Council of the European Union

Brussels, 2 April 2019
(OR. en)

7736/19

Interinstitutional File: 2018/0172(COD)

CODEC 750
ENV 328
MI 285
IND 101
CONSOM 119
COMPET 273
MARE 7
PECHE 136
RECH 181
SAN 165
ENT 86
ECOFIN 326
PE 110

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the reduction of the impact of certain plastic products on the environment - Outcome of the European Parliament's first reading, (Strasbourg, 25 to 28 March 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure [1], a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

[1] OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Frédérique RIES (ALDE, BE), presented a compromise amendment (amendment number 159) to the proposal for a Directive on behalf of the Committee on the Environment, Public Health and Food Safety. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 27 March 2019, the plenary adopted the compromise amendment (amendment number 159) to the proposal for a Directive. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[2].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

---

[2] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
27.3.2019

Reduction of the impact of certain plastic products on the environment ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment (COM(2018)0340 – C8-0218/2018 – 2018/0172(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2018)0340),

– having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0218/2018),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 17 October 2018[3],

– having regard to the opinion of the Committee of the Regions of 10 October 2018[4],

– having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, Research and Energy, the Committee on Agriculture and Rural Development and the Committee on Fisheries (A8-0317/2018),

1. Adopts its position at first reading hereinafter set out[5];

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

---

3 OJ C 62, 15.2.2019, p. 207.
4 OJ C 461, 21.12.2018, p. 210.
5 This position replaces the amendments adopted on 24 October 2018 (Texts adopted, P8_TA-PROV(2018)0411).

P8_TC1-COD(2018)0172

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[6],

Having regard to the opinion of the Committee of the Regions[7],

Acting in accordance with the ordinary legislative procedure[8],

6 OJ C 62, 15.2.2019, p. 207.
7 OJ C 461, 21.12.2018, p. 210.
8 Position of the European Parliament of 27 March 2019.

Whereas:

(1) The high functionality and relatively low cost of plastic means that this material is increasingly ubiquitous in everyday life. ***While plastic plays a useful role in the economy and provides essential applications in many sectors,*** its growing use in short-lived applications, which are not designed for re-use or cost-effective recycling, means that related production and consumption patterns have become increasingly inefficient and linear. Therefore, in the context of the Circular Economy Action Plan laid down in the Communication of the Commission of 2 December 2015 entitled "Closing the loop – An EU action plan for the Circular Economy", the Commission concluded in the European Strategy for Plastics laid down in its Communication of 16 January 2018 entitled "A European Strategy for Plastics in a Circular Economy" ~~–~~ that the steady increase in plastic waste generation and the leakage of plastic waste into the environment, in particular into the marine environment, must be tackled in order to achieve a ~~–~~ circular life cycle for plastics. ***The European Strategy for Plastics is a step towards establishing a circular economy in which the design and production of plastics and plastic products fully respect re-use, repair and recycling needs and in which more sustainable materials are developed and promoted. The significant negative environmental, health and economic impact of certain plastic products calls for the setting up of a specific legal framework to effectively reduce those negative effects.***

(2) ***This Directive promotes*** circular approaches that give priority to ***sustainable and non-toxic*** re-usable products and re-use systems ***rather than to single-use products, aiming first and foremost to reduce the quantity*** of waste generated***. Such waste*** prevention is at the pinnacle of the waste hierarchy enshrined in Directive 2008/98/EC of the European Parliament and of the Council[9]***. This Directive will contribute to the achievement of*** United Nations (UN) Sustainable Development Goal 12 to ensure sustainable consumption and production patterns, which is part of the 2030 Agenda for Sustainable Development adopted by the UN General Assembly on 25 September ***2015***. ***By retaining the value of products and materials for as long as possible and generating less waste, the economy of the Union can become more competitive and more resilient, while reducing pressure on precious resources and the environment.***

[9] Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(3) Marine litter is transboundary in nature and is recognised as a ***growing*** global problem. Reducing marine litter is a key action for the achievement of UN Sustainable Development Goal 14 which calls to conserve and sustainably use the oceans, seas and marine resources for sustainable development~~ |~~**.** The Union must play its part in ***preventing and*** tackling marine litter and aim to be a standard setter for the world. In that context, the Union is working with partners in many international ***fora*** such as G20, G7 and the UN to promote concerted action and this Directive is part of the Union's efforts in that regard. ***In order for those efforts to be effective, it is also important that exports of plastic waste from the Union do not result in increased marine litter elsewhere.***

(4) In accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS)[10], the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 29 December 1972 ("London Convention") and its 1996 Protocol ("London Protocol"), Annex V to the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL), as modified by the Protocol of 1978 relating thereto, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal of 22 March 1989[11] and with Union waste legislation, namely Directive 2008/98/EC and Directive 2000/59/EC of the European Parliament and of the Council[12], Member States are required to ensure environmentally sound waste management to prevent and reduce marine litter from both sea and land sources. In accordance with Union water legislation, namely Directives 2000/60/EC[13] and 2008/56/EC[14] of the European Parliament and of the Council**,** Member States are also required to tackle marine litter where it undermines the attainment of good environmental status of their marine waters, including as a contribution to UN Sustainable Development Goal 14.

---

10 OJ L 179, 23.6.1998, p. 3.

11 OJ L 39, 16.2.1993, p. 3.

12 Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p. 81).

13 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1).

14 Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

(5) In the Union, 80 to 85 % of marine litter, measured as beach litter counts, is plastic, with single-use plastic items representing 50 % and fishing-related items representing 27 % of the total. Single-use plastic products include a diverse range of commonly used fast-moving consumer products that are discarded after having been used once for the purpose for which they were provided, are rarely recycled, and are prone to becoming litter. A significant proportion of the fishing gear placed on the market is not collected for treatment. Single-use plastic products and fishing gear containing plastic are therefore a particularly serious problem in the context of marine litter, pose a severe risk to marine ecosystems, to biodiversity and to human health and damage activities such as tourism, fisheries and shipping.

(6) ***Proper waste management remains essential for the prevention of all litter, including marine litter.*** Existing Union legislation, namely Directives 2008/98/EC, 2000/59/EC, 2000/60/EC and 2008/56/EC and Council Regulation (EC) No 1224/2009[15], and policy instruments provide some regulatory responses to address marine litter. In particular, plastic waste is subject to overall Union waste management measures and targets, such as the recycling target for plastic packaging waste laid down in European Parliament and Council Directive 94/62/EC[16] and the objective in the European Strategy for Plastics to ensure that by 2030 all plastic packaging placed on the Union market is re-usable or easily recycled. However, the impact of those measures on marine litter is not sufficient and there are differences in the scope and the level of ambition amongst national measures to prevent and reduce marine litter. In addition, some of those measures, in particular marketing restrictions for single-use plastic products, could create barriers to trade and distort competition in the Union.

---

15 Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

16 European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ L 365 31.12.1994, p. 10).

(7) To focus efforts where they are most needed, this Directive should cover only those single-use plastic products that are found the most on beaches in the Union ***as well as fishing gear containing plastic and products made from oxo-degradable plastic. The single-use plastic products covered by measures under this Directive*** are estimated to represent around 86 % of the single-use plastics found, in counts, on beaches in the Union. ***Glass and metal beverage containers should not be covered by this Directive a***s they are not among the single-use plastic products that are found the most on beaches in the Union.

(8) Microplastics do not fall directly within the scope of this Directive, yet they contribute to marine litter and the Union should therefore adopt a comprehensive approach to that problem. The Union should encourage all producers to strictly limit microplastics in their formulations.

(9) Terrestrial pollution and contamination of soil by larger items of plastic and resulting fragments or microplastics can be significant and such plastic can leak into the marine environment.

(10) This Directive is a lex specialis in relation to Directives 94/62/EC and 2008/98/EC. In the event of a conflict between those Directives and this Directive, this Directive should prevail within the scope of its application. That is the case for restrictions on placing on the market. In particular with regard to consumption reduction measures, product requirements, marking requirements and extended producer responsibility, this Directive supplements Directives 94/62/EC and 2008/98/EC and Directive 2014/40/EU of the European Parliament and of the Council[17].

---

17 ***Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).***

(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***[18]***,*** should not be 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.***

[18] ***Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).***

(12) In order to clearly define the scope of this Directive, the term "single-use plastic product" should be defined. The definition should exclude plastic products that are conceived, designed and placed on the market to accomplish within their life span multiple trips or rotations by being refilled or reused for the same purpose for which they are conceived. ***Single-use plastic products are typically intended to be used just once or for a short period of time before being disposed of. Wet wipes for personal care and domestic use should also be within the scope of this Directive, whereas industrial wet wipes should be excluded. To further clarify whether a product is to be considered a single-use plastic product for the purposes of this Directive, the Commission should develop guidelines on single-use plastic products. In view of the criteria set out in this Directive, examples of food containers to be considered as single-use plastic products for the purposes of this Directive are fast-food containers or meal, sandwich, wrap and salad boxes with cold or hot food, or food containers of fresh or processed food that does not need further preparation, such as fruits, vegetables or desserts. Examples of food containers that are not to be considered as single-use plastic products for the purposes of this Directive are food containers with dried food or food that is sold cold requiring further preparation, containers containing food in more than single-serve portions or single-serve portion-sized food containers sold in more than one unit. Examples of beverage containers to be considered as single-use plastic products are beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk, but not cups for beverages as these are a separate category of single-use plastic products for the purposes of this Directive. As they are not among the single-use plastic products that are found the most on beaches in the Union, glass and metal beverage containers should not be covered by this Directive. However, the Commission should, in the context of the review of this Directive, evaluate inter alia caps and lids made of plastic used for glass and metal beverage containers.***

(13) Single-use plastic products covered by this Directive should be addressed by one or several measures, depending on various factors, such as the availability of suitable and more sustainable alternatives, the feasibility of changing consumption patterns, and the extent to which they are already covered by existing Union legislation.

(14) For certain single-use plastic products, suitable and more sustainable alternatives are not yet readily available and the consumption of most such single-use plastic products is expected to increase. To reverse that trend and to promote efforts towards more sustainable solutions, Member States should be required to take the necessary measures***, for example by setting national consumption reduction targets,*** to achieve ***an ambitious and sustained*** reduction in the consumption of those products, without compromising food hygiene, food safety, good hygiene practices, good manufacturing practices, consumer information, or traceability requirements set out in Regulations (EC) No 178/2002[19], (EC) No 852/2004[20] and (EC) No 1935/2004[21] of the European Parliament and of the Council and other relevant legislation related to food safety, hygiene and labelling***. Member States should have the highest possible ambition for those measures, which should induce a substantial reversal of increasing consumption trends and lead to a measurable quantitative reduction. Those measures should take into account the impact of products throughout their life cycle, including when they are found in the marine environment, and should respect the waste hierarchy. Where Member States decide to implement that obligation through marketing restrictions, they should ensure that such restrictions are proportionate and non-discriminatory. Member States should encourage the use of products that are suitable for multiple use and that are, after having become waste, suitable for preparing for re-use and recycling.***

---

19 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

20 Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

21 Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October 2004 on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ L 338, 13.11.2004, p. 4).

(15) For other single-use plastic products, suitable and more sustainable alternatives that are also affordable are readily available. In order to limit the adverse impact of such single-use plastic products on the environment, Member States should be required to prohibit their placing on the ~~–~~ market. By doing so, the use of those readily available and more sustainable alternatives as well as of innovative solutions towards more sustainable business models, re-use alternatives and substitution of materials would be promoted. ***The restrictions on placing on the market introduced in this Directive should also cover products made from oxo-degradable plastic, as that type of plastic does not properly biodegrade and thus contributes to microplastic pollution in the environment, is not compostable, negatively affects the recycling of conventional plastic and fails to deliver a proven environmental benefit. Furthermore, in view of the high prevalence of expanded polystyrene litter in the marine environment and the availability of alternatives, single-use food and beverage containers and cups for beverages made of expanded polystyrene should also be restricted.***

(16) Tobacco product filters containing plastic are the second most found single-use plastic items on beaches in the Union. The huge environmental impact caused by post-consumption waste of tobacco products with filters containing plastic, discarded directly into the environment, needs to be reduced. Innovation and product development are expected to provide viable alternatives to filters containing plastic and need to be accelerated. Extended producer responsibility schemes for tobacco products with filters containing plastic should also encourage innovation leading to the development of sustainable alternatives to tobacco product filters containing plastic. Member States should promote a wide range of measures to reduce litter from post-consumption waste of tobacco products with filters containing plastic.

(17) Caps and lids – made of plastic which are used for beverage containers are among the single-use plastic items that are found the most on beaches in the Union. Therefore, beverage containers that are single-use plastic products should only be allowed to be placed on the market if they fulfil specific product design requirements that significantly reduce the dispersal into the environment of beverage container caps and lids made of plastic. For beverage containers that are both single-use plastic products and packaging, that requirement is in addition to the essential requirements on the composition and the re-usable and recoverable, including recyclable, nature of packaging set out in Annex II to Directive 94/62/***EC***. In order to facilitate conformity with the product design requirement and to ensure the smooth functioning of the internal market, it is necessary to develop a harmonised standard adopted in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council[22], and compliance with that standard should give rise to a presumption of conformity with those requirements. ***Therefore, the timely development of a harmonised standard is of the highest priority in ensuring effective implementation of this Directive.*** Sufficient time should be envisaged for the development of a harmonised standard and to allow the producers to adapt their production chains in relation to the implementation of the product design requirement. ***In order to ensure the circular use of plastics, the market uptake of recycled materials needs to be promoted. It is therefore appropriate to introduce requirements for a mandatory minimum content of recycled plastic in beverage bottles.***

22 Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

(18) Plastic products should be manufactured taking into account their entire life span. The design of plastic products should always take into account the production and use phase and the reusability and recyclability of the product. In the context of the review to be undertaken pursuant to Article 9(5) of Directive 94/62/EC, the Commission should take into account the relative properties of different packaging materials, including composite materials, on the basis of life cycle assessments, addressing in particular waste prevention and design for circularity.

(19) The presence of hazardous chemical substances in sanitary towels, tampons and tampon applicators should be avoided in the interest of women's health. In the framework of the restrictions process under Regulation (EC) No 1907/2006, it is appropriate for the Commission to assess further restrictions on such substances.

(20) Certain single-use plastic products end up in the environment as a result of inappropriate disposal through the sewer system or other inappropriate release into the environment. ***Disposal through the sewer system can in addition cause substantial economic damage to sewer networks by clogging pumps and blocking pipes. For these products, there is frequently a significant lack of information about the material characteristics of the product or the appropriate means of waste disposal.*** Therefore, single-use plastic products that are frequently disposed of through the sewer system ***or*** otherwise inappropriately disposed of should be subject to marking requirements. The marking should inform consumers about appropriate waste ***management*** options ***for the product*** or which waste disposal ***means*** are to be avoided ***for the product in line with the waste hierarchy,*** and about the ***presence of plastics in the product as well as the resulting*** negative environmental impact of ***littering or of other*** inappropriate means of disposal of the product. The ***marking should, as appropriate, be either on the packaging of the product or directly on the product itself. The*** Commission should be empowered to establish ~~harmonised~~ ***specifications*** for the marking and when doing so should, where appropriate, test the perception of the proposed marking with representative groups of consumers to ensure that it is effective and easily understandable. ***Marking requirements are already required for fishing gear pursuant to Regulation (EC) No 1224/2009.***

(21) With regard to single-use plastic products for which no suitable and more sustainable alternatives are readily available, Member States should, in line with the polluter-pays principle, also introduce extended producer responsibility schemes to cover the ***necessary*** costs of waste management and clean-up of litter as well as the costs of awareness raising measures to prevent and reduce such litter. ***Those costs should not exceed the costs that are necessary to provide those services in a cost-efficient way and should be established in a transparent way between the actors concerned.***

(22) Directive 2008/98/EC lays down general minimum requirements for extended producer responsibility schemes. Those requirements should apply to the extended producer responsibility schemes established by this Directive***, irrespective of whether their mode of implementation is by legislative act or by means of agreements under this Directive. The relevance of some requirements depends on the characteristics of the product. Separate collection is not required to ensure proper treatment in line with the waste hierarchy for tobacco products with filters containing plastic, wet wipes and balloons. Therefore setting up separate collection for those products should not be mandatory***. This Directive should establish extended producer responsibility requirements in addition to those laid down by Directive 2008/98/EC, for example, the requirement for producers of certain single-use plastic products to cover the costs of cleaning up litter. ***It should also be possible to cover the costs of the setting up of specific infrastructure for collection of post-consumption waste of tobacco products, such as appropriate waste receptacles in common litter hotspots. The calculation methodology for the costs of cleaning up litter should take into account considerations of proportionality. To minimise administrative costs Member States should be able to determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts.***

(23) The large percentage of plastic stemming from ~~discarded~~ fishing gear***, including abandoned and lost fishing gear,*** in marine litter indicates that the existing legal requirements laid down in Regulation (EC) No 1224/2009, Directive 2000/59/EC and Directive 2008/98/EC do not provide sufficient incentives to return such fishing gear to shore for collection and treatment. The indirect fee system set up under Directive (EU) 2019/… of the European Parliament and of the Council[23+] ***provides a system*** for ***removing*** the incentive for ships to discharge their waste at sea, and ensures a right of delivery. That system should, however, be supplemented by further financial incentives for fishermen to bring their waste fishing gear on shore to avoid any potential increase in the indirect waste fee to be paid. As plastic components of fishing gear have high recycling potential, Member States should, in line with the polluter-pays principle, introduce extended producer responsibility for fishing gear ***and components of fishing gear*** containing plastic to ***ensure*** separate collection of waste fishing gear and to finance environmentally sound waste management of waste fishing gear, in particular recycling.

(24) In the framework of an extended producer responsibility for fishing gear containing plastic, Member States should monitor and assess, in line with the reporting obligations laid down in this Directive, fishing gear containing plastic.

---

23 Directive (EU) 2019/… of the European Parliament and of the Council of … on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ. …).

\+ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 85/18 (2018/0012 (COD)) and insert the number, date and OJ reference of that Directive in the footnote.

(25) While all marine litter containing plastic poses a risk to the environment and to human health and should be tackled, proportionality considerations should also be taken into account. Therefore, the fishermen themselves and artisanal makers of fishing gear containing plastic should not be ***considered as producers and should not be held responsible for fulfilling the obligations of the producer related to*** the extended producer responsibility.

(26) Economic and other incentives to support sustainable consumer choices and promote responsible consumer behaviour can be an effective tool for achieving the objectives of this Directive.

(27) Beverage bottles that are single-use plastic products are one of the marine litter items that are found the most on beaches in the Union. This is due to ineffective separate collection systems and low participation in those systems by consumers. It is necessary to promote more effective separate collection systems. Therefore, a minimum separate collection target should be established for beverage bottles that are single-use plastic products. ***While the obligation to separately collect waste requires that waste be kept separate by type and nature, it should be possible to collect certain types of waste together provided that this does not impede high-quality recycling in line with the waste hierarchy in accordance with Article 10(2) and point (a) of Article 10(3) of Directive 2008/98/EC. The setting of the separate collection target should be based on the amount of single-use plastic beverage bottles placed on the market in a Member State or alternatively on the amount of waste single-use plastic beverage bottles generated in a Member State. The calculation of the amount of waste generated in a Member State should take due account of all waste single-use plastic beverage bottles generated, including those which become litter instead of being disposed of through waste collection systems.*** Member States should be able to achieve that minimum target by setting separate collection targets for beverage bottles that are single-use plastic products in the framework of the extended producer responsibility schemes, by establishing deposit-refund schemes or by any other measure that they find appropriate. That will have a direct, positive impact on the collection rate, the quality of the collected material and the quality of the recyclates, offering opportunities for the recycling business and the market for the recyclates. ***It will support reaching the recycling targets for packaging waste set in Directive 94/62/EC.***

(28) In order to prevent littering and other inappropriate means of waste disposal resulting in marine litter containing plastic, it is necessary for consumers of single-use plastic products and users of fishing gear containing plastic to be properly informed about the availability of re-usable alternatives and re-use systems, the most appropriate waste ***management*** options available and/or which waste disposal options are to be avoided, about best practices with regard to ***sound*** waste ***management*** and the environmental impact of bad disposal practices, as well as about the plastic content in certain single-use plastic products and fishing gear and ***the impact of inappropriate waste disposal on the sewer network***. Member States should therefore be required to take awareness raising measures ensuring that such information is provided to those consumers and users. The information should not contain any promotional content encouraging the use of single-use plastic products. Member States should be able to choose the measures which are the most appropriate based on the nature of the product or its use. Producers of single-use plastic products and fishing gear containing plastic should cover the costs of the awareness raising measures as part of their extended producer responsibility obligations.

(29) ***The aim of this Directive is to protect the environment and human health.*** As the Court of Justice has held on numerous occasions, it would be incompatible with the binding effect which the third paragraph of Article 288 of the Treaty on the Functioning of the European Union ascribes to a Directive, to exclude, in principle, the possibility of an obligation imposed by a Directive from being relied on by persons concerned. That consideration applies particularly in respect of a Directive which has ***as its*** ***objective to prevent and reduce the impact of certain plastic products on the aquatic environment.***

(30) It is important to monitor the levels of marine litter in the Union in order to assess the implementation of this Directive. In accordance with Directive 2008/56/EC, Member States are required to regularly monitor the properties and quantities of marine litter, including plastic marine litter. That monitoring data is also to be communicated to the Commission.

(31) Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and should take all measures necessary to ensure that they are implemented. The penalties provided for should be effective, proportionate and dissuasive.

(32) Pursuant to paragraph 22 of the Interinstitutional Agreement of 13 April ***2016*** on Better Law-Making[24], the Commission should carry out an evaluation of this Directive. That evaluation should be based on experience gathered and data collected during the implementation of this Directive and data collected under Directives 2008/56/EC and 2008/98/EC. The evaluation should provide the basis for an assessment of possible further measures***, including the setting of Union-wide reduction targets for 2030 and beyond,*** and an assessment whether, in view of monitoring of marine litter in the Union, the Annex listing single-use plastic products needs to be reviewed ***and whether the scope of this Directive can be broadened to other single-use products***.

[24] OJ L 123, 12.5.2016, p. 1.

(33) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in respect of the methodology for the calculation and verification of the annual consumption of single-use plastic products for which consumption reduction objectives have been set, the rules for the calculation and verification of the attainment of the targets on minimum recycled content for single-use plastic beverage bottles, the specifications for the marking to be affixed on certain single-use plastic products***, the methodology for the calculation and verification of the collection targets of single-use plastic products for which separate collection targets have been set*** and the format for the reporting of data and information on the implementation of this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[25].

(34) It is appropriate to allow Member States to choose to implement certain provisions of this Directive by means of agreements between the competent authorities and the economic sectors concerned, provided that certain requirements are met.

[25] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(35) The fight against litter is a shared effort between competent authorities, producers and consumers. Public authorities, including the Union institutions, should lead by example.

(36) Since the objectives of this Directive, namely to prevent and to reduce the impact of certain single-use plastic products, products made from oxo-degradable plastic and fishing gear ~~-~~containing plastic on the environment ***and on human health***, and to promote the transition to a circular economy, including the fostering of innovative and sustainable business models, products and materials, thus also contributing to the efficient functioning of the internal market, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The objectives of this Directive are to prevent and reduce the impact of certain plastic products on the environment, in particular the aquatic environment, and on human health, as well as to promote the transition to a circular economy with innovative ***and sustainable*** business models, products and materials, thus also contributing to the efficient functioning of the internal market.

Article 2

Scope

1. This Directive applies to the single-use plastic products listed in the Annex***, to products made from oxo-degradable plastic*** and to fishing gear containing plastic~~.~~

2. Where this Directive conflicts with Directive 94/62/EC or 2008/98/EC, this Directive shall prevail.

Article 3

Definitions

For the purposes of this Directive, the following definitions apply:

(1) 'plastic' means a material consisting of a polymer as defined in point (5) of Article 3 of Regulation (EC) No 1907/2006, to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified;

(2) 'single-use plastic product' means 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;

(3) 'oxo-degradable plastic' means plastic materials that include additives which, through oxidation, lead to the fragmentation of the plastic material into micro-fragments or to chemical decomposition;

(4) 'fishing gear' means any item or piece of equipment that is used in fishing or aquaculture to target, capture ***or rear*** marine biological resources or that is floating on the sea surface, and is deployed with the objective of attracting and capturing ***or of rearing*** such marine biological resources;

(5) 'waste fishing gear' means any fishing gear covered by the definition of waste in point 1 of Article 3 of Directive 2008/98/EC, including all separate components, substances or materials that were part of or attached to such fishing gear when it was discarded***, including when it was abandoned or lost;***

(6) ‘placing on the market’ means the first making available of a product on ~~the~~ market ***of a Member State***;

(7) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the market ***of a Member State*** in the course of a commercial activity, whether in return for payment or free of charge;

(8) ‘harmonised standard’ means a harmonised standard as defined in point (1)(c) of Article 2 of Regulation (EU) No 1025/2012;

(9) ‘waste’ means waste as defined in point 1 of Article 3 of Directive 2008/98/EC;

(10) 'extended producer responsibility scheme' means extended producer responsibility scheme as defined in point 21 of Article 3 of Directive 2008/98/EC;

(11) 'producer' means*:*

(a) any natural or legal person ***established in a Member State that professionally manufactures, fills, sells or imports***, irrespective of the selling technique used, including by means of distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council[26], ***and*** places on the market ***of that Member State*** single-use plastic products, ***filled single-use plastic products or*** fishing gear containing plastic, ***other than*** persons carrying out fishing activities as defined in point (28) of Article 4 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[27]; ***or***

(b) ***any natural or legal person established in one Member State or in a third country that professionally sells in another Member State directly to private households or to users other than private households, by means of distance contracts as defined in point (7) of Article 2 of Directive 2011/83/EU, single-use plastic products, filled single-use plastic products or fishing gear containing plastic, other than persons carrying out fishing activities as defined in point (28) of Article 4 of Regulation (EU) No 1380/2013;***

---

26 Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

27 Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

(12) 'collection' means collection as defined in point 10 of Article 3 of Directive 2008/98/EC;

(13) 'separate collection' means separate collection as defined in point 11 of Article 3 of Directive 2008/98/EC;

(14) 'treatment' means treatment as defined in point 14 of Article 3 of Directive 2008/98/EC;

(15) 'packaging' means packaging as defined in point 1 of Article 3 of Directive 94/62/EC;

(16) 'biodegradable plastic' means a plastic capable of undergoing physical, biological decomposition, such that it ultimately decomposes into carbon dioxide (CO_2), biomass and water, and is, in accordance with European standards for packaging, recoverable through composting and anaerobic digestion;

(17) 'port reception facilities' means port reception facilities as defined in point (e) of Article 2 of Directive 2000/59/EC***;***

(18) 'tobacco products' means tobacco products as defined in point (4) of Article 2 of Directive 2014/40/EU.

Article 4

Consumption reduction

1. Member States shall take the necessary measures to achieve ***an ambitious and sustained reduction in the consumption of the single-use plastic products listed in Part A of the Annex, in line with the overall objectives of the Union's waste policy, in particular waste prevention, leading to a substantial reversal of increasing consumption trends. Those measures shall achieve a measurable quantitative*** reduction in the consumption of the single-use plastic products listed in Part A of the Annex on ***the*** territory ***of the Member State by 2026 compared to 2022.***

By … [two years after the date of entry into force of this Directive], ***Member States shall prepare a description of the measures which they have adopted pursuant to the first subparagraph, notify the description to the Commission and make it publicly available. Member States shall integrate the measures set out in the description into the plans or programmes referred to in Article 11 upon the first subsequent update of those plans or programmes in accordance with the relevant legislative acts of the Union governing those plans or programmes, or into any other programmes drawn up specifically for that purpose.***

The measures may include national consumption reduction targets, measures ensuring that re-usable alternatives to the single-use plastic products listed in ***P***art A of the Annex are made available at the point of sale to the final consumer, economic instruments such as instruments ensuring that those single-use plastic products are not provided free of charge at the point of sale to the final consumer ***and agreements as referred to in Article 17(3). Member States may impose marketing restrictions in derogation from Article 18 of Directive 94/62/EC for the purposes of preventing such products from becoming litter in order to ensure that they are substituted with alternatives that are re-usable or do not contain plastic***. Those measures may vary depending on the environmental impact of those single-use plastic products ***over their life cycle, including when they become litter.***

Measures adopted pursuant to this paragraph shall be proportionate and non-discriminatory. Member States shall notify the Commission of those measures in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council[28] where so required by that Directive.

---

28 ***Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).***

In order to comply with the first subparagraph of this paragraph, each Member State shall monitor the single-use plastic products listed in Part A of the Annex placed on the market and the reduction measures taken and shall report on progress made to the Commission in accordance with paragraph 2 of this Article and Article 13(1) with a view to the establishment of binding quantitative Union targets for consumption reduction.

2. ***By … [18 months after the date of entry into force of this Directive], the Commission shall*** adopt an implementing act laying down the methodology for the calculation and verification of the ***ambitious and sustained*** reduction in the consumption of the single-use plastic products listed in ***P***art A of the Annex**.** That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 5

Restrictions on placing on the market

Member States shall prohibit the placing on the market of the single-use plastic products listed in Part B of the Annex ***and of products made from oxo-degradable plastic.***

Article 6

Product requirements

1. Member States shall ensure that single-use plastic products listed in Part C of the Annex that have caps and lids ~~,~~ made of plastic may be placed on the market only if the caps and lids remain attached to the containers during the products' intended use stage.

2. For the purposes of this Article, metal caps or lids with plastic seals shall not be considered to ***be*** made of plastic.

3. ***By … [3 months after the date of entry into force of this Directive],*** the Commission shall request the European standardisation organisations to develop harmonised standards relating to the requirement referred to in paragraph 1. ***Those standards shall in particular address the need to ensure the necessary strength, reliability and safety of beverage container closures, including those for carbonated drinks.***

4. From the date of publication of the ***references to*** harmonised standards referred to in paragraph 3 in the *Official Journal of the European Union*, single-use plastic products referred to in paragraph 1 which are in conformity with those standards or parts thereof shall be presumed to be in conformity with the requirement laid down in paragraph 1.

5. With regard to beverage bottles listed in Part F of the Annex, each Member State shall ensure that:

(a) from 2025, beverage bottles listed in Part F of the Annex which are manufactured from polyethylene terephthalate as the major component ("PET bottles") contain at least 25 % recycled plastic, calculated as an average for all PET bottles placed on the market on the territory of that Member State; and

(b) from 2030, beverage bottles listed in Part F of the Annex contain at least 30 % recycled plastic, calculated as an average for all such beverage bottles placed on the market on the territory of that Member State.

By 1 January 2022, the Commission shall adopt implementing acts laying down the rules for the calculation and verification of the targets established in the first subparagraph of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 7

Marking requirements

1. Member States shall ensure that each single-use plastic product listed in Part D of the Annex placed on the market bears a conspicuous, clearly legible and indelible marking ***on its packaging or on the product itself*** informing consumers of the following:

(a) appropriate waste ***management*** options for the product or waste disposal means to be avoided for that product, ***in line with the waste hierarchy;*** and

(b) the ***presence of plastics in the product and the resulting*** negative impact of littering or other inappropriate means of waste disposal of the product on the environment.

The harmonised marking specifications shall be established by the Commission in accordance with paragraph 2.

2. *By … [12 months after the date of entry into force of this Directive], the Commission shall adopt an implementing act establishing harmonised specifications for the marking referred to in paragraph 1 that:*

(a) provide that the marking of single-use plastic products listed in points (1), (2) and (3) of Part D of the Annex shall be placed on the sales and grouped packaging of those products. Where multiple sales units are grouped at the point of purchase, each sales unit shall bear a marking on its packaging. The marking shall not be required for packaging with a surface area of less than 10 cm^2;

(b) provide that the marking of single-use plastic products listed in point (4) of Part D of the Annex shall be placed on the product itself; and

(c) consider existing sectoral voluntary approaches and pay particular attention to the need to avoid information that misleads consumers.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

3. *The provisions of this Article concerning tobacco products are in addition to those laid down in Directive 2014/40/EU.*

Article 8

Extended producer responsibility

1. Member States shall ensure that extended producer responsibility schemes are established for all single-use plastic products listed in Part E of the Annex which are placed on the market ***of the Member State***, in accordance with ***Articles 8 and 8a of*** Directive 2008/98/EC.

2. Member States shall ensure that the producers of the single-use plastic products listed in ***Section I of*** Part E of the Annex to this Directive cover the costs ***pursuant to the extended producer responsibility provisions in Directives 2008/98/EC and 94/62/EC and, insofar as not already included, cover the following costs:***

(a) the costs of the awareness raising measures referred to in Article 10 of this Directive regarding those products;

(b) the costs of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation, and the subsequent transport and treatment of that waste; and

(c) the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter.

3. Member States shall ensure that the producers of the single-use plastic products listed in Sections II and III of Part E of the Annex cover at least the following costs:

(a) the costs of the awareness raising measures referred to in Article 10 regarding those products;

(b) the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter; and

(c) the costs of data gathering and reporting in accordance with point (c) of Article 8a(1) of Directive 2008/98/EC.

With regard to the single-use plastic products listed in Section III of Part E of the Annex to this Directive, Member States shall ensure that the producers cover, in addition, the costs of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation, and the subsequent transport and treatment of that waste. The costs may include the setting up of specific infrastructure for the waste collection for those products, such as appropriate waste receptacles in common litter hotspots.

4. The costs to be covered referred to in paragraphs 2 and 3 shall not exceed the costs that are necessary to provide the services referred to therein in a cost-efficient way and shall be established in a transparent way between the actors concerned. The costs of cleaning up litter shall be limited to activities undertaken by public authorities or on their behalf. The calculation methodology shall be developed in a way that allows for the costs of cleaning up litter to be established in a proportionate way. To minimise administrative costs, Member States may determine financial contributions towards the costs of cleaning up litter by setting appropriate multiannual fixed amounts.

The Commission shall publish guidelines for criteria, in consultation with Member States, on the costs of cleaning up litter referred to in paragraphs 2 and 3.

5. Member States shall define in a clear way the roles and responsibilities of all relevant actors involved.

With regard to packaging, those roles and responsibilities shall be defined in line with Directive 94/62/EC.

6. Each Member State shall allow the producers established in another Member State and placing products on its market to appoint a legal or natural person established on its territory as an authorised representative for the purposes of fulfilling the obligations of a producer related to extended producer responsibility schemes on its territory.

7. ***Each Member State shall ensure that a producer established on its territory, which sells single-use plastic products listed in Part E of the Annex and fishing gear containing plastic in another Member State in which it is not established, appoints an authorised representative in that other Member State. The authorised representative shall be the person responsible for fulfilling the obligations of that producer pursuant to this Directive on the territory of that other Member State.***

8. Member States shall ensure that extended producer responsibility schemes are established for fishing gear containing plastic placed on the market ***of the Member State***, in accordance with ***Articles 8 and 8a of*** Directive 2008/98/EC.

Member States that have marine waters as defined in point 1 of Article 3 of Directive 2008/56/EC shall set a national minimum annual collection rate of waste fishing gear containing plastic for recycling.

Member States shall monitor fishing gear containing plastic placed on the market of the Member State as well as waste fishing gear containing plastic collected and shall report to the Commission in accordance with Article 13(1) of this Directive with a view to the establishment of binding quantitative Union collection targets.

9. With regard to the extended producer responsibility schemes established pursuant to paragraph 8 of this Article, Member States shall ensure that the producers of fishing gear containing plastic cover the costs of the ***separate*** collection of waste fishing gear containing plastic that has been delivered to adequate port reception facilities in accordance with Directive (EU) 2019/…[+] or to other equivalent collection systems that fall outside the scope of that Directive and the costs of its subsequent transport and treatment. The producers shall also cover the costs of the awareness raising measures referred to in Article 10 regarding fishing gear containing plastic.

The requirements laid down in this paragraph supplement the requirements applicable to waste from fishing vessels in Union law on port reception facilities.

Without prejudice to technical measures laid down in Council Regulation (EC) No 850/98[29], the Commission shall request the European standardisation organisations to develop harmonised standards relating to the circular design of fishing gear to encourage preparing for re-use and facilitate recyclability at end of life.

[+] OJ: Please insert the number of the Directive contained in document PE-CONS 85/18 (2018/0012 (COD)).

[29] ***Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).***

Article 9

Separate collection

1. Member States shall take the necessary measures to ensure the separate collection ***for recycling***:

(a) by 2025, of an amount of waste ***single-use plastic products listed in Part F of the Annex equal to 77 % of such single-use plastic products placed on the market in a given year by weight;***

(b) by 2029, of an amount of waste single-use plastic products listed in Part F of the Annex equal to 90 % of such single-use plastic products placed on the market in a given year by weight.

Single-use plastic products listed in Part F of the Annex ***placed on the market in a Member State may be deemed to be equal to the amount of waste generated from such products, including as litter, in the same year in that Member State.***

In order to achieve that objective, Member States may inter alia:

(a) establish deposit-refund schemes;

(b) establish separate collection targets for relevant extended producer responsibility schemes.

The first subparagraph shall apply without prejudice to point (a) of Article 10(3) of Directive 2008/98/EC.

2. The Commission shall facilitate the exchange of information and sharing of best practices among Member States on the appropriate measures to meet the targets laid down in paragraph 1, inter alia on deposit-refund schemes. The Commission shall make the results of such exchange of information and sharing of best practices publicly available.

3. By … [12 months after the date of entry into force of this Directive], the Commission shall adopt an implementing act laying down the methodology for the calculation and verification of the separate collection targets laid down in paragraph 1 of this Article. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Article 10

Awareness raising measures

Member States ***shall take measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by this Directive, and*** shall take measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the following:

(a) the ***availability of re-usable alternatives,*** re-use systems and waste management options for those single-use plastic products and for fishing gear containing plastic as well as best practices in sound waste management carried out in accordance with Article 13 of Directive 2008/98/EC;

(b) the impact of littering and other inappropriate waste disposal of those single-use plastic products and of fishing gear containing plastic on the environment, in particular on the marine environment***; and***

(c) the impact of inappropriate means of waste disposal of those single-use plastic products on the sewer network.

Article 11

Coordination of measures

Without prejudice to the first subparagraph of Article 4(1) of this Directive, each Member State shall ensure that the measures taken to transpose and implement this Directive form an integral part of and are consistent with its programmes of measures established in accordance with Article 13 of Directive 2008/56/EC for those Member States that have marine waters, the programmes of measures established in accordance with Article 11 of Directive 2000/60/EC, waste management plans and waste prevention programmes established in accordance with Articles 28 and 29 of Directive 2008/98/EC and the waste reception and handling plans established under Directive (EU) 2019/…[+].

The measures that Member States take to transpose and implement Articles 4 to 9 of this Directive shall comply with Union food law to ensure that food hygiene and food safety are not compromised. ***Member States shall encourage the use of sustainable alternatives to single-use plastic where possible for materials intended to come into contact with food.***

[+] OJ: Please insert the number of the Directive contained in document PE-CONS 85/18 (2018/0012 (COD)).

Article 12

Specifications and guidelines on single-use plastic products

In order to determine whether a food container is to be considered as a single-use plastic product for the purposes of this Directive, in addition to the criteria listed in the Annex as regards food containers, its tendency to become litter, due to its volume or size, in particular single-serve portions, shall play a decisive role.

By … [one year after the date of entry into force of this Directive], the Commission shall publish guidelines, in consultation with Member States, including examples of what is to be considered a single-use plastic product for the purposes of this Directive, as appropriate.

Article 13

Information ***systems and reporting***

1. ***Member States shall, for each calendar year, report to the Commission the following:***

(a) the data on single-use plastic products listed in Part A of the Annex that have been placed on the market ***of the Member State*** each year, to demonstrate the consumption reduction in accordance with Article 4(1);

(b) information on the measures taken by the Member State for the purposes of Article 4(1)***;***

(c) the data on single-use plastic products listed in Part F of the Annex that have been separately collected in the Member State each year, to demonstrate the attainment of the separate collection targets in accordance with Article 9(1);

(d) data on fishing gear containing plastic placed on the market and on waste fishing gear collected in the Member State each year;

(e) information on recycled content in beverage bottles listed in Part F of the Annex to demonstrate the attainment of the targets laid down in Article 6(5); and

(f) data on the post-consumption waste of single-use plastic products listed in Section III of Part E of the Annex that has been collected in accordance with Article 8(3).

Member States shall report the data and information electronically within 18 months of the end of the reporting year for which they were collected. The data and information shall be reported in the format established by the Commission in accordance with paragraph 4 of this Article.

The first reporting period shall be the calendar year 2022, with the exception of points (e) and (f) of the first subparagraph for which the first reporting period shall be the calendar year 2023.

2. The data and information reported by ***Member States*** *in accordance with this Article shall be accompanied by a quality check report. The data and information shall be reported in the format* ***established*** *by the Commission* ***in accordance with paragraph*** *4.*

3. ***The Commission shall review the data and information reported in accordance with this Article and publish a report on the results of its review. The report shall assess the organisation of the collection of the data and information, the sources of data and information and the methodology used in Member States as well as the completeness, reliability, timeliness and consistency of that data and information. The assessment may include specific recommendations for improvement. The report shall be drawn up after the first reporting of the data and information by the Member States and thereafter at the intervals envisaged in Article 12(3c) of Directive 94/62/EC.***

4. ***By … [18 months after the date of entry into force of this Directive], the Commission shall adopt implementing acts laying down the format for reporting data and information in accordance with points (a) and (b) of paragraph 1 and with paragraph 2 of this Article.***

By … [12 months after the date of entry into force of this Directive], the Commission shall ***adopt implementing acts laying down the format for reporting data in accordance with points (c) and (d) of paragraph 1 and with paragraph 2 of this Article.***

By 1 January 2022, the Commission shall adopt implementing acts laying down the format for reporting data and information in accordance with points (e) and (f) of paragraph 1 and with paragraph 2 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2). The format developed according to Article 12 of Directive 94/62/EC shall be taken into consideration.

Article 14

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by … [*2 years after the date of entry into force of this Directive*], notify the Commission of those rules and those measures and shall notify it of any subsequent amendment affecting them.

Article 15

Evaluation and review

1. The Commission shall carry out an evaluation of this Directive by … [eight years after the date of entry into force of this Directive]. The evaluation shall be based on the information available in accordance with Article 13. Member States shall provide the Commission with any additional information necessary for the purposes of the evaluation and the preparation of the report referred to in paragraph 2 of this Article.

2. ~~The~~ Commission shall submit a report on the main findings of the evaluation carried out in accordance with paragraph 1 to the European Parliament, the Council and the European Economic and Social Committee. ***The report shall be accompanied by a legislative proposal, if appropriate. That proposal shall, if appropriate, set binding quantitative consumption reduction targets and set binding collection rates for waste fishing gear.***

3. ***The*** report shall ***include***:

(a) ***an assessment of the need to review*** the Annex listing single-use plastic products***, including as regards caps and lids made of plastic which are used for glass and metal beverage containers;***

(b) ***a study of the feasibility of establishing binding collection rates for waste fishing gear and*** binding quantitative Union targets for the consumption reduction of, in particular, single-use plastic products listed in Part A of the Annex***, taking into account consumption levels and already achieved reductions in Member States***;

(c) an assessment of the change in materials used in the single-use plastic products covered by this Directive as well as of new consumption patterns and business models based on re-usable alternatives; this shall, wherever possible, include an overall life cycle analysis to assess the environmental impact of such products and their alternatives; and

(d) ***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 (CO_2), biomass and water within a timescale short enough for the plastics not to be harmful for marine life and not to lead to an accumulation of plastics in the environment.***

4. As part of the evaluation carried out pursuant to paragraph 1, the Commission shall review the measures taken under this Directive as regards single-use plastic products listed in Section III of Part E of the Annex and shall submit a report on the main findings. The report shall also consider the options for binding measures for the reduction of the post-consumption waste of single-use plastic products listed in Section III of Part E of the Annex, including the possibility of setting binding collection rates for that post-consumption waste. The report shall, if appropriate, be accompanied by a legislative proposal.

Article 16

Committee procedure

1. The Commission shall be assisted by the Committee established by Article 39 of Directive 2008/98/EC. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by … [*2 years after the date of entry into force of this Directive*]. They shall immediately inform the Commission thereof.

However, the Member States shall apply the measures necessary to comply with:

– ***Article 5 from … [2 years after the date of entry into force of this Directive],***

– ***Article 6(1) from … [5 years after the date of entry into force of this Directive],***

– ***Article 7(1) from … [2 years after the date of entry into force of this Directive],***

– ***Article 8 by 31 December 2024 but, in relation to extended producer responsibility schemes established before 4 July 2018 and in relation to single-use plastic products listed in Section III of Part E of the Annex, by 5 January 2023.***

When Member States adopt the measures referred to in this paragraph, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

3. Provided that the waste management targets and objectives set out in Articles 4 and 8 are achieved, Member States may transpose the provisions set out in Articles 4(1) and 8(1) and (8), except as regards single-use plastic products listed in Section III of Part E of the Annex, by means of agreements between the competent authorities and the economic sectors concerned.

Such agreements shall meet the following requirements:

(a) agreements shall be enforceable;

(b) agreements need to specify objectives with the corresponding deadlines;

(c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;

(d) the results achieved under an agreement shall be monitored regularly, reported to the competent authorities and to the Commission and made available to the public under the conditions set out in the agreement;

(e) the competent authorities shall make provisions to examine the progress reached under an agreement; and

(f) in case of non-compliance with an agreement Member States shall implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

Article 18

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 19

Addressees

This Directive is addressed to the Member States.

Done at …

For the European Parliament	For the Council
The President	The President

ANNEX

Part A

Single-use plastic products covered by Article 4 on consumption reduction

(1) ***Cups for beverages, including their covers and lids;***

(2) Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food ***which***:

(a) is intended for immediate consumption, ~~-~~ either on-the-spot or take-away,

(b) ***is typically consumed from the receptacle, and***

(c) ***is ready to be consumed*** without any further preparation, such as ***cooking, boiling or heating,***

including food containers used for fast food ***or other meal ready for immediate consumption***, except beverage containers, plates and packets and wrappers containing food.

~~-~~

Part B

Single-use plastic products covered by Article 5 on restrictions on placing on the market

(1) Cotton bud sticks, except ***if they fall within the scope of Council Directive 90/385/EEC[30] or Council Directive 93/42/EEC[31];***

(2) Cutlery (forks, knives, spoons, chopsticks);

(3) Plates;

(4) ***Straws, except if they fall within the scope of Directive 90/385/EEC or Directive 93/42/EEC;***

(5) ***Beverage stirrers;***

(6) ~~Sticks to be attached to and to support balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers, including the mechanisms of such sticks;~~

(7) ***Food containers made of expanded polystyrene, i.e. receptacles such as boxes, with or without a cover, used to contain food which:***

(a) ***is intended for immediate consumption, either on-the-spot or take-away,***

(b) ***is typically consumed from the receptacle, and***

(c) ***is ready to be consumed without any further preparation, such as cooking, boiling or heating,***

---

30 Council Directive 90/385/EEC of 20 June 1990 on the approximation of the laws of the Member States relating to active implantable medical devices (OJ L 189, 20.7.1990, p. 17).

31 Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ L 169, 12.7.1993, p. 1).

including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;

(8) Beverage containers made of expanded polystyrene, including their caps and lids;

(9) Cups for beverages made of expanded polystyrene, including their covers and lids.

Part C

Single-use plastic products covered by Article 6(1) to (4) on product requirements

(1) Beverage containers ***with a capacity of up to three litres***, i.e. receptacles used to contain liquid, such as beverage bottles including their caps and lids ***and composite beverage packaging including their caps and lids, but not:***

(a) glass or metal beverage containers that have caps and lids made from plastic,

(b) beverage containers intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council[32] that is in liquid form.

---

32 ***Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food intended for infants and young children, food for special medical purposes, and total diet replacement for weight control and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Commission Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35).***

Part D

Single-use plastic products covered by Article 7 on marking requirements

(1) Sanitary towels (pads), tampons and tampon applicators;

(2) Wet wipes, i.e. pre-wetted personal care ***and*** domestic wipes;

(3) Tobacco products with filters and filters marketed for use in combination with tobacco products;

(4) Cups for beverages.

Part E

I. Single -use plastic products covered by Article 8(***2***) on extended producer responsibility

(1) Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:

(a) is intended for immediate consumption, either on-the-spot or take-away***,***

(b) is typically consumed from the receptacle, and

(c) is ready to be consumed without any further preparation, such as ***cooking, boiling or heating,***

including food containers used for fast food ***or other meal ready for immediate consumption***, except beverage containers, plates and packets and wrappers containing food;

(2) Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation;

(3) Beverage containers ***with a capacity of up to three litres***, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids ***and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic;***

(4) Cups for beverages***, including their covers and lids;***

(5) ***Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC.***

II. Single-use plastic products covered by Article 8(3) on extended producer responsibility

(1) Wet wipes, i.e. pre-wetted personal care ***and*** domestic wipes;

(2) Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers.

III. Other single-use plastic products covered by Article 8(3) on extended producer responsibility

Tobacco products with filters and filters marketed for use in combination with tobacco products.

Part F

Single-use plastic products covered by Article 9 on separate collection and by Article 6(5) on product requirements

Beverage bottles with a capacity of up to three litres, including their caps and lids, but not:

(a) ***glass or metal beverage bottles that have caps and lids made from plastic,***

(b) ***beverage bottles intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 that is in liquid form.***

Part G

Single-use plastic products covered by Article 10 on awareness raising

(1) ***Food*** containers, i.e. receptacles such as boxes, with or without a cover, used to contain food ***which:***

(a) is intended for immediate consumption, ~~–~~either on-the-spot or take-away***,***

(b) ***is typically consumed from the receptacle, and***

(c) ***is ready to be consumed*** without any further preparation, such as ***cooking, boiling or heating,***

including food containers used for fast food ***or other meal ready for immediate consumption***, except beverage containers, plates and packets and wrappers containing food;

(2) ***Packets*** and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation;

(3) Beverage containers ***with a capacity of up to three litres***, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids ***and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic;***

(4) Cups for beverages, including their covers and lids;

(5) Tobacco products with filters and filters marketed for use in combination with tobacco products;

(6) Wet wipes, i.e. pre-wetted personal care ***and*** domestic wipes;

(7) Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers;

(8) Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC;

(9) ***Sanitary*** towels (pads), tampons and tampon applicators.