



Notification of the French draft decree defining rates of incorporation of recycled plastic in beverage bottles

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Comments by NMWE and UNESDA

The European natural mineral and spring waters sector, represented by NMWE, and the European soft drinks sector, represented by UNESDA, welcome the opportunity to provide comments in the context of the notification of the French decree defining rates of incorporation of recycled plastic in beverage bottles and plastic items.

We are fully supportive of the EU objective to accelerate the transition to a circular economy. Our members are investing heavily in meeting (and even exceeding) the targets set out by the Single Use Plastics Directive (SUPD) on collection and recycled content. The result is that PET plastic bottles have become the most collected and recycled items in Europe, and our members are placing bottles on the market with increasing rates of recycled content.

The accurate and harmonized implementation of the requirements of the SUPD is essential for our sectors to be able to scale up its efforts. We therefore very much support the TRIS procedure as it offers a unique opportunity for industry to raise potential concerns. We call upon the European Commission to strive for a harmonious transposition of the SUPD and share our concerns with the French authorities.

As a reminder, this is not the first issue our industry has experienced with various SUPD-related implementing measures in France. Indeed, while some measures have simply not been notified by France under the TRIS procedure as legally prescribed, other measure are clearly not compliant with the SUPD and the EU Single Market. As an illustration, we wish to highlight the very concerning French law banning all SUP products by 2040, including beverage bottles. When it comes to PET bottles, there is no environmental justification to ban them as they can be fully circular (being 100% recyclable, widely collected and achieving a steadily growing incorporation of recycled content).

We ask for the Commission to intensify its efforts to push France to abide by its notification obligations and we call upon the Commission to address the French ban on single use plastic beverage bottles, a completely disproportionate measure resulting in a breach of the single market with questionable environmental results.

OBSERVATIONS ON THE DRAFT DECREE

Regarding the content of the draft decree in question, NMWE and UNESDA would like to recall that it is essential that the text of the Decree be consistent with the SUPD to allow for its adequate transposition in France. This leads our industry to make the following observations:

- 1. Harmonization of the methodology for calculating the rate of incorporation between the Directive and the text transposing it, i.e. an average on all PET bottles placed on the market in the territory of the Member States vs. in each bottle.**



The European SUP Directive provides that the percentage of r-PET is "calculated as **an average on all PET bottles** placed on the market in the territory of that Member State". It is also planned that the methods for calculating this rate will be determined by the European Commission. However, the draft French decree goes beyond the SUP Directive by adopting a calculation according to "the mass of r-PET of **each bottle** in relation to the total mass of plastic in the bottle."

The French calculation methodology, which is also something we had noticed in a similar early draft of the German Decree and was then corrected, does not allow Member States to show agility in achieving the SUPD obligations of incorporation. We see no justification for the requirement that the stated percentage be met in each single bottle versus a national average.

NMWE and UNESDA also draw attention to the definition of the "total mass of the bottle" because taking into account labels and caps would be more complex and difficult to implement. These should not be included in the mass of the bottle.

2. The necessary transposition of the scope provided for by the Directive and more particularly the 3-litre threshold above which the obligation does not apply.

According to Annex Part F, the SUPD lays down the obligations to incorporate recycled plastic in "beverage bottles with a maximum capacity of three litres including their caps and lids". The draft French decree does not mention any threshold and therefore does not distinguish according to the format of the containers. We believe this is a point that needs to be clarified/corrected.

3. The maintenance, in the French transposition, of the exception provided for in the SUP Directive concerning glass or metal beverage bottles whose caps and lids are made of plastic.

The SUPD specifies in its Annex Part F the types of bottles concerned in the incorporation of recycled material, and provides for two exceptions. The French draft decree transposes only one of the two exceptions, namely bottles for drinks intended and used for medical purposes. On the other hand, while glass or metal beverage bottles with plastic caps and lids are excluded from the scope of the Directive, the French draft decree makes no mention of this. We believe this is a point that needs to be clarified/corrected.

About Natural Mineral Waters Europe (NMWE)

Natural Mineral Waters Europe represents almost 550 natural mineral and spring water producers in Europe, most of them small- and medium sized companies. NMWE is dedicated to promoting the unique qualities of natural mineral and spring waters as well as sustainable use of water resources and circular economy.

www.naturalmineralwaterseurope.org

About UNESDA Soft Drinks Europe

Established in 1958 UNESDA Soft Drinks Europe is a Brussels-based association representing the European soft drinks industry. Its membership includes both companies and national associations from across Europe producing drinks including still drinks, squashes, carbonates, powders, iced teas, iced coffees, syrups, energy drinks and sports drinks.

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