RAMBØLL

ENVIRONMENT
& HEALTH

[redacted]

03.04.2020

[redacted]

Registered stakeholders: see Annex I

[redacted]

1 Introduction

The European Commission (hereafter the "Commission") welcomed all participants and reminded them of the webinar's main objective: collect stakeholder feedback on the draft guidelines prepared by the contracting team led by Ramboll and shared with confirmed participants on April 1st, 2020. Due to the current COVID-19 crisis, it was decided to replace a physical meeting in Brussels with an on-line webinar.

The Commission also reminded participants that the contents presented in the slides and in the draft guidelines do not reflect the position of DG Environment. Stakeholders will be able to submit their written comments on the draft guidelines until Friday April 17th, 2020

The Commission has called upon experts from Member States to provide feedback on the draft guidelines. A video conference meeting with Member States was held on March 11th, 2020 as the starting point of a series of meetings taking place in relation to the work carried out 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*". Eleven Member States and one EEA country participated in the March 11th meeting, and comments were received from seven EU Member States and from one EEA Member State. In regard to to Work Package (WP) 1 and the draft guidelines, questions were raised on definitions, namely the definition of plastic, natural polymers, chemical modification, and main structural components. Some clarification was also requested on specific product groups; namely food containers, cups for beverages, beverage containers, wet wipes, and sanitary towels.

The next meeting with Member State experts is scheduled for April 24th, 2020. Additional meetings with Member States are also planned in May and June, and possibly in July.

Following a question from a stakeholder, it was highlighted that the Guidelines as such is not an implementing act. Therefore, the final content will be decided by the Commission. It was further noted that the timeline set by the SUP Directive will be respected.

Two sets of presentations were prepared by the project team. These are part of the minutes of the workshop and provided as a separate pdf-file:

(1) Welcome and introduction, background and objectives and plenary session (presentations and discussion on general terms and definitions); and

(2) Product-specific definitions (presentations and discussion on product-specific terms and definitions).

1.1 Webinar agenda

The project team summarised the webinar agenda (see Figure 1 below) and presented the study objectives, the aim of WP 1 and the expected outcomes of the workshop.

Time	Agenda item
9:00 – 9:10	**WELCOME AND INTRODUCTION** ▪ Summary of March 11 MS expert group meeting
9:10 – 9:30	**BACKGROUND AND OBJECTIVES:** ▪ Ordre de jour: agenda, timeline, expected outcomes of webinar ▪ Draft guidance document: methodology, contents
9:30 – 10:45	**PLENARY SESSION: Presentations and discussion on general terms and definitions** ▪ Definition of plastics (30 min., incl. ECHA) ▪ Single and multiple-use (15 min.) ▪ Case for packaging (5 min.) ▪ Any other questions and remarks (25 min.)

Time	Agenda item
10:45 – 12:00	**BREAK-OUT SESSIONS** (1h15min.): **Group 1**: Food containers; Packets & wrappers **Group 2:** Beverage containers; Beverage bottles; Cups for beverages **Group 3:** Lightweight plastic carrier bags; Tobacco products with filters; Filters marketed in combination with tobacco products **Group 4:** Cotton bud sticks; Cutlery (knives, forks, spoons, chopsticks); Plates; Beverage stirrers; Straws; Balloon sticks; Balloons; **Group 5:** Wet wipes; Sanitary towels (pads), tampons and tampon applicators
12:00 – 12:45	**CLOSING PLENARY SESSION**: Summary of key discussions from breakout sessions, next steps (45 min.)
12:45 – 13:00	**Closing remarks**

Figure 1: Agenda of WP1 webinar

1.2 Objectives of the study and WP1

The project team gave an overview on the main objectives of the study and of work package one (WP1), as well as key elements of the methodology, including stakeholder consultation and analysis.

2 General terms and definitions

The project team presented the general terms and definitions laid out in the SUP Directive. The presentation focused on the three main chapters and subsections of Part A of the Guidelines on general terms and definitions guidelines: (1) definition of plastic (2) distinction between single and multiple-use products; and (3) the case of packaging.

2.1 Definition of plastic

The main discussion points and feedback provided by stakeholders on the definition of plastic are summarised below.

To note: This section also includes discussion points on the definition of plastic risen in Group E: Sanitary towels (pads); tampons and tampon applicators; and Wet wipes. These particular discussion points are indicated and identified by "Group E discussion".

Stakeholders made the following comments:

- Considering the (un)intentional nature of chemical changes is not a valid decision criterion in regard to the exception for "*natural polymers that have not been not chemically modified*". For example, during the manufacturing process for viscose, the objective of the dissolution process is to dissolve cellulose, not to modify the polymer or its properties. It does not constitute intentional change, as dissolving the wood pulp is necessary to make cellulose soluble and shape it into fibres.

- Several examples of products which undergo chemical modification were provided, e.g. cotton, paper, starch and some meat products. Cotton fibres may undergo several processes such as

dying, bleaching or mercerisation which modify their chemical structure. Stakeholders questioned whether these products would also be considered as plastic under the SUP Directive definitions, since they undergo processes which modify their chemical structure.

- Polymers such as polyhydroxyalkanoates (PHA) are produced in industrial settings using the same processes as those which take place in nature, and their chemical structure is identical to that of the substances found in nature. Stakeholders proposed that they should therefore be considered as natural polymers.

- Stakeholders asked about the possibility of having a list of the polymers included/not included in the scope of the SUP Directive.

- Several stakeholders were in favour of the third interpretation (less strict interpretation) of chemical modification put forward by ECHA, which considers the endpoint of the manufacturing process. In this case, viscose and lyocell should therefore not be covered by the SUP Directive *(Group E discussion).*

- One stakeholder pointed out that the science behind the production of regenerated cellulose fibres is very clear, and that well-documented, easily measured depolymerisation and covalent bond breaking reactions do occur during the manufacturing of viscose and lyocell. Science therefore shows a change, and the final cellulose product is not the same as the cellulose starting material *(Group E discussion).*

Additional reflections and feedback from Commission/ECHA:

- Stakeholders raised the question whether the Commission would be organising additional consultations concerning the definition of plastic. The Commission confirmed that additional workshops on the definition of plastic was not foreseen. The three options currently under study are laid out in the draft guidelines and in the presentation slides.

- The Commission and ECHA are currently investigating several possibilities in relation to interpretation of "*natural polymers that have not been chemically modified*". Three options are possible, which vary in regard to their level of strictness in interpretation and which are based on the chemical structure of substances before, during and after the extraction process.

- The Commission's opinion is that neither paper nor cotton should be covered by the SUP Directive, though discussions are still on-going. The Commission also reminded participants that paints, inks and adhesives are excluded from the scope of the SUP Directive.

- ECHA pointed out that it is difficult to confirm that the regeneration process is fully completed during the viscose process, meaning that the final product has the same chemical structure as found in nature. Stakeholders confirmed that CS_2 is fully removed from the final product in the viscose process, and that xanthate is not stable after regeneration of cellulose from an organic chemistry viewpoint *(Group E discussion)*.

- REACH registration obligations for substances which occur in nature can provide some clarity on the terms "*natural polymers*" and "*not been chemically modified*". Substances which occur in nature are exempted from registration obligations, while the same substances are not exempted from registration obligations if they are extracted in industrial conditions.

- The Commission and ECHA have not yet determined the final options to be include in the guidelines in relation to the definition of plastic. Providing a list of the polymers considered as natural polymers is one possibility, which would be based on the decision of having an open or closed list and on the list being sufficiently robust.

2.2 Single-use vs. multiple-use products:

The main discussion points and feedback provided by stakeholders on single-use vs. multiple-use products are summarised below.

Stakeholders made the following comments:

- It was recommended to include the tendency to become litter in a decision tree for the dedicated chapter on food containers (similar to Figure 2-1 provided in Part A of the draft Guidelines).
- In light of the current hygiene challenges associated with Covid-19, there are concerns on the ability of multiple-use products to ensure necessary food safety and hygiene measures.

Additional reflections and feedback from Commission/ECHA:

- Recital 14 provides clarification concerning safety and hygiene measures:

"*Member States should be required to take the necessary measures, for example by setting national consumption reduction targets, to achieve an ambitious and sustained reduction in the consumption of those products,* ***without compromising 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 labelling.*" [Emphasis added].

- The measures adopted by Member States must not compromise food hygiene and safety practices and regulations.

- The Commission also added that the SUP Directive adopts a differentiated approach depending on the availability of suitable alternatives for each SUP product category, which determines the measures and requirements imposed.

2.3 Case of packaging:

There were no specific questions or remarks raised during the plenary session on packaging. Nonetheless, some comments were raised during the product break-out sessions and are summarised in the following section.

2.4 Other remarks and comments:

Stakeholders made the following additional comments:

- The current draft guidelines is a good reflection of previous discussions but was sent at too short a notice before the workshop to allow stakeholders to fully analyse its contents.

- Warnings should be added in relevant paragraphs of the general sections (A and B) concerning different possible interpretations of certain terms depending on SUP product categories (e.g. food containers versus beverage containers).

- Tests have proven the biodegradability of cellulose films in the natural environment, and such materials should not be covered by the SUP Directive.

Stakeholders asked for additional clarification on the following areas:

- The decision process in relation to the definition of plastic.
- The timeline and delivery of the implementing acts and guidelines.

Additional reflections and feedback from Commission/ECHA:

- As mentioned in Recital 11, the SUP Directive covers all plastics, including bio-based and biodegradable plastics, until its planned further review in 2027 in light of scientific developments. A precautionary approach was adopted under the SUP Directive as there is no agreed standardised biodegradability test at the EU or Member State level to ensure that the objectives of the SUP Directive are met, namely to avoid the accumulation of plastic in the environment and marine environment.
- In relation to biodegradability, it is difficult to acknowledge all standards developed by EU Member States. A standardised biodegradability test would have to take into account all marine conditions, such as beach and estuary conditions but also deep-sea conditions.
- In relation to the definition of plastic, an internal decision-making process is ongoing, involving DG Environment and ECHA. Member States are also involved in the process, though the guidelines will not have to be voted since they do not constitute an implementing act. The final decision will be made by the Commission.
- The Commission intends to maintain the original timelines for the delivery of implementing acts and guidelines.

3 Product-specific breakout discussion groups

Five break-out sessions were organised to allow for more in-depth discussion on product-specific aspects. The different product groups were addressed in the break-out sessions as follows:

- Group A: Food containers; packets and wrappers
- Group B: Cups for beverages; beverage containers; and beverage bottles
- Group C: Lightweight plastic carrier bags; tobacco products with filters; filters marketed in combination with tobacco products
- Group D: Cotton bud sticks; cutlery; plates; straws; stirrers; balloons; balloon sticks
- Group E: Sanitary towels (pads); tampons and tampon applicators; and wet wipes.

The break-out sessions were organised to ensure that there was sufficient time for stakeholders to discuss all relevant product groups. They were grouped based on overall requirements and the level of participation/ interest by the stakeholders involved.

The project team members responsible for animating the different break-out sessions provided a summary of each of the product categories covered by the SUP Directive (excluding fishing gear). This included:

- Product definitions
- General and product-specific criteria
- Distinction between single and multiple use items
- Differentiation of SUP items
- Illustrative examples for the application of the criteria.

A summary of the key discussion points from each of the five main break-out sessions are provided below in the following sections.

3.1 Group A: Food containers; packets and wrappers

Around 54 stakeholders in total participated in the two break-out sessions dedicated to the following product groups: food containers; and packets and wrappers. A summary of the main stakeholder feedback from this break-out session is outlined below.

3.1.1 Product-specific questions

Overall, participants of this break-out session expressed the need for further clarification on certain parts of the draft guidelines. This concerns clearer guidance on distinguishing between **single-use versus multiple-use products**, notably in relation to single-size versus multiple-size portions. One stakeholder suggested that the definition of a single portion-size should be based on articles and not recitals. More specifically, a product containing several single-size portion items should be included in the scope of the SUP Directive. Similar arguments were made for crisps and single-use bakery items contained in one food container, packet or wrapper. More precision was also requested in relation to fruits. For example, it was asked if 2 kiwis contained in one food container should be considered as a single or a multiple-use product. A similar remark was also made in relation to packets and wrappers containing a single-size portion of chocolate but in several bars.

A few stakeholders also noted that some of the illustrations provided for packets and wrappers could be mistaken for multiple-use.

In relation to the **definition of plastics**, concerns were raised by stakeholders on that the inclusion of carton food containers with plastic lining, particularly in relation to main structural component, as this could have implications on the recyclability of products. Further clarification was requested on the definition of "expanded polystyrene". The latter will be included in the updated version of the draft guidelines.

In relation to **product-specific criteria**, it was noted that several terms should be further clarified in the draft guidelines. This concerns the term "immediate consumption" in relation to the perishable nature of foodstuff, the expiration date and the nature of packaging. The number of days of the intended use of packaging e.g. 3 days was regarded as too long. In addition, it was noted that the inclusion of additional indicators (e.g. oxygen barrier on the packaging) should be considered. In relation to the "point of sale" it was asked whether items sold in vending machines shall be considered as a take-away. Some confusion remains in the draft guidelines on the consideration of food ordered from a restaurant but consumed at home.

3.1.2 General questions

A number of suggestions were provided by the stakeholders to enhance the clarity of the draft guideline documents. Specifically, it was suggested to use a decision tree format to lay out criteria within the guidelines. It was pointed out that thee the illustrations need to be as generic and representative as possible. Finally, it was argued that further clarification is required on the guidance indicators of the product-specific criteria.

3.2 Group B: Cups for beverages; beverage containers; and beverage bottles

Approximately 25 stakeholders participated in the break-out session dedicated to cups for beverages; beverage containers; and beverage bottles. An overall summary of the main points raised by stakeholders from this break-out session is provided below.

3.2.1 Product-specific questions

Concerning the definition of **single-use versus multiple-use products**, one stakeholder mentioned that in Germany, some bottles are made of thick PET and are thus re-usable. To prevent confusion around PET bottles and single-use, it was suggested that this could be used as an example of "refillable".

In relation to **product-specific criteria**, one stakeholder mentioned the need for clarity around soups' packaging. He questioned whether soups, if sold without a spoon, would be considered as beverage rather than food (while soups sold with spoon would be considered food), and whether it would imply that they would have to be brought and consumed at home.

In relation to the **definition of plastics**, the interpretation of "main structural component" was questioned. Several clarifications are needed, especially regarding packaging made partially of plastic. It was asked if carton packaging with plastic lining was included in the scope of the SUP Directive, and if it was, carrying out the same logic, if it would mean that aluminium cans with inner plastic lining would also be included. The project team member stated that paper cups with plastic lining are indeed included within the scope of the SUP Directive and that additional clarifications would be included in the Guidelines further explaining the logic behind this.

3.2.2 General questions

Some stakeholders shared their concerns about the hygiene impact of banning single-use plastics and disposable items, especially during the current pandemic crisis given that health has always remained a primordial aspect in decision making. Stakeholders highlighted the importance of referring to scientific facts, highlighting that banning single-use plastic items could have a negative impact on the current pandemic. They noted that the virus appears to stay active on plastic the longest, whereas washing reusable items seems to deactivate the viral pathogens.

The differences between linings, coatings and additives were also a point of concern. It could be made clearer why some additives and materials are authorised, such as paints, adhesives and inks, while plastic additives are not under the SUP Directive. The project team member responded that additional explanations would be included on this issue in the next revision of the draft Guidelines.

There was also an overall concern about the lack of realistic alternatives, and the differences of SUPD implementation in the different EU Member States.

Finally, there was also a comment on the importance of considering how food contact legislation refers to materials within the definitions provided in the Guidelines.

3.3 Group C: Lightweight plastic carrier bags; tobacco products with filters; filters marketed in combination with tobacco products

Around 15 stakeholders participated in the break-out session dedicated to lightweight plastic carrier bags, and tobacco products with filters/filters marketed for use in combination with tobacco products. The main points raised by stakeholders related to these specific product groups are outlined below.

3.3.1 Product-specific questions

Some stakeholders suggested that the example of **separate multiple-use filters** currently included in the draft guidelines is not widely sold in Europe. They also questioned whether the product should in reality be considered as multiple-use. The project team should consider removing this example from the draft guidelines.

Several stakeholders also raised the issue of **material innovation and R&D** in relation to filters. A question was asked on whether ECHA would establish a list of excluded polymers. There was also a suggestion that a definition of **"natural polymer"** is needed as soon as possible to provide certainty for producers/manufacturers. Further clarity was also requested on the definition of "chemically modified" in relation to cellulose polymers (e.g. lyocell), where the final product is not the same as the starting material. Consideration should be given to allow for the development of alternative, more sustainable materials, and that dialogue on this point should remain open.

One stakeholder suggested that filters are a litter problem that applies equally to **non-plastic filters** (e.g. toxic leaching would also occur from non-plastic filters), and that non-plastic items should therefore also be subject to EPR requirements under the SUP Directive. The project team member animating the break-out session pointed out that the SUP Directive addresses only plastic items, and that non-plastic items are therefore not within the scope of the SUP Directive or the associated guidelines.

One stakeholder asked whether **fruit/vegetable bags in supermarkets are in scope** of the SUP Directive. The project team member stated that they are in scope (N.B. this was confirmed by the Commission in the final plenary session of the webinar). The project team will add this as an example in the updated version of the draft guidelines. The stakeholder suggested that this may have implications regarding use of alternatives to such bags (e.g. plastic packets/wrappers).

3.3.2 General questions

One stakeholder asked how many uses constitutes **"multiple-use"**. The project team member replied that this refers to more than one use.

Another stakeholder also requested greater clarity on the definition of **"main structural component"**, asking whether, in the case of filters, this would include films and adhesives, meaning that items made mainly of paper but containing plastic films/adhesives would be within scope of the SUP Directive.

3.4 Group D: Cotton bud sticks; cutlery; plates; straws; stirrers; balloons; Balloon sticks

Approximately 16 stakeholders participated in the break-out session on cotton bud sticks; cutlery; plates; straws; stirrers; balloons; balloon sticks. The main points raised by stakeholders related to these specific product groups and on more general points of the draft guidelines are outlined below.

3.4.1 Product-specific questions

A number of stakeholders indicated that a definition for "**natural polymer**" is needed as soon as possible to provide certainty for producers/manufacturers. Some also asked for further clarity on the definition of "**chemically modified**" particularly in relation to cellulose polymers (e.g. cellulose film, cellulose-based viscose) and to latex (e.g. for balloons). Regards latex balloons, a stakeholder indicated that the latex used polymerises naturally before extraction and that the chemical structure only undergoes physical mineralogical transformation – as per the definition provided under REACH. The stakeholder will provide further information to the project team within a position paper.

Another stakeholder asked for clarification on whether the **plastic wrapper** containing a single-use plastic straw attached to a drink carton would be included under the SUP Directive. The project team member animating the session pointed out that the SUP Directive addresses only the products listed in the Annex and as such their packaging is not within the scope of the SUP Directive or associated guidelines.

A number of stakeholders requested further information regarding the products considered as **multiple-use**. One stakeholder requested confirmation that foil balloons with **re-fillable valves** are also considered to be multiple-use. The project team member confirmed that the draft guidelines currently includes balloons with integral valves (i.e. which enable repeated deflations and re-inflation and include a re-sealable closure) as multiple-use products for this product category. Other stakeholders asked whether there was a **minimum number of re-uses required** (e.g. number of washing circles and conditions). The project team member confirmed that no such details are currently included within the draft guidelines and that more than one use is considered re-use.

A stakeholder requested confirmation that foil balloons produced and sold for **professional use** only by professional decorators are also excluded as currently only latex balloons are included in the illustrative examples provided in the draft guideline. The project team will add this as an example in the updated version of the draft guidelines.

3.4.1 General questions

There was a discussion around the current challenges posed by Coronavirus and the need for maintenance of **hygiene**, particularly in health care environments. In addition, a number of stakeholders expressed concern that production of disposable plates; cutlery; stirrers; straws from alternative materials does not always take sufficient consideration of **safety measures** (e.g. bamboo plates and cutlery without food-safe barriers). This was picked up by the Commission during the feedback session noting that both consumption reduction and food safety / hygiene must be respected.

Some stakeholders requested further confirmation on whether polymeric liners and coatings are included within the SUP Directive. One stakeholder questioned particularly whether a synthetic polymer spread on paper with a dispersion technology is included. The Commission confirmed that determination was specifically related to whether the polymer present was considered to be a "main structural component" of the product.

3.5 Group E: Sanitary towels (pads); tampons and tampon applicators; and Wet wipes

Approximately 35 stakeholders participated in the break-out session on sanitary towels, tampons, tampon applicators and wet wipes. The main points raised by stakeholders related to these specific product groups and to general aspects of the draft guidelines are summarised below.

To note: Many points were raised regarding the definition of plastic in this break-out group. These discussion points were added to the summary of feedback on the definition of plastic provided in section 2.1.

3.5.1 Product-specific questions

Some stakeholders raised questions on the slides presented, in particular regarding the table illustrating how different types of wet wipes are considered under the SUP Directive. The project team clarified that the phrase: "*Wipe which contains synthetic fibres and/or regenerated cellulose fibres considered as plastic for the purposes of the SUPD*" is an example and not a predetermination, and will depend on whether specific regenerated cellulose fibres are considered as plastic for the purposes of the SUP Directive. This question is still under discussion. However, the phrase can be re-worded in the updated version of the draft guidelines to avoid confusion.

The term "professional wipes" applied to medical and healthcare wipes was not clear to some stakeholders. Medical or healthcare wipes can in a small measure be sold to end-users through alternatives routes (e.g. DIY shops, pharmacies), and one stakeholder considered that all wipes that may be sold to domestic end-users should be included in the scope of the SUP Directive. The project team members answered that the vast majority of medical and healthcare wipes are sold through professional routes and are disposed of via appropriate or approved disposal methods.

Comments were made on claims used to describe certain products e.g. "100% organic cotton", "plastic free", etc. when describing the different products covered by the SUP Directive. These claims are considered as misleading and confusing for industry. The project team clarified that they were given as illustrations of products not wholly or partly made of plastic and should not in any case be considered as marking suggestions/obligations for industry. References to such wordings and examples will be removed from the updated version of the draft guidelines to avoid confusion.

Suggestions were also made to use the definitions evoked during the first workshop (held in October 2019) in the guidelines for sanitary towels, tampons and tampon applicators, namely:

- Sanitary towels (pads): used to absorb and retain menstrual fluid, generally intended to be disposed of after single use ;
- Tampons and applicators: disposable plug designed to be inserted into the vagina during menstruation to absorb menstrual fluid, generally intended to be disposed of after single use.

3.5.2 General questions

Following a question regarding the decision process for the validation of the guidelines, the Commission provided clarification on the process and the timeline. Stakeholder input on the draft guidelines from the webinar and provided in writing until April 17th, 2020 will be considered. Member States will also provide feedback on the draft guidelines, during the March 11th and April 24th meetings. Final decisions will be made by the Commission. Member States do not have voting power over the adoption of the guidelines. The Commission will be providing nine implementing acts and two guidelines in accordance with the SUP Directive.

Questions were raised on whether the interpretation of the guidelines by Member States would create barriers to trade and the internal market. The Commission replied that Member States will be responsible for transposing the SUP Directive into their national legislation and can choose to impose additional national provisions on market restrictions and/or consumption reduction measures for instance.

4 Closing remarks

The Commission and the project team thanked all participants for their active involvement in the webinar and throughout the study and confirmed the next steps of the study. The Commission noted the very balanced and factual discussions which took place in the plenary session and during the break-out sessions. The Commission reminded participants of the basis of the SUP Directive, namely a concern for the environment, and of its objective to reduce marine litter. The Commission acknowledged the complexity of balancing environmental protection, reduction of marine litter, industry innovation and human health and hygiene concerns.

All participants were invited to provide written comments on the draft guidelines until of April17th, 2020.