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INFORMATION

From:	General Secretariat of the Council
To:	Working Party on the Environment
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Subject:	Single use plastics: COREPER 1 meeting on 31 October - preparation for the trilogue - proposals from delegations

Delegations will find attached the proposals circulated by Belgium, Spain, Italy and the Commission for today's COREPER 1 meeting.

BE proposal

COREPER 31-10- 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

Recital 8

Art. 3, para 1, point 1 of the SUP-proposal gives a definition of “plastic”, and states that natural polymers “that have not been chemically modified” are excepted. The REACH-regulation contains a definition in art. 3 (40) of “not chemically modified substance” as follows : “means a substance whose chemical structure remains unchanged, even if it has undergone a chemical process or treatment, or a physical mineralogical transformation, for instance to remove impurities.” Belgium wants to add a reference in recital 8 (linked to art. 3, para 1, point 1) to this definition in art. 3(40) of the REACH regulation, because we believe it adds necessary legal clarity on how to understand the notion of “natural polymers that have not been chemically modified” as follows:

- (8) 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, this definition would cover certain natural polymers. Unmodified natural polymers, **in accordance with the definition of not chemically modified substances in Article 3(40) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council,**¹⁴ should not be covered as they occur naturally in the environment. Therefore, the definition of polymer in Article 3(5) of Regulation (EC) No 1907/2006 ~~of the European Parliament and of the Council~~ should be adapted and a separate definition should be introduced for the purposes of this Directive. 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 and/or intended to biodegrade over time. [...] **The following polymeric materials should not be addressed by this Directive and should therefore not be covered by the definition: paints, inks and adhesives.**

¹⁴ 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).

ES proposals

COREPER 31-10- 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

(changes *in bold, italics* and underlined)

Art 4-Consumption reduction

1. Member States shall take the necessary measures to achieve an ambitious and sustained [...] reduction, in line with the overall objectives of the Union's waste policy, [...] in particular waste prevention, inducing a substantial reversal of increasing consumption trends and leading to a measurable quantitative reduction of over time in the consumption of the single-use plastic products listed in Part A of the Annex on their territory

Those measures may include measures ensuring that reusable alternatives to those products are made available at the point of sale to the final consumer, economic instruments such as ensuring that single-use plastic products are not provided free of charge at the point of sale to the final consumer ~~and voluntary agreements~~. Those measures may vary depending on the environmental impact, of the products referred to in the first subparagraph

Member States will set national quantitative reduction targets to attain the objective laid down in the first subparagraph of this paragraph. Those targets shall be adopted by ... [XXX] and shall be set in reference to the baseline adopted by the Commission

The Commission shall adopt an implementing act establishing a baseline for the consumption reduction referred to in this Article within [XXX] months from the first reporting referred to in article 13(1).

In order to comply with the first subparagraph of this paragraph, each Member State shall monitor the products listed in Part A of the Annex placed on the market and the reduction measures taken and 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 the consumption reduction.

2. The Commission shall [...], by...[12 months before the end-date for transposition of this Directive] adopt an implementing act laying down the methodology for the calculation and verification of the sustained [...] reduction in the consumption of the single-use plastic products referred to in paragraph 1 of this Article. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

Annexes

1-Inclusion of new products in annex B (similar amendments to the ones made by the EP)

Part B

-Food and beverage containers made of expanded polystyrene, used to contain food that is intended for immediate consumption from the receptacle either on-the-spot or take-away without further preparation.

-Products made of oxo-degradable plastic

2-And also differentiation of plastic cups (with a high potential of littering) and paper cups with plastic lining (with a similar approach to paper plates, that we support), including the following (in bold and underlined)

Part A

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

Paper Cups for beverages with plastic lining

Part B

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

- Cups for beverages not covered by annexes A and G

Part G

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

- Paper Cups for beverages with plastic lining

ES justifications

Art 4-Justification

Regarding art 4- Consumption reduction, we recognize the Presidency efforts in strengthening the text; nevertheless, we would like to see a higher level of ambition and concreteness. For that, we have circulated a proposal based in three elements that constitute a process. We could be flexible in the final way these elements are included:

- the need to have national targets (recognising that there is a lack of data)
- the need to establish a process to gather/evaluate these data-setting base lines by the COM
- based on these data, the possibility of setting an EU wide target

This process could be also further clarified in art 15 of evaluation and review

Annexes-Justification

Regarding the annexes, the proposal takes on board some of the Parliament ideas (oxo-plastics and polystyrene containers) and incorporates others of our own to differentiate between cups made mainly with plastics (that have probably the highest littering potential) and others made of paper with a plastic lining. It is a similar approach to the taken by the PRES with the plates, which we support. It is true that all cups constitute a problem, but with this approach, we make sure that the ones that are mainly made with plastic are banned and the others reduced, so the level of ambition is considerably improved. Also, paper cups with lining could be included in other annexes, such as D, on marking requirements. Finally, for the paper cups with lining, further action, including banning in the future, could always be assessed later on under the review clause.

IT proposals

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Annex, part B

- Cutlery (forks, knives, spoons, chopsticks) except, until 2023, biodegradable and compostable cutlery used in closed loops for food-waste management and supplied under public supply contracts as defined in point 8.1 of Article 2 of Directive 2014/24/EU
- Plates, not covered by part A and G, and except, until 2023, biodegradable and compostable plates used in closed loops for food-waste management and supplied under public supply contracts as defined in point 8.1 of Article 2 of Directive 2014/24/EU

Art 3

Possible new definition

“Closed loop for food-waste management” means an integrated food management system in controlled environments whereas resource recovery and waste management are based on the principle of controlling material inputs to maximise recycling and recovery of materials, while preventing waste disposal.

Rationale

In closed loop for food-waste management the supply of reusable plates, cutlery and glasses are allowed if compliant with hygiene rules set by Regulation 853/2004. If the respect of hygiene regulations cannot be satisfied, the use of single-use products, whether mechanically or organically recyclable in accordance to European standards on industrial composting, are allowed, provided that appropriate waste collection and recycling schemes are in place, according to the provisions of the Waste Framework Directive .

COM proposal

COREPER 31-10- 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

Article 2(2)

2. **Articles 5, 6 and 7 of** this Directive shall apply by way of derogation, in so far as necessary, from **Article 18 of** Directives 94/62/EC ~~and 2008/98/EC~~.
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