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From: General Secretariat of the Council

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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

Delegations will find in the Annex the comments from the Polish delegation on the above-mentioned proposal.

Warsaw, 24.05.2023

Answers from Poland
related to questions from Swedish Presidency
given in document: WK 6565/2023 on 17.05.2023

Fruit juices

1. Do you agree to the inclusion of a category of fruit juice with reduced sugar?

Poland supports direction of changes proposed in the EC Proposal which concerns inclusion to „juice directive” new group of sugar – reduced fruit juices (NFC and „from concentrate”). We are of the opinion that definitions of such new products should ensure that qualities of these sugar-reduced juices other than sugar level, are still maintained if it is possible taking into account constrains of technology used to production of these kind of products. Enzymatic processes should be also authorised technology to production category of fruit juice with reduced sugars.

Within this category, the following three subcategories should be included:

- a) reduced - sugar fruit juice
- b) reduced - sugar fruit juice from concentrate
- c) concentrated reduced - sugar fruit juice

Lack of definition: „concentrated reduced - sugar fruit juice” (lit c) in „juice directive” would enable production of „reduced - sugar fruit juice from concentrate”.

2. Do you agree that membrane filtration and yeast fermentation are to be authorised processes? (Is it sufficient to meet technical innovation?)

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 unenable 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

3. Will the requirement “all the other essential characteristics should remain unchanged” be an obstacle to placing these products on the market?

Consumers are interested in products, including those with a lower sugar content so addition of a category of juices with a reduced sugars content meets their expectations. This broadens the range of juice products. Technologies for reducing sugars in fruit juices (several methods are possible) are being developed and implemented for use in industrial conditions. The process of lowering the sugar content, in addition to changing the organoleptic characteristics (sweet taste), will also affect some physical properties (viscosity, density), chemical (formation of new chemical compounds or removal of naturally occurring compounds), organoleptic (the above changes result in an organoleptic change of the juice with reduced sugar content) and nutritional - due to the reduction of sugar content, which, depending on the method used, will be partially removed or replaced with another ingredient that may even have health-promoting properties (e.g. fructooligosaccharides, glucooligosaccharides, gluconic acid or allulose). Currently, detailed analytical data is still lacking (but is gradually being supplemented) due to very scarce laboratory data and industry access to technology.

Poland propose to change Annex I (a) in Part I, point 6 as follows:

‘ 6. (a) Reduced-sugar fruit juice

The product obtained from the product defined in point 1(a) where naturally occurring sugars have been removed by at least 30 % by using a process authorised under the conditions laid down in Part II, point 3, of Annex I, ~~which maintains all the other essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes.~~”the process maintains all other essential physical, chemical, organoleptical and nutritional characteristics corresponding to at least the characteristics of an average type of juice of the same kind, excluding changes of characteristics, directly resulting from the used method of decreasing sugar content”.

Definition of these essential characteristics will be provided in the European Commission Delegated Act.

The mixing of reduced-sugar fruit juice with fruit juice and/or fruit purée is authorised in the production of reduced-sugar fruit juice.

(b) Reduced-sugar fruit juice from concentrate

The product obtained from the products defined in point 1(b) or point 2 where naturally occurring sugars have been removed by at least 30 % by using a process authorised under the conditions laid down in point 3 of Part II of Annex I, ~~which maintains all the other essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes,~~”the process maintains all other essential physical, chemical, organoleptical and nutritional characteristics corresponding to at least the characteristics of an average type of juice of the same kind, excluding changes of characteristics, directly resulting from the used method of decreasing sugar content”.

and that have been reconstituted with potable water that meets the criteria set out in Directive 98/83/EC. Definition of these essential characteristics will be provided in the European Commission Delegated Act.

*The mixing of reduced-sugar fruit juice from concentrate with fruit juice, fruit juice from concentrate, **reduced-sugar fruit juice**, fruit purée and/or fruit purée from concentrate is authorised in the production of reduced-sugar fruit juice from concentrate.’;*

c) concentrated reduced - sugar fruit juice – at similar way as above two definitions

Possibility to use "without added sugars" claim in accordance with regulation 1924/2006 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, from vegetable, with a reduced content of sugars, classic juices), therefore average consumer often is lost/confused and without such claim consumer is not able to correctly assess the quality of juices in terms of origin and the amount of sugars obtained. Consumer research based on shows that the number of consumers (several dozen percent) believe that sugar is added to fruit juices. Adding a specific category - juices with reduced sugar content will further deepen/perpetuate this wrong opinion.

Jam and marmalades

1. In the proposal on jam and marmalade the quantity of fruit required in jam and extra jam is increased. Do you agree with the increase in the quantity of fruit required in jam and extra jam?

Poland agree that increasing the quantity of fruit in extra jams has a significant impact on the quality of the products and is an action desired/expected by consumers. At the same time, it may be advisable to consider determining the content of gelling agents in this group of products. What distinguishes this product on the market as a high-quality product. In this group, the market also includes jams produced in small plants, where no gelling agents are used in the production process, and they are marketed as one group of products.

2. To what extent will these products improve health and sustainability?

Consuming more fruit processed into jams, marmalades, etc. while reducing the consumption of added sugars from these products, probably would contribute to improving the health of consumers. The "nutrient density" of these products and their characteristics in terms of the balance between production methods and energy resources used for, production materials used to manufacture a product with a higher nutritional value - seems to be also improved.

3. Do you agree with opening up for the term marmalade to be used also for jams?

The change in the nomenclature of marmalades is aimed at unifying the nomenclature in the regulations of various Member States, including Poland. In the national regulation that was notified, Poland regulates the term pl. „marmolada twarda lub miękka z owoców innych niż cytrusowe”(en. "hard or soft marmalade from fruits other than citrus"). In Poland, marmalades are not made from citrus fruits and are not commonly associated with these fruits, which is why this change seems to be beneficial for consumers. Domestic marmalades are produced mainly from apple purees, possibly with the addition of more noble fruit purees. In addition, the changes constitute an adaptation to the standards of the Codex Alimentarius Commission (Codex Stan 296-2009). Poland warmly welcomes the proposal to change the EU regulations on the term "marmalade", however, it draws attention to the need to maintain the current tradition of producing these products in the Member States. In the event of differences, perhaps a solution similar to that adopted in the amended Annex III to the Juice Directive proposed in the EC Proposal would also be needed in the case of the Jam Directive to take into account the tradition of "marmalade" production in individual EU Member States.

4. Do you expect that the increased requirement for fruit content may have an impact on the price to the consumer?

Increasing the fruit content in products covered by the "Jam Directive" and the related with this action, need for changes in recipes will rather increase the prices of these products. The price of the raw materials (fruit and sugars) has a very significant impact on the price of the final products - in the case of a large supply of fruit on the market and high prices of sugars, the price increase of “jam products with increased fruit content” may be probably insignificant or not very high.

The proposal on honey is aimed at reducing the risk for consumers being misled by the labelling of honey blends with origin.

Do you think that the proposed change will sufficiently reduce that risk? You are welcome to motivate your answer.

Taking into consideration that according to the report „From the hives”, most honey from the EU is placed on the market as „honey blends”, the proposal is a step in the right direction. According to Polish authorities the proposed amendment will help to reduce the risk for misleading the consumers as to the country of origin.

At the same time Poland is open to discussion on solutions that can provide consumers with even greater transparency, while taking into account the possibilities of control as well as without excessively increasing the burden on operators.

Will the proposed change have any negative consequences on the administrative burden for producers and/or packers?

To what extent could this have an impact on the price to consumers?

Taking into consideration current technical measures in the field of design and manufacture of labels, it seems that the cost for the packaging companies will be insignificant or minor. As a result of the fact that commercial documents confirming the origin of the honey are required at the moment, no additional administrative burden for producers are expected.

Some Members States have, in the Council, expressed a wish to see a requirement for labelling with a percentage/share of the honey. If you propose this, can you see that Member State’s control authorities will be able to verify this information?

Due to the limited possibilities of investigating of the origin of honey with the methods aimed at the botanical origin of honey, verification of the percentage composition would be possible on the basis of the information received from the producer. Inevitably such verification would be time-consuming and therefore costly for control authorities.

Do you agree with authorising a treatment to produce lactose free dehydrated milk (similar to what is already possible for liquid milk)?

Yes, Polish authorities agree with this proposal.

ADDITIONAL INFORMATION SENT ON 9 JUNE 2023

1. KE proposal related to fruits juices: „no fruit juices contain added sugars” and Presidency’s new option: „Fruit juices contain only sugars that occur naturally in the fruit”
Poland support KE proposal with additional wording as follows: „**with no added sugars, no fruit juice contain added sugars**”

We would like to underline: in the EFSA report (mentioned by Germany in written comments), there is no clear criticism of juices, only qualification of fruit juices as a source of sugars, which does not mean that they are unhealthy. An expression of a completely different approach in this report is the inclusion of them in the group, together with fruits and vegetables (especially when they are used in a balanced diet in accordance with the needs of the human body).

According to page 17 of EFSA report:

3.1.1.5. Dietary sugars

Food groups mostly contributing to the intake of added and free sugars in European countries are ‘sugar and confectionery’ (i.e. table sugar, honey, syrups, confectionery and water-based sweet desserts), followed by beverages (sugar-sweetened soft and fruit drinks, fruit juices and nectars) and fine bakery wares. The main difference between the intake of **added** and **free** sugars is accounted for by fruit juices and nectars. In infants, children and adolescents, sweetened milk and dairy products are also major contributors to mean intakes of added and free sugars (EFSA NDA Panel, 2022).

Experts from the Faculty of Health Sciences of the Medical University of Warsaw (WUM) conducted a research review, which they collected in the study "Research review. The occurrence of sugar in fruits, vegetables, juices and its impact on diet." The study leads to the overthrow of the myth that the sugara contained in fruits and their products, such as juices, are just as harmful as sugar in sweets. According to experts, scientific research clearly proves that the sugars contained in fruits and fruit juices should not be treated only as the equivalent of sugar contained in e.g. sweets. The research review report shows, among other things, that:

- Fruit juices do not have a significant negative effect on glycemic control in people without impaired secretory functions of the pancreas.
- The phytochemical composition of juices containing pulp is similar or even richer in the case of some fruits compared to whole fruits.
- Juices, especially from pomegranates, cranberries, dark grapes of the Concord variety, cherry or citrus fruits, are characterized by a wide range of bioactive ingredients that have cardioprotective and chemopreventive applications, and have recently been shown to be potentially neuroprotective.

Link to this research review report:

https://wnoz.wum.edu.pl/sites/wnoz.wum.edu.pl/files/przegląd-badan_wystepowania-cukru-w-owocach_warzywach_sokach-oraz-jego-wplyw-na-diete.pdf

2. It seems that there is a need to put into Annex I p. 1 lit. a) additional definition of „*concentrated reduced-sugars fruit juice*” as follows:

“c) **concentrated reduced - sugars fruit juice**

The product obtained from the products defined in point 6(a) by the physical removal of a specific proportion of the water content and/ or the product defined in point (2) where naturally occurring

sugars have been reduced by at least 30 % by using a process authorised under the conditions laid down in the European Commission Delegated Act.



The product maintains essential physical, chemical, organoleptical and nutritional characteristics of an average type of concentrated juice of the fruit from which it comes, defined in the European Commission Delegated Act.

Where the product is intended for direct consumption, the removal of water shall be at least 50 % of the water content.

Flavour, pulp, and cells obtained by suitable physical means from the same species of fruit may be restored to the concentrated reduced-sugar fruit juice.”

3. Issue of requirement : *all the other essential characteristics should remain unchanged*” and proposed by Poland at the meeting 26.05 addition of enzymatic processes as authorised method for production of *fruit juices with reduced sugars*.

Poland has also proposed to add in new definitions the fragment: “**except for changes in properties resulting directly from the applied method of reducing the sugar content**” as we presented in writing comments 11.05.2023.

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 patent does not provide information on the color of the juice.

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

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.

4. Poland support recommendation to delete the allowance for the use of sweeteners from the part containing no added sugar in point b of Annex I, in order to be in line with Regulation 1924/2006/EC. Thus, the text of the draft would 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.**”