Input from the Netherlands concerning the evaluation of Directive (EU) 2019/904 on rules on single-use plastics and fishing gear

General view

The Netherlands looks forward to the evaluation of Directive (EU) 2019/904. The Directive plays a crucial role in addressing plastic pollution, promoting a sustainable and circular economy, protecting human health, and is already delivering on these goals as evidenced by the findings in the JRC report[1]. This illustrates how clear and EU wide measures can help set the standards necessary for transitioning towards a circular economy. Making this transition requires time. Citizens, companies, public authorities, and organizations are still in the process of adapting to the current legislation.

In general we therefore call on the Commission to be cautious in making changes, but rather to ensure that the timeframe is clear, goals are set clearly, and standards are developed to help European businesses innovate and make futureproof investments. Drawing on our experience in implementing the directive, practical insights, and policy analysis, we have identified several areas where, through targeted improvements or clarifications, the Directive could be made more clear, and more effective. We are pleased to share these observations from our national context below.

Key recommendations

1. **Stimulate innovation and encourage circular business models**
   The SUPD has indirectly supported start-ups and circular businesses focussed on reuse (mostly reusable cups, containers, and cutlery). It would be preferable for the SUPD to stimulate and strengthen innovation and circular business models more directly, in order to accelerate the transition to a European circular economy. In addition, existing business need to be stimulated to make use of innovation possibilities and transform into futureproof, viable business cases. We therefore encourage the Commission to implement substantial stimuli for innovation for new and existing businesses, as well as by, for instance, creating additional possibilities for fee modulation within the EPR, or incorporating incentives for business models engaging in higher circularity strategies.

2. **Ensure clarity, legal certainty, and harmonised implementation**

a. **Strive for maximum harmonisation of the Directive:** harmonising implementation across Member States is key to avoid fragmentation of the single market, and to lower the administrative burden. The challenge is to do so, while simultaneously recognising the diversity, and importance of national contexts. Transforming the Directive into a Regulation should be explored, as this could promote a level playing field between operators on the single market, and at the same time ensure consistent enforcement.

b. **Maintain a comprehensive definition of 'plastic' (SUPD Article 3):** it is essential to maintain a definition of 'plastic' that covers fossil-based, bio-based, and biodegradable plastics. This provides a sound legal basis, and the Netherlands urges to maintain this definition.

c. **No threshold for the amount of plastic in single-use plastic items:** determining whether a product contains plastic has proven to be difficult, for instance concerning paper cups containing plastic under SUPD article 4, and wet wipes and tobacco filters under SUPD article 8. However difficult, technically it is possible. Chemical analysis can determine whether a product contains anything other than chemically unaltered natural polymers. In contrast, determining the percentage of plastic in single-use items is a completely different matter that would invoke continuous discussions with producers whenever a product is introduced or (re)designed. There have been suggestions to align the 5% plastic threshold for composite packaging from the PPWR with the SUPD. This would increase regulatory complexity for businesses, and adds to the administrative burden, whereas a SUPD revision should strive to diminish both. The Netherlands stresses the importance of not allowing any percentage of polymers, for this would not only make everyday assessment nearly impossible, it could potentially also lead to increasing percentages of other materials used, in order to drive down the percentage of plastic, and ultimately lead to an increase in the amount of plastic (items) ending up in the environment.

d. **Add a definition of 'reusable', aligned with the PPWR (SUPD Article 3):** for a clear, and consistent understanding, a definition of 'reusable' should be included, aligned with

[1] European Coastline Macro Litter Trends 2015 – 2021 (JRC, 2025)

the Packaging and Packaging Waste Regulation (PPWR), to ensure coherence across legislative frameworks.

e. **Provide EU-level test protocols and certification tools (SUPD Article 3):** practical application remains challenging. Companies often lack clarity on how to assess that a product does not contain plastic. The European Commission should lead in developing standardised EU-wide test protocols and certification tools, preventing the emergence of divergent national systems.[2]

3. <u>Maintain, strengthen, and harmonise</u>

a. **Maintain a focus on reducing item count, not weight (SUPD Article 4):** the SUPD requires Member States to take measures to achieve an ambitious and sustained reduction in the number of single-use cups and containers containing plastic that are used. This means a shift away from disposables towards no cup or container at all (e.g. a sandwich served on a napkin), a plastic-free single-use cup or container (e.g. a bamboo plate), or a reusable cup or container. This aligns with the objectives of the SUP Directive to stimulate the circular economy and reduce the environmental impact of single-use plastics. The Netherlands frequently hears calls to focus not on the number of single-use cups and containers containing plastic, but on the amount of plastic they contain. Under that approach, switching from a 100% plastic PET cup to a paper cup with a 3% plastic coating would also be seen as a positive outcome. While this does reduce the amount of plastic in a product, it does not address the continued widespread use of single-use cups and containers. Reducing that volume must remain the primary objective. First, because it represents a step towards a circular economy through reuse or non-use. Second, because a proportion of single-use cups and containers ends up as litter in the environment, where both a 100% PET cup and a paper cup with a 3% plastic coating have harmful consequences, as in both cases we find plastic in the environment.

b. **Introduce mandatory differentiation between measures for on-site and on-the-go consumption (SUPD Article 4)**: the Netherlands strongly recommends that the Directive explicitly requires differentiation between these two contexts. On-site, and on-the-go consumption present fundamentally different challenges and therefore require tailored policy responses. Our national experience[3] has shown that it is useful to differentiate measures along these lines. This approach would allow for the possibility of implementing a ban on single-use items for on-site consumption, while such a ban may not be realistic for on-the-go consumption.

c. **Harmonise the approach to rigid and flexible food packaging (SUPD Article 4 & 8)**: to avoid substitution effects, the same measures should apply to both food containers and packets and wrappers.
    a. The definitions of rigid and flexible food packaging should be aligned when it comes to the indicators that may be used to interpret and apply the three product-specific criteria (as mentioned in SUPD Guidelines 4.1. Food containers and 4.2 Packets and wrappers). The only difference should be rigid or flexible material. This can be done by aligning the structure of product-specific criteria for food containers and packets and wrappers in Annex Part E and G, points 1 and 2;
    b. Reduction measures should apply for both rigid and flexible food packaging (Article 4). This can be done by adding packets and wrappers to Annex Part A.

d. **Define clear and comprehensive criteria for determining which products fall under reduction measures (SUPD Article 4):** the Directive (or accompanying Guidelines) should provide clearer and more comprehensive criteria for interpreting Annex Part A, points 2(a), (b) and (c), to determine which products are subject to reduction requirements. One additional option could be to use 'presence in litter' as a criterion for inclusion. Note, however, that this may lead to variations between Member States in what is covered under Article 4, and would require all Member States to have a reliable litter monitoring system in place.

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[2] See also Kamerbrief met reactie op moties over wijziging regelgeving voor plastic wegwerpbekers en wegwerpbakjes | Kamerstuk | Rijksoverheid.nl

[3] Evaluatierapport Reductiemaatregelen in de Regeling kunststofproducten voor eenmalig gebruik (Berenschot, 2024)

e. **Define a minimum ambition level for reduction:** the Directive should define what constitutes an 'ambitious and sustained reduction', e.g. a minimum of 40% reduction in item count. Reduction targets could be progressive and allow adaptation to national contexts, and encourage collaboration in regional contexts.
f. **Consider minimum requirements for monitoring:** for the Netherlands the implementation and execution of the measures under de SUPD were facilitated by the robustness of our monitoring. To ensure that all Member States have adequate monitoring, for instance to relay litter clean-up costs to producers under the EPR, mandatory minimum requirements for monitoring could be considered, both on land and in water. The costs of such monitoring could be covered under the EPR.

4. <u>Expand the scope to cover more polluting plastic-containing products</u>

Building on Dutch litter monitoring data[4], conversations with NGO's, and calls for action from Dutch litter pickers, the Netherlands identified a range of single-use plastic items included below that should be considered to be brought under an scope of the SUPD. Seeing that the characteristics of each item sometimes requires different measures, measures should be tailored to the specific product in order to ensure maximum efficacy. The list of various measures and items below, should be viewed as a starting point.

a. **Broaden the definition of 'tobacco products' to 'smoking products' (SUPD Article 3)**: this would include plastic-containing non-tobacco alternatives, such as disposable vapes. These products have similar environmental impacts, and should be covered by the same rules.
b. **Wider restrictions on plastic-containing items (SUPD Article 5)**: we propose the Commission to consider expanding the bans to include the following plastic-containing products, due to their inherent pollutive properties, or because plastic free alternatives exist. In order to be effective, should the Commission decide to implement the suggested bans, banning the placement of products on the market should be coupled with a sales ban, to prevent parallel import, and to ensure effective enforcement:
    - Cigarette filters containing plastic[5] [6] [7];
    - Plastic disposable vapes;
    - Plastic wraps around cigarette and cigar boxes;
    - Plastic sticks for ice cream/lollipops;
    - Plastic lids for drink cups;
    - Plastic wrappers for straws;
    - Plastic bread clips;
    - Decorative artificial snow and confetti containing plastic;
    - Chewing gum containing plastic.
c. **Include additional measures regarding wet wipes:** wet wipes containing plastic are costly to society when discarded in nature and sewage systems. At the same time wet wipes are recognised in some cases as indispensable for day to day personal use. The Netherlands therefore urges the Commission to include broad and effective measures, while at the same time ensuring availability of affordable solutions for personal use.[8]
d. **Explore additional measures for other plastic-containing product categories (SUPD Article 5):** the scope could also be expanded to address specific product groups where reduction or restriction may deliver significant environmental benefits, provided these outweigh substitution risks. Examples include:
    - Non-food XPS/EPS containers (e.g. polystyrene boxes);
    - Mail items with plastic seals (e.g. plastic wrapping around magazines);
    - Plastic disposable fuel pump gloves, e.g. by limiting availability to "on request" only. We suggest assessing the feasibility of introducing a specific provision to regulate this.
e. **Despite the ban on the sale of plastic straws, their use must remain possible for people who use these for medical reasons:** Assess whether plastic straws intended for

[4] Landelijke Zwerfafvalmonitor 2024: hoeveelheid grof zwerfafval blijft gelijk (Rijkswaterstaat, 2024)
[5] See also Kamerbrief over beleidsopties voor terugdringen van sigarettenfilters in zwerfafval | Kamerstuk | Rijksoverheid.nl
[6] A ban on cigarette filters under the SUPD would only cover filters containing plastic. The Netherlands would also be open to research a ban under the Tobacco Product Directive, where it in theory would cover all cigarette filters.
[7] WHO raises alarm on tobacco industry environmental impact (World Health Organization, 2022)
[8] See also 'De bal ligt bij jullie: Maak vochtige doekjes plasticvrij!' and Position paper plasticvrije doekjes (RIONED, 2024)

use as medical device are available for those who need or want plastic straws for this purpose. If this is not the case, explicitly exclude plastic straws for medical reasons from the scope of restrictions (Article 5) to ensure they are available for people who need these.

f. **Expand Extended Producer Responsibility (EPR) (SUPD Article 8):** expand EPR to:
   - Plastic carrier bags
   - Metal beverage cans containing plastic, or plastic coatings: we believe cans should also fall under the scope of the SUP Directive and, consequently, should be included within the EPR framework. Cans that end up in litter are thus covered by the EPR.
   - If the market restrictions mentioned under b., prove unfeasible or ineffective: also extend the EPR to plastic disposable vapes, chewing gum containing plastic and plastic sticks for ice cream/lollipops.

g. **Introduce a dynamic mechanism to regulate new or emerging plastic-containing products:** to ensure responsiveness between evaluations and/or revisions, the Directive should include a provision allowing the EU to swiftly regulate new items (e.g. reusable filters, new vape types, coated beverage cans).

5. <u>Improve labelling requirements, and awareness measures</u>

In the Netherlands, the adoption of Directive (EU) 2019/904 at the European level and its implementation through national measures have led to increased public awareness of the widespread presence of plastics in the environment and the need to reduce their impact. However, when it comes to the awareness generated through the labelling requirements, and awareness measures, certain aspects require some attention in order to become more effective.

a. **Ensure that labelling, and awareness measures have set goals, and are measurable and evidence-based (SUPD Article 7 and 10):** clearly described goals could improve the effectiveness of the measures. Objective measurement of the effectiveness of awareness campaigns, and labelling requirements should be required in the context of the Directive, so adjustments can be made to reach these goals.

b. **Extend awareness measures to additional product categories:** including squeeze pouches and plastic carrier bags, which are frequently found in litter, and remain poorly understood by consumers in terms of their environmental impact.

6. <u>Fishing gear</u>

Based both on the implementing experience, and feedback from the fishery sector, the Netherlands would like to emphasise the importance of fishing gear related measures that fit the daily practice. The practice of determining who, within the production line of raw material to fishing nets, is considered to be the producer under the EPR has proven to be challenging. Also, to ensure effective measures, and strengthen implementation for reducing fishing related litter, the directive should include clear links with other rules and directives such as the Common fisheries policy (CFP) and the Marine Strategy Framework Directive (MSFD).

a. **Explore a EU wide EPR scheme for fishing gear:** several Member States struggle to set up their national EPR schemes because of the international character of the fishing gear market. It could be more effective when an EU EPR scheme is set up. In addition, this will most likely also ease administrative burden for both Member States and market parties.

b. **Elaborate on fishing gear producer, and fishing gear definitions:** additional guidelines and clarifications accompanying these definitions are needed to make distinctions between, for instance, the producer of raw material, rope, and fishing gear, and to determine which types of fishing gear fall under the scope of the Directive.

c. **Ensure effective recycling of fishing nets:** for instance, by only allowing CEN-certified fishing nets onto the EU-market, or through the creation of a circular economic investment impulse for fishing gear manufacturers via for example current and future European Maritime Fisheries and Aquaculture Fund (EMFAF).

d. **Phase-out the use of conventional dolly ropes:** conventional dolly rope should be included in definitions of fishing gear, and the scope of the EPR. Dolly rope is one of the most found litter items on European beaches. Stimulating, and in time prescribing the use of environmental friendly alternatives for dolly rope, can lead to significant litter reduction in the marine environment, and support EU-members in achieving EU litter thresholds.