitions of the term may well also be found in the national law of the Contracting Parties to ATP.

4. The Russian Federation considers that ATP itself, as an Agreement devoted to ensuring the quality of perishable foodstuffs during transport, clearly must include a definition of “perishable foodstuffs”.

5. In view of the above, the Russian Federation has prepared a working document on this issue, which it is submitting for discussion at the seventieth session of WP.11.

Proposals

6. 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 in special transport equipment intended for the carriage of perishable foodstuffs shall be established ~~by the cargo owner or consigner~~ 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.”

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

Justification

8. In the definition of perishable foodstuffs provided in paragraph 6 of this 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.

9. Transport is one of the stages in the storage chain of a product. Consequently, in the absence of specific requirements for temperature conditions for the carriage of perishable

foodstuffs in the standards or documentation issued by the producer or in their markings (or labels), the corresponding requirements for their storage must be applied.

10. An analysis of the many scientific sources indicates that:

Quality and safety are indivisible;

“Quality” and “safety” are a single package, but can also be independent terms;

Safety is possible only if quality is maintained;

There can be no quality without safety; however, quality is a broader concept than safety.

The Russian Federation believes that the notion of food quality encompasses the idea of food safety, i.e. foodstuffs cannot be regarded as quality foodstuffs unless it has been proven that they pose no potential risk to human health or life. In the definition of “perishable foodstuffs”, the Russian Federation has thus used both concepts, “quality” and “safety”, as they are inextricably linked.

Costs

11. None. 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

12. This will allow for a clear-cut interpretation of “perishable foodstuffs” by the Contracting Parties to ATP and all users of the Agreement.

Enforceability

13. It will enable parties to ATP to hold a more productive discussion in the future on the various aspects of ATP based on a common understanding of the term “perishable foodstuffs”.
