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Commission guidelines on single-use plastic products in accordance with Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment

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1. INTRODUCTION

This document provides guidance to the Member States on the implementation of Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment (hereafter referred to as the Directive)¹

The Directive applies to all single-use plastic (SUP) products listed in its Annex, as well as to all products made from oxo-degradable plastics, and to fishing gear containing plastic. Article 12 thereof tasks the Commission to develop guidelines, including examples of what is to be considered a single use plastic product for the purposes of the Directive. The focus of these guidelines is on the single-use plastic products included in the Annex, listed below in alphabetical order, and they do not specifically cover fishing gear (see section **Error! Reference source not found.**) and products made from oxo-degradable plastic, as the Directive bans all oxo-degradable plastic products, single-use or not.

- Balloons;
- Balloon sticks;
- Beverage containers with a capacity of up to three litres, including their caps and lids;
 - Beverage containers made of expanded polystyrene, including their caps and lids;
 - Beverage bottles with a capacity of up to three litres, including their caps and lids;
- Beverage stirrers;
- Cotton bud sticks;
- Cups for beverages;
 - Cups for beverages made of expanded polystyrene, including their covers and lids;
 - Cups for beverages, including their covers and lids;
- Cutlery (forks, knives, spoons, chopsticks);
- Food containers;
 - Food containers made of expanded polystyrene;
- Lightweight plastic carrier bags;
- Packets and wrappers;
- Plates;
- Sanitary towels (pads), tampons and tampon applicators;
- Straws;
- Tobacco products with filters and filters marketed for use in combination with tobacco products;
- Wet wipes.

This document provides guidance on key definitions of the Directive and examples of products to be considered as falling within or outside the scope of the Directive. These examples are non-exhaustive and serve only to provide illustration on how to interpret certain definitions and relevant

¹ OJ L 155, 12.6.2019, p. 1

requirements of the Directive in the context of specific products. The content, including examples, reflects the views of the European Commission and as such is not legally binding. The binding interpretation of EU legislation is the exclusive competence of the Court of Justice of the European Union (CJEU). The views expressed in this guidance document cannot prejudice the position that the Commission might take before the CJEU.

2. GENERAL TERMS AND DEFINITIONS

2.1 Plastic definition (Article 3 point 1)

The definition of **plastic** is provided in Article 3 point 1:

*“‘plastic’ means a material consisting of a **polymer as defined in point 5 of Article 3 of Regulation (EC) No 1907/2006**², to which additives or other substances may have been added, and which **can function as a main structural component of final products**, with **the exception of natural polymers that have not been chemically modified**” [Emphasis added]*

Article 3 point 1 refers to the definition laid out in Regulation (EC) No 1907/2006 (hereafter the “REACH Regulation”) and adds further elements to introduce an adapted and thereby separate definition (Recital 11). Several of the terms and concepts used in Article 3 point 1 and Recital 11 require further clarification due to the relatively high flexibility in interpretation. The following sections provide guidance on the key terms, notably:

- “polymer”³ (section 2.1.1);
- “can function as a main structural component of final products” (section 2.1.2); and
- “natural polymers that have not been chemically modified” (section 2.1.3).

2.1.1 Polymer definition

Article 3 point 1 of the Directive in refers to the definition of “polymer” in Article 3 point 5 of the REACH Regulation, which reads as follows:

“polymer: means a substance consisting of molecules characterised by the sequence of one or more types of monomer units. Such molecules must be distributed over a range of molecular weights wherein differences in the molecular weight are primarily attributable to differences in the number of monomer units. A polymer comprises the following:

(a) a simple weight majority of molecules containing at least three monomer units which are covalently bound to at least one other monomer unit or other reactant;

(b) less than a simple weight majority of molecules of the same molecular weight.

² Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). Legislative text accessible at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006R1907>

³ In accordance with Article 3(1) of the Directive; and as defined in Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation).

In the context of this definition a "monomer unit" means the reacted form of a monomer substance in a polymer".

To complement the definition of "polymer" in the REACH Regulation, additional guidance is given in the European Chemicals Agency (ECHA) Guidance for polymers and monomers⁴:

"A polymer, as any other substance defined in Article 3(5) [of REACH], can also contain additives necessary to preserve the stability of the polymer and impurities deriving from the manufacturing process. These stabilisers and impurities are considered to be part of the substance."

2.1.2 Can function as a main structural component of final products

In the production of many materials polymers are used to achieve specific material properties as well as higher process efficiencies. Those polymeric materials are usually synthetic chemical additives. Such polymeric materials used e.g. as retention agents or binders and processing aids in the production of materials which are by themselves not 'plastic' are as such not considered to meet the criterion of being able to function as a main structural component of a final product.

More specifically, paper- and board-based products have been specifically assessed for their potential to serve as a sustainable alternative to single-use plastic products in the preparation of the legislative proposal for the Directive⁵. Paper- and board-based single use products made up of only paper- and board-based material would, in light of the considerations above, as such not be considered as single-use plastic products in the meaning of the Directive. However, where a plastic coating or lining is applied to the surface of paper-/board material to provide resistance against water or fat, the criterion of being able to function as a main structural component is met. Such plastic coating or lining provides the necessary water or fat resistance to paper-based products for the consumption of beverages (cups) or moist and fat from food (food containers, plates). Plastic coating or lining of otherwise paper- or board-based products for the purpose of the Directive results in multi-layered products. Hence, single use paper- or board-based products with plastic coating or lining fall within the scope of the Directive. The legislative process undergone by the Directive also documents this reading: The exemption for coatings originally included in Recital 8 of the Commission proposal⁶ no longer appears in the corresponding Recital 11 of the final text of the Directive.

Another illustration is composite beverage packaging that generally consists of several layers of paper, plastic and aluminium necessary for providing the technical properties for the beverage carton, including oxygen and water barriers. Due to this function, the respective plastic is able to function as a main structural component.

⁴ European Chemicals Agency (2012). Guidance on polymers and monomers. Section 3.2.1.3. Retrieved from: https://echa.europa.eu/documents/10162/23036412/polymers_en.pdf/9a74545f-05be-4e10-8555-4d7cf051bbed

⁵ SWD(2018) 254 final, Part 3/3, Commission Staff Working Document Impact Assessment Reducing Marine Litter: action on single use plastics and fishing gear Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment.

⁶ COM(2018) 340 final Commission Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment, 28.5.2018

In the Impact Assessment for the Directive, paper-based products without plastic lining or coating have been identified as being an available and more sustainable alternative to single-use plastic products⁷. In contrast, paper cups with a plastic layer have not been identified as an alternative option, as not being plastic free. In the absence of non-plastic alternatives for the same applications being available on a sufficient scale, single-use plastic cups were not made subject to a marketing restriction. Single-use plastic plates, on the other hand, are subject to a marketing restriction under the Directive, given that paper- or board-based plates without a plastic lining or coating are available as a single-use non plastic alternative.

Some applications of polymeric material, namely paints, inks and adhesives, are explicitly excluded from the scope of the Directive as referred to in Recital 11, and consequently not considered to function as a main structural component. A final product to which they are applied is hence not for this reason a single-use plastic product under this Directive.

2.1.3 Natural polymers that have not been chemically modified

In order to be exempt from the Directive, polymers have to meet the two conditions laid down in Article 3 point 1: they have to qualify as “natural polymers and meet the requirement that they “have not been chemically modified”. These terms are further clarified in Recital 11:

“Unmodified natural polymers, within the meaning of the definition of ‘not chemically modified substances’ in point 40 of Article 3 of Regulation (EC) No 1907/2006..., should not be covered by this Directive as they occur naturally in the environment. Therefore, for the purposes of this Directive, the definition of polymer in point 5 of Article 3 of Regulation (EC) No 1907/2006 should be adapted and a separate definition should be introduced” [Emphasis added]

*“Plastics manufactured with **modified natural polymers**, or plastics manufactured from **bio-based, fossil or synthetic starting substances** are not naturally occurring and should therefore be addressed by this Directive. The adapted definition of plastics should therefore cover **polymer-based rubber items and bio-based and biodegradable plastics** regardless of whether they are derived from biomass or are intended to biodegrade over time” [Emphasis added]*

- Natural polymers

The term ‘natural polymer’ is defined in the ECHA Guidance for monomers and polymers⁸ (hereafter referred to as “the ECHA Guidance”) as follows:

*“Natural polymers are understood as polymers which are the result of a polymerisation process that has **taken place in nature, independently of the extraction process** with which they have been extracted. This means that natural polymers are not necessarily ‘**substances which occur in nature**’*

⁷ SWD(2018) 254 final, Part 3/3, Commission Staff Working Document Impact Assessment Reducing Marine Litter: action on single use plastics and fishing gear Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment, pp. 29-31.

⁸ ECHA: Guidance for monomers and polymers April 2012 Version 2.0 Guidance for the implementation of REACH

when assessed according to the criteria set out in Article 3(39) of the REACH Regulation.” [Emphasis added]

Article 3 point 39 of the REACH Regulation defines “substances which occur in nature” as follows:

*“substances which occur in nature: means a **naturally occurring substance** as such, unprocessed or processed only by manual, mechanical or gravitational means, by dissolution in water, by flotation, by extraction with water, by steam distillation or by heating solely to remove water, or which is extracted from air by other means.” [Emphasis added]*

It is hence made clear that, the terms “natural polymer” and “naturally occurring substance” are two distinct terms and should not be confused. A key distinction relates to the extraction methods allowed. The scope of the former (natural polymer) refers to a broader group, being independent of the method used to extract the substance from nature. Furthermore, Article 3 point 39 of the REACH Regulation is not directly referred to as such in the Directive. As a consequence of this distinction and applying the definition of the ECHA guidance, for example, cellulose and lignin extracted from wood and corn starch obtained via wet milling meets the definition of “natural polymer”.

Another key distinction is whether the polymerisation process has taken place in nature or is the result of an industrial process involving living organisms’. Based on the current implementation of the REACH Regulation and the ECHA Guidance, polymers produced via an industrial fermentation process are not considered ‘natural polymers’ since polymerisation has not taken place in nature. Therefore, polymers resulting from biosynthesis through artificial cultivation and fermentation processes manufactured in industrial settings, e.g. polyhydroxyalkanoates (PHA), are not considered natural polymers as not being the result of a ‘polymerisation process that has taken place in nature’. If a polymer is obtained from an industrial process and the same type of polymer happens to exist in nature, the manufactured polymer does not qualify as a “natural polymer” as such.

- Not chemically modified

Recital 11 of the Directive explains that the term “*not chemically modified substances*” should be understood in accordance with Article 3 point 40 of the REACH Regulation, which states:

*“not chemically modified substance: means a substance whose **chemical structure remains unchanged**, even if it has undergone a chemical process or treatment, or a physical mineralogical transformation, for instance to remove impurities.” [Emphasis added]*

Once extracted, the status of natural polymer is determined based on the production process in which it is applied. Natural polymer is considered to be ‘unmodified’ if the production process does not include steps which necessarily lead to breaking or forming of covalent bonds. For example, where the production process involves only dissolution of cellulose without the necessity to break covalent bonds in the polymers, and therefore is without a chemical modification, the polymers are considered as “not chemically modified” as it is the case for lyocell. Changes such as the orientation of the polymer chains with respect to each other are not seen as chemical modifications which would alter the status of a natural polymer.

If the natural polymer is used in a production process which includes process steps which require either forming or breaking covalent bonds of the polymers, it can be concluded that the polymer

structure changes during the manufacturing process and therefore the resulting material is chemically modified. Consequently, it is not sufficient to merely consider the difference between the ingoing and the final polymer. In the course of manufacturing materials such as viscose and cellophane (in these cases, reaction with carbon disulphide to form sodium cellulose xanthate), the natural polymer cellulose undergoes a deliberate chemical modification. Therefore, viscose and cellophane cannot be deemed to have remained 'unmodified', even though they may return to a cellulose structure by the end of the process. This means that viscose and cellophane (made from cellulose) are included in the Directive.

Where changes in the chemical structure result from reactions that are only taking place during the extraction process of a natural polymer (e.g. wood pulping process to extract cellulose and lignin), these are not considered to result in a chemical modification of the natural polymer in the meaning of Article 3 point 1 and Recital 11 of the Directive. This means that under this aspect paper without a plastic lining or coating is not included in the Directive as it has not been chemically modified. This is also in line with the Impact Assessment conducted for the Directive, in which paper-based products without plastic lining or coating have been identified as being an available and more sustainable alternative to single-use plastic products⁹.

2.2 Single Use Plastic Product (Article 3 point 2)

Article 3 point 2 of the Directive provides the following definition for "single-use plastic product":

*"a product that is made **wholly or partly** from plastic and that is **not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived;**" [emphasis added]*

2.2.1 Plastic content: 'wholly or partly made from plastic'

Single-use plastic products listed in the Annex of the Directive are within its scope also if partly made from plastic. This is regardless of the amount of plastic contained as the Directive does not envisage any *de minimis* threshold for the plastic content in a product. This aspect of Article 3 point 2 is to be interpreted in close connection with the definition of plastic in Article 3 point 1 (see paragraph 2.1), which further supports it.

2.2.2 Single-use

The cumulative use of the terms in Article 3 point 2 requires that the product should be neither **conceived nor designed or placed on the market** to accomplish, within its life span, multiple trips or rotations. This should rule out situations where final products could potentially be placed on the market/ marketed as "multi-use", or "re-usable", without having been conceived and designed as such, or without being placed on the market as part of a system or an arrangement to ensure their re-use.

Product design characteristics can help to define whether a product should be considered as single- or multiple-use. Whether a product is conceived, designed and placed on the market for **reuse**, can be assessed by considering the product's expected functional life, i.e. whether it is intended and

⁹ SWD(2018) 254 final, Part 3/3, Commission Staff Working Document Impact Assessment Reducing Marine Litter: action on single use plastics and fishing gear Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment, pp. 29-31.

designed to be used several times before final disposal, without losing product functionality, physical capacity or quality, and whether consumers typically conceive, perceive and use it as a reusable product. Relevant product design characteristics include material composition, washability and reparability, which would allow multiple trips and rotations for the same purpose as for which the product was originally conceived. For a receptacle being packaging, its 'reusable' nature can be determined in accordance with the Essential Requirements under the Packaging and Packaging Waste Directive¹⁰, including any declaration attesting to the conformity of the packaging with those Essential Requirements and related standards.

2.2.3 Refillable and reusable nature of the product

In accordance with Article 3 point 2 of the Directive, a single use product is 'a product that is not conceived, designed or placed on the market to accomplish, within its lifespan, multiple trips and rotations by:

- being returned to a producer for refill; or
- reused for the same purpose for which it was conceived.'

To identify the criteria for products that are placed on the market as packaging to comply with these conditions and thus not to be considered 'single use', it is appropriate to consider the Packaging and Packaging Waste Directive, in particular the definition of "reusable packaging" and the relevant part of the essential requirements for 'reusable packaging'. Under Article 3(2a) Packaging and Packaging Waste Directive, "*reusable packaging shall mean packaging which has been conceived, designed and placed on the market to accomplish within its lifecycle **multiple trips or rotations by being refilled or reused for the same purpose for which it was conceived***".

Under Annex II Packaging and Packaging Waste Directive, which sets out the essential requirements for packaging, reusable packaging should, among others, have "**physical properties and characteristics**", which "enable a number of trips or rotations in **normally predictable conditions of use**". Detailed conditions for compliance with these requirements are specified in the harmonized standard EN 13429:2004 Packaging - Reuse. The product requirements listed in that standard for considering the reusable nature of packaging include¹¹:

- Intention that the package is reused (i.e. *purposely designed, conceived and placed on the market*);
- Design of the package enables to accomplish a number of trips or rotations;
- The package can be emptied/unloaded without significant damage, and without risk to the integrity of the product, and health and safety;
- The package can be reconditioned, cleaned, washed, repaired, whilst maintaining its ability to perform its intended function;
- Arrangements are in place to make reuse possible, i.e. a re-use system is set up and operational.

One of the conditions is that a reuse system for refill/reloading is in operation. Such a system could include postal or courier packaging or drop-boxes in store. In a functioning refill system, the

¹⁰ Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

¹¹ Part C

product's functionality, physical capacity and quality are not modified by the producer and/or distributor between refills¹².

However, where products listed in the Annex of the Directive are not placed on the market as packaging, further considerations have to be taken into account in order to determine if they are for single- or multiple-use. Where the same items that are generally placed on the market as non-reusable packaging are also sold empty to final consumers (such as plastic cups or food containers), it is appropriate to consider them as single-use products.

It is noted that reuse systems for the service of food and drinks implemented and managed effectively by operators may provide a more consistent assurance in that the reusable items (e.g. cups, containers and cutlery) are properly sanitized to guarantee hygiene, protect public health and ensure customer and employee safety.

3. INTERPLAY WITH DIRECTIVE 94/62/EC

Further clarification is needed on single use plastic products covered by the Directive that are also considered packaging as defined in Article 3 point 1 of the Packaging and packaging Waste Directive¹³. Those products need to comply with the requirements of both Directives.

Recital 10 of the Directive clarifies that, in the event of a conflict between the two Directives, the Directive shall prevail. This is the case regarding restrictions of placing on the market. As regards consumption reduction measures, product design requirements, marking and extended producer responsibility, the Directive supplements the Packaging and Packaging Waste Directive.

Single use plastic products that do not constitute packaging are subject to the requirements of the Directive only, even though they may have similar functionalities or properties to packaging.

4. SPECIFIC PRODUCT CRITERIA

4.1 FOOD CONTAINERS

This Section provides further clarification of the Directive criteria for “**single use food containers**”.

4.1.1 Product description and criteria in the Directive

The table below gives a full overview of the product descriptions for single-use plastic food containers provided in the Directive.

Table 4-1: Overview of product descriptions of food containers in the Directive

Point (2) of Part A, point (1) of Section I of Part E, and point (1) of Part G of the Annex:
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¹² National Law Review (2019). The New EU Single-use Plastics Directive EU to Adopt Law on the Reduction of the Impact of Certain Plastic Products on the Environment. Retrieved from: <https://www.natlawreview.com/article/new-eu-single-use-plastics-directive-eu-to-adopt-law-reduction-impact-certain>

¹³ Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365, 31.12.1994, p. 10).

“Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:

(a) is intended for immediate consumption, either on-the-spot or take-away,

(b) is typically consumed from the receptacle, and

(c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food.”

Article 12:

“In order to determine whether a food container is to be considered as a single-use plastic product for the purposes of this Directive, in addition to the criteria listed in the Annex as regards food containers, its tendency to become litter, due to its volume or size, in particular single-serve portions, shall play a decisive role.”

The three criteria laid down in point (2) of Part A, point (1) of Section I of Part E, and point (1) of Part G of the Annex of the Directive apply **cumulatively**. Therefore, for a food container to be covered by the Directive it has to meet all three criteria.

The following indicators may be used to interpret and apply the three criteria:

(1) Criteria “Intended for immediate consumption, either on-the-spot or take-away”

Relevant indicators:

- Nature of foodstuff contained in the food container: Foodstuffs generally suitable for immediate consumption are e.g. nuts, sandwiches, yoghurts, salads and cooked meals, fruit and vegetables.
- The inclusion or attachment of items such as forks, knives, spoons and sticks and/ or sauces to the single use plastic food container. However, the absence of such items should not in itself exclude the product from the scope of the Directive.

(2) Criteria “Typically consumed from the food container”

Relevant indicator:

- The shape of the food container allows for or facilitates eating the foodstuff it contains directly from the container, i.e. by simply opening it.

(3) Criteria “Ready to be consumed without any further preparation, such as cooking, boiling or heating”

Relevant indicators:

- The foodstuff contained in the food container can be consumed without any preparation before consumption. For example, the foodstuff does not require freezing, cooking, boiling or heating, including frying, grilling, baking, microwaving and toasting. Washing, peeling or cutting, such as fruit and vegetables should **not** be considered as preparation and are therefore not an indicator for exclusion from the Directive.
- The foodstuff contained in the food container can be consumed without adding seasonings or sauces (unless those are provided together with the food product), cold or hot water or other

liquids, including milk before consumption of the foodstuff such as in the case of cereals (unless portion sized servings of cereals are sold together with an additional portion sized container of milk) or powder soups.

In addition to these three cumulatively applicable criteria, Article 12 of the Directive adds a criterion related to the tendency of a food container to become litter due to its size and volume. The Directive does not contain provisions that allow making this criterion sufficiently specific. While that article also contains a reference to the notion of single-serve portions as a guiding element, there is no legal definition nor a common understanding of a single-serve portion, which could provide an indication regarding the volume and size of food containers that might not be covered by the Directive. The relevant volume and the size would vary in function of the number of people consuming the food at a certain serving as well as of its nutritional value and consumption habits across the Union. The Directive determines volume and size only in the context of beverage containers, where the threshold above which the Directive does not apply to plastic beverage containers is set at three litres (Part C, point (3) of Section I of Part E and point (3) of Part G of the Annex). No such limit is defined in the Directive regarding food containers. Consequently, no specific limit value for the size or volume of a food container above which the Directive would not be applicable can be given in this Guidance in a situation where all the three cumulative criteria, as set out in the Annex, are fulfilled.

4.1.2 Product overview and list of illustrative examples

Table 4-2 provides some illustrative examples of certain types of food containers that may be considered included or excluded from the scope of the Directive.

Table 4-2: Illustrative application of the criteria to interpret the definition of single use plastic food containers

Type of food container	General criteria		Product-specific criteria			Ready to be consumed without further preparation	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic product	Single-use	Intended for immediate consumption	Typically consumed from the receptacle			
Plastic food container containing a portion hot meal	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing a cold meal	YES	YES	YES	YES	YES	YES	INCLUDED
Cardboard food container with plastic lining or coating, intended to contain hot or cold meal	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing a dessert	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing vegetables or fruit	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing snacks such as nuts, crackers	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing sauces and bread spreads (e.g. mustard, ketchup or dips)	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing vegetables or fruit that do not require further preparation	YES	YES	YES	YES	YES	YES	YES

Type of food container	General criteria		Product-specific criteria			Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic product	Single-use	Intended for immediate consumption	Typically consumed from the receptacle	Ready to be consumed without further preparation	
Plastic food container containing a frozen meal	YES	YES	NO	YES	NO	EXCLUDED Not typically sold as a takeaway; foodstuff requires preparation
Ice-cream container made of cardboard with plastic liner, from which the food is typically directly consumed	YES	YES	YES	YES	YES	INCLUDED
Fish boxes, meat trays, made out of plastic containing packed food that is not intended for immediate consumption, not typically consumed from the food container, and not ready to be consumed without further preparation	YES	YES	NO	NO	NO	EXCLUDED foodstuff requires further preparation and is not typically consumed from the food container
Plastic food container containing dried food or foodstuff that require hot water to be poured in the receptacle (e.g. noodles, powder soups)	YES	YES	NO	YES	NO	EXCLUDED foodstuff requires further preparation Not typically sold as a take-away

4.2 PACKETS AND WRAPPERS

This Section provides further clarification of the Directive criteria for “**packets and wrappers**”.

4.2.1 Product description and criteria in the Directive

Point (2) of Section I of Part E and point (2) of Part G of the Annex describe packets and wrappers as follows: “*Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation*”.

The following indicators may be used to interpret and apply the product-specific criteria for packets and wrappers included in the Annex:

(1) Criteria “Made from flexible material”

- Flexible packaging is “packaging whose shape is likely to change after the contents are added or removed” as opposed to ‘rigid packaging’ that is “packaging whose shape remains essentially unchanged after the contents are added or removed”¹⁴
- The design of packaging indicates that the foodstuff contained is intended for immediate consumption after purchasing. For example, the packet or wrapper can be easily opened e.g. by tearing, cutting, twisting or pulling it apart.

(2) Criteria “Containing food intended for immediate consumption from the packet or wrapper without any further preparation”

- Nature of foodstuff contained: foodstuffs suitable for immediate consumption (e.g. sweets, nuts, chocolate bars, cherry tomatoes, crisps).
- The design of the packet or wrapper allows for consumption directly from the package or wrapper.
- The inclusion or attachment of items such as forks, knives, spoons and sticks and/ or sauces to the single use plastic packet or wrapper. However, the absence of such items should not in itself exclude the product from the scope of the Directive.
- The foodstuff contained in the packet or wrapper can be consumed without any preparation before consumption such as boiling, frying, grilling, baking, cooking, microwaving, toasting, heating or freezing. There is no requirement to add seasonings or sauces (unless those are provided together with the food product) cold water or hot water or other liquids, including milk before the consumption of the foodstuff such as in the case of cereals. Washing, peeling or cutting of foodstuff are **not** considered ‘preparation’ and therefore fall under the scope of the Directive.

4.2.2 Product overview and list of illustrative examples

Table 4-3 provides some illustrative examples of certain types of packets and wrappers that are considered included or excluded from the scope of the Directive.

¹⁴ ISO 21067-1:2016 “Packaging — Vocabulary — Part 1: General terms”.

Table 4-3: Examples of packets and wrappers

Type of packet or wrapper	General criteria		Product-specific criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Made from flexible material	Intended for immediate consumption from the packet or wrapper without any further preparation	
Packet or wrapper containing food for immediate consumption (e.g. biscuits, nuts, crisps, popcorn, sweets, chocolate bars, bakery goods, frozen goods) sold by single unit	YES	YES	YES	YES	Included
Packet or wrapper containing food for immediate consumption from the packet or wrapper without any further preparation (e.g. crisps, sweets, chocolate bars, bakery goods, frozen goods) sold in one or more than one unit (i.e. within a multipack receptacle)	YES	YES	YES	YES	Included
Packet containing multiple-serve portions of food which are not individually wrapped (e.g. bakery goods, biscuits, sweets, chewing gum, crisps)	YES	YES	YES	YES	Included Foodstuff for immediate consumption from the packet
Sandwich wrapper	YES	YES	YES	YES	Included
Packet containing condiment/sauce	YES	YES	YES	YES	Included

Type of packet or wrapper	General criteria		Product-specific criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Made from flexible material	Intended for immediate consumption from the packet or wrapper without any further preparation	
Packet containing dry breakfast cereals	YES	YES	YES	NO	Excluded foodstuff is not intended for immediate consumption from the packet; milk is typically added before consumption and outside of the packet
Packet containing fresh/dried food that requires further preparation (e.g. entire head of lettuce, uncooked pasta, uncooked lentils)	YES	YES	YES	NO	Excluded Foodstuff is typically not consumed directly from the packet or wrapper; Foodstuff is typically further prepared before consumption

4.3 CUTLERY, PLATES, STRAWS and STIRRERS

4.3.1 Product descriptions in the Directive

Cutlery, plates, straws, and stirrers are addressed in Article 5 of the Directive but are not defined in the Directive. The Part B of Annex to the Directive provides product-specific guidance only on the definition of cutlery, namely, point (1) of Part B of the Annex provides that “forks, knives, spoons, chopsticks” are included in the definition of cutlery.

Cutlery; plates; straws; stirrers that are made entirely of natural polymers, which have not been chemically modified fall outside the scope of the Directive.

According to point (4) of Part B of the Annex: straws that fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC¹⁵ as **medical devices** are excluded from the scope of the Directive.

EU Guidance for the application of the Council Directive 93/42/EEC on Medical Devices¹⁶ provides guidelines on the classification of medical devices¹⁷ for the purposes of risk assessment. No specific examples of straws used as medical devices are given in these guidelines. However, the specific definition of ‘medical device’ from Council Directive 90/385/EEC and Council Directive 93/42/EEC includes articles used specifically for “alleviation of or compensation for an injury or handicap”¹⁸. Therefore, where it is used by individuals who are medically unable to independently consume food or drink without one, a straw would fulfil the definition of a ‘medical device’.

When placed on the market, these items are primarily included within the following CPV code¹⁹: Disposable catering supplies (39222100-5) and Disposable cutlery and plates (39222110-8).

4.3.2 Product overview and list of illustrative examples

Table 4-4 provides some examples of single use plastic cutlery, plates, straws, stirrers that are considered included or excluded from the scope of the Directive.

¹⁵ As of 3 July 2021 Directives 90/385/EEC and 93/42/EEC will no longer apply. As of 26 May 2021 the placing on the market of medical devices will be governed by relevant Regulation (EU) 2017/745 on medical devices, amended by Regulation (EU) 2020/561.

¹⁶ DG Health and Consumer, 2010. Medical Devices: Guidance document - Classification of medical devices - MEDDEV 2.4/1 rev.9 available at: <http://ec.europa.eu/DocsRoom/documents/10337/attachments/1/translations>.

¹⁷ Council Directive 90/385/EEC and Council Directive 93/42/EEC both define medical devices as follows: “‘medical device’ means any instrument, apparatus, appliance, software, material or other article, whether used alone or in combination, including the software intended by its manufacturer to be used specifically for diagnostic and/or therapeutic purposes and necessary for its proper application, intended by the manufacturer to be used for human beings for the purpose of:

- diagnosis, prevention, monitoring, treatment or alleviation of disease,
- diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap,
- investigation, replacement or modification of the anatomy or of a physiological process,
- control of conception,

and which does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, but which may be assisted in its function by such means;”

¹⁸ Plastic straws for medical uses, if considered as medical devices, must be CE marked under the current MDD the same way as under the new MDR, according to the definitions of Article 2(1) for “alleviation of, or compensation for, an injury or disability” and the requirements of Articles 52(7) and 19 and of Annexes II and III for “Class I” devices in non-sterile condition.

¹⁹ Idem, footnote 26

Table 4-4: Illustrative application of the criteria to interpret the definition of single use plastic cutlery, plates, straws, stirrers

Types of cutlery; plates; straws; stirrers	General criteria		Product-specific criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Non-durable material	Not a medical device	
Single-use cutlery, plates, straws, stirrers made wholly of plastic	YES	YES	YES	YES	INCLUDED
Single-use cutlery, plates, straws, stirrers predominantly made partly of plastic, e.g. made predominantly of non-plastic but with a plastic lining / coating	YES	YES	YES	YES	INCLUDED
Single-use plastic straws attached to / integrated into a beverage container	YES	YES	YES	YES	INCLUDED (under Art 5)
Single-use plastic cutlery attached to / integrated into food packaging	YES	YES	YES	YES	INCLUDED (under Art 5)
Single-use cutlery, plates, straws, stirrers not made of plastic, e.g. paper- or wood-based without a plastic lining / coating	NO	YES	YES	YES	EXCLUDED: Product does not contain plastic
Multiple-use cutlery, plates, straws, stirrers not made of plastic but of durable material, e.g. ceramics or metal, with plastic lining / coating	NO	NO	NO	YES	EXCLUDED: Product not intended for single-use
Multiple-use durable plastic cutlery; plates; straws; stirrers, purposely designed and placed on the market with the objective to be used more than once and typically conceived and used by consumer as such	YES	NO	NO	YES	EXCLUDED: Product not intended for single-use
Plastic straws provided for use as a medical device	YES	YES	YES	NO	EXCLUDED: Product intended for use as medical device

4.4 BEVERAGE CONTAINERS, BEVERAGE BOTTLES AND CUPS FOR BEVERAGES (INCLUDING THEIR CAPS, COVERS AND LIDS)

This Chapter provides further clarification of the criteria for defining the following single use product groups: **(1) beverage containers, (2) beverage bottles, and (3) cups for beverages.**

4.4.1 Product descriptions and criteria in the Directive

The table below (**Table 4-5**), provides an overview of the product criteria relating to beverage containers, beverage bottles, and cups for beverages, provided in the Directive.

Table 4-5: Relevant descriptions of beverage containers; beverage bottles; and cups for beverages, including their caps and lids in the Directive

Beverage containers:

Parts C and F of the Annex describe beverage containers as follows:

“Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid, such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not:

- (a) glass or metal beverage containers that have caps and lids made from plastic,*
- (b) beverage containers intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council that is in liquid form.”*

Point (3) of Section I of Part E and point (3) of Part G of the Annex describe beverage containers as follows:

“Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic”

Beverage bottles are referred to in Part F of the Annex, as follows:

“Beverage bottles with a capacity of up to three litres, including their caps and lids, but not:

- (a) glass or metal beverage bottles that have caps and lids made from plastic,*
- (b) beverage bottles intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 that is in liquid form.”*

Cups for beverages are defined in point (1) of Part A, point (4) of Section I of Part E and point (4) of Part G of the Annex Directive as “cups for beverages, including their covers and lids”. In addition Part D(4) of the Annex refers to “cups for beverages”, but without referring to ‘covers and lids’.

The following two main descriptors are used to define both single use plastic beverage containers and beverage bottles:

- (1) capacity of “up to three litres”, and
- (2) “receptacles used to contain liquid”.

A beverage container is, in principle, sold and consumed for a product that is in liquid form, and consumed by drinking. Recital 12 of the Directive provides specific examples of liquids that are

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considered as beverages, namely “beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk”.

In addition, Annex Parts C, E(3), G(3), and F (beverage bottles only) specify that “caps and lids” are included in the definition of beverage containers and beverage bottles. Furthermore, “composite beverage packaging” is also included.

With regard to cups for beverages, the Directive does not provide for a specific description, criteria or examples. Parts A (1), E(4) and G (4) of the Annex merely specify that “covers and lids” are also to be included in this product category. Examples of beverages as per Recital 12 of the Directive include beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk²⁰. Further clarifications in relation to the definition of beverage are provided in section 4.5.1. (i.e. liquid that is ingested/consumed through drinking).

4.4.2 Caps, lids and covers

The Directive refers to “caps and lids” as closures for beverage containers and beverage bottles²¹, whereas for cups for beverages the Directive refers to “lids and covers”.

Caps, lids and covers can be considered as “closures”²², i.e. “means of closing packaging to retain its contents”. They are used in combination with beverage containers, beverage bottles, and cups for beverages to ensure that the liquid product contained does not overflow and can be transported. The Directive does not provide a clear definition, nor does any existing EU legislation or technical standards. Based on expert opinion, the following guidance can be used to define them:

- **Caps:** closures that are fitted onto beverage containers or beverage bottles, for example in order to prevent the contained liquid from leaking (also after for example a lid has been removed) and to allow for safe transportation. Caps are currently typically of screw or hinged snap types. Screw caps can be “flat top”, which is the most common form, or be the base support for e.g. a drinking spout generally termed a “sports cap”. Sports caps can in turn be either of the push-pull shutter or flip-top types which by nature are designed to remain attached”. This type of cap will often include a tamper-evident feature.
- **Lids:** (aluminium or plastic) foil films sealed onto beverage containers; beverage bottles and cups for beverages. They can be peeled or torn-off. Once such a lid is removed on first

²⁰ Whereas Recital 12 provides examples of beverages only for beverage containers and beverage bottles, the same examples are relevant for the definition of “beverage” in the context of cups for beverages.

²¹ Article 6 (1) in conjunction with Annex part C of the Directive lay down the product requirement that plastic caps and lids of single use plastic beverage containers up to 3 l capacity remain attached to the container during the product’s intended use stage. The intended use stage is to be understood as from first opening of the container by the consumer to the proper disposal of the container after consumption of the contents. Article 6 (3) provides that the Commission request the European standardisation organisations to develop harmonised standards relating to the requirement of article 6 (1), conformity to which will constitute a ‘presumption of conformity’ with that requirement, as set out in article 6 (4). Article 6(3) further provides that the standards shall address the necessary strength, reliability and safety of beverage container closures, including those for carbonated drinks. This is to be understood as including in the standard appropriate risk assessment and risk reduction methodologies for the attachment feature of the cap or lid, based on industrial best practice, to ensure consumer safety as appropriate for the product type and intended use.”

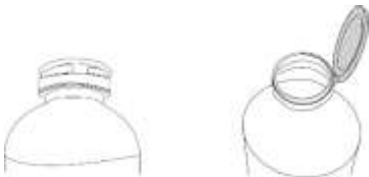
²² Defined in ISO standard 21067-1:2016.

opening by a consumer, it cannot be placed back on the product. Lids can also refer to certain larger diameter or non-round caps.

- **Covers:** Closure used on cups for beverages which protect the liquid contained but generally do not provide a complete seal. They can be re-placed on the product after having been removed without losing their closure function. Some covers may have a tamper-evident feature, which is considered part of the closure assembly.

Illustrative examples of caps and lids for SUP beverage containers and beverage bottles, and covers and lids for SUP cups for beverages are provided in **Table 4-6**. The table also provides examples of how certain types of caps, lids and covers are to be considered in the context of the Directive.

Table 4-6: Illustrative examples of different types of caps, lids and covers

Type of caps, lids and covers	Included or excluded from the scope of the Directive
Caps made of plastic, used in combination with single use plastic beverage bottles (illustration) and beverage cartons (no illustration) 	INCLUDED
Sports caps made of plastic, used in combination with single use plastic beverage bottles 	INCLUDED
Caps made of plastic, used in combination with single use plastic beverage pouches 	INCLUDED
Flip-top caps for single use plastic beverage containers 	INCLUDED

Plastic cap with separate sealing membrane (2 step closure) used in combination with a single use plastic beverage container 	INCLUDED
Covers made of plastic, used with single use plastic cups for beverages 	INCLUDED
Roll on pilfer proof aluminium cap with plastic seal and plastic tamper evident band used in combination with single use plastic beverage containers and beverage bottles 	PARTIALLY INCLUDED Metal caps or lids with plastic seals are subject to the requirements of the Directive, except those in Article 6.
Pull ring caps with plastic seal and plastic pull tab used in combination with single use plastic beverage containers and beverage bottles 	PARTIALLY INCLUDED Metal caps or lids with plastic seals are subject to the requirements of the Directive, except those in Article 6.
Foil lid seal on a single use plastic beverage container 	INCLUDED The sealing membrane does not enter into the definition of “cap” or “lid” and is not in the scope of Article 6.

4.4.3 Product-specific exemptions

The relevant parts of the Annex (Parts C, E, F and G) of the Directive explicitly **exclude glass or metal beverage containers that have caps and lids made from plastic**, from those requirements that apply to single-use plastic beverage containers²³.

Beverage containers and beverage bottles “**used for food for special medical purposes**” as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council²⁴ that is in liquid form, are also exempted from Article 6, pursuant to Part C and Part F of the Annex.

Furthermore, the product’s **volume and size** are relevant in this context. Beverage containers and beverage bottles with the capacity above 3 litres will fall out of the scope of the Directive. The Directive does not set a specific threshold on the volume or size of cups for beverages.

4.4.4 Product overview and list of illustrative examples

The tables below provide a non-exhaustive list of examples to illustrate how the different **beverage containers, beverage bottles, and cups for beverages** can be assessed based on the criteria and indicators provided in this chapter.

²³ Articles 6, 8 and 10 and Annex Part C, EI(3) and G(3), Article 6(5) and 9.

²⁴ Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009.

Table 4-7: Illustrative examples of beverage containers and beverage bottles

Types of beverage containers and beverage bottles	General criteria		Product-specific criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Capacity	Type of liquid contained	
Pouches (fully plastic or with plastic layer, up to three litres)	YES	YES	YES	YES	INCLUDED (Beverage Container)
Plastic bottles (up to three litres)	YES	YES	YES	YES	INCLUDED (Beverage Bottle)
Plastic container with single-serve portion of milk or cream (e.g. for coffee or tea)	YES	YES	YES	YES	INCLUDED (Beverage Container)
Composite beverage carton (up to three litres)	YES	YES	YES	YES	INCLUDED (Beverage Container)
Carton box with plastic inner bag (up to three litres)	YES	YES	YES	YES	INCLUDED (Beverage Container)
Plastic water bottle above 3 litres	YES	NO	NO	YES	EXCLUDED The capacity is over 3 litres
Reusable and refillable plastic beverage bottles in case designed and placed on the market for such purpose and typically conceived and used by consumer as such	YES	NO	YES	YES	EXCLUDED Reusable bottle
Glass beverage bottles with plastic caps or lids	NO	NO	YES	YES	EXCLUDED The bottle is made of glass
Metal beverage bottles with plastic caps or lids	NO	NO	YES	YES	EXCLUDED The bottle is made of metal
One piece plastic beverage container with a moulded break-off closure	YES	YES	YES	YES	INCLUDED (Beverage Container)

Table 4-8: Illustrative examples of cups for beverages

Type of cups for beverages	General criteria		Product-specific criteria	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Filled or intended to be filled with a beverage	
Cups for cold beverages made of 100% plastic (with or without cover or lid)	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Pre-filled paper-based cups with plastic lining or coating for (usually cold) beverages (with or without cover or lid)	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Cups sold in retail and wholesale stores made of 100% plastic for juices or alcohol containing drinks	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Paper-based cups with plastic lining or coating for hot or cold beverages (with or without cover or lid)	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Paper-based cups with plastic coating sold in retail and wholesale stores	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Paper-based cups with bio-based or biodegradable plastic coating sold in retail and wholesale stores	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Plastic cups sold as part of refill schemes	YES	NO	YES	EXCLUDED The cup is part of a refill system
Plastic cup with instant beverage powders to which the addition of e.g. milk or water is necessary before the product can be consumed	YES	YES	YES	INCLUDED (CUP for BEVERAGE)

Type of cups for beverages	General criteria		Product-specific criteria	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Filled or intended to be filled with a beverage	
Reusable beverage cups sold in retail shops for multiple uses in case designed and placed on the market for such purpose and typically conceived and used by consumer as such	YES	NO	YES	EXCLUDED The cup is reusable
Refillable consigned cups sold in retail shops for multiple uses	YES	NO	YES	EXCLUDED The cup is reusable

4.5 DIFFERENTIATION BETWEEN CERTAIN (RELATED) PRODUCT CATEGORIES

Parts A(2), E(1), and G(1) of the Annex of the Directive exclude “beverage containers, plates and packets and wrappers containing food” from products that shall be considered as single use plastic food containers for the purpose of the Directive. In some cases, the packaging shape may raise doubts as to whether the product is a food container, or a beverage container, or even other type of packaging covered by the Directive, such as packets, wrappers, beverage cups or plates.

The sections below provide further guidance for the differentiation between different but related product categories

4.5.1 Key elements to distinguish food containers from beverage containers

The main element to distinguish food containers from beverage containers, beverage bottles, and cups for beverages, is whether the receptacle contains a **food** or **beverage product**. As such, a further description of what constitutes food and beverage is necessary to help determine the classification of the packaging. Relevant criteria for distinguishing between a ‘food’ (also referred to as foodstuff) and ‘beverage’ are:

- **The way of consumption** of the product contained provides guidance to determine whether the receptacle contains a food or beverage product. Recital 12 of the Directive provides **non-exhaustive** examples of foodstuff, namely wrap, salads, fruits, vegetables and desserts. **A beverage product is sold and consumed in liquid form, and can be consumed through drinking.** Examples of beverage containers provided in Recital 12 include packaging of beer, wine, water, liquid refreshments, juices and nectars, instant

beverages and milk. Therefore, **the consistency** of the product contained in a receptacle plays a decisive role in the distinction between food containers and beverage containers, beverage bottles and cups for beverages.

- **The unit in which the quantity of the food or beverage product is expressed.** In general, beverages are expressed in volume (e.g. millilitres) and food generally in weight (e.g. grams). In some cases, however, the quantity of the foodstuff or beverage is not always indicated on the receptacle, particularly for those that are filled at the point of sale.
- **The design characteristics of the container specific to the content.** Specifically, the shape of the container and whether the foodstuff contained requires cutlery or not to be consumed indicate if the product is intended to be **consumed through drinking or eating**.

As Recital 12 specifically refers to **milk bottles** as a beverage container, milk should also be considered a beverage for the purposes of the Directive. This is in line with general criteria on 'consumption through drinking', its density and viscosity (liquid) and the type of receptacle, which for milk is similar to that for other beverages.

Certain foods, such as **soups, yoghurts and fruit purees** should not be classified as 'beverages' for the purposes of the Directive, as they are not 'consumed through drinking' and cutlery is typically used for their consumption, which sets them aside from beverage products.

It must be noted that certain products in liquid form, even where they are 'drinkable', (**vinegar, liquid toppings, soya sauce, lemon juices, edible oils, products requiring dilution before consumption such as cordials, squashes, syrups or concentrates**), are not consumed directly from the container, and/or need further dilution before being drinkable. For that reason, they do not qualify as beverages, as they are not consumed and 'ingested through drinking'.

The table below provides an overview of the guidance indicators, such as intended usage and shape and form of the receptacle, including illustrative examples to help distinguish food containers from beverage containers.

Table 4-9: Illustrative examples to differentiate between food containers and beverage containers

Single-use plastic food container		Single-use plastic beverage container	
Plastic multilayer pouch containing fruit puree (150 ml)		Plastic multilayer pouch containing fruit juice (150 ml)	
Plastic container containing yogurt (100g)		Plastic container containing drinkable yogurt (150 ml)	
		Milk carton (500 ml)	

4.5.2 Key elements to distinguish food containers from cups for beverages

With regard to cups for beverages, in addition to determining whether the product contained is a food or a beverage, guidance is to be given on how to consider cups that are placed on the market empty by manufacturers but which can be filled by retailers both with food and beverage products. An example of this type of cup is provided in the figure below.

The intended use and whether such single-use plastic cups for beverages are intended food or beverages is typically known by the initial distributor or the filler of the cups. If at the time of placing on the market it is unclear whether a product is a beverage cup or a food packaging, the manufacturer must comply with the requirements of the Directive for both types of products. For example, the product must be labelled in accordance with Article 7, to ensure compliance with the Directive.

Figure 4-1: containers sold in retail and wholesale stores



4.5.3 Key elements to distinguish between beverage containers, beverage bottles and cups for beverages

The definitions and criteria provided in the Directive do not draw a clear distinction between beverage containers, beverage bottles (part of beverage containers), and cups for beverages (not part of beverage containers).

Drawing from other relevant legislative and non-legislative sources, the following classification relevant to Directive can be made:

- **Beverage containers** are ‘receptacles with a capacity of up to 3 litres, including their caps and lids, used to contain beverages’, including composite beverage packaging.
- **Beverage bottles** are ‘beverage containers with a narrow neck or mouth and with a capacity of up to 3 litres, including their caps and lids, used to contain beverages, excluding composite beverage packaging, as per differentiation made in the Directive with beverage containers’²⁵.
- **Cups for beverages** are ‘small, round, usually bowl-shaped drinking vessels with or without a cover or a lid, sold empty or containing beverages’²⁶.

²⁵ According to ISO 21067-1:2016, bottles are “rigid packaging, typically of glass or plastic, having a comparatively narrow neck or mouth, with a closure and usually no handle”.

²⁶ According to Macmillan dictionary definition as per https://www.macmillandictionary.com/dictionary/british/cup_1#cup_1__1

- Recital 12 also indicates that **composite beverage packaging** is to be seen as beverage container, not as beverage bottle: “Examples of beverage containers to be considered as single-use plastic products are beverage bottles or composite beverage packaging.”

As explained in Recital 12, for the purpose of the Directive, beverage bottles are included in the category of beverage containers²⁷. As also explained in Recital 12, cups for beverages are “a separate category of single-use plastic products” for the purposes of the Directive.

The key element for distinguishing between the three product categories is their shape. The table below provides illustrative examples of beverage containers, beverage bottles, and cups for beverages that indicate the shape-related elements to be considered for the classification of these product categories.

Table 4-10: Illustrative examples of beverage containers, beverage bottles, and cups for beverages

Beverage containers	Beverage bottles (part of beverage containers)	Cups for beverages (not part of beverage containers)
Receptacles with a capacity of up to 3 litres, used to contain beverages (includes also beverage bottles)	Rigid beverage containers with a narrow neck or mouth and a capacity of up to 3 litres, including their caps and lids, used to contain beverages	Small, round, usually bowl-shaped drinking vessels with or without a cover or a lid, sold empty or containing beverages
		

4.5.4 Key elements to distinguish food containers from packets and wrappers

The differentiation between **food containers** and **packets and wrappers** should be based on the **rigidity of the packaging**. Specifically, for the purposes of the Directive, foodstuff products with rigid and semi-rigid packaging should be classified as ‘food containers’, whereas products with flexible packaging materials should be categorised as packets and wrappers.

Flexible packaging implies that it bends easily without breaking. A commonly used standard to define the rigidity of a product in EPR schemes is ISO 21067-1:2016²⁸. In relation to the rigidity of the packaging, this standard sets the following terms and definitions:

²⁷ Recital 12 refers to “beverage bottles” as an example of “beverage containers”

²⁸ ISO 21067-1:2016 “Packaging — Vocabulary — Part 1: General terms”, available at : <https://www.iso.org/standard/66981.html>

- Flexible packaging: “packaging whose shape is likely to change after the contents are added or removed”.
- Rigid packaging: “packaging whose shape remains essentially unchanged after the contents are added or removed”.

The same standard is also applicable to non-packaging items that fall under the scope of the Directive.

Some foodstuffs are packaged in a combination of rigid and more flexible material, e.g. certain fruits or prepared foods sold in paper trays and covered by plastic wrappers. In those cases, the presence of rigid materials in the packaging should classify the product as a ‘food container’.

Table 4-11: Illustrative examples to differentiate between single-use plastic food containers and packets and wrappers

Single-use plastic food container	Single-use plastic packet and wrapper
The container is made fully or partly from rigid material containing plastic as indicated by ISO 21067-1:2016	The container is made from flexible material containing plastic as indicated by ISO 21067-1:2016
	

4.5.5 Key elements to distinguish plates from food containers

The Annex of the Directive excludes “beverage containers, plates and packets and wrappers containing food” from the product category of “food containers” for the purpose of the Directive (Parts A(2), E(1), and G(1)).

According to the definition provided earlier, plates refer to ‘dishes from which food is eaten or served’, whereas food containers are ‘receptacles such as boxes, with or without a cover, used to contain food’. **Error! Reference source not found.** provides some illustrative examples of how to distinguish between a single-use plastic food container and plate.

Table 4-12: Illustrative example to differentiate between food containers from plastic plates

Single-use plastic food container	Single-use plastic plate
Indicators signifying that the receptacle is a food container: • Receptacles such as boxes sold with or without a lid • Able to contain food	Indicators signifying that the receptacle is a plate: • Dish sold without a lid, regardless of whether it is covered e.g. by foil or film, at the point of sale • Used to serve or eat food from, but

• May facilitate transport of food • Receptacle usually sold with printed information regarding contents, ingredients and often a weight 	presence of food is not required at the moment of purchase • While being predominantly flat, typically it has a slightly bevelled or raised perimeter to stop food rolling or spilling off it • Printed information including contents, ingredients or weight are usually not present. 
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4.6 LIGHTWEIGHT PLASTIC CARRIER BAGS

4.6.1 Product description and criteria in the Directive

For the definition of lightweight plastic carrier bags, the Directive (Parts E.I(5) and G(8) of the Annex) refers to the definition in Article 3 point 1c of the Packaging and packaging waste Directive.

The table below provides an overview of the relevant descriptions in the Directive for lightweight plastic carrier bags.

Table 4-13: Descriptions of lightweight plastic carrier bags in the Directive

Annex Parts E.I(5) and G(8): “Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC”.

Point 1c of Article 3 of the Packaging and packaging waste Directive defines lightweight plastic carrier bags: *“‘lightweight plastic carrier bags’ shall mean plastic carrier bags with a wall thickness below 50 microns;”*.

In addition, point 1d of Article 3 of the Packaging and packaging waste Directive defines very lightweight plastic carrier bags as follows: *“‘very lightweight plastic carrier bags’ shall mean plastic carrier bags with a wall thickness below 15 microns which are required for hygiene purposes or provided as primary packaging for loose food when this helps to prevent food wastage”*

The general term “plastic carrier bags” is defined in point 1b of Article 3 of the Packaging and packaging waste Directive: *“‘plastic carrier bags’ shall mean carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products”*

The product-specific criteria for single use light-weight carrier bags provided in the Annex can be clarified on basis of the following indicators:

- **Product design characteristic:** wall thickness below 50 microns indicates that these bags are not purposely designed, conceived and placed on the market to be re-used (Article 3 point 1c of Directive 94/62/EC). This criterion duly reflects the Directive’s objective to reduce (marine) litter. As stated in Recital 4 of Directive (EU) 2015/720 such bags are less frequently reused than thicker plastic carrier bags, become waste more quickly, and are more prone to littering due to their light weight.
- **Point of sale / distribution:** refers to the point of sale where the product is supplied/distributed to the consumer (as defined in Article 3 point 1c of the Packaging and Packaging Waste Directive).

The Directive covers all “lightweight plastic carrier bags”. This includes very lightweight plastic carrier bags (those with a wall thickness below 15 microns), which may be excluded from certain Packaging and Packaging Waste Directive requirements.

4.6.2 Product overview and list of illustrative examples

Table 4-14 provides illustrative examples on whether certain types of plastic carrier bags are included or excluded under the Directive.

Table 4-14: Illustrative examples of different types of plastic carrier bags

Type of plastic carrier bag	General criteria		Product-specific criteria	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Lightweight plastic carrier bag	
Lightweight plastic carrier bag supplied to consumer at point of sale (wall thickness below 50 microns)	YES	YES	YES	Included
Very lightweight plastic carrier bag supplied to consumer at point of sale (wall thickness below 15 microns)	YES	YES	YES	Included
Thicker plastic carrier bag (wall thickness above 50 microns)	YES	NO	NO	EXCLUDED Bag is thicker than 50 microns, therefore more frequently reused
Waste collection bags made of plastic	YES	YES	NO	EXCLUDED Not “carrier bag” and, therefore, out of the scope of the SUPD

4.7 COTTON BUD STICKS

4.7.1 Product description and criteria in the Directive

Single-use plastic cotton bud sticks are referred to in Annex **Part B(1)** as “Cotton bud sticks, except if they fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC”. The Directive does not provide for a product definition.

A cotton bud stick typically refers to a short stick with a small amount (or wad) of cotton at one or both ends, often used for personal hygiene, especially for the cleaning of ears or the application of make-up^{29,30}. When placed on the EU market, these items are included within a single Common Procurement Vocabulary (CPV) code³¹: Cotton buds 33711410-4.

The following product design characteristics help define single use cotton bud sticks for the purposes of the Directive:

- **Thickness of the stick:** Cotton bud sticks intended for non-medical purposes or for use by individuals at home are typically characterised by a short, thin, non-durable stem.
- **Non-cleanable buds:** Glue used to permanently affix single use cotton buds to the end(s) of the stick preventing them from remaining in the ear canal (where used for that purpose). Ear cleaning sticks which are able to be washed or cleaned would fall outside the scope of the Directive.

4.7.2 Product-specific exemptions

According to Annex Part B(1) of the Directive, cotton bud sticks that fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC as **medical devices**³² are **excluded** from the scope of the Directive³³.

EU Guidance for the application of the Council Directive 93/42/EEC on Medical Devices³⁴ provides guidelines on the classification of medical devices for the purposes of risk assessment. The example of “(s)wabs to sample exudates” included³⁵ within these guidelines is considered to relate for example to ‘medical swabs’³⁶.

Cotton bud sticks intended for medical use are also designed to be single use. However, they are usually designed to specifically facilitate the use of sterile techniques, and are generally:

²⁹ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/cotton-bud?q=cotton+buds>

³⁰ Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/cotton-bud>

³¹ The Common Procurement Vocabulary establishes a single classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe procurement contracts: https://ec.europa.eu/growth/single-market/public-procurement/digital/common-vocabulary_en

³² Idem, footnote 17.

³³ As of 3 July 2021 Directives 90/385/EEC and 93/42/EEC will no longer apply. As of 26 May 2021 the placing on the market of medical devices will be governed by relevant Regulation (EU) 2017/745 on medical devices, amended by Regulation (EU) 2020/561.

³⁴ DG Health and Consumer, 2010. Medical Devices: Guidance document - Classification of medical devices - MEDDEV 2.4/1 rev.9. <http://ec.europa.eu/DocsRoom/documents/10337/attachments/1/translations>

³⁵ MEDDEV 2.4/1 rev.9 page 31: Examples provided for “Rule 6 - Surgically invasive devices intended for transient use (< 60 minutes)”

³⁶ Pirro V, Jarmusch AK, Vincenti M, Cooks RG. Direct drug analysis from oral fluid using medical swab touch spray mass spectrometry. *Analytica Chimica Acta*. 2015 Feb;861:47-54. DOI: 10.1016/j.aca.2015.01.008. <http://europepmc.org/article/PMC/4513665>

- Clearly labelled for medical use (e.g. ‘medical swab’³⁷)
- Often sold as sterile
- Characterised by a longer, sturdier stem
- Single tipped
- Sold or distributed direct to healthcare professionals via professional circuits (e.g. business to business, B2B) e.g. swabs provided or used for forensic, medical or scientific purposes including: for collection of samples or specimens from humans or surfaces, for clinical microbiology, cytology, and DNA testing purposes.

4.7.3 Product overview and list of illustrative examples

The table below provides illustrative examples on whether certain types of cotton bud sticks are included or excluded from the scope of the Directive.

³⁷ According to Pirro et al (2015), “Medical swabs are widely used in clinical microbiology, cytology, and DNA testing to sample body orifices and surfaces. Their design is specific to each application, with appropriate shape and materials being chosen for each type of application. Commonly, the swab tip is made of cotton, rayon, or polyester in brush, rounded, squared or fused shapes. The shaft can be made of plastic, wood, rolled paper or metallic wire.”

Table 4-15: Illustrative examples of different types of cotton bud sticks

Type of cotton bud stick	General criteria		Product-specific criteria			Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Non-durable stem	Non-cleanable buds	Not medical device	
Plastic stemmed, double-tipped cotton bud stick	YES	YES	YES	YES	YES	INCLUDED
Non-plastic stemmed cotton bud stick	NO	YES	YES	YES	YES	EXCLUDED: Product does not contain plastic
Plastic stemmed, single-tipped specimen collection swab	YES	YES	YES	YES	NO	EXCLUDED: Product intended for medical use
Plastic, reusable ear cleaning stick	YES	NO	NO	NO	YES	EXCLUDED: Product intended for multiple use

4.8 BALLOONS AND BALLOON STICKS

4.8.1 Product description and criteria in the Directive

Balloons are addressed in Article 8 and 10, whereas balloon sticks are subject to Article 5 of the Directive, but are not defined as such in the Directive. The Annex to the Directive (Parts E.II (2) and G(7)) provides some further product-specific references.

Table 4-16: Descriptions of balloons and balloon sticks in the Directive

Balloons:

- Annex Part EII(2) and Part G(7): “Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers”.

Balloon sticks:

- Annex Part B(6): “Sticks to be attached to and to support balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers, including the mechanisms of such sticks”.

Where the Directive does not provide for definitions and criteria for the product category ‘balloons’ (single-use cutlery; plates; straws; and stirrers), a definition based on relevant sources and reference material is provided in this paragraph:

- **Balloon** typically refers to a non-porous bag of light material that is intended to be inflated with air or gas. Balloon stick typically refers to a stick which is attached to filled balloons. When placed on the market, these items are primarily included within the following CPV code³⁸: Toy balloons and balls (37525000-4).
- **Balloon stick**: ‘Sticks to be attached to and to support balloons’ (Part B(6) of the Annex to the Directive)

Latex does not qualify as a natural non-chemically modified polymer, and latex balloons are thus covered by the Directive.

The following product design characteristics help define single use balloons and balloon sticks for the purposes of the Directive:

- **Seals, valves and closure mechanisms**: The absence of valve or seal to enable multiple inflations and deflations. Balloons, which require the application of a knot, string or ribbon to the neck in order to prevent air from escaping, loose quality through unknotting and reknitting. They are therefore considered to be single-use. Inflatable toys or personal safety equipment designed to be inflated and deflated via a (re)closable valve, with no loss of quality or functionality between uses, are considered to be ‘multiple use’.
- **Refill systems**: Balloons purchased ready-filled with air or helium are considered to be ‘single-use’ due to the inability of the customer to refill these. Self-filling balloons (with integral filling mechanism) are also considered to be single-use.

4.8.2 Product-specific exemptions

According to the Annex of the Directive (Parts E.II (2) and G (7)) ‘balloons for industrial or other professional uses and applications that are not distributed to consumers’ should be excluded from the relevant provisions of the Directive.

Similarly, Part B(6) of the Annex excludes “Sticks to be attached to and to support balloons for industrial or other professional uses and applications that are not distributed to consumers, including the mechanisms of such sticks” from the scope of the Directive.

The point of purchase, distribution channel and type of end user are important elements to determine whether balloons are intended for domestic or professional use.

The following should be considered ‘for industrial or professional use’:

- balloons, and the sticks to be attached to support those balloons, which are sold through industrial or professional channels, e.g. business to business;
- balloons, and the sticks to be attached to support those balloons for industrial or professional use or applications, e.g. research, weather balloons, industrial, professional decoration, and that are not distributed to consumers.

However, balloons, and balloon sticks which are sold through business to consumers channels or distributed to private consumers, e.g. balloons, and balloon sticks which can be purchased by individual consumers at a shop, or are distributed to consumers at a private event, are not considered as professional or industrial use or application, but instead for domestic use. These products should therefore be included in the scope of the Directive. Also balloons and balloon sticks

³⁸ *Idem*, footnote 26.

for which the intended use is unclear (“dual-use balloons”) should be included in the scope of the Directive.

4.8.3 Product overview and list of illustrative examples

The table below provides illustrative examples on whether certain types of balloons and balloon sticks are included or excluded from the scope of the Directive.

Table 4-17: Illustrative examples of different balloons and balloon sticks

Types of balloons; balloon sticks	General criteria		Product-specific criteria	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Intended for domestic use	
Single-use latex balloons for domestic use or application	YES	YES	YES	INCLUDED
Single-use mylar or foil balloons for domestic use or application	YES	YES	YES	INCLUDED
Single-use plastic balloon sticks for domestic use	YES	YES	YES	INCLUDED
Reusable, plastic inflatable toys and ‘selfie-frames’ including resalable valve	YES	NO	YES	EXCLUDED: Product intended multiple use
Reusable plastic balloon stands	YES	NO	NO	EXCLUDED: Product intended multiple use
Balloons for industrial uses and applications e.g. hot-air balloon, weather balloon.	YES	NO	NO	EXCLUDED: Product intended for professional or industrial use

4.9 SANITARY TOWELS (PADS); TAMPONS; AND TAMPON APPLICATORS

4.9.1 Product description and criteria in the Directive

As the Directive does not provide for definitions for this sanitary towels (pads), tampons and tampon applicators, product criteria in this paragraph are derived from other relevant sources and reference material.

Single-use sanitary towels can be defined as hygiene products used to absorb and retain fluid, generally intended to be disposed of after single use.

Single-use sanitary towels are often composed of multiple layers including an absorbent core, which is mainly made of cellulosic and synthetic fibres and absorb the fluid. For the purposes of the Directive, sanitary towels refer not only to **pads or napkins**, but also **panty liners** as these products are a sub-category of “sanitary towels (pads)” and as such fulfil the criteria of a single-use plastic product. Both products are composed of similar materials and have the same “tendency to become marine litter” with regard to inappropriate disposal i.e. if flushed down toilets after use, and may enter the marine environment through the waste water treatment system.

SUP tampons are essentially composed of three layers including an absorbent core, which is made of either viscose, cotton, polyester, or a mixture of these fibres³⁹. They can be contained in a tampon applicator, usually composed of coated paper (containing a thin plastic sheet) or hard plastic. While some categories of tampons are made of cotton, many come with a plastic netting. The latter refers to a thin layer of non-woven or perforated plastic film used to help reduce fibre loss and facilitate the insertion and removal of tampons.

Section 2.1 provides guidance to determine whether the fibre in question fulfils the criteria for the exception for *“natural polymers that have not been chemically modified”*.

Product design characteristics of sanitary towels, tampons and tampon applicators intended for single-use include those that are not washable or reusable multiple times because washing processes degrades the structure and function of the product.

4.9.2 Product overview and list of illustrative examples

The table below provides examples on whether certain types of sanitary towels, tampons and tampon applicators are included or excluded from the scope of the Directive.

³⁹ EDANA. (2019, December). Absorbent Hygiene Products components Pad/Liners. Retrieved from: <https://www.edana.org/nw-related-industry/nonwovens-in-daily-life/absorbent-hygiene-products/feminine-care>

Table 4-18: Illustrative examples of different sanitary towels, tampons and tampon applicators

Type of sanitary towels, tampons and tampon applicators	General criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	
Sanitary towel, tampon and tampon applicator which contains plastic includes all categories of sanitary towels regardless of the shape, size, thicknesses and absorbency level containing plastics and intended to be disposed of after use	YES	YES	INCLUDED
Sanitary towels (including panty liners), or tampons which do not contain plastic	NO	YES	EXCLUDED: No plastic contained in the product
Reusable (washable) menstrual products (which can be washed and reused multiple times without and degradation of their structure, intended function and performance) such as washable cloth pads, reusable menstrual cup (alternative to tampon), period underwear (washable panty with integrated absorption pad)	NO /Washable pads that do not contain plastic YES/Reusable tampons, tampon applicators, and pads may contain plastic (e.g. clip for washable cloth pads)	NO	EXCLUDED: Products are not single-use

4.10 WET WIPES

4.10.1 Product description, criteria and exemptions in the Directive

Table 4-19 provides an overview of the relevant descriptions of single-use plastic wet wipes in the Directive.

Table 4-19: Descriptions of wet wipes in the Directive

Annex Parts D, E and G: “Wet wipes, i.e. pre-wetted personal care and domestic wipes”

Recital 12: “Wet wipes for personal care and domestic use should also be within the scope of this Directive, whereas industrial wet wipes should be excluded.”

Wet wipes, which are made of natural polymers that have been chemically modified, like viscose and PHA, fall within the scope of the Directive. Wet wipes, which are made of natural polymers that have not been chemically modified, like lyocell, fall outside the scope of the Directive.

The following main product specific criteria are provided by the Directive to determine whether a single-use wet wipe is included:

- “pre-wetted”
- “personal care and domestic wipes”

In light of the above, a wet wipe in the context of the Directive can be understood as a small piece of pre-moistened or pre-wetted material containing plastic and which is conceived, designed and placed on the market for single-use (disposable) and intended for personal care e.g. personal hygiene or domestic use e.g. household cleaning purposes. Pre-wetted wipes typically contain an impregnation liquid which has been added to the wipe before it is placed on the market and sold.

A personal care wet wipe is intended to be used for hygiene purposes. These include cleansing and caring of skin of both human adults and babies e.g. baby wipes, cosmetic/make-up removal wipes, intimate care wipes, etc.

A domestic use wet wipe is intended to be used in domestic premises. These include wet wipes used for household cleaning purposes e.g. wipes used to clean kitchen and bathroom surfaces, wet wipes used to clean personal vehicles, spectacle cleaning wipes, etc..

Furthermore, these products are typically sold on the market in packs containing several single-use wet wipes.

According to Recital 12: *“Wet wipes for personal care and domestic use should also be within the scope of this Directive, whereas industrial wet wipes should be excluded.”*

While not explicitly mentioned in the Directive, wet wipes, which are conceived, designed and placed on the market for **professional use**, such as **medical/healthcare wipes** would not meet the criterion for personal care or domestic use. These products are therefore not considered to fall within the scope of the Directive.

The **point of purchase**, **distribution channel** and **type of end user** are important elements that should be considered in order to determine whether certain wet wipes are intended for domestic or professional use. For instance, wet wipes sold through professional distribution channels e.g. B2B channels, and which are used by healthcare professionals are considered to be intended for professional use and would not be included in the scope of the Directive. However, wet wipes which are sold in B2C channels and distributed to non-professional private consumers e.g. wet wipes, which can be purchased by individual consumers at a pharmacy and used at home are not considered as professional use. These products are therefore included in the scope of the Directive.

The following table provides a non-exhaustive list of the wet wipe categories covered or excluded from Directive^{40,41}:

⁴⁰ EDANA. (2019). EDANA input to scope of the Single-Use Plastics Directive.

⁴¹ EDANA. (n.d). Industrial wipes. Retrieved from: www.edana.org/nw-related-industry/nonwovens-in-daily-life/wipes/industrial-wipes

Table 4-20: Examples of wet wipe categories

Product category: wet wipes	
Covered by the Directive	Personal care • Baby wipes • Cleansing wipes for skin (including hands and body) • Disinfection wipes for hands, including if provided to consumers in aircrafts, airports, trains or other venues • Facial/cosmetic wipes (e.g. facial masks or "sheet masks", face cleaning/make-up removal wipes) • Intimate care wipes • Toilet tissue wipe
	Domestic use • Household cleaning wipes used to remove stains and clean surfaces such as floors, bathrooms, kitchens, furniture, windows, TV and computer screens, etc. • Disinfection wipes intended for domestic use, including if provided to consumers in aircrafts, airports, trains or other venues. • Spectacle (eye glasses) cleaning wipes • Car wipes intended for domestic use • Pet wipes intended for domestic use
Excluded from the Directive	Industrial wet wipes
	Examples of wet wipes used in industry only: • Automotive wipes (surface preparation, polishing, oil and chemical absorbents) intended for industrial or professional use • Electronic and computer industry wipes (dust removal, delicate and intricate cleaning wipes) intended for industrial or professional use • Food industry wipes (machine cleaning, maintenance, fluid absorbent, hand cleaning wipes) intended for industrial or professional use • Janitorial wipes (polishing, equipment cleaning and maintenance, wet floor cleaning, dust removal) intended for industrial or professional use • Manufacturing, engineering and maintenance wipes (machine cleaning, maintenance, fluid absorbent, hand cleaning wipes) intended for industrial or other professional use • Optical industry wipes (polishing, dust removal wipes) intended for industrial or professional use • Printing industry wipes (machine cleaning, maintenance, fluid absorbent, hand cleaning wipes) intended for industrial or professional use • Transportation industry wipes (vehicle cleaning and maintenance, window cleaning wipes) intended for industrial or professional use
	Professional use

	Examples of wet wipes intended for professional use: • Medical/healthcare wipes such as hospital grade disinfectant wipes to clean and disinfect surfaces and intended for industrial or professional use • Medical/healthcare wipes such as patient care wipes for human hygiene purposes and intended for industrial or professional use
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Wet wipes for which it is unclear if the intended use is industrial/professional or domestic (“dual-use wipes”) are included in the scope of the Directive.

4.10.2 Product overview and list of illustrative examples

Guidance is provided on how to interpret the general and product-specific criteria, along with examples on whether certain types of wet wipes are included or excluded under the Directive in **Table 4-21**.

Table 4-21: Examples of different types of wet wipes

Type of wet wipes	General criteria			Product-specific criteria			Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Pre-wetted	Personal care or domestic use			
Wet wipe which contains plastic	YES	YES	YES	YES			INCLUDED
Wet wipe which does not contain plastic	NO	YES	YES	YES			EXCLUDED: Product is not wholly or partly made of plastic
Pre-wetted wipe (e.g. which can be indicated on product packaging as follows: “pre-moistened towelettes” or “pre-wetted”)	YES	YES	YES	YES			INCLUDED
Dry wipe (e.g. not pre-wetted before placed on the market; can also be indicated on product packaging as follows: “skin cleansing dry wipes”)	YES	YES	NO	YES			EXCLUDED: Product is not “pre-wetted”
Personal care wet wipe (e.g. which can be indicated on product packaging as follows: “makeup-removal wet wipes” or “Baby wipes”)	YES	YES	YES	YES			INCLUDED
Domestic use wet wipe (e.g. which can be indicated on product packaging as follows:	YES	YES	YES	YES			INCLUDED

Type of wet wipes	General criteria		Product-specific criteria		Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Pre-wetted	Personal care or domestic use	
“Multipurpose household cleaning wipe”)					
Industrial wet wipe (e.g. wet wipes used in industry)	YES	YES	YES	NO	EXCLUDED: Product is considered to be an industrial wet wipe
Professional use wet wipe (e.g. medical/healthcare wipes sold through professional B2B distribution channels and intended for use by healthcare professionals)	YES	YES	YES	NO	EXCLUDED: Product is not intended for domestic use

4.11 TOBACCO PRODUCTS WITH FILTERS; FILTERS MARKETED FOR USE IN COMBINATION WITH TOBACCO PRODUCTS

4.11.1 Product description and criteria in the Directive

Tobacco products with filters, and filters marketed for use in combination with tobacco products, are defined in Article 3 point 18 of the Directive as

“‘tobacco products’ as defined in point (4) of Article 2 of Directive 2014/40/EU”, which further defines tobacco products as “products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not”.

The Annex to the Directive (Parts D (3), E III and G (5)) defines this product category as: *“Tobacco products with filters and filters marketed for use in combination with tobacco products”.*

The table below provides an overview of the relevant descriptions that relate to tobacco products with filters, and filters for use in combination with tobacco products, according to the Directive.

Table 4-22: Descriptions of tobacco products with filters, and filters, in the Directive

Article 3 (18) refers to *“‘tobacco products’ as defined in point (4) of Article 2 of Directive 2014/40/EU”.*

Annex Parts D (3), E III and G (5) describe “tobacco products” as *“Tobacco products with filters and filters marketed for use in combination with tobacco products”.*

Point 4 of Article 2 of Directive 2014/40/EU, defines “tobacco products” as follows:

“‘tobacco products’ means products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not;”

Tobacco products with filters or filters marketed for use in combination with tobacco products containing cellulose acetate are deemed to constitute a chemically modified natural polymer and therefore fall within the scope of the Directive.

The main product specific criteria to determine whether a ‘tobacco product with filter, or a filter marketed for use in combination with a tobacco product’ falls within the product scope of the Directive, are:

- Product is a tobacco product (as defined in Point 4 of Article 2 of Directive 2014/40/EU, i.e. “products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not”) and Product contains a filter: e.g. a cigarette or cigar; or
- Product is a separate filter for use with tobacco products: e.g. a filter tip or mini filter.

4.11.2 Product overview and list of illustrative examples

Illustrative examples on whether certain types of tobacco products with a filter, or filters marketed for use with tobacco products, are included or excluded under the Directive are provided in **Table 4-23**.

Table 4-23: Examples of different types of tobacco products with filters and filters marketed for use in combination with tobacco products

Type of tobacco product or filter	General criteria		Product-specific criteria	Included or excluded from the scope of the Directive (fulfilment of all general and product-specific criteria?)
	Plastic	Single-use	Tobacco product with filter or filter marketed for use in combination with tobacco products	
Cigarette or cigar with filter containing plastic	YES	YES	YES	INCLUDED
Separate single-use filters containing plastic	YES	YES	YES	INCLUDED
Electronic cigarette or vape products, including plastic or non-plastic filters	YES	NO	NO	EXCLUDED: Product is intended for multiple use; product does not contain tobacco
Electronic device to be used with heated tobacco product including single-use filter containing plastic	YES	YES (the filter)	YES	INCLUDED: While the electronic device is intended for multiple use, the tobacco and the filters are single-use
Loose tobacco e.g. for use in a pipe or hand-rolled cigarette without filter containing plastic	NO	YES	NO	EXCLUDED: Product is not made wholly or partly of plastic; product does not contain a filter

ANNEX Overview of SUP products and relevant requirements laid out in the Directive

SUP products listed in Annex and relevant product descriptions

SUP products	Annex of SUPD and requirements		Product descriptions
Balloons	Part E	EPR (Art. 8(3))	Annex, Part EII.(2)
	Part G	Awareness raising (Art. 10)	Annex, Part G(7)
Balloon sticks	Part B	Restrictions on placing on the market (Art. 5)	Annex, Part B(6)
Beverage bottles ≤ 3L, including their caps and lids	Part C	Product requirements (Art. 6(5))	Annex, Part F
	Part F	Separate collection (Art. 9)	
Beverage containers ≤ 3L, incl. their caps and lids	Part C	Product requirements (Art. 6(1) to (4))	Annex, Part C
	Part E	EPR (Art. 8(2))	Annex, Part EI.(3)
	Part G	Awareness raising (Art. 10)	Annex, Part G(3)
Beverage containers made of expanded polystyrene, incl. their caps and lids	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Beverage stirrers	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Cups for beverages	Part D	Marking requirements (Art. 7)	No product-specific descriptions provided
Cups for beverages, incl. their covers and lids	Part A	Consumption reduction (Art. 4)	
	Part G	Awareness raising (Art. 10)	
	Part E	EPR (Art. 8(2))	
Cups for beverages made of expanded polystyrene, incl. their covers and lids	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Cotton bud sticks	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Cutlery (forks, knives, spoons, chopsticks)	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Food containers	Part A	Consumption reduction (Art. 4)	Annex, Part A(2)

SUP products	Annex of SUPD and requirements		Product descriptions
	Part E	EPR (Art. 8(2))	Annex, Part EI.(1)
	Part G	Awareness raising (Art. 10)	Annex, Part G(1)
Food containers made of expanded polystyrene	Part B	Restrictions on placing on the market (Art. 5)	Annex, Part B(7)
Lightweight plastic carrier bags	Part E	EPR (Art. 8(2))	Article 3(1c) of Directive 94/62/EC ⁴²
	Part G	Awareness raising (Art. 10)	
Packets and wrappers	Part E	EPR (Art. 8(2))	Annex, Part EI.(2)
	Part G	Awareness raising (Art. 10)	Annex, Part G(2)
Plates	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Sanitary towels (pads), tampons and tampon applicators	Part D	Marking requirements (Art. 7)	No product-specific descriptions provided
	Part G	Awareness raising (Art. 10)	
Straws	Part B	Restrictions on placing on the market (Art. 5)	No product-specific descriptions provided
Tobacco products with filters and filters marketed for use in combination with tobacco products	Part D	Marking requirements (Art. 7)	Article 2(4) of Directive 2014/40/EU (tobacco products) ⁴³
	Part E	EPR (Art. 8(3))	
	Part G	Awareness raising (Art. 10)	
Wet wipes	Part D	Marking requirements (Art. 7)	Annex, Part D(2)
	Part E	EPR (Art. 8(3))	Annex, Part EII.(1)
	Part G	Awareness raising (Art. 10)	Annex, Part G(6)

⁴² European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste Legislative text: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:31994L0062>

⁴³ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC Text with EEA relevance. Legislative text : https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ%3AJOL_2014_127_R_0001