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#### NOTE

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| From:          | General Secretariat of the Council                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| To:            | Delegations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| No. Cion doc.: | 8624/23 + ADD 1- ADD 4                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 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<br>- Preparation of the trilogue |

Delegations will find in the Annex a Presidency note with a view to inviting the SCA to exchange views, to agree to modify the negotiating mandate, and to prepare the trilogue on the Directive amending the Breakfast Directives, to be held on 30 January 2024.

**Introduction**

The Belgian Presidency has held five interinstitutional technical meeting (ITMs) with the European Parliament, based on the Council's mandate as laid down in document 15106/2/23/REV 2. The sixth and last ITM is planned for Thursday 25 January. This note provides information on articles where a tentative agreement with the European Parliament has been reached, and articles where negotiations are still on-going. At the SCA the Presidency will invite delegations to exchange views on these outstanding issues and compromise suggestions.

Please note that depending on the outcome of the ITM to be held Thursday 25 January, the note will be revised and shared with delegations after that meeting.

**Articles/rows/issues where a tentative agreement has been reached with the European Parliament, including explanations where necessary:****Amendments to Directive 2001/110/EC, 'Honey Directive'**

Concerning the Honey Directive, the Presidency tentatively agreed on the amendments suggested by the Parliament related to filtered honey. This means that "filtered honey" is deleted in article 2, point 2 and point 2(b), article 3 and Annex I, point 2(viii) of the Honey Directive (row 41b, 41d, 44e). Instead, the definition of filtered honey as outlined in Annex I, point 2 (viii) will be incorporated into the definition of baker's honey in Annex I, point 3 of that Directive.

**Amendments to Directive 2001/112/EC, 'Fruit Juice Directive'**

Concerning the Fruit Juice Directive, the Parliament tentatively agreed on the amendments suggested by the Council for:

- Article 3, point 1, subpoint (b) concerning the languages that can be used for particular designations (row 53);

- Annex I concerning the reference to Directive (EU) 2020/2184 which sets out criteria to water intended for human consumption (row 117a, 117b, 117c, 117d), however, the term ‘potable water’ may be changed to ‘water intended for human consumption’ in alignment to Directive (EU) 2020/2184;
- Annex I concerning the addition of a new category ‘Concentrated reduced-sugar fruit juice’ (row 125a, 125b, 129, 134), however, an agreement on the wording for the definition of the new category itself has not yet been reached;
- Annex IV concerning ‘Quinces’ (row 62a).

The Presidency tentatively agreed on the amendments suggested by the Parliament for:

- Article 3, point 6 where the new categories of reduced-sugar juices are added, relating to the labelling of ‘(partially) from concentrates’ (row 58);
- Annex I, part II, point 3, last indent as added concerning the allowed processes to reduce sugar where a rewording was proposed by the Parliament (row 141).

#### Amendments to Directive 2001/113/EC, ‘Jam Directive’

Concerning the Jam Directive, the Parliament tentatively agreed on the following amendments suggested by the Council:

- Annex II, second to fifth indents, concerning the addition of ‘concentrated juice’ (row 85 till 86c);
- Annex III concerning the particular designations (row 152, 152b, 155).

Furthermore, the Presidency and the Parliament have tentatively agreed to increase the fruit content in jams and extra jams, while ensuring a significant distinction between “jam” and extra jam”:

- 400g as a general rule for jam instead of 450g in the Commission Proposal (row 167);
- 500g as a general rule for extra jam instead 550g in the Commission Proposal (row 176);
- 180g for ginger jam instead of 250g in the Commission Proposal (row 169);
- 280g for extra ginger jam instead of 350g in the Commission Proposal (row 178).

## Amendments to Directive 2001/114/EC

Concerning Directive 2001/114/EC on preserved milk, the Parliament tentatively agreed to the amendments proposed in the Councils' mandate.

**Articles/issues where discussions are still on-going and for which the Presidency will come back to delegations:**

### **1. STATEMENT CONCERNING SUGARS IN FRUIT JUICE (row 55)**

The European Parliament wants to introduce the voluntary statement 'contains only naturally occurring sugars' instead of the statement 'no fruit juices contain added sugars' as proposed by the Commission. The Council mandate foresees a combination whereby the statement 'fruit juices do not contain added sugars' has to be accompanied by the statement 'fruit juices contain sugars that occur naturally in the fruit'.

#### **Possible compromise:**

A possible approach could be to agree on a voluntary statement that fruit juices contain only naturally occurring sugars.

### **2. EMPOWERMENTS FOR FRUIT JUICES**

The Council considers that the definition of the reduced-sugar fruit juices leaves room for interpretation. Therefore, the Council suggests to further detail the requirements for these new products by empowering the Commission to adopt implementing acts to lay down uniform rules regarding the use of the authorized treatments and the resulting characteristics of the reduced-sugar fruit juices (row 61d).

The European Parliament also considers that there is a need to define the essential characteristics of an average type of juice but suggests that this has to be done based on a Commission proposal by 31 December 2024 (row 68b). Moreover, the Parliament suggests that the reduced-sugar juices cannot be placed in the market until 12 months after the adoption of the definition for the essential characteristics of an average type of juice (row 61r).

### **Possible compromise:**

The Presidency therefore proposes to empower the Commission to lay down rules on the characteristics of the products listed in Annex 1, Part I, and rules regarding the use of authorised technologies to reduce sugar. Additionally, the Presidency proposes to empower the Commission to lay down the methods of analysis to verify if the products listed in Annex I, Part I [1(b), 2, 6(a) and 7] are compliant with the Directive. These delegations of power have to respect the interinstitutional agreement on Non-Binding Criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union.

### **3. COMPARISON OF REDUCED-SUGAR FRUIT JUICE TO FRUIT JUICES**

The European Parliament wants to explicitly prohibit claims regarding positive properties, such as health benefits, ingredients or nutritional value of reduced-sugar juices in comparison with the fruits from which they originate or the regular fruit juices (row 58c). The Council's mandate did not foresee such a prohibition. Comparison with fruits is not allowed according to the Claims Regulation 1924/2006 since fruits and juices are different categories in the meaning of that regulation. However, at present, it is not explicitly forbidden to compare reduced-sugar fruit juices with regular fruit juices, as long as it complies with Regulation 1924/2006 and Regulation 1169/2011.

### **Possible compromise:**

The Presidency proposes to not allow for the new categories of reduced-sugar fruit juice, reduced-sugar fruit juice from concentrate or concentrate from reduced-sugar fruit juice to make any nutrition or health claims in comparison to fruit juice or the products listed in Annex I, point 1 to 4.

#### 4. ORIGIN LABELLING OF FRUITS AND SUGAR

The European Parliament wants to introduce origin labelling for fruits used in fruit juices, and for fruits and sugars in jams and jellies. According to this amendment, the countries of origin of the mentioned fruits must be indicated on the label in descending order based on their proportions in the fruit juice (row 53b). The Parliament introduced a similar provision for fruits and sugar used in jams (row 76b), where the fruits used in jams would also be displayed in descending order based on their proportion through the use of ranges. These amendments raise concerns about the feasibility of these label requirements and the potential administrative burden for producers. Additionally, introducing such a label requirement without any impact assessment – analyzing the need, added value, costs and impact– also raises questions regarding the proportionality of such a label requirement.

In the pursuit of an agreement with the Parliament, the Presidency aims to find solutions that are acceptable to the EP without introducing rules not being in line with the Better Regulation procedures (impact assessment, etc.). The Presidency therefore suggests exploring the potential of implementing such a label requirement in the future, provided it aligns with Better Regulation procedures. This entails the Commission conducting a proper impact assessment for origin labelling of fruits in fruit juices.

##### **Possible compromise:**

The Presidency suggests to introduce a new provision that instructs the Commission to produce a report to evaluate the impact of such an initiative in the future. A specific timeframe for this report could be set within a reasonable period, allowing the Commission to thoroughly analyze the potential costs and benefits of such origin labelling, as well as its impact on the internal market and international trade.