

17 April 2020

out of scope

European Commission
Directorate General for Environment
Avenue de Beaulieu 9,
1160, Brussels

Freshfel Europe response to draft SUP Directive (EU) 2019/904 Member State Guidelines 'Identifying and describing the products covered by the SUP Directive'

Dear **out of scope**,

On 3 April 2020 Freshfel Europe, the European Fresh Produce Association, participated in the webinar on guidance on 'Identifying and Describing the Products Covered by the Single-Use Plastics Directive' (EU) 2019/904 (from hereon SUPD) in the context of the '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'. Freshfel Europe would like to thank the European Commission and its contracted agencies for organising this constructive online workshop.

Following the workshop, Freshfel Europe would like to provide the below comments on the draft document 'Identifying and Describing the Products Covered by the SUP Directive' (from hereon guidelines) in relation to fresh fruit and vegetable packaging covered by the SUPD. We have categorised these by general comments and comments relating to the general and product specific criteria outlined in the guidelines.

General remarks on the draft SUPD guidelines

- Freshfel Europe would like to stress the importance of consistency throughout all parts of the guidelines. Wording must be consistent in all text, including that in tables and figures.
- Freshfel Europe would like to underline that consistency is especially significant for wording related to single-sized portions. We would like to request that it is emphasised clearly in the guidelines that a single-sized portion is for one person only, not one to two people, nor one or two people. A clear definition in the guidelines in conjunction with consistency of wording throughout the document is necessary for precise interpretation of the guidelines.

Part C 'Food container' product specific criteria – 'Intended for immediate consumption'

- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 11 the guidance indicator description on 'Nature of foodstuff contained' states "Foodstuffs that do not require specific storage conditions, however are intended to be consumed immediately: salads, cherry tomatoes, baby carrots". Freshfel Europe disagrees

with this wording, in particular the specific products mentioned as the examples. The example fruit and vegetable products cited in this sentence do indeed require specific storage conditions.

Freshfel Europe would like to underline the storage condition requirements for specific products, which are minimally processed (peeled, cut, cleaned, etc.), such as 'meal salads', 'fruit salads' and 'baby carrots' (even for packages of single portions). In most situations such products must be stored in certain temperature facilities. Temperature control is important in order to preserve the shelf life and to meet microbiological requirements set by the European Commission. As per Recital 14 of the SUPD measures undertaken by Member States should not compromise "food hygiene, food safety, good hygiene practices, good manufacturing practices, consumer information, or traceability requirements set out in Regulations (EC) No 178/2002 (14), (EC) No 852/2004 (15) and (EC) No 1935/2004 (16) of the European Parliament and of the Council and other relevant legislation related to food safety, hygiene and labeling".

- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 11 the guidance indicator description on 'Point-of-sale' states "The product is usually sold on-the-spot or as take-away e.g. fast-food restaurants, food trucks, etc.". We would like to request further clarification on which types of point-of-sale outlets are included. For example, does this also include vending machines and small convenience-style retail outlets such as petrol station convenience stores and small supermarkets?
- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 11 the guidance indicator description on 'Nature of packaging' states that "In cases of packaged foodstuff, the expiration date is below 3 days." We would like to request further clarification that this specification includes expiration dates of or below 3 days, or whether this refers to expiration dates of or below 2 days. Freshfel Europe assumes that foodstuff with expiration dates above this stated period do not meet this guidance indicator, however clear guidance on this would be preferable in the description.

Part C 'Food container' product specific criteria – ready to be consumed without any further preparation

- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 12 one of the guidance indicators states 'No need to wash, cut, peel or slice the product'. Freshfel Europe supports the inclusion of 'washing' in the definition of further preparation, especially in regards to the widely accepted recommendation to wash fresh fruit and vegetables before consumption.

Freshfel Europe agrees with the statement made by the European Commission's contracted agencies during the webinar on the 3 April 2020, saying that consumers assume that all fresh fruit and vegetable products need to be washed before consumption unless otherwise stated on the product packaging. This is indeed correct and reflected in two international guidelines relating to food hygiene and food safety of fresh fruit and vegetable products:

- 1) According to WHO 'Five Keys to Safer Food Manual' (available [here](#)) for safe food consumption consumers should "Wash fruits and vegetables, especially if eaten raw".
- 2) According to the 'Code of Hygienic Practice for Fresh Fruits and Vegetables (CAC/RCP 53-2003) used as a reference guidance by FAO and CODEX:
 - p26 Annex III on Leafy Greens – Section 9.4 Consumer Education:

- “Consumer information on handling fresh leafy vegetables safely should cover: Washing leafy vegetables as appropriate with potable running water. Products labeled washed and ready-to-eat should not be rewashed.”
 - p36 Annex IV on Melons – Section 9.4 Consumer Education:
“Consumer information on handling melons safely should cover: Washing and/or scrubbing whole melons, particularly the netted varieties, (i.e. cantaloupes) using potable running water and where appropriate, disinfectant solutions. Pre-cut products should not be rewashed.”
 - p43 Annex V on Berries – Section 9.4 Consumer Education:
“Consumer information on handling berries safely should cover: The need to wash berries with potable water before consuming.”
- In regards to washing related to further preparation, Freshfel Europe would like to request further delineation of the description provided in regards to washing of products in Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive. We would like to request the inclusion of an additional bullet point in the description to the guidance indicator on page 12 ‘No need to wash, cut, peel or slice the product’ stating “There is no need to wash the foodstuff before consumption as the product packaging indicates that the foodstuff is a ‘ready-to-eat food’”.

‘Ready-to-eat food’ means food intended by the producer or the manufacturer for direct human consumption without the need for cooking or other processing effective to eliminate or reduce to an acceptable level micro-organisms of concern (Regulation (EC) No. 2073/2005). The products are labeled as ‘ready-to-eat’, ‘ready to use’, ‘washed’ and similar, to indicate to the consumer that the product does not need to be washed or otherwise prepared to be eaten. The label also mentions ‘best before date’, storage advice (*temperature indication*), list of ingredients (*if applicable*), net quantity and nutrition declaration.

This further delineation is already stipulated in Table 1-3: How are different types of food containers considered under the SUP Directive? on page 19 with the wording “Plastic food container containing vegetables or fruit that require cutting, slicing, peeling or washing (unless indicated otherwise in the container)”. Freshfel Europe would like to request that the wording in this Table is consistent with the one in the guidance indicator description in Table 1-2.

- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 12 the description for the guidance indicator ‘No need to wash, cut, peel or slice the product’ mentions as examples “pre-washed salads, certain fruits or sliced cheese and ham”. As per our above request for the inclusion of the wording ‘ready-to-eat food’, we would like request that this wording is amended accordingly to “...such as in the case of ‘ready-to-eat food’”. The current inclusion in this sentence of “pre-washed salads, certain fruits” is not clear or specific enough and invites lack of harmonisation of interpretation.
- In Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 12 the description for the guidance indicator ‘No need to wash, cut, peel or slice the product’ states “There is no need to wash, slice or cut the foodstuff before consumption...”. To ensure consistency in wording with the guidance indicator, Freshfel Europe would like to request the addition of ‘peel’ in the description, so that the description instead reads “There is no need to wash, cut, peel or slice the foodstuff...”.

Part C 'Food container' product specific criteria – portion size

- When defining volume and size specifications regarding products without energy value, calorific value or portion sizes, Part C page 9 states “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.” Freshfel Europe would like to emphasise the need for further clarification in the guidelines on this aspect as acting on ‘common sense’ can lead to many different subjective interpretations of a single product depending on cultural or personal preference. This is especially true for fresh fruit and vegetable products, which do not display such information, and in particular those containing multiple items. This document should be inclusive for Member State’s good understanding of the SUPD and not leave elements to interpretation.
- Further to the point above, Freshfel Europe would like to request the addition of further clarification in Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on page 12 on the description of general criteria ‘Portion-size’. We would like to request the addition of further clarification in the guidelines for the following products:
 - Whole fruit or vegetable products such as kiwifruit, mangoes, avocados, tomatoes, peppers, apples and pears, are often sold in pairs (two products) in food containers. To avoid misinterpretation we would like to request additional clarification stating that whole fresh fruit and vegetables when sold in such a way are not considered a single-serve portion.
 - Small multi-item fruit or vegetable products sold by weight, such as cherry/grape tomatoes, baby peppers, baby carrots, baby cucumbers, berries (all varieties), kiwi berries, small-sized apples and cauliflower pieces, are frequently sold in food containers. We would like to highlight that for these products the weight per single-serve portion size highly varies depending on the specific product and variety in question. It is therefore extremely difficult to define a single-serve portion size for this group of products. As the current SUPD and guidelines are written, a single-serve portion size for these products is left open to wide interpretation. This is especially true considering that a single-serve portion size of fruit and vegetables highly varies from one Member State to another in their national nutrition guidelines, which ranges from 80g up to 250g. Freshfel Europe believes this will lead to a lack of harmonisation across Member States for the packaging of these products.
- Freshfel Europe would like to draw the European Commission’s attention to the inconsistency of wording in Part C Table 1-2: Main criteria and guidance indicators to define SUP food containers for the purposes of the SUP Directive on the description of general criteria ‘Portion-size’ on page 12. Here it states that “Single-sized portion indicates that the product is intended to be consumed by one or two people, directly from the receptacle”. The common interpretation of the word ‘single’ is one. In the context of this document this should mean a portion size for one person, not more than one person (including for two people or for three people). Freshfel Europe would like to request that to avoid misinterpretation of the guidance indicator for portion-size that this text be amended to “...to be consumed by one person, directly from the receptacle”.

Part C 'Packets and wrappers' product specific criteria – ready to be consumed without any further preparation

- In Part C Table 3-2: Main criteria of the SUPD and guidance to define SUP packets and wrappers on page 53 the description for the guidance indicator 'Nature of foodstuff contained' states "There is no need to wash, slice, or cut the foodstuff before consumption (eg. pre-prepared fruit for snacking)". We would like to request further delineation of the description provided to include peeling as per the description for the same product specific criteria for food containers. Freshfel Europe requests that the description is amended to "There is no need to wash, cut, peel or slice the foodstuff before consumption (eg. pre-prepared fruit for snacking)".
- In Part C Table 3-2: Main criteria of the SUPD and guidance to define SUP packets and wrappers on page 53 the description for the guidance indicator 'Nature of foodstuff contained' states "There is no need to wash, slice, or cut the foodstuff before consumption (eg. pre-prepared fruit for snacking)". We would like to request further delineation of the description provided in regards to washing of products. We would like to request the inclusion of an additional bullet point in the description to this guidance indicator stating "There is no need to wash the foodstuff before consumption as the product packaging indicates that the foodstuff is a 'ready-to-eat food'".

Part C Distinguishing packets and wrappers and lightweight plastic carrier bags

- Freshfel Europe would like to raise the attention of the European Commission to packaging products used in the fresh fruit and vegetable sector that comprise of plastic open bags (without a closing mechanism). These often contain bunches of grapes or herbs in a substrate pot. Freshfel Europe would like to request clarification in the guidelines whether this packaging product type falls under packets and wrappers or lightweight plastic carrier bags.

Furthermore, Freshfel Europe would like to remind the European Commission that Member States along with actors in the European fresh fruit and vegetable supply chain are continuing efforts to achieve increased at-home and out-of-home consumption of fruit and vegetables, such as through increasing the availability of a diverse range of products and varied portion sizes for consumers to suit their changing lifestyles. These efforts aim to stimulate the current average European consumption of fruit and vegetables, which is 348g per capita per day and which is below the daily minimum 400g recommendation by the WHO. Freshfel Europe hopes that the SUPD and its transposition into national law will not hamper or impede these efforts, which are vital for the good health of European consumers.

Freshfel Europe acknowledges that there is an extremely diverse range of products in the fresh fruit and vegetable category, therefore we remain at your disposal if you have any questions or require further information about any of our above concerns or specific products.

Thank you very much for your assistance and we look forward to reading the final guidelines document.

Kind regards,

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Freshfel Europe

EUROPEAN FRESH PRODUCE ASSOCIATION A.I.S.B.L

Rue de Trèves 49-51, bte 8 - 1040 Brussels - Belgium Tel: out of scope
e-mail: info@freshfel.org - www.freshfel.org - www.freshquality.org - www.freshcongress.com - www.enjoyfresh.eu

Page 5