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**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to Article 294(6) of the Treaty on the Functioning of the European Union**

**concerning the**

**position of the Council on the adoption of a Directive of the European Parliament and of  
the Council amending Directive 94/62/EC as regards the consumption of lightweight  
plastic carrier bags**

(Text with EEA relevance)

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**1. BACKGROUND**

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2013)0761 final –2013/0371 (COD):	4 November 2013
Date of the opinion of the European Economic and Social Committee:	26 February 2014
Date of the opinion of the Committee of the Regions:	2- April 2014
Date of the opinion of the European Parliament, first reading:	16 April 2014
Date of adoption of the position of the Council:	2 March 2015.

**2. OBJECTIVE OF THE COMMISSION PROPOSAL**

The objective of the proposal is to reduce the consumption of lightweight plastic carrier bags, thus to reduce littering of these bags and to prevent them from ending up in the environment, where they fall apart in ever smaller pieces and finally remain for a very long time in the form of micro-plastics, causing considerable damage to the fauna and flora, especially in the aquatic environment.

**3. COMMENTS ON THE POSITION OF THE COUNCIL**

The position of the Council reflects the political agreement reached between the European Parliament and the Council on 17 November 2014 and it supports the main objective of the Commission proposal to reduce the consumption of lightweight plastic carrier bags, while deviating on some aspects and introducing additional elements.

The Commission's proposal obliges Member States to take measures, while leaving them free to decide about precise implementation methods, in line with the subsidiarity principle. The compromise reached between the Council and the European Parliament obliges Member States to include in these measures, as a minimum, either a national reduction target and/or mandatory pricing. In case a national reduction target would be implemented, this is predefined in the compromise.

The Commission did not consider it appropriate to propose mandatory pricing or a quantified reduction target at the time of presenting the proposal given difficulties with the availability of data and common measurement methods and because it considered that Member States are best placed to choose the measures to reduce the consumption of plastic carrier bags.

Even though the Commission considers these provisions too prescriptive, it can, in a spirit of compromise, accept them as part of the package.

The Commission can accept additional elements introduced in the position of the Council, in particular:

- The obligation for the Commission and Member States to actively encourage public information and awareness campaigns, at least during the first year after the date of transposition of the Directive.
- The possibility for Member States to implement the measures pursuant to the Directive by means of agreements between competent authorities and the economic sectors concerned. This possibility is already foreseen in Article 22 of the Packaging and Packaging Waste Directive for collection and return and recovery systems.
- The obligation for the Commission to develop and adopt in an implementing act, within 12 months of entry into force of the Directive, a methodology and reporting format for the calculation of the annual consumption per person of lightweight plastic carrier bags. The Commission recognizes the need of availability of reliable data and considers acceptable in principle this obligation, even if it increases administrative burden for Member States and economic operators. However, the development and formal adoption of an implementing act may require more than the foreseen 12 months.

Even though the Commission is of the opinion that a number of elements go beyond the objective of its proposal and should therefore be addressed in a broader context, it can, as a compromise, accept the following additional elements introduced in the position of the Council, in particular:

- The obligation for the Commission to develop and adopt in an implementing act, within 24 months of entry into force of the Directive, a label for biodegradable and home-compostable plastic carrier bags.
- The obligation for the Commission to assess the life cycle impacts of different possibilities to reduce very lightweight plastic carrier bags and present, if appropriate, a legislative proposal within 24 months of entry into force of the Directive.
- The obligation for the Commission to examine the impact of the use of oxo-degradable plastic carrier bags, present a report to the European Parliament and the Council and, if appropriate, present a legislative proposal on the issue within 24 months of entry into force of the Directive.

#### **4. CONCLUSION**

Even though the Commission regrets that the agreement between the co-legislators includes certain elements that are outside the scope of the Commission's proposal and are not in line with the principles of better regulation, it welcomes the fact that the co-legislators have reached an agreement on its proposal.

The Commission can endorse, in a spirit of compromise, the position adopted by the Council so that the European Parliament can adopt the final text in second reading.

However, the Commission considers it necessary to make the following declaration:

The Commission recalls the objectives of its proposal of 4 November 2013 to limit negative impacts on the environment from plastic bags consumption by reducing consumption and thereby reducing littering of these bags. The Commission, while welcoming agreement on its proposal, notes that the final text agreed between the co-legislators includes certain elements that are outside the scope of the Commission's proposal and are not in line with the principles of better regulation. This could pose problems for the future application of the Directive, for Member States, the Commission, consumers and economic operators.

The issues that raise concerns are the following:

- *the adoption of a label for biodegradable and home-compostable bags without the impacts thereof being assessed;*
- *additional administrative burden for Member States and economic operators, including new reporting obligations and labelling requirements;*
- *provisions which could better be addressed in the context of the follow-up to the Commission Green Paper on plastic waste, such as the report on the use of "oxo-degradable" plastic bags;*
- *the possibility to vary the measures taken towards plastic bags based on their environmental impact or other properties could be problematic as regards the principles of non-discrimination and proportionality and those of the Single Market;*
- *the possibility for setting consumption objectives at a level predetermined by the Directive, in the absence of relevant statistical data for all Member States;*
- *too short deadlines for development and adoption in implementing acts of a methodology for reporting on consumption of lightweight plastic carrier bags and of labels for biodegradable plastic carrier bags.*