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PROPOSAL

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2018/0172 (COD)

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

(Text with EEA relevance)

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The amount of plastic marine litter in oceans and seas is growing, to the detriment of ecosystems, biodiversity and potentially human health, and causes widespread concern. At the same time, valuable material that could be brought back into the economy is lost, once littered. Plastic makes up 80-85% of the total number of marine litter items, measured through beach counts.

Single Use Plastic (SUP) items represent about half of all marine litter items found on European beaches by counts. The 10 most found SUP items represent 86% of all SUP items (constituting thus 43% of all marine litter items found on European beaches by count). Fishing gear containing plastics accounts for another 27% of marine litter items found on European beaches. This initiative focuses therefore on the 10 most found SUP and fishing gear, which together represent around 70% of these marine litter items by count.

Plastics is widely available, persistent, and often has toxic and other harmful impacts. Due to its persistency, the impacts of plastic litter are growing as each year more plastic waste accumulates in the oceans. Plastic residues are now found in many marine species – sea turtles, seals, whales, birds as well as in several species of fish and shell fish and therefore enter the food chain. In addition to harming the environment and potentially human health, plastic marine litter damages activities such as tourism, fisheries and shipping.

The underlying drivers of the increase in plastic waste and its dispersal in the marine environment are linked both with the plastics value chain and market, and with individual behaviour and social trends. Several factors have led to the current situation including the wide availability of plastic, consumption trend for convenience, lack of incentives to ensure a proper collection and treatment of waste leading to poor management and insufficient infrastructure.

Europe has a responsibility to tackle marine litter originating from Europe and it has also committed to act at a global level, notably through the G7 and G20 but also through the implementation of the UN Sustainable Development Goals¹. This initiative will place the EU at the forefront of global efforts, giving credibility and strength to its international action in the field.

The problem of marine litter is transboundary by nature, as litter moves in the marine environment and litter originating from one country can affect others. Joint action is needed to reduce marine litter while ensuring a single market with high environmental standards and legal certainty for businesses. Therefore, as part of its Plastics Strategy², the European Commission committed to look into further action to address plastic marine litter that builds on the piecemeal efforts underway in EU Member States, and that follows the approach used of light-weight plastic carrier bags.

This initiative focusses on the European contribution to macro plastic marine litter. It complements other European policies tackling marine litter such as the EU waste, waste water

¹ Particularly SDG 14 'Conserve and sustainably use the oceans, seas and marine resources for sustainable development' and SDG 12 " Responsible Consumption and Production "

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)

and marine environment framework legislations as well as the EU legislation on port reception facilities.

The main objective of this initiative is the prevention and reduction of plastic marine litter from single use plastic items and fishing gear containing plastic by complementing the measures already envisaged under the EU Plastics Strategy, addressing the identified gaps in the existing actions and legislation, and further reinforcing the EU's systemic approach to this issue. The Plastics Strategy already includes specific measures on microplastics, which constitute an important share of marine plastic litter: restrictions through REACH³ for deliberately added microplastics in products and oxo-plastics as well as measures for microplastics from other sources (tyres, textiles and plastic pellets). This initiative hence focusses on single use plastics and fishing gear containing plastic, which are macro-plastics.

The initiative should be seen in the broader context of the transition to a circular economy. It will support innovative solutions for new business models, multi-use alternatives and alternative single use products. This systemic change and material substitution will also promote bio-based alternatives and an innovative bioeconomy, bringing new opportunities for businesses and improving consumer convenience.

Further, in particular related to beverage bottles, the initiative will have a direct, positive impact on collection rates, the quality of the collected material and subsequent recycling, offering opportunities for recycling businesses and the increase of recycled content into products.

Tackling marine litter creates economic opportunities. The circular economy boosts the competitiveness of our businesses by contributing to the creation of a resource-efficient, decarbonised economy and jobs to sustain it. Innovation in product design to avoid plastic litter and microplastics, but also investments into marine litter prevention (e.g. in waste and waste-water treatment, in port reception facilities or recycling of fishing nets) and into sustainable alternative materials, products and business models can create jobs as well as strengthen technical and scientific skills and industry competitiveness in areas of growing global interest.

Marine litter has been monitored for several years on European beaches based on harmonised methods based on counts⁴. Beach litter item counts are internationally accepted as a reasonable indicator of the composition of marine litter, suitable to inform policy.

³ 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).

⁴ Reports established by Member States and compiled by JRC in the context of the implementation of the Marine Strategy Framework Directive.

A short overview of the single-use plastic items and fishing gear and the measures foreseen in the Commission's proposal is attached in the table below.

	Consumption reduction	Market restriction	Product design requirement	Marking requirements	Extended producer responsibility	Separate collection objective	Awareness raising measures
Food containers	X				X		X
Cups for beverages	X				X		X
Cotton bud sticks		X					
Cutlery, plates, stirrers, straws		X					
Sticks for balloons		X					
Balloons				X	X		X
Packets & wrappers					X		X
Beverage containers, their caps & lids			X		X		X
- Beverage bottles			X		X	X	X
Tobacco product filters					X		X
Sanitary items:							
- Wet wipes				X	X		X
- Sanitary towels				X			X
Lightweight plastic carrier bags					X		X
Fishing gear					X		X

- **Consistency with existing policy provisions in the policy area**

Given its focus on more efficient resource use and an overall more effective and circular plastics economy with better economic and environmental performances, the initiative is fully in line with the objectives of the Circular Economy policy. The Circular Economy is an integral part of the 10 priorities of the President Juncker Commission, in particular the first priority on jobs, growth and investment. This initiative was also announced in the EU Plastics Strategy, as part of the key actions planned under the Circular Economy Action Plan.

The proposal is consistent with and complements the EU's established legislation in the field of waste and water, in particular the Waste Framework Directive⁵, the Directive on Packaging and Packaging Waste⁶, Marine Strategy Framework Directive⁷ and the Urban Waste Water Treatment Directive⁸.

⁵ Directive 2008/98/EC of the European Parliament and the Council of 19 November 2008 on waste and repealing certain directives (OJ L 312, 22.11.2008, p. 3-30).

⁶ Directive 1994/62/EEC 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).

⁷ 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 (OJ L 164 25.6.2008, p. 19).

⁸ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40-52).

The existing waste legislation establishes general waste prevention and waste management objectives with regard to prevention and reduction of marine litter while leaving the choice of measures to the Member States. This proposal provides specific objectives and measures to tackle the most littered SUP and fishing gear containing plastic. It therefore complements the objective established in Article 9 of the Waste Framework Directive, as amended in 2018, that Member States shall take measures aimed at halting the generation of marine litter and measures to prevent, combat and clean-up litter. The proposal also supplements Article 8 of the Waste Framework Directive by establishing extended producer responsibility (EPR) schemes at Member States level in order to cover the costs of prevention of littering and waste management, including clean-up of litter of single-use plastic products.

This proposal complements the Marine Strategy Framework Directive, which requires Member States to reach Good Environmental Status of marine waters by 2020. With one descriptor dedicated to marine litter, the Marine Strategy Framework Directive requires Member States to establish Programmes of Measures to ensure that "quantities and composition of marine litter do not cause harm to marine or coastal environment". The long lasting work undertaken under the Marine Strategy Framework Directive to monitor marine litter on European beaches constitutes the scientific base of this legislative proposal. For specific items, this proposal goes further than the Marine Strategy Framework Directive requirements by regulating individual sources of pollution thanks to the identification of drivers and pathways of marine plastic pollution.

Consistency is also ensured with the Urban Waste Water Treatment Directive, which provides requirements for the collection and treatment of urban waste water and quality criteria for the treatment. While the Directive allows capturing a significant part of the pollution emitted, it is currently not sufficiently effective, notably for storm water overflows capture and treatment. In addition, some flushed items such as plastic cotton bud sticks and sanitary applications are not well captured in the existing facilities and therefore end up on the European beaches. This legislative proposal comes as a complement to that Directive by proposing to act upstream of wastewater treatment through awareness raising, extended producer responsibility and labelling requirements for certain single-use plastic products.

This proposal also introduces measures for the improved management of waste fishing gear containing plastic returned to shore and its financing. These mechanisms and incentives are expected to increase the share of recovered fishing gear at the end of their life. The handling of waste generated from fishing gear is regulated and financially supported to a certain extent through a range of EU instruments, tackling in particular the link between overall rules on waste and litter from sea based sources and fishing gear, and the tracking and reporting of lost or abandoned fishing gear at sea. This proposal complements existing legislation on port reception facilities⁹ for the delivery of waste from ships, which is currently under revision¹⁰. The proposed review includes fishing vessels in the 100% indirect fee system, giving these vessels the right of delivery in ports of all their waste, including derelict fishing gear. In addition, it also complements the envisaged revision of Fisheries Control Regulation¹¹ which strengthens provision for reporting on lost gear, and those relative to retrieving lost gear.

The current proposal addresses only a part of the issue of plastic marine litter. It is included into an overall integrated and consistent European approach to tackle all sources of plastic

⁹ 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).

¹⁰ COM(2018)33 final

¹¹ Council Regulation (EC) 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ L 343, 22.12.2009, p.1).

marine litter as detailed in the recently adopted Plastics Strategy. This Strategy highlights the gaps or shortcomings in the current legal and policy framework to tackle plastic marine litter and proposes targeted measures to improve the prevention, collection and recyclability of plastics, in particular, of plastic packaging. It also aims to develop a regulatory framework for plastics with biodegradable properties to prevent harm to ecosystems. The European Chemicals Agency is preparing restriction dossiers concerning microplastic particles intentionally added to preparations, such as cosmetics, and the use of oxo-degradable plastics; measures are under preparation for microplastics not intentionally used in products but generated during their use, such as from tyres and textiles, as well as for reducing leakages of preproduction plastic pellets.

- **Consistency with other Union policies**

In addition to the environmental objectives described above, the proposal aims at preserving the internal market from additional fragmentation, one of the key objectives of the Union.

The initiative fully subscribes the innovation principle, and the related enabling actions under the Plastics Strategy to stimulate innovation and investment towards circular solutions such as the EU research funding under Horizon 2020 and the European Structural and Investment Funds.

More generally, this initiative will help achieve United Nations Sustainable Development Goals (SDGs) 12 and 14¹², the objectives of the Communication on International Ocean Governance¹³ and the commitments taken in Malta at the Our Ocean Conference in 2017. This initiative is coherent with the 2017 Strategy ‘Towards the Outermost Regions’¹⁴ that recognizes their potential for growth in tourism and the blue economy as well as the circular economy.

Finally, the initiative is consistent with the EU's international obligations in the area of trade policy, notably by ensuring non-discrimination between products produced in the EU and imported products.

The proposal will also help achieve priority objective 1 of the 7th Environment Action Programme to 2020: ‘To protect, conserve and enhance the Union’s natural capital’¹⁵. It also fits under priority objective 4, which requires that the public has access to clear environmental information at national level. To that end, the proposal makes cross-references and guarantees consistency with the requirements of Directive 2003/4/EC¹⁶ and the INSPIRE Directive¹⁷.

¹² In 2015, countries adopted the 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals. United Nations Sustainable Development Goal 12 to ensure sustainable consumption and production patterns and Goal 14 to prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution by 2025.

¹³ SWD(2016) 352 final

¹⁴ COM(2017)623

¹⁵ Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’ (OJ L 354, 28.12.2013, p. 171-200).

¹⁶ Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p.26-32).

¹⁷ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (OJ L 108, 25.4.2007, p.1-14).

The proposal also aims to ensure simple monitoring and reporting obligations, thereby limiting the administrative burden on Member States, in line with the EU's Better Regulation approach¹⁸ and the Fitness check on Reporting and Monitoring¹⁹.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The main objective of the proposal is to prevent and to reduce the impact of certain plastic products on the environment, in particular the aquatic environment. This is achieved by defining 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. By doing so in a coordinated way throughout the Union, the proposal will also contribute to the smooth functioning of the Union market. In view of that, the proposal is based on Article 192(1) of the Treaty on the Functioning of the European Union.

• Subsidiarity (for non-exclusive competence)

Given the propensity of litter to be carried by wind, currents and tide, the problem of plastic pollution and marine litter is transboundary in nature and therefore cannot be tackled in isolation by Member States sharing the same seas and waterways. The actions to be taken have to be coordinated to make sure that the efforts made on one side of the seas are not jeopardised by the lack of actions on the other side. For that reason, marine litter can only be effectively prevented and reduced through a coherent and comprehensive policy approach and measures at the EU level. Furthermore, given the global dimension of the problem, this cooperation is reinforced by European actions and involvement in the European Regional Seas Conventions having all adopted regional action plans to combat marine litter, as well as global commitments taken by the EU and its Member States, for instance, such as under UNEA and the SDGs.

There is a risk of market fragmentation when Member States take measures in an uncoordinated manner, differing in scope, focus and ambition level. Current actions target various plastic products and adopt different approaches (such as Italy's ban on plastic cotton buds, French rules restricting the marketing of single-use plastic glasses and plates unless they comply with specific biodegradability criteria). This could lead to a variety of restrictions of market access among the Member States, barriers to the free movement of goods and to the level playing field between producers in different countries, jeopardizing the efficient attainment of the objective of reducing marine litter, which has broader impacts at EU and international level. For this reason, it is necessary to establish a harmonised legislative framework setting common objectives and measures at EU level to prevent and reduce marine litter so that Member State measures are focused to specific single use plastic products and fishing gear containing plastic. The type of measures to be used, while based on a common assessment, is differentiated according to the type of plastic item, taking into account the added value of potential EU action and complementarity with the action undertaken by EU Member States.

For some items, the problem of littering (e.g. caps and lids for plastic beverage containers) and other impacts on the environment can be most efficiently tackled through changes in product design and switch to more sustainable substitutes (e.g. replacement of plastic

¹⁸ SWD(2015)111 final

¹⁹ COM(2017)312 final

content). In such cases, where there is a clear link to product requirements and market access in the internal market, a level playing field for businesses is important.

Furthermore, in line with the subsidiarity principle, this legislative proposal leaves for some measures certain flexibility to Member States –to choose the most appropriate specific implementation and data collection methods. For instance, Member States have a wide margin of discretion in deciding on national measures as appropriate, depending on local conditions, to implement the EU objective of a significant reduction in consumption of certain items.

- **Proportionality**

The proposal is targeted and proportionate as it focuses on the most found macro plastic items on European beaches by count, namely SUP and fishing gear. Considering the items by counts is the best available indicator of the environmental, social and economic impacts. This initiative focusses on the ten most found SUP items representing 86% of all SUP items by count (constituting thus 43% of all marine litter). Regulating all single-use plastic products, as found on beaches, would not be proportionate compared to the potential added value. It would lead to unnecessary costs and burden on Member States.

The measures on fishing gear are based on the polluter-pays principle, aiming in particular at ensuring that producers of fishing gear containing plastic take responsibility for the waste phase of their products, in particular, improving its separate collection and treatment, in particular, recycling, as well as re-use. These measures facilitate positive incentives for fishers to return gear to shore, while ensuring that they do not disproportionately burden fishing operators, in particular small-scale operators.

The proposal is suited to address an urgent environmental problem and, together with the existing legislation and the actions planned in the Plastic Strategy, to deliver ambitious environmental results, while achieving positive economic impacts, having a limited but positive effect on net employment, encouraging innovation, ensuring public acceptance, and contributing to wider resource efficiency.

The accompanying impact assessment provides more details on the proportionality of the elements in this legislative proposal.

- **Choice of the instrument**

A dedicated legislative instrument is proposed to address all single-use plastic products targeted in one legal instrument by defining specific objectives and measures with a view to preventing and reducing their impact on marine litter. Such dedicated legislative instrument is considered most suitable in order to avoid a fragmented legal landscape, as compared to the alternative approach that would have involved amending several legal instruments, such as the Marine Strategy Framework Directive, the Packaging and Packaging Waste Directive, the Waste Framework Directive, the Port Reception Facilities Directive, or the Fisheries Control Regulation.

While for some products harmonization at EU level is necessary, for other single-use plastic products and fishing gear containing plastic, in line with the existing EU waste legislation, it is necessary to leave some flexibility to Member States to choose the most appropriate legal, administrative and economic instruments to implement the defined objectives and measures. Therefore, a directive is the appropriate legal instrument for the attainment of the envisaged objectives and measures.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

For the purpose of this legislative proposal, an exhaustive panorama of existing legislation has been drawn to understand where complementary EU actions are needed to tackle littering of SUP and their impact on the environment. That legislation often targets different pathways, it is fragmented in terms of focus and ambition and has not yet had the necessary impact on marine litter.

As explained in section 2 above, the recently adopted Plastics Strategy identifies a need for a EU level legislative proposal specifically targeting SUP.

According to the EU waste legislation all waste should be subject to collection and proper treatment. This legislation defines recycling targets for municipal waste (65% by 2030) and plastic packaging waste (55% by 2030) which will further increase the capture of plastic waste. However, Member States can reach these targets without enhanced efforts on littering. The most recent amendments to the Waste Framework Directive will require Member States to take measures to identify the main sources of marine litter and to take measures to prevent and reduce litter from those sources. Nonetheless, a variety of factors linked to inadequate waste infrastructure and inappropriate consumer behaviour will still result in littering and leakage of plastics into the environment. The present initiative complements the new waste legislation by providing solutions at European level for a significant part of the sources of littering. It highlights the relevance of a product-focused legal instrument, confirmed by the results obtained by the Plastic Bags Directive that has been the first European instrument of that nature and has achieved a real reduction in the consumption and its related environmental impacts of the targeted item.

The assessment of the programs of measures carried out in the framework of the Marine Strategy Framework Directive shows that they provide a useful overview of the actions undertaken or planned, but that additional measures are needed to make them effective. This legislative proposal goes further by regulating individual sources of pollution thanks to the identification of drivers and pathways of marine plastic pollution.

One of the limitations of the Urban Wastewater Treatment Directive, which is currently being evaluated, relates to the requirements on capture and treatment of the storm waters overflows, which would need to be re-considered. This new legislative proposal aims at tackling this issue by encouraging awareness campaigns and labelling requirements to prevent flushing of single-use plastic items which are not well captured by all sewage treatment systems.

Waste from fishing gear is regulated through a range of EU instruments. Gaps are however still notable. Particularly, there is currently no specific incentive for operators to ensure a maximum return rate for fishing gear waste to shore and there are no burden-sharing mechanisms in place. Thus, the ongoing revision of the Port Reception Facilities Directive comes in pair with this proposal to regulate fishing gear as it tackles previous disincentives for ships to bring back their garbage as well as fished up waste to shore. Moreover, the revision of the Fisheries Control Regulation requires marking gear to carry retrieval equipment on board, to retrieve lost gear or to report its loss in case it cannot be retrieved through daily electronic reporting. However, the current legislative framework can be further strengthened by providing incentives for managing of fishing gear more efficiently as a specific waste management and recycling stream. This new legislative proposal aims at tackling this through an extended producer responsibility scheme.

- **Stakeholder consultations**

The public consultation, that took place between December 2017 and February 2018, received more than 1800 contributions. 98.5% of respondents considered that action to tackle SUP marine litter is “necessary”, and 95% consider it “necessary and urgent”. More than 70% of manufacturers and more than 80% of brands and recyclers considered action “necessary and urgent”. Only 2% of respondents believed that there should be no new measures at European level and 79% believed that unless measures are taken at the EU level, they would remain ineffective.

Respondents to the public consultation overwhelmingly favoured the use of extended producer responsibility schemes to cover the costs of cleaning up litter which is a key added value of this legislative proposal in comparison to the minimum requirements defined in the EU waste legislation for extended producer responsibility schemes. Moreover, the public consultation showed support to legislative requirements to better design as one of the most effective approach, followed by reduction targets, which was taken into account in the proposal as key measures to be implemented by Member States.

Regarding fishing gear, 88 % of respondents were in favour of measures creating incentives to bring fished up litter and end-of-life gear ashore and 77% wished for better collection and sorting facilities on vessels and at ports.

- **Collection and use of expertise**

In the framework of the Marine Strategy Framework Directive, information about marine litter items found on European beaches was gathered from the Joint Research Centre’s Technical Group on Marine Litter activities (monitoring programmes, clean-up campaigns and research projects), collected from 276 beaches of 17 EU Member States and four Regional Seas during 2016. A total of 355,671 items observed during 679 surveys were ranked by abundance, mainly according to the Marine Strategy Framework Directive Master List Categories of Beach Litter Items. The JRC list was then used to compile a shorter list of discrete classifications that provide the relative contributions of items that are alike in terms of source, use or material and are generally under the domain of a defined policy area. This data was also complemented by several already existing ongoing projects such as the Marine Litter Watch²⁰ developed by the European Environmental Agency.

The European Marine Observation²¹ and Data Network EMODnet²² partnership and the Regional Sea Conventions also brought key expertise to this legislative proposal for instance by contributing to the JRC work for assembling and harmonising the data in order to provide a better overall picture of the concentrations of plastic litter in European seas and sea-beds.

Regarding SUP and fishing gear, the European Commission also relied on the work of external consultants. Regarding SUP, based on the JRC’s data, they analysed the drivers and pathways to marine litter and the possible key measures to put forward in this new legislative proposal in order to tackle SUP. Regarding fishing gear, a separate in-depth study²³ was conducted to understand where the legislative gaps are and which measures should complement the existing baseline scenario to reduce the impact of fishing gear on the marine

²⁰ <https://www.eea.europa.eu/themes/water/europes-seas-and-coasts/marine-litterwatch>

²¹ <http://www.emodnet.eu/>

²² http://ec.europa.eu/environment/marine/international-cooperation/regional-sea-conventions/index_en.htm

²³ Study to support impact assessment for options to reduce the level and detrimental impact of plastic from fishing.

environment. The analysis took account of literature reviews of existing research, workshops involving Commission officials and external stakeholders and desk-based research, including on PRODCOM and EUROSTAT databases (EU external trade, imports, exports and production data).

During the course of the study, a range of formal and informal interviews with stakeholders from public institutions, NGOs, industry associations and businesses were carried out in order to help develop the problem and impact analysis. These interviews examined what was technically feasible and the likely direct effects of certain options. Interviews were also used to gather specific data related to performance and costs and how these may change as a result of potential intervention measures.

- **Impact assessment**

A summary of the impact assessment is annexed to the proposal. The Regulatory Scrutiny Board issued a negative opinion, followed by a second opinion, positive with reservations²⁴, based on a revised impact assessment. In the final opinion the Board acknowledges that the revised report shows more clearly the scope of the initiative, limited to macro-plastics. Further details were asked mainly on the complementary role of a new instrument to the existing legislation both related to (1) fishing gear (added value compared to the Control Regulation, the Port Reception Facilities Directive and the European Maritime and Fisheries fund) and (2) related to SUP (explanation of the lack of ambition of current legislation or weak implementation). The Regulatory Scrutiny Board asked for further information on the harmfulness of SUP as a group and as individual items, and on the fact that individual Member State action could lead to market fragmentation.

As a result, the final impact assessment further clarifies that marine litter causes economic, social and environmental harm and outlines how the gaps of the existing acquis are covered as the existing legislation for waste management, waste water treatment, port reception facilities etc. does not sufficiently address the problem drivers for the impacts of specific items. Related to SUP, waste legislation will have effects mainly on increasing recycling, with less impact on littering. Upstream measures aiming to reduce consumption are more efficient. The impact assessment confirmed that, as a group, the most frequently found single use plastic items and fishing gear constitute a high contribution to macro marine litter. They constitute approximately 70% of beach litter in counts, but also for each individual item their contribution counts. In the case of fishing gear, the development of additional measures was part of the approach followed in the context of the EU Plastics Strategy and the proposed revision of the Port Reception Facilities Directive²⁵. In the proposed revision of this Directive, individual fishermen will not be penalised for bringing waste ashore. However port fees will increase if more waste is brought ashore and waste handling facilities need to be upgraded, especially in the small fishing ports that many vessels use. In addition to ensuring strengthened management of fishing gear waste once landed in port, the proposed EPR scheme ensures that producers of fishing gear containing plastic take over the costs of managing the waste stream, including some or all of the costs relative to port reception facilities.

Moreover, the assessment points to an increasing and demonstrated risk of market fragmentation, namely in how regions or individual Member States handle the issue of SUP and fishing gear. This proposal therefore aims at ensuring a minimum of coherence of measures across Member States, in order to avoid an uneven playing field, potentially

²⁴ <http://ec.europa.eu/transparency/regdoc/?fuseaction=ia&year=2017&serviceId=&s=Chercher>
²⁵ COM(2018)33 final

distorting competitiveness between operators, which would in turn jeopardise the attainment of the objective of reducing litter. This legislative proposal strikes the right balance between the availability of alternatives and the need for harmonization.

Finally, the European Union needs to lead the way on tackling plastic marine litter in the European Seas through the actions of the Regional Seas Conventions but also at international level. By taking action the EU will trigger other countries to act, leading to a global reduction of marine litter in European Seas and beyond.

Direct legal action regarding these items is thus highly relevant to act against marine pollution.

Single-Use Plastics

The impact assessment examines a wide range of measures. Four options or scenarios, with a selection of different measures applied to the different items, were modelled. Each subsequent option presents an upward step in ambition level with respect to overall outcomes. An essential consideration in this context was the expected impact on the flow of SUP into the marine environment.

This resulted in three categories of items:

- The items for which there are available sustainable alternatives, the objective is to promote less harmful alternatives.
- Items for which the alternatives do not exist. For these items, the objective is to limit damages by better informing the consumers and making the producers financially responsible of the consequences on the environment.
- Items which are already well captured where the objective is to make sure that they land in the existing (or forthcoming) separate collection and recycling circuit.

The four scenarios were compared to the baseline scenario 1 and are described below.

Scenario 2a – Lower impact on reducing marine litter

This scenario would address the drivers in a limited way. It includes information campaigns, voluntary actions and labelling could increase general awareness (e.g. on the litter issue, typical pathways, correct disposal), and thus consumer behaviour. However, it is unclear what the outcome will be as there is little evidence of such awareness actually changing people's behaviour.

Scenario 2b - Medium impact on reducing marine litter,

This scenario is more effective than 2a, while becoming more challenging to implement, bringing with it more costs and burden for those affected.

Scenario 2c – Medium-high impact on reducing marine litter (chosen option)

This scenario would address the underlying drivers more adequately and goes further to change consumer behaviour. It includes product design measures for drink bottles for tethered caps would have a direct impact on the leakage of caps into the environment.

Scenario 2d - Highest impact on reducing marine litter

This scenario further improves addressing the underlying drivers, notably the lack of incentive to collect and manage properly SUP at the end of their life, but at a higher cost, namely with regard to wastewater treatment. It includes the introduction of a deposit refund scheme or equivalent systems and would entail an additional cost (around 1,4 billion € for the EU) but would further significantly reduce marine litter as well as improve the quality of the collected material and recycling rates. As in all extended producer responsibility schemes the cost of introducing and running a deposit refund scheme is usually born by the economic actors involved in the relevant supply chain depending on the set-up, but not by the public authorities. Best practices for wastewater treatment works would improve infrastructure but requiring an important additional investment of around 7.7 billion Euros per annum. This measure is difficult to justify if the objective would be only solving the problem of wet wipes, but is relevant to a much wider range of pollution releases. The ongoing evaluation of the Urban Waste Water Treatment Directive will provide more detailed data on this issue.

To avoid unintended consequences regarding economic, environmental and social impact, it is considered that the transition towards alternatives should be outcome-oriented and have a

broad potential solution space. Such an approach is in line with the innovation principle, making the legislative proposal forward-looking (‘future-proofing’) and innovation-friendly.

In line with the analysis conducted on the different policy options and regarding specificities of each targeted SUP item, Scenario 2c has been chosen as the preferred option. It includes the following actions:

- Restrictions on placing on the market of SUP with readily available alternatives (e.g. straws);
- General reduction targets (e.g. beverage cups, food containers) allowing Member States to adopt their own measures to achieve the reduction. The costs to implement these measures will then depend on the choice and design of the measures adopted at national level;
- Awareness raising measures and extended producer responsibility schemes for all items not falling under the market restriction measure, in order to contribute to the cost of prevention, waste management, including clean-up of litter, excluding fishing gear;
- Labelling requirements to inform consumers about appropriate waste disposal operations or disposal means to be avoided (e.g. wet wipes);
- Product design measures (e.g. drink bottles related to tethered caps).

The IA however demonstrates that deposit refund schemes or equivalent systems for plastic beverage bottles leading to similar high collection rates (examined as part of option 2d) can be a very efficient instrument to lead to high collection rates, preventing littering and marine litter in particular. Deposit refund schemes were therefore added to the preferred policy mix. They have a direct positive impact on collection due to the deposit fee, and they lead to improved quality of the collected material and subsequent high quality recyclate. While leaving flexibility to Member States to choose the appropriate instruments, it is therefore proposed to establish a minimum separate collection target that is set at a level that mirrors the median level of collection rate of existing single use plastic bottles deposit refund schemes in the EU (90%). Deposit refund schemes or equivalent systems may also offer solutions and infrastructure for attaining better collection of beverage containers made from other materials, subject to recycling targets for packaging, in particular from aluminium. Therefore, Member States should consider such measures also for beverage packaging made from other materials.

For reasons of implementation feasibility, for wet wipes the eventual proposal is to choose option 2b which foresees extended producer responsibility obligations, labelling requirements and awareness raising measures. For sanitary towels, labelling requirements and awareness raising measures are proposed.

There is already existing legislation, i.e. Directive on Packaging and Packaging Waste, which lays down consumption reduction objectives for lightweight plastic carrier bags, including very lightweight plastic carrier bags, which are also part of the most found items on Union beaches. This proposal envisages complementary EPR and awareness raising measures for all light weight plastic carrier bags.

Fishing gear

The first considered scenario consists of the full implementation of existing measures and proposal already on the table, leading to the following drawbacks:

- Under the revised Control Regulation, there is no particular specific incentive for fishers to increase the quantity of gear they do not report as lost and bring back to shore.
- Whereas the revised Port Reception Facilities Directive reduces significantly the cost and burden disincentive for fishers to bring gear and other litter back to port, it is aimed at improving the collection of waste from ships (including fishing vessels) in general, i.e. it is not targeted at the handling of fishing gear waste specifically. It does not include direct positive incentives for the collection of all waste fishing gear and its subsequent treatment in a way that maximises re-use and recycling potential of the plastic content in fishing gear. Member States' measures aiming at strengthening waste and gear collection capabilities or developing recycling schemes for fishing gear are too heterogeneous and local to be efficient. In view of that, the proposal for the revised Port Reception Facilities Directive envisages that further steps to improve the collection and treatment of fishing gear will be considered under the EU Plastics Strategy.²⁶

The second considered scenario consists of introducing an EPR scheme for fishing gear containing plastic.

The third considered scenario consists of strengthening the proposal for an EPR scheme by adding a deposit scheme and a recycling target which would further enhance the level of return of gear. It involves however more costs for implementation, potentially increasing costs for the sector whilst also increasing administrative burden. In addition, in the case of fishing gear, and as opposed to land-based plastic material, the risk of losing the deposit is relatively high, potentially diminishing its impact as an incentive.

Part of this option was also the setting of a recycling target. The complexities of defining such a target, and the administrative burden and costs of its monitoring were considered disproportionate, in particular, in a context where the set-up of an EPR scheme in itself is already likely to stimulate the further development of the current small market for the recycling of fishing gear materials.

A fourth scenario adds within the EPR scheme the obligation to fund a compulsory retrieval scheme for fishing gear. This was concluded to be disproportionate, duplicative and unworkable. It would make the producers of fishing gear responsible to cover the costs of retrieval action that is based on voluntary participation and is currently being supported by local, national and EU financial instruments. Gear retrieval is already included as an obligation in the Control Regulation under the Common Fisheries Policy.

Therefore, the most efficient scenario to tackle fishing gear and complement the existing legislations' gaps is the introduction of an extended producer responsibility scheme for producers of fishing gear containing plastic. This option is deemed to have the overall most effective potential impact on the reduction of abandoned, lost and discarded fishing and aquaculture gear contribution to marine litter. It would underpin and facilitate full implementation of other instruments, and further help to decrease the inflow amount of litter from fishing gear. In particular, it builds on and supplements the Control Regulation and the

²⁶ Explanatory Memorandum contained in COM(2018)33 final.

proposed revised Port Reception Facilities Directive by adding a dedicated mechanism facilitating separate collection and return of fishing gear to collection systems and treatment of waste fishing gear, in particular recycling. This will, in particular, contribute to easing cost burdens for small scale ports and/or fishing operators who may face higher costs linked to increased collection and treatment of waste fishing gear once delivered in ports.

This type of positive incentive to bring litter ashore is seen by the majority of stakeholders as the most effective means of reducing the loss of gear into the sea.

- **Regulatory fitness and simplification**

It was found unjustified to exempt micro-enterprises from the initiative or to foresee lighter regimes for SMEs. However, the measures envisaged in this initiative are expected to increase opportunities for micro-enterprises and SMEs in Europe. European companies who have already adopted circular design and business models will have a larger market and enhanced trade, investment and business opportunities. Most of the 50,000 companies in the plastic converters sector in the EU are SMEs. The effect upon them will depend upon whether their business is dependent upon SUP, and their ability to switch to manufacturing other plastic items. A large part the SUP items targeted with market restrictions are produced outside the EU. Moreover, SMEs such as retailers may be positively impacted where they avoid the need to purchase single use items that accompany or contain the food or drink they sell. Reduced consumer spending will translate into reduce retail sales but there will be rebalancing as consumers spend their money on alternatives, and favour innovative responses. New business models will be developed for making available multi use items to consumers and this could reduce costs, especially as options are scaled up.

To minimise compliance costs for the Member States and the operators, the envisaged monitoring and reporting arrangements are simple and should as far as possible benefit from synergies with existing reporting systems in place as explained in Section 5 below.

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal has no budgetary implications for the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Data collection organisation and methods, in line with the principle of subsidiarity, should remain in the competence of the Member States.

The count of items found on beaches remains an efficient indicator to assess the amount of marine litter found on European coast and the evolution of the most found single-use plastic items. For instance in Ireland, a steep decrease of plastic bags found on beaches has been observed, following the implementation of the Plastic Bags Directive. Member States shall use the methodology developed by the Marine Strategy Framework Directive Technical Group on marine litter, also set out in JRC Technical Reports. A revised Commission Decision was adopted in April 2017 establishing criteria and methodological standards. It requires that litter shall be monitored in the coastline in all cases and may additionally be monitored on the sea surface and the seabed; information on the source and pathway of the litter shall be collected, where feasible.

Monitoring will also be required with regard to measures to reduce the consumption of SUP. It is proposed that such monitoring is based on the data of the relevant single-use plastic products put on the market in a year. Where necessary, harmonised rules on the collection of such data and the reporting format would be established in the waste committee established under EU waste legislation. Where possible it should take advantage of existing EU production and trade databases (PRODCOM²⁷ and COMEXT²⁸) managed by Eurostat and regularly updated with information provided by Member States. Synergies should also be used with regard to existing reporting mechanisms.

An evaluation is foreseen in the proposal to evaluate the impact of the measures envisaged and take into account future evolutions. It will evaluate, in particular, the need to review the list of single-use plastics and the measures introduced such as consumption reduction targets, where appropriate. Furthermore, the evaluation will address biodegradability issues.

This proposal does not directly address questions of product policy and choices of materials substituting plastic. However, indirectly, by taking of some products of the market and reducing others, the proposal will create important opportunities for innovative solutions on material substitution and substitution of single-use plastic products, as well as for new business models and systems for re-use. Also, in the framework of the EU Plastic Strategy work is currently on-going with a view to developing harmonised rules for defining and labelling compostable and biodegradable plastics taking into account specific applications and concerns about littering, in particular in the marine environment. In view of this work and, where scientific and technical progress allows, the Commission will have assessed by the time of the proposal's evaluation possible substitutes to plastic in order to determine whether to exempt single-use plastic products from the marketing restrictions proposed in this initiative.

- **Explanatory documents (for directives)**

No explanatory document is required for the transposition of this Directive given the limited number of measures in this proposal.

- **Detailed explanation of the specific provisions of the proposal**

The most important provisions of this Directive are outlined below.

Article 1 lays down that the objective of the proposed Directive is to prevent and reduce the impact of certain single-use plastic products and fishing gear containing plastic on the environment and human health as well as to promote the transition to a circular economy with environment-friendly innovative business models, products and materials, thus contributing to the efficient functioning of the internal market.

Article 2 defines the scope of the Directive and that it applies to certain single-use plastic products that are identified and defined in the **Annex** of the proposal and to fishing gear containing plastic.

Article 3 lays down definitions of single-use plastic products, fishing gear and the definition of producer for the purposes of establishing consumption reduction measures, product requirements and extended producer responsibility.

Article 4 requires Member States to take the necessary measures to achieve a significant reduction in the consumption of food containers, cups for beverages that are single-use plastic products.

²⁷ Survey for the collection and dissemination of statistics on the production of industrial (mainly manufactured) goods, both in value and quantity terms, with at least an annual frequency, in the EU.

²⁸ Eurostat reference database for EU external trade, including imports and exports.

Article 5 lays down restrictions on the placing on the market of certain single-use plastic products for which alternatives exist on the market.

Article 6 lays down product design requirements for beverage containers that are single-use plastic products, to ensure that their caps and lids with a significant part made of plastic remain attached to the container during its use stage so that such waste does not leak into the environment.

Article 7 lays down marking requirements for certain single-use plastic products to avoid that they are improperly disposed of, for example through flushing in toilets, to inform the consumers on the potential implications of inappropriate disposal of waste in terms of marine litter and the most appropriate waste management practices.

Article 8 establishes extended producer responsibility schemes for fishing gear containing plastic and certain single-use plastic products. While the general minimum requirements for extended producer responsibility schemes established in Directive 2008/98/EC on waste apply to these schemes, this provision also lays down specific and additional requirements for the financial responsibility of producers, in particular, for awareness raising campaigns and in the case of single-use plastics also the clean-up of litter.

Article 9 requires Member States to achieve a minimum separate collection target for single-use plastic beverage bottles.

Article 10 requires Member States to take measures to raise awareness about the impact of littering and inappropriate disposal of waste on the environment, in particular, the aquatic environment and about the available re-use and waste management options.

Article 11 lays down the requirement for Member States to coordinate and ensure consistency of the measures they adopt to implement this Directive with the measures that they adopt to implement to prevent and reduce marine litter under legal instruments regarding the quality of water, waste prevention and management objectives under Directives 2000/59/EC, 2000/60/EC, 2008/56/EC, 2008/98/EC and EU law on port reception facilities.

Article 12 implements the Aarhus Convention with regard to access to justice and is in line with Article 47 of the Charter of Fundamental Rights. It should be possible for citizens and NGOs to ask for legal review of the decisions taken by Member States under this Directive.

Article 13 requires that Member States put in place a data set about the products subject to a consumption reduction objective, to enable monitoring of the implementation of such consumption reduction objective laid down this Directive. The data set should be set up in compliance with Directive 2007/2/EC²⁹. To that end, the support of the European Environmental Agency is foreseen, whose role will also be to regularly access the data and provide the Commission with overviews of the Directive's implementation at Union level, to be used also in the context of future evaluations of the Directive.

Article 15 sets the framework for future evaluations of the Directive. The first evaluation is foreseen after 6 years after the Directive's transposition deadline.

²⁹ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (OJ L 108, 25.4.2007, p.1-14).

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

(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 Committee³⁰,

Having regard to the opinion of the Committee of the Regions³¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The high functionality and relatively low cost of plastic means that this material is increasingly ubiquitous in everyday life. 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 Plan³², the Commission concluded in the European Strategy for Plastics³³ 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 truly circular lifecycle for plastics.
- (2) Circular approaches that prioritise re-usable products and re-use systems will lead to a reduction of waste generated, and such 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 Council.³⁴ Such approaches are also in line with United Nations Sustainable Development Goal 12³⁵ to ensure sustainable consumption and production patterns.

³⁰ OJ C [...], [...], p. [...].

³¹ OJ C [...], [...], p. [...].

³² 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)0614 final).

³³ 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).

³⁴ 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).

³⁵ 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 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.³⁶ The Union must play its part in 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.
- (4) In accordance with multilateral agreements³⁷ and Union waste legislation³⁸, 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 legislation³⁹ 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.
- (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, potentially, to human health and are damaging activities such as tourism, fisheries and shipping.
- (6) Existing Union legislation⁴⁰ 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

³⁶ The 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25 September 2015.

³⁷ 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.

³⁸ 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).

³⁹ 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).

⁴⁰ 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).

waste⁴¹ and the recently adopted objective in the Plastics Strategy⁴² 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.

- (7) To focus efforts where they are most needed, this Directive should only cover the most found single-use plastics products, which are estimated to represent around 86% of the single-use plastics found, in counts, on beaches in the Union.
- (8) Single use plastic products can be manufactured from a wide range of plastics. Plastics are usually defined as polymeric materials to which additives may have been added. However, this definition would cover certain natural polymers. Unmodified natural polymers should not be covered as they occur naturally in the environment. Therefore, the definition of polymer in Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁴³ 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. Certain polymeric materials are not capable of functioning as a main structural component of final materials and products, such as polymeric coatings, paints, inks, and adhesives. Those materials should not be addressed by this Directive and should therefore not be covered by the definition.
- (9) 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.
- (10) 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.
- (11) 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

⁴¹ 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).

⁴² 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).

⁴³ 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).

sustainable solutions Member States should be required to take the necessary measures to achieve a significant 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 legislation⁴⁴.

- (12) 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 Union 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.
- (13) Caps and lids, with a significant part 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/EEC. 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 Council⁴⁵ and the compliance with that standard should allow presumption of conformity with those requirements. 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.
- (14) 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. Therefore, single-use plastic products that are frequently disposed of through sewers otherwise inappropriately disposed of should be subject to marking requirements. The marking should inform consumers about appropriate waste disposal options and/or waste disposal options to be avoided and/or about the negative environmental impacts of litter as a result of inappropriate disposal. The Commission should be empowered to establish a harmonised format 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.

⁴⁴ 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.4-17).

⁴⁵ 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).

- (15) 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 costs of waste management and clean-up of litter as well as the costs of awareness-raising measures to prevent and reduce such litter.
- (16) The large portion of plastic stemming from abandoned, lost and discarded fishing gear containing plastic in marine litter indicates that the existing legal requirements⁴⁶ 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 takes 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 containing plastic to facilitate separate collection of waste fishing gear and to finance sound waste management of such fishing gear, in particular recycling.
- (17) 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 covered by the extended producer responsibility.
- (18) 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 disposal options available and/or waste disposal options to be avoided, best practices with regard to waste disposal 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. 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.
- (19) 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. This Directive, however, 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.
- (20) 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

⁴⁶ Council Regulation (EC) No 1224/2009, Directive 2000/59/EC and Directive 2008/98/EC.

products. 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.

- (21) 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 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 amongst its objectives the protection of the environment from the adverse effects of marine litter. Therefore, in accordance with the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment, which is adequate for personal health and well-being. In addition, where a large number of persons are in a 'mass harm situation', due to the same illegal practices relating to the violation of rights granted by this Directive, they should have the possibility to use collective redress mechanisms, where such mechanisms have been established by Member States in line with Commission Recommendation 2013/396/EU⁴⁷.
- (22) 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 2016⁴⁸, 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 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. The evaluation should also consider whether scientific and technical progress that has taken place in the meantime, including the development of biodegradable materials and the development of criteria or a standard for biodegradability of plastics in the marine environment, as foreseen in the European Plastics Strategy, allows the setting of a standard for biodegradation of certain single-use plastic products in the marine environment. That standard would include a standard to test if, as a result of physical and biological decomposition in the marine environment, plastics would fully decompose 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. If that is the case, single-use plastic products that meet such a standard could be exempted from the prohibition on placing on the market. While the European Strategy for Plastics already envisages action in this area, it also recognises the challenges in relation to

⁴⁷ Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law (OJ L 201, 26.7.2013, p. 60).

⁴⁸ OJ L 123, 12.5.2016, p. 1.

determining a regulatory framework for plastics with biodegradable properties due to different marine conditions across seas.

- (23) 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.
- (24) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in respect of the methodology for the calculation 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 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 Council⁴⁹.
- (25) Since the objectives of this Directive, namely to prevent and to reduce the impact of certain single-use plastic products and fishing gear containing plastic on the environment, 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 the 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,

⁴⁹ 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).

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 business models, products and materials, thus also contributing to the efficient functioning of the internal market.

Article 2

Scope

This Directive shall apply to the single-use plastic products listed in the Annex and to fishing gear containing plastic.

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 the producer for refill or re-used for the same purpose for which it was conceived;
- (3) 'fishing gear' means any item or piece of equipment that is used in fishing and aquaculture to target or capture marine biological resources or that is floating on the sea surface and is deployed with the objective of attracting and capturing such marine biological resources;
- (4) '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;
- (5) 'placing on the market' means the first making available of a product on the Union market;
- (6) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (7) 'harmonised standard' means harmonised standard as defined in point (c) of point 1 of Article 2 of Regulation (EU) No 1025/2012;
- (8) 'waste' means waste as defined in Article 3(1) of Directive 2008/98/EC;
- (9) 'extended producer responsibility scheme' means extended producer responsibility scheme as defined in Article 3(21) of Directive 2008/98/EC;

- (10) 'producer' means any natural or legal person that, 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 2011⁵⁰, places on the market single-use plastic products and fishing gear containing plastic except persons carrying out fishing activities as defined in Article 4(28) of Regulation (EC) No 1380/2013 of the European Parliament and of the Council⁵¹;
- (11) 'collection' means collection as defined in Article 3(10) of Directive 2008/98/EC;
- (12) 'treatment' means treatment as defined in Article 3(14) of Directive 2008/98/EC;
- (13) 'packaging' means packaging as defined in Article 3(1) of Directive 94/62/EC;
- (14) 'port reception facilities' means 'port reception facilities' as defined in Article 2(e) of Directive 2000/59/EC.

Article 4

Consumption reduction

1. Member States shall take the necessary measures to achieve a significant reduction in the consumption of the single-use plastic products listed in Part A of the Annex on their territory by ... [*six years after the end-date for transposition of this Directive*].
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. Those measures may vary depending on the environmental impact of the products referred to in the first subparagraph.
2. The Commission may adopt an implementing act laying down the methodology for the calculation and verification of the significant reduction in the consumption of the single-use plastic products referred to in paragraph 1. 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.

Article 6

Product requirements

⁵⁰ 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. 64–88).

⁵¹ 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).

1. Member States shall ensure that single-use plastic products listed in Part C of the Annex that have caps and lids with a significant part 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 have a significant part made of plastic.
3. The Commission shall request the European standardisation organisations to develop harmonised standards relating to the requirement referred to in paragraph 1.
4. From the date of publication of the 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.

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 informing consumers of one or more of the following:
 - (a) appropriate waste disposal options for the product or waste disposal means to be avoided for that product,
 - (b) the negative environmental impacts of littering or other inappropriate waste disposal of the products, or
 - (c) the presence of plastics in the product.
2. The Commission shall, by ... [*12 months before the end-date for transposition of this Directive*] adopt an implementing act laying down the specifications for the marking referred to in paragraph 1. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 16(2).

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 Union market, in accordance with the provisions on extended producer responsibility in Directive 2008/98/EC.
2. With regard to the schemes established pursuant to paragraph 1, Member States shall ensure that the producers of the single-use plastic products listed in Part E of the Annex shall cover the costs of the collection of waste consisting of those single-use plastic products and its subsequent transport and treatment, including the costs to clean up litter and the costs of the awareness raising measures referred to in Article 10 regarding those products.

For single-use plastic products that are packaging, the requirements laid down in this paragraph supplement the requirements regarding extended producer responsibility schemes laid down in Directive 94/62/EEC and Directive 2008/98/EC.

3. Member States shall ensure that extended producer responsibility schemes are established for fishing gear containing plastic placed on the Union market, in accordance with the provisions on extended producer responsibility in Directive 2008/98/EC.
4. With regard to the schemes established pursuant to paragraph 3, Member States shall ensure that the producers of fishing gear containing plastic shall cover the costs of the 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.

Article 9

Separate collection

Member States shall take the necessary measures to collect separately, by 2025, 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. 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.

Article 10

Awareness raising measures

Member States 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 available 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.

Article 11

Coordination of measures

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.

Article 12

Access to justice

1. Member States shall ensure that natural or legal persons or their associations, organisations or groups, in accordance with national legislation or practice, have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, actions or omissions related to the implementation of Articles 5, 6, 7 and 8 when one of the following conditions is fulfilled:
 - (a) they have a sufficient interest;
 - (b) they maintain the impairment of a right, where the administrative procedural law of the relevant Member State requires this as a precondition.
2. Member States shall determine at what stage decisions, actions or omissions may be challenged.
3. What constitutes a sufficient interest and impairment of a right shall be determined by Member States, consistently with the objective of giving the public concerned wide access to justice.

To that end, the interest of any non-governmental organisation promoting environmental protection and meeting the requirements under national law shall be deemed sufficient for the purposes of paragraph 1(a).

Such organisations shall also be deemed to have rights capable of being impaired for the purposes of paragraph 1(b).
4. Paragraphs 1, 2 and 3 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.
5. Any such review procedure referred to in paragraphs 1 and 4 shall be fair, equitable, timely and not prohibitively expensive.
6. Member States shall ensure that information is made available to the public on access to administrative and judicial review procedures.

Article 13

Information on monitoring of implementation

1. Without prejudice to Directive 2003/4/EC of the European Parliament and of the Council⁵² and Directive 2007/2/EC of the European Parliament and of the Council⁵³, Member States, assisted by the European Environment Agency, shall set up a data set containing:
 - (a) the data on single-use plastic products listed in Part A of the Annex that have been placed on the Union market 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).

The data referred to in point (a) of the first subparagraph shall be updated annually within 12 months from the end of the reference year for which it is collected. Where possible, spatial data services as defined in Article 3(4) of Directive 2007/2/EC shall be used to present those data sets.
2. Member States shall ensure that the Commission and the European Environment Agency have access to the data sets established in accordance with paragraph 1.
3. The European Environment Agency shall publish and update a Union-wide overview on the basis of the data collected by the Member States, on a regular basis. The Union-wide overview shall include, as appropriate, indicators for outputs, results and impacts of this Directive, Union-wide overview maps and Member State overview reports.
4. The Commission may adopt implementing acts laying down the format for the data set, information and data referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

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

⁵² Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

⁵³ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Commission with any additional information necessary for the purposes of the evaluation and the preparation of the report referred to in paragraph 2.

2. The Commission shall submit a report on the main findings of the evaluation carried out in accordance with paragraph 1 to the European Parliament, the Council and the European Economic and Social Committee.
3. That report shall also indicate whether:
 - (a) the Annex listing single-use plastic products needs to be reviewed;
 - (b) it is feasible to establish binding quantitative Union targets for the consumption reduction of, in particular, single-use plastic products listed in Part A of the Annex;
 - (c) sufficient scientific and technical progress has been made, and 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 have been developed, in order to determine which products no longer need to be subject to the restrictions on placing on the market, where appropriate.

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.

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 Articles 5 and 7(1) from ... [2 years after entry into force of this Directive] and with Article 6(1) from ... [3 years after entry into force of this Directive].

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.

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