



Study to support the development of implementing acts and guidance under the Directive on the reduction of the impact of certain plastic products on the environment

**IDENTIFYING AND DESCRIBING THE
PRODUCTS COVERED BY THE SUP
DIRECTIVE
PARTS A, B, D
DRAFT**

31 March 2020

In cooperation with

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PURPOSE AND CONTENTS OF THIS DOCUMENT

This document contains guidance to Member States on the transposition of 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 (hereafter referred to as the “SUP Directive”)¹.

The SUP Directive aims to limit plastic marine litter (found on the beach, the seabed and floating on the sea surface) by establishing measures to reduce the negative environmental impacts arising from SUP products, as well as to promote the transition to a circular economy with innovative and sustainable business models, thus contributing to the efficient functioning of the internal market. The SUP Directive calls for a different set of measures corresponding to the characteristics of each of the different single-use plastic items concerned. Where alternatives are easily available and affordable, producers of these SUP products must comply with the relevant requirements on restrictions on placing on the EU market. For other products, the focus is on waste prevention measures, such as consumption reduction, marking requirements and product design requirements and on improved waste management.

These guidelines correspond to Article 12 of the SUP Directive [Specifications and guidelines on single-use plastic products] whereby, “3 July 2020, the Commission shall publish guidelines, in consultation with Member States, including examples of what is to be considered a single-use plastic product for the purposes of this Directive, as appropriate.” The guidelines aim to provide national authorities and economic operators with technical and legal clarifications in relation to the definitions and requirements posed by the SUP Directive, along with illustrative examples, to ensure harmonised interpretation of single-use plastic products in accordance with the SUP Directive.

The guidelines are structured as follows:

- **Part A – Objectives and scope:** Overview of the context, objectives and scope of the SUP Directive
- **Part B – General terms and definitions:** Guidance on general terms and definitions of the SUP Directive, notably in relation to the definition of plastic, the concept of single-use and links with other EU legislation
- **Part C – Single-use plastic product definitions:** Guidance on defining the single-use plastic products covered by the SUP Directive, including product-specific criteria and illustrative examples
- **Part D – Annex:** Additional supporting information

¹ 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. Legislative text available at: <https://eur-lex.europa.eu/eli/dir/2019/904/oj>

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**PART A: OBJECTIVES AND SCOPE
OF THE SUP DIRECTIVE**

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1. OBJECTIVES OF THE SUP DIRECTIVE

In the European Union, 80 to 85 % of marine litter is plastic, with single-use plastic (SUP) products accounting for 50% and fishing-related 27% of the total². Plastic marine litter can pose particularly serious risks to human health and the environment as well as economic sectors such as tourism, fisheries and shipping.

As laid out in Article 1, the objectives of the SUP Directive are to:

"...to prevent and reduce the impact of certain plastic products on the environment, in particular the aquatic environment, and on human health, as well as to promote the transition to a circular economy with innovative and sustainable business models, products and materials, thus also contributing to the efficient functioning of the internal market."

The SUP Directive³ is an essential part of a broader set of actions established under the EU's Circular Economy Action Plan, including the new Circular Economy Action Plan⁴, published in March 2020 as part of the European Green Deal⁵, and under the Strategy for Plastics⁶ in a circular economy (adopted in 2018). The SUP Directive also aims to contribute to the EU's achievement of the United Nations (UN) Sustainable Development Goals (SDG)⁷; notably SDG 12 addressing sustainable consumption and production patterns and SDG 14 on the conservation and sustainable use of oceans, seas and marine resources as well as marine litter, where it undermines the attainment of good environmental status.

2. SCOPE OF THE SUP DIRECTIVE

Article 2(1) [Scope] outlines the scope and application of the SUP Directive:

*"This Directive applies to the **single-use plastic products listed in the Annex**, to **products made from oxo-degradable plastic** and to **fishing gear containing plastic**."* [Emphasis added]

Article 3(1) [Definitions] provides the definition of "plastic" as follows:

(1) 'plastic' means a material consisting of a polymer as defined in point 5 of Article 3 of Regulation (EC) No 1907/2006, 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;

The definition of plastic as laid out in Article 3(1) of the SUP Directive is one of the key concepts in regard to determining what is to be considered as a plastic product for the purposes of the SUP Directive. The guidelines are necessary to provide clarification on several terms and concepts used in

² European Commission (2018). Impact Assessment: 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. Available at: https://ec.europa.eu/environment/circular-economy/pdf/single-use_plastics_impact_assessment.pdf

³ 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. Legislative text: <https://eur-lex.europa.eu/eli/dir/2019/904/oj>

⁴ European Commission (2020). *Circular Economy Action Plan, For a cleaner and more competitive Europe*. Retrieved from: https://ec.europa.eu/environment/circular-economy/pdf/new_circular_economy_action_plan.pdf

⁵ European Commission (2019). Communication from the Commission to the European Parliament, the Council and Committee of the Regions, *The European Green Deal*. Retrieved from: https://ec.europa.eu/info/sites/info/files/european-green-deal-communication_en.pdf

⁶ European Commission (2018). *A European Strategy for Plastics in a Circular Economy*. Legislative text retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1516265440535&uri=COM:2018:28:FIN>

⁷ United Nations. *Sustainable Development Goals*. Retrieved from: <https://sustainabledevelopment.un.org/?menu=1300>

the above definition (i.e. “can function as a main structural component”, “natural polymers”, “not been chemically modified”) due to the relatively high flexibility in interpretation.

Article 3(2) [Definitions] provides the definition of a “single-use plastic product” as follows:

*“Single-use plastic product’ means 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]

In accordance with Article 12 [Specifications and guidelines on single-use plastic products]:

*“The Commission shall publish **guidelines**, including examples of what is to be considered a single-use plastic product for the purposes of this Directive, as appropriate.”* [Emphasis added]

The focus of these guidelines is on the first of the three products groups cited in Article 2(1): “single-use plastic products listed in the Annex”, with the aim of providing clarifications on whether a product is to be considered a single-use plastic product for the purposes of the SUP Directive.

2.1 Which SUP products are listed in the Annex of the SUP Directive?

The following SUP products (presented in alphabetical order) are listed in the Annex of the SUP Directive (see also Annex Part D, section A.1 of the guidelines):

1. Balloons;
2. Balloon sticks;
3. Beverage containers with a capacity of up to three litres, including their caps and lids;
 - 3a. Beverage containers made of expanded polystyrene, including their caps and lids;
 - 3b. Beverage bottles with a capacity of up to three litres, including their caps and lids;
4. Beverage stirrers;
5. Cotton bud sticks;
6. Cups for beverages;
 - 6a. Cups for beverages made of expanded polystyrene, including their covers and lids;
 - 6b. Cups for beverages, including their covers and lids;
7. Cutlery (forks, knives, spoons, chopsticks);
8. Food containers;
 - 8a. Food containers made of expanded polystyrene;
9. Lightweight plastic carrier bags;
10. Packets and wrappers;
11. Plates;
12. Sanitary towels (pads), tampons and tampon applicators;
13. Straws;
14. Tobacco products with filters and filters marketed for use in combination with tobacco products;
15. Wet wipes.

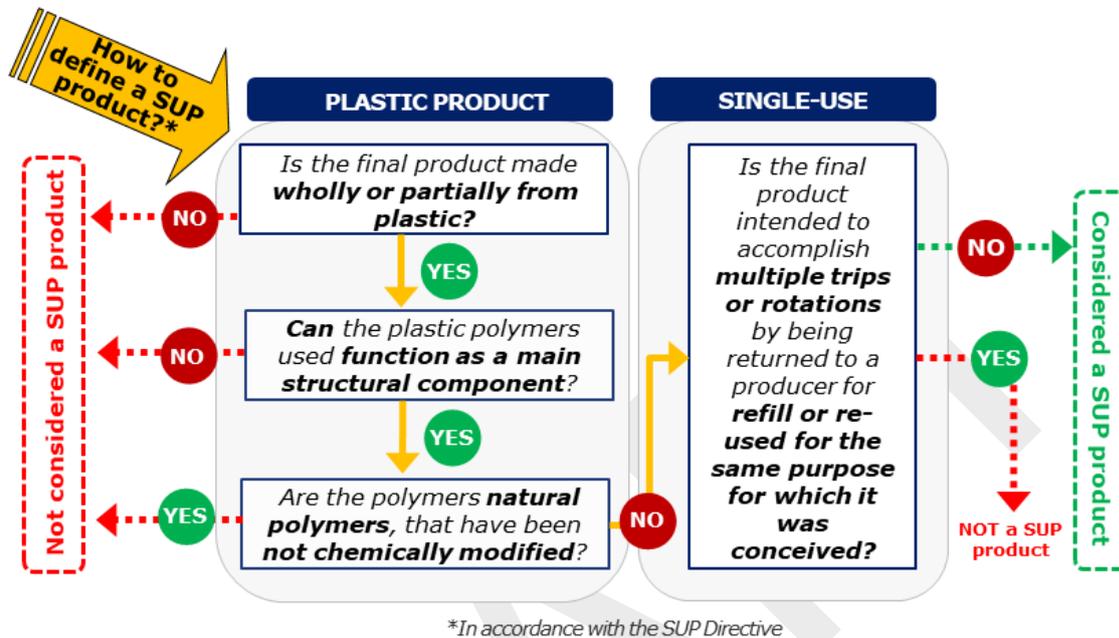
The SUP products listed in the Annex of the SUP Directive are only subject to the requirements of the SUP Directive if they fulfil the two following key components laid out in Article 3(1), which are further clarified in the guidelines in the following sections, namely:

- **Plastic products** (definition of plastic): Part B, chapter 3
- **Single-use**: Part B, chapter 4

It should be noted that for certain SUP products, the SUP Directive lays out product-specific criteria in regard to product definitions distinguishing between single and multiple-use products. Additional

clarifications, including practical examples for each of the SUP products concerned are provided in **Part C of the guidelines**. Figure 2-1 provides an overview of the main elements that can be used in regard to determining whether a specific product fulfils the SUP Directive’s definition of a single-use plastic product.

Figure 2-1: How is a SUP product defined in the SUP Directive?



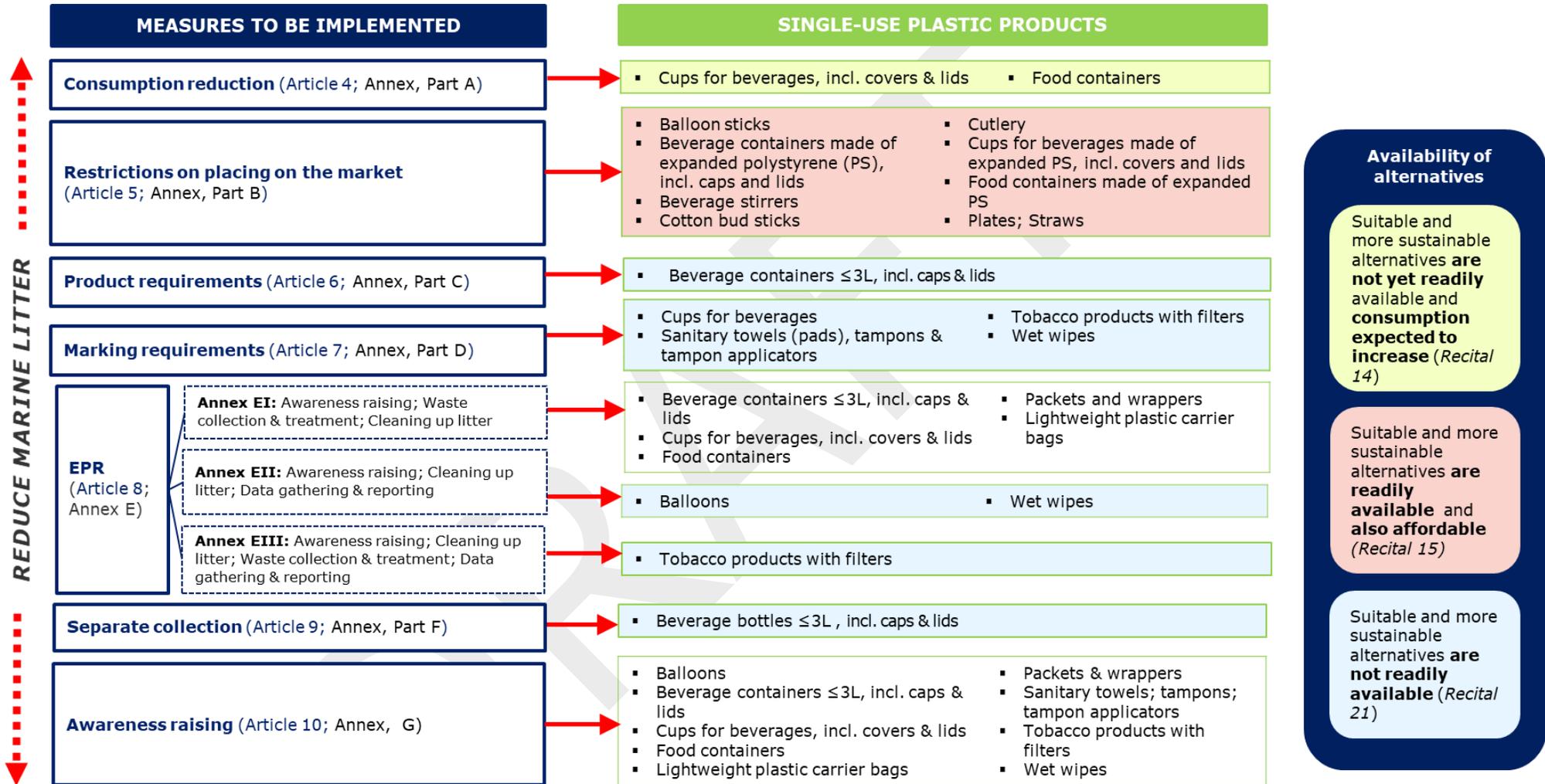
2.2 What are the specific policy measures laid down in the SUP Directive?

The SUP products covered by the SUP Directive are subject to specific measures (Figure 2-2 and Table A.0-1) based on various factors such as the relevance of changing consumption patterns, the extent they are covered by existing EU legislation and **availability and/or affordability of suitable and more sustainable alternatives**. With respect to the latter criterion (existence of suitable/sustainable alternatives), the SUP Directive distinguishes following requirements:

- **Consumption reduction measures** (Article 4) for certain single-use plastic products (food containers; cups for beverages), where suitable and more sustainable **alternatives are not yet readily available**; and their consumption is expected to increase.
- **Restrictions on placing on the market** (Article 5): for single-use plastic products, where suitable and more **sustainable alternatives are readily available and affordable** e.g. cotton bud sticks; cutlery (forks, knives, spoons, chopsticks); plates; straws, beverage stirrers.
- **Extended producer responsibility (EPR) schemes** (Article 8), **marking requirements** (Article 7), **product design requirements** (Article 6) and **awareness raising measures** (Article 10): for single-use plastic products, where **no suitable and more sustainable alternatives are readily available**.

The distinction based on 'alternatives readily available' has not been made with respect to the other measures laid out in the SUP Directive, such as the **separate collection** obligation (Article 9), which concerns single-use plastic beverage bottles.

Figure 2-2: Single-use plastic products and applicable measures laid out by SUP Directive



PART B: GENERAL TERMS AND DEFINITIONS

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3. HOW IS PLASTIC DEFINED IN THE SUP DIRECTIVE?

3.1 Starting point from the SUP Directive

Article 3(1) of the SUP Directive defines “*plastic*” as follows:

*“plastic” means a material consisting of a **polymer as defined in point 5 of Article 3 of Regulation (EC) No 1907/2006**, 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]

In particular, the exemption provided in Article 3(1), namely “*with the exception of natural polymers that have not been chemically modified*” requires further clarification. Recital 11 provides additional explanations on the latter:

*“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]

The **definition of plastic** for the purposes of the SUP Directive is therefore one of the key concepts in regard to determining what is to be considered a **single-use plastic product** within its scope of application. Article 3(1) refers to the definition laid out in Regulation (EC) No 1907/2006 (hereafter the “REACH Regulation”)⁸ as the starting point and adds further elements to introduce an adapted and a separate definition (Recital 11).

Several of the terms and concepts used in Article 3(1) and Recital 11 require further clarification due to the relatively high flexibility in interpretation. As such, the subsequent sections provide guidance on the following key terms:

- “*polymer*”⁹ (see section 3.2.1);
- “*can function as a main structural component*” (see section 3.2.2); and
- “*exception of natural polymers that have not been chemically modified*” (see section 3.3)

3.2 What is meant by a “polymer...which can function as a main structural component of final products”?

The sections below provide guidance on the interpretation of Article 3(1) of the SUP Directive in respect to polymers, which can function as a main structural component of final products.

⁸ 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>

⁹ In accordance with Article 3(1) of the SUP 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).

3.2.1 What is meant by “polymer”?

The SUP Directive in Article 3(1) specifically refers to the definition of “polymer” in accordance with Article 3(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.

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” laid out in the REACH Regulation cited above, additional guidance can be drawn from the European Chemicals Agency (ECHA) Guidance for polymers and monomers¹⁰:

“A polymer, as any other substance defined in Article 3(1), 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.”

3.2.2 What is meant by “can function as a main structural component”?

A key element to be considered in regard to determining whether a (plastic) polymer can function as a main structural component is whether the SUP product can fulfil its intended function without the polymer(s). In other words, do the plastic polymer(s) allow for the intended use of the final product? Practical examples include the use of a plastic coating or lining on paper cups or plates, which enables it to be liquid-proof or to ensure that the product complies with necessary safety or hygiene standards.

Other considerations such as reference to a specific threshold e.g. percentage of plastic composition in final products **should not be used as a relevant criterion** because the quantity or share of plastic materials does not necessarily determine whether they allow for the product’s intended function, and therefore whether it can act as a main structural component of the final product. Considering the previous example of paper cups or plates with a plastic coating or lining, while the plastic only represents a small share of material within the product’s composition, its use is essential to ensure a very specific function that is to enable it to be liquid-proof, so that it complies with safety or hygiene standards for example. As such, even a small share or percentage of plastic in a product’s composition can be essential to its intended function. Setting a specific threshold would not correctly apply to certain products, whose percentage or share of plastic may be just below the threshold, while still functioning as a main structural component.

3.3 How should the exception for “natural polymers that have not been chemically modified” be understood?

While the term “natural polymer” is not specifically defined in the SUP Directive, there is a clear reference to the REACH Regulation for the term “that have not been chemically modified”. In order

¹⁰ 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

to ensure harmonious interpretation of the **exception** provided in Article 3(1) of the SUP Directive for “*natural polymers that have not been chemically modified*”, it is essential to establish a common understanding of “*natural polymers*” in relation to “*that have not been chemically modified*”. These terms are further described below in section 3.3.1 and section 3.3.2.

3.3.1 What is meant by “natural polymers”?

While there is no universally agreed definition for “*natural polymer*”, the term has been defined within the ECHA Guidance for polymers and monomers (hereafter referred to as “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”.*

And

*“This means that natural polymers are not necessarily ‘**substances which occur in nature**’ when assessed according to the criteria set out in Article 3(39) of the REACH Regulation.”*
[Emphasis added]

The ECHA Guidance refers to Article 3(39) of the REACH Regulation with respect to “*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]

First and foremost, it is essential to underline the fact that the terms “*naturally occurring substance*” and “*natural polymer*” are two **distinct terms** and should not be confused. The key distinction relates to the **extraction methods** allowed.

“*Natural polymers*” as laid out in the ECHA Guidance are the result of a polymerisation process that has taken place in nature, **independent of the extraction process** with which they have been extracted, whereas “*substances which occur in nature*” as laid out in REACH, Article 3(39) refer to a **specific and limited range of extraction methods**.

The distinction between “*natural polymers*” and “*substances which occur in nature*” is important. The scope of the former (natural polymers) refers to a broader group, independent of the extraction method used, while the scope of the latter (substances which occur in nature) is restricted to a given range of extraction methods.

Based on REACH Regulation and ECHA guidance, under the registration obligations under REACH, polymers produced via industrial fermentation process are not considered ‘natural polymers’. In order to align the implementation of the SUP Directive, the same interpretation of the term ‘natural polymer’ should be applied. However, different options are still being considered in the specific SUP context, which may lead to different conclusions. Therefore, polymers resulting from biosynthesis through artificial cultivation and fermentation processes manufactured in industrial settings, e.g. polyhydroxyalkanoates (PHA), may or may not be considered natural polymers which have resulted from a ‘*polymerisation process that has taken place in nature*’.

3.3.2 What is meant by “that have not been chemically modified”?

Recital 11 of the SUP Directive explains that the term “*not chemically modified substances*” should be understood in accordance with **Article 3(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]

For the term ‘not been chemically modified’ reading Article 3(39) in conjunction with Article 3(40) of REACH Regulation is again important. Article 3(39) states:

*“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 any means”.* [Emphasis added]

From this definition it can be deduced that the term “*natural polymer*” allows the usage of any extraction methods. This implies that due to the extraction method which is employed some modifications, such as depolymerisation, may occur. However, these are not intentional and considered not to affect the status of the extracted substance as a “*natural polymer*”.

With regard to “*natural polymers*”, it is important to consider the fact that the extraction processes used often result in modifications of the polymers compared to their original state in nature. However, this indirectly also implies that there are not perfect references, which could potentially be employed when chemical similarities are considered.

In conclusion, the term “*not been chemically modified*” (SUP Directive, Article 3(1)), can with regard to natural polymers, be interpreted in different ways, including, at least, the following:

- A strict interpretation where no modification is allowed even during the extraction process.
- An interpretation that refers to a process in which no intentional change occurs in any stage of the manufacturing process. The changes which occur due to the extraction process are not considered as intentional changes and therefore not to affect the status of the extracted substance as a ‘natural polymer’.
- An interpretation that refers to the end stage of the manufacturing process. The changes occurring during the manufacturing process are not considered relevant, the end product of the manufacturing should be considered when determining the status of the polymer.

It should be noted that no final decision has been made by the Commission or ECHA with regards to the interpretation of “*not been chemically modified*” in relation to natural polymers. Currently the strict interpretation of this concept has not been applied in the advice provided to companies. Instead, ECHA has followed the approach where no intentional changes should be allowed even during the manufacturing process. This interpretation would have implications regarding the SUP Directive, in practice this would mean for example that viscose would not meet the definition of “*not chemically modified*”.

4. HOW TO DISTINGUISH BETWEEN SINGLE AND MULTIPLE-USE PRODUCTS?

4.1 Starting point from the SUP Directive

The concept of “*single-use*” is a key component in regard to determining what is to be considered a single-use plastic product in the context of the SUP Directive.

Article 3(2) [Definitions] of the SUP Directive provides the following definition for “*single-use*”:

*“a product...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]*

Recital (12) provides further clarification on the concept of “single-use”:

*“...the definition should exclude plastic products that are conceived, designed and placed on the market to accomplish within their **life span, multiple trips or rotations** by being **refilled or re-used for the same purpose for which they are conceived**. Single-use plastic products are typically **intended to be used just once or for a short period of time** before being disposed of.” [Emphasis added]*

Other than the above definitions and explanations on “single-use” laid down in the SUP Directive, it should be noted that no standards currently exist on how to consider the concept of “single-use” at EU level to facilitate a more common understanding. In order to ensure harmonious interpretation and implementation of the SUP Directive, further clarification is therefore needed on certain terms in relation to distinguishing between single and multiple-use products. The subsequent sections provide guidance on interpreting the following key terms:

- “Life span” (see section 4.2);
- “Multiple trips or rotations”, by “being returned to a producer for refill or re-used for the same purpose for which they are conceived” (see section 4.3).

The sections below provide further clarifications on the above terms with respect to **product design characteristics** e.g. intended use and purpose of the product during its life span, anticipated performance and technical characteristics such as expected number of washing or dishwasher cycles; expected number of times the product could be used, etc. **Product-specific guidance** on elements to consider distinguishing between single and multiple-use are discussed in further detail in Part C for each of the respective SUP products concerned.

4.2 What is meant by “life span”?

Product life span (also referred to as product lifetime) generally refers to the product’s expected useful or functional life. The average life span of a product can differ widely depending on its design, intended use and real-life consumer behaviour¹¹.

Product life span is closely linked to the concept of “**product durability**” and the terms are oftentimes used interchangeably. A study carried out for the European Commission, DG ENV defines product durability as follows¹²:

“Durability is the ability of a product to perform its function at the anticipated performance level over a given period (number of cycles – uses – hours in use), under the expected conditions of use and under foreseeable actions”.

Guidance on product durability can also be drawn from the Ecodesign Directive (Directive 2009/125/EC)¹³ and the EU Ecolabel, which specifies that the **lifetime of the product** is the point where it is **no longer economically viable** to repair broken down parts and also places focus on the potential for maintenance, repair and spare parts, resistance to use and deterioration of materials.

¹¹ Brook Lyndhurst (2011). *Public understanding of product lifetimes and durability*. Research report carried out for UK Department for Environment, Food and Rural Affairs

¹² Ricardo (2015). *The Durability of Products Standard assessment for the circular economy under the Eco-Innovation Action Plan*. Report for European Commission, DG Environment. Retrieved from: http://publications.europa.eu/resource/cellar/6c325b55-7352-11e5-86db-01aa75ed71a1.0001.01/DOC_1

¹³ Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of eco-design requirements for energy-related products. Legislative text available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32009L0125>

In light of the above, in the context of the SUP Directive, “*life span*” can be understood as the anticipated time interval starting from when the product is placed on the market until disposal, during which the product remains technically and physically capable (usable) to carry out the primary intended function for which it was originally conceived and produced. In other words, the life span of a product is the time that it should last, regardless of any external intervention to increase its life span. Therefore, product life span would exclude recycling activities as they would occur after disposal. Further, life span should be not confused with product **service life**, which only considers the effective time the product is used in practice; and does not take into account factors such as the overall intended performance of the product¹⁴.

Contrary to multiple-use products, single-use plastic products are generally characterised by shorter life spans and/or product durability aspects, which allow them to be used “*just once*” or for “*a short period of time*”. This means that after a single use, the product can no longer fulfil its original purpose at the same level of intended performance. Likewise, the term “*a short period of time*” can be understood as the (limited) time interval during a product’s “*life span*” e.g. from placement on the market until final disposal, during which it has been designed to be used for its primary function at full intended performance, before disposal. Therefore, single-use plastic products can be understood as products that are not reusable as they are designed to be used only once before they are disposed of or sent for recycling¹⁵.

4.3 What is meant by “multiple trips or rotations” and “being returned to a producer for refill or re-used for the same purpose for which they are conceived”?

The term “*multiple trips and rotations*” indicates that the product has been purposely designed so that it can be used repeatedly i.e. over and over again. Similarly, the term “*being returned to a producer for refill or re-used for the same purpose for which they are conceived*” indicates that the product has been intentionally designed to fulfil its original purpose multiple times without losing original product functionality, physical capacity or quality.

The term “*being returned to a producer for refill*” implies that a customer may return the product to a producer and/or distributor for refill, either to its original producer/distributor or to another producer/distributor, for instance in return schemes in which multiple actors cooperate¹⁶. The product’s functionality, physical capacity and quality must not be modified after refill by the producer and/or distributor. The product should carry out the same function with identical performance as prior to refill. In other words, the product would be considered reusable as it can be used more than once.

Product design characteristics indicating intention to be refilled include for example material composition. This generally applies to non-plastic materials such as glass, or to certain rigid plastics. Plastic gasoline containers may for instance be refilled multiple times at the point of sale (e.g. gas station), without any loss in quality or technical performance of the receptacle being used.

Additional guidance can be drawn from Article 3(13) of Directive 2008/98/EC on waste (hereafter the “Waste Framework Directive” (WFD)), which lays down the following definition of “**re-use**”:

¹⁴ Murakami, S. et al (2010). “*Lifespan of Commodities, Part I*”. Journal of Industrial Ecology. 14 (4): pp. 598–612.

¹⁵ UNEP (2018). *Single-use plastics: A Roadmap for Sustainability*. Retrieved at: https://wedocs.unep.org/bitstream/handle/20.500.11822/25496/singleUsePlastic_sustainability.pdf

¹⁶ 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>

“Any operation by which products or components that are not waste are used again for the same purpose for which they were conceived.”

Accordingly, re-use is understood as a means of waste prevention; and not a waste management operation¹⁷.

Other product characteristics indicating single or multiple-use should be considered, such as size and volume of the product, and intended washing/cleaning cycles. For instance, the French Ministry of the Environment published a guidance document which cites that *“beverage containers or plates can be considered as re-usable if the products can be washed 20 times through complete washing cycles in a dishwasher, under the technical conditions for testing and calibrating appliances defined in standard NF EN 12875-1:2005”*^{18,19}. To note that this document consists in guidance to the implementation of national regulations, and has no legal value.

Practical examples of single versus multiple-use products are provided in Part C of the Guidelines.

¹⁷ European Commission (2012). *Guidance on the interpretation of key provisions of Directive 2008/98/EC on waste*. Retrieved from: https://ec.europa.eu/environment/waste/framework/pdf/guidance_doc.pdf

¹⁸ Ministère de la Transition écologique et solidaire. (2017). *Questions / Réponses sur la limitation des gobelets, verres et assiettes jetables de cuisine pour la table en matière plastique*. Retrieved from: https://www.ecologique-solidaire.gouv.fr/sites/default/files/FAQ_vaisselle_jetable_VF_Juin2017.pdf

¹⁹ Zero Waste France. (2020). *Plastique jetable vendu comme réutilisable : on ne laisse pas passer !* Retrieved from: <https://www.zerowaste-france.org/plastique-jetable-reutilisable-on-laisse-pas-passer/>

5. HOW DOES THE INTERPLAY BETWEEN THE SUP DIRECTIVE AND PACKAGING AND PACKAGING WASTE DIRECTIVE WORK?

Further clarifications are needed regarding the interplay between the SUP Directive, Directive 94/62/EC on packaging and packaging waste (PPW Directive)²⁰ and Directive 2008/98/EC on waste²¹ (Waste Framework Directive, hereafter WF Directive), for single-use plastic products covered by the SUP Directive that are also considered as **packaging**.

The products that do constitute packaging are subject to the requirements of both the SUP Directive and the PPW Directive in particular the following requirements of the SUP Directive:

- Consumption reduction (Article 4)
- Restrictions on placing on the market (Article 5)
- Product design requirements (Article 6)
- Marking requirements (Article 7)
- Extended producer responsibility (Article 8)
- Separate collection (Article 9)
- Awareness raising measures (Article 10)

Recital 10 of the SUP Directive explains that the SUP Directive is a **lex specialis** in relation to the PPW and WF Directives as follows:

"This Directive is a lex specialis in relation to Directives 94/62/EC and 2008/98/EC. In the event of a conflict between those Directives and this Directive, this Directive should prevail within the scope of its application. That is the case for restrictions on placing on the market. In particular with regard to consumption reduction measures, product requirements, marking requirements and extended producer responsibility, this Directive supplements Directives 94/62/EC and 2008/98/EC and Directive 2014/40/EU of the European Parliament and of the Council".

5.1 What are the key differences in regard to the scope of products covered by the SUP and PPW Directive?

Certain SUP products covered by the SUP Directive also fall within the scope of the PPW Directive as they constitute "packaging" as defined in Article 3(1) of the PPW Directive. An overview of these, together with SUP products that do not constitute "packaging", is provided in Table 5-1 below.

Table 5-1: SUP products covered by the SUP Directive that do or do not also constitute packaging under the PPW Directive

| SUP products that DO constitute packaging | SUP products that DO NOT constitute packaging |
|--|--|
| <ul style="list-style-type: none"> • Filled food containers; beverage containers, beverage bottles and cups for beverages, packets and wrappers, lightweight plastic carrier bags and plates (fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Food containers, beverage containers, beverage bottles, cups for beverages, | <ul style="list-style-type: none"> • Cutlery, straws and stirrers, since they do not typically perform a packaging function (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Empty receptacles, including cups for beverages (and their covers and lids), beverage containers, beverage bottles, plates, lightweight plastic carrier bags, that |

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

²¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste. Legislative text available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0098>

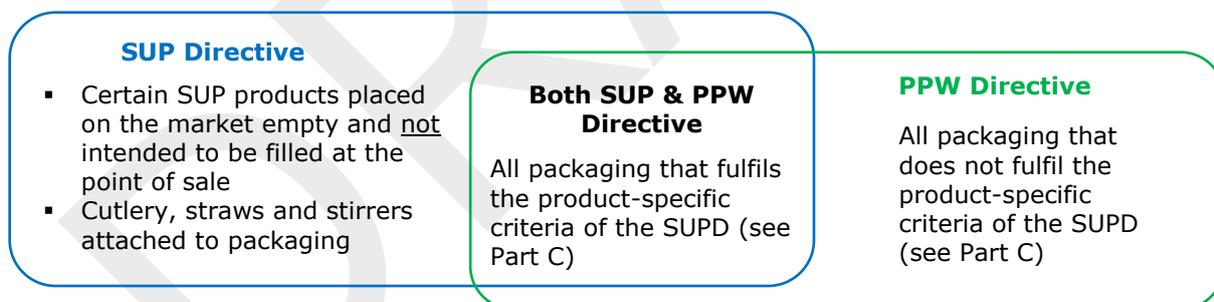
| SUP products that DO constitute packaging | SUP products that DO NOT constitute packaging |
|---|--|
| <p>packets and wrappers, lightweight plastic carrier bags and plates placed on the market empty but intended to be filled at the point of sale (fulfilling criterion (ii) of Article 3(1) of the PPW Directive)</p> <ul style="list-style-type: none"> • Caps, lids, covers, straws, stirrers and other types of packaging components and ancillary elements, when they perform a packaging function and do not form an integral part of the packaging (fulfilling criterion (iii) of Article 3(1) of the PPW Directive) | <p>are sold empty and not intended to be filled at the point of sale (not fulfilling criterion (ii) of Article 3(1) of the PPW Directive)</p> <ul style="list-style-type: none"> • Cotton bud sticks (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Balloons (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Sanitary towels (pads), tampons and tampon applicators (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Wet wipes (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) • Tobacco products with filters, and filters marketed for use in combination with tobacco products (not fulfilling criterion (i) of Article 3(1) of the PPW Directive) |

The SUP products that do not constitute packaging are only subject to the requirements of the SUP Directive, not the requirements of the PPW Directive, even though they have similar functionalities and properties, since they do not meet the definition of “*packaging*” under Article 3(1) of the PPW Directive.

For products that constitute packaging and are subject to the requirements of both the SUP Directive and the PPW Directive, an overview of the relevant requirements under both Directives is provided below.

Figure 5-1 summarises the key characteristics of single-use plastic products in regard to whether they fall within the scope of the SUP and/or PPW Directive.

Figure 5-1: Characteristics of plastic packaging products covered by the SUP Directive and the PPW Directive



5.2 Comparison of the different requirements for SUP products under the SUP Directive and PPW Directive

Some SUP products are subject to certain provisions of both the SUP Directive and PPW Directive. The two tables below summarise the overlaps in provisions of the SUP Directive and the PPW Directive that apply to certain SUP products (Table 5-2) and the links between the requirements laid out in the SUP Directive and the PPW Directive for certain SUP products and whether they give rise to any overlaps or conflicts (Table 5-2).

Table 5-2: Overlaps in provisions of SUP Directive, PPW Directive and Waste Framework Directive that apply to certain SUP products

| Product category | Marking requirements | | Market restriction | | Consumption reduction | | Product design requirements | | Extended producer responsibility (EPR) | | Separate collection | | Awareness raising | |
|--------------------------|----------------------|------|--------------------|------|-----------------------|------|-----------------------------|------|--|----------|---------------------|------|-------------------|------|
| | SUPD | PPWD | SUPD | PPWD | SUPD | PPWD | SUPD | PPWD | SUPD | PPWD/WFD | SUPD | PPWD | SUPD | PPWD |
| Food containers | | | | | X | | | | X | X | | | X | X |
| Cups for beverages* | X | X | | | X | | | | X | X | | | X | X |
| Packets and wrappers | | | | | | | | | X | X | | | X | X |
| Beverage containers* | | | | | | | X | X | X | X | | | X | X |
| Beverage bottles* | | | | | | | X | X | X | X | X | | X | X |
| Plates | | | X | | | | | | | | | | | |
| Lightweight carrier bags | | | | | | X | | | X | X | | | X | X |

*Including their caps, lips and covers.

Table 5-3: Links between the requirements laid out in the SUP Directive and PPW Directive

| Measure | SUP Directive | PPW Directive | Are there are there any major overlaps conflicts? |
|---|--|--|--|
| EPR | <p>EPR requirements must be implemented by 31 December 2024 (Article 17).</p> <p>The SUP Directive complements the minimum requirements of Article 8a WFD in (1) relation to the costs for cleaning-up of litter, collection of waste from public collection systems, and awareness raising obligations for the EPR schemes.</p> | <p>Existing EPR schemes must meet existing minimum requirements by 5 January 2023 (Article 8, WFD)</p> | <p>The PPW Directive does not impose any financial responsibilities on EPR schemes in relation to the clean-up of litter.</p> <p>The SUP Directive complements the requirements of the PPW Directive.</p> <p>No conflicts on the timeline of implementation.</p> |
| Consumption reduction/restrictions | <p>Consumption reduction measures (Article 4) on cups for beverages (including their covers and lids) and food containers (filled or placed on the market empty but intended to be filled at the point of sale), and restriction on placing on the market (Article 5) on food containers, beverage containers and cups for beverages made of expanded polystyrene, plates placed on the market empty but intended to be filled at the point of sale, and certain types of caps, lids, covers, straws and stirrers.</p> | <p>Essential requirements that are specific to the manufacturing and composition of packaging, the reusable nature of packaging and the recoverable nature of packaging (Article 9, PPWD).</p> <p>When packaging complies with the essential requirements, it may not be restricted from being placed on the EU market.</p> <p>Consumption reduction measures are imposed for plastic lightweight bags only²²</p> | <p>With the exemption of lightweight plastic bags, the PPW Directive does not impose any consumption reduction measures or restrictions on placing on the market of packaging products.</p> <p>The SUP Directive overrides the requirements of the PPW Directive as lex specialis in relation to the product restrictions.</p> <p>No conflicts on the timeline of implementation.</p> |
| Product design requirements | <p>Beverage containers, including beverage bottles must have their caps and lids attached to receptacles (Article 6)</p> <p>Minimum recycled content for plastic bottles (targets art. 6)</p> | <p>According to the Essential Requirements, packaging must be designed to permit its recovery, including recycling, and to minimise its impact on the environment when packaging waste are disposed of.</p> | <p>The SUP Directive imposes additional product design requirements in relation to the Essential Requirements of the PPW Directive.</p> <p>The SUP Directive complements the requirements of the PPW Directive.</p> |

²² Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 amending Directive 94/62/EC as regards reducing the consumption of lightweight plastic carrier bags. EU countries must take measures to reduce the consumption of lightweight plastic carrier bags. These may include national reduction targets, restrictions on their use or financial measures such as charging for them.

| Measure | SUP Directive | PPW Directive | Are there are there any major overlaps conflicts? |
|------------------------------------|--|---|---|
| | | | <p>No conflicts on the timeline of implementation.</p> |
| <p>Marking requirements</p> | <p>Requirements for clear and legible markings about waste management options and the presence of plastic (Article 7)</p> | <p>Requirements for clear and legible markings on material composition of the product (Article 8, PPWD)</p> | <p>The PPW Directive imposes different marking requirements focusing on the material composition of products.</p> <p>The SUP Directive complements the requirements of the PPW Directive.</p> <p>No conflicts on the timeline of implementation.</p> |
| <p>Awareness raising</p> | <p>Member States must inform consumers about the availability of alternatives, re-use systems and waste management options for concerned products, and on the impact of littering (Article 10)</p> | <p>Member States must promote consumer information and awareness campaigns (Article 13, PPWD)</p> | <p>The SUP Directive complements the requirements of the PPW Directive on awareness raising.</p> <p>No conflicts on the timeline of implementation.</p> |

PART D: ANNEX

A.1 Overview of SUP products and relevant requirements laid out in the SUP Directive

Table A.0-1: 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) | |
| Cups for beverages made of expanded polystyrene, incl. their covers and lids | Part E | EPR (Art. 8(2)) | No product-specific descriptions provided |
| | Part B | Restrictions on placing on the market (Art. 5) | |
| 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) |
| | Part E | EPR (Art. 8(2)) | Annex, Part EI(1) |
| | Part G | Awareness raising (Art. 10) | Annex, Part G(1) |

| SUP products | Annex of SUPD and requirements | | Product descriptions |
|--|---------------------------------------|--|---|
| 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 ²³ |
| | 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) ²⁴ |
| | 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) |

²³ 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>

²⁴ 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

Table A.2: Requirements laid out in the SUP Directive

| Article | Annex | Requirements |
|---|-------------------|--|
| Article 4: Consumption reduction | Part A | Member States are required to take measures to achieve a reduction in the consumption of the single-use plastic products listed in Part A of the Annex. Measures may include national consumption reduction targets, economic instruments, marketing restrictions, measures ensuring that re-usable alternatives to the single-use plastic products listed in Annex, Part A are made available to the final consumer at point of sale. |
| Article 5: Restrictions on placing on the market | Part B | Member States must prohibit the placing on the market of the SUP products listed in Annex, Part B and products made from oxo-degradable plastic. |
| Article 6: Product requirements | Part C, Part F | Member States are required to ensure that the caps and lids of SUP products listed in Annex, Part C that are placed on the market remain attached to the containers during the products' intended use stage. Member States are also required to ensure that beverage bottles (Annex, Part F) manufactured from polyethylene terephthalate (PET) as contain at least 25 % recycled plastic by 2025; and at least 30 % recycled plastic by 2030. |
| Article 7: Marking requirements | Part D | Member States must ensure that the SUP products listed in Annex, Part D and placed on the market bear a conspicuous, clearly legible and indelible marking, which informs of the product's appropriate waste management options; the presence of plastic in the product; and the negative environmental impact of littering or other inappropriate means of waste disposal. |
| Article 8: Extended producer responsibility | Part E | Member States must ensure that EPR schemes are established for all single-use plastic products listed in Part E of the Annex and placed on the market. Producers must cover several or all of the following costs, depending on the SUP products concerned: <ul style="list-style-type: none"> • Awareness raising measures • Waste collection in public spaces • Cleaning up litter • Data gathering and reporting |
| Article 9: Separate collection | Part F | Member States shall take the necessary measures to ensure the separate collection for recycling: <p>(a) by 2025, of an amount of waste single-use plastic products listed in Part F of the Annex equal to 77 % of such single-use plastic products placed on the market in a given year by weight;</p> <p>(b) by 2029, of an amount of waste single-use plastic products listed in Part F of the Annex equal to 90 % of such single-use plastic products placed on the market in a given year by weight.²⁵</p> <p>In order to achieve the above-mentioned objectives, Member States may inter alia: (a) establish deposit-refund schemes; (b) establish separate collection targets for relevant EPR schemes.</p> |
| Article 10: Awareness raising | Part G | Member States must inform consumers and incentivise responsible consumer behaviour relative to the SUP products listed in Annex, Part G: <ul style="list-style-type: none"> • Inform consumers on the availability of re-usable alternatives, re-use systems and waste management options • Inform consumers on the impact of littering and other inappropriate waste disposal of the SUP products concerned • Inform consumers on the impact of inappropriate means of waste disposal of the SUP products concerned |

²⁵ In accordance with Article 9 of the SUP Directive, single-use plastic products listed in Annex, Part F placed on the market in a Member State may be deemed to be equal to the amount of waste generated from such products, including as litter, in the same year in that Member State.

