



**Economic and Social
Council**

Distr.
GENERAL

ECE/TRANS/WP.11/2009/4
6 August 2009

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Working Party on the Transport of Perishable Foodstuffs

Sixty-fifth session

Geneva, 27-30 October 2009

Item 6 of the provisional agenda

ATP HANDBOOK

Note by the secretariat

Introduction

1. At the sixty-fourth session of the Working Party on the Transport of Perishable Foodstuffs (WP.11), the ATP Handbook was officially adopted (ECE/TRANS/WP.11/218, para. 32).
2. The secretariat was requested to prepare a document for the sixty-fifth session of WP.11 proposing how the ATP Handbook should be used and procedures for updating it, drawing on the experience of the Working Party on Customs Questions affecting Transport (WP.30) with the TIR Handbook.
3. The present note will first examine the case of the TIR Handbook before reviewing some previous discussions of the ATP Handbook in WP.11 and finally making some proposals for consideration by WP.11.

Example of the TIR Handbook

4. In 1983, the Administrative Committee of the TIR Convention decided that a TIR Handbook should be issued containing the text of the TIR Convention, relevant comments made on specific provisions and other useful information from Customs authorities and transport operators.

5. Comments contained in the TIR Handbook are placed with the provisions of the Convention to which they refer. They are not legally binding for TIR Contracting Parties. They are, however, important for the interpretation, harmonization, and application of the Convention as they reflect the opinion of the Administrative Committee and of WP.30. After each comment, reference is made to the report symbol and paragraph number where the adoption of the comment is recorded. Comments are adopted by consensus or by a two-thirds majority of those present and voting and there is no requirement that they be notified to Contracting Parties by the United Nations Treaty Section.

6. Section 5 of the TIR Handbook contains examples of best practices prepared by WP.30 and endorsed by the TIR Administrative Committee and should not be confused with comments or other recommended practices adopted by WP.30 or the Administrative Committee. The examples of best practices are included in the TIR Handbook to facilitate the application of the Convention in countries that have newly acceded to TIR and/or in which TIR operations can be newly undertaken. They include such best practices as the procedure for the termination of a TIR operation, list of documents to substantiate claims for non-discharge, recommendations for improvement of communication between national competent authorities and national guaranteeing associations, and an example of a TIR carnet duly filled in. Like comments, examples of best practice are adopted by consensus or by a two-thirds majority of those present and voting and there is no requirement that they be notified to Contracting Parties by the United Nations Treaty Section.

7. The authors of the TIR Convention provided some interpretation of the legal text through the introduction of Explanatory Notes into the Convention. These Explanatory Notes, contained in Annex 6 of the Convention, form an integral part of the Convention. They interpret certain provisions of the Convention and its Annexes and describe recommended practices for the everyday functioning of the TIR system. The Explanatory Notes do not modify the provisions of the Convention but make their contents, meaning and scope more precise. Explanatory Notes are adopted by consensus or by a two-thirds majority of those present and voting and unlike comments and examples of best practice their notification to Contracting Parties by the United Nations Treaty Section is required.

8. With the TIR Convention, only one objection is required to overturn a proposed amendment to the legal text of the Convention whereas to overturn a proposed amendment to Annexes 1-10, objections by one-fifth or five of the States which are Contracting Parties, whichever number is less, are required.

History of the ATP Handbook in WP.11

9. The idea of ATP guidelines were first discussed by WP.11 in 1999 when responses to an ATP questionnaire prepared by the International Institute for Refrigeration (IIR) revealed significant differences in the interpretation of ATP provisions.

10. At its session in 2000, WP.11 considered a draft prepared by the secretariat incorporating explanations and comments made by the Working Party. It also recognised the TIR Handbook as a good model to follow. In 2001, the Working Party decided to adopt a similar approach of explanatory notes and comments as used in the TIR Handbook and requested the secretariat to

make a proposal for a new article in the Agreement to provide for the status of the explanatory notes in the ATP Handbook.

11. In 2002, following a meeting of an informal working group on the ATP Handbook, the WP.11 decided that the draft ATP Handbook would no longer contain explanatory notes but only comments which modified neither the provisions of the Agreement nor its annexes, but simply specified their content, their meaning and/or their scope.

12. In 2004, the Working Party approved in principle an IIR proposal to add a glossary to the ATP Handbook based on the IIR International Dictionary of Refrigeration. In 2006, France presented an English-French ATP glossary for possible inclusion in the ATP Handbook.

13. Versions of the draft ATP Handbook were adopted by WP.11 at its sessions in 2002, 2003 and 2005.

Proposals regarding the ATP Handbook

14. It is proposed that the ATP Handbook should continue to include comments and should not include explanatory notes like the TIR Handbook. The comments should continue to be placed directly after the article or paragraph to which they apply. The Working Party could introduce the practice of providing a reference to the report symbol and paragraph number after each comment as is done in the TIR Handbook. This might allow the reader to do further research on the origins and intentions of the comment. However, it may be difficult to do this for existing comments. Also, the comments should be as clear as possible and be comprehensive enough to avoid the need for further research since their intention is to clarify and to assist in the interpretation of the Agreement.

15. The Working Party may wish to introduce examples of best practice in a separate section of the ATP Handbook as is done in the TIR Handbook. Examples of best practice may tend to be longer than comments and to include them after the article or paragraph to which they apply might break up the text of the Agreement. The proposal by the Slovak Republic regarding the ATP checklist might be included in this section of best practices. The Working Party may also wish to discuss the possibility of including a glossary of ATP terminology in the ATP Handbook as proposed by France (Informal document INF.4 of the sixty-second session).

16. As regards the decision whether or not to adopt a comment or an example of best practice, this should normally be done by consensus. However, if consensus cannot be reached and a proposal is put to the vote, the vote should be carried if there are three or less votes against the proposal. This is the existing practice in WP.11 although the secretariat could not find any official decision by WP.11 on this voting procedure.

17. Comments or examples of best practice adopted by WP.11 will be reflected in an annex of the report of the WP.11 session at which they are adopted and will be included in the next update of the Handbook.

18. Comments or examples of best practice are not part of the ATP and are not legally binding for ATP Contracting Parties. They are intended to provide clarification where doubts or ambiguities exist regarding the provisions of the ATP. There is therefore no obligation to send them to the United Nations Treaty Section in New York for official notification to Contracting Parties.

19. The WP.11 may wish to decide whether the Handbook should be printed as a book or whether it is sufficient to make it available on the website of the UNECE Transport Division. If delegates decide that it should be printed, they may also wish to consider whether it is also necessary to print the ATP itself separately.
