

ภาคผนวก ค

ความตกลงว่าด้วยการขนส่งระหว่างประเทศสำหรับอาหารเน่าเสียง่ายและ
อุปกรณ์พิเศษเพื่อใช้ในการขนส่งนั้น

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

THE CONTRACTING PARTIES,

DESIROUS of improving the conditions of preservation of the quality of perishable foodstuffs during their carriage, particularly in international trade,

CONSIDERING that the improvement of those conditions is likely to promote the expansion of trade in perishable foodstuffs,

Have agreed as follows:

Chapter I

SPECIAL TRANSPORT EQUIPMENT

Article 1

For the international carriage of perishable foodstuffs, equipment shall not be designated as "insulated", "refrigerated", "mechanically refrigerated", or "heated" equipment unless it complies with the definitions and standards set forth in annex 1 to this Agreement.

Article 2

The Contracting Parties shall take the measures necessary to ensure that the equipment referred to in article 1 of this Agreement is inspected and tested for compliance with the said standards in conformity with the provisions of annex 1,

appendices 1, 2, 3 and 4, to this Agreement. Each Contracting Party shall recognize the validity of certificates of compliance issued in conformity with annex 1, appendix 1, paragraph 4 to this Agreement by the competent authority of another Contracting Party. Each Contracting Party may recognize the validity of certificates of compliance issued in conformity with the requirements of annex 1, appendices 1 and 2, to this Agreement by the competent authority of a State not a Contracting Party.

Chapter II

USE OF SPECIAL TRANSPORT EQUIPMENT FOR THE INTERNATIONAL CARRIAGE OF CERTAIN PERISHABLE FOODSTUFFS

Article 3

The provisions of article 4 of this Agreement shall apply to all carriage, whether for hire or reward or for own account, carried out exclusively - subject to the provisions of paragraph 2 of this article - by rail, by road or by a combination of the two, of

- quick (deep)-frozen and frozen foodstuffs, and of

- foodstuffs referred to in annex 3 to this Agreement even if they are neither quick (deep)-frozen nor frozen,

if the point at which the goods are, or the equipment containing them is, loaded on to a rail or road vehicle and the point at which the goods are, or the equipment containing them is, unloaded from that vehicle are in two different States and the point at which the goods are unloaded is situated in the territory of a Contracting Party.

In the case of carriage entailing one or more sea crossings other than sea crossings as referred to in paragraph 2 of this article, each land journey shall be considered separately.

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.

Notwithstanding the provisions of paragraphs 1 and 2 of this article, the Contracting Parties need not apply the provisions of article 4 of this Agreement to the carriage of foodstuffs not intended for human consumption.

Article 4

For the carriage of the perishable foodstuffs specified in annexes 2 and 3 to this Agreement, the equipment referred to in article 1 of this Agreement shall be used unless the temperatures to be anticipated throughout carriage render this requirement manifestly unnecessary for the purpose of maintaining the temperature conditions specified in annexes 2 and 3 to this Agreement. The equipment shall be so selected and used that the temperature conditions prescribed in the said annexes can be complied with throughout carriage. Furthermore, all appropriate measures shall be taken, more particularly as regards the temperature of the foodstuffs at the time of loading and as regards icing or re-icing during the journey or other necessary operations. Nevertheless, the provisions of this paragraph shall apply only in so far as they are not incompatible with international undertakings in the matter of international carriage arising for the Contracting Parties by virtue of conventions in force at the time of the entry into force of this Agreement or by virtue of conventions substituted for them.

If during carriage under this Agreement the provisions of paragraph 1 of this article have not been complied with,

(a) the foodstuffs may not be disposed of in the territory of a Contracting Party after completion of carriage unless the competent authorities of that Contracting Party deem it compatible with the requirements of public health to authorize such disposal and unless such conditions as the authorities may attach to the authorization when granting it are fulfilled; and

(b) every Contracting Party may, by reason of the requirements of public health or zoonophylaxis and in so far as it is not incompatible with the other international

undertakings referred to in the last sentence of paragraph 1 of this article, prohibit the entry of the foodstuffs into its territory or make their entry subject to such conditions as it may determine.

Compliance with the provisions of paragraph 1 of this article shall be required of carriers for hire or reward only in so far as they have undertaken to procure or provide services intended to ensure such compliance and if such compliance depends on the performance of those services. If other persons, whether individuals or corporate bodies, have undertaken to procure or provide services intended to ensure compliance with the provisions of this Agreement, they shall be required to ensure such compliance in so far as it depends on performance of the services they have undertaken to procure or provide.

During carriage which is subject to the provisions of this Agreement and for which the loading point is situated in the territory of a Contracting Party, responsibility for compliance with the requirements of paragraph 1 of this article shall rest, subject to the provisions of paragraph 3 of this article,

- in the case of transport for hire or reward, with the person, whether an individual or a corporate body, who is the consignor according to the transport document or, in the absence of a transport document, with the person, whether an individual or a corporate body, who has entered into the contract of carriage with the carrier;

- in other cases with the person, whether an individual or a corporate body, who performs carriage.

Chapter III

MISCELLANEOUS PROVISIONS

Article 5

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 other than a sea crossing as referred to in article 3, paragraph 2, of this Agreement.

Article 6

Each Contracting Party shall take all appropriate measures to ensure observance of the provisions of this Agreement. The competent administrations of the Contracting Parties shall keep one another informed of the general measures taken for this purpose.

If a Contracting Party discovers a breach committed by a person residing in the territory of another Contracting Party, or imposes a penalty upon such a person, the administration of the first Party shall inform the administration of the other Party of the breach discovered and of the penalty imposed.

Article 7

The Contracting Parties reserve the right to enter into bilateral or multilateral agreements to the effect that provisions applicable to special equipment and provisions applicable to the temperatures at which certain foodstuffs are required to be maintained during carriage may, more particularly by reason of special climatic conditions, be more stringent than those prescribed in this Agreement. Such provisions shall apply only to international carriage between Contracting Parties which have concluded bilateral or multilateral agreements as referred to in this article. Such agreements shall be transmitted to the Secretary-General of the United Nations, who shall communicate them to Contracting Parties to this Agreement which are not signatories of the said agreements.

Article 8

Failure to observe the provisions of this Agreement shall not affect either the existence or the validity of contracts entered into for the performance of carriage.

Chapter IV

FINAL PROVISIONS

Article 9

States members of the Economic Commission for Europe and States admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference may become Contracting Parties to this Agreement

- (a) by signing it;
- (b) by ratifying it after signing it subject to ratification; or
- (c) by acceding to it.

States which may participate in certain activities of the Economic Commission for Europe under paragraph 11 of the Commission's terms of reference may become Contracting Parties to this Agreement by acceding thereto after its entry into force.

This Agreement shall be open for signature until 31 May 1971 inclusive. Thereafter, it shall be open for accession.

Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

Article 10

Any State may at the time of signing this Agreement without reservation as to ratification or of depositing its instrument of ratification or accession or at any time thereafter declare by notification addressed to the Secretary-General of the United Nations that the Agreement does not apply to carriage performed in any or in a particular one of its territories situated outside Europe. If notification as aforesaid is made after the entry into force of the Agreement in respect of the notifying State the Agreement shall, ninety days after the date on which the Secretary-General has received the notification, cease to apply to carriage in the territory or territories named in that notification. New Contracting Parties acceding to ATP as from 30 April 1999 and

applying paragraph 1 of this article shall not be entitled to enter any objection to draft amendments in accordance with the procedure provided for in article 18, paragraph 2.

Any State which has made a declaration under paragraph 1 of this article may at any time thereafter declare by notification addressed to the Secretary-General of the United Nations that the Agreement will be applicable to carriage performed in a territory named in the notification made under paragraph 1 of this article and the Agreement shall become applicable to carriage in that territory one hundred and eighty days after the date on which the Secretary-General has received that notification.

Article 11

This Agreement shall come into force one year after five of the States referred to in its article 9, paragraph 1, have signed it without reservation as to ratification or have deposited their instruments of ratification or accession.

With respect to any State which ratifies, or accedes to, this Agreement after five States have signed it without reservation as to ratification or have deposited their instruments of ratification or accession, this Agreement shall enter into force one year after the said State has deposited its instrument of ratification or accession.

Article 12

Any Contracting Party may denounce this Agreement by giving notice of denunciation to the Secretary-General of the United Nations.

The denunciation shall take effect fifteen months after the date on which the Secretary-General received the notice of denunciation.

Article 13

This Agreement shall cease to have effect if the number of Contracting Parties is less than five throughout any period of twelve consecutive months after its entry into force.

Article 14

Any State may at the time of signing this Agreement without reservation as to ratification or of depositing its instrument of ratification or accession or at any time thereafter declare by notification addressed to the Secretary-General of the United Nations that this Agreement will be applicable to all or any of the territories for the international relations of which that State is responsible. This Agreement shall be applicable to the territory or territories named in the notification as from the ninetieth day after receipt of the notice by the Secretary-General or, if on that day the Agreement has not yet entered into force, as from its entry into force.

Any State which has made a declaration under paragraph 1 of this article making this Agreement applicable to a territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in conformity with article 12 hereof.

Article 15

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Agreement shall so far as possible be settled by negotiation between them.

Any dispute which is not settled by negotiation shall be submitted to arbitration if any one of the Contracting Parties concerned in the dispute so requests and shall be referred accordingly to one or more arbitrators selected by agreement between those Parties. If within three months from the date of the request for arbitration, the Parties concerned in the dispute are unable to agree on the selection of an arbitrator or arbitrators, any of those Parties may request the Secretary-General of the United Nations to designate a single arbitrator to whom the dispute shall be referred for decision.

The decision of the arbitrator or arbitrators designated under the preceding paragraph shall be binding on the Contracting Parties concerned in the dispute.

Article 16

Any State may, at the time of signing, ratifying, or acceding to, this Agreement, declare that it does not consider itself bound by article 15, paragraphs 2 and 3 of this Agreement. The other Contracting Parties shall not be bound by these paragraphs with respect to any Contracting Party which has entered such a reservation.

Any Contracting Party which has entered a reservation under paragraph 1 of this article may at any time withdraw the reservation by notification addressed to the Secretary-General of the United Nations.

With the exception of the reservation provided for in paragraph 1 of this article, no reservation to this Agreement shall be permitted.

Article 17

After this Agreement has been in force for three years, any Contracting Party may, by notification addressed to the Secretary-General of the United Nations, request that a conference be convened for the purpose of revising this Agreement. The Secretary-General shall notify all Contracting Parties of the request and a revision conference shall be convened by the Secretary-General if, within a period of four months from the date of the notification sent by the Secretary-General, not less than one third of the Contracting Parties signify their assent to the request.

If a conference is convened in pursuance of paragraph 1 of this article, the Secretary-General shall so advise all the Contracting Parties and invite them to submit within a period of three months, the proposals which they wish the conference to consider. The Secretary-General shall circulate the provisional agenda for the conference, together with the text of such proposals, to all Contracting Parties not less than three months before the date on which the conference is to open.

The Secretary-General shall invite to any conference convened in pursuance of this article all the countries referred to in article 9, paragraph 1, of this Agreement, and also the countries which have become Contracting Parties under the said article 9, paragraph 2.

Article 18

Any Contracting Party may propose one or more amendments to this Agreement. The text of any proposed amendment shall be communicated to the Secretary-General of the United Nations, who shall communicate it to all Contracting Parties and bring it to the notice of all the other States referred to in article 9, paragraph 1, of this Agreement. The Secretary-General may also propose amendments to this Agreement or to its annexes which have been transmitted to him by the Working Party on the Transport of Perishable Foodstuffs of the Inland Transport Committee of the Economic Commission for Europe.

Within a period of six months following the date on which the proposed amendment is communicated by the Secretary-General, any Contracting Party may inform the Secretary-General

(a) that it has an objection to the amendment proposed, or

(b) that, although it intends to accept the proposal, the conditions necessary for such acceptance are not yet fulfilled in its country.

If a Contracting Party sends the Secretary-General a communication as provided for in paragraph 2 (b) of this article, it may, so long as it has not notified the Secretary-General of its acceptance, submit an objection to the proposed amendment within a period of nine months following the expiry of the period of six months prescribed in respect of the initial communication.

If an objection to the proposed amendment is stated in accordance with the terms of paragraphs 2 and 3 of this article, the amendment shall be deemed not to have been accepted and shall be of no effect.

If no objection to the proposed amendment has been stated in accordance with paragraphs 2 and 3 of this article, the amendment shall be deemed to have been accepted on the date specified below:

(a) if no Contracting Party has sent a communication to the Secretary-General in accordance with paragraph 2 (b) of this article, on the expiry of the period of six months referred to in paragraph 2 of this article;

(b) if at least one Contracting Party has sent a communication to the Secretary-General in accordance with paragraph 2 (b) of this article, on the earlier of the following two dates:

- the date by which all the Contracting Parties which sent such communications have notified the Secretary-General of their acceptance of the proposed amendment, subject however to the provision that if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 2 of this article the date shall be the date of expiry of that period;

- the date of expiry of the period of nine months referred to in paragraph 3 of this article.

Any amendment deemed to be accepted shall enter into force six months after the date on which it was deemed to be accepted.

The Secretary-General shall as soon as possible inform all Contracting Parties whether an objection to the proposed amendment has been stated in accordance with paragraph 2 (a) of this article and whether one or more Contracting Parties have sent him a communication in accordance with paragraph 2 (b) of this article. If one or more Contracting Parties have sent him such a communication, he shall subsequently inform all the Contracting Parties whether the Contracting Party or Parties which have sent such a communication raise an objection to the proposed amendment or accept it.

Independently of the amendment procedure laid down in paragraphs 1 to 6 of this article, the annexes and appendices to this Agreement may be modified by agreement between the competent administrations of all the Contracting Parties. If the administration of a Contracting Party has stated that under its national law its agreement is contingent on special authorization or on the approval of a legislative body, the consent of the Contracting Party concerned to the modification of an annex shall not be deemed to have been given until the Contracting Party has notified the Secretary-General that the necessary authorization or approval has been obtained. The agreement between the competent administrations may provide that, during a transitional period, the old annexes shall remain in force, wholly or in part, concurrently with the new

annexes. The Secretary-General shall specify the date of the entry into force of the new texts resulting from such modifications.

Article 19

In addition to communicating to them the notifications provided for in articles 17 and 18 of this Agreement, the Secretary-General of the United Nations shall notify the States referred to in article 9, paragraph 1, of this Agreement and the States which have become Contracting Parties under article 9, paragraph 2, of:

- (a) signatures, ratifications and accessions under article 9;
- (b) the dates of entry into force of this Agreement pursuant to article 11;
- (c) denunciations under article 12;
- (d) the termination of this Agreement under article 13;
- (e) notifications received under articles 10 and 14;
- (f) declarations and notifications received under article 16, paragraphs 1 and 2;
- (g) the entry into force of any amendment pursuant to article 18.

Article 20

After 31 May 1971, the original of this Agreement shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies to each of the States mentioned in article 9, paragraphs 1 and 2, of this Agreement.