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**NOTE**

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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 Polish delegation

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Delegations will find attached the Polish 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.

**Comments from Poland related to doc. 10222/3/23 REV 3 on 10.10.2023 after SCA 16.10.2023**

**The “Honey” Directive**

Poland supports the Presidency's proposal to set out methods of analysis for the detection of adulterated honey within the period of four years.

Regardless of this, Poland holds the view that the amendments provided for in this Directive should be more ambitious and should involve establishing uniform/harmonized methods for the analysis of all honey parameters set out in the directive within the period of four years.

Establishing a uniform/harmonized methodology for analysing of all honey parameters will provide consumers with uniform standards in assessing honey quality, and thus uniform honey quality in the EU.

**The “Jam” Directive** - Poland supports the direction of the changes proposed in the EC Proposal, but we continuously express the following doubts/remarks:

- 1) Poland would like to ask for explanation how mandatory (according to provisions of ‘jam’ directive) information ‘prepared with ... g of fruit per 100 g’ should be correctly calculated in case of jam with added fruit juice as optional ingredients?

In Poland’s opinion optional fruit ingredient shouldn’t be included into indicated amount of grams related to fruit. We need confirmation that our attitude is correct and the same like in other MS.

- 2) When there is a product manufactured accordingly with definition of “jam” but on its list of ingredients instead of authorized sugars there is for example concentrated fruit juice (ie. concentrated apple/ grape juice), such products should be named “fruit preparation” not “jam”? Poland would like to make sure if such naming is correct for all Member States, and we are not too strict at these interpretation.

**The “Juice” Directive** – issues that according Poland seems to need further discussion:

**1. Voluntary informative statement regarding added sugars no present in the fruit juices.**

The current wording of the voluntary informative statement proposed in the labelling of juices i.e., *"fruit juices contain only sugars that occur naturally in the fruit"* is inconsistent with the rationale for the purpose of this statement indicated in recital (5) of the proposal's preamble.

The wording of recital (5)<sup>1</sup> of the proposal's preamble, clearly articulates that the reason of statement is to enable consumers and health practitioners to distinguish juices (which do not contain added sugars) from nectars and similar products, to which sugar is added. The statement is intended to educate consumers and highlight the amendment of the "Juice Directive" introduced in 2012 as to the prohibition of added sugars in juice production, which, as indicated in recital (3)<sup>2</sup> of Directive 2012/12/EU, aimed to properly inform consumers that no fruit juices contain added sugars. At present, the proposed statement does not meet this objective - nor is it certain that it is not a „claim” according to Regulation 1924/2006.

The EC proposal included the statement: *"no fruit juices contain added sugars"*, which indicates the right direction for this voluntary information. For Poland, its completed, following wording would be the best: *"with no added sugars, no fruit juices contain added sugars"*. Such full statement would ensure that consumers are informed of the fact that sugars are not added to juices and that they are properly made aware of this, as mentioned in recital (5) of the proposal. Fruit juices are not a source of added sugars. Communicating this clearly is extremely important, and this was supposed to be the purpose of the voluntary statement, which in the current proposed wording in PL's assessment will not be achieved. Please re-examine the above issue again.

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<sup>1</sup> (5) *In 2012, Directive 2001/112/EC was amended by Directive 2012/12/EU of the European Parliament and of the Council to **reflect the new rules on authorised ingredients**, such as those pertaining to the addition of sugars, which were no longer authorised in fruit juices. In the light of this change of compositional requirements for fruit juices, the fruit juice industry was allowed to use, **for one year only, a statement indicating that no fruit juices contain added sugars, in order to inform consumers and enable them to make an immediate clear distinction between fruit juices and other certain similar products in terms of the addition of sugars in the products.** This short time-span proved insufficient to inform society that, following the new rules on authorised ingredients, the addition of sugars is no longer authorised in fruit juices. **As a result, for some of the consumers and health practitioners, it is still not clear that fruit juices, contrary to fruit nectars, cannot contain added sugars.***

<sup>2</sup> (3) *The nutrition claim ‘with no added sugars’, as listed in the Annex to Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (5), has been used in relation to fruit juices for a very long time. In the light of the new compositional requirements for fruit juices provided for in this Directive, its disappearance from one day to the next after a transitional period might not allow an immediate clear distinction to be made between fruit juices and other drinks in terms of the addition of sugars in the products, which would be detrimental to the fruit juices sector. In order to enable the industry to **inform consumers properly**, it should be possible to use, for a limited time, a statement indicating that no fruit juices contain added sugars.*

Poland in written comments at doc. 11384/23 ADD 13 on 5.09.2023 explained additionally that possibility to use statement "*with no added sugars, no fruit juices contain added sugars*" is very important, especially taking into account the specific of the juice market in south-eastern Europe and customers' awareness. The category of juices is so heterogeneous (fruit juices, juices from vegetables, juices with a reduced content of sugars, classic juices), therefore average consumer often is lost/confused and without such information is not able to correctly assess the quality of juices in terms of origin and the amount of sugars present in juice. Consumer research shows that the number of consumers (several dozen percent) believe that sugar is added to fruit juices. Adding a specific new category - juices with reduced sugar content will further deepen/perpetuate this wrong opinion.

## **2. Scope of authorised production processes concerning „reduced-sugars fruit juices”.**

The quality parameters of the new category, i.e. „*reduced-sugars fruit juices*”, should be linked to the production method. Therefore, all production methods for the manufacture of „reduced-sugars fruit juices” possible now should be included to the greatest extent possible and authorised.

Allowing as permitted production processes the three currently identified methods of reducing sugars in fruit juices, i.e. membrane processes (not only membrane filtration), fermentation processes (not only yeast fermentation) and enzymatic processes - will ensure the innovation of European production and should be included in the directive. At the same time, the list of enzymes currently authorized for use in fruit juices should be expanded.

Poland in written comments submitted both in doc. 9697/23 ADD9 REV 3 of 12/06/2023, as well as in doc. 11384/23 ADD 13 of 5/09/2023 provided information on the potential of enzymatic methods in the production of „*reduced-sugars fruit juices*”. The information from document 11384/23 ADD 13 is attached below as **Annex 1**.

This issue is important and should not be closed at the current stage of work. Production methods for „*reduced-sugars fruit juices*” should not be limited to membrane filtration and yeast fermentation only. It is impossible to reduce the sugars in juice without changing its chemical, physical or organoleptic characteristics. Membrane filtration also causes a significant reduction of other components in juices, such as polyphenols, and yeast fermentation causes the formation of new chemical compounds (e.g., fusiliers) as a by-product of fermentation processes, which consequently also contributes to changing the chemical composition of the juice. These processes are currently not permitted in juice production, while the use of enzymes is permitted by the current "juice directive."

Membrane processes are used for filtration and clarification (including also juices) but fermentation processes are used in the production of alcoholic beverages. Enzymes, on the other hand, are commonly used in juice production for the depectinization of fruit pulp prior to pressing and concentration. Admittedly, other enzymes are used in these processes, but enzymatic processes (in general) are currently allowed in juice production, membrane processes only for filtration and clarification, but fermentation processes are not allowed in juice production technology at all. It is not true that enzymatic processes are less understood/known than the other proposed processes (i.e. membrane filtration or yeast fermentation). **Enzymatic processes** also should be included in the „Juice Directive” or in possible Commission act authorizing new technologies to be used to reduce sugar content in fruit juices.

### Additional question:

Will there be an obligation in the name of "juice with reduced sugars" to indicate the production method on the provision of Annex VI, point 1 of Regulation 1169/2011, e.g. "apple juice with reduced sugars obtained by yeast fermentation"? Or will there be no such obligation, because the „Juice Directive” will only allow authorised methods, and therefore the labelling of such juice will not be subject to the aforementioned provision of Regulation 1169/2011?

### 3. Annex I lit b (page 26 of doc. 10222/3/23 REV 3) concerning nectars and claim „with no added sugars” or similar – issue related to deletion wording „including sweeteners as defined in Regulation (EC) No 1333/2008”.

Poland would like to ask for to delete the phrase: "including sweeteners as defined in Regulation (EC) No 1333/2008". The wording of the provision in the draft would then be changed to the following:

*„A claim stating that sugars have not been added to fruit nectar, and any claim likely to have the same meaning for the consumer, may only be made where the product does not contain any added mono- or disaccharides or any other food used for its sweetening ~~properties including sweeteners as defined in Regulation (EC) No 1333/2008~~. Where such a claim is used the following indication shall also appear on the label: contains naturally occurring sugars”;*

In effect Poland would like to give for fruit nectars containing sweeteners (as defined in Regulation (EC) No 1333/2008) and not containing any added mono- or disaccharides or any other food used for its sweetening properties, possibility to use: claim „with no added sugars” or any claim likely to have the same meaning for the consumer.

Please re-examine this issue, because the current wording puts nectars in a competitive disadvantage compared to, for example, drinks with sweeteners that may use such a declaration despite the presence of sweeteners .

### Annex 1

Poland **doesn't support restriction of authorised method only to membrane filtration and yeast fermentation**. Authorisation only membrane filtration and yeast fermentation would have negative impact on innovation (limited number of possibilities taking into account availability related to price and quantity - of methods and technologies) and uneable choice of the best production method in relations to kind of fruit juice. For example different processes fit/are suitable for different juices – clear, naturally cloudy juice, from apples, from oranges etc.

Fermentation and membrane processes are used in the wine industry, however, this does not mean these methods are very useful in the juice industry, too. The enzymatic processes, seems very promising, due to the low interference on ingredients other than sugar and additionally because of the creation of added value by changing sugar into health-promoting ingredients.

Wide access to the currently identified three methods, i.e. membrane processes (not only filtration processes), fermentation processes (not only yeast fermentation) and enzymatic processes, is in the interest of the entire European juice industry. In the industry, all these processes are at a similar level of knowledge of characteristics and suitability, so they should be treated equally.

The use of enzymes from the class of oxidoreductases, hydrolases, transferases or isomerases has great potential in the production of category of fruit juice with reduced sugar and will bring health benefits. The method of enzymatic processes, after refinement, can be one of the cheapest and the best methods of reducing the sugar content while enriching juices with health-promoting ingredients (fructooligosaccharides, glucooligosaccharides) or compounds made of sugar molecules but not digested and not absorbed in the human digestive tract (gluconic acid, allulose), thanks to which the GI (glycemic index) of the product, value related to kilocalories and sugar content will be significantly reduced. The addition of enzymatic methods of reducing the sugar content does not limit innovation, which is particularly important in the initial stage of refining the technology and processes related to category of fruit juice with reduced sugar.

Scientific work are currently conducting towards developing a technology for the production of fruit juices with reduced sugar content using enzymatic methods. There are some patents:

US 2013/0216652 A1 – INTRINSIC SUGAR REDUCTION OF JUICES AND READY TO DRINK PRODUCTS - patent concerns increasing the content of the fiber fraction (glucooligosaccharides, fructooligosaccharides)

US 20180146699A1 – SUGAR REDUCTION OF FOOD PRODUCTS – patent concerns increasing the content of the fiber fraction (glucooligosaccharides)

US 2017/0296468 A1 (WO 2016 / 051190 ) - IMPROVED SUGAR - DEPLETED FRUIT OR VEGETABLE JUICE AND JUICE - RETAINING FRUIT OR VEGETABLE DERIVED MATTER , METHODS OF PRODUCING THE SAME AND THE USE THEREOF TO MAINTAIN HEALTH AND TO TREAT AND PREVENT MEDICAL AILMENTS – patent concerns reducing the concentration of sugars and producing gluconic acid

Explanation related to characteristics of new products obtained as a result of enzymatic processes:

A number of patents are available relating to and describing the use of enzymatic methods for reducing sugars in various products. For example: Patent WO 2018/078623 A1 - LOW SUGAR PRODUCTS WITH HIGH FIBER CONTENT It describes the method of obtaining products with a reduced amount of sugars (glucose, fructose, sucrose) and an increased content of fiber fractions (fructooligosaccharides) by using various combinations of bacteria, yeast and fungi. Live or inactivated microorganisms are used, then their enzymes work, which can also be isolated from them - in a free form and immobilized on the beds. Organisms producing little or no ethanol are used, however, a process of removing ethanol to less than 0.5% is proposed by any permitted physical method (only physical methods are permitted in the production of juices).

The organoleptic changes are minor (taste and aroma are equivalent to those of the original juice), with the exception of a reduced sweet taste. It is worth pointing out that, as Francesco Branca, WHO Director of Nutrition and Food Safety, says: “Replacing free sugars with NSS (non-sugar sweeteners) does not help with weight management in the long run. People should consider other ways to **reduce free sugar intake**, such as eating foods that contain naturally occurring sugars, such as fruit, or unsweetened foods and drinks. NSS are not significant dietary factors and have no nutritional value. People should completely **limit sweetness in their diet**, starting early in life, to improve their health.”

For more information, read the full WHO report: [https://cdn.ymaws.com/ifu-fruitjuice.com/resource/resmgr/who/who\\_guide\\_on\\_use\\_of\\_nss-eng.pdf](https://cdn.ymaws.com/ifu-fruitjuice.com/resource/resmgr/who/who_guide_on_use_of_nss-eng.pdf)

It is therefore a patent that describes the use of enzymes to reduce sugars, so it is not an unexplored process. Examples of other 3 patents, Poland indicated in the answers to the questions of the Swedish Presidency (see PL's answer to question No. 2 regarding changes in the Juice Directive - Council document No. 9697/23 Add 9 REV 1 of May 24, 2023):

They show that: enzymatic methods allow for the removal of selected types of sugars depending on the type of enzyme used. By properly selecting the reaction parameters, the amount of sugar removed can be controlled - due to the fact that the appropriate ratio of specific types of sugars in the juice has a significant impact on the perception of its taste, reactions can be carried out in such a way that the resulting product has the best organoleptic characteristics.

Enzymatic processes produce controlled reaction products and there is usually no need to remove volatile compounds such as ethanol.

We would like also to ask consequently for **widening list of enzymes** which are now authorized in juice directive. The new wording would be as follows:

Annex I Section 2. Authorised treatments and substances”:

***Enzyme preparations: pectinases (degrading pectin), proteinases (degrading proteins), amylases (degrading starch), cellulases (limited use to facilitate the disruption of cell walls), oxidoreductases, hydrolases, transferases and isomerases (to reduce the sugar content by enzymatic methods) meeting the requirements of Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes.'***

At juice directive we have now authorised in Annex I Section 2. Authorised treatments and substances”:

- Pectolytic enzymes.
- Proteolytic enzymes.
- Amylolytic enzymes.