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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 German delegation

Delegations will find attached the German delegation's comments and replies in response to the request from the Presidency sent on 20 December 2023, and that can be found in document 16745/23.

**German Position for the Special Committee on Agriculture related to the topic
“Revision of the Breakfast Directives” on 8 January 2024**

Document 16745/23 contains questions in preparation of the Special Committee on Agriculture on 8 January 2024, as well as further questions. Germany thanks the Belgian presidency for the possibility to provide written replies to these questions. Below please find our answers in blue font.

Honey:***1.1 What is the opinion of the Member States on the introduction of a traceability system that requires Member States to trace back the entire supply chain of a given honey to beekeepers or harvesting operators in the case of imported honey (AM 21, 56)?***

In view of Article 18 of Regulation 178/2002, in particular Number 2 and 3, Germany does not support the introduction of a specific traceability system for honey. Regulation 178/2002 specifies that food business operators shall be able to identify any person from whom they have been supplied with a food („one step back“) and the systems and procedures which allow for this information to be made available to the competent authorities on demand. They also require that food business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied (“one step forward“) and that this information shall be made available to the competent authorities on demand.

In addition, Delegated Regulation (EU) 2023/2652 amending Delegated Regulation 2022/2292 with regard to requirements for the entry into the Union of honey and apicultural products establishes a new requirement for third countries on the listing of establishments authorised to export honey and other apiculture products intended for human consumption to the Union. This listing is one of the prerequisites for the intensification of official controls on honey and apicultural products, in order to ensure that honey and other apicultural products from third countries intended to be placed on the Union market comply with the rules on food, food safety, integrity and wholesomeness at all stages of production, processing and distribution of food.

1.2 What is the opinion of the Member States on the proposed change of the definition of honey, in particular to exclude ultrafiltration, artificial evaporation and vacuum evaporation as allowed techniques and to introduce a new type of honey, namely ‘unheated honey’ (AM 19, 20, 26, 27, 29, 30, 31, 32, 67)?

As pollen is an important constituent of honey, Germany supports the requirement contained in Annex II third paragraph of the Honey Directive that neither pollen nor any other

constituent particular to honey may be removed except where this is unavoidable in the removal of foreign inorganic or organic matter. We acknowledge that this provision may not be clear enough and that a precision may be useful. Filtered honey is currently exempted from the requirement contained in Annex II third paragraph of the Honey Directive, which results in filtered honey being of lower quality. However, Germany can agree to increase the quality requirements for honey by prohibiting the removal of pollen for all types of honey, i.e., to remove the subcategory of filtered honey from the Honey Directive.

With respect to the techniques/processes for the removal of certain substances, we are uncertain whether there is already a uniform understanding with regard to the term “ultrafiltration” and a specific filter mesh size that should not be used when processing honey with the aim to remove particles of wax and other foreign material. Thus, while we can support the general idea contained in amendment 31, more time may be needed to formulate such a requirement to achieve the intended goal.

We agree that vacuum evaporation/artificial evaporation should not be allowed in the processing of honey.

We do not support a subcategory of honey termed “unheated honey”, “raw honey” or “virgin honey”. Generally, moderate heating of the honey is a commonly applied natural processing step, so that the creation of such a subcategory may mislead the consumer. To introduce a further criterion for honey, namely the activity of the enzyme invertase as proposed in amendments 6, 32 and 67, is problematic as this enzyme, while degrading as a result of heat treatment, also degrades over time. Thus, the indicated shelf life of honey would need to be much shorter to enable compliance with this criterion at the end of the best-before date. Finally, we note that the method given in amendments 32 and 67 for the measurement of invertase activity should be “Siegenthaler” instead of “Gontarski”, as otherwise very few honeys would be able to comply with the proposed values.

Fruit Juice:

2.1 What is the opinion of the Member States on the proposal to introduce origin labelling for fruit in fruit juices (main AM 33)?

Germany does not support the proposal at this stage. While we acknowledge that origin labelling for fruits in fruit juice would promote consumer information and create more transparency about the countries of origin of the relevant ingredients, the consequences of such a measure on price, food and packaging waste, and product variety have not been

elucidated. In addition, it is unclear to us why this proposal is limited to fruit juice and does not comprise fruit nectars. Thus, an impact assessment should first be undertaken before discussing such a measure again for all types of products regulated by Directive 2001/112/EC.

2.2 What is the opinion of Member States on the proposal to restrict claims for reduced-sugar fruit juices and to prohibit any comparative claims for those products in comparison with the fruits they originate from or 'normal' fruit juices (AM 36)?

Regulation (EC) No. 1924/2006 on nutrition and health claims made on foods is a legislative act that is supposed to be horizontally applicable to food for general consumption. Therefore, Germany is of the opinion that the provisions of this Regulation should also be applicable to products regulated by Directive 2001/112/EC, including sugar-reduced fruit juice (from concentrate). Consequently, we do not support this proposal.

2.3 What is the opinion, in principle, of the Member States on the proposal to subordinate the creation of the new categories of reduced-sugar fruit juices to the adoption of criteria better defining the essential physical, chemical, organoleptic and nutritional characteristics of an average type of juice (AM 37, 38)?

Germany supports this proposal for reasons of legal certainty regarding the new category of reduced-sugar fruit juice and, consequently, for reasons of controllability.

Jam:

3.1 What is the opinion of the Member States on the proposal to introduce origin labelling for fruits and sugar in jams (AM 39)?

Germany does not support the proposal at this stage. While we acknowledge that origin labelling for fruits in jams, jellies and marmalades and sweetened chestnut purée would promote consumer information and create more transparency about the countries of origin of the relevant ingredients, the consequences of such a measure on price, food and packaging waste, and product variety have not been elucidated. Thus, an impact assessment on origin labelling for fruits in these products should first be undertaken before discussing such a measure again for products regulated by Directive 2001/113/EC. We strongly object to origin labelling for sugar in such products, among other things as this may revalue sugar as an ingredient.

Likewise, we strongly reject the proposal to indicate the percentages of the countries of origin of fruits in jams, jellies and marmalades and sweetened chestnut purée using specified ranges.

Other:

4.1 Are there any other issues Member States wish to express concerning the content of the mandate of the European Parliament?

With regard to the proposal to establish a European Union reference laboratory for honey (amendment 61), Germany would like to point out that Regulation (EU) 2017/625 (on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products) already foresees an empowerment of the Commission to adopt delegated acts in accordance with Article 144 of the afore-mentioned Regulation concerning the establishment of requirements, responsibilities and tasks for European Union reference laboratories. Thus, there is no need for specific provisions on the matter to be included in the Honey Directive.

With regard to amendment 46 (to explicitly prohibit the addition of sugars or sweeteners to reduced-sugar fruit juices), Germany is of the view that such text is unnecessary and that the provisions of Annex I Part II No. 2 of Directive 2001/112/EC are sufficiently clear. We also note that the addition of sweeteners to Food Category 14.1.2 (Fruit juices as defined by Directive 2001/112/EC and vegetable juices) is not foreseen according to Regulation (EC) No. 1333/2008.

Some of the text proposed by the EP appears to be repetitive, out of scope or the link to the products targeted by the Directive is not immediately clear. This concerns e.g. amendments 8, 9, 10 and 44.