

ADDENDUM explaining the scope of 'kitchenware' in view of 'tableware'

to the EU guidelines on conditions and procedures for the import of polyamide and melamine kitchenware originating in or consigned from People's Republic of China and Hong Kong Special Administrative Region, China

Questions may arise at the point of entry of consignment into the Union over food contact materials ('FCM') subject to [Commission Regulation \(EU\) No 284/2011](#)*.

With respect to the definition of 'kitchenware' and 'tableware' under this Regulation we note that 'tableware' is considered as a type of kitchenware, and therefore is in the scope of the Regulation.

The Regulation defines plastic kitchenware as follows: '*plastic kitchenware*' means plastic materials [...] falling within CN code ex 3924 10 00. That CN code comprises both 'tableware' and 'kitchenware', as is clear for instance from Regulation (EU) 2022/1998** (page 324). Consequently, for the purpose of Regulation (EU) No 284/2011, 'kitchenware' would include 'tableware'.

This is consistent with the general treatment of 'kitchenware' in the FCM domain, as for instance apparent from the [guidance on kitchenware](#) used for FCM control purposes. Kitchenware in practice comprises all items that can be handheld intended for repeat use to handle foods during their preparation and serving, including tableware and small appliances. Considering tableware as not part of kitchenware would lead to several difficulties, not least that tableware can be used both to serve food as well as to prepare it.

Regulation (EC) No 284/2011 requires the reporting of the kitchenware in its scope (that consequently includes tableware) to the [competent authorities](#) of the Member States, as is set out in Article 3(1):

'1. Polyamide and melamine plastic kitchenware originating in or consigned from China and Hong Kong shall be imported into the Member States only if the importer submits to the competent authority for each consignment a declaration,...'

As the legal basis for Regulation (EU) No 284/2011 is Regulation (EU) No 2017/625*** on official controls (which replaced Regulation (EC) No 882/2004), the competent authorities are not the customs authorities, but the authorities as defined under that Regulation.

For practical purposes, and because the customs authorities are responsible for the release into free circulation of those imported goods (Article 8 of Regulation (EU) No 284/2004), Member States often in practice designate custom authorities to handle this process to a large extent. CN code 3924 10 00 11 is to facilitate it, in line with customs procedures. Regulation (EU) 284/2004 does not refer to this CN code. From reading only the TARIC system this code could be read as relating only to kitchenware excluding tableware. However, as it is used as a tool to facilitate the implementation of Regulation (EC) No 284/2011, 'kitchenware' should for the purpose of the use of this code be read as including 'tableware'.

As a result, operators would need to report to custom authorities all kitchenware in the scope of Regulation (EU) No 248/2011 under CN code 3924 10 00 11, even if they would consider that it could be tableware, at least if a Member State requires such reporting to customs authorities as part of the reporting procedure to the competent authorities required under the Regulation.

Please note that this view from the Commission Services is intended to facilitate your work. **The ultimate jurisdiction to address interpretation issues of EU legislation rests with the Court of Justice of the European Union.**

*[Commission Regulation \(EU\) No 284/2011 of 22 March 2011](#) laying down specific conditions and detailed procedures for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China. We have discussed this matter internally in the Commission.

** [Commission Implementing Regulation \(EU\) 2022/1998](#) of 20 September 2022 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

*** [Regulation \(EU\) 2017/625](#) of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law...