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NOTE

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee |
| No. prev. doc.: | 15606/18 |
| No. Cion doc.: | 9465/18 - COM(2018) 340 final + COR 1 + ADD 1 |
| 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 - Analysis of the final compromise text with a view to agreement |

I. INTRODUCTION

1. The Commission submitted the above-mentioned proposal on 28 May 2018. The purpose of the proposed Directive is to prevent and to reduce the impact of certain plastic products on the environment, in particular the aquatic environment. To this aim, the proposal defines specific waste prevention and waste management objectives and measures in relation to single-use plastic products that are most found on the beaches in the Union and fishing gear containing plastic.

2. The Economic and Social Committee adopted its opinion on the proposal on 17 October 2018. The opinion of the Committee of the Regions was adopted on 10 October 2018.
3. The European Parliament, following the vote of the draft report by the ENVI Committee on 10 October 2018, voted on 24 October 2018 in plenary on its report containing 92 amendments and agreed to enter into negotiations with the Council with a view to a first reading agreement.
4. On 31 October 2018, the Committee of Permanent Representatives gave a mandate ¹ to the Presidency to enter into negotiations with the European Parliament (EP) on the abovementioned proposal.
5. In total, three trilogue meetings were held on 6 and 28 November and 18 December 2018, while also nine technical tripartite meetings have taken place in that period.
6. At the last trilogue meeting, a political agreement on a possible final compromise package was reached between the Council and the European Parliament ad referendum. The final compromise text is set out in the Annex to this note.

II. ANALYSIS OF THE COMPROMISE TEXT WITH A VIEW TO AN AGREEMENT

7. On the key political issues, the compromise agreed provisionally with the Parliament consists of the following elements:
 - Relationship between this Directive and other legislation: clarifications were agreed to be included in Articles 4 and 7 as well as in recital 7a;

¹ 13773/18.

- Definitions: some changes were agreed to the definition of oxo-degradable plastic to bring it in line with technical information, while the wording of the Council position related to the "market of the Member State" in points 5, 6 and 10 was not modified;
- Consumption reduction: changes were agreed to specify the procedure of inclusion of the measures taken under this Article in existing waste management plans and in particular the timeframe to which these measures will relate to, before the review referred to in Article 15;
- Market restrictions: exemptions were withdrawn on both sides, by the Council and the EP, apart from the exemptions for medical purposes;
- Recycled content: it was agreed to add, in Article 6, a target of 30% recycled plastic to be used as an average in all beverage bottles as from 2030 and, in Article 13, a reporting obligation in relation to the attainment of the targets; furthermore, the transposition deadline for Article 6 as a whole, for all beverage bottles, was set to 5 years from the entry into force of the Directive (Article 17);
- Tobacco products containing plastics: it was agreed to include a marking provision for these products in Article 7, as proposed by the EP, and the related transitional period for EPR, set out in Article 17, was shortened to 2023. Also, a reporting obligation was added in Article 13, as a consequence of the agreement to provide that also these products are subject to a review, as set out in Article 15;
- EPR: Article 8 remained largely unchanged;
- Fishing gear: the Council position was maintained, while the EP wish to provide for "separate collection" of waste fishing gear containing plastic was accepted;

- Separate collection of beverage bottles: the Council's two-step approach was accepted, however with the following targets: 77% by 2025 and 90% by 2029;
 - Further modifications accepted in the Annex: in Part D (marking requirements), the deletion of balloons and the inclusion of beverage cups and, wherever beverage bottles are mentioned, a specification that the provisions concern bottles with a capacity of up to three litres.
8. The Commission announced the intention to make a statement on the no-opinion clause to be entered in the minutes of the Council that would adopt the Directive.

III. CONCLUSION

9. The Committee of the Permanent Representatives is invited to
- analyse the consolidated text as set out in the Annex to this note and confirm the agreement on the overall compromise package; and
 - authorise the Presidency to send a letter to the European Parliament stating that if the Parliament were to adopt the amended text of the proposed Regulation, in accordance with Article 294 paragraph 3 of the Treaty, in the same form as set out in the Annex to this note (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

DIRECTIVE (EU) 2019/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

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 Plan¹, the Commission concluded in the European Strategy for Plastics² that the steady increase in plastic waste generation and its leakage into our environment, in particular into the marine environment, must be tackled in order to achieve a **■** circular lifecycle for plastics. ***The European Strategy for Plastics² is a step towards establishing a circular economy where the design and production of plastics and plastic products fully respect reuse, repair and recycling needs and more sustainable materials are developed and promoted. The significant negative environmental, health and economic impacts of certain plastic products call for the setting up of a specific legal framework to effectively reduce those negative effects.***

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Closing the loop – An EU action plan for the Circular Economy" (COM(2015) 614 final).

² ***Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A European Strategy for Plastics in a Circular Economy" (COM(2018) 28 final).***

- (2) ***This Directive promotes*** circular approaches that prioritise ***sustainable non-toxic*** re-usable products and re-use systems ***over single-use products, aiming first and foremost at a*** reduction of waste generated. ***Such waste*** prevention is at the pinnacle of the waste hierarchy enshrined in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council¹. ***This Directive will contribute to achieve the*** United Nations Sustainable Development Goal 12² to ensure sustainable consumption and production patterns. ***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 the pressure on precious resources and the environment.***

¹ 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).

² The 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25 September 2015.

- (3) Marine litter is of a transboundary nature and is recognized as a **growing** global problem. Reducing marine litter is a key action for the achievement of United Nations Sustainable Development Goal 14 which calls to conserve and sustainably use the oceans, seas and marine resources for sustainable development **■**¹. The Union must play its part in **preventing and** tackling marine litter and aim to be a standard setter for the world. In this context, the Union is working with partners in many international **fora** such as G20, G7 and United Nations to promote concerted action. This initiative is part of the Union efforts in this regard. ***It is also important that exports of plastic waste from the Union does not result in increased marine litter elsewhere.***

¹ The 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25 September 2015.

- (4) In accordance with multilateral agreements¹ and Union waste legislation², Member States are required to ensure sound waste management to prevent and reduce marine litter from both sea and land sources. In accordance with Union water legislation³ 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 United Nations Sustainable Development Goal 14.

¹ United Nations Convention on the Law of the Sea (UNCLOS), the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 (London Convention) and its 1996 Protocol (the London Protocol), Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL), Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

² Directive 2008/98/EC and 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).

³ 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) and 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 %. Single-use plastics 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 littering. 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 and pose a severe risk to marine ecosystems, biodiversity and █ to human health and are damaging activities such as tourism, fisheries and shipping.
- (6) *Microplastics do not directly fall within the scope of this Directive, yet they contribute to marine litter and the Union should therefore adopt a comprehensive approach to this problem. The Union should encourage all producers to strictly limit microplastics from their formulations.*

- (7) ***Proper waste management remains essential for the prevention of all litter, including marine litter.*** Existing Union legislation¹ 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 waste² and the recently adopted objective in the Plastics Strategy³ to ensure that all plastic packaging is recyclable by 2030. However, the impact of that legislation 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, may create barriers to trade and distort competition in the Union.

¹ Directive 2008/98/EC, Directive 2000/59/EC, Directive 2000/60/EC, Directive 2008/56/EC and Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community 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).

² Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ L 365 31.12.1994, p. 10).

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A European Strategy for Plastics in a Circular Economy" (COM(2018)28 final).

- (8) To focus efforts where they are most needed, this Directive should only cover the most found single-use plastics products *as well as fishing gear and products made from oxo-degradable plastic. The single-use plastics 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. *Metal and glass beverage containers should not be covered by this Directive as they are not among the top littered plastic items.*
- (9) *The present Directive is a lex specialis compared with Directive 94/62/EC and Directive 2008/98/EC. In the event of conflict between those Directives and the present Directive then the latter will prevail within the scope of its application. This 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 Directive 94/62/EC, Directive 2008/98/EC and Directive 2014/40/EU of the European Parliament and of the Council¹.*
- (10) *Terrestrial pollution and contamination of soil by larger items of plastic and resulting fragments or micro-plastics can be significant and such plastic can leak into the marine environment.*

¹ *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, 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 Council¹*, 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 ■ 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*.

¹ *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 lifecycle 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. Prewetted wet wipes for personal care and domestic use are within the scope of this Directive, whereas industrial wet wipes are excluded. To further clarify whether a product is to be considered a single-use plastic product listed in the Annex, the Commission should develop guidelines on single-use plastic products. In view of the criteria set out in the Annex, examples for 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 for 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 glass and metal beverage containers are not among the top littered plastic items, they are not covered by the measures of this Directive. However, the Commission should evaluate inter alia caps and lids made of plastic used for glass and metal beverage containers.*

- (13) The single-use plastic products should be addressed by one or several measures, depending on various factors, such as the availability of suitable and more sustainable alternatives, the feasibility to change 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 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 or food safety, good hygiene practices, good manufacturing practices, consumer information, or traceability requirements set out in Union food legislation¹. *Member States should aim at 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 found in the marine environment and should respect the waste hierarchy. Where Member States decide to implement this obligation through market 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.*

¹ Regulation (EC) 178/2002 laying down the general principles and requirements of food law (OJ L 31, 1.2.2002, p.1-24), Regulation (EC) No 852/2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p.1-54), Regulation (EC) No 1935/2004 on materials intended to come into contact and other relevant legislation related to food safety, hygiene and labeling (OJ L 338, 13.11.2004, p.4).

(15) Tobacco product filters containing plastic are the second most littered single-use plastic items. The huge environmental impact caused by post-consumption waste of tobacco products with filters, discarded directly into the environment needs to be reduced. Innovation and product development are expected to provide viable alternatives to filters containing plastic, and this development needs to be accelerated. Extended producer responsibility schemes for tobacco products 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 littering of post-consumption waste of tobacco product filters.

- (16) 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 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 innovative solutions towards more sustainable business models, re-use alternatives and substitution of materials would be promoted. ***The market restrictions introduced in this Directive should also cover products made from oxo-degradable plastic, as this 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. In view of the high prevalence of 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.***

(17) Caps and lids ■ made of plastic, from beverage containers are among the most found single-use plastic items littered on Union beaches. 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 significantly reducing the leakage into the environment of beverage container caps and lids. For beverage containers that are single-use plastic products and packaging, this requirement is an addition to the essential requirements on the composition and the reusable and recoverable, including recyclable, nature of packaging set out in Annex II of Directive 94/62/EC. In order to facilitate conformity with the product design requirement and ensure a 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 Council¹ and the compliance with that standard should allow presumption of conformity with those requirements. ***Therefore, the timely development of a harmonised standard is of the highest priority to ensure an effective implementation.*** 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 a requirement for a mandatory minimum content of recycled plastics in beverage bottles.***

¹ 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 lifespan. 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 prevention and design for circularity.*
- (19) *The presence of hazardous chemical substances in sanitary towels and tampons and tampon applicators as listed in Part D of the Annex should be avoided in the interest of women's health. With the view to the ongoing process under REACH, it is appropriate for the Commission to assess further restrictions on these substances.*

- (20) Certain single-use plastic products end up in the environment as a result of inappropriate disposal through sewers or other inappropriate release into the environment. ***Disposal through sewers may 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 these products and the appropriate waste disposal.*** Therefore, single-use plastic products that are frequently disposed of through sewers ***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 waste disposal ***means*** to be avoided ***for that product in line with the waste hierarchy*** and ■ about the ***presence of plastics in the product and the resulting*** negative environmental impacts of ***littering or other*** inappropriate disposal. The ***marking should, as appropriate, be either on the packaging of the single-use plastic 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 clearly understandable. ***With regard to fishing gear, the marking requirements are already applied pursuant to Regulation (EC) No 1224/2009.***

- (21) With regard to single-use plastic products for which there are no readily available suitable and more sustainable alternatives, 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. ***These 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) ***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.***

- (23) The large portion of plastic stemming from ■ discarded fishing gear, *including abandoned and lost fishing gear*, containing plastic in marine litter indicates that the existing legal requirements¹ do not provide sufficient incentives to return such fishing gear to shore for collection and treatment. The indirect fee system envisaged under Union law on port reception facilities for the delivery of waste from ships *provides a system to take* away 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 fishing gear waste on shore to avoid any potential increase in the indirect waste fee to be paid. As plastic components of fishing gear have a high recycling potential, Member States should, in line with the polluter pays principle, introduce extended producer responsibility for fishing gear *or its components* containing plastic to *ensure* separate collection of waste fishing gear and to finance sound waste management of such 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 Article 13, fishing gear containing plastic.*

¹ Council Regulation (EC) No 1224/2009, Directive 2000/59/EC and Directive 2008/98/EC.

- (25) While all marine litter containing plastic poses risks to the environment and human health and should be tackled, proportionality considerations should also be taken into account. Therefore, the fishers themselves and artisanal makers of fishing gear containing plastic should not be *considered a producer and responsible for fulfilling the obligations of the producer related to* the extended producer responsibility.
- (26) In order to prevent littering and other inappropriate forms of disposal resulting in marine litter containing plastic, consumers need to be properly informed about the most appropriate waste *management* options available and/or waste disposal options to be avoided, 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. Therefore, Member States should be required to take awareness raising measures ensuring that such information is given to the consumers. ***This information should include the impact of inappropriate waste disposal on the sewer network.*** The information should not contain any promotional content encouraging the use of the single-use plastic products. Member States should be able to choose the measures which are 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 obligation.

- (27) Directive 2008/98/EC lays down general minimum requirements for extended producer responsibility schemes. Those requirements should apply to extended producer responsibility schemes established by this Directive, *irrespective of their mode of implementation by legislative act or by means of agreements according to Article 17(3). 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, wet wipes and balloons. Therefore setting up separate collection for those products is not mandatory.* This Directive ■ establishes additional extended producer responsibility requirements, for example, the requirement on producers of certain single-use plastic products to cover the costs of clean-up of litter. *These costs cover the costs 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 to clean up litter should take into account considerations of proportionality. To minimize administrative costs Member States may determine financial contributions to clean up litter by setting appropriate multiannual fixed amounts.*

(28) Beverage bottles that are single-use plastic products are one of the most found marine litter items on the beaches in the Union. This is due to ineffective separate collection systems and low participation in those systems by the consumers. It is necessary to promote more efficient separate collection systems and 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 the provisions in Article 10(2) and (3)(a) of Directive 2008/98/EC. The setting of the collection target should be based on the amount of plastic bottles placed on the market in a Member State or alternatively on the amount of waste plastic bottles generated in a Member State. The calculation of the weight of waste generated in a Member State should take due account of all waste plastic bottles generated, including those littered that escape 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 or by establishing deposit refund schemes or by any other measure that they find appropriate. This 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 recyclate. ***It will support reaching the recycling targets for packaging waste set in Directive 94/62/EC.***

- (29) *It is important to monitor the levels of marine litter in the Union to assess the implementation of this Directive. In accordance with the Marine Framework Strategy Directive 2008/56/EC Member States are required to regularly monitor the properties and quantities of marine litter, including plastic marine litter. This monitoring data is also communicated to the Commission.*
- (30) *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 *the objectives of preventing and reducing the impact of certain plastic products on the aquatic environment.*

- (31) Pursuant to paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016¹, 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 Directive 2008/56/EC or Directive 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 can be broadened to other single-use products***.
- (32) Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.

¹ 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 of¹ the methodology for the calculation of the annual consumption of the single-use plastic products for which consumption reduction objectives have been set, the specifications for the marking to be affixed on certain single-use plastic products, ***the methodology for the calculation and verification of the collection target of single-use plastic products for which separate collection targets have been set*** and the format of the information to be provided by Member States and compiled by the European Environment Agency 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 Council².
- (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 particular requirements are met.***

¹ To be adapted during lawyer-linguist revision.

² 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) Since the objectives of this Directive, namely to prevent and to reduce the impact of certain single-use plastic products and fishing **■** containing plastic on the environment **and on human health**, to promote the transition to a circular economy, including the fostering of innovative 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.
- (36) ***The fight against litter is a shared effort between competent authorities, producers and consumers. Public authorities, including the Union institutions, should lead by example,***

HAVE ADOPTED THIS DIRECTIVE:

Article 1
Objectives

The objective of this Directive is 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 shall apply 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 lays down rules that conflict with Directives 94/62/EC or 2008/98/EC, then the rules in 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 within the meaning of Article 3(5) 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 includes 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 and aquaculture to target or 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 rearing** such marine biological resources;

- (5) 'waste fishing gear' means any fishing gear covered by the definition of waste in 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 the Member State;***
- (7) 'making available on the market' means any supply of a product for distribution, consumption or use on the ***Member State*** market in the course of a commercial activity, whether in return for payment or free of charge;
- (8) 'harmonised standard' means harmonised standard as defined in point (c) of point 1 of Article 2 of Regulation (EU) No 1025/2012;
- (9) 'waste' means waste as defined in Article 3(1) of Directive 2008/98/EC;
- (10) 'extended producer responsibility scheme' means extended producer responsibility scheme as defined in Article 3(21) of Directive 2008/98/EC;

(11) 'producer' means:

- (i) any natural or legal person ***established in a Member State that professionally manufactures, fills, sells or imports***, irrespective of the selling technique used, including distance contracts within the meaning of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011¹, ***and*** places on the market ***of that Member State*** single-use plastic products ***or filled single-use plastic products or*** fishing gear containing plastic except persons carrying out fishing activities as defined in Article 4(28) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council²; ***or***
- (ii) ***any natural or legal person established in another Member State or in a third country that professionally sells directly to private households or to users other than private households in a Member State, by distance contracts within the meaning of Directive 2011/83/EU, single-use plastic products or filled single-use plastic products and fishing gear containing plastic except persons carrying out fishing activities as defined in Article 4(28) of Regulation (EU) No 1380/2013;***

¹ 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).

² 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 Article 3(10) of Directive 2008/98/EC;
- (13) *'separate collection' means separate collection as defined in Article 3(11) of Directive 2008/98/EC;*
- (14) 'treatment' means treatment as defined in Article 3(14) of Directive 2008/98/EC;
- (15) 'packaging' means packaging as defined in Article 3(1) 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 (CO₂), biomass and water and in accordance with European standards for packaging recoverable through composting and anaerobic digestion;*
- (17) 'port reception facilities' means 'port reception facilities' as defined in Article 2(e) 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. These 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. Member States shall by ...*** [end-date for transposition of this Directive] ***prepare a description of all the measures which they have adopted pursuant to this paragraph and shall notify this description to the Commission and make it publicly available. The measures set out in the description shall be integrated into the programmes referred to in Article 11 upon the first following 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 this purpose.***

Those measures may include national consumption reduction targets, 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 agreements referred to in Article 17(3). Member States may take marketing restrictions in derogation from Article 18 of Directive 94/62/EC for the purposes of prevention of littering of those products in order to ensure that those products are substituted with alternatives that are reusable or do not contain plastic.* Those measures may vary depending on the environmental impact of the products referred to in the first subparagraph *over their life cycle, including when littered.*

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 Council¹ where so required by that Directive.

¹ *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 the consumption reduction.

2. The Commission *shall, by ... [18 months after the date of entry into force of this Directive]* 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 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).

Article 5

Restrictions on placing on the market

Member States shall prohibit the placing on market of the single-use plastic products listed in Part B of the Annex *and 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 container during the product's 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 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*, beverage containers 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 covered by those standards or parts thereof laid down in paragraph 1.

5. *With regard to beverage bottles as referred to in Part C of the Annex, Member States shall ensure that*

(a) from 2025, beverage bottles 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;

(b) from 2030, beverage bottles contain at least 30% recycled plastic, calculated as an average for all 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 target established in the first sub-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 their 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*,
 - (b) the *presence of plastics in the product and the resulting* negative environmental impacts of littering or other inappropriate waste disposal of the products.

■

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

2. *The Commission shall, by ... [12 months before the end-date for transposition of this Directive] 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 product listed in indents 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 is not required for packaging with a surface area of less than 10 cm²;*
- (b) provide that the marking of single-use plastic products listed in indent 4 of part D of the Annex shall be placed on the product itself;*
- (c) consider existing sectorial voluntary approaches and shall 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 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 *point 1 of Part E of the Annex* shall cover the costs *pursuant to extended producer responsibility provisions in Directive 2008/98/EC and Directive 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 regarding those products;*
 - (b) *the costs for the collection of waste of those products discarded in public collection systems, including infrastructure and its operation, and its subsequent transport and treatment;*
 - (c) *the costs to clean up litter of those products and its subsequent transport and treatment.*

3. *Member States shall ensure that the producers of the single-use plastic products listed in point 2 and 3 of Part E of the Annex shall 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 to clean up litter of those products and its subsequent transport and treatment.*
- (c) the costs of data gathering and reporting in accordance with Article 8a(1)(c) of Directive 2008/98/EC.*

With regard to the single-use plastic products listed in point 3 of part E of the Annex, the producers shall, in addition, cover the costs of collection of waste of those products discarded in public collection systems, including infrastructure and its operation, and its subsequent transport and treatment. This may include the setting up of specific infrastructure for the collection of waste of those products, such as appropriate waste receptacles in common litter hotspots.

4. *The costs to be covered, referred to in paragraph 2 and 3, shall not exceed the costs that are necessary to provide those services in a cost-efficient way and shall be established in a transparent way between the actors concerned. The costs to clean 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 to clean up litter to be established in a proportionate way. To minimize administrative costs Member States may determine financial contributions to clean up litter by setting appropriate multiannual fixed amounts.*

The Commission shall publish guidelines for criteria, in consultation with Member States, on the cost to clean 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 the roles and responsibilities shall be defined in line with the Directive 94/62/EC.

6. *Each Member State shall allow the producers of products established in another Member State and placing products on its territory 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 as defined in Article 3(11) and established on its territory, which sells products listed in Part E of the Annex and fishing gear in another Member State in which it is not established, appoints an authorised representative in that Member State. The authorised representative is the person responsible for fulfilling the obligations of that producer, pursuant to this Directive, on the territory of that 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, other than landlocked Member States, shall set up 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 report to the Commission in accordance with Article 13(1) with a view to the establishment of binding quantitative Union targets for collection.

9. With regard to the schemes established pursuant to paragraph 8, Member States shall ensure that the producers of fishing gear containing plastic shall 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 Union law on port reception facilities or to other equivalent collection systems that fall outside the scope of Union law on port reception facilities and 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 850/98¹, the Commission shall request the European standardisation organisations to develop harmonised standards relating to the circular design of fishing gear to encourage preparation for re-use and facilitate recyclability at end of life.

¹ *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

- I.** Member States shall take the necessary measures to collect separately *for recycling*,
- (a)** *no later than* by 2025, 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)** *no later than by 2029, 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 within a Member State may be deemed to be equal to the amount of waste generated of such products, including waste littered, in the same year in that Member State*.

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

- (a)** establish deposit-refund schemes, or

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

The first subparagraph shall apply without prejudice to Article 10(3)(a) 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 these targets, inter alia on deposit refund schemes. The Commission shall make the results of the exchange of information and sharing of best practices publicly available.*
3. *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 separate collection target 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).*

Article 10

Awareness raising measures

Member States *shall take measures to inform consumers and to incentivise responsible consumer behaviour, in order to achieve a reduction in the littering of 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 fishing gear containing plastic about the following:

- (a) the *availability of reusable alternatives*, re-use systems and waste management options for those products and 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 products and fishing gear containing plastic on the environment, and in particular on the marine environment;
- (c) *the impact on the sewer network of inappropriate waste disposal of those products.*

Article 11

Coordination of measures

Without prejudice to the first sub-paragraph of paragraph 1 of Article 4, 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 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 Union law for the management of waste from ships.

The measures that Member States take to transpose and implement Articles 4 to 9 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 in contact with food.***

■

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 be littered, due to its volume or size, in particular single-serve portions, plays a decisive role.

The Commission shall by ... [one year after entry into force of this Directive] publish guidelines, in consultation with Member States, including examples of what is to be considered a single-use plastic product, 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 Member States 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 a 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;*
- (e) information on recycled content in beverage bottles listed in Part C of the Annex to demonstrate the attainment of the targets in accordance with Article 6(5);*
- (f) data on the post-consumption waste of single-use plastic products listed in point 3 of part E of the Annex that has been collected in accordance with Article 8(3)*

Member States shall report the data electronically within 18 months from the end of the reporting year for which it is collected. The data 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 point (e) and point (f) of the first sub-paragraph for which the first reporting year shall be 2023.

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

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

4. *The Commission shall, by ... [18 months after the date of entry into force of this Directive] adopt implementing acts laying down the format for reporting data in accordance with paragraph 1 points (a) and (b) and paragraph 2 of this Article. The Commission shall, by ... [12 months before the transposition date of this Directive] adopt implementing acts laying down the format for reporting data in accordance with paragraph 1 points (c) and (d) and paragraph 2 of this Article. The Commission shall adopt implementing acts laying down the format for reporting in accordance with paragraph 1 points (e) and (f) and paragraph 2 of this Article by 1 January 2022. 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 on packaging and packaging waste 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 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 ... [six years after the end-date for transposition 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.
2. **■** 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 fishing gear.***

3. **The report shall include:**

- (a) ***an assessment of the need to review the Annex listing single-use plastic products, including regarding caps and lids made of plastics used for glass and metal beverage containers;***
- (b) ***a study of the feasibility of establishing binding collection rates for 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 reusable alternatives; this shall wherever possible include an overall life-cycle analysis to assess the environmental impact of such products and their alternatives;***

(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 (CO₂), biomass and water within a timescale short enough for the plastics not to be harmful for marine life and not lead to an accumulation of plastics in the environment.*

4. *As part of the evaluation pursuant to paragraph 1, the Commission shall review the measures taken under this Directive on single-use plastic products listed in the Annex part E point 3 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 the Annex part E point 3, including the possibility for setting binding collection rates for the post-consumption waste of single-use plastic products listed in the Annex part E point 3. 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 entry into force of this Directive*]. They shall immediately communicate the text of those measures to the Commission.

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

- *Article 5 from ... [2 years after entry into force of this Directive],*
- *Article 6(1) from ... [5 years after entry into force of this Directive],*
- *Article 7(1) from ... [2 years after 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 by 5 January 2023:*
- *Annex part E point 3 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. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions 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 (3), with the exception of single-use plastic products listed in Annex Part E point 3, 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;*
- (f) *in case of non-compliance with an agreement Member States must 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 Brussels,

For the European Parliament

The President

For the Council

The President

ANNEX

Part A

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

- ***Cups for beverages, including their covers and lids***
- Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food ***that***
 - is intended for immediate consumption ■ either on-the-spot or take-away,
 - ***is typically consumed from the receptacle and***
 - ***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 the restriction on placing on the market

- Cotton bud sticks, except *if they fall within the scope of Council Directive 90/385/EEC¹ or Council Directive 93/42/EEC²*
- Cutlery (forks, knives, spoons, chopsticks)
- Plates
- Straws, except *if they fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC*
- Beverage stirrers
- 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 – *Food containers made of expanded polystyrene, i.e. receptacles such as boxes, with or without a cover, used to contain food that*
 - *is intended for immediate consumption either on-the-spot or take-away,*
 - *is typically consumed from the receptacle and*
 - *is ready to be consumed without any further preparation, such as cooking, boiling or heating,*

¹ 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).

² 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

- *Beverage containers made of expanded polystyrene*
- *Cups for beverages made of expanded polystyrene*

Part C

Single use plastic products covered by Article 6 on placing on the market

- 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 and metal beverage containers that have caps and lids made from plastic; beverage containers intended and used for food for special medical purposes in liquid form as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council¹ shall be exempted*

¹ *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

- Sanitary towels (pads) and tampons and tampon applicators
- Wet wipes, i.e. pre-wetted personal care *and* domestic ■ wipes
- *Tobacco products with filters and filters marketed for use in combination with tobacco products*
- *Cups for beverages*

Part E

1. Single -use plastic products covered by Article 8 *paragraph 2* on extended producer responsibility

- Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food *that*
 - is intended for immediate consumption ■ either on-the-spot or take-away,
 - *is typically consumed from the receptacle and*
 - *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

- Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation
- 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 and metal beverage containers that have caps and lids made from plastic*
- Cups for beverages, *including their covers and lids*

■

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

2. Single-use plastic products covered by Article 8 paragraph 3 on extended producer responsibility

- Wet wipes, i.e. pre-wetted personal care *and* domestic ■ wipes
- Balloons, except balloons for industrial or other professional uses and applications, that are not distributed to consumers

■

3. Single-use plastic products covered by Article 8 paragraph 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

- Beverage bottles ***with a capacity of up to three litres, including their caps and lids, but not glass and metal beverage bottles that have caps and lids made from plastic; beverage bottles intended and used for food for special medical purposes in liquid form as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 shall be exempted***

Part G

Single use plastic products covered by Article 10 on awareness raising

- ***Food*** containers, i.e. receptacles such as boxes, with or without a cover, used to contain food ***that***
 - is intended for immediate consumption **■** either on-the-spot or take-away,
 - ***is typically consumed from the receptacle and***
 - ***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

- *Packets* and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation
- 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 and metal beverage containers that have caps and lids made from plastic*
- Cups for beverages
- Tobacco products with filters and filters marketed for use in combination with tobacco products
- Wet wipes, i.e. pre-wetted personal care *and* domestic ■ wipes
- Balloons, except balloons for industrial or other professional uses and applications, that are not distributed to consumers
- Lightweight plastic carrier bags as defined in Article 3(1c) of Directive 94/62/EC
- Sanitary towels (pads) and tampons and tampon applicators

