

TRIS PROCEDURE NOTIFICATION NUMBER: 2020/658/E

PRELIMINARY DRAFT LAW ON WASTE AND CONTAMINATED SOILS

This draft Law transposes Directive (EU) 2019/904 of the European Parliament and of the Council, of June 5, 2019, on reducing the impact of certain plastic products on the environment and the Directive (EU) 2018/851 amending the Waste Framework Directive 2008/98/CE.

EsPlásticos is the platform that brings together the different stakeholders that are part of the plastic value chain in Spain. We are concerned that some measures of the proposed law may infringe the free movement of goods within the European Union. Below you can find the aspects that we find worrying:

1. DEDUCTION FROM THE TAXABLE BASE OF THE PROPOSED TAX ON NON-REUSABLE PLASTIC PACKAGING.

Title VIII of the draft law incorporates a tax on non-reusable plastic packaging. Article 68 establishes a possible reduction of the taxable base if the packaging uses recycled plastic whose origin is in the territory of application of the tax (i.e. Spain):

"Article 68. Taxable base

*Taxpayers who manufacture packaging may reduce the amount of plastic incorporated into the manufacturing process from the tax base, expressed in kilograms, **coming from recycled plastic from products used in the territory where the tax is applied.** For the application of said reduction in the tax base, the corresponding certification of the waste manager supplier of the plastic incorporated into the manufacturing process will be necessary. The taxable base will be the result of practicing on the taxable base the reduction referred to in this article. "*

SECTOR OPINION:

In order to move forward with the circularity of plastics, we believe that all recycled material should be considered regardless of its origin as long as it complies with the definitions established on the UNE-EN ISO 14021 standard on environmental labels and declarations. Moreover, the referred clause goes against free market principles as it sets an advantage for Spanish recyclers vis-à-vis their European competitors. Therefore, we request a modification of article 68 to remove all references to the country of origin of the recycled plastic.

2. SINGLE USE PLASTICS DIRECTIVE IMPLEMENTATION

2.1 Reduction targets and design requirements

Regarding the reduction of the consumption of certain single use plastics products, Article 40(2) foresees the application of a fee for each of these plastic products as of January 2023. This appears to be a further discriminatory measure over these products.

SECTOR OPINION:

This is completely new and beyond the Directive. Member States cannot add additional products to the one foreseen in the Annex of the Directive (as per Article 2 - Scope).

2.2 Microplastics definition

Article 41 covers a ban on certain plastic products. Part c) of this article says:

“cosmetic products, as defined in Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, and detergents and cleaning products, as defined in Royal Decree 770/1999 of 7 May 1999 adopting the Technical health regulation on the production, movement and sale of detergents and cleaning products containing intentionally added plastic microbeads of less than 5 millimetres.”

SECTOR OPINION:

The intention of the proposed regulation is to ban microbeads. However, we believe that the wording of the regulation could be improved to make clear it only covers microbeads and not all microplastics by making the following changes:

*“cosmetic products, as defined in Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, and detergents and cleaning products, as defined in Royal Decree 770/1999 of 7 May 1999 adopting the Technical health regulation on the production, movement and sale of detergents and cleaning products **which contain plastic microbeads of less than 5 millimetres added intentionally to act as an abrasive, i.e. to exfoliate, polish or clean.**”*

This would align the Spanish regulation with the microbead definition in the proposed ECHA REACH restriction on microplastics.

3. PROPOSED CLASSIFICATION AS R3 FOR TRANSFORMERS USING RECYCLED PELLETS.

Annex II sets out a non-exhaustive list of recovery operations. Activity “R0305 for the recycling of organic waste in the manufacture of new products” establishes that facilities manufacturing new products from plastic waste pellets are considered recovery treatment facilities. This would leave out the activity of mechanical recycling of plastics, **whereas plastic converters** (that have nothing to do with waste management) **are comprised instead.**

<p><i>R0305 Recycling of organic waste in the manufacture of new products</i></p>	<p><i>Facilities that manufacture new products from:</i></p> <ul style="list-style-type: none"> - plastic waste pellets - <i>rubber from end of life tires</i> - <i>textile waste</i> - <i>wood waste, etc.</i>
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SECTOR OPINION:

The classification of plastics converters that use recycled pellets as R3 would imply that converter companies that use recycled plastic pellets for their production would need to have also the status of waste managers, with all that this entails.

This consideration creates a comparative grievance with other converters, since nowhere in Europe product manufacturers that use recycled material (either pellets or flakes) are classified as waste managers. This causes a loss of competitiveness to the Spanish industry and distortion of the market.

For this reason, we propose that in the classification "R0305 Recycling of organic waste in the manufacture of new products", "**plastic waste pellets**" is replaced by "**plastic waste**".