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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 Portuguese delegation

Delegations will find attached the Portuguese 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.

PT Comments on suggested amendments by PRES ES to the ‘Breakfast Directives’

Documents: 10222/3/23 REV 3 and 14004/23

‘Breakfast Directives’: *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*

1. General comments on PRES ES proposed amendments to the ‘Breakfast Directives’ – PT Delegation

Thank you for the opportunity to send comments on the proposal to amend the ‘Breakfast Directives’ presented by PRES ES, as set out in document 10222/3/23 REV 3.

We would also like to take this opportunity to congratulate PRES ES on its objective and constructive approach to finding compromise solutions, for which we remain willing to collaborate.

With regard to the proposals for amendments submitted by PRES ES to the ‘Breakfast Directives’, we thank PRES ES for its work and note that most of the proposals reflect the position defended by PT. We also welcome the adoption of some of the proposals presented by PT in the comments made at the Working Party on agricultural products.

However, and with reference to document 10222/3/23 REV 3, we do not support the proposed addition to Article 7 of Directive 2001/112/EC on fruit juices, as we believe that there is no need for any delegation of powers to the Commission to develop the characteristics of low-sugar fruit juices, as these characteristics are already defined in Annex I of the directive itself for ‘juices’.

Following the comments made by the PT delegation at the Working Party on agricultural products and also at the SCA meetings, most recently on October 16, we would like to highlight the main points, those we agree and those we believe should be the subject of further discussion:

1.1. Directive 2001/110/CE – Honey

We confirm our position with regard to the labeling of blends of honeys for the obligation to indicate the countries of origin and their percentages, taking into account the derogation described for more than four origins. We therefore agree with the text proposed by PRES ES, which reflects the proposal previously presented by PT within the framework of the Working Party on agricultural products.

With regard to the labeling of small packages of mixed honeys, we believe that the indication of small packages should refer to the exemption already provided for in Regulation 1169/2011 (small packages of less than 10 cm² of surface area), and not to the quantity of the package, which is why we support the PRES ES proposal to remove this exemption in the proposal to amend the directive.

In order to facilitate labeling, we agree with the possibility of indicating the country of origin by ISO code for packages of less than 30 g.

With regard to the 4-year deadline for the Commission to use the power to develop harmonized analysis methods to detect honey fraud (Article 4), we agree with the proposal to delegate powers to COM to define analysis methods through delegated acts.

These analysis methods must be based on scientific studies attesting to their responsiveness and reliability, and they need time for study and evaluation, so we agree with the need for a deadline for COM to have these elements before launching the proposal for discussion with the MS.

We have nothing against the 4-year deadline, without prejudice to ask COM for a commitment to make it shorter if information becomes available sooner.

1.2. Directive 2001/112/CE – Fruit juices

Regarding the proposed addition to Article 7, PT does not support empowering the Commission to develop the characteristics of low-sugar fruit juices in a delegated act, as we believe that such a definition is not necessary.

The characteristics of fruit juices are already defined in Annex I of Directive 2001/112/EC, so there is no need for a 'redefinition' of these characteristics for any categories of fruit juices, including the new categories that are now intended to be created.

The previous proposal for amendment (Document 10222/2/23 REV 2), already provides for the new categories of fruit juice (reduced-sugar fruit juice, reduced-sugar concentrated fruit juice and reduced-sugar reconstituted fruit juice), indicating that these categories must maintain all the other essential physical, chemical, organoleptic and nutritional characteristics of the product of origin, i.e. the characteristics that are already defined in Annex I, Part 1, points 6(a) and (b) and 7.

We stress out that it is perfectly clear from the text of the directive that the new categories come from a product of origin - fruit juice - to which a method of reducing the sugar content has been applied. Therefore, the characteristics of fruit juice, which are laid down in Annex I of the Directive, must be verified and there must be no redefinition of them that would take them away from their product of origin.

We understand that there may be doubts about the need to indicate the 'essential characteristics' of fruit juices, and we agree with the PRES ES amendment proposals for points 6 a), 6 b) and 7 of Annex I to the Directive, making it clear that it refers only to the characteristics resulting from the reduction in sugar content. For better clarification, the reference to which characteristics are covered can be made in the directive itself, and there is no need for a delegation of powers to that effect.

Finally, we also highlight the asymmetry and imbalance of approach that the delegation of powers for definition by means of an implementing act only for the new categories of fruit juices would represent in relation to the fruit juices that originate them, where no such delegation is foreseen for the definition of characteristics.

We therefore do not support the amendments to Article 7(a) and (b) of Directive 2001/112/EC - fruit juices, introduced in the PRES ES proposal (Document 10222/3/23 REV 3).

1.3. Directive 2001/113/CE – Jam and marmalades

With regard to the new proposal to increase the fruit content in extra jams by 50g (Annex I), PT supports the proposal put forward by the Commission, for an increase of 100g in the amount of pulp used in the manufacture of 1kg of finished product, which in general terms is reflected in the increase in ‘extra jams’ from 450 to 550g/kg, as it is balanced and represents an increase in the use of fruit, with a consequent improvement for the sector and a reduction in waste, in addition to the quality of the final product.

However, for the sake of compromise, we are flexible on the increase in fruit content and can support the PRES ES proposal.

PT Comments on suggested amendments and reply to questions from PRES ES

'Breakfast Directives'

Documents: 10222/3/23 REV 3 and 14004/23

'Breakfast Directives': *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*

Following the presentation and discussion at the SCA on 16 October regarding the "Breakfast Directives", some points that PT considers relevant were highlighted, namely the debate around the proposal for labelling honey blends presented by PRES ES, which although it still represents an issue with divergent opinions among some MS, we believe that important steps are being taken towards a consensus on this matter.

On the other hand, with regard to fruit juices, the new proposal to give the Commission powers to develop the characteristics of fruit juices, including the current and new categories of fruit juices with reduced sugar content, will, in our opinion, have a negative impact on the proposal to amend Directive 2001/112/EC. This delegation of powers was not technically addressed in the Working Group, and we believe that as well as being unnecessary, it would delay the placing on the market of the new categories of fruit juices with reduced sugar content, which consumers and operators itself expect.

In line with PRES ES's request for concrete answers to two questions regarding possible new delegations of powers to the Commission in the context of the Fruit Juice Directive, below is the reply from the PT authorities.

1. Directive 2001/112/CE – Fruit juices

Q1. 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;

PT confirms that it agrees with this delegation of powers, provided that the two technologies indicated (membrane filtration and fermentation) in the Commission's initial proposal for point 3 of Annex I to the Directive can be used immediately with the publication of the revised Directive, since evidence of their safety for the consumer has already been presented for these technologies.

In other words, the delegation of powers will apply to rules on new technologies other than those contained in the Directive itself.

Q2. 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.

With regard to this matter, we are unaware of the reason that triggered the need to establish analysis methods for the existing and new categories, bearing in mind that it did not arise as a result of discussion in the CONS WP, which is why we do not agree with the attribution of competences to the Commission to establish the analysis methods for verifying compliance with the provisions for the juice categories.

We point out that so far there has been no need to define these methods for the current categories of the Directive, namely fruit juices, and that the new categories are an evolution of these.

Following on from this, and as we had the opportunity to state in the document sent on 16 October regarding the proposal to amend the Fruit Juice Directive, PT does not support the addition to Article 7, as we believe that there is no need to delegate powers to the Commission to develop the characteristics of fruit juices with a reduced sugar content.

The previous amended version of the proposal (Document 10222/2/23 REV 2) already provides for the new categories of fruit juice (fruit juice with reduced sugar content, concentrated fruit juice with reduced sugar content and reconstituted fruit juice with reduced sugar content), stating that these categories must **maintain all the other essential physical, chemical, organoleptic and nutritional characteristics of the original product.**

Therefore, we do not support the proposal to further empower the Commission to develop the characteristics of fruit juices with reduced sugar content in a delegated act, as we believe that such a definition is not necessary.

Bearing in mind that the new categories of juice with reduced sugar content will be obtained from juices, the characteristics of the products will be the same, with the exception of the sugar content. Furthermore, this delegation of powers, and the need for it to be implemented and published, would prevent the Directive from being implemented until it has been finalised, thus delaying the placing on the market of the new categories of juice, contrary to the objective of adapting to consumer expectations which is inherent in the spirit of this amendment.

We therefore also do not support the amendments to Article 7(a) and (b) of Directive 2001/112/EC - fruit juices, introduced in the most recent PRES ES proposal (Document 10222/3/23 REV 3).

