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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 - Explanatory note from the Presidency

Delegations will find attached the explanatory note from the Presidency.

SCA 4 December 2023 – Explanatory note

On 14th November, the SCA gave the Presidency a negotiating mandate for the so-called "Breakfast Directives" in order to start negotiations with the European Parliament on the basis of the Presidency text set out in document 15106/23.

It was also agreed during the meeting, to consider the possibility to address one delegation's concerns regarding the use of the term "citrus marmalade". This delegation requested to maintain the *status quo* in its territory regarding the name of citrus marmalade that is manufactured from three or more fruits, to allow it to name as 'mixed fruit marmalade' or "[x]fruits marmalade" where x is the number of the fruits used. This request is because of the domestic consumer habits.

In order to address this request, the Spanish Presidency proposes to adapt the text as follow:

Article 3(1)(aa) (new)

In point 2 the following sentence is added at the end of Article 2(2) of Directive 2001/113/EC:

"By way of derogation, Member States that do not authorise the use of the term "marmalade" and "extra marmalade" for the product names "jam" and "extra jam" as provided for in Annex II, Part I, first and second indent, may authorise, on their territory, that in case of citrus marmalade manufactured from three or more fruits the indication "mixed fruit marmalade" or "[x]fruits marmalade", where x is the number of the fruits, may be used.

Justification:

A new point (aa) is added in Article 3(1) of the Commission proposal amending Article 2(2) of Directive 2001/113/EC in order to keep the status quo in Member States that do not use interchangeably the term "marmalade" and "jam". Thus, this derogation allows to take into account consumer habits in these Member States and their consumers are not misled.

In Annex II(1)(a):

Please see the addition in relation to jam:

*Member States may, however, in order to take account of **consumer habits societal practices**, authorise, **on their territory**, that the term ‘marmalade’ be used for the product name~~ed~~ ‘jam’, **except in the case of citrus jam**”.*

Please see the addition in relation to extra jam:

*Member States may, however, in order to take account of **consumer habits societal practices**, authorise, **on their territory**, that the term ‘extra marmalade’ be used for the product name~~ed~~ ‘extra jam’, **except in the case of citrus jam**”.*

Justification:

The objective of the addition “*on their territory*” is only to clarify that the possibility to use interchangeably the term “marmalade” and “jam” applies in the territory of the Member State that decides to authorize it, on the basis of the habits of its consumers.

Recital 17:

Annex I to Directive 2001/113/EC restricts the term ‘marmalade’ to a particular citrus fruit mixture. However, in a number of official languages of the Union, while the legal names laid down in that Annex have been used in trade to designate the products referred to therein, the *consumers society at large* uses interchangeably the terms ‘marmalade’ and ‘jam’ to refer to jams from fruits other than citrus fruits. In order to take into account these *consumer habits* practices where it is the case, while taking into account that the harmonised name remains ‘jam’, Member States should be able to authorise, on their territory, that the term ‘marmalade’ may be used for the product name ‘jam’ in the case of jams from fruits other than citrus fruits. Consequently, in order to avoid consumer confusion, the term ‘citrus marmalade’ should be used across the Union for the product until now defined as ‘marmalade’ in order to distinguish the two product categories; where the term “citrus” could be exchanged for the name of the citrus fruit(s) used. This is also in line with Such approach is already used in the international standard reflected in the Codex General Standard for jams, jellies and marmalades, (Codex Stan 296-2009), adopted by the Codex Alimentarius Commission during its 32nd session held from 29 June to 4 July 2009, which establishes a distinction between citrus marmalade and non-citrus marmalade. In a Member State that does not avail of the option to name ‘jam’ as ‘marmalade’ because of the domestic consumer habits, it should be possible to continue, on its territory, and in the case of citrus marmalade that is manufactured from three or more fruits, to allow it to name as ‘mixed fruit marmalade’ or “[x]fruits marmalade “ where x is the number of the fruits used by the number of fruits used. It is therefore appropriate to revise that Directive accordingly as regards the product names ‘marmalade’ and ‘citrus marmalade’.

Justification:

As a consequence of the above indicated proposals, the recital 17 is amended accordingly.

After a detailed examination, the reference to the Codex Alimentarius is not relevant to explain the decision to use interchangeably the terms ‘marmalade’ and ‘jam’ to refer to jams from fruits other than citrus fruits.