

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 429 final.

Brussels, 28 July 1976.

1976.07.28

Proposal for a Council Decision
concerning the entry into force of the Agreement on the international
carriage of perishable foodstuffs and on the special equipment to be
used for such carriage (ATP)

(submitted to the Council by the Commission)

COM(76) 429 final.

Explanatory Memorandum

1. On 1 September 1970, the United Nations' Economic Commission for Europe published the Agreement on the international carriage of perishable foodstuff and on the special equipment to be used for such carriage (ATP).

The Agreement was opened for signature on 31 May 1971 and, when enough countries had signed, it ^{will} enter into force on 21 November 1976.

The nine Member States of the Community contributed to the drafting of the ATP and at the present time France and the Federal Republic of Germany have already ratified it.

The ATP Agreement lays down that the carriage of chilled or deep-frozen foodstuffs and milk products, meat, fish and game between signatory States by rail and road or a combination of the two, must, depending on the case, be carried out using insulated and refrigerated equipment which meets specific standards and conditions.

2. The Commission attaches great importance to the entry into force of the ATP, which it regards as an essential pre-requisite for the establishment of uniform regulations for the carriage of perishable foodstuffs which will apply to a geographical area larger than the territory of the nine Member States. Implementation of this Agreement will unquestionably help to improve the conservation of the quality of perishable foodstuffs during transport and particularly as regards trade between the Community and non-member countries ; improved conditions of conservation are also likely to lead to an increase in the trade of perishable foodstuffs between the Community and non-member countries.

3. Within the Community the public health conditions under which certain perishable foodstuffs are transported between Member States are subject to the following Community regulations :

- Council Directive 64/433/EEC of 26 June 1964 on health problems affecting intra-Community trade in fresh meat,
- Council Directive 71/118/EEC of 15 February 1971 on health problems affecting trade in fresh poultrymeat (Annex I, Chapters IX, X and XI),
- Council Directive 72/462/EEC of 12 December 1972 on health and veterinary inspection problems upon importation of bovine animals and swine and fresh meat from third countries (Annex I, Chapters XI, XII and XIII),

- Council Directive 75/431/EEC of 10 July 1975 amending Directive 71/118/EEC on health problems affecting trade in fresh poultrymeat.

There is no contradiction between the Community provisions and the standards laid down in the ATP.

4. The ECE and the Commission have received a proposal from the Danish Government to add provisions to the ATP on maintenance inspections of the equipment to be used for the carriage of perishable foodstuffs, and to amend the terms in the ATP regarding the maximum temperature for the transport of butter, fish and milk.

This Government then withdrew these proposals from the ECE Working Party on the carriage of perishable foodstuffs pending a decision at a Community level.

These problems have been considered by the Commission and the Council but joint presentation by the Member States of a request for amendments to the Agreement is not possible at this stage. It was therefore agreed that the main need was for the Community to accede to the Agreement as quickly as possible in order to avoid differences in transport arrangements between the Nine - or some Community countries - and non-member countries who are signatories to the Agreement.

5. The regulations prescribed by the ATP for the carriage of perishable foodstuffs are also of major significance for the common transport policy.

Indeed, it would severely prejudice the harmonization of the conditions of competition and the smooth functioning of the transport market if the carriers specializing in these categories of foodstuffs were subject to different rules, as would be the case if all the Member States did not apply the ATP provisions.

6. Since the ATP covers an area within the scope of Community regulations on health conditions in the transport of certain perishable foodstuffs, the procedure laid down by Article 228 should in theory be applied in respect of the Community; however, the special circumstances surrounding the negotiations for the Agreement may, by way of exception, justify the application of an ad hoc procedure, bearing in mind the judgment of the Court of Justice in Case 22/70 of 31 March 1971. This procedure should provide for the joint deposit of the instruments of ratification or accession of the Member States acting together in the interest and on behalf of the Community. The Community nature of this concerted action would be sanctioned by the deposit of the instruments of the Member States by a single authorized representative, namely a representative of the Member State holding the presidency of the Council.

The French and German Governments, having already deposited their instruments of accession to the Agreement should, in order that their accession may be identified with the Community action, send a letter to the Secretariat-General of the United Nations stating that they acceded in the name and on behalf of the Community.

Proposal for a
Council Decision

concerning the entry into force of the Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43, 75 and 113 thereof ,

Having regard to the proposal from the Commission ,

Having regard to the Opinion of the European Parliament ,

Having regard to the Opinion of the Economic and Social Committee ,

Whereas the Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP) of 1 September 1970 was open to signature until 31 March 1971 and thereafter to accession by the Member States of the Economic Commission for Europe and by the States admitted to the Commission in an advisory capacity, and whereas the Agreement will enter into force on 21 November 1976 ;

Whereas the entry into force of the ATP will improve the conditions for preserving the quality of perishable foodstuffs during carriage, and in particular in the course of trade between the Community and third countries, and whereas, furthermore, such improved conditions are likely to increase the trade in perishable foodstuffs between the Community and third countries;

Whereas the entry into force of the ATP Agreement is the only means of introducing in as many European countries as possible, uniform regulations on the international carriage of perishable foodstuffs;

Whereas the field covered by the ATP falls within the scope of Community legislation on the health and hygiene conditions for intra-Community transport operations and the import of meat from third countries¹, and also within the scope of the common policies on trade, agriculture and transport, and whereas, in consequence, it lies in the power of the Community to conclude this Agreement :

¹Directive No 64/433/EEC of 26.6.1964 - OJ No 121, 29.7.1964.
Directive No 71/118/EEC of 15.2.1971 - OJ No L 55, 8.3.1971.
Directive No 72/462/EEC of 12.12.1972 - OJ No L 302, 31.12.1972.
Directive No 75/431/EEC of 10.7.1975 - OJ No L 192, 24.7.1975.

Whereas, however, the ATP negotiations were completed before the expiry of the transition period and the present text of the agreement does not permit the accession of the Community ; whereas the special circumstances surrounding the negotiations justify, by way of exception, a joint deposit of their instruments of ratification or accession by the Member States of the Community, acting together in the interest and on behalf of the Community and in anticipation of subsequent accession by the Community,

HAS ADOPTED THE FOLLOWING DECISION;

Article 1

1. Member States shall ratify or accede to the Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP) before 21 November 1976
2. They shall dispatch their instruments of ratification or accession to the Secretariat of the Council immediately after completion of the ratification or accession procedure.
3. The instruments of ratification or accession of the Member States shall be deposited jointly with the Secretariat General of the United Nations Organization by the representative of the Member State holding the presidency of the Council, who shall act on behalf of the Community, at a date as close as possible to 21 November 1976

Article 2

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President