



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

PART C

DRAFT

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In cooperation with



Deloitte.

prognos

wood.



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CONTENT

1.	FOOD CONTAINERS.....	7
1.1	What are the product descriptions provided in the SUP Directive?	7
1.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive?	8
1.3	How to define single-use food containers?	8
1.3.1	How to distinguish between single and multiple-use food-containers?	8
1.3.2	What product-specific definitions and criteria can be considered?.....	10
1.4	How to differentiate between food containers and other product types?	22
1.4.1	What are the key elements to distinguish food containers from beverage containers?	22
1.4.2	What are the key elements to consider to distinguish food containers from packets and wrappers?	25
2.	BEVERAGE CONTAINERS; BEVERAGE BOTTLES; CUPS FOR BEVERAGES (INCLUDING THEIR CAPS, COVERS AND LIDS).....	27
2.1	What are the product descriptions provided in the SUP Directive?	27
2.2	How to distinguish between beverage containers; beverage bottles; and cups for beverages?.....	29
2.3	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	30
2.4	How to define single-use beverage containers; beverage bottles; and cups for beverages?.....	30
2.4.1	How to distinguish between single and multiple-use beverage containers; beverage bottles; and cups for beverages?	31
2.4.2	What product-specific definitions and criteria can be considered?.....	31
2.5	How to differentiate between SUP beverage containers; beverage bottles; cups for beverages and other SUP product types?	48
3.	PACKETS AND WRAPPERS.....	50
3.1	What are the product descriptions provided in the SUP Directive?	50
3.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	50
3.3	How to define single-use packets and wrappers?	50
3.3.1	How to distinguish between single and multiple-use packets and wrappers?.....	51
3.3.2	What product-specific definitions and criteria can be considered?.....	51
4.	LIGHTWEIGHT PLASTIC CARRIER BAGS.....	61

4.1	What are the product descriptions provided in the SUP Directive?	61
4.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	61
4.3	How to define single-use lightweight plastic carrier bags?.....	62
4.3.1	How to distinguish between single and multiple-use lightweight plastic bags?	62
4.3.2	What product-specific definitions and criteria should be considered?	62
5.	COTTON BUD STICKS	65
5.1	What are the product descriptions provided in the SUP Directive?	65
5.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	65
5.3	How to define single-use cotton bud sticks?	66
5.3.1	How to distinguish between single and multiple use cotton bud sticks?.....	66
5.3.2	What product-specific definitions and criteria can be considered?.....	67
6.	CUTLERY; PLATES; STRAWS; STIRRERS	71
6.1	What are the product descriptions provided in the SUP Directive?	71
6.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	71
6.3	How to define single-use cutlery; plates; straws; and stirrers?.....	72
6.3.1	How to distinguish between single and multiple use cutlery; plates; straws?	73
6.3.2	What product-specific definitions and criteria can be considered?.....	73
6.4	How to differentiate between cutlery; plates; straws; stirrers and other product categories?.....	79
6.4.1	What are the key elements to consider in order to distinguish food containers from plates?	79
7.	BALLOONS AND BALLOON STICKS	80
7.1	What are the product descriptions provided in the SUP Directive?	80
7.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	80
7.3	How to define single-use balloons and balloon sticks?	81
7.3.1	How to distinguish between single and multiple use balloons and balloon sticks? ...	81
7.3.2	What product-specific definitions and criteria can be considered?.....	81
8.	SANITARY TOWELS (PADS); TAMPONS; AND TAMPON APPLICATORS	87
8.1	What are the product descriptions provided in the SUP Directive?	87
8.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	87
8.3	How to define single-use sanitary towels, tampons and tampon applicators?	87
8.3.1	How to distinguish between single and multiple-use sanitary towels; tampons; and tampon applicators?.....	87
8.3.2	Product specific criteria	88
8.4	What product-specific definitions and criteria should be considered?	88

9.	WET WIPES	92
9.1	What are the product descriptions provided in the SUP Directive?	92
9.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	92
9.3	How to define single-use wet wipes?.....	93
9.3.1	How to distinguish between single and multiple-use wet wipes?	93
9.3.2	Product specific criteria	93
9.4	What product-specific definitions and criteria should be considered?	94
10.	TOBACCO PRODUCTS WITH FILTERS; FILTERS MARKETING FOR USE IN COMBINATION WITH TOBACCO PRODUCTS.....	97
10.1	What are the product descriptions provided in the SUP Directive?	97
10.2	Are there any product-specific exemptions explicitly laid out in the SUP Directive? ...	98
10.3	How to define single-use tobacco products with filters and filters marketed for use in combination with tobacco products?	98
10.3.1	How to distinguish between single and multiple-use tobacco products with filters, and filters marketed for use in combination with tobacco products?	98
10.3.2	What product-specific definitions and criteria can be considered?.....	98

LIST OF FIGURES

Figure 2-1: Illustrative example of single-use plastic cup used for both food and beverages	49
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LIST OF TABLES

Table 1-1: Requirements and descriptions of food containers in the SUPD.....	7
Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive.....	10
Table 1-3: How are different types of food containers considered under the SUP Directive?.....	14

Table 1-4: Guidance indicators and illustrative examples to differentiate between food containers and beverage containers.....	24
Table 1-5: Illustrative examples of differentiation between single-use plastic food containers and packets and wrappers	26
Table 2-1: Relevant terms and descriptions of beverage containers; beverage bottles; and cups for beverages, including their caps and lids in the SUP Directive	27
Table 2-2: Illustrative examples for the classification of beverage containers; beverage bottles; and cups for beverages.....	29
Table 2-3: Main criteria and guidance indicators to define SUP beverage containers and beverage bottles for the purposes of the SUP Directive.....	32
Table 2-4: How are different types of beverage containers; and beverage bottles considered under the SUP Directive?	34
Table 2-5: Main criteria and guidance indicators to define SUP cups for beverages	39
Table 2-6: How are different types of cups for beverages considered under the SUP Directive?...	41
Table 2-7: How are different types of caps, lids and closures considered under the SUP Directive	47
Table 3-1: Requirements and descriptions of packets and wrappers in the SUP Directive	50
Table 3-2: Main criteria of the SUPD and guidance to define SUP packets and wrappers	51
Table 3-3: How are different types of packets and wrappers considered under the SUP Directive?	54
Table 4-1 Requirements and descriptions of lightweight plastic carrier bags in the SUP Directive	61
Table 4-2: Main criteria of the SUPD and guidance to define single use lightweight plastic carrier bags.....	62
Table 4-3: How are different types of plastic carrier bags considered under the SUP Directive?...	64
Table 5-1: Requirements and descriptions of cotton bud sticks in the SUP Directive	65
Table 5-2: Definition of 'medical device' provided by Council Directive 90/385/EEC and Council Directive 93/42/EEC.....	65
Table 5-3: Main criteria and guidance indicators to define SUP cotton bud sticks.....	67
Table 5-4: How are different types of cotton bud stick considered under the SUP Directive?	70
Table 6-1: Requirements and descriptions of cutlery; plates; straws; stirrers in the SUPD	71
Table 6-2: Definition of 'medical device' provided by Council Directive 90/385/EEC and Council Directive 93/42/EEC.....	72
Table 6-3: Main criteria and guidance indicators to define single-use cutlery; plates; straws; stirrers in accordance with the SUP Directive.....	74
Table 6-4: How are different types of cutlery; plates; straws; stirrers considered under the SUP Directive?	76
Table 6-5: Illustrative example to differentiate food containers from plastic plates	79
Table 7-1: Requirements and descriptions of balloons and balloon sticks in the SUPD.....	80

Table 7-2: Main criteria and guidance indicators to define SUP balloons; balloon sticks.....	82
Table 7-3: How are different types of balloons; balloon sticks considered under the SUP Directive?	84
Table 8-1: Requirements and information on sanitary towels (pads), tampons and tampon applicators in the SUP Directive	87
Table 8-2: Main criteria of the SUPD and guidance to define SUP sanitary towels, tampons and tampon applicators	88
Table 8-3: How are different types of sanitary towels, tampons and tampon applicators considered under the SUP Directive?	90
Table 9-1: Requirements and descriptions of wet wipes in the SUP Directive	92
Table 9-2: Non-exhaustive list of wet wipes categories covered or excluded from SUP Directive .	93
Table 9-3: Main criteria of the SUPD and guidance to define SUP wet wipes	94
Table 9-4: How are different types of wet wipes considered under the SUP Directive?	96
Table 10-1: Requirements and descriptions of tobacco products with filters, and filters, in the SUP Directive	97
Table 10-2 Main criteria of the SUPD and guidance to define SUP tobacco products with a filter or filters marketed for use with tobacco products.....	99
Table 10-3: How are different types of tobacco products with filters and filters marketed for use in combination with tobacco products considered under the SUP Directive?	100

1. FOOD CONTAINERS

1.1 What are the product descriptions provided in the SUP Directive?

In regard to the definition of SUP food containers, Article 12 [Specifications and guidelines on single-use plastic products] refers to the product-specific criteria listed in the Annex, Parts A, E, G and also stipulates that its **"tendency to become litter due to its volume or size, in particular single-serve portions, shall play a decisive role."** "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".

A more detailed description of food containers is provided in the Annex to the SUP Directive, in particular Parts A, E, G:

"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."

Recital 12 provides examples of "food containers", such as "fast-food containers or meal, sandwich, wrap and salad boxes with cold or hot food, or food containers of fresh or processed food that does not need further preparation, such as fruits, vegetables or desserts".

The table below gives an overview of the main requirements in the Directive that apply to single-use plastic food containers, as well as a summary of the product descriptions.

Table 1-1: Requirements and descriptions of food containers in the SUPD

Requirements
<p>Relevant provisions for SUP food containers:</p> <ul style="list-style-type: none"> • MS to take necessary measures to achieve an ambitious and sustained reduction in the consumption (Article 4, paragraphs (1) to (2)) • MS to establish extended producer responsibility schemes (Article 8, paragraphs (1) , (2), and (4) to (7)) • MS to take measures to inform consumers and incentivise responsible consumer behaviour (Article 10) <p>SUP food containers made of expanded polystyrene only:</p> <p>MS to prohibit their placing on the market (art. 5, and Part B of the Annex)</p>
Relevant product-specific descriptions

Requirements

Annex Parts A(2), E(1), and G(1): *"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."*

Recital 12: Examples of food containers are 'fast food containers or meal, sandwich, wrap and salad boxes with cold or hot food, or food containers of fresh or processed food that does not need further preparation such as fruits, vegetables or desserts'.

The following paragraphs provide further clarification of the key elements to be considered to determine whether certain *"food containers"* fulfil the definition of a single-use plastic product in accordance with Article 3(2) of the SUP Directive. Where relevant the product-specific exemptions are explained, along with non-exhaustive illustrative examples.

1.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

Annex to the SUP Directive, in particular Parts A, E, G explicitly exempts *"beverage containers, plates and packets and wrappers containing food"*. These product categories are exempted from the definition of food containers, but they are included as separate product categories.

1.3 How to define single-use food containers?

The following sections provide further clarification of the SUPD criteria for **"single-use food containers"**, by first distinguishing between single-use and multiple-use food containers (1.3.1) and then considering the product specific criteria (1.3.2).

1.3.1 How to distinguish between single and multiple-use food-containers?

The tendency of multiple-use food containers to become litter becomes low and are not be included in the scope of the requirements of the SUP Directive as they do not fulfil the definition of "single-use" as stipulated in Article 3(2). As explained in Part B, Chapter 4, the following product design characteristics can help to define whether a food container is considered as single or multiple use:

(1) Reusable or refillable nature of the product: the receptacle is conceived, designed or placed on the market for **refill or reuse**: it has a long expected useful and/or functional life and is intended to be used several times before final disposal, without losing product functionality, physical capacity or quality; e.g. the receptacle is designed with a re-sealable cap, thickness of plastic, etc.

(2) The volume or size of the receptacle: the product has been purposely designed so that it can be used over and over again e.g. the receptacle contains **multi-size portion servings**.

Further clarification on these 2 criteria is provided in the sections below.

Reusable or refillable nature of the product

A reusable or refillable product has a longer expected useful or functional life as the product has been purposely designed so that it can be used over and over again without losing product functionality, physical capacity or quality. Specific elements that can indicate the reusable or refillable nature of a product include product durability, intended washing/ cleaning cycles and expected number of uses.

A food container can be reused or refilled in different ways. These include business to consumer applications where a container is returned to the supplier to be reused or refilled for the distribution and sale of a similar product. Such cases include deposit refund schemes (DRS) that are set up by EPR schemes or refund schemes established by food retailers as long as products are reused or refilled, but not recycled. Reusable or refillable containers can also include containers that are not returned to the supplier but instead are reused by the consumer as a container. **Consumers purchase reusable or refillable products to use them multiple times and therefore their tendency to become litter becomes low.**

Volume or size

The **volume or size** has also a direct effect on the tendency of food containers to become litter as also laid down in Article 12. Overall, the tendency of a food container to become litter strongly depends on where the product is consumed outside of the standard domestic setting (e.g. takeaways, picnics), inside food stores (e.g. restaurants) or in the residence or working place of the consumer. When the foodstuff is consumed indoors (e.g. restaurants, offices, households), the risk of a food container becoming litter is small. Products with multiple-size servings are less likely to be consumed "on-the-spot or on take-away" and more likely to be consumed in indoor settings (e.g. households or offices) where it can be stored and used multiple times. **Therefore the tendency of a product with multiple-size servings to become litter is low.**

The **energy value (or calorific value)** of the foodstuff contained in a receptacle can provide an indication on the size of the portions. Article 4(c) and Article 33 of Regulation (EU) 1169/2011 on the provision of food information to consumers¹ requires the display on energy value of certain a packaged foodstuff, which can be used to indicate whether a food container includes a single or multiple-sized portion. According to Article 33 of Regulation (EU) 1169/2011, the energy value "*may be expressed per portion and/or per consumption unit*". In certain cases, the exact number of portions is indicated on the food container itself, however to date, no legal obligation under Regulation 1169/2011 exists. To this end, the size of the portions contained in a food container can be defined based on information displayed on the container or according to common sense when such information is lacking. **Food containers that contain single-serve portions, are to be considered single-use products for the purposes of the SUP-Directive.**

¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32011R1169>

1.3.2 What product-specific definitions and criteria can be considered?

The main product-specific criteria to determine whether a food container can be considered as SUP product are provided in Annex Parts A(2), E(1) and G(1) pursuant to respectively Articles 4, 8 and 10:

- Intended for **immediate consumption**, either on-the-spot or take-away;
- Typically **consumed from the receptacle**; and
- Ready to be **consumed without any further preparation**.

For a food container to be covered by the Directive, the above three criteria are met **cumulatively**.

In addition to the above-mentioned criteria, as stipulated in Article 12 of the SUP Directive, the size of the portion is a key factor to consider the inclusion of a food container in the scope of the SUP Directive and should be considered as an additional product-specific criterion.

The table below provides an overview of the criteria that are applied on food containers to define whether they fall under the requirements of the SUP Directive. In addition to the product-specific criteria described above, the table also lists general criteria to be considered, which refer to the plastic contained in the product and its intended use as defined by the product design characteristics and its volume and size. The table also provides descriptions and examples to further clarify the general and product-specific criteria laid out by the SUP Directive.

Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	Presence of plastic in product. Food containers that are entirely made of metal or glass are excluded from the SUPD.
	Contains polymers, which can function as a main structural component	The plastic polymers should allow the food container to fulfill its intended function. Practical examples would include the use of plastic coating or lining on food containers for it to be liquid-proof or to ensure that it complies with necessary safety or hygiene standards. General guidance on how to determine main structural component is provided in Part B, Chapter 3.
	Exception for "natural polymers that has not been chemically modified" does not apply	General guidance on interpreting the exception for "natural polymers that has not been chemically modified" is provided in Part B, Chapter 3.
Single-use		Reusable or refillable nature of the product: The food container is not conceived, designed or placed on the market for refill or reuse and the three product-specific criteria laid down in Annex Parts A(2), E(1) and G(1) are fulfilled.

		Volume or size the food container contains a single-size portion (i.e. also included as a product-specific criterion as laid down in Article 12 of the Directive).
Product-specific criteria	Guidance indicators	Description and examples
Intended for immediate consumption	Nature of foodstuff contained	<ul style="list-style-type: none"> Foodstuffs that are perishable if not consumed immediately after opening; or subject to specific storage conditions e.g. refrigerator such as hamburgers, kebabs, hot-dogs. On certain packaged food containers, the perishable nature is also indicated by the presence of "use by" date on the container². Foodstuffs that do not require specific storage conditions, however are intended to be consumed immediately: salads, cherry tomatoes, baby carrots.
	Nature of packaging	<ul style="list-style-type: none"> The time that a food container is intended to remain in contact with the foodstuff is an indication of whether the foodstuff is typically consumed immediately In cases of packaged foodstuff, the expiration date is below 3 days. This applies to food containers that are filled with foodstuff at the point of sale as the intended period that the food container should remain in contact with the foodstuff is 3 days maximum, in accordance with Regulation (EU) No 10/2011³.
	Point-of-sale	<ul style="list-style-type: none"> The product is usually sold on-the-spot or as take-away e.g. fast-food restaurants, food trucks, etc.
Typically consumed from the receptacle	Nature of packaging/receptacle	<ul style="list-style-type: none"> The shape / type of packaging used allows consumers to eat directly from the receptacle by simply removing the lid or cap, without requiring the foodstuff to be placed in another

² According to Regulation (EU) 1169/2011, Article 24 "In the case of foods which, from a microbiological point of view, are highly perishable and are therefore likely after a short period to constitute an immediate danger to human health, the date of minimum durability shall be replaced by the 'use by' date"

³ Under Regulation (EU) No 10/2011, manufacturers of food contact packaging are required to meet specific requirements. As part of the requirements, manufacturers are required to apply certain rules testing compliance of migration from plastic food contact materials and articles. When the food containers are already in contact with food, the food shall be removed from contact with the container before its expiration date. When the food container is not yet in contact with food, the verification of compliance of migration into foods with the migration limits set by the Regulation, shall be carried out under the most extreme conditions of time and temperature foreseeable in actual use. Different time intervals are provided for the testing purposes.



		receptacle before consumption e.g. a plate or a bowl.
	Inclusion of disposable cutlery	<ul style="list-style-type: none"> The inclusion or attachment of items such as forks, knives, spoons and sticks indicate an intention for consumption directly from the receptacle.
	Inclusion of seasoning and flavouring	<ul style="list-style-type: none"> The inclusion or attachment of one- or two-portion sauces indicate that the foodstuff is intended for immediate consumption directly from the receptacle.
Ready to be consumed without any further preparation	No need to cook the foodstuff	<ul style="list-style-type: none"> There is no requirement to add boiling or cold water before the consumption of the foodstuff such as in the case of dry or pre-cooked noodles, pasta and rice. The intended temperature of the water can be found on the packaging itself or it is stated in the Declaration of Compliance (DoC) with the Regulation No 10/2011⁴. There is no need to heat the product in a microwave or another heating appliance before the consumption of the foodstuff, such as in the case pre-cooked meals. The foodstuff does not require freezing before consumption (e.g. granitas in liquid form).
	No need to wash, cut, peel or slice the product	<ul style="list-style-type: none"> There is no need to wash, slice or cut the foodstuff before consumption, such as in the case of pre-washed salads, certain fruits or sliced cheese and ham.
Portion-size	Single-serve portion included in the food container	<ul style="list-style-type: none"> Single-sized portion indicate that the product is intended to be consumed by one or two people, directly from the receptacle. On the contrary, the inclusion of multiple-sized portions in one receptacle (e.g. family pack of a single-sized portion cheese) indicates that the product is not intended for single-use. Food containers containing multiple-sized portions are typically consumed indoors and thus have a lower tendency to become litter.




⁴ Article 15 of Regulation No 10/2011, requires manufacturers to provide a written declaration of compliance for plastic materials and articles, products from intermediate stages of their manufacturing as well as for the substances intended for the manufacturing of those materials and articles. Annex IV, and Annex V of the Regulation sets out specific temperatures for the purpose of testing contact.


In addition to the above explanations, the table below provides illustrative examples for further guidance on whether certain food containers can be considered SUP products. As indicated in the table below, a food container can be considered as SUP when all relevant general and product-specific criteria are met.


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Table 1-3: How are different types of food containers considered under the SUP Directive?



Type of food container	General criteria		Product-specific criteria				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	Portion-size	
Plastic food container containing a single-sized portion cold meal  	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing a single sized-portion <u>hot meal</u>	YES	YES	YES	YES	YES	YES	INCLUDED


Type of food container	General criteria		Product-specific criteria				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	Portion-size	
							
Cardboard food container with plastic inner lining or coating, intended to contain hot (and exceptionally cold) prepared food  	YES	YES	YES	YES	YES	YES	INCLUDED
Food container containing a single-sized portion of dessert	YES	YES	YES	YES	YES	YES	INCLUDED


Type of food container	General criteria		Product-specific criteria				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	Portion-size	
							

Type of food container	General criteria		Product-specific criteria				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	Portion-size	
Plastic food container containing single-sized portion snacks 	YES	YES	YES	YES	YES	YES	INCLUDED
Plastic food container containing single-sized portion sauces and bread spreads	YES	YES	YES	YES	YES	YES	INCLUDED

Type of food container	General criteria		Product-specific criteria				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	Portion-size	
							
Plastic food container containing multiple-sized portion of desserts/ice cream 	YES	NO	NO	NO	YES	NO	EXCLUDED: Not typically sold as a take-away and contains a multiple-sized portion

Type of food container	General criteria		Product-specific criteria				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	Portion-size	
<p>Plastic food container containing vegetables or fruit that require cutting, slicing, peeling or washing (unless indicated otherwise in the container)</p> 	YES	YES	YES	YES	NO	NO	<p>EXCLUDED</p> <p>The foodstuff requires washing</p>
<p>Plastic food container containing a single sized-portion <u>frozen meal</u></p> 	YES	YES	NO	NO	NO	YES	<p>EXCLUDED</p> <p>Not typically sold as a takeaway; foodstuff is not typically consumed from the receptacle</p>

Type of food container	General criteria		Product-specific criteria				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	Portion-size	
							and requires heating
Plastic food container containing dried food or foodstuff that require hot water to be poured in the receptacle 	YES	YES	NO	YES	NO	NO	EXCLUDED Not typically sold as a take-away; requires heating
Plastic food container containing single-portion	YES	NO	NO	NO	YES	NO	EXCLUDED

Type of food container	General criteria		Product-specific criteria				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	Portion-size	
foodstuff sold in more than one unit 							Not typically sold as a take-away and contains multiple-sized portions

1.4 How to differentiate between food containers and other product types?

Annex Parts A(2), E(1), and G(1) excludes "*beverage containers, plates and packets and wrappers containing food*" from products that shall be considered as SUP food containers for the purpose of the SUP Directive. Indeed, in certain cases, the type of container including its shape and content may lead to uncertainty as to whether a product shall be classified as a "*food container*" or as another product category covered by the SUP Directive, namely beverage containers, cups for beverages, packets and wrappers and plates. The sections below provide a clarification for the differentiation of SUP food containers, beverage containers and packets and wrappers. A clarification on the differentiation between food containers and cups for beverages are provided in the chapter on cups for beverages (see chapter 2). In addition, a clarification on the differentiation between food containers and plates is provided in the chapter on plates (see section 6.4).

1.4.1 What are the key elements to distinguish food containers from beverage containers?

The main criterion 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, the **description of food** and **beverage** is a key element in regard to determining product classification. For certain products, c.

The following paragraphs provide an overview of the definitions for food (also referred to as foodstuff) and beverage, based on the examples provided in the SUP Directive.

The **process of ingestion** provides guidance on whether the receptacle contains a food or beverage product. More specifically, this means that **food must be in general, chewed before it can be swallowed and ingested**; implying that it is placed on the marked in solid form. Recital 12 of the SUP Directive provides non-exhaustive examples of foodstuff, namely wrap, salads, fruits, vegetables and desserts. A beverage product on the other hand usually does not require chewing before it can be swallowed and ingested; indicating that it is sold and consumed in liquid form. Examples of beverages provided in Recital 12 include 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.

Another indicator which can be considered when categorising a specific product as a food or beverage container is the **unit that the quantity of the food or beverage product is expressed**. In general, beverages are expressed in volume e.g. litters and food 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.

Additional elements from legislative documents and guidelines on trade/tariff and human health provisions, notably the Market Access Database of the EU Tariffs and Codex Alimentarius (see Box 1-1) provide additional clarifications in regard to distinguishing between food and beverage products.

Box 1-1: Market Access Database of the EU Tariffs and Codex Alimentarius

The Market Access Database of the EU Tariffs (EU Tariffs) that is part of the Harmonized Commodity Description and Coding Systems, provides product classification for different types of beverages and foodstuff that are placed on the market. In the EU Tariffs, different types of foods are included in different tariff categories, namely live animals; animal products (Section I),

vegetable products (Section II) and prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes (Section IV). These two categories and the respective sub-categories provide a solid basis for the categorisation of different items. Specifically, the category “food” that can be included in the scope of the SUP Directive (as long as they fulfil the three criteria) are the following:

- Edible vegetables and certain roots and tubers (07 00 000000)
- Edible fruit and nuts; peel of citrus fruit or melons (08 00 000000)
- Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates (16 00 000000)
- Preparations of cereals, flour, starch or milk; pastrycooks' products (19 00 000000)
- Preparations of vegetables, fruit, nuts or other parts of plants (20 00 000000), (excluding fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (20 09 000000))
- Miscellaneous edible preparations (21 00 000000)

Categories that can be potentially included in the category “beverage containers” are the following:

- Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (20 09 000000)
- Beverages, spirits and vinegar (22 00 000000).

The EU Tariffs classify milk under the category Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included (04 00 000000) without providing an indication on whether milk shall be regarded as food or beverage.

The Classification of Foods and Animal Feeds under the Codex Alimentarius International Food Standards (Codex Alimentarius) does not provide specific definitions of “food” and “beverage”. Nevertheless milk, that in general is in liquid form and drinkable is classified under the category “*primary food commodities of animal origin*”. Milk is also referred to as “food” under the General Standard for the Use of Dairy Terms. According to that standard, “*Only a food complying with the definition...may be named “milk”*”.

As regards soups, Codex Alimentarius has not published any relevant standards. On the contrary, the EU Tariffs, classify soups under the category “*miscellaneous edible preparations (21 00 000000)*”. The word “*edible*” provides an indication that soups in general are considered as food under the EU Tariffs. No standard exists on fruit puree.

Part IV (III) of ANNEX VII Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products⁵ defines as “drinking milk”, the following products:

- raw milk: milk which has not been heated above 40 oC or subjected to treatment having equivalent effect;
- whole milk: heat-treated milk which, with respect to fat content, meets one of the following requirements:

⁵ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1308>








- standardised whole milk: milk with a fat content of at least 3,50 % (m/m). However, Member States may provide for an additional category of whole milk with a fat content of 4,00 % (m/m) or above;
- non-standardised whole milk: milk with a fat content that has not been altered since the milking stage either by the addition or removal of milk fats or by mixture with milk the natural fat content of which has been altered. However, the fat content may not be less than 3,50 % (m/m);
- semi-skimmed milk: heat-treated milk whose fat content has been reduced to at least 1,50 % (m/m) and at most 1,80 % (m/m);
- skimmed-milk: heat-treated milk whose fat content has been reduced to not more than 0,50 % (m/m).

Diverging views exist as regards milk, soup and fruit puree, whether they should be regarded as food, at least from a nutritional perspective. Nevertheless, in the context of the SUP Directive the form of consumption and the type of receptacles that contain milk have a decisive role in their classification as “food” or “beverage”. Due to its liquid form, milk is contained in the same type of beverage containers that contain other types of beverages such as water, juice and alcoholic beverages. The liquid form and the intended mean of consumption is also indicated by the definition of “drinking milk” laid down in Regulation 1308/2013. Recital 12 of the SUP Directive explains that “*beverage bottles or composite beverage packaging*” used for milk are an example of “*beverage containers to be considered as single-use plastic products*”. **To this end, for the purposes of the SUP Directive, milk is to consider as a beverage. On the contrary, soup and fruit puree must be chewed before it can be swallowed and ingested and is therefore considered food.** Specifically, for soups, it’s classification under the category “miscellaneous edible preparations” provides further guidance that this product shall be considered as food.

In the absence of a concise definition for food and beverages, the criterion that defines the differentiation between food and beverages when uncertainties arise is the **intended usage** of the specific products and specifically on whether the product is intended to be **ingested through drinking or eating**. Based on the analysis above, the table below provides guidance indicators on intended usage and shape and form of the receptacle, including illustrative examples to help distinguish food containers from beverage containers.

Table 1-4: Guidance indicators and illustrative examples to differentiate between food containers and beverage containers

Single-use plastic food container	Single-use plastic beverage container
<p>Indicators signifying that the receptable contains <u>foodstuff</u>:</p> <ul style="list-style-type: none"> • Consumption typically requires the use of cutlery e.g. spoon • Due to the density and viscosity, it requires chewing before ingestion • The quantity of the product is expressed in weight (e.g. grams) 	<p>Indicators signifying that the receptable contains a <u>beverage</u>:</p> <ul style="list-style-type: none"> • The density and viscosity allow direct ingestion through drinking; without chewing or the use of cutlery • The quantity of the product is expressed in volume (e.g. millilitres)

Single-use plastic food container	Single-use plastic beverage container
<p>Plastic multilayer pouch containing fruit puree (150 ml)</p>  <p>Plastic container containing yogurt (100g)</p>  <p>Plastic container containing single-sized portion noodle soup (100g)</p>  <p>Carton box containing gazpacho (500 ml)</p> 	<p>Plastic container containing drinkable yogurt (150 ml)</p>  <p>Plastic multilayer pouch containing juice (150 ml)</p>  <p>Carton box containing milk (1 l)</p> 

1.4.2 What are the key elements to consider to distinguish food containers from packets and wrappers?

The differentiation between **food containers** and **packets and wrappers** can be defined based on the **rigidity of the packaging**. Specifically, for the purposes of the SUP Directive, foodstuff products with rigid and semi-rigid packaging are classified as food containers, whereas products with flexible packaging materials are categorised as packets and wrappers. A flexible container implies that it can be bent easily without breaking and is supple and rather thin. A commonly used standard to define the rigidity of a product in EPR schemes is ISO 21067-1:2016⁶. In relation to the rigidity of the packaging, this standard sets the following terms and definitions:


- 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 can be also applied on any non-packaging items that fall under the scope of the SUP Directive. Some food items are packaged in a combination of food containers and packets and wrappers e.g. certain fruits or prepared foods sold in paper trays and covered by plastic wrappers. The presence of rigid materials in the packaging, regardless of the share of these materials i.e. in terms of volume or weight indicate that the product should be classified as a food container.

Table 1-5 provides illustrative examples on the differentiation of food containers and packets and wrappers.

⁶ ISO 21067-1:2016 “Packaging — Vocabulary — Part 1: General terms”, available at : <https://www.iso.org/standard/66981.html>

Table 1-5: Illustrative examples of differentiation between single-use plastic food containers and packets and wrappers

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

2. BEVERAGE CONTAINERS; BEVERAGE BOTTLES; CUPS FOR BEVERAGES (INCLUDING THEIR CAPS, COVERS AND LIDS)

This chapter provides clarification of the terms and definitions for the following three product groups: (1) beverage containers; (2) beverage bottles; and (3) cups for beverages. Recital 12 explains that SUP beverage bottles are to be considered as a sub-category of beverage containers; whereas cups for beverages are to be considered as a separate category of SUP products for the purposes of this Directive.

2.1 What are the product descriptions provided in the SUP Directive?

Part C, E I.(3) and G(3) of the Annex to the SUP Directive sets out the following definition:

"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 (...) that is in liquid form."

Thus, two main criteria should be considered when defining SUP beverage containers and beverage bottles: (1) their capacity "up to three litres" and (2) that this product category includes "receptacles used to contain liquid". In addition, the term "**beverage**" in the definition for "beverage containers", implies that the term "liquid" refers to "beverage". Recital 12 provides specific examples of liquids that are considered as beverages, namely "beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk".

In addition, Annex Part C, EI(3) and G(3) (and Part F for beverage bottles only) specifies that the "**caps and lids**" are included in the definition of beverage containers and beverage bottles. Further, according to the definition provided in the Annex, "composite beverage packaging" are to be considered as single-use plastic products for the purposes of the SUP Directive.

With regard to **cups for beverages**, the SUP Directive does not provide specific definitions, criteria or examples. As such, further clarification is needed on how to define SUP cups for beverages for the purposes of the SUP Directive. However, Parts A (1), EI(4) and G (4) of the Annex define that "covers and lids" are covered by the requirements if its articles (excluding the requirements of Article 7 on marking requirements).

The table below, provides an overview of the requirements and relevant descriptions and terms that relate to beverage containers, beverage bottles, and cups for beverages, provided in the SUP Directive.

Table 2-1: Relevant terms and descriptions of beverage containers; beverage bottles; and cups for beverages, including their caps and lids in the SUP Directive

Requirements
SUP beverage containers, including their caps and lids are subject to the following requirements of the SUP Directive:

- Product design requirements for tethered caps and lids (Article 6, paragraphs (1) to (4)).
- Establishment of extended producer responsibility schemes (Article 8, paragraphs (1) to (9)).
- Consumption reduction measures to inform consumers and to incentivise responsible consumer behaviour (Article 10).
- Market restrictions for beverage containers made of expanded polystyrene, including their caps and lids (Article 5).

In addition to the above requirements, **SUP beverage bottles, including their caps and lids**, are also subject to the following measures:

- Product design requirements on the minimum recycled content (Article 6(5)).
- Separate collection for recycling (Article 9, paragraphs (1) to (3)).

SUP cups for beverages including their covers and lids are also treated differently by the SUP Directive as they are not subject to the requirements of Articles 6 and 9, but they are subject to Articles 8, 10 as well as the requirement the following articles:

- Consumption reduction measures (Article 4, paragraphs (1) to (2)).
- Marking requirements on the product itself (Article 7, paragraphs (1) to (3)).
- Market restrictions for cups for beverages made of expanded polystyrene, including their caps and lids (Article 5).

Relevant product-specific descriptions

Beverage containers:

Parts C, EI(3) and G(3) 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."

Beverage bottles: are also 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:

Parts A(1), EI(4) and G(4) of the Annex SUP Directive use the term cups for beverages as **"cups for beverages, including their covers and lids"**. In addition **Part D(4)** of the Annex refers to **"cups for beverages"**, without using the term **"including their covers and lids"**.

The following paragraphs provide further clarification on the key elements to be considered in regard to determining whether certain products from these product categories would fulfil the definition of

a single-use plastic product in accordance with the SUP Directive. First, guidance is provided on how to distinguish beverage containers, beverage bottles and cups for beverages.

2.2 How to distinguish between beverage containers; beverage bottles; and cups for beverages?

The definitions, clarifications and examples provided in the SUP Directive do not allow a clear distinction between beverage containers, beverage bottles, and cups for beverages. The criterion of the capacity (i.e. up to 3 litres) is provided in the Annex for beverage containers and beverage bottles only. Based on the criteria that are entailed in the Annex of the SUP Directive and definitions provided in standards and dictionaries, the following classification is provided:

- **Beverage containers:** According to ISO 21067-1:2016⁷, containers are “receptacle which holds, restrains, or encloses any article(s) to be stored or transported”. Thus, in the context of the SUP Directive beverage containers can be defined as receptacles with a capacity of up to 3 litres, including their caps and lids, used to contain beverages.
- **Beverage bottles:** 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”. Thus, beverage bottles can be defined as 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.
- **Cups for beverages:** An open usually bowl-shaped drinking vessel ⁸, with or without a cover or a lid, sold empty or containing beverages.

As explained in Recital 12 for the purpose of the SUP Directive, beverage bottles are included in the category of beverage containers⁹. In comparison to the rest of beverage containers, SUP beverage bottles are also subject to Article 6(5) and Article 9 of the SUP Directive. Also, according to Recital 12, cups for beverages are “a separate category of single-use plastic products” for the purposes of the SUP Directive.

The key element of distinguishing between the three product categories is the **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 2-2: Illustrative examples for the classification of beverage containers; beverage bottles; and cups for beverages

Beverage containers	Beverage bottles	Cups for beverages
Receptacles with a capacity of up to 3 litres, used to contain beverages	Rigid beverage containers with a narrow neck or mouth and a capacity of up to 3 litres,	Open and usually bowl-shaped drinking vessel receptacles, open at the top, with or without

⁷ ISO standard 21067-1:2016 “Packaging — Vocabulary — Part 1: General terms” available at: <https://www.iso.org/standard/66981.html>

⁸ According to Merriam-Webster, the definition of a cup, is as follows: an open usually bowl-shaped drinking vessel: <https://www.merriam-webster.com/dictionary/cup>

⁹ Recital 12 refers to “beverage bottles” as an example of “beverage containers”

	including their caps and lids, used to contain beverages	a cover or a lid, sold empty or containing beverages
		

2.3 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

The SUP Directive explicitly **excludes glass or metal beverage containers and beverage bottles that have caps and lids made from plastic** as laid out in Articles 6 (paragraphs (1) to (4)), 8 and 10 and Annex Part C, EI(3) and G(3). Glass or metal beverage bottles that have plastic caps and lids are also exempted from the requirements of Article 6(5) and 9 and Annex Part F.

In addition, both 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 Council¹⁰ that is in liquid form are also exempted from Article 6 (paragraphs (1) to (4)) and Annex Part C but not from Article 8 and 10 and Annex Part EI(3) and G(3). In addition, beverage bottles that have plastic caps and lids and fall under the definition of Article 2 of Regulation (EU) No 609/2013, are also exempted from the requirements of Article 6(5) and 9 and Annex Part F.

The following section provides further criteria on what a beverage container, beverage bottle or cup for beverage is under the SUP Directive

2.4 How to define single-use beverage containers; beverage bottles; and cups for beverages?

The sections below provide further clarification of the criteria of “**single-use plastic beverage container, beverage bottle and cups for beverage**”. They provide guidance on how to distinguish between single-use and multiple-use beverage container, beverage bottle and cups for beverage (2.4.1), as well as a more detailed description of the product criteria, including practical examples, and where relevant, any applicable product-specific exemptions (2.4.2).

¹⁰ 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 Text with EEA relevance

2.4.1 How to distinguish between single and multiple-use beverage containers; beverage bottles; and cups for beverages?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether a beverage container, beverage bottle, or cup for beverage is considered as single-use as opposed to multiple-use should take into account its (1) reusable or refillable nature of the product and (2) the volume and size. Specifically, a beverage container, beverage bottle, or cup for beverage is considered as multiple-use, when the following criteria apply:

- The reusable or refillable nature of the product: the receptacle is conceived, designed or placed on the market for **refill or reuse**: it has a long expected useful and/or functional life and is intended to be used several times before final disposal, without losing product functionality, physical capacity or quality; e.g. the receptacle is designed with a re-sealable cap, thickness of plastic, etc.
- The volume or size of the receptacle: the product has been purposely designed so that it can be used over and over again e.g. the receptacle contains **multi-size portion servings**.

Both the product design characteristics and the volume or size characteristics of the receptacle are strongly linked with the tendency of a product to become litter. Notably, products intended for refill or reuse as well as products with multi-size portion servings have a low tendency to become litter.

Product design characteristics

As explained in section 1.3.1, consumers purchase reusable or refillable products to use them multiple times. Section 1.3.1 provides some key elements that shall be considered for the definition of reusable and refillable products, such as the product durability, intended washing/ cleaning cycles. As in the case of food containers, reusable and refillable containers include products that are placed on the market as a part of deposit refund schemes (DRS) that are set up by EPR schemes or refund schemes established by food retailers as long as the products are reused or refilled, but not recycled.

Volume or size

In addition, products with multi-size portions have a tendency to be consumed in indoor settings (e.g. households or offices) where it can be stored and used multiple times. Specifically, for the behavioural patterns, these are entailed to a large extent in the intended usage and the size or volume of the receptacle that define the tendency of a product to be used in a single or multiple instance. It should be noted that any receptacles with the **capacity over 3 litres** is considered as not intended for single-use. According to the SUP Directive (Annex Part C, E and G), Even if receptacles with a capacity below 3 litres might include multiple-sized servings, they are likely to be consumed “*on-the-spot or take-away*”. Contrary to beverage containers and beverage bottles, the SUP Directive does not set a specific threshold on the capacity of cups for beverages. This threshold can be defined based on they are typically set for single-size portions only.

Both the product design characteristics and the volume or size are an integral part of the product-specific definitions and criteria that are discussed in the following section.

2.4.2 What product-specific definitions and criteria can be considered?

2.4.2.1 Beverage containers and beverage bottles

Based on the relevant definitions provided in Annex Part C, E(3) and G(3) pursuant respectively to Articles 6 (paragraphs 1 to 4), 8 and 10, the main criteria that can be used to determine whether a

beverage container or a beverage bottle¹¹ is considered a SUP product for the purposes of SUP Directive are provided in the table below. The general criteria cover the (1) single-use and (2) plastic contained in the final product e.g. wholly or partially made of plastic. As explained in section 2.1, the product-specific criteria that can be used to define a single-use beverage container and beverage bottle are the (1) capacity and (2) the type of liquid contained. The table also provides descriptions and examples to further clarify the main product-specific criteria laid out by the SUP Directive.

Table 2-3: Main criteria and guidance indicators to define SUP beverage containers and beverage bottles for the purposes of the SUP Directive

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<p>Presence of plastic in the product.</p> <p>Beverage containers and beverage bottles entirely made of glass or metal are excluded from the scope of the SUPD.</p>
	Contains plastic polymers which can function as a main structural component	<p>The plastic polymers used should allow beverage containers and beverage bottles to fulfill its intended function. Practical examples would include the use of plastic coating or lining on containers for it to be liquid-proof or to ensure that it complies with necessary safety or hygiene standards.</p> <p>General guidance on how to determine main structural component is provided in Part B, Chapter 3.</p>
	Exception for "natural polymers that not been chemically modified"	<p>General guidance on interpreting the exception for "natural polymers that not been chemically modified" is provided in Part B, Chapter 3.</p>
Single-use		<p>Reusable or refillable nature of the product: the beverage container or beverage bottle is not designed and placed on the market with the intention of being re-filled or re-used.</p> <p>Volume or size: The size or volume of the beverage container or beverage bottle is less than 3L (also a product-specific criterion according to the relevant definitions provided in Annex Part C, E(3) and G(3)).</p>
Product-specific criteria	Guidance indicators	Description and examples
Capacity	Size or volume of receptacle	<ul style="list-style-type: none"> Beverage containers and beverage bottles with a capacity up to 3 liters (including their caps)

¹¹ Beverage bottles are also subject of Article 6 (5) and Article 9 (1) to (3)



		and lids) with a high tendency to be consumed on-the-spot or take-away
Type of liquid contained	Filled or intended to be filled with a beverage	<ul style="list-style-type: none"> Examples of beverages as per Recital 12 of the SUP Directive include beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk. Further clarifications in relation to the definitions on beverages are provided in section 1.4.1.



The table below provides illustrative examples for beverage containers and beverage bottles and the corresponding criteria.



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Table 2-4: How are different types of beverage containers; and beverage bottles considered under the SUP Directive?

Type of beverage containers; and beverage bottles	General criteria		Product-specific criteria		Fulfilment of all relevant general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
Single-portion beverage pouches (fully plastic or with plastic layer, up to 3 litres) 	YES	YES	YES	YES	INCLUDED (Beverage Container)
Plastic bottles with detachable and attached plastic lids (up to 3 litres) 	YES	YES	YES	YES	INCLUDED (Beverage Bottle)
Plastic container with attached plastic lids (up to 3 litres)	YES	YES	YES	YES	INCLUDED (Beverage Container)

Type of beverage containers; and beverage bottles	General criteria		Product-specific criteria		Fulfilment of all relevant general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
					
Single and multiple size cardboard beverage container with plastic inner lining (up to 3 litres) 	YES	YES	YES	YES	INCLUDED (Beverage Container)
Plastic containers with instant beverage powders	YES	NO		NO	EXCLUDED

Type of beverage containers; and beverage bottles	General criteria		Product-specific criteria		Fulfilment of all relevant general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
			YES		The receptacle is not used to contain beverage
Plastic water bottle with detachable and attached plastic lids (5 litres) 	YES	NO	NO	YES	EXCLUDED The capacity of the beverage bottle is over 3 litres
Reusable and refillable beverage bottles	YES	NO	YES	YES	EXCLUDED Reusable bottle

Type of beverage containers; and beverage bottles	General criteria		Product-specific criteria		Fulfilment of all relevant general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
					
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

Type of beverage containers; and beverage bottles	General criteria		Product-specific criteria			Fulfilment of all relevant general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained		
						

2.4.2.2 Cups for beverages

The table below provides the main criteria to define SUP cups for beverages. As in the case of beverage containers and beverage bottles, the general criteria refer to **the single-use** of a product and the **plastic contained** in the product. The guidance indicators are similar to the ones of the beverage containers and beverage bottles with the exemption of the size and volume as the SUP Directive does not provide a specific threshold. For this reason, the size and volume is considered as an indicator for the definition of the general criterion "single-use". As a threshold on the capacity is not provided by the SUP Directive, the only product-specific that can be used for the definition of a SUP cup for beverages is the **type of liquid contained**.

Table 2-5: Main criteria and guidance indicators to define SUP cups for beverages



General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	Presence of plastic in the product. Cups for beverages that are made entirely of glass, metal or bamboo do not fall in the scope of the Directive.
	Contains plastic polymers which can function as a main structural component	The plastic polymers, should allow cups for beverages to fulfill the intended function. Practical examples would include the use of plastic coating or lining on cups for it to be liquid-proof or to ensure that it complies with necessary safety or hygiene standards. General guidance on how to determine main structural component is provided in Part B, Chapter 3.
	Contains polymers which do not meet the definitions of "natural polymers that not been chemically modified"	General guidance on interpreting the exception for " <i>natural polymers that not been chemically modified</i> " is provided in Part B, Chapter 3.
Single-use		Reusable or refillable nature of the product: The cup for beverages is not designed and placed on the market reuse or refill. Size or volume: The size or volume of the cup for beverages is intended for single-portions, as well as thickness of material which would in particular allow for single use.
Product-specific criteria	Guidance indicators	Description and examples



Intended use	Filled or intended to be filled with a beverage	Examples of beverages as per Recital 12 of the SUP Directive include beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk ¹² . Further clarifications in relation to the definitions on beverages are provided on section 1.4.1.
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The table below provides illustrative examples for cups for beverage and the corresponding criteria.



¹² 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.


Table 2-6: How are different types of cups for beverages considered under the SUP Directive?

Type of cups for beverages	General criteria		Product-specific criteria		Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
Cups for cold beverages made of 100% plastic (with or without cover or lid) 	YES	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Fully plastic cups sold in retail and wholesale stores 	YES	YES	YES	YES	INCLUDED (CUP for BEVERAGE)

Type of cups for beverages	General criteria		Product-specific criteria		Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
					
<p>Carton plastic cups with inner plastic coating for hot or cold beverage (with or without cover or lid)</p> 	YES	YES	YES	YES	<p>INCLUDED (CUP for BEVERAGE)</p>

Type of cups for beverages	General criteria		Product-specific criteria		Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
Carton plastic cups with inner plastic coating sold in retail and wholesale stores 	YES	YES	YES	YES	INCLUDED (CUP for BEVERAGE)
Carton plastic cups with inner biodegradable plastic coating sold in retail and wholesale stores	YES	YES	YES	YES	INCLUDED (CUP for BEVERAGE)

Type of cups for beverages	General criteria		Product-specific criteria		Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
					
Plastic cups sold as part of refill schemes 	YES	NO	YES	YES	EXCLUDED
Reusable and refillable beverage containers sold in retail shops for multiple uses	YES	NO	YES	YES	EXCLUDED

Type of cups for beverages	General criteria		Product-specific criteria		Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Capacity	Type of liquid contained	
					

2.4.2.3 Caps, lids and covers

The SUP Directive refers to “caps and lids” as closure assemblies for **beverage containers and beverage bottles**, whereas for **cups for beverages** the SUPD refers to “lids and covers”.

Based on the descriptions provided in the paragraph above, the key criteria that can be used to determine whether “caps”, “lids” and “covers” are covered by the SUP Directive include:

- Caps and lids (tethered or removable) that are attached to SUP beverage containers or beverage bottles
- Covers and lids that are fitted or intended to be fitted to SUP cups for beverages

In addition, caps and lids made from plastic used on glass or metal beverage containers and beverage bottles are excluded from the requirements of the SUP Directive. In addition, as laid down by Article 6 (2), “metal caps or lids with plastic seals shall not be considered to be made of plastic” for the purposes of Article 6 on product requirements.

Caps, lids and covers can be considered as “closures”, which is defined in ISO standard 21067-1:2016¹³ as “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. Caps, lids and covers 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 SUP Directive does not provide a clear definition, nor does any existing EU legislation or technical standards. Based on dictionaries and other collected information, the following guidance can be used to define them:

- **Caps:** tops that are fitted tightly onto beverage containers or beverage bottles, that are used to act as a closure assembly to prevent the contained liquid from leaking and to allow for safe transportation. The closure assembly can have the form of screw caps or “sport caps”. Some caps also have a tamper-evident band.
- **Lids:** flexible films that are used as a closure assembly in beverage containers; beverage bottles and cups for beverages. They can be lifted or torn-off. Once a lid is torn, it cannot be placed back on the product since the closure assembly is broken.
- **Covers:** Closure assembly used in cups for beverages. They can be re-placed on the product even after having been lifted (removed) without losing their closure function. Some covers also have a tamper-evident band, which is considered part of the closure assembly.

As laid down in Article 6 (paragraphs (1) and (3)), the product requirements in relation to the caps and lids of beverage containers and beverage bottles (referred to as “closure” in Article 6(3)) should ensure “*necessary strength and reliability*”, in order to guarantee the consumer’s safety during intended usage. Specifically, the term “*strength*” refers to the ability of the attachment feature between the container and the cap or lid to withstand a separation force. The term “*reliability*” refers to the attachment feature between the container and the cap or lid to withstand a certain number of opening and closing cycles representative of the intended use stage.

Therefore, the closure should address the appropriate technical characteristics needed to ensure that the consumer will not be subject to hygiene or safety risks. A specific mention is provided in Article 6(3) for “*carbonated drinks*”, whereby closures should be tight enough to resist the internal pressure and not leak or explode.

¹³ ISO 21067-1:2016 “Packaging — Vocabulary — Part 1: General terms”, available at : <https://www.iso.org/standard/66981.html>



The following figure provides illustrative examples of caps and lids for SUP beverage containers and beverage bottles and covers and lids for SUP cups for beverages.

Against this backdrop, the table below provides examples of how certain types of caps, lids and covers are to be considered in the context of the SUP Directive.

Table 2-7: How are different types of caps, lids and closures considered under the SUP Directive

Type of caps, lids and covers	Scope of the SUPD
<p>Caps and lids wholly or partially made of plastic, used in combination with SUP beverage containers and beverage bottles</p> 	<p>INCLUDED</p>
<p>Covers and lids wholly or partially made of plastic, used in combination with SUP cups for beverages</p> 	<p>INCLUDED</p>
<p>Metal caps or lids with plastic seals used in combination with SUP beverage containers and beverage bottles</p> 	<p>INCLUDED</p> <p>NOTE: Metal caps or lids with plastic seals are subject to the requirements of the SUP Directive, except those laid down by Article 6¹⁴.</p>

¹⁴ Article 6(2) reads: "For the purposes of this Article, metal caps or lids with plastic seals shall not be considered to be made of plastic"

Type of caps, lids and covers	Scope of the SUPD
	
<p>Caps and lids wholly or partially made of plastic, used in combination with metal or glass beverage containers and beverage bottles</p> 	<p>EXCLUDED</p> <p>The caps and lid are attached to metal or glass bottles</p>

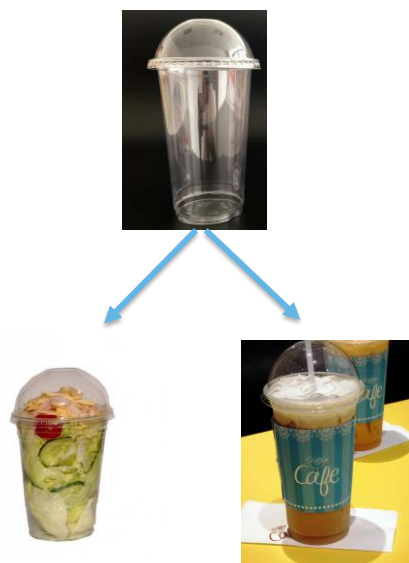
2.5 How to differentiate between SUP beverage containers; beverage bottles; cups for beverages and other SUP product types?

In regard to cups for beverages, in addition to determining whether the product contained is a food or a beverage, further clarification is also needed on how to consider cups that are placed on the market empty by manufacturers, however which can be filled by retailers both with food and beverage products. This clarification is important, due to the differences on the requirements laid down by the SUP Directive on beverage containers and cups for beverages. 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.

Figure 2-1: Illustrative example of single-use plastic cup used for both food and beverages

containers sold in retail and wholesale stores



3. PACKETS AND WRAPPERS

3.1 What are the product descriptions provided in the SUP Directive?

Parts EI (2) and G(2) of the Annex in the SUP Directive 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 table below provides an overview of the requirements and relevant descriptions that relate to packets and wrappers according to the SUP Directive.

Table 3-1: Requirements and descriptions of packets and wrappers in the SUP Directive

Requirements
<p>SUP packets and wrappers are subject to the following provisions:</p> <ul style="list-style-type: none"> • Establishment of extended producer responsibility (Articles 8(2) and 8(4-9)) • Taking measures to inform consumers and to incentivise responsible consumer behaviour (Article 10) <p>Parts A(2) and B(7) of the Annex of the SUP Directive clarify that packets and wrappers are not subject to the provisions of Articles 4 or 5 of the SUP Directive, respectively.</p>
Relevant product-specific descriptions
<p>Parts EI(2) and G(2) of the Annex describe packets and wrappers as follows:</p> <p><i>"Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation".</i></p>

3.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

There are no product-specific exemptions that are explicitly laid down in SUP Directive for packets and wrappers.

3.3 How to define single-use packets and wrappers?

The following sections provide further clarification of the criteria for **"single-use packets and wrappers"** under the SUP Directive, by first distinguishing between single-use and multiple-use packets and wrappers (3.3.1), and then considering the product specific criteria (3.3.2).

3.3.1 How to distinguish between single and multiple-use packets and wrappers?

Most packets and wrappers are typically placed on the market to be intended to be used just once before disposal¹⁵. Nonetheless, examples of multiple-use (including non-plastic) alternative products may be available, or may become available, in Europe. As discussed in Part B, Chapter 4, product design characteristics are a key factor that can help to define whether a packet or wrapper is considered as single-use as opposed to multiple-use. These characteristics can be further clarified based on the following indicators:

A multiple-use packet or wrapper (unlike a single-use packet or wrapper) is one that has been **purposely designed so that it can be used repeatedly**. This includes packets or wrappers that are intentionally designed for refill or reuse *"for the same purpose for which they are conceived"* and can fulfil their original purpose multiple times without losing original product functionality, physical capacity or quality. This includes for example plastic items designed for multiple use (e.g. resealable packets or wrappers, thicker plastic packets or wrappers) or non-plastic alternative products such as cloth or net bags (e.g. for use for loose fresh or dried produce) or paper or beeswax wrappers intended as an alternative to plastic packets or wrappers.

Packets or wrappers of larger volume that contain **multiple portions** of a food product are also considered to be multiple-use. Examples include wrappers on whole loaves of bread, multi-portion packets of pasta and inner bags in boxes of cereal. As explained in section 1.3.1 on food containers, the likelihood of becoming litter tends to be high for single use and low for multiple use items.

3.3.2 What product-specific definitions and criteria can be considered?

The main product-specific criteria to determine whether a packet or wrapper can be considered as SUP product are provided in Annex Parts EI(2) and G(2) of the SUP Directive:

- Made from **flexible material**;
- Containing food intended for **immediate consumption from the packet or wrapper**; and
- Containing food ready to be **consumed without any further preparation**.

For a packet or wrapper to be covered by the Directive, the above three criteria are met **cumulatively**.

These criteria reflect the overall objective of the SUP Directive to reduce (marine) litter and the likelihood that the packet and wrapper will become marine litter e.g. consumed 'on-the go' leading to an increased risk of littering.

Table 3-2 below summarises the general and product-specific criteria provided by the SUP Directive to define the types of packets and wrappers covered. Guidance is provided on how to interpret the general and product-specific criteria, along with illustrative examples on whether certain types of packets and wrappers are included or excluded under the SUP Directive in Table 3-3.


Table 3-2: Main criteria of the SUPD and guidance to define SUP packets and wrappers

¹⁵ The 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" (SWD(2018) 254 final PART 3/3) states that no multi-use packaging formats exist for packets and wrappers (see Table 5 on p. 35).

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<p>Presence of plastic in the product.</p> <p>Packets and wrappers entirely made of paper do not contain any plastic materials and therefore fall outside the scope of the Directive.</p>
	Contains plastic polymers which can function as a main structural component	Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2.
	Contains polymers which do not meet the definitions of “ <i>natural polymers that not been chemically modified</i> ”	General guidance on interpreting the exception for “ <i>natural polymers that not been chemically modified</i> ” is provided in Part B, Chapter 3.
Single-use		<p>Reusable or refillable nature of the product: The packet or wrapper is not purposely designed so it can be used repeatedly and the three product-specific criteria laid down in Parts EI(2) and G(2) of the Annex are fulfilled.</p> <p>Volume or size: The packed or wrapper contains a single-size portion of a food product.</p>
Product-specific criteria	Guidance indicators	Description and examples
Made from flexible material	Nature of packaging	<ul style="list-style-type: none"> Packaging that is made from flexible material, i.e. that can be bent easily without breaking, is supple and rather thin, and has a shape that is likely to change after the contents are added or removed (see section 1.4.2)
Intended for immediate consumption	Nature of foodstuff contained in package/wrapper	<ul style="list-style-type: none"> Foodstuff is either perishable e.g. of a limited shelf life if not refrigerated, or intended for eating ‘on-the-go’ e.g. crisps, nuts, chocolate, sweets, small portions of condiments/sauces. Fresh food conserved in liquid or otherwise not typically for consumption out of the packet or wrapper is excluded from scope.
	Nature of packaging	The type of packaging indicates that the foodstuff contained is intended for immediate consumption. For example, the packet or

		wrapper can be easily and practically removed e.g. by tearing, cutting, twisting or pulling apart.
Ready to be consumed without any further preparation	Nature of foodstuff contained	<ul style="list-style-type: none"> • The foodstuff can be consumed immediately after purchasing, implying that there is no need to cook, heat up or add boiling water for example prior to consumption. • There is no need to wash, slice or cut the foodstuff before consumption (e.g. pre-prepared fruit for snacking).



Table 3-3: How are different types of packets and wrappers considered under the SUP Directive?


Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
Packet of small portion of biscuits, nuts, crisps, chips, popcorn, sweets sold by single unit 	YES	YES	YES	YES	YES	INCLUDED
Wrapper of small portion of sweets, biscuits, chocolate sold by single unit	YES	YES	YES	YES	YES	INCLUDED

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						
Small individually packed/wrapped portions of bakery goods, sweets, frozen food and chewing gum sold in more than one unit (in any type of receptacle)	YES	YES	YES	YES	YES	INCLUDED

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						
Packet containing small portion of condiment/sauce 	YES	YES	YES	YES	YES	INCLUDED
Sandwich wrapper	YES	YES	YES	YES	YES	INCLUDED

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						
Wrapper of small portion of frozen food sold by single unit 	YES	YES	YES	YES	YES	INCLUDED
Packet of larger quantities of bakery goods, biscuits and sweets	YES	NO	YES	NO	YES	EXCLUDED Foodstuff is not for immediate consumption from the packet, typically stored until all consumed

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						
Inner bag in box of cereal 	YES	YES	YES	NO	NO	EXCLUDED Foodstuff is not for immediate consumption from the packet, typically stored until all consumed; Milk is typically

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						added before consumption
<p>Packet containing larger quantities of fresh food e.g. salad, vegetables, pasta, lentils etc.</p> 	YES	NO	YES	NO	NO	<p>NO: EXCLUDED</p> <p>Foodstuff may be consumed immediately after opening or stored until all consumed, and is typically not consumed directly from the packet or wrapper; Foodstuff is typically further prepared</p>

Type of packet or wrapper	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Made from flexible material	Intended immediate consumption	for Ready to be consumed without further preparation	
						before consumption
Small individually packed/wrapped portions of fresh foods sold in more than one unit	YES	YES	YES	NO	YES	EXCLUDED: Whole product is not typically immediately consumed directly from the wrapper

4. LIGHTWEIGHT PLASTIC CARRIER BAGS

4.1 What are the product descriptions provided in the SUP Directive?

Parts E I (5) and G(8) of the Annex to the SUP Directive define lightweight plastic carrier bags by referring to the definition provided in Article 3(1c) of the PPW Directive which reads as follows:

"lightweight plastic carrier bags' shall mean plastic carrier bags with a wall thickness below 50 microns"

The table below provides an overview of the requirements and relevant descriptions that relate to lightweight plastic carrier bags according to the SUP Directive.

Table 4-1 Requirements and descriptions of lightweight plastic carrier bags in the SUP Directive

Requirements
<p>Lightweight plastic carrier bags are subject to the following provisions of the SUP Directive:</p> <ul style="list-style-type: none"> • Establishment of extended producer responsibility (Articles 8(2)) • Taking measures to inform consumers and to incentivise responsible consumer behaviour (Article 10)
Relevant product-specific descriptions
<p>Annex Parts EI(5) and G(8): <i>"Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC"</i></p> <p>Point 1c of Article 3 of the PPW Directive defines lightweight plastic carrier bags as follows:</p> <p><i>"lightweight plastic carrier bags' shall mean plastic carrier bags with a wall thickness below 50 microns;"</i></p> <p>The more general term <i>"plastic carrier bags"</i> is defined in point 1b of Article 3 of the PPW Directive:</p> <p><i>"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"</i></p>

4.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

The SUP Directive refers only to *"lightweight plastic carrier bags"*. The SUP Directive does not apply to plastic carrier bags with a wall thickness of 50 microns or more, since these are not *"lightweight plastic carrier bags"* as defined in the PPWD.

The following section provides further clarification on what a *"lightweight plastic bag"* is under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and relevant requirements of the SUP Directive.

4.3 How to define single-use lightweight plastic carrier bags?

The following sections provide further clarification of the SUPD criteria for “**lightweight plastic carrier bags**”, by first distinguishing between single-use and multiple-use plastic carrier bags (4.3.1) and then considering the product specific criteria (4.3.2).

The SUP Directive refers only to “*lightweight plastic carrier bags*”, and to the definition of this product in the PPW Directive¹⁶, i.e. plastic carrier bags with a wall thickness below 50 microns. The SUP Directive does not apply to plastic carrier bags with a wall thickness of 50 microns or more; these products do not fall under the definition of “*lightweight plastic carrier bags*”.

4.3.1 How to distinguish between single and multiple-use lightweight plastic bags?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether a plastic item is considered as single-use as opposed to multiple-use include its intended usage and product design characteristics.

In relation to the intended usage and specifically **reuse**, due to their lightweight nature, lightweight plastic carrier bags are **typically reused less frequently** and are more prone to littering than thicker bags (with a wall thickness of 50 microns or more). This approach is borne out in Directive (EU) 2015/720, which amended the PPW Directive as regards the consumption of lightweight plastic carrier bags. The relevant distinction in the context of the SUP Directive is therefore whether a bag is “*lightweight*” (i.e. with a wall thickness below 50 microns) or not lightweight, rather than whether it is explicitly intended for reuse.

4.3.2 What product-specific definitions and criteria should be considered?

The main criterion to determine whether a lightweight plastic carrier bag is included in the scope of the SUP Directive is referred to in Annex Parts EI(5) and G(8) (see Table 4-1):

- **Lightweight plastic carrier bags** as defined in point 1c of Article 3 of Directive 94/62/EC, i.e. with a wall thickness below 50 microns

This criterion reflects the objective of the SUP Directive 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.

In addition to the above considerations, Table 4-2 summarises the main general and product-specific criteria provided by the SUP Directive to define the lightweight plastic carrier bags covered. Guidance is provided on how to interpret the general and product-specific criteria, along with illustrative examples on whether certain types of plastic carrier bags are included or excluded under the SUP Directive in Table 4-3.



Table 4-2: Main criteria of the SUPD and guidance to define single use lightweight plastic carrier bags

General criteria	Description and examples
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¹⁶ Directive 94/62/EC, Article 3(1a-1e) provides definitions of ‘plastic’ (in the context of carrier bags), “plastic carrier bags”, “lightweight plastic carrier bags”, “very lightweight plastic carrier bags” and “oxo-degradable plastic carrier bags”

Plastic product	Made wholly or partially of plastic	<p>Presence of plastic in the product.</p> <p>Lightweight bags that are entirely made of paper and do not contain any plastic fall outside the scope of the Directive.</p>
	Contains plastic polymers which can function as a main structural component	Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2.
	Exception for “ <i>natural polymers that not been chemically modified</i> ”	General guidance on interpreting the exception for “ <i>natural polymers that not been chemically modified</i> ” is provided in Part B, Chapter 3.
Single-use		The relevant distinction is that lightweight plastic carrier bags (with a wall thickness below 50 microns) are not purposely designed so they can be used repeatedly; they are not suitable for, nor intended for, multiple uses (also included below as product-specific criterion).
Product-specific criteria	Guidance indicators	Description and examples
Lightweight plastic carrier bag	Thickness of the plastic carrier bag	Wall thickness below 50 microns as defined by the PPW Directive. Thicker bags, e.g. reusable ‘bags for life’ are not defined as “lightweight”.
	Point of supply of the bag	Supplied to consumers at the point of sale of goods or products (as defined in Point 1c of Article 3 of the PPW Directive).

Table 4-3: How are different types of plastic carrier bags considered under the SUP Directive?

Type of plastic carrier bag	General criteria		Product-specific criteria	Fulfilment of all general and product-specific criteria?
	Plastic product	Single-use	Lightweight carrier bag plastic	
Lightweight plastic carrier bag provided to consumer at point of sale (wall thickness below 50 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

5. COTTON BUD STICKS

5.1 What are the product descriptions provided in the SUP Directive?

Cotton bud sticks covered by the SUP Directive are not specifically defined under any of its articles. Annex Part B(1) provides that, with the exception of those falling within the scope of Directive 90/385/EEC¹⁷ relating to active implantable medical devices or Directive 93/42/EEC¹⁸ concerning medical devices, single-use plastic cotton bud sticks are covered by the requirements laid out in Article 5.

Table 5-1 provides an overview of the requirements and relevant descriptions of single-use plastic cotton bud sticks laid out in the SUP Directive.

Table 5-1: Requirements and descriptions of cotton bud sticks in the SUP Directive

Requirements
Cotton bud sticks covered by the SUPD are subject to the following provision: <ul style="list-style-type: none">Restrictions on placing on the market (Article 5)
Descriptions provided by the SUP Directive
Annex Part B(1): "Cotton bud sticks, except if they fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC"

5.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

According to Annex Part B(1) of the SUP Directive, cotton bud sticks that fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC as **medical devices are excluded** from the scope of the SUP Directive. Table 5-2 below provides this definition.

Table 5-2: Definition of 'medical device' provided by Council Directive 90/385/EEC and Council Directive 93/42/EEC

Descriptions provided by the SUP Directive
Council Directive 90/385/EEC and Council Directive 93/42/EEC both define medical devices as follows: Article 1(2)(a): "‘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

¹⁷ COUNCIL DIRECTIVE of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01990L0385-20071011>

¹⁸ COUNCIL DIRECTIVE 93/42/EEC of 14 June 1993, concerning medical devices: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01993L0042-20071011>

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;”

The EC guidance for the application of the Council Directive 93/42/EEC on Medical Devices¹⁹ provides guidelines on the classification of medical devices for the purposes of risk assessment. The example of “(s)wabs to sample exudates” included²⁰ within these guidelines is considered to relate for example to ‘medical swabs’²¹.

The following section provides further clarification on what a “cotton bud stick” is under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and relevant requirements of the SUP Directive.

5.3 How to define single-use cotton bud sticks?

The following sections provide further clarification of the SUPD criteria for “**single-use cotton bud sticks**”, by first distinguishing between single-use and multiple-use cotton bud sticks (5.3.1) and then considering the product specific criteria (5.3.2).

5.3.1 How to distinguish between single and multiple use cotton bud sticks?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether different types of balloons and balloon sticks as single-use as opposed to multiple-use should take into account its product design characteristics. As explained in section 1.3.1 on food containers, the likelihood of a product to become litter is in the product design characteristics. These characteristics can be defined by the following criteria:

- **Reusable or refillable nature of the product:** A multiple use product is conceived, designed or placed on the market for refill or reuse. In other words, it is intended to be used several times (repeatedly) during its expected useful or functional life, without losing product functionality, physical capacity or quality. Cotton bud sticks which are intended to be used several times (repeatedly) during their expected life span e.g. useful or functional life before final disposal, without losing product functionality, physical capacity or quality would be considered multiple use, therefore falling outside the scope of the Directive. For cotton bud sticks this would include the ability to maintain hygiene through multiple uses of the product e.g. via a washable or cleanable end.

¹⁹ 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>

²⁰ MEDDEV 2.4/1 rev.9 page 31: Examples provided for “Rule 6 - Surgically invasive devices intended for transient use (< 60 minutes)”

²¹ 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>

- **Specific design characteristics**: A multiple use product has been purposely designed so that it can be used multiple times. Specific characteristics might include: ability to replace the consumable element (e.g. removable cotton buds) and the material composition (i.e. maintaining the structural integrity of the cotton bud stick when bent). Material composition and thickness can indicate whether it has been purposely designed so that it can be used repeatedly.

The distinction between single and multiple-use cotton bud sticks is relatively straightforward as this product is not conceived, designed or placed on the market for refill or reuse. It is typically placed on the market for purposes which indicate single use before disposal including personal hygiene.

There are nonetheless examples of multiple-use alternative products to cotton bud sticks available in Europe:

- **Reusable** plastic ear cleaning sticks.

5.3.2 What product-specific definitions and criteria can be considered?

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^{22,23}. When placed on the EU market, these items are included within a single Common Procurement Vocabulary (CPV) code²⁴: Cotton buds 33711410-4.

In addition to the above considerations, the table below summarises the main general and product-specific criteria provided by the SUP Directive to define the types of cotton bud sticks covered. Guidance is provided on how to interpret the general and product-specific criteria, along with illustrative examples on whether certain types of cotton bud sticks are included or excluded under the SUP Directive in Table 5-4.

Table 5-3: Main criteria and guidance indicators to define SUP cotton bud sticks

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<p>Guidance on how to determine whether a product is made wholly or partially of plastic is provided in Part B, Chapter 3, section 3.2.</p> <p>Single use cotton bud sticks are indicated by the presence of plastic in the product.</p> <p>Cotton bud sticks that are made entirely of non-plastic materials would fall outside the scope of the SUP Directive. e.g. Bamboo stemmed or cardboard stemmed.</p>
	Plastic polymers can function as a main structural component	<p>Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2. It should be noted that in the specific case of cotton bud sticks, no major issues have been identified with respect to this criterion.</p>

²² Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/cotton-bud?q=cotton+buds>

²³ Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/cotton-bud>

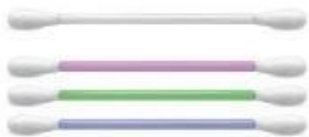




²⁴ The Common Procurement Vocabulary establishes a single classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe procurement contracts: https://ec.europa.eu/growth/single-market/public-procurement/digital/common-vocabulary_en

	Exception for " <i>natural polymers that have not been chemically modified</i> "	General guidance on interpreting the exception for "natural polymers that not been chemically modified" is provided in Part B, Chapter 3, Section 3.3. It should be noted that in the specific case of cotton bud sticks, no major issues have been identified with respect to this criterion.
Single-use		<p>Reusable or refillable: The presence of consumable material (e.g. cotton wool) glued to the end of the stick indicates that it has been designed for single use.</p> <p>Design characteristics: Use of thin, non-durable plastic, cardboard or wood for stem and use of glue to affix cotton buds to the end(s) of the stick indicate that it has been designed for single use.</p> <p>A single use cotton bud stick is a personal hygiene or domestic product intended to be used only once prior to disposal. e.g. Cotton bud sticks for: cleaning of ears; application or removal of makeup; cleaning of cuts; arts and crafts.</p>
Product-specific criteria		Description and examples
Non-durable stem	Thickness of the stick	Domestic cotton bud sticks are characterised by a short, thin, non-durable stem. Cotton bud sticks that are made entirely of non-plastic materials would fall outside the scope of the SUP Directive. e.g. Bamboo stemmed or cardboard stemmed.
Non-cleanable buds	Glue used to permanently fix single use buds to stick	Glue is used to affix cotton buds permanently 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 SUP Directive.
Not a medical device	Does not fall within scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC	<p>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, at points of sale are generally:</p> <ul style="list-style-type: none"> Clearly labelled for medical use (e.g. 'medical swab'²⁵) Often sold as sterile Characterised by a longer, sturdier stem

²⁵ 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."

		<ul style="list-style-type: none"> • Single tipped. <p>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; for cleaning small wounds; or for applying ointments.</p>
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Table 5-4: How are different types of cotton bud stick considered under the SUP Directive?

Type of cotton bud stick	General criteria		Product-specific criteria			Fulfilment of relevant general and product-specific criteria?
	Plastic	Single-use	Non-durable stem	Non-cleanable buds	Not a medical device	
Plastic stemmed, double-tipped cotton bud stick 	YES	YES	YES	YES	YES	INCLUDED
Plastic stemmed, single-tipped foam bud stick 	YES	YES	YES	YES	YES	INCLUDED
Non-plastic stemmed, double-tipped 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

6. CUTLERY; PLATES; STRAWS; STIRRERS

6.1 What are the product descriptions provided in the SUP Directive?

Cutlery, plates, straws, and stirrers are addressed by Article 5 of the SUP Directive but are not defined in either that Article or in Article 3. Part B of the Annex to the SUP Directive provides some product-specific guidance on the definition of these product categories:

- Part B (1) of the Annex provides that “*forks, knives, spoons, chopsticks*” are included in the definition of cutlery.
- Straws are referred to in Part B (4) of the Annex of the SUP Directive with the addition except if they fall within the scope of Directive 90/385/EEC²⁶ relating to active implantable medical devices or Directive 93/42/EEC²⁷.

Table 6-1: Requirements and descriptions of cutlery; plates; straws; stirrers in the SUPD

Requirements
Cutlery; plates; straws; stirrers covered by the SUPD are subject to the following provisions: Restrictions on placing on the market (Article 5)
Descriptions provided by the SUP Directive
Annex Part B: (2): “ <i>Cutlery (forks, knives, spoons, chopsticks);</i> ” (3): “ <i>Plates;</i> ” (4): “ <i>Straws, except if they fall within the scope of Directive 90/385/EEC or Directive 93/42/EEC;</i> ” (5): “ <i>Beverage stirrers</i> ”

6.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

According to Annex Part B (4): straws that fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC as **medical devices are excluded** from the scope of the SUP Directive. Table 6-2 below provides this definition.

²⁶ COUNCIL DIRECTIVE of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01990L0385-20071011>

²⁷ COUNCIL DIRECTIVE 93/42/EEC of 14 June 1993, concerning medical devices: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01993L0042-20071011>

Table 6-2: Definition of 'medical device' provided by Council Directive 90/385/EEC and Council Directive 93/42/EEC

Descriptions provided by the SUP Directive
<p>Council Directive 90/385/EEC and Council Directive 93/42/EEC both define medical devices as follows:</p> <p>Article 1(2)(a): <i>"'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:</i></p> <ul style="list-style-type: none"> <i>— diagnosis, prevention, monitoring, treatment or alleviation of disease,</i> <i>— diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap,</i> <i>— investigation, replacement or modification of the anatomy or of a physiological process,</i> <i>— control of conception,</i> <p><i>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;"</i></p>

The EC guidance for the application of the Council Directive 93/42/EEC on Medical Devices²⁸ provides guidelines on the classification of medical devices for the purposes of risk assessment. No specific examples of straws used as medical devices are included within these guidelines. However, the specific definition of '*medical device*' from Council Directive 90/385/EEC and Council Directive 93/42/EEC (provided in Table 6-1 above) includes articles used specifically for "*alleviation of or compensation for an injury or handicap*". On that basis, where it is used by individuals who are medically unable to independently consume food or drink without one, a straw could fulfil the definition of a '*medical device*' (as provided). Products of this category would therefore be considered out of scope where used by individuals who require a straw to enable the independent consumption of food or drink (to be further clarified).

The following section provides further clarification on what are cutlery; plates; straws; stirrers under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and relevant requirements of the SUP Directive.

6.3 How to define single-use cutlery; plates; straws; and stirrers?

The following sections provide further clarification of the SUPD criteria for "**single-use cutlery; plates; straws; and stirrers**", by first distinguishing between single-use and multiple-use products (6.3.1) and then considering the product specific criteria (6.3.2).

²⁸ 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>

6.3.1 How to distinguish between single and multiple use cutlery; plates; straws?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether different types of cutlery; plates; straws; are considered as single-use as opposed to multiple-use should take into account its product design characteristics. As explained in section 1.3.1 on food containers, the likelihood of a product to become litter is entailed in these characteristics. These characteristics can be defined by the following criteria:

- **Reusable or refillable nature of the product:** A multiple use product is intentionally conceived, designed or placed on the market for refill or **reuse**. In other words, it is intended to be used several times (repeatedly) during its expected useful or functional life, without losing product functionality, physical capacity or quality.
- **Size, material composition and intended washing/ cleaning cycles:** A multiple use product has been purposely designed so that it can be used multiple times. Specific characteristics include **size** (i.e. the receptacle is sized to contain multiple portion servings), **material composition** (i.e. product is made from metal, china or a durable plastic) and **intended washing/ cleaning cycles** (i.e. product does not lose quality or structural integrity following multiple washing or cleaning cycles which are appropriate to maintain hygiene and food safety).

There are several examples of multiple-use alternative products to cutlery; plates; straws; stirrers available in Europe:

- **Washable**, non-plastic cutlery; plates; straws; stirrers, made of bamboo, metal, glass or china;
- **Washable** cutlery; plates; straws; stirrers, made of a durable plastic.

6.3.2 What product-specific definitions and criteria can be considered?

Cutlery typically refers to implements used for eating food^{29,30}. Plates typically refers to a flat, usually round, dish from which food is eaten or served^{31,32}. Straws typically refers to thin tubes used to suck liquid into the mouth^{33,34}. Stirrers (or beverage stirrers) typically refers to a small rod used for mixing drinks^{35,36}. When placed on the market, these products are primarily included within the following CPV codes³⁷: Disposable catering supplies (39222100-5); Disposable cutlery and plates (39222110-8).

As mentioned above, the following main criterion is provided by the SUP Directive to determine whether a single-use straw is included within its scope is an exception:

- Is not a medical device.

Table 6-3 summarises the general and product-specific criteria provided by the SUP Directive to define the types of cutlery; plates; straws; stirrers covered. Guidance is provided on how to interpret the general and product-specific criteria, along with illustrative examples on whether certain types of cutlery; plates; straws; stirrers are included or excluded under the SUP Directive in Table 6-4.

²⁹ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/cutlery>

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

³¹ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/plate> (A1)

³² Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/plate>

³³ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/straw> (C2)

³⁴ Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/straw> (2)

³⁵ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/swizzle-stick>

³⁶ Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/swizzle-stick>

³⁷ See reference 26

Table 6-3: Main criteria and guidance indicators to define single-use cutlery; plates; straws; stirrers in accordance with the SUP Directive

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<p>Plastic polymers used in cutlery; plates; straws; stirrers include polymers such as polyethylene terephthalate, polypropylene and expanded polystyrene. Guidance on how to determine whether a product is made wholly or partially of plastic is provided in Part B, Chapter 3, section 3.1.</p> <p>Cutlery; plates; straws; stirrers that are made entirely of bamboo, china, metal therefore fall outside the scope of the SUPD.</p>
	Contains plastic polymers which can function as a main structural component	<p>Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2. This classification is particularly relevant for some categories of plates. Where included, the plastic polymer(s) present should 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, making it liquid-proof or to ensure that the product complies with necessary safety or hygiene standards.</p>
	Exception for “ <i>natural polymers that not been chemically modified</i> ”	<p>See Part B, Chapter 3, section 3.3 for guidance on determining whether certain polymers are considered as plastic for the purposes of the SUP Directive.</p>
Single-use		<p>Reusable or refillable: The material thickness and intended ability to withstand multiple washing/ cleaning cycles can indicate whether this product has been purposely designed to be used repeatedly.</p> <p>Design characteristics: The size of some products (e.g. of plates) is indicative of intention for single-size portions only (also included in the product-specific criteria). The material type used can indicate whether a product of this type is suitable for multiple use.</p> <p>Cutlery; plates; straws; stirrers placed on the market that are intended to be just once before disposal are considered single-use. e.g. untreated paper plates or thin, non-durable plastic products would be considered to be</p>

		designed for single-use. Cutlery; plates; straws; stirrers made entirely of china, metal or durable plastic would fall outside the scope of the SUPD.
Product-specific criteria		Description and examples
Portion-size [Plate; Cutlery only]	Single-serve portion use	<p>Single-serve portion size would indicate that the product is intended to be used directly by only one or two people. Examples include adult and child-sized cutlery and plates.</p> <p>Conversely, the ability to include multiple portions on one platter therefore indicates that a platter is not intended for single-use. The large size of serving spoon or fork would indicate that a product is not intended for use in the direct consumption of food.</p>
Non-durable material	Not washable, durable	Single use products of this type would not be expected to withstand multiple appropriate washing/ cleaning cycles without losing quality or structural integrity. Cutlery; plates; straws; stirrers made entirely of china, metal or durable plastic would fall outside the scope of the SUPD
Not a medical device [Straw only]	Does not fall within scope of Council Directive 90/385/EEC or Council Directive 93/42/EECly indicated	Article 1(2)(a) of Council Directives 90/385/EEC and 93/42/EEC include within the definition of medical devices articles used for the alleviation of or compensation for an injury or handicap. 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' (to be further clarified).

Table 6-4: How are different types of cutlery; plates; straws; stirrers considered under the SUP Directive?

Types of cutlery; plates; straws; stirrers	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Portion-size	Non-durable material	Not a medical device	
Plastic cutlery; plates; straws; stirrers 	YES	YES	YES	YES	YES	INCLUDED
Non-plastic cutlery; plates; straws; stirrers <u>with</u> plastic liners / coatings 	YES	YES	YES	YES	YES	INCLUDED
Plastic straws attached / integral to drinks box 	YES	YES	YES	YES	YES	INCLUDED

Types of cutlery; plates; straws; stirrers	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Portion-size	Non-durable material	Not a medical device	
Non-plastic cutlery; plates; straws; stirrers <u>without</u> plastic liners / coatings 	NO	YES	YES	YES	YES	EXCLUDED Product does not contain plastic
Plastic multi-serve cutlery (e.g. serving utensils); plates (e.g. platters) 	YES	YES	NO	YES	YES	EXCLUDED Product not intended for single portion
Non-plastic, durable cutlery; plates; straws; stirrers 	YES	NO	YES	NO	YES	EXCLUDED Product not intended for single use
Durable plastic plates 	YES	NO	YES	NO	YES	EXCLUDED Product not intended for single use

Types of cutlery; plates; straws; stirrers	General criteria		Product-specific criteria			Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Portion-size	Non-durable material	Not a medical device	
Plastic straws provided for use as medical device	YES	YES	YES	YES	NO	EXCLUDED Product intended for use as medical device

6.4 How to differentiate between cutlery; plates; straws; stirrers and other product categories?

Annex Parts A(2), E(1), and G(1) excludes "beverage containers, plates and packets and wrappers containing food" from products that shall be included as "food containers" for the purpose of the SUP Directive. Indeed, in certain cases, the type of container including its shape and content may lead to uncertainty as to whether a product shall be classified as a "food container" or as another product category covered by the SUP Directive, namely plates. The section below provided a clarification for the differentiation of food containers and plates.

6.4.1 What are the key elements to consider in order to distinguish food containers from plates?

According to the definition provided earlier in the Guidelines, 'plates' are flat, usually round, 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".

Table 6-5: Illustrative example to differentiate food containers from plastic plates

Single-use plastic food container	Single-use plastic plate
Indicators signifying that the receptable is a food container: <ul style="list-style-type: none">• Receptacles such as boxes sold with or without a lid• Able to contain food• Receptacle usually sold with printed information regarding contents, ingredients and often a weight	Indicators signifying that the receptable is a plate: <ul style="list-style-type: none">• Usually round dish sold without a lid• Often flat or partially flat with a lip e.g. food sits on top• Printed information including contents, ingredients or weight are not usually provided



7. BALLOONS AND BALLOON STICKS

7.1 What are the product descriptions provided in the SUP Directive?

Balloons are addressed by Articles 8 and 10 of the SUP Directive but are not defined in either. Parts EII (2) and G(7) of the Annex do not provide definitions either but provide criteria for the understanding of balloons according to the SUP Directive. Similarly, no definition is provided for balloon sticks in Article 5, whereas Part B of the Annex provides criteria for the definition of balloon sticks according to the SUP Directive.

Table 7-1: Requirements and descriptions of balloons and balloon sticks in the SUPD

Requirements
<p>SUP balloons are subject to the following provisions:</p> <ul style="list-style-type: none"> Extended producer responsibility (Article 8) Awareness raising measures (Article 10) <p>SUP balloon sticks are subject to the following provisions:</p> <ul style="list-style-type: none"> Restrictions on placing on the market (Article 5)
Relevant product-specific descriptions
<p>Balloons:</p> <p>Annex Part EII(2): "Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers".</p> <p>Annex Part Part G(7): "Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers".</p> <p>Balloon sticks:</p> <p>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".</p>

7.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

According to Parts E.II (2) and G (7) of the Annex: "Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers" should be included in the provisions of the SUP Directive. According to Part B(6) of the Annex: "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" should be included in the provisions of the SUP Directive.

Where balloons are used for **industrial or professional applications**, neither the balloon nor the balloon stick attached to that balloon, would be covered by the SUP Directive.

The following section provides further clarification on what are balloons; balloon sticks under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and relevant requirements of the SUP Directive.

7.3 How to define single-use balloons and balloon sticks?

The sections below provide further clarification of the criteria of "**single-use balloons and balloon sticks**". They provide guidance on how to distinguish between single-use and multiple-use balloons and balloon sticks (7.3.1), as well as a more detailed description of the product criteria, including practical examples, and where relevant, any applicable product-specific exemptions (7.3.2).

7.3.1 How to distinguish between single and multiple use balloons and balloon sticks?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether different types of balloons and balloon sticks as single-use as opposed to multiple-use should take into account its product design characteristics. As explained in section 1.3.1 on food containers, the likelihood of a product to become litter is in the product design characteristics. These characteristics can be defined by the following criteria:

- **Reusable or refillable nature of the product:** A multiple use product is conceived, designed or placed on the market for refill or reuse. In other words, it is intended to be used several times (repeatedly) during its expected useful or functional life, without losing product functionality, physical capacity or quality. However, balloons, which are intended to be used several times (repeatedly) during their expected life span e.g. useful or functional life before final disposal, without losing product functionality, physical capacity or quality, can be considered multiple use, therefore falling outside the scope of the Directive
- **Size, material composition and other design characteristics:** A multiple use product has been purposely designed so that it can be used multiple times. Specific characteristics include size (i.e. product is sized for use by children) and material composition (i.e. the structural integrity of a balloon stick when bent). Material composition and thickness can indicate whether it has been purposely designed so that it can be used repeatedly. Additional design considerations for balloons include how the air is kept inside of the balloon (i.e. use of knot in the neck of a balloon) and whether it can be re-/de-inflated multiple times (i.e. use of a sealable valve).

Examples of plastic inflatable plastic balloons and balloon sticks intended for multiple are available in Europe:

- **Reusable**, plastic inflatable toys or inflatable personal floatation devices;
- **Reusable**, plastic balloon stands.

7.3.2 What product-specific definitions and criteria can be considered?

Balloon typically refers to a non-porous bag of light material that can be inflated with air or gas, used for decoration at parties or as a children's toy (refs). Balloon stick typically refers to a stick which is attached to air-filled balloons to support them to give an impression that it is floating³⁸. When placed

³⁸ Balloon stick definition derived from a report produced for Department for Environment, Food & Rural Affairs (Defra). A preliminary assessment of the economic impacts of a potential ban on plastic cutlery, plastic plates

on the market, these items are primarily included within the following CPV code³⁹: *Toy balloons and balls (37525000-4)*.

As mentioned above, the following main criterion is provided by the SUP Directive to determine whether products of this type are included within its scope is that it is intended for domestic use.

Table 7-2 summarises the main general and product-specific criteria provided by the SUP Directive to define the types of balloons; balloon sticks covered. Guidance is provided on how to interpret the general and product-specific criteria, along with illustrative examples on whether certain types of balloons; balloon sticks are included or excluded under the SUP Directive in Table 7-3.

The table below aims to provide further clarifications on criteria and indicators to be used to determine whether single-use balloons; balloon sticks are covered by SUP Directive or excluded.

Table 7-2: Main criteria and guidance indicators to define SUP balloons; balloon sticks




General criteria	Guidance indicators	Description and examples
Plastic product	Made wholly or partially of plastic	Guidance on how to determine whether a product is made wholly or partially of plastic is provided in Part B, Chapter 3, section 3.2. Balloon sticks that are made entirely of cardboard fall outside the scope of the Directive.
	Plastic polymers can function as a main structural component	Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2.
	Exception for " <i>natural polymers that have not been chemically modified</i> "	General Guidance on interpreting the exception for "which natural polymers that have not been chemically modified" is provided in Part B, Chapter 3, Section 3.3. As regards latex balloons, they do / do not qualify as plastic as they do / do not fall under this exception (to be further clarified).
Intended for single-use		Product design characteristics: <ul style="list-style-type: none"> Single use product characteristics of balloons include the need to tie a knot in neck in order to prevent air from escaping. Balloons placed on the market as toys are considered to be single use as they lose quality through repeated knotting and unknotting. Balloons purchased ready-filled with air or helium are also considered to be single-use due to the inability of the customer to refill these. Self-filling balloons (with integral





and plastic balloon sticks, 2018. Accessed online:
http://sciencesearch.defra.gov.uk/Document.aspx?Document=14419_3280DefraPlasticBansPCBFinal.pdf

³⁹ See reference 26

		<p>filling mechanism) are also considered to be single-use.</p> <ul style="list-style-type: none"> • Inflatable toys or personal safety equipment designed to be inflated and deflated multiple times via a (re)closable valve are considered to be multiple use. • The manufacture of balloon sticks from non-durable plastic which loses structural integrity when bent, or from cardboard or wood indicate that it has been designed for single use. • Balloon sticks intended for repeated use by professional decorators are considered to be multiple-use.
Product-specific criteria	Guidance indicators	Description and examples
Intended for domestic use	Point-of-sale	The product is sold directly to domestic consumers

Table 7-3: How are different types of balloons; balloon sticks considered under the SUP Directive?

Types of balloons; balloon sticks	General criteria		Product-specific criteria	Fulfilment of all general and product-specific criteria?
	Plastic	Single-use	Intended for domestic use	
Single-use latex balloons intended for domestic use 	YES	YES	YES	INCLUDED
Single-use mylar or foil balloons intended for domestic use 	YES	YES	YES	INCLUDED
Single-use plastic balloon sticks intended for domestic use 	YES	YES	YES	INCLUDED

Reusable, plastic, inflatable toys and 'selfie-frames' including resealable valve 	YES	NO	YES	EXCLUDED Product intended multiple use
Reusable, plastic balloon stands 	YES	NO	NO	EXCLUDED Product intended multiple use
Industrial balloons e.g. hot-air balloon, weather balloon 	YES	NO	NO	EXCLUDED Product intended for professional or industrial use
Balloons used for professional purpose e.g. professional balloon decoration 	YES	YES	NO	EXCLUDED Product intended for professional or industrial use

8. SANITARY TOWELS (PADS); TAMPONS; AND TAMPON APPLICATORS

8.1 What are the product descriptions provided in the SUP Directive?

Sanitary towels (pads), tampons and tampon applicators covered by the SUP Directive are **not** as such **defined** in the SUP Directive. Parts D and G to the SUP Directive provide some product-specific guidance and Recital 19 provides further reference to sanitary towels, tampons and tampon applicators, in the context of the need for measures to address the presence of hazardous chemical substances in the interest of women's health.

Table 8-1 provides an overview of the requirements for single-use plastic sanitary towels, tampons and tampon applicators found in the SUP Directive.

Table 8-1: Requirements and information on sanitary towels (pads), tampons and tampon applicators in the SUP Directive

Requirements
Sanitary towels (pads), tampons and tampon applicators covered by the SUPD are subject to the following provisions: <ul style="list-style-type: none">• Marking requirements (Article 7)• Awareness raising measures (Article 10)

The following section provides further clarification on what is a "*sanitary towels (pads), tampons and tampon applicators*" under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and requirements of the SUP Directive.

8.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

There are no product-specific exemptions explicitly laid down in SUP Directive for sanitary towels (pads), tampons and tampon applicators.

8.3 How to define single-use sanitary towels, tampons and tampon applicators?

The following sections provide further clarification on the SUP Directive criteria for "**single-use sanitary towels, tampons and tampon applicators**", by first distinguishing between single-use and multiple-use sanitary towels, tampons and tampon applicators (8.3.1) and then considering the product specific criteria (8.3.2).

8.3.1 How to distinguish between single and multiple-use sanitary towels; tampons; and tampon applicators?

Single-use plastic tampons and sanitary towels are designed to be used **only once**, for a period of time of **4 to 8 hours** in most cases (up to 12 hours in some cases). They are disposed of after removal from underwear (sanitary towels) or vagina (tampons). Single-use tampon applicators are

also used **only once**, to insert the tampon into the vagina during menstruation. The conventional tampon applicator is disposed of once it has served this unique purpose. This **single rotation** defines these products as single-use, regardless of the amounts of fluids absorbed during usage. Finally, once SUP tampons and sanitary towels have been removed, they are intended to be disposed of as the washing process would degrade the overall structure and performance of the product.

8.3.2 Product specific criteria

There are no specific criteria explicitly laid down in SUP Directive for this product category. However, some clarifications on how to interpret the scope of "*sanitary towels (pads), tampons and tampon applicators*" under the SUP Directive are provided below.

Single-use sanitary towels, tampons and tampon applicators, in the context of the SUP Directive can be defined as hygiene products containing plastics, which are used to absorb and retain fluid (mainly menstruation) and intended to be used only once before disposal^{40,41}.

SUP 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 SUP Directive, sanitary towels refer not only to pads or napkins but also **panty liners** as these products fulfil the criteria of a single-use plastic product. The main difference between panty liners and sanitary pads lies in the performance and the thickness of both products. **Sanitary pads**, which are typically thicker (13-17 mm), are generally used to absorb high volumes of fluid e.g. absorbency for daily vaginal discharge, light menstrual flow, post-intercourse discharge, urinary incontinence, spotting etc. Panty liners, on the other hand are thinner (2-3 mm) and intended to absorb lower volumes of fluid. Both products are made of four principle layers, composed of similar materials, and have the same "*tendency to become marine litter*" in 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 fibres⁴². 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.

8.4 What product-specific definitions and criteria should be considered?

Table 8-2 summarises the main general and product-specific criteria provided by the SUP Directive to define the types of sanitary towels, tampons and tampon applicators covered. Guidance is provided on how to interpret the general and product-specific criteria, along with examples on whether certain types of sanitary towels, tampons and tampon applicators are included or excluded under the SUP Directive in Table 8-3.

Table 8-2: Main criteria of the SUPD and guidance to define SUP sanitary towels, tampons and tampon applicators



⁴⁰ National Geographic Society (September 6, 2019) Written by Alejandra Borunda. "*The Story of Plastic: How tampons and pads became so unsustainable*" Accessible at: www.nationalgeographic.com/environment/2019/09/how-tampons-pads-became-unsustainable-story-of-plastic/

⁴¹ Friends of the Earth (October 15, 2018) "*Plastic periods: menstrual products and plastic pollution*" Accessible at: <https://friendsoftheearth.uk/plastics/plastic-periods-menstrual-products-and-plastic-pollution>

⁴² 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>

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<ul style="list-style-type: none"> • Presence of plastic in the product: sanitary pads including panty liners, tampons and tampon applicators wholly or partly made of plastic are covered by the SUP Directive. • Only sanitary pads including panty liners, and tampons that are entirely made of non-plastic material fall outside the scope of the SUPD. However, non-plastic alternatives for sanitary towels are not currently known.
	Contains polymers which can function as a main structural component	Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2.
	Exception for " <i>natural polymers that have not been chemically modified</i> "	For sanitary towels and tampons containing regenerated cellulosic fibres (man-made cellulose fibres), Part B, Chapter 3, section 3.3 provide guidance to determine whether the fibre in question fulfils the criteria for exception as " <i>natural polymers that have not been chemically modified</i> ".
Single-use		Product characteristics of sanitary towels, tampons and tampon applicators intended for single-use include for example when there is no potential to wash and reuse them multiple times, as the washing processes degrade the structure and function of the product. Part B, Chapter 4 provide additional guidance on distinguishing between single versus multiple-use products. However, reusable (washable) sanitary towels, sanitary pads or menstrual pads are already available.

Table 8-3: How are different types of sanitary towels, tampons and tampon applicators considered under the SUP Directive?

Type of sanitary towels, tampons and tampon applicators	General criteria		Fulfilment of relevant general and product-specific criteria?
	Plastic product	Single-use	
<p>Sanitary towel, tampon and tampon applicator which contains synthetic fibres and/or regenerated cellulose fibres considered as plastic for the purposes of the SUP Directive (see Part B, Chapter 3)</p> <p>All categories of sanitary towels regardless of the shape, size, thicknesses and absorbency level containing plastics and intended to be disposed of after use e.g. panty liner, regular or medium flow pads, heavy flow pads, overnight pads.</p> 	YES	YES	INCLUDED
<p>Sanitary towels (including panty liners), or tampons which do <u>not</u> contain plastic</p>  <p>Product label mentions "100% organic cotton pads/tampons"</p>	NO	YES	EXCLUDED: No presence of plastic in the product
<p>Reusable (washable) menstrual products</p> <p>Washable cloth pads Reusable tampon applicator Reusable menstrual cup (alternative to tampon)</p>	<p>NO/Washable pads that do not contain plastic</p> <p>YES/Reusable tampons and applicators may contain plastic</p>	NO	EXCLUDED: Products are not single-use

Type of sanitary towels, tampons and tampon applicators	General criteria		Fulfilment of relevant general and product-specific criteria?
	Plastic product	Single-use	
  			

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9. WET WIPES

9.1 What are the product descriptions provided in the SUP Directive?

Wet wipes are defined in Annex Parts D, E and G of the SUP Directive as follows: “*pre-wetted personal care and domestic wipes*”.

Recitals 12 and 22 include additional explanations regarding this product category. Table 9-1 provides an overview of the requirements and relevant descriptions of single-use plastic wet wipes found in the SUP Directive.

Table 9-1: Requirements and descriptions of wet wipes in the SUP Directive

Requirements
Wet wipes covered by the SUPD are subject to the following provisions: <ul style="list-style-type: none">• Marking requirements (Article 7)• EPR requirements (Article 8(3)) to cover costs of awareness raising; cleaning up litter; data gathering and reporting• Awareness raising measures (Article 10)
Descriptions provided by the SUP Directive
Annex Parts D, E and G: “ <i>Wet wipes, i.e. pre-wetted personal care and domestic wipes</i> ” Recital 12: “ <i>Wet wipes for personal care and domestic use should also be within the scope of this Directive, whereas industrial wet wipes should be excluded.</i> ”

9.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

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.*”

Not explicitly mentioned in the SUP Directive is the inclusion of professional wipes other than industrial wipes, such as **medical/healthcare wipes**. Although not considered as industrial wipes, medical/healthcare wipes intended for professional use do not fall within the domestic use or personal care wet wipe categories: they are essentially used by professionals such as healthcare workers in medical premises, are treated as clinical waste, and are disposed of by incineration or other approved disposal methods. As such, medical/healthcare wipes intended for professional use are not included in the scope of the SUP Directive.

Further, the inclusion of man-made cellulosic fibres used in the nonwoven fabric under the scope of the SUP Directive depends on whether the fibres are made of “*natural polymers that have not been chemically modified*”. Whether these fibres are considered plastic for the purposes of the SUP Directive is explained in more detail in Part B, Chapter 3.

The following section provides further clarification on what a “*wet wipe*” is under the SUP Directive. Although the examples included are non-exhaustive, they serve to provide additional guidance on how to interpret the definitions and relevant requirements of the SUP Directive.

9.3 How to define single-use wet wipes?

The following sections provide further clarification on the SUP Directive criteria for “**single-use wet wipes**”, by first distinguishing between single-use and multiple-use wet wipes (9.3.1) and then considering the product specific criteria (9.3.2).

9.3.1 How to distinguish between single and multiple-use wet wipes?

The distinction between single and multiple-use wet wipes is relatively straightforward as they are typically placed on the market to be intended to be used just once before disposal. There are nonetheless several examples of multiple-use, (non-plastic) alternative products to wet wipes available in Europe:

- **Washable** cloth towels or handkerchiefs, usually made of bamboo or cotton, and which are designed to allow for **re-use** after washing;
- **Sponges**, which are intended to be washed with cold water after use, allowing for re-use; Cotton pads or balls used in combination with lotions e.g. soaps, anti-bacterial gels, or make-up removal creams, which could be applied for make-up removal⁴³.

9.3.2 Product specific criteria

A wet wipe typically refers to a small piece of disposable moistened cloth or paper, which is intended to be used for cleaning purposes e.g. personal hygiene and household cleaning.^{44, 45} As mentioned above, the following main criteria are provided by the SUP Directive to determine whether a single-use wet wipe is included within its scope:

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

The following table provides a **non-exhaustive** list of the wet wipe categories covered or excluded from SUP Directive^{46,47}:

Table 9-2: Non-exhaustive list of wet wipes categories covered or excluded from SUP Directive

⁴³ Rezero, Zero Waste Europe, Reloop. (2019, November). *The environmental & economic costs of single-use menstrual products, baby nappies & wet wipes*. Retrieved from: https://zerowasteurope.eu/wp-content/uploads/2019/12/bffp_single_use_menstrual_products_baby_nappies_and_wet_wipes.pdf

⁴⁴ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/wet-wipe>

⁴⁵ Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/wet-wipe>

⁴⁶ EDANA. (2019). *EDANA input to scope of the Single-Use Plastics Directive*.

⁴⁷ EDANA. (n.d). *Industrial wipes*. Retrieved from: www.edana.org/nw-related-industry/nonwovens-in-daily-life/wipes/industrial-wipes

Product category: wet wipes	
Covered by SUP Directive	Personal care use <ul style="list-style-type: none"> Baby wipes Facial/cosmetic wipes (including toddler face cleaning wipes) Intimate care wipes Wet toilet paper
	Domestic use <ul style="list-style-type: none"> Wet cleaning wipes (hard surface, floor, bathroom, kitchen, furniture) Disinfection wipes (domestic use) Glass/screen cleaning wipes Spectacle cleaning wipes Car wet wipes Furniture wet wipes Pet wet wipes
Excluded from SUP Directive	Industrial use <ul style="list-style-type: none"> Automotive wipes (surface preparation, polishing, oil and chemical absorbents) intended for industrial or other professional use Electronic and computer industry wipes (dust removal, delicate and intricate cleaning wipes) intended for industrial or other professional use Food industry wipes (machine cleaning, maintenance, fluid absorbent, hand cleaning wipes) intended for industrial or other professional use Janitorial wipes (polishing, equipment cleaning and maintenance, wet floor cleaning, dust removal) intended for industrial or other 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 other professional use Printing industry wipes (machine cleaning, maintenance, fluid absorbent, hand cleaning wipes) intended for industrial or other professional use Transportation industry wipes (vehicle cleaning and maintenance, window cleaning wipes) intended for industrial or other professional use
	Medical/healthcare use <ul style="list-style-type: none"> Hospital and community disinfectant wipes intended for industrial or other professional use Hospital grade disinfectant wipes intended for industrial or other professional use Patient care wipes intended for industrial or other professional use

9.4 What product-specific definitions and criteria should be considered?

Table 9-3 summarises the main general and product-specific criteria provided by the SUP Directive to define the types of wet wipes covered. 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 SUP Directive in Table 9-4.

Table 9-3: Main criteria of the SUPD and guidance to define SUP wet wipes

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	Presence of plastic in the product Wet wipes that are made entirely of non plastic material (such as cotton) and do not contain plastic fall outside the scope of the SUP Directive.
	Contains plastic polymers which can function as a main structural component	Plastic polymers used in wet wipes include polyethylene and polypropylene. Guidance on how to determine main structural component is provided in Part B, Chapter 3, section 3.2.

	Exception for <i>"natural polymers that not been chemically modified"</i>	For wet wipes containing regenerated cellulosic fibres (man-made cellulose fibres), Part B Chapter 3, section 3.3 provides guidance to determine whether the fibre in question is considered as plastic for the purposes of the SUP Directive.
Single-use		Product characteristics indicating single-use include the nature of packaging. For example, it is not possible or very difficult to reintroduce the wipe back into the package after use. Other product characteristics include product labelling information e.g. written or visual instructions indicating single-use (i.e. disposal after a single use).
Product-specific criteria		Description and examples
Pre-wetted	Final product composition	Pre-wetted wipes contain an impregnation liquid which has been added to the wipe before sale. Dry wipes are outside of the scope of the SUP Directive.
Personal care and domestic use	Intended use	<p>The following guidance provide additional clarifications on whether the wet wipe is intended for personal care or domestic use:</p> <ul style="list-style-type: none"> • Personal care use wipe: a wipe 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 wipes, intimate care wipes, etc. • Domestic use wipe (also referred to as a household care usage wipe): a wipe intended to be used in domestic premises. These include household cleaning purposes wipes e.g. kitchen wipes, bathroom cleaning wipes, car wet wipes, spectacle cleaning wipes, etc. • Industrial use wet wipes are explicitly excluded from the scope SUP Directive (Recital 12).

Table 9-4: How are different types of wet wipes considered under the SUP Directive?

Type of wet wipes	General criteria		Product-specific criteria		Fulfilment of relevant general and product-specific criteria?
	Plastic product	Single-use	Pre-wetted	Personal care and domestic use	
Wipe which contains synthetic fibres and/or regenerated cellulose fibres considered as plastic for the purposes of the SUP Directive (see Part B chapter 3)	YES	YES	YES	YES	INCLUDED
Plastic-free wet wipe (e.g. "Plastic free" written on packaging)	NO	YES	YES	YES	EXCLUDED: Product is not wholly or partially made of plastic
Pre-wetted wipe (e.g. "Pre-moistened towelettes" or "Pre-wetted" written on packaging)	YES	YES	YES	YES	INCLUDED
Dry wipe (e.g. "Skin cleansing dry wipes" written on packaging)	YES	YES	NO	YES	EXCLUDED: Product is not "pre-wetted"
Personal care use wet wipe (e.g. "Makeup wet wipes" or "Baby wipes" written on packaging)	YES	YES	YES	YES	INCLUDED
Domestic use wet wipe (e.g. "Multipurpose cleaning wipe" or "Car board wipes" written on packaging)	YES	YES	YES	YES	INCLUDED
Medical/healthcare or industrial use wet wipe intended for professional or industrial use (e.g. "Patient care wet wipe" or "Medical wipes" written on packaging)	YES	YES	YES	NO	EXCLUDED: Product is not intended for personal or domestic use

10. TOBACCO PRODUCTS WITH FILTERS; FILTERS MARKETED FOR USE IN COMBINATION WITH TOBACCO PRODUCTS

10.1 What are the product descriptions provided in the SUP Directive?

Tobacco products with filters, and filters marketed for use in combination with tobacco products, are defined in Article 3(18) of the SUP 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"*.

According to Annex Parts D (3), E III and G (5) of the SUP Directive this product category is defined as: *"Tobacco products with filters and filters marketed for use in combination with tobacco products"*.

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

Table 10-1: Requirements and descriptions of tobacco products with filters, and filters, in the SUP Directive

Requirements
<p>Tobacco products with filters and filters markets for use in combination with tobacco products are subject to the following provisions:</p> <ul style="list-style-type: none"> • Marking requirements (Article 7) • Establishment of Extended producer responsibility (Article 8(3)) • Taking measures to inform consumers and to incentivise responsible consumer behaviour (Article 10)
Relevant product-specific descriptions
<p>Article 3 (18) refers to <i>"tobacco products' as defined in point (4) of Article 2 of Directive 2014/40/EU"</i>.</p> <p>Annex Parts D (3), E III and G (5) describe "tobacco products" as <i>"Tobacco products with filters and filters marketed for use in combination with tobacco products"</i>.</p> <p>Point 4 of Article 2 of Directive 2014/40/EU, defines "tobacco products" as follows:</p> <p><i>"tobacco products' means products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not;"</i>.</p>

10.2 Are there any product-specific exemptions explicitly laid out in the SUP Directive?

There are no product-specific exemptions explicitly laid down in SUP Directive in relation to tobacco products with filters, and filters marketed for use in combination with tobacco products.

10.3 How to define single-use tobacco products with filters and filters marketed for use in combination with tobacco products?

The following sections provide further clarification of the SUP Directive criteria for **"tobacco products with filters and filters marketed for use in combination with tobacco products"**, by first distinguishing single-use and multiple-use tobacco products with filters and filters marketed for use with tobacco products (10.3.1), and then considering the product specific criteria (10.3.2).

10.3.1 How to distinguish between single and multiple-use tobacco products with filters, and filters marketed for use in combination with tobacco products?

Based on the guidance provided in Part B, Chapter 4, the factors that can help to define whether a tobacco product with a filter, or a filter marketed for use in combination with tobacco products, is considered as single-use as opposed to multiple-use include its size or volume and product design characteristics. As explained in section 1.3.1 on food containers, the likelihood of a product to become litter is entailed in the criteria on volume or size and product design characteristics.

In relation to both the volume or size and the product design characteristics, the majority of tobacco products with filters and filters marketed for use in combination with tobacco products are intended to be used just once before disposal. The tobacco product is burned during use, and the remaining filter component discarded. Some multiple-use plastic filters do exist, which may be used 3-6 times before disposal (see example in Table 10-3 below). The possibility to use multiple-use filters may increase if future innovations are made in this area, allowing consumers of filterless or hand-rolled cigarettes a choice between single and multiple-use products.

10.3.2 What product-specific definitions and criteria can be considered?

The main product-specific criterion to determine whether a tobacco product with filter, or filter, is considered as a SUP product is provided in Article 3(18) (definition of a tobacco product) and Annex Parts D(3), E III and G(5):

- A tobacco product⁴⁸ with a filter or a filter marketed for use in combination with tobacco products

Table 10-2 summarises the main general and product-specific criteria provided by the SUP Directive to define the types of tobacco products with a filter or filters marketed for use with tobacco products covered. Guidance is provided on how to interpret the general and product-specific criteria, along with 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 SUP Directive in Table 10-3.




⁴⁸ In line with the definition in point (4) of Article 2 of Directive 2014/40/EU, i.e. *"tobacco products' means products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not"*

Table 10-2 Main criteria of the SUPD and guidance to define SUP tobacco products with a filter or filters marketed for use with tobacco products

General criteria		Description and examples
Plastic product	Made wholly or partially of plastic	<p>Presence of plastic in the product.</p> <p>Tobacco products with filters or filters marketed for use in combination with tobacco products that are made entirely of non-plastic materials fall outside the scope of the SUP Directive.</p>
	Contains plastic polymers which can function as a main structural component	Guidance on how to determine main structural component is provided in Part B, Chapter 3.
	Exception for <i>"natural polymers that not been chemically modified"</i>	Tobacco products with filters or filters marketed for use in combination with tobacco products containing cellulose acetate are deemed to constitute a chemically modified polymer and fall within the scope of the SUP Directive. Part B Chapter 3, section 3.3 provides further guidance related to understanding the exception for <i>"natural polymers that have not been chemically modified"</i> .
Single-use		Product design characteristics: The product is not intended for multiple use
Product-specific criteria	Guidance indicators	Description and examples
Tobacco product with filter or filter marketed for use in combination with tobacco products	Composition of product	<ul style="list-style-type: none"> Product is a tobacco product (as defined in Point 4 of Article 2 of Directive 2014/40/EU, i.e. <i>"products that can be consumed and consist, even partly, of tobacco, whether genetically modified or not"</i>) containing 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

Table 10-3: How are different types of tobacco products with filters and filters marketed for use in combination with tobacco products considered under the SUP Directive?

Type of tobacco product or filter	General criteria		Product-specific criteria	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 	YES	YES	YES	INCLUDED
Separate single-use filters 	YES	YES	YES	INCLUDED
Separate multi-use filters	YES	NO	YES	EXCLUDED

Type of tobacco product or filter	General criteria		Product-specific criteria	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	
				Filter is intended for multiple use
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
Loose tobacco e.g. for use in a pipe or hand-rolled cigarette 	NO	YES	NO	EXCLUDED Product is not made wholly or partly of plastic; product does not contain a filter

