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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Position of the Council at first reading with a view to the adoption of a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 94/62/EC as regards reducing the consumption of
lightweight plastic carrier bags
- Adopted by the Council on 2 March 2015

DIRECTIVE (EU) 2015/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

amending Directive 94/62/EC
as regards reducing the consumption of lightweight plastic carrier bags

(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 114 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 procedure³,

¹ OJ C 214, 8.7.2014, p. 40.

² OJ C 174, 7.6.2014, p. 43.

³ Position of the European Parliament of 16 April 2014 (not yet published in the OJ) and position of the Council at first reading of 2 March 2015. [(OJ ...)] [(not yet published in the Official Journal)]. Position of the European Parliament of ... [(OJ ...)] [(not yet published in the Official Journal)].

Whereas:

- (1) European Parliament and Council Directive 94/62/EC¹ was adopted in order to prevent or reduce the impact of packaging and packaging waste on the environment. Although plastic carrier bags constitute packaging within the meaning of that Directive, it does not contain specific measures on the consumption of such bags.
- (2) The current consumption levels of plastic carrier bags result in high levels of littering and an inefficient use of resources and are expected to increase if no action is taken. Littering of plastic carrier bags results in environmental pollution and aggravates the widespread problem of litter in water bodies, threatening aquatic eco-systems worldwide.
- (3) Furthermore, the accumulation of plastic carrier bags in the environment has a clearly negative impact on certain economic activities.
- (4) Plastic carrier bags with a wall thickness below 50 microns ('lightweight plastic carrier bags'), which represent the vast majority of the total number of plastic carrier bags consumed in the Union, are less frequently re-used than thicker plastic carrier bags. Consequently, lightweight plastic carrier bags become waste more quickly and are more prone to littering due to their light weight.

¹ 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).

- (5) Current recycling rates of lightweight plastic carrier bags are very low and, due to a number of practical and economic difficulties, are not likely to reach significant levels in the near future.
- (6) According to the waste hierarchy, prevention comes first. Plastic carrier bags serve several purposes and their consumption will continue in the future. To ensure that the needed plastic carrier bags will not end up as waste in the environment, adequate measures should be in place and consumers should be informed about proper waste treatment.
- (7) Consumption levels of plastic carrier bags vary considerably across the Union due to differences in consumption habits, environmental awareness and effectiveness of policy measures taken by Member States. Some Member States have managed to reduce consumption levels of plastic carrier bags significantly, with the average consumption level in the seven best performing Member States amounting to only 20% of the Union average consumption.
- (8) The availability and accuracy of data on the current consumption levels of lightweight plastic carrier bags vary between Member States. Accurate and comparable data on consumption is key to assess the effectiveness of reduction measures and to ensure uniform conditions for implementation. Therefore, a common methodology for the calculation of annual consumption of lightweight plastic carrier bags per person should be developed with a view to monitoring progress in reducing consumption of such bags.

- (9) Furthermore, consumer information has been shown to play a decisive role in achieving any goals regarding a reduction in the consumption of plastic carrier bags. Therefore, efforts at institutional level are necessary to increase awareness of the environmental impact of plastic carrier bags and end the current perception of plastic as a harmless and cheap commodity.
- (10) To promote sustained reductions of the average consumption level of lightweight plastic carrier bags, Member States should take measures to significantly reduce the consumption of lightweight plastic carrier bags in line with the overall objectives of the Union's waste policy and the waste hierarchy as provided for in Directive 2008/98/EC of the European Parliament and of the Council¹. Such reduction measures should take account of current consumption levels of plastic carrier bags in individual Member States, with higher levels requiring more ambitious efforts, and take account of reductions already achieved. To monitor progress in reducing the consumption of lightweight plastic carrier bags, it is necessary that national authorities provide data on their consumption in accordance with Article 12 of Directive 94/62/EC.
- (11) Measures to be taken by Member States may involve the use of economic instruments such as pricing, taxes and levies, which have proved particularly effective in reducing the consumption of plastic carrier bags, and marketing restrictions such as bans in derogation of Article 18 of Directive 94/62/EC provided that these restrictions are proportionate and non-discriminatory.

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).

- (12) Those measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their recycling and composting properties, their durability or the specific intended use of those bags, and taking into account any possible adverse substitution effects.
- (13) Member States may choose to exempt plastic carrier bags with a wall thickness below 15 microns ("very lightweight plastic carrier bags") provided as primary packaging for loose food when required for hygiene purposes or when their use helps prevent food wastage.
- (14) Member States may freely use revenues generated by measures that are taken under Directive 94/62/EC to achieve a sustained reduction in the consumption of lightweight plastic carrier bags.
- (15) Awareness programmes for consumers in general and educational programmes for children can play an important role in reducing the consumption of plastic carrier bags.
- (16) European Standard EN 13432 on "Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging" sets out the characteristics that a material must possess to be considered 'compostable', namely that it can be recycled through a process of organic recovery comprised of composting and anaerobic digestion. The Commission should ask the European Committee for Standardization to develop a separate standard for home-compostable packaging.

- (17) It is important to ensure Union-wide recognition of labels or marks for biodegradable and compostable plastic carrier bags.
- (18) Some plastic carrier bags are marked as "oxo-biodegradable" or "oxo-degradable" by their manufacturers. In such bags, additives are incorporated into conventional plastics. Due to the presence of those additives, the plastic fragments over time into small particles which remain in the environment. It can thus be misleading to refer to such bags as "biodegradable" as they may not be a solution to littering and may, on the contrary, increase pollution. The Commission should examine the impact of the use of oxo-degradable plastic carrier bags on the environment and present a report to the European Parliament and the Council, including, if appropriate, a set of measures to limit their consumption or to reduce any harmful impacts.
- (19) Measures to be taken by Member States to reduce the consumption of plastic carrier bags should lead to a sustained reduction in the consumption of lightweight plastic carrier bags and should not lead to an overall increase in the generation of packaging.

- (20) The measures provided for by this Directive are consistent with the Commission Communication on the Roadmap to a Resource Efficient Europe and they should contribute to actions against marine littering, undertaken in accordance with Directive 2008/56/EC of the European Parliament and of the Council¹.
- (21) Directive 94/62/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

¹ 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).

Article 1

Directive 94/62/EC is amended as follows:

(1) In Article 3, the following points are inserted:

- '1a. "plastic" shall mean a polymer within the meaning of Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council*, to which additives or other substances may have been added, and which is capable of functioning as a main structural component of carrier bags;
- 1b. "plastic carrier bags" shall mean carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products;
- 1c. "lightweight plastic carrier bags" shall mean plastic carrier bags with a wall thickness below 50 microns;
- 1d. "very lightweight plastic carrier bags" shall mean plastic carrier bags with a wall thickness below 15 microns which are required for hygiene purposes or provided as primary packaging for loose food when this helps to prevent food wastage;

- 1e. "oxo-degradable plastic carrier bags" shall mean plastic carrier bags made of plastic materials that include additives which catalyse the fragmentation of the plastic material into micro-fragments.

* 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).'

- (2) In Article 4, the following paragraphs are inserted:

- '1a. Member States shall take measures to achieve a sustained reduction in the consumption of lightweight plastic carrier bags on their territory.

Those measures may include the use of national reduction targets, maintaining or introducing economic instruments as well as marketing restrictions in derogation from Article 18 of this Directive, provided that these restrictions are proportionate and non-discriminatory.

Such measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.

The measures taken by Member States shall include either or both of the following:

- (a) the adoption of measures ensuring that the annual consumption level does not exceed 90 lightweight plastic carrier bags per person by 31 December 2019 and 40 lightweight plastic carrier bags per person by 31 December 2025, or equivalent targets set in weight. Very lightweight plastic carrier bags may be excluded from national consumption objectives;
- (b) the adoption of instruments ensuring that, by 31 December 2018, lightweight plastic carrier bags are not provided free of charge at the point of sale of goods or products, unless equally effective instruments are implemented. Very lightweight plastic carrier bags may be excluded from those measures.

From ...⁺ Member States shall report on the annual consumption of lightweight plastic carrier bags when providing data on packaging and packaging waste to the Commission in accordance with Article 12 of this Directive.

By...⁺⁺, the Commission shall adopt an implementing act laying down the methodology for the calculation of the annual consumption of lightweight plastic carrier bags per person and adapting the reporting formats adopted under Article 12(3). That implementing act shall be adopted in accordance with the regulatory procedure referred to in Article 21(2).

⁺ OJ: please insert the date = date of entry into force of this Directive + 36 months.

⁺⁺ OJ: please insert the date = date of entry into force of this Directive + 12 months.

- 1b. Without prejudice to Article 15, Member States may take measures such as economic instruments and national reduction targets, as regards any kind of plastic carrier bags, regardless of their wall thickness.
- 1c. The Commission and the Member States shall, at least during the first year following the ...⁺, actively encourage public information and awareness campaigns concerning the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags.¹

(3) The following Article is inserted:

'Article 8a

Specific measures for biodegradable and compostable plastic carrier bags

By ...⁺⁺, the Commission shall adopt an implementing act laying down the specifications of labels or marks to ensure Union-wide recognition of biodegradable and compostable plastic carrier bags and to provide consumers with the correct information about the composting properties of such bags. That implementing act shall be adopted in accordance with the regulatory procedure referred to in Article 21(2).

⁺ OJ: please insert the date = eighteen months after the entry into force of this Directive

⁺⁺ OJ: please insert the date – two years after the entry into force of this Directive.

Eighteen months after the adoption of that implementing act, at the latest, Member States shall ensure that biodegradable and compostable plastic carrier bags are labelled in accordance with the specifications provided for in that implementing act. '.

(4) The following Article is inserted:

'Article 20a

Reporting on plastic carrier bags

1. By ...⁺, the Commission shall present a report to the European Parliament and to the Council, assessing the effectiveness of measures in Article 4(1a) at Union level, in combating littering, changing consumer behaviour and promoting waste prevention. If the assessment shows that the measures adopted are not effective, the Commission shall examine other possible ways to achieve a reduction in the consumption of lightweight plastic carrier bags, including the setting of realistic and achievable targets at Union level, and present a legislative proposal, if appropriate.

⁺ OJ: please insert the date = date of entry into force of this Directive + 78 months.

2. By ...⁺, the Commission shall present a report to the European Parliament and to the Council, examining the impact of the use of oxo-degradable plastic carrier bags on the environment and present a legislative proposal, if appropriate.
3. By ...⁺⁺, the Commission shall assess the life cycle impacts of different possibilities to reduce the consumption of very lightweight plastic carrier bags , and present a legislative proposal, if appropriate.'.

(5) In Article 22, paragraph 3a, the first subparagraph is replaced by the following:

'3a. Provided that the objectives set out in Article 4 and Article 6 are achieved, Member States may transpose the provisions set out in Articles 4(1a) and 7 by means of agreements between the competent authorities and the economic sectors concerned.'.

⁺ OJ: please insert the date = date of entry into force of this Directive + 24 months.

⁺⁺ OJ: please insert the date = date of entry into force of this Directive + 24 months.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ...⁺. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such 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.

⁺ OJ: please insert the date = eighteen months after the entry into force of this Directive

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at,

For the European Parliament
The President

For the Council
The President
