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INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Perishable Foodstuffs

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Item 5 (a) of the provisional agenda

**PROPOSALS OF AMENDMENTS TO THE AGREEMENT ON THE INTERNATIONAL
CARRIAGE OF PERISHABLE FOODSTUFFS AND ON THE SPECIAL EQUIPMENT TO
BE USED FOR SUCH CARRIAGE (ATP)**

Pending proposals

Articles 3 and 5*

Transmitted by the Government of Finland

Background

1. At the 63rd session of WP.11, Finland proposed amendments to Article 3 of ATP (see document ECE/TRANS/WP.11/2007/11). The proposal was related to the length of the sea crossing mentioned in paragraph 2 of Article 3. During the meeting, it became clear that the proposal could not be accepted as it was. Instead, an Informal Working Group was established to re-draft the proposal and also take into account the connection to Article 5 of ATP. The group,

* The present document is submitted in accordance with the Programme of Work for 2008-2012 of the Inland Transport Committee (ECE/TRANS/2008/11, Item 2.11 (a)) which calls for the "Consideration of amendment proposals to ATP to ensure it is updated as necessary".

lead by Finland, met in Helsinki on 21-22 May 2008. Representatives of the following countries were present: Denmark, Finland, Netherlands, Russian Federation, Slovak Republic and United Kingdom. Based on the work of the Informal Working Group whose report appears in ECE/TRANS/WP.11/2008/3, Finland has prepared the following new proposal.

2. Finland and the Informal Working Group would like to point out that changing the Articles of the ATP is difficult because the Articles are the legal portion of the Agreement and therefore any change would need legal approval and changes to domestic legislation by Contracting Parties. However, the necessity of the changes is obvious as described below.

3. Finland would also like to stress that the purpose of the proposed amendments is not to affect the status and use of “containers classified as thermal maritime” mentioned in Article 5 of ATP. Because Articles 3 and 5 of ATP are linked, it is necessary, if Article 3 is amended, also to amend Article 5 to keep its meaning unchanged.

Justification

4. According to the present text of Article 3 of ATP, if land journeys in land transport equipment and without transloading of the goods, are separated by a sea crossing of at least 150 km, each land journey is considered separately. This means that ATP does not apply at all to such international transport in land transport equipment, where land journeys do not cross borders but are separated by a sea crossing of at least 150 km.

5. As an example, goods can be loaded in the southern part of Germany, then cross the Baltic Sea on a Ro-Ro ship before being finally unloaded in the northern part of Finland. The total length of such a journey could be more than 3,000 km and it might last more than four days, but because of the present “150 km rule”, using ATP equipment is not required. Only national regulations apply.

6. Because a significant amount of foodstuffs transported to and from Finland crosses the Baltic Sea and land transport equipment on Ro-Ro ships is commonly used for such transport, Finland considers that food safety could possibly be endangered if transport equipment is used which has never fulfilled ATP requirements or for which ATP classification has expired.

7. It is hard to understand why transport between exactly the same points must be done in ATP equipment if, instead of a sea crossing, a land route is selected. This kind of practice also puts operators in an unequal position and is unfair to those with proper and well-maintained equipment.

8. It is also the case that similar Ro-Ro connections, which are common in the Baltic Sea, are either possible or being used in the Mediterranean, North Sea, Eastern Atlantic and Black Sea. Some of these connections depart from non-ATP or non-EC or EEA countries which have varying national regulations and practices for transporting foodstuffs. Increasing energy costs might even encourage the use of sea crossings where they are possible.

Proposal

9. It is proposed to amend the existing text of Article 3 by deleting the words “of less than 150 km” from paragraph 2.

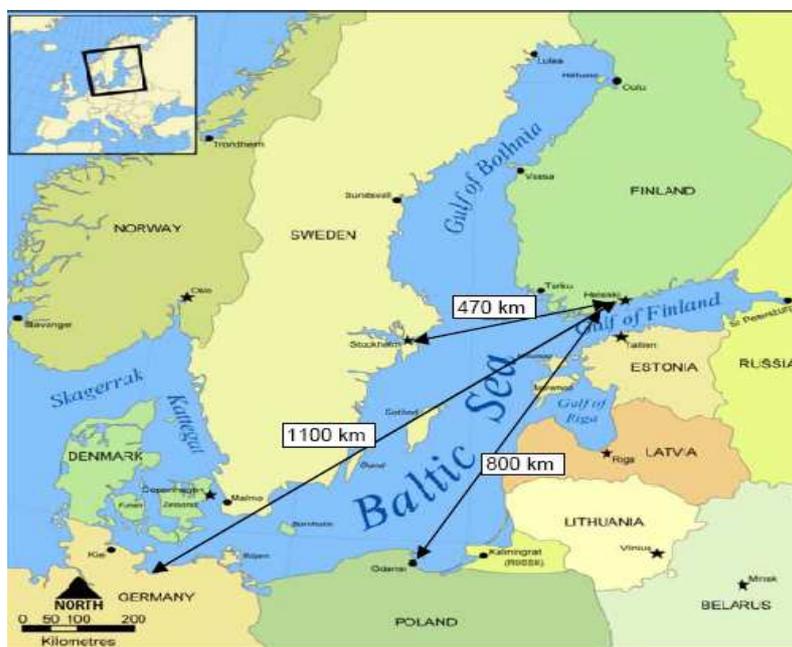
Proposed new text of paragraph 2 of Article 3 of ATP (text to be deleted is ~~struck-out~~):

“2. The provisions of paragraph 1 of this Article shall likewise apply to sea crossings ~~of less than 150 km~~ on condition that the goods are shipped in equipment used for the land journey or journeys without transloading of the goods and that such crossings precede or follow one or more land journeys as referred to in paragraph 1 of this Article or take place between two such land journeys.”

10. To maintain the meaning of Article 5 unchanged, it is proposed to replace the reference to Article 3 by the words “of at least 150 km”.

Proposed new text of Article 5 of ATP (text to be deleted is ~~struck-out~~ and new text is underlined):

“The provisions of this Agreement shall not apply to carriage in containers classified as thermal maritime by land without transloading of the goods where such carriage is preceded or followed by a sea crossing of at least 150 km ~~other than a sea crossing as referred to in article 3, paragraph 2, of this Agreement.~~”



Map of the Baltic Sea. Length of sea crossings between Finland and Germany (approx. 1100 km), Finland and Poland (approx. 800 km), Finland and Sweden (approx. 470 km).