



GOVERNMENT OF MALTA

Government response to the Consultation on the Restrictions on Placing on the Market of Single-Use Plastic Products Regulations, 2020

March 2021

Environment and Resources Authority
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Published by the Environment & Resources Authority

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Executive Summary

Introduction and overview

On the 24th October 2020, the Environment and Resources Authority (ERA), in collaboration with the Ministry for the Environment, Climate Change and Planning published the draft *Restrictions on Placing on the Market of Single-Use Plastic Products (SUP) Regulations, 2020* and *Restrictions on Placing on the Market of Lightweight Plastic Carrier Bags Regulations, 2020* for public consultation. The aforementioned Regulations implement a budget measure announced in the context of the 2020 Budget speech, whereby the importation, production, sale and distribution of certain SUP items will be prohibited, whilst also bringing into effect certain provisions of the EU SUP Directive and Packaging and Packaging Waste Directive. The overarching objective of these Regulations is to reduce the environmental impacts caused by the targeted SUP items and ensure the transition to a circular economy with innovative and multi-use sustainable alternatives, by means of restricting the placement on the market of such items.

More specifically, the *Restrictions on Placing on the Market of Lightweight Plastic Carrier Bags Regulations, 2020* prohibit:

- The importation and manufacturing intended for circulation on the market of Malta of any lightweight plastic carrier bags as from 1st January 2021; and
- Any supply of such bags for distribution, consumption and use in Malta as from 1st January 2022.

Reusable plastic carrier bags, biodegradable and compostable as well as very lightweight plastic carrier bags are exempt from such prohibitions.

On the other hand, the *Restrictions on Placing on the Market of Single-Use Plastic (SUP) Products Regulations, 2020* prohibit the placing on the market of:

- The SUP items set out in Part A of the Schedule and all products made from oxo-degradable plastic as from 1st January 2021, including cutlery, straws, plates, cotton bud sticks, beverage stirrers, balloon sticks, as well as food or beverage containers and cups made of expanded polystyrene; and
- The SUP items listed in Part B of the schedule as from 3rd July 2024. Such SUP items include plastic and composite beverage containers with a capacity of up to three litres. Such containers might be exempt from such prohibition if the plastic caps and lids remain attached to the containers during their use.

Both Legal Notices were published for public consultation from 28th October 2020 to 26th November 2020.

The objective of the public consultation was to invite the public to make submissions to ERA with their comments as to why and how these draft Regulations could be amended.

This consultation sought views on the proposed Regulations.

Responses to the consultation and process used to seek stakeholder views

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

The draft *Restrictions on Placing on the Market of Lightweight Plastic Carrier Bags Regulations, 2020* and *Restrictions on Placing on the Market of Single-Use Plastic Products Regulations, 2020* were subject to a four-week public consultation period, which ran from 28th October to 26th November 2020. Numerous technical queries on both Legal Notices had been received, notably with respect to the items covered by the proposed prohibitions, whereas no suggestions on how to improve the proposed legislation have been made. The queries received as well as ERA's replies are set out in Annex A.

This public consultation included a public event organised by ERA, where stakeholders and the general public (including NGOs) had the opportunity to share their views and raise any concern they might have vis-à-vis the proposed Legal Notices. A number of targeted one-to-one meetings with key stakeholders, including the private sector, were also held during and after the closing of the consultation period. During such meetings, no representations on how to amend the draft Legal Notices were made. Such stakeholders *inter alia* include the Malta Chamber of Commerce, Enterprise and Industry, the Commerce Department within the Ministry for the Economy and Industry, the Resource Recovery and Reuse Agency as well as certain private stakeholders.

Summary of responses and decisions

The following is a summary of the consultation responses received. We would like to thank all those who took the time to respond to the consultation and participate in stakeholder meetings around the consultation exercise.

1. Statistics.

- Total feedback received: 32
- Total feedback received by individuals: 15
- Total feedback received by organisations: 17
- Total feedback received through email: 12
- Total feedback received through online form: X
- Total feedback received by post: X

Numerous technical queries on both Legal Notices had been received, notably with respect to the items covered by the proposed prohibitions, whereas no suggestions on how to improve the proposed legislation have been made. As such, there was no opposition to the enactment of the Legal Notices in question.

In the absence of any submission on how to amend the proposed Regulations, no amendments to the legal text were required following public consultation.

Implementation

The final Legal Notices were published on 30th December 2020 as Legal Notice 480 of 2020 (*Restrictions on Placing on the Market of Plastic Carrier Bags Regulations, 2020*) and Legal Notice 481 of 2020 (*Restrictions on Placing on the Market of Single-Use Plastic Products Regulations, 2020*).

Contact Details

If you have any questions regarding this response, please contact: era.policy@era.org.mt

Annex A: List of respondents

Ref No.	Name of Stakeholder / Date	Comments Received	Response / Remarks
1	Adriana Frank Frank Wrap 28/10/2020	<p>I would like to quote the scope of Directive 94/62/EC</p> <p>"The directive covers all packaging placed on the European market and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.</p> <p>SUP cling film massively used in households/restaurants is not included in the proposed ban. An alternative to plastic cling film is currently available in the market and is produced locally. Frank Wrap is a natural and reusable alternative for food storage. It keeps food fresh for longer and replaces the single use of plastic cling film.</p> <p>I am the creator of Frank Wrap and I am actively looking for partners to scale up our business.</p>	<p>Thank you for making your part in this initiative. We would like to clarify that plastic films are not covered by the scope of the SUP Directive and the draft LN on restrictions on placing on the market of certain SUP items.</p>
2	Odette Spiteri/Robert Vassallo 28/10/2020	<p>Our business is against plastic we are reducing plastic drastically as we have eco friendly softeners detergents etc by the kilo .</p>	<p>Thank you for making your part in this initiative.</p>
3	Ben Farrugia M.D. Longbow Ltd 02/11/2020	<p>Please note Longbow's official email concerning the consultation on the single use plastics restrictions draft.</p> <p>Our perspective and expertise is as a wholesaler of such items related to the EU Directive 904/2019. We are leading suppliers to the hotel restaurant and catering sector.</p> <p>This email comprises clarification requests as well as detail of certain clauses.</p>	<p>ERA would like to clarify that the draft Restrictions on Placing on the Market of Single-Use Plastic Products Regulations, 2020 will solely transpose Article 5 (on restrictions on placing on the market) and Article 6 (1) and (2) (on product requirements) of Directive (EU) 2019/904 (commonly known as the SUP Directive). In this context, kindly note that Malta is working on the transposition of the remaining articles of the SUP</p>

		<p>1. The omission of Article 4 and thus Part A. of the above mentioned directive: Consumption Reduction. While this measure is a priority in this directive since from ecological results mentioned within the same directive, these form part of the major issues related to marine litter (50%), we are surprised that this was seemingly ignored, to the point that the current draft mentions nothing of cups and food containers, and we can thus import them freely with no restrictions. Considering all this article was omitted, of course also the potential measures the draft could have taken based on “the environmental impact of these single-use plastic products over their life cycle” as quoted in the same article 4. We would appreciate confirmation to this as it seems odd that the main items the EU directive is trying to ban/restrict was omitted from the draft.</p>	<p>Directive, including the article on consumption reduction measures, which transposition falls outside the scope of this public consultation. Moreover, kindly note that the placement on the market of single-use food containers and cups made out of expanded polystyrene shall be banned.</p>
		<p>2. Article 4 of the Draft: just to clarify, biodegradable plastics will also be banned – including if the cutlery or any other plastic passes EN13432 !?!</p>	<p>To date, the SUP Directive does not differentiate between SUP items according to their biodegradability and compostability, thus the prohibition also applies to the SUP items listed in the Schedule that are biodegradable and compostable. Recital 11 of the SUP Directive states that "The adapted definition of plastics should therefore cover polymer-based rubber items and bio-based and biodegradable plastics regardless of whether they are derived from biomass or are intended to biodegrade over time." Having said so, the Directive in question also includes an evaluation & review clause (Art.15), whereby the Commission shall submit a report, accompanied by a proposal for the review of this Directive as appropriate, inter alia containing “an assessment of the scientific and technical progress concerning criteria or a standard for biodegradability in the marine environment applicable to single-use plastic products within the scope of this Directive and their single-use substitutes which ensure full decomposition into carbon dioxide (CO₂), biomass and water within a timescale short enough for the plastics</p>

			not to be harmful to marine life and not to lead to an accumulation of plastics in the environment.” To put it simply, upon gathering further scientific evidence, the Directive might be amended to exclude biodegradable SUP items in the future.
		3. Draft / Schedule regulation4 Part A (c) : will HS codes be used to identify what a plate consists of?!?	The placement on the market of all SUP plates will be banned. The modalities whereby such a prohibition will be implemented are being discussed by the relevant Maltese entities. In this respect, we would like to note that both draft Legal Notices clearly indicate that the Customs Department and the ERA shall collaborate and cooperate in enforcing the Regulations at issue. In fact, ERA already initiated discussions with Customs Department on the enforceability aspect of these Regulations.
		4. Draft / Schedule regulation4 Part A (h & i) : the caps and lids used for EPS containers are also used for other plastic containers which are not covered by the draft, in particular to the items in my point 1 above. The draft is anyway allowing the lids to come through... this must be clarified.	The prohibition on food and beverage containers and their cups made out of expanded polystyrene includes their caps and lids as stipulated in point (h) & (i) of Part A of the Schedule. Furthermore, we would like to clarify that, in line with regulation 4(2) and part B of the Schedule, SUP beverage containers (irrespective of the polymer making up such containers) might be placed on the market only if caps and lids are physically attached to such containers.
		5. General requirement: the means of enforcing the law must be clarified. Will importers be stopped at Customs point? Therefore will HS codes be used to identify what can and what cannot come in? if so, we would require that all the items be specified in that way. There are small differences between products in the Taric system, and thus to avoid loopholes which would disadvantage law abiding businesses, the HS codes of the banned items must be known.	Comments duly noted. Please refer to our reply to question 3.

		<p>While thanking you for your attention to the above matters, I understand that some of the issues are indeed very changing to the draft. I have also learnt that several EU countries are taking the road of allowing EN13432 certified single use plastics to reduce the consumption of the cups and food containers. This may be a healthy road to take to stop the plastics which indeed take hundreds of years to decompose.</p> <p>Please also note that following your reply on the HS codes, we may require to seek further clarifications...</p>	<p>Thank you for pointing this out. It would be useful if further information is provided on this point, since allowing EN13432 SUP products does not seem to constitute a consumption reduction measure. It rather seems to be a measure aimed at shifting consumption patterns to biodegradable and compostable SUP products.</p>
4	<p>Emma Abdilla</p> <p>8/11/2020</p>	<p>I am writing due to a concern regarding the restrictions that are to be put into force in 2021 and 2022 on the use of lightweight plastic bags.</p> <p>I noticed that biodegradable and compostable bags will be exempt of this regulation. I would like to know whether any plans are being discussed about the use of such bags in the future. This is because biodegradable bags may break down naturally, but only to form smaller 2mm pieces that may still be an eye sore and accumulate in the wrong places. Marine wildlife may also be harmed since such fragments can easily end up in the wrong environment with improper disposal. Moreover, unless the exemption of compostable bags isolates those with the OK Compost HOME Logo, people will still dispose of these bags incorrectly as no industrial composting plant is present in Malta. If no system is developed to make sure compostables serve their full use, misinformed individuals will keep on creating just as much landfill waste in the long run.</p> <p>Thank you for your time and consideration. I look forward to hearing from you.</p>	<p>Comment duly noted. The draft LN on SUP items prohibits the placement on the market of all oxo-degradable plastic products, including plastic carrier bags. Oxo-degradable plastic carrier bags are the most harmful bags for the marine environment, since they break down to smaller pieces. We would also like to clarify that, to date, there is no EU harmonised standard for home-compostable plastic packaging, including plastic carrier bags. Hence, the draft Legal Notice restricting the placement on the market of lightweight plastic carrier bags cannot spell out any home-compostability standard for such bags. In this context, those plastic carrier bags that are biodegradable and compostable according to the current harmonised standard (referred to in the draft LN in question) can be used to dispose of organic waste, since they can be recycled together with their content at permitted waste management facilities in an environmentally sound manner. From an environmental point of view, this is an important added-value brought about by this Legal Notice.</p>
5	<p>Noel Frendo Jones</p> <p>Frendo Enterprises Co Ltd</p>	<p>With reference to the prohibition of importation of Single-Use Plastic Cutlery as from 1st January, 2021, can you please advise whether disposable cutlery made of CPLA material which is 100% Compostable and 100% Biodegradable according to EN-13432 Standard will be allowed to be imported. Each item is embossed 100% Compostable (Visible to the consumer).</p>	<p>To date, the Single-Use Plastic Directive and the draft Legal Notice transposing certain articles of the said Directive, do not differentiate between SUP items according to their biodegradability and compostability, thus the prohibition also applies to the SUP items listed in the Schedule that are biodegradable and compostable. In</p>

	<p>5/11/2020</p>	<p>May we point out that CPLA which is a PLA based product can be either recycled or composted in industrial Composting facilities.</p> <p>This matter is very urgent and we would appreciate a reply by tomorrow latest.</p>	<p>this context, kindly note that the definition of plastic laid down in this draft Legal Notice, which transposes the relevant definition in the SUP Directive, solely excludes <i>“natural polymers that have not been chemically modified”</i>. This is further substantiated by recital 11 of the SUP Directive, which states that <i>“The adapted definition of plastics should therefore cover polymer-based rubber items and bio-based and biodegradable plastics regardless of whether they are derived from biomass or are intended to biodegrade over time.”</i></p> <p>From a practical point view, this means that a broad fraction of plastics – irrespectively whether they are petrol-based or bioplastics or biodegradable – are still covered by both the Directive and this draft Legal Notice; hence the term “plastics” in both the Directive and the LN as well as the related measures shall also apply to polymers derived from renewable biomass which chemical structure has been modified, being this the case of CPLA (crystalized polylactic acid) and PLA (polylactic acid), irrespectively of whether they are biodegradable or otherwise.</p> <p>Having said so, the Directive in question also includes an evaluation & review clause (Art.15), whereby the Commission shall submit a report, accompanied by a proposal for the review of this Directive as appropriate, <i>inter alia</i> containing <i>“an assessment of the scientific and technical progress concerning criteria or a standard for biodegradability in the marine environment applicable to single-use plastic products within the scope of this Directive and their single-use substitutes which ensure full decomposition into carbon dioxide (CO₂), biomass and water within a timescale short enough for the plastics not to be harmful to marine life and not to lead to an</i></p>
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			<i>accumulation of plastics in the environment.” To put it simply, upon gathering further scientific evidence, the Directive might be amended to exclude biodegradable SUP items in the future.</i>
6	Corinne Castillo PBL Ltd 12/11/2020	We use carrier bags to deliver our products to our clients (we do not sell these but use these for packaging) – can you please confirm if the deadline to stop using these is 1/1/2021 or 2022 as the presentation said 2021 but during the Q&A 2022 was mentioned.	According to the draft LN in question, as from 1st January 2021 the importation (i.e. from non-EU countries), intra-community acquisition (i.e. from other Member States of the EU) and local manufacturing for the circulation on the market of Malta (i.e. not intended for export) of lightweight plastic carrier bags (i.e. the lightweight plastic carrier bags that are not exempt from such a prohibition as per regulation 4(3) of this draft LN) are prohibited. On the other hand, as from 1st January 2022 , any supply for distribution, consumption or use of such bags will be prohibited. To put it simply, lightweight plastic carrier bags cannot be imported and manufactured as from 1 st January 2021, whilst local stocks of such bags cannot be supplied after 1 st January 2022.
7	Steve Rizzo InServ Ltd 12/11/2020	My question I have to the eu and to local Legislation is the following: Is PLA or CPLA Cutlery going to be banned too? The legislation is not clear, and I need to know whether it will be. The following text is not clear, and I need clear clarification on this subject. (11) Single-use plastic products can be manufactured from a wide range of plastics. Plastics are usually defined as polymeric materials to which additives may have been added. However, that definition would cover certain natural polymers. Unmodified natural polymers, within the meaning of the definition of ‘not chemically modified substances’ in point 40 of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ¹ , should not be	To date, the Single-Use Plastic Directive and the draft Legal Notice transposing certain articles of the said Directive, do not differentiate between SUP items according to their biodegradability and compostability, thus the prohibition also applies to the SUP items listed in the Schedule that are biodegradable and compostable. In this context, kindly note that the definition of plastic laid down in this draft Legal Notice, which transposes the relevant definition in the SUP Directive, solely excludes <i>“natural polymers that have not been chemically modified”</i> . This is further substantiated by recital 11 of the SUP Directive, which states that <i>“The adapted definition of plastics should therefore cover polymer-based rubber items and bio-based and biodegradable</i>

		<p>covered by this Directive as they occur naturally in the environment. Therefore, for the purposes of this Directive, the definition of polymer in point 5 of Article 3 of Regulation (EC) No 1907/2006 should be adapted and a separate definition should be introduced. Plastics manufactured with modified natural polymers, or plastics manufactured from bio-based, fossil or synthetic starting substances are not naturally occurring and should therefore be addressed by this Directive. The adapted definition of plastics should therefore cover polymer-based rubber items and bio-based and biodegradable plastics regardless of whether they are derived from biomass or are intended to biodegrade over time. Paints, inks and adhesives should not be addressed by this Directive and therefore these polymeric materials should not be covered by the definition.</p> <p>I really would appreciate some clarity on PLA and CPLA.</p> <p>We have already started seeing the importation of PLA disposable items by well-established European supermarket players and Distributors who have channelled them down here to Malta through the open border system..the question also if malta does not allow them also how will this be controlled through open border system.</p> <p>Thanking you for your attention and some headway on the subject.</p>	<p><i>plastics regardless of whether they are derived from biomass or are intended to biodegrade over time.”</i></p> <p>From a practical point view, this means that a broad fraction of plastics – irrespectively whether they are petrol-based or bioplastics or biodegradable – are still covered by both the Directive and this draft Legal Notice; hence the term “plastics” in both the Directive and the LN as well as the related measures shall also apply to polymers derived from renewable biomass which chemical structure has been modified, being this the case of CPLA (crystalized polylactic acid) and PLA (polylactic acid), irrespectively of whether they are biodegradable or otherwise.</p> <p>Having said so, the Directive in question also includes an evaluation & review clause (Art.15), whereby the Commission shall submit a report, accompanied by a proposal for the review of this Directive as appropriate, inter alia containing “<i>an assessment of the scientific and technical progress concerning criteria or a standard for biodegradability in the marine environment applicable to single-use plastic products within the scope of this Directive and their single-use substitutes which ensure full decomposition into carbon dioxide (CO2), biomass and water within a timescale short enough for the plastics not to be harmful to marine life and not to lead to an accumulation of plastics in the environment.</i>” To put it simply, upon gathering further scientific evidence, the Directive might be amended to exclude biodegradable SUP items in the future.</p>
8	Mark Anthony Cassar MCCAA	I was following the consultation just now and it was clarified that plastic bags for use in supermarkets etc for food hygiene purposes (cheeses, ham, bread, fruit and veg and cheeses etc) and other containers that are not polystyrene are not covered by this legislation	With regards to the draft Legal Notice on <i>restrictions on placing on the market of lightweight plastic carrier bags</i> and in line with the Packaging and Packaging Waste Directive, very lightweight plastic carrier bags (i.e. plastic

	<p>12/11/2020 & 13/11/2020</p>	<p>for now. So that means there is not an issue as was thought earlier this year, wrt food?</p>	<p>carrier bags with a wall thickness below 15 microns and which are required for hygiene purposes or primary packaging for loose food) are exempt from such a prohibition. With respect to the draft LN on <i>restrictions on placing on the market of SUP products</i>, only single-use food and beverage containers, as well as cups made out of expanded polystyrene will be banned. Moreover, kindly note that all products made from oxo-degradable plastics will also be banned.</p>
		<p>And is the legal notice a direct transposition of the EU Directive or does it go beyond that stipulated by the EU in some parts?</p>	<p>Apart from implementing a 2020 budget measure, the draft LN on <i>restrictions on placing on the market of SUP products</i> also transposes certain articles of the Single-Use Plastic Directive into the national legal framework, while the draft LN on <i>restrictions on placing on the market of lightweight plastic carrier bags</i> will bring into effect the article in the Packaging and Packaging Waste Directive pertaining to reducing the consumption of such bags. With regards to the former, the only element not fully aligned with the SUP Directive is the first deadline (i.e. 1st January 2021), which reads 3rd July 2021 in the said Directive. With respect to the latter, the Packaging Directive includes a number of measures to achieve a sustained reduction in national consumption of lightweight plastic carrier bags, which measures also include market restrictions.</p>
<p>9</p>	<p>Lawrence Bajada Magro Brother Group 13/11/2020</p>	<p>Further to the public consultation meeting held yesterday, do you have examples of products made from oxo-degradable plastic that will be prohibited as per below?</p> <p>4. (1) As from 1 January 2021, the placing on the market of the single-use plastic products listed in Part A of the Schedule <small>Prohibition placing on market.</small> and of products made from oxo-degradable plastic shall be prohibited.</p>	<p>All products made from oxo-degradable plastic will be prohibited. Oxo-degradable plastic is any plastic material (e.g. PP - Polypropylene, PE – Polyethylene, Low-density polyethylene - LDPE etc.) that includes additive/s which, through oxidation, leads to fragmentation of the plastic material into micro-fragments or to chemical decomposition. This type of plastic does not properly biodegrade and thus contributes to microplastic pollution</p>

			in the environment, is not compostable, negatively affects the recycling of conventional plastic and fails to deliver a proven environmental benefit. This is the reason why all products made from oxo-degradable plastics will be banned under both the SUP Directive and the Legal Notice at issue. Relevant examples of plastic products made from oxo-degradable plastic are certain plastic packaging item and plastic carrier bags.
10	Claudia Tabone Zahra Ignazio Anastasi Ltd 16/11/2020	<p>After the meeting held last week, we would like to check re the following: We import zipper bags these are : made from PP Plastic material with added D2W which makes them OXO –Biodegradable... our question is if the zipper bags are banned from import or not...</p> <p>Since these are zipper bags (the ones used for lunches, sandwiches etc) and not carrier bags are these also banned from importing? And , if these are made from PE Plastic instead of OXO-Biodegradable are these accepted?</p>	<p>Zipper bags are banned as per the proposed L.N on the Restrictions on Placing on the Market of Single-Use Plastic products, only if they are made of oxo-degradable plastics. Therefore, if the zipper bags are made of PE Plastic they are exempt from the ban.</p> <p>Furthermore, according to the definition laid down in Regulation 3 of the Legal Notice (which is in line with the definition laid down in Directive 94/62/EC); plastic carrier bags “means carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products”. In other words, such zipper bags do not seem to constitute plastic carrier bags, thus they are exempted from the ban, unless they are made from oxo-degradable plastic.</p>
		<p>Microwave container are made from PP based plastic materials which can withstand heat.... Are these banned from import or not.</p> <p>Microwave Container are of PP plastic material and it does not have any OXO material and it is 100 % recyclable and these are re-usable as well.</p>	<p>Microwave containers made from PP are not subject to market restrictions as such product is not listed under Part A of the Schedule of the Draft Legal Notice.</p> <p>Regarding reusability, we would like also to clarify that for a product to be considered as reusable, it has to be conceived and designed to accomplish within its life cycle a minimum number of trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived.</p>

		<p>Bio- Degradable cutlery are made from Corn base material.... Are these banned from import or not.</p> <p>Cutlery is made from corn base material and we can provide you the MSDS report for the same, to check and confirm.</p>	<p>Biodegradable or compostable plastics are not excluded from the scope of the Draft Legal Notice in caption. Therefore, by 1st January 2021, it shall be prohibited the placing on the national market of those products listed in the Schedule, which are made from biodegradable or compostable plastics.</p> <p>Kindly note that this is in line with provisions laid down in Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment.</p> <p>As a separate note, we would like to highlight that report “WD-R-T-2011-00392-Hotpack Biodegradability” refers to plastic material made of sugarcane, however, in your query, you made reference to a different materials (i.e corn base materials). Hence, it seems that this material is plastic originated from sugarcane which has been modified in order to fulfil specific intended use.</p> <p>Furthermore, the report in question does not provide data on the chemical test (i.e. values for heavy metals present on residues collected after biodegradation) and on the ecotoxicity tests.</p>
		<p>Bio- Degradable Bowl, plates ,lunch Boxes are made from Sugarcane base.... Are these banned from import or not.</p> <p>Bio degradable lunch box , bowl , plates are made from sugar cane and there is no plastic content in it. So since there is no plastic content in them they are still banned??</p>	<p>In order for us to be able to provide an accurate reply, kindly indicate whether the aforementioned products are made from sugarcane pulp or fibres, of if such products are made from plastic obtained from sugarcane, for instance, PLA (polylactic acid). Should the latter be the case, then, such plastic plates (ONLY single-use plates given that such products are listed under Part A of the Schedule), shall be subject to the ban.</p> <p>In this regard, kindly refer to comment concerning the report “WD-R-T-2011-00392-Hotpack Biodegradability” indicated above.</p>

		Regarding my email below, something that I didn't mention is that the Microwave Containers are re-usable.... Does they need to say on the packaging that they are re-usable so we will be able to import them?	The draft Legal Notice on restrictions on placing on the market of certain SUP items and the SUP Directive do not require any specific marking identifying reusable items. Having said so, we would like to clarify that reusable items are those items that are expressly conceived to be reused multiple times throughout their life-time.
11	Steve Rizzo InServ Ltd 25/11/2020	Could you kindly advise through the European open border system how will customs and namely era control mixed goods (packaging and foods) being imported directly by retail chops coming in from mainland Europe in a mixed trailer be checked in order that the directive is enforced from the 1 st of January 2021 to safeguard our interests.	Both draft Legal Notices call on the Environment & Resources Authority and Customs Department to cooperate and collaborate in enforcing these Regulations. To this end, discussions between the said entities are underway, with a view to devising a control system entailing monitoring and enforcement actions undertaken at different points, including point of entry and point of sale. It is recognised that intra community acquisitions are more difficult to regulate at the borders than imports from third countries. However inspections at the points of sale in order to determine whether products on sale have been imported into Malta after the January 1 st deadline will also be conducted.
12	Daniel Mercieca Quality Foods (Marketing) Limited 27/11/2020	Reference is made to the above legal notice draft. Would you please clarify what type of products fall in this category. Quote “ <i>Taqsimha B</i> <i>Kontenituri tax-xorb b'kapacita sa tlett litri , jigifieri recipjenti uzati bix ikollhom kontenut ta likwidu fihom..</i> UnQuote” Does Sauces in plastic bottles classify as Liquids?	Plastic containers containing sauces are not beverage containers covered by the draft LN on SUP items.

Comments submitted during public consultation meeting on 12th November 2020

1	Andre Fenech Malta Chamber of Commerce, Enterprise and Industry 12/11/2020	I would like a clarification regarding the items listed under Part A of Schedule I of the Single-Use Plastic Products Regulations. As from 1 st January 2021 will these be completely prohibited, or just their importation as was stipulated in the 2020 Budget speech? I would like to confirm whether there will be a year allowed for producers and importers to use their existing stock, as was the original plan.	From 1 st January 2021 the placing on the market of the SUP items listed in Part A of the Schedule will be banned. In the case of plastic carrier bags restrictions apply on all placing on the market, including importation and local manufacturing not intended for export. For plastic carrier bags there will be a year allowed for the use of existing stocks. There is no specific deadline for the use of existing stock of SUP items. It is not excluded that the Government will consider introducing other legislation to stipulate such a deadline.
		As regards enforcement concerning illegal trading of certain products which come from Sicily for example, will there be particular enforcement efforts by Customs for these products.	Enforcement will be duly split. The implementation of these regulations will require enforcement action at various points including point of entry and point of sale.
2	Steve Rizzo Inserv Ltd 12/11/2020	The EU legislation stipulates restrictions on PLA and CPLA biomass materials. In the market currently there is cutlery made of these materials. I would like to confirm whether these would be banned locally, as these are already present in the hotel/restaurant/café and retail sectors?	The legislation will also ban the importation of these types of cutlery. The scope of the Directive and draft legal notice covers all types of plastic, including that which may be biodegradable or compostable with the exception of unmodified naturally occurring polymers. This will not affect existing stocks. It is not excluded that in the future the Commission may revise the legislation to potentially exclude such biodegradable and compostable plastics, in light of ongoing adaptation to technical change studies.
		Kindly reconfirm if Plastic Plates made out of PS but reusable are these banned? Not EPS Jablo?	If the product is designed to be reusable, then it does not fall under the definition of 'single-use plastic product' and is therefore not covered by the restriction. The European Commission will be developing detailed guidance on the interpretation of which products fall under these definitions, since certain products may be borderline cases.

3	David Farrugia 12/11/2020	As regards lightweight plastic carrier bags, does the legislation refer to shopping bags specifically or any plastic including those used for waste disposal?	There is a total ban on plastic carrier bags which are between 15 – 50 microns thick, regardless of their shape of form. Bags with a wall thickness exceeding 50 microns, reusable plastic carrier bags and bags with a wall thickness below 15 microns which are used for food contact items or hygiene purposes, as well as biodegradable and compostable lightweight carrier bags are not banned. Garbage bags do not fall under the definition of ‘plastic carrier bag’ which specifically refers to bags which are supplied to consumers at the point of sale of goods or products, and are therefore excluded from the restrictions.
4	Paul Farrugia Reġjun tax- Xlokk 12/11/2020	I would like to ask whether stretch-and-seal will be covered by the restrictions.	No it will not be banned as it does not fall within the definitions provided in the legislation, unless it is made from oxo-degradable plastic.
5	Robert Abela 12/11/2020	It was specified that plastic bags below 15 microns are excluded if used for hygiene purposes. Therefore if someone wants to pack meat products under 15 microns, will these be banned or not? What is the specific definition of bags required for hygiene purposes? Also, will plastic bags which are provided to hospitals for medical use and are under 15 microns be banned also?	Bags under 15 microns for loose food or for hygiene purposes are not banned. Bags used in hospitals do not fall within the definition of ‘plastic carrier bags’ and are therefore excluded from the restrictions.
		Who will have the onus for these restrictions?	As regards importation and local manufacturing, the onus is on the importer and manufacturer respectively. As regards sales, the onus is on the retailer.
		The plastic bags used for bread are usually 22 microns thick, in order to avoid the plastic being torn by any sharp edges on the bread. Will these be banned since they are more than 15 microns?	Pre-packaged products with plastic bags (i.e. primary packaging) are completely excluded from the restrictions, as they are not considered plastic carrier bags.

6	George Bugeja 12/11/2020	Will delivery of food and goods be covered by the legislation?	Yes, all plastic bags which are supplied to consumers at the point of sale of goods or products are covered.
7	Stephen Farrugia Beautimport Ltd 12/11/2020	Will protective equipment used by hairdressers, such as gowns and gloves, be banned under the restricted SUP items?	No they are not covered by the legislation as they are not listed in the Schedule.
8	Marylise Ciantar 12/11/2020	What about heated shrinkfilm to assembly offers? Like when a product is given free with another item. Usually these are 19 microns or over.	No it will not be banned as it does not fall within the definitions provided in the legislation.
9	Ben Farrugia Longbow Ltd 12/11/2020	The directive specifies certain measures which have to be effected regarding consumption reduction. This was going to have a large impact on member states since it will affect cups for beverages and food containers. The directive gives the option to use different environmental options. Will this legislation stay as is without any reference to consumption reduction?	This is the first step which is transposing Article 5 and part of Article 6 of the directive into national legislation. Other provisions of the directive, such as those concerning consumption reduction, product requirements, product marking, EPR and separate collection will be addressed by a separate legal notice to be published before June 2021.
		Part A of the schedule of the draft legal notice on SUP items mentions plates. Certain plastic products, such as cutlery and plates, are designed for re-use. There is also a standard which one can pass to say that the products can be washed and re-used over 20 times. There is no reference to it in the draft legal notice, so the mention of plastic plates is quite broad and may include reusable items. Will distinctions be made through HS codes to distinguish more clearly between single-use and other items? One has to be careful as to the definition of single-use plastics, since there may be attempts to pass off single-	If the product is specifically intended to be reusable, then it would not fall within the definition of 'single-use plastic product'. There is no specific requirement to make use of HS codes although it is not excluded. Some specific cases will have to be determined through the enforcement procedure.

		use plastic products as reusable, or may use re-usable products only once, as this will also affect what will be placed on the market.	
10	Yosef Deguara 12/11/2020	Are there any plans for PET bottles to be restricted?	There are no specific restrictions on PET bottles. The restriction on plastic bottles concerns a ban on the placing of the market of bottles with a capacity of up to 3 litres, unless the caps/lids remain attached to the containers, as from 3 July 2024. PET bottles are regulated under the Beverage Containers Recycling Regulations.
11	Oswin Farrugia Malta International Airport 12/11/2020	In the Duty Free section of the airport, customers are given sealed plastic bags as a security measure between airports. Will these be banned?	Such bags are acceptable if they have a thickness of more than 50 microns or are biodegradable or compostable.
12	David Pace Bonello Inserv Ltd 12/11/2020	If for example I buy a kilogram of apples from a hawker and put them in a plastic bag which is available near the products, rather than from the counter, will these bags be banned?	Such a bag would not be covered by the restrictions if it falls within the definition of 'very lightweight plastic carrier bags'.
13	Fredrick Williams 12/11/2020	P.L.A. is a range of biopolymers derived from corn starch. It is fully biodegradable and compostable according to EN13432. The same goes to Mater Bi is a range of biopolymers derived from vegetable starch. It is fully biodegradable and compostable according to EN13432. Will Mater Bi also be banned, specifically plastic cups made from these materials?	Beverage cups made from such materials will not be subject to the restrictions, since the schedule only refers to beverage cups made of expanded polystyrene. However for example all types of single-use plastic cutlery and plates are subject to the restrictions, since the schedule does not make specific reference to the material.

14	Joe Attard 12/11/2020	My query concerns consumers. If after 1 st January 2022 plastic carrier bags will be banned, if the customer who has his own plastic carrier bag and takes it with him and uses it to purchase and carry items. Can consumers continue to use plastic carrier bags in this way?	Consumers will not be affected in these cases. The legal notice concerns bags which are supplied to customers at the point of sale. It is not feasible to ban the public from owning plastic carrier bags.
15	Alexandria Tara Gautam 12/11/2020	Regarding single-use carrier bags, I would like to clarify whether bags used for fruits and vegetable will be subjected to these restrictions. There are simple alternatives for such bags, such as using re-usable bags which can be brought by the customer. The work and commitment in this regard is appreciated and I look forward to the next stages.	Bags which fall under the definition of 'very lightweight carrier bags' are excluded from the restrictions. ERA agrees with your comment which is more ambitious and desirable from an environmental perspective. This legislation is the first step towards the phasing out of plastics from the environment and addresses the bulk of plastic bags which are environmentally harmful. It is not excluded that plastic bags of less than 15 microns will be banned in the future. However the current balance, also having regard to food safety and hygiene, is to ban bags of between 15 and 50 microns. People who are environmentally conscious always have the option of using their own reusable bags.
16	Rose Mary Azzopardi 12/11/2020	What about containers for eggs?	Such products do not fall under the restrictions, especially if they are not made of expanded polystyrene.
		Can such banned items be shown on the ERA website?	The items are listed in the Schedule of the legal notice.
17	Alan Mallia 12/11/2020	In relation to bottle taps, does this includes milk carton too?	Milk cartons which fall under the definition of 'single-use plastic products' and are considered to be beverage containers and are also subject to the restrictions. Such milk cartons containing plastic can be placed on the national market after 3 rd July 2024 if the caps and lids are physically attached to such containers.

18	Alice Fantin 12/11/2020	Are plastic bags used for fruit and vegs going to be banned?	The bans are mainly addressed towards bags with a thickness between 15-50 microns. Plastic bags for fruit and vegetables which are less than 15 microns thick are not covered by the restrictions since they fall within the definition of 'very lightweight plastic carrier bags'.
19	Milos Ivaz 12/11/2020	Are jumbo bags excluded?	All reusable carrier bags are excluded from the scope of these regulations. Single-use jumbo bags are excluded if they exceed 50 microns in thickness.
20	Mark Mifsud 12/11/2020	I think that this is a very welcome ban on single use plastic that pollutes oceans. Obviously this targets specific items only - it is a good first step but much more needs to be done. In addition to this public consultation exercise, will ERA be leading efforts for an educational and awareness raising campaign in order for people to understand the reasoning of this ban?	ERA makes constant efforts on awareness raising. This public consultation exercise is part of other general efforts to promote environmental initiatives. ERA has taken note of your suggestion for a more targeted effort to increase awareness on this particular process which will affect a lot of people.