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NOTE

From:	General Secretariat of the Council
To:	Delegations
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directives 2001/110/EC relating to honey, 2001/112/EC relating to fruit juices and certain similar products intended for human consumption, 2001/113/EC relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption, and 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption - Comments from the Belgian delegation

Delegations will find attached the Belgian delegation's comments in response to the request from the Presidency sent on 17 October, and the replies to the questions from the Presidency sent on 18 October, including replies to the questions posed by the Presidency in document 14004/23.

Belgian comments concerning the revision of the Breakfast Directives

1. Questions for the delegates:

3.1 Honey:

Do Member States agree with the text proposed text regarding the labelling of honey blends?

The proposition of the PRES is a good compromise, but Belgium remains doubtful on the mention of the % of origin. In any cases it has to comply with the FIC regulation. Indeed, BE has a fundamental problem with introducing regulations that cannot be controlled because administrative control is not reliable enough (purchases are traced but not what is in the jar, despite batch numbers), and percentages cannot be controlled in the laboratory. Belgium insists that this labelling in no way solves the problem of fraud, which must be dealt with in other legislation. Issues relating to honey should not stop at this directive.

Do Member States agree with the text proposed regarding the labelling of the small packages of honey blends?

1) Belgium, and the Commission, have consistently opposed the use of country codes for declaring origin in the past. Consumers really do not know the difference between CZ and CN, do not know which European country is HE and XK. Allowing country codes for honey would set a precedent in food information law. Are we sure we want to break that red line? Also for instance when designating fishing areas, they have moved away from catch area codes in favor of a geographical designation.

COMMISSION NOTICE on the application of the provisions of Article 26(3) of Regulation (EU) No 1169/2011 (2020/C 32/01)

5.1. Would it be possible to indicate the country of origin of the primary ingredient by using country codes?

5.1 Pursuant to Article 9(1)(i) of the Regulation, it is mandatory to indicate the country of origin or place of provenance for cases laid down in Article 26 of the Regulation. Furthermore, Article 9(2) of the Regulation requires that particulars indicated on mandatory basis in accordance with Article 9(1) of the Regulation must be indicated with words and numbers and they may be additionally expressed by means of pictograms or symbols.

It follows from the provisions of the Regulation that the country of origin of the primary ingredient must be always indicated by words. In this regard, Member States have to assess whether certain country codes could be considered as words. In particular, a country code could be acceptable so long as there was a reasonable expectation that consumers in the country of marketing would correctly understand it and not be misled. This could be the case for such abbreviations as 'UK', 'USA' or 'EU'.

2) Reference to an ISO standard should be in accordance with the guidance "Using and referencing ISO and IEC standards to support public policy" https://www.iso.org/publication/PUB100358.html

Do Member States consider that the 4 years deadline for the Commission to make use of the empowerment to develop harmonized methods of analysis to detect honey fraud needs to be included in the text?

This deadline can be accepted by Belgium.

3.2 Juices:

Do Member States agree with the text proposed statement regarding the sugars present in the fruit juices?

Belgium can accept the proposed text in the document.

Belgium however totally disagrees with any addition that would suggest that this statement is not a nutrition claim within the meaning of Regulation (EC) No 1924/2006.

"Fruit juices contain only sugars that occur naturally in the fruit" means that no other sugars have been added to the juice. It has the same meaning as "no added sugars". Therefore it is definitely a nutrition claim. Deleting "Without prejudice to Regulation (EC) No 1924/2006" does not make any difference. The claims Regulation 1924/2006 applies anyway to such products. Only foods for specific group, food supplements and waters can deviate from Regulation 1924/2006.

The interpretation of the claims Regulation should not be done in another piece of legislation. It would be a dangerous precedent.

Belgium has also a wording suggestion on the proposed definition of Reduced-sugar fruit juice:

> ‘6. (a) **Reduced-sugar fruit juice**
>
> The product obtained from the product defined in point 1(a) where naturally occurring sugars have been removed by at least 30 % by using a process authorised under the conditions laid down in Part II, point 3, of Annex I, which maintains all ~~the~~ other essential physical, chemical, organoleptical and nutritional characteristics of ***the original product,*** ~~***an average type of juice of the fruit from which it comes***~~ ***with the exception of changes in those characteristics directly resulting from decreasing the sugar content***.

”Decreasing the sugar content” could be erroneously interpreted as the process itself. Therefore, it could be wrongly interpreted that changes of essential characteristics are well permitted if they directly result from the process of decreasing the sugars.

Therefore we propose to replace ‘decreasing the sugar content’ by ‘the reduced sugar content’:

> ‘6. (a) **Reduced-sugar fruit juice**
>
> The product obtained from the product defined in point 1(a) where naturally occurring sugars have been removed by at least 30 % by using a process authorised under the conditions laid down in Part II, point 3, of Annex I, which maintains all ~~the~~ other essential physical, chemical, organoleptical and nutritional characteristics of ***the original product,*** ~~***an average type of juice of the fruit from which it comes***~~ ***with the exception of changes in those characteristics directly resulting from*** ~~***the decrease of***~~ ***the reduced sugar content***.

The same applies to the definition of ‘Reduced-sugar fruit juice from concentrate’.

> ***Do Member States agree with giving the Commission empowerment to develop the characteristics of reduced sugar fruit juices in an implementing act?***

Belgium thinks that an implementing act could clarify certain points.

3.3 Extra jams:

Do Member States agree with the new proposal of increasing of fruit in extra jams?

As a compromise, Belgium could accept this level of fruits (500 g) in extra jam.

Questions from PRES ES - 24 October 2023 – Position BE

Therefore, the Presidency would like to have your opinion regarding the following new topics:

- 1. the possibility to include a new empowerment for the Commission in order to lay down rules regarding the new technologies to be used to reduce the content of sugar in fruit juices; and
- 2. the possibility to include a new empowerment for the Commission in order to lay down the methods of analysis, taking into account international standards and technical progress, to verify whether the products listed in Annex I, Part I, points 1(a), 1(b), 2, 6(a), 6(b) and 7 are compliant with the provisions of this Directive. In addition, until the adoption of such methods, Member States shall, whenever possible, use internationally recognised validated methods of analysis such as those approved by the Codex Alimentarius to verify compliance with the provisions of the Directive 2001/112/EC.

The proposed text should provide a framework for the development of innovative technologies by industry. If too limited a group of processes (ex:. membrane filtration but not enzyme fermentationbv) were to be authorised, this could give a competitive advantage to the operator specialising in that particular process.

But on the other hand, the authorised processes must be clearly defined so that consumers can be assured that the product maintains essential physical, chemical, organoleptical and nutritional characteristics of an average type of concentrated juice of the fruit from which it comes. Maintaining only the quality requirement (maintains essential characteristics), without describing the authorised processes, would create far too much uncertainty. Only those processes that scientifically demonstrate that they preserve essential characteristics ought to be authorised.

It would not be desirable to define the processes in the Directive: the processes are not yet sufficiently developed (and therefore impossible to define), and will change significantly over the next few years. But a Delegated Act is not the right means to define the processes allowed. The authorised processes for sugar reduction have an impact on the product, and therefore the authorisation process should involve as much as possible the scrutiny of the Member States. Regulating this via a Implementation Act should therefore be the preferred option.

Defining the analyses methods via Delegated Act is fit for purpose, as the analyses methods have no direct impact on the product itself.