Message 201

Communication from the Commission - TRIS/(2025) 1311

Directive (EU) 2015/1535

Notification: 2025/0187/IT

Forwarding of the response of the Member State notifying a draft (Italy) to request for supplementary information (INFOSUP) of European Commission.

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2. Italy

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4. 2025/0187/IT - X00M - GOODS AND MISCELLANEOUS PRODUCTS

5.

6. Subject: Communication from the Commission - TRIS/(2025) 1227 Directive (EU) 2015/1535 Notification: 2025/0187/IT - Draft ‘Proposed technical regulation for the definition of the requirements for the reusability of plastic products intended to come into contact with foodstuffs, in accordance with the Annex, Part B, to Legislative Decree No. 196 of 8 November 2021’ - Request for additional information.

Below are the feedback elements for each information request.

1) The Italian authorities are kindly requested to clarify on what basis they established the technical characteristics (weight and size limits) for plates, cutlery, straws and stirrers for beverages to be considered reusable and capable of ensuring multiple effective uses for the same purposes for which they were designed.

In order to identify the technical characteristics of reusability, which are the subject of the draft legislation in question, we have based ourselves on a specific market study carried out by a representative association of operators in the sector, which is attached to this letter for completeness of information.
First, it is necessary to contextualise the need to introduce the provision in the proposal into national law. The same, in fact amends the provisions of the Legislative Decree transposing Directive 2019/904 (SUP) in order to provide detailed technical characteristics to ensure the reusability of certain products listed in the Annex, Part B, which are prohibited from being placed on the market pursuant to Article 5 of the same Legislative Decree.
The aforementioned SUP Directive, on the reduction of the impact of certain plastic products on the environment, aims to prevent and combat the dispersion of waste into the environment and in particular into the marine environment. The SUP Directive was transposed into national law by Legislative Decree No 196 of 8 November 2021, which, in line with the EU provisions, prohibited the placing on the market of certain single-use plastic products.

Article 3(1)(b) defines that 'single-use plastic product is a product made entirely or partially of plastic, with the exception of the product made of natural polymers not chemically modified, and which is not conceived, designed or placed on the market to carry out, during its lifetime, multiple movements or rotations to be returned to a manufacturer for refill or otherwise reused for the same purpose for which it was conceived.' The following Article 5, entitled 'Restrictions on placing on the market', provides in the first paragraph for the prohibition of placing on the market the single-use plastic products listed in Part B of the Annex to the Decree, which include the plastic products covered by the proposed legislation.
In this context, the European Commission, in its Communication of 7 June 2021, provided guidance concerning the interpretation and implementation the SUP Directive on single-use plastic products. Specifically, paragraph 2.2.2., entitled 'Single-use' provides that the design characteristics of the product may help to determine whether a product is to be considered a single-use or a multi-use product. The fact that a product is conceived, designed and placed on the market for re-use can be assessed by considering the expected functional life of the product, i.e. whether it is intended and designed to be used several times before final disposal, without losing its functionality, physical capacity or quality, and whether consumers normally conceive, perceive and use it as a reusable product. The relevant product design characteristics include the composition, cleanability and repairability of the materials, which would allow multiple displacements and rotations for the same purpose for which the product was originally conceived.
In addition, section 4.3 of the same guidelines sets out Table 4-4 entitled 'Illustrative application of criteria for interpreting the definition of single-use plastic cutlery, plates, straws and stirrers' which excludes from the scope of the aforementioned Directive 'Cutlery, dishes, straws, long-term plastic stirrers for multiple use, specially designed and placed on the market with the aim of being used more than once and generally designed and used by the consumer as such'. Although the Commission's guidelines provide the general principles to be followed for determining the reusability of products, there are no specific provisions in supranational legislation containing the technical characteristics for defining a plastic product as reusable under the SUP Directive.
This circumstance, as the operators have pointed out, creates critical issues as regards the unambiguous identification of plastic products that are actually reusable compared to single-use plastic products.
The proposed legislation in question, therefore, fits in this context by providing certain technical characteristics, related to the size and weight, of the plastic products referred to in points 2, 3, 4 and 5 of Part B of the Annex to Legislative Decree No 196 of 2021, intended to come into contact with foodstuffs, with the aim of overcoming the critical issues highlighted above and determining unique numerical parameters to outline the scope of reusability.
Regarding this, the study on which the proposed legislation is based sets out the method for identifying numerical parameters for the two categories of products, plates on the one hand and cutlery, straws and stirrers on the other.
In the case of plates, the study states that 'In order to identify, in the absence of European constraints, a numerical parameter that makes it possible to draw the boundary between the world of lightweight dishes, which are intended to be used only once, and that of heavy dishes intended for more than one use, a market survey has therefore been carried out (...) to verify the types of heaviest dishes currently on the market in Italy'. For this type of product, on the basis of the aforementioned methodological approach, measurements have been carried out in terms of size and weight on products available on the national market, distinguishing between those that are commonly used only once by the consumer and then thrown away, from those that, after their first use, are washed to be used again for the same purpose for which they were designed and that are generally perceived as reusable. On the basis of these surveys, the ratio between the above parameters (weight and size) useful to identify the minimum weights of plates, of various dimensions, which are commonly recognised as reusable by the consumer has been identified. Consequently, the proposal details the size type of the plate and the corresponding weight resulting from the ratio g/cm2, as an index of reusability of the products.
For the remaining types of products, in the absence of an adequate number of examples of comparable products for the definition of a criterion similar to that used for plates, on the basis of experience in industrial practice, the study decided to identify, prudentially, as a parameter for reusability, a constant ratio between the weight in grams and the length in centimetres of the product, equal to 0.5 g/cm.

2) The Italian authorities are also invited to clarify the relationship between the notified draft and the EU packaging legislation, namely, Directive 94/62/EC, as repealed by Regulation (EU) 2025/40 on packaging and packaging waste (hereinafter PPWR).
Namely, some of the products listed above are also packaging (e.g. plates) and the listed packaging legislation provides

for criteria and standards on what is to be considered as reusable packaging. PPWR, which lays down the conditions for reusable packaging to be placed on the market in Article 11, also envisages that the Commission will adopt a delegated act determining the minimum number of rotations for reusable packaging by 12 February 2027. The Italian authorities are invited to clarify how the notified draft, which defines detailed technical characteristics, aligns with Article 11 of the PPWR.

The draft legislation provides for the identification of technical characteristics aimed at implementing the definition of reusability for certain plastic products with the aim of enabling the correct application of the SUP Directive and, in particular, of the restrictions on placing on the market provided for
in Article 5 for single-use plastic products listed in Part B of the Annex. Among the products covered by the proposed technical regulation, the only ones that under certain conditions can be considered as packaging are the plates, i.e. the flat receptacles from which the food is consumed or served (see Commission Guidelines 2021/C 216/01 on single-use plastic products in accordance with Directive (EU) 2019/904).
While for other products the application of the provisions contained in Regulation 2025/40 is excluded, for plates it is necessary to make some reflections on their classification in relation to the function carried out. Indeed, the SUP Directive itself, as interpreted by the Commission through the above-mentioned Guidelines, considers packaging to be plates placed on the market empty but intended to be filled at the point of sale (in accordance with Article 3(1)(ii) of the Packaging and Packaging Waste Directive). This classification is confirmed in Part C of Annex I to Regulation (EC) No 2025/40. It follows that it is only in this latter case that the technical characteristics laid down in the proposed legislation must be consistent with Regulation (EC) No 2025/40.
In this regard, it should be noted that Regulation (EC) No 2025/40 sets out the definition of ‘re-use’ as any operation by which reusable packaging is used again multiple times for the same purpose for which it was conceived and that of ‘single-use packaging’ as packaging which is not reusable. These definitions correspond perfectly to what is reported in the SUP Directive which, regarding reusability, defines the ‘single-use plastic product’ as a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived.
In this sense, the proposal for a technical regulation must be read in accordance with the definition set out above and, therefore, the products listed therein must meet the general requirements that allow the distinction between a single-use product and a reusable product, since they must necessarily be conceived, designed and placed on the market in order to be reused for the same purpose for which they were conceived, in compliance with all the provisions on safety and hygiene.
The proposed technical regulation, acting within the scope of the SUP Directive and based on the definition set out above, defines specific technical characteristics tailored to the consumer’s perception of the reusability of the products in question.
This choice is in line with the concept of reusability defined by the Commission in the aforementioned paragraph 2.2.2. of the Guidelines, which specifies, inter alia, ‘if consumers normally conceive, perceive and use it as a reusable product’.
As regards consistency with Article 11 of Regulation (EC) No 2025/40, the draft legislation:
in defining the technical characteristics of reusability also for plates considered to be packaging, does not affect the application of the provisions contained therein. These technical specifications are in addition to the conditions laid down in Regulation (EC) No 2025/40, which, being of a general nature, require further detailed provisions to ensure compliance with the same and to provide operators in the sector with clear indications of production criteria.
With this in mind, we exclude the overlapping of the proposed legislation with the delegated act referred to in Article 11(2) of Regulation 2025/40 (expected by 12 February 2027), as it is aimed at establishing the minimum number of rotation of reusable packaging for the packaging formats most frequently intended for re-use and not also the technical characteristics (in terms of size and weight) thereof.

3) the Italian authorities are also invited to confirm that the requirements of the notified draft are without prejudice to Commission Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food, which also lays down requirements for reusable materials and articles.

With regard to compliance with the provisions of Regulation (EU) No 10/2011 on plastic materials and articles intended to

come into contact with food, it should be noted that the proposed technical regulation in question does not contain any clause excluding the application of the obligations contained therein. Therefore, plastic products covered by the proposed legislation, like other products intended to come into contact with foodstuffs, are subject to all existing national and supranational provisions relating to consumer health, hygiene and safety.

4) The Italian authorities are also invited to confirm that the reference to the repealed acts (Council Directives 90/385/EEC and 93/42/EEC) is to be read as a reference to Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices.

On this point, while confirming that the reference to Directives 90/385/EEC and 93/42/EEC must be read as a reference to Regulation (EU) 2017/745 (which repealed them), we would point out that the reference to them in the proposed legislation is due to an alignment with what is contained in Directive 2019/904 and, more precisely, in point 4 of Annex B with regard to straws.

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