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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption

EXPLANATORY MEMORANDUM

Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption lays down rules governing the composition, use of reserved descriptions, manufacturing specifications and labelling of the products concerned, in order to ensure their free movement within the European Union.

Commission Directive 2009/106/EC of 14 August 2009¹ is the first amendment to Directive 2001/112/EC. It introduces minimum Brix values (soluble dry matter content) for 18 reconstituted fruit juices and reconstituted fruit purées and specifies the sales name to be used for fruit juice from concentrate. This amendment of the directive is based on revised international standards, in particular the Codex Alimentarius for fruit juices and nectars (Codex Stan 247-2005) and the Code of Practice of the European Fruit Juice Association (AIJN).

The present draft directive, a Directive of the Parliament and of the Council, is the second measure amending Directive 2001/112/EC and is aimed at incorporating more of the provisions of the Codex Alimentarius standard, while also taking account of the AIJN Code of Practice. This draft directive, which is technical in nature, reaffirms the distinction between fruit juice and fruit juice from concentrate, simplifies the provisions on the restitution of flavour and aroma, provides for the removal of sugar from the list of authorised ingredients and includes tomatoes in the list of fruits used for fruit juice production.

The European Union's fruit juice market represents 10% of the total consumption of non-alcoholic drinks. With regard to the segmentation of this market, the production of fruit juice from concentrate is predominant as compared to juice produced directly (respectively 87.6% and 12.4%). At the level of the world fruit juice market, the only product in which there is significant trade is fruit and fruit juice concentrate (especially orange juice), which for the most part comes from Brazil. As for juice produced directly, the countries of the European Union are essentially supplied by the Spanish market and also from Brazil.

The proposed Directive has no impact on the budget of the European Union.

This proposed directive will follow the ordinary legislative procedure provided for by the Treaty on the Functioning of the European Union. It will take account, as of now, of the redefinition of the competences of the Commission (Articles 290/291 of the Treaty). Consequently, it will amend Articles 7 and 8 of the current directive by including all implementing measures in the category of delegated acts.

¹ OJ L 212, 15.8.2009, p. 42.

Proposal for a

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amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In order to enhance the free movement of fruit juices and certain similar products within the European Union, Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption⁴ has laid down specific provisions regarding production, composition and labelling of the products concerned. Those rules should be adapted to technical progress and should take account of developments in relevant international standards, in particular the Codex Standard for fruit juices and nectars (Codex Stan 247-2005) which was adopted by the Codex Alimentarius Commission during its 28th session on 4-9 July 2005 and the Code of Practice of the European Fruit Juice Association (AIJN).
- (2) The above Codex Standard establishes in particular quality factors and labelling requirements for fruit juices and similar products. The AIJN Code of Practice also establishes quality factors for fruit juice from concentrate and is internationally used as a reference standard for self-regulation in the fruit juice industry. Directive 2001/112/EC should be brought into line, as far as possible, with those standards.
- (3) Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling,

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 10, 12.1.2002, p. 58.

presentation and advertising of foodstuffs⁵, and in particular Article 7(2) and (5) thereof, should apply subject to certain conditions. It should be clearly indicated when a product is a mixture of fruit juice and fruit juice from concentrate, and, for fruit nectar, when it is obtained entirely or partly from a concentrated product. The list of ingredients in the labelling should bear the names of both the fruit juices and fruit juices from concentrate used.

- (4) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of the adaptation of the non-essential elements of Directive 2001/112/EC to technical progress and last developments in relevant international standards. The delegation of powers should be explicitly defined.
- (5) Directive 2001/112/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendment of Directive 2001/112/EC

Directive 2001/112/EC is amended as follows:

- (1) In Article 3, paragraphs 3 and 4 are replaced by the following:

"3. For products manufactured from two or more fruits, except where lemon and lime juice are used under the conditions laid down in Part II.2 of Annex I, the product names shall be supplemented by a list of the fruits used, in descending order of the volume of the fruit juices or purées included. However, in the case of products manufactured from three or more fruits, the indication of the fruits used may be replaced by the words "several fruits" or a similar wording, or by the number of fruits used.

4. Nectars and specific products of Annex III may be sweetened by the addition of sugars or honey. The sales name shall include the word 'sweetened' or 'with added sugar', followed by an indication of the maximum quantity of sugar added, calculated as dry matter and expressed in grams per litre."

- (2) Article 4 is replaced by the following:

"Article 4

The labelling of concentrated fruit juice referred to in Annex I, Part I, point 2, not intended for delivery to the final consumer, shall bear a reference indicating the presence and quantity of added lemon juice, lime juice or acidifying agents permitted by Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives*. This reference shall appear on the packaging, on a label attached to the packaging or on an accompanying document.

⁵ OJ L 124, 25.5.2000, p. 66.

* OJ L 354, 31.12.2008, p. 16."

(3) Article 7 is replaced by the following:

"Article 7

In order to bring this Directive in line with the technical progress and to take account of developments in relevant international standards, the Commission may by means of delegated acts adapt the Annexes, except of Part I of Annex I, and of Annex II.

Where delegated powers are conferred upon the Commission, it shall act in accordance with the procedure set out in Article 7a."

(4) The following Article 7a is inserted:

"Article 7a

1. The powers to adopt the delegated acts referred to in this Directive shall be conferred on the Commission for an indeterminate period of time.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

2. The delegation of power referred to in paragraph 1 may be revoked at any time by the European Parliament or by the Council.

The institution which has commenced an internal procedure for deciding whether to revoke the delegation of powers shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

3. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act."

- (5) Article 8 is repealed.
- (6) The Annexes are replaced by the text set out in the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive 18 months following its entry into force at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

ANNEX

"ANNEX I

PRODUCT NAMES, DEFINITIONS OF PRODUCTS AND CHARACTERISTICS

I DEFINITIONS

1. a) Fruit juice

The fermentable but unfermented product obtained from the edible part of fruit which is sound and ripe, fresh or preserved by chilling or freezing of one or more kinds mixed together having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes.

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

In the case of citrus fruits, the fruit juice must come from the endocarp. Lime juice, however, may be obtained from the whole fruit.

Some juices may be processed from fruits with pips, seeds and peel, which are not usually incorporated in the juice; however parts or components of pips, seeds and peel, which cannot be removed by good manufacturing practices are accepted.

The mixing of fruit juice with fruit purée is authorised in the production of the fruit juice.

b) Fruit juice from concentrate

The product obtained by reconstituting concentrated fruit juice defined in Part I.2 with potable water that meets the criteria of Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption*.

The solids content of the finished product shall meet the minimum Brix level for reconstituted juice specified in Annex V.

If a juice from concentrate is manufactured from a fruit not mentioned in Annex V, the minimum Brix level of the reconstituted juice shall be the Brix level of the juice as extracted from the fruit used to make the concentrate.

In respect of blackcurrant, guava, mango and passion fruit, the minimum Brix degree values only apply to reconstituted fruit juice and reconstituted fruit purée produced in the European Union.

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

The juice is prepared by suitable processes, which maintain the essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes.

The mixing of fruit juice and/or concentrated fruit juice with fruit purée and/or concentrated fruit purée is authorised in the production of fruit juice from concentrate.

2. Concentrated fruit juice

The product obtained from fruit juice of one or more species by the physical removal of a specific proportion of the water content. Where the product is intended for direct consumption, that removal shall be of at least 50%.

Flavour, pulp and cells obtained by suitable physical means from the same species of fruit may be restored to the fruit juice concentrates.

3. Water extracted fruit juice

The product obtained by diffusion with water of:

- pulpy whole fruit whose juice cannot be extracted by any physical means, or
- dehydrated whole fruit.

Such products may be concentrated and reconstituted. The solids content of the finished product shall meet the minimum Brix level for reconstituted juice specified in Annex V.

4. Dehydrated/powdered fruit juice

The product obtained from fruit juice of one or more species by the physical removal of virtually all the water content.

5. Fruit nectar

The fermentable but unfermented product obtained by adding water and/or sugars and/or honey to the products defined in Parts I.1, I.2, I.3 and I.4, to fruit purée and/or to concentrated fruit purée and/or to a mixture of those products, that product, moreover, meeting the requirements of Annex IV.

Where fruit nectars are manufactured without added sugar or with low energy value, sugars may be replaced wholly or partially by sweeteners, in accordance with Regulation (EC) No 1333/2008.

Flavour, pulp and cells obtained by suitable physical means from the same species of fruit may be restored to the fruit nectar.

II. AUTHORISED INGREDIENTS, TREATMENTS AND SUBSTANCES

1. Composition

The species corresponding to the botanical name in Annex V shall be used in the preparation of fruit juices, fruit purées and fruit nectars bearing the product name for the applicable fruit or the commonly used name of the product. In fruit species not included in Annex V, the correct botanical or common name shall apply.

For fruit juice the Brix level shall be the one of the juice as extracted from the fruit and shall not be modified, except by blending with the juice of the same species of fruit.

The minimum Brix level is established in Annex V exclusive of the solids of any added optional ingredients and additives.

2. Authorised ingredients

- The addition of vitamins and minerals authorised in Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods** is allowed.
- Flavour, pulp and cells restored to fruit juice, nectars, fruit juices from concentrate and concentrated fruit juices may be recovered from the same species of fruit.
- For grape juice only, salts of tartaric acids may be restored.
- The addition of sugars and/or honey is authorised only in nectars (up to 20% of the total weight of the finished products) and in some specific products of Annex III.
- For products defined in Parts I.1, I.2, I.3, I.4 and I.5, in order to regulate acidic taste, the addition of lemon and/or lime juice and/or concentrated lemon and/or lime juice, up to 3 g per litre of juice, expressed as anhydrous citric acid is authorised.
- Carbon dioxide, as an ingredient, is authorised.

Salt, spices and aromatic herbs may be added to tomato juice and tomato juice from concentrate.

The addition of both sugars and lemon or lime juice, whether concentrated or not, or acidifying agents as permitted by Regulation (EC) No 1333/2008 to the same product is prohibited for specific products covered by Annex III.

3. Authorised treatments and substances

- Mechanical extraction processes.
- The usual physical processes, including in-line water extraction (diffusion) of the edible part of fruits other than grapes for the manufacture of concentrated fruit juices, provided that the concentrated fruit juices thus obtained comply with Part I.1.
- For grape juice, where sulfitation with sulphur dioxide of the grapes has been used, desulfitation by physical means is authorised, provided that the total quantity of SO₂ present in the final product does not exceed 10 mg/l.
- Enzyme preparations: pectinases (for breakdown of pectin), proteinases (for breakdown of proteins) and amylases (for breakdown of starch) meeting the requirements of Regulation (EC) No 1332/2008.
- Edible gelatine,
- Tannins,

- Silicasol,
- Charcoal,
- Nitrogen,
- Adsorbent clays (bentonite).
- Chemically inert filtration aids and precipitation agents (e.g. perlite, washed diatomite, cellulose, insoluble polyamide, polyvinylpyrrolidone, polystyrene), which comply with Regulation (EC) No 1935/2004 the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC***.
- Chemically inert adsorption aids which comply with the Directives on materials and articles intended to come into contact with foodstuffs, and which are used to reduce the limonoid and naringin content of citrus juice without significantly affecting the limonoid glucosides, acid, sugar (including oligosaccharides) or mineral content.

* OJ L 330, 5.12.1998, p. 32.

** OJ L 404, 30.12.2006, p. 26.

*** OJ L 338, 13.11.2004, p. 4.

ANNEX II

DEFINITIONS OF RAW MATERIALS

For the purposes of this Directive, the following definitions shall apply:

1. Fruit

For the purposes of the present Directive, tomato is also considered as a fruit.

2. Fruit purée

The fermentable but unfermented product obtained by suitable physical processes such as sieving, grinding, milling the edible part of whole or peeled fruit without removing the juice.

The fruit must be sound, appropriately mature, and fresh or preserved by physical means or by treatment(s) applied in accordance with the applicable provisions of the European Union.

3. Concentrated fruit purée

The product obtained from fruit purée by the physical removal of a specific proportion of its water content.

Concentrated fruit purée may have restored flavour which shall be obtained by suitable physical means, as defined in Part II.3 and all of which must be recovered from the same species of fruit.

4. Flavour

Without prejudice to Regulation (EC) No 1334/2008, flavours for restoration are obtained during the processing of the named fruit by applying suitable physical processes. These physical processes may be applied to retain, preserve or stabilize the flavour quality and include in particular squeezing, extraction, distillation, filtration, adsorption, evaporation, fractionation and concentration.

Flavour is obtained from the edible parts of the fruit; however it could also be cold pressed oil from citrus peel and compound from the stones.

5. Sugars

- sugars as defined by Council Directive 2001/111/EC*,
- fructose syrup,
- sugars derived from fruits.

6. Honey

The product defined by Council Directive 2001/110/EC**.

7. Pulp or cells

The products obtained from the edible parts of fruit of the same species without removing the juice. Furthermore, for citrus fruit, pulp or cells are the juice sacs obtained from the endocarp.

* OJ L 10, 12.1.2002, p. 53.

** OJ L 10, 12.1.2002, p. 47.

ANNEX III

PARTICULAR DESIGNATIONS FOR CERTAIN PRODUCTS LISTED IN ANNEX I

(a) "vruchtendrank", for fruit nectars;

(b) "Süßmost";

The designation "Süßmost" may be used only in conjunction with the product names "Fruchtsaft" or "Fruchtnektar";

- for fruit nectar obtained exclusively from fruit juices, concentrated fruit juices or a mixture of these products, unpalatable in the natural state because of their high natural acidity,
- for fruit juice obtained from apples or from pears, with the addition of apples where appropriate, but with no added sugar;

(c) "succo e polpa" or "sumo e polpa", for fruit nectars obtained exclusively from fruit purée and/or concentrated fruit purée;

(d) "æblemost", for apple juice with no added sugar;

(e) - "sur ... saft", together with the name (in Danish) of the fruit used, for juices with no added sugar obtained from blackcurrants, cherries, redcurrants, whitecurrants, raspberries, strawberries or elderberries,

- "sød ... saft" or "sødet ... saft" together with the name (in Danish) of the fruit used, for juices obtained from this fruit, with more than 200 g of added sugar per litre;

(f) "äpplemust", for apple juice with no added sugar;

(g) "mosto", synonym of grape juice;

(h) "seabuckthorn" berries, *Hippophae rhamnoides* L, for berries juice.

ANNEX IV

SPECIAL PROVISIONS RELATING TO FRUIT NECTARS

Fruit nectars made from	Minimum juice and/or purée content (% by volume of finished product)
I. Fruits with acidic juice unpalatable in the natural state	
Passion fruit	25
Quito naranjillos	25
Blackcurrants	25
Whitecurrants	25
Redcurrants	25
Gooseberries	30
Sallow-thorn berries	25
Sloes	30
Plums	30
Quetsches	30
Rowanberries	30
Rose hips	40
Sour cherries	35
Other cherries	40
Bilberries	40
Elderberries	50
Raspberries	40
Apricots	40
Strawberries	40
Mulberries/blackberries	40
Cranberries	30
Quinces	50
Lemons and limes	25
Other fruits belonging to this category	25
II. Low-acid, pulpy or highly flavoured fruits with juice unpalatable in the natural state	
Mangoes	25
Bananas	25
Guavas	25
Papayas	25
Lychees	25
Azeroles (Neapolitan medlars)	25
Soursop	25

Fruit nectars made from	Minimum juice and/or purée content (% by volume of finished product)
Bullock's heart or custard apple	25
Sugar apples	25
Pomegranates	25
Cashew fruits	25
Spanish plums	25
Umbu	25
Other fruits belonging to this category	25
III. Fruits with juice palatable in the natural state	
Apples	50
Pears	50
Peaches	50
Citrus fruits except lemons and limes	50
Pineapples	50
Tomatoes	50
Other fruits belonging to this category	50

ANNEX V

MINIMUM BRIX LEVELS FOR RECONSTITUTED FRUIT JUICE AND RECONSTITUTED FRUIT PUREE

<u>Fruit's Common Name</u>	<u>Botanical Name</u>	<u>Minimum degree Brix values for reconstituted fruit juice and reconstituted fruit purée</u>
Apple*	<i>Malus domestica Borkh.</i>	11.2
Apricot**	<i>Prunus armeniaca L.</i>	11.2
Banana**	<i>Musa x paradisiacal L. (excluding plantains)</i>	21.0
Blackcurrant*	<i>Ribes nigrum L.</i>	11.6
Grape*	<i>Vitis vinifera L. or hybrids thereof Vitis labrusca L. or hybrids thereof</i>	15.9
Grapefruit*	<i>Citrus x paradise Macfad.</i>	10.0
Guava**	<i>Psidium guajava L.</i>	9.5
Lemon*	<i>Citrus limon (L.) Burm.f.</i>	8.0
Mango**	<i>Manifera indica L.</i>	15.0
Orange*	<i>Citrus sinensis (L.) Osbeck</i>	11.2
Passion Fruit*	<i>Passiflora edulis Sims</i>	13.5
Peach**	<i>Prunus persica (L.) Batsch var. persica</i>	10.0
Pear**	<i>Pyrus communis L.</i>	11.9
Pineapple*	<i>Ananas comosus (L.) Merr.</i>	12.8
Raspberry*	<i>Rubus idaeus L.</i>	7.0
Sour Cherry*	<i>Prunus cerasus L.</i>	13.5
Strawberry*	<i>Fragaria x ananassa Duch.</i>	7.0
Tomato	<i>Lycopersicon esculentum, Mill.</i>	5.0
Mandarin*	<i>Citrus reticulata Blanco</i>	11.2

For those products marked with an asterisk (*), which are produced as a juice, a minimum relative density is determined as such in relation to water at 20/20°C.

For those products marked with two asterisks (**), which are produced as a purée, only a minimum uncorrected Brix reading (without correction of acid) is determined."