



District 7 County Commissioner

Xavier L. Suarez

# Miami-Dade County: Working Towards a Resilient and Sustainable Future



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## Introduction

Miami-Dade County is considered by many to be ‘ground zero’ for sea level rise, which poses a plentitude of risks that negatively affect seacoast construction, residents’ potable water, transportation systems and more. South Florida’s proximity to the Gulf Stream along with tidal fluctuations due to seasonal changes create additional challenges and uncertainties for the county.

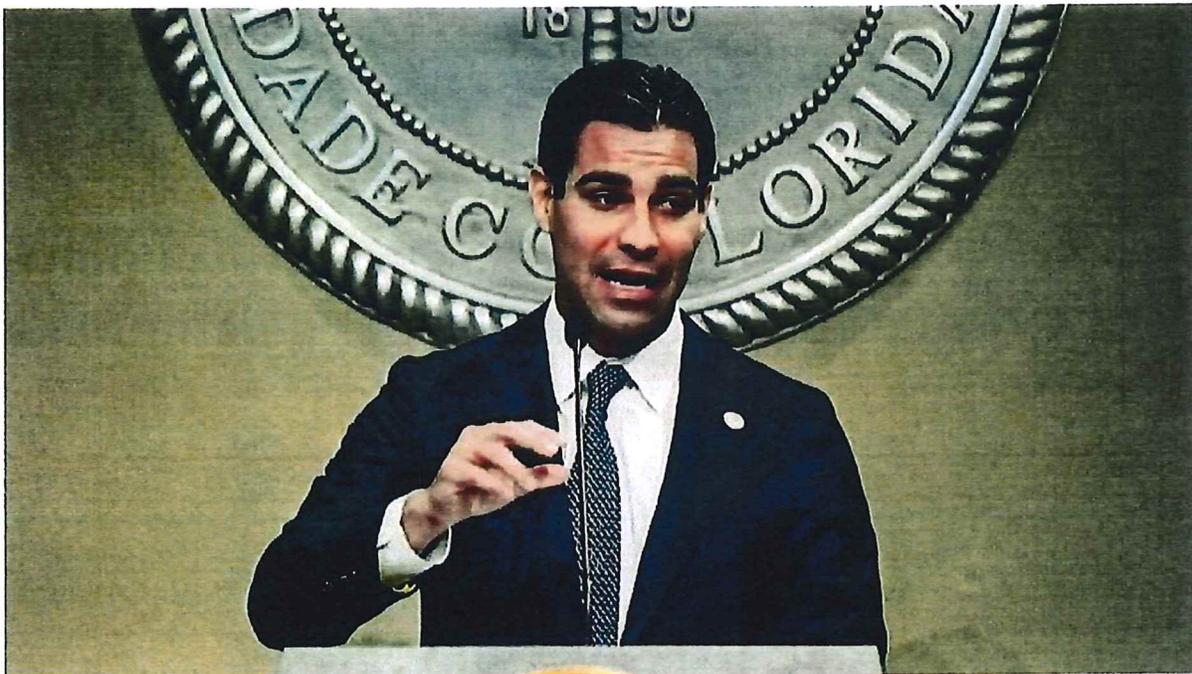
Miami-Dade County is unique in terms of its resiliency challenges. Not only are we characterized by unique geographical phenomena, but we live in a region where tidal flooding events have become the norm; coastal erosion is inevitable; and millions of dollars have already been spent to combat the threats of saltwater intrusion, severe urban flooding, and drinking water pollution. Rising sea levels coupled with a perpetually increasing population have created challenges for our County that can only be overcome with collaborative efforts based in resilience.

Although Miami-Dade County faces risks and uncertainties related to sea level rise, we have initiatives in place that will address these challenges and help us to remain a thriving metropolitan area. The collaborative efforts we continue to strengthen; the awareness and interest we have instilled in our residents; and the legislative framework that our governments are developing are all key factors in protecting our beloved South Florida from the rising seas.

Most prominent of the local efforts is the City of Miami’s issuance of \$192 million in General Obligation Bonds earmarked for resilience. At the December commission meeting, Mayor Francis Suarez’ administration will present a comprehensive plan to deal with sea level rise, saltwater intrusion, and other issues related to renewable energy, recycling, etc.

## Miami's Mayor Named To Global Commission On Climate Adaptation

By KATE STEIN • OCT 16, 2018



Miami's mayor is joining a list of big names on a new international climate change commission. Mayor Francis Suarez will be part of a new "Global Commission on Adaptation," led by Bill Gates, former United Nations Secretary General Ban Ki-moon and current World Bank CEO Kristalina Georgieva.

The commission includes 28 leaders from government, business and non-profits. They represent countries including the Marshall Islands -- one of the nations most at risk of having to relocate because of sea-level rise.

Commissioners will assess worldwide planning for climate change and look at how partnerships, risk assessment and technology can help people adapt. They'll present an initial report at a 2019 United Nations climate summit.

# Bill Gates Co-Launches Group to Jump Start Climate Change Adaptation

As a summer of wildfires, heat waves and flooding made clear, climate change isn't just something to race to prevent in the future. It's also something that's happening right now. But key players haven't exactly come to terms with that. In 2015 to 2016, \$380 billion dollars were spent reducing carbon dioxide emissions and only \$20 billion on increasing protections from extreme weather events, The Guardian reported.

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Now, three very influential people are teaming up to change that. Bill Gates, former United Nations Secretary General Ban Ki-moon, and World Bank CEO Kristalina Georgieva launched the Global Commission on Adaptation Tuesday in an effort to jump start the development and implementation of effective climate adaptations on the global level.

"We are at a moment of high risk and great promise. We need policies to help vulnerable populations adapt and we need to ensure that governments and other stakeholders are supporting innovation and helping deliver those breakthroughs to the people and places that need them most," Gates said in the press release announcing the launch.

However, the existence of the commission doesn't mean its leaders have given up on preventing additional climate change, but rather that they have accepted that it is already occurring on a wide scale.

"If everyone does their part, we can reduce carbon emissions, increase access to affordable energy and help farmers everywhere grow more productive crops," Gates said.

Georgieva said in a briefing reported by National Geographic that the commission should not be interpreted as a surrender to the dangerous climate change predicted by the most recent Intergovernmental Panel on Climate Change report if world leaders don't rapidly reduce emissions.

"For quite a while there has been that sense that if we adapt, that means we are accepting defeat against climate change," she said. "It is not defeat, it is reality."

The commission has 28 commissioners including its big-name leaders and represents 17 countries, among them big emitters like the UK, Canada, China and India and particularly vulnerable countries like Bangladesh and the Marshall Islands.

During the first year, the commission will prepare a report on the necessity and possibilities of climate adaptations, to be presented at the 2019 UN Secretary General Climate Summit.

National Geographic pointed out some existing climate adaptations of the type the commission might research and promote. Farmers in flood-vulnerable Bangladesh, for example, are switching from raising chickens to raising ducks, which can swim. Scientists in the Philippines are replanting the mangroves, half wiped out by development, that act as a natural flood barrier.

In total the cost of adaptations could be \$300 billion by 2030 and \$500 billion by 2050, Ban told The Guardian. While that might sound steep, Ban thought it was possible.

"The money can be mobilized," he said. "If there is political will, I think we can handle this matter."

The commission outlined four "roadblocks" to widespread climate adaptation that it would work to resolve:

1. Decision makers and the wider public are not yet aware of all the opportunities to be gained from becoming more resilient and less vulnerable to climate impacts and natural hazards;
2. Governments and businesses fail to incorporate climate change risks into their social and economic development plans and investments;
3. Adaptation efforts fall short of those who need them most, the world's poorest and most vulnerable people; and
4. Although adaptation is a global challenge, global leadership on the issue is scarce. In short, the world is falling short of the transformation required to adapt to a changing climate.

The commission is also an attempt to rebuild the political will around climate action that was damaged by the decision of U.S. President Donald Trump to withdraw from the Paris agreement.

"We were very much united until December 2015 in Paris," Ban told the Guardian. "Now unfortunately the level of solidarity is being loosened, especially by the Trump administration. Even though it is just one country, it has caused big political damage."

***While the U.S. federal government is not involved with the commission, Miami Mayor Francis Suarez is a member.***

## Global Commission on Adaptation - THE COMMISSIONERS

- Ban Ki-moon, 8th Secretary-General of the United Nations
- Bill Gates, Co-chair of the Bill & Melinda Gates Foundation
- Kristalina Georgieva, CEO, World Bank
- Hilda Heine, President, Marshall Islands
- Keith Mitchell, Prime Minister, Grenada
- Akinwumi Adesina, President, African Development Bank
- Elhadj As Sy, Secretary General, IFRC
- Michelle Bachelet, United Nations High Commissioner for Human Rights
- Patricia Espinosa, Executive Secretary, UNFCCC
- Christiana Figueres, Former Executive Secretary, UNFCCC
- Li Ganjie, Minister of Ecology and Environment, China
- Anne Hidalgo, Mayor, Paris
- Emma Howard Boyd, Chair of the Environment Agency, UK
- Naoko Ishii, CEO and Chairperson, Global Environment Facility
- Peter Damgaard Jensen, CEO, PKA Ltd
- Agnes Kalibata, President, AGRA
- Loren Legarda, Chair, Senate Finance Committee, Philippines
- Strive Masiyiwa, Founder and Chairman, Econet Wireless
- José Antonio Meade, Former Finance Minister, Mexico
- Gerd Müller, Ministry of Economic Cooperation and Development, Germany
- Muhammad Musa, Executive Director, BRAC
- Cora van Nieuwenhuizen, Minister of Infrastructure and Water Management, Netherlands
- Sheela Patel, Chair, Slum/Shack Dwellers International
- Feike Sijbesma, CEO, Royal DSM
- Francis Suarez, Mayor, Miami
- Erik Solheim, Executive Director, UN Environment
- Andrew Steer, President and CEO, World Resources Institute
- Shemara Wikramanayake, CEO Designate, Macquarie Group Ltd.

(W)

Solar Requirements.

(1)

Applicability. All new construction of single-family residences with living area greater than one thousand one hundred (1,100) square feet, townhouses, and any multi-story residential building where a section of roof can be reasonably allocated, as determined by the Director of the Building Department or the Planning and Zoning Department, to a separately metered dwelling unit (hereinafter referred to as "qualifying multi-story residential building"), that apply for preliminary approval (or final approval if no preliminary approval was obtained) by the Environmental Review and Preservation Board on or after September 18, 2017 shall design and construct the roof so as to withstand the weight of all product approved roofing material with the weight of solar collectors and shall install at least the minimum amount of solar collectors required in subsection (2) of this section (W). This requirement shall also apply to existing residential buildings as described above, if an alteration or addition is made that either increases the square footage of the principal structure by seventy-five (75) percent or greater, or that replaces seventy-five (75) percent or more of the existing sub-roof (any portion of the sub-roof that is necessarily replaced due to damage from a natural disaster shall not be included in the calculation of this percentage).

(2)

Minimum Required Installation. Solar collectors shall be installed in at least the following amounts, provided a sufficient solar zone exists to accommodate them as determined by the certification of an architect or engineer who shall also certify the total size of available solar zone in square feet:

i.

A minimum of two and three-quarters (2.75) kW nameplate photovoltaic capacity per one thousand (1,000) square feet of living area provided there is sufficient space within the available roof top solar zone; or

ii.

One hundred seventy-five (175) square feet of solar collectors per one thousand (1,000) square feet of roof area.

iii.

Sufficient solar collectors to fill the available solar zone, to the extent that such construction is allowed by the Florida Building Code.

(3)

Avoiding the Creation of Shade. Structures shall be designed in such a way so as to maximize the available solar zone and for structures which have been designed by an architect or engineer, the plans submitted shall include a certificate from the architect or engineer of record certifying that the design of the structure has maximized the available solar zone. Obstructions which are not located on the roof or another part of the building, such as landscaping or a neighboring building are not subject to these placement requirements.

(4)

Minimum Specifications for Solar Collectors.

i.

Solar photovoltaic systems: Photovoltaic collectors satisfying the requirements of this section shall be at rated at no less than ten (10) watts DC faceplate capacity per square foot.

ii.

Solar thermal systems: Single-family residential solar domestic water heating systems shall be OG-300 System Certified by either the Solar Rating and Certification Corporation (SRCC) or the International Association of Plumbing and Mechanical Officials (IAPMO).

iii.

Solar photovoltaic systems and solar thermal systems shall be installed in accord with all applicable state code requirements, including access, pathway, smoke ventilation, and spacing requirements, all applicable local code requirements, and manufacturer's specifications.

(5)

Approval and Compliance. All solar installations shall be permitted through the City. The plans shall demonstrate that the requirements of the City code and the Florida Building Code are satisfied and the engineer or architect of record shall sign and seal the plans indicating compliance. Subsequent review approval shall be carried out through the standard review processes for residential construction. Inspection shall be performed by the Building Department as per the City's permit requirements for solar power or water heating installations. Enforcement of this subsection shall be carried out by the City including the Code Enforcement Division.

## **New homes will now require solar panels in South Miami, a first in Florida**

By Carli Teproff

July 18, 2017 11:07 PM

Anyone building a new house in South Miami — or in some cases renovating existing ones — will have to install solar panels after the city commission approved a groundbreaking law Tuesday night.

The measure, the first of its kind in Florida, will go into effect in two months on Sept 18.

The ordinance passed 4-1 Tuesday night, with commissioner Josh Liebman dissenting.

Under the rules, new residential construction would require 175 square feet of solar panel to be installed per 1,000 square feet of sunlit roof area, or 2.75 kw per 1,000 square feet of living space, whichever is less. If the house is built under existing trees, the shade may exempt it.

Home renovations that replace more than 75 percent of the structure or extend the structure by more than 75 percent would also have to follow the new ordinance.

South Miami Mayor Philip Stoddard, a biology professor at Florida International University, has championed this measure. His entire home runs on solar and he drives an electric car. His monthly electric bill is about \$10.

“Solar reduces the cost of home ownership, it makes houses sell faster, it returns more to a builder, it makes local jobs, and most importantly, it reduces carbon emissions today to help our children and grandchildren have a better future tomorrow,” he said Tuesday night.

Liebman said Tuesday night he is not against solar, but supports “the freedom of choice” for the city’s residents.

He also said he was concerned that nearly 7 percent of the city’s budget comes from fees the utility pays to the city.

“So even if we were were going to give up one-sixth of that, it would still be 1 percent of our budget. Where is the substitute?”

The commission had approved the law on first reading in early June but then tabled it on June 20 to make sure that the new regulations were in line with Florida’s building code.

Read more here: <https://www.miamiherald.com/news/local/community/miami-dade/south-miami/article162307863.html#storylink=cpy>

**CITY OF CORAL GABLES, FLORIDA**

**ORDINANCE NO. 2017-13**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA, AMENDING THE CITY OF CORAL GABLES CODE BY:

- CREATING SECTION 62-245 “PROHIBITION ON USE OF SINGLE-USE CARRY OUT PLASTIC BAGS” IN CHAPTER 62, ARTICLE VII SPECIAL EVENTS; AND
- CREATING ARTICLE IX “SALE, USE OR DISTRIBUTION OF SINGLE-USE CARRY OUT PLASTIC BAGS BY RETAIL ESTABLISHMENTS WITHIN THE CITY” IN CHAPTER 34 NUISANCE, OF THE CITY CODE.

PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, ENFORCEABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Coral Gables declares that it is in the best interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the land and in the waters of the City; and

**WHEREAS**, distribution of single-use carry out plastic bags by retailers to consumers for use in carrying purchased goods has a detrimental effect on the environment of the City, County and State; and

**WHEREAS**, discarded single-use carry out plastic bags contribute to overburdened landfills, threaten wildlife and marine life and degrade and litter the beaches and waters off the Florida coast, which include areas within the City; and

**WHEREAS**, single-use carry out plastic bags are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

**WHEREAS**, plastic bags constitute a portion of the litter in the City’s streets, parks, public places and waterways; and

**WHEREAS**, as an environmental leader among local governments in the State of Florida, the goal of the City is to replace single-use carry out plastic bags with reusable, recyclable, or compostable alternatives whenever possible; and

**WHEREAS**, retailers establishments such as ALDI, Trader Joes, and Whole Foods have successfully incorporated programs that encourage the use of reusable and/or recyclable alternatives to single use carry-out plastic bags; and

**WHEREAS**, the City's Sustainability Advisory Board and Economic Development Board have unanimously voted in support of this Ordinance; and

**WHEREAS**, the City has collaborated with the business community, including the Coral Gables Chamber of Commerce, Coral Gables Business Improvement District, University of Miami, and others in the development of the proposed Ordinance, including discussions on the potential impacts to businesses, educating businesses on the benefits of the Ordinance and on potential alternative products, and incorporating accommodations as necessary and appropriate; and

**WHEREAS**, this Ordinance provides for a 1 year implementation period allowing for an extensive education campaign and for retail establishments to expend their current stock of single-use carry out plastic bags and transition to reusable, recyclable, or compostable alternatives; and

**WHEREAS**, the City Commission finds that this Ordinance is necessary for the preservation of our environment and the public health, safety and welfare of City residents and visitors and future generations; and

**WHEREAS**, the City was a party in a lawsuit with the State of Florida, the Florida Retail Federation and Super Progreso in which the Court held that Sections 403.708(9) and 403.7033, F.S., relating to plastic bags and packaging, are unconstitutional.

**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:**

**SECTION 1.** That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

**SECTION 2.** That Chapter 62, Article VII "Special Events," of the Code of the City of Coral Gables, Florida, be hereby amended to add Section 62-245 as follows:

**Sec. 62-245. – Prohibition on Use of Single-Use Carry Out Plastic Bags**

(a) *Definitions.* For purposes of this section only, the following definitions should apply:

- (1) *Single-use carry out plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags, as defined above, provided to an individual to transport items

provided free of charge, including but not limited to, samples and informational materials.

- (2) *City facility* includes, but is not limited to, any building, structure, park, or golf course owned, operated or managed by the City.
  - (3) *Special event permittee* means any entity or individual, and their subcontractor(s), who has been issued a special events permit by the City for a special event on City property, in a City facility or in the City's right-of-way, for the promotion or sale of their product(s) and/or business(es).
  - (4) *Compostable carry out bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials
- (b) *Prohibited Use of Plastic Bags; Penalties; Exceptions*
- (1) Special event permittees shall not provide items in single-use carry out plastic bags during special events as a condition of approval.
  - (2) Upon warning, the special event permittee must cease providing the single-use carry out plastic bags immediately. If the special events permittee does not do so he or she may be forced to discontinue the service, sale or participation in the special event.
  - (3) A violation of this section shall constitute a City code violation and may result in the revocation of the special events permit and fines and may be grounds for the placement of conditions on or for denial of a future special events permit.
  - (4) *Exceptions.* This prohibition shall not apply to Exempt Bags in 34-191(e) or other types of single-use plastic bags used, provided or given out by individuals who are special events permittees for the purpose of hosting a small private event (100 people or less) (e.g. birthday party, family reunion).

**SECTION 3.** That Chapter 34 "Nuisances," of the Code of the City of Coral Gables, Florida, be hereby amended to add Article IX as follows:

**Article IX. – Sale, Use or Distribution of Single-Use Carry Out Plastic Bags by Retail Establishments within the City**

**Sec. 34-191. – Definitions**

For purposes of this section only the following definitions should apply:

- (a) *Customer* means any person purchasing goods from a retail establishment.
- (b) *Single-use carry out plastic bag* means a bag provided by a company or individual to a customer, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from petroleum or a biologically-based source. This definition includes bags

- provided to a customer to transport items provided free of charge, including but not limited to, samples and informational materials.
- (c) *Exempt bags* means (1) a compostable carry out bag (as defined in 62-245(a)(4)) or any bag without handles provided to a customer (2) to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag or recyclable bag, including produce bags; (3) to hold prescription medications dispensed from a pharmacy or veterinary office; (4) designed to be placed over articles of clothing on a hanger, including dry cleaning bags; (5) door hanger bags; (6) newspaper bags, (7) garbage bags; (8) pet waste bags; (9) yard waste bags; and (10) bags of any type that a customer previously owned and brings to a retail establishment for his or her own use in carrying away store goods.
  - (d) *Reusable bag* means a bag with handles that is specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to consumers with the intention of multiple, long-term use and does not include any film plastic bags.
  - (e) *Recyclable paper bag* means a bag that contains a minimum average of forty percent (40%) post-consumer recycled materials and displays the minimum percent of post-consumer content on the outside of the bag.
  - (f) *Compostable carry out bag* means a bag that (1) conforms to the current ASTM D6400; (2) is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and (3) must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials
  - (g) *Retail establishment* means any entity or individual engaged in the retail sale of goods. Retail establishment includes any supermarket, grocery store, convenience store, shop, service station, restaurant, farmers' market vendor, and any other sales outlet where a customer can directly purchase goods, materials, and products.

**Sec. 34-192. – Single-Use Carry Out Plastic Bags Prohibited; Exceptions**

- (a) No retail establishment shall provide to any customer a single-use carry out plastic bag, unless noted in exceptions below.
- (b) *Exceptions:* Although the discontinuation of the use of single-use carry out plastic bags is strongly encouraged by the City of Coral Gables Commission, this article shall not apply to Exempt Bags in 34-191(c).
- (c) Retail establishments can propose innovative and creative environmentally sustainable alternative programs that eliminate the use of single use plastic bags. After being submitted, the program is reviewed by City staff for approval. Each program is reviewed on a case by case basis.

**Sec. 34-193. – Use of reusable bags**

Retail establishments are strongly encouraged to educate their staff to promote reusable bags and to post signs encouraging customers to use reusable bags. Should retail establishments provide carryout bags, they shall be reusable (as defined in 34-191(d)), compostable carryout bags and/or recyclable paper bags free of charge or for a fee as determined by the merchant. Retail establishments may keep any fees charged for providing such bags to offset the cost of providing the bag.

**Sec. 34-194. – Enforcement; penalties**

- (a) If a code enforcement officer finds a violation of section 34-192 or 34-193, prior to issuing a ticket the code enforcement officer shall issue a warning to allow for time to correct violation before citing. After the warning, the code enforcement officer may issue a ticket. The ticket shall inform the retail establishment of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, and that the violation may be appealed pursuant to the procedures in Chapter 101, Article VI, Division 3 of the City Code of Ordinances. A violation of this ordinance is deemed to be irreparable as it may only be complied with in the future and not retroactively.
- (b) A retail establishment that has been issued a ticket must elect to either:
  - (1) pay the following civil fine (per day, irrespective of the number of violations in a given day):
    - (a) First violation within a 12-month period.....\$50.00;
    - (b) Second violation within a 12-month period..... \$100.00;
    - (c) Third violation within a 12-month period..... \$500.00;
    - (d) Any subsequent violation within a 12-month period..... \$1,000.00.
  - (2) request an administrative hearing before a special master as set forth in Chapter 101, Article VI, Division 3 of the City Code of Ordinances
- (c) Failure to pay the civil fine, or to timely request an administrative hearing before a hearing officer, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission to the violation, for which fines and penalties shall be assessed accordingly.
- (d) A certified copy of an order imposing the fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes.

- (e) The hearing officer shall not have discretion to alter the penalties prescribed in this article. Any party aggrieved by a decision of a hearing officer may appeal that decision to a court of competent jurisdiction.

#### **SECTION 4. EDUCATIONAL CAMPAIGN.**

The City, desires to collaborate with the Coral Gables Chamber of Commerce (the Chamber) Business Improvement District of Coral Gables (BID), and others in a joint marketing and education effort aimed at businesses & customers. The education campaign, which will begin upon the adoption of this Ordinance, is aimed at informing special events permittees, retail establishments, and customers of its requirements. The campaign may include: community meetings, workshops, green products expos, the use of social media, citywide newsletters, programming on Coral Gables T.V., printed informational materials, email blasts to members of the Chamber and/or BID, website, resident letters and/or emails and mail inserts. New businesses will be informed about ordinance through the business tax license application process. After the conclusion of the educational campaign, the City will continue to make the Ordinance known to special event permittees and retail establishments within the City. The City will explore the possibility of joint bulk purchasing of reusable bags, compostable bags and/or recycled paper bags with its partners to assist businesses in the transition to alternative products. In addition, the City will explore and pursue grants and assistance to facilitate the transition for small businesses.

#### **SECTION 5. SEVERABILITY.**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

#### **SECTION 6. REPEALER.**

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

#### **SECTION 7. CODIFICATION.**

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances immediately upon the signing of the Ordinance; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

#### **SECTION 8. EFFECTIVE DATE.**

This ordinance shall become effective upon adoption and enforcement shall begin immediately with the issuance of warnings; citations will not be issued for 1 year after said date to allow for education and the transition to alternative products. In the case of special events, enforcement shall commence immediately with all new applications. On February 27, 2017, the Court entered an Order in *Florida Retail Federation, Inc. and Super Progreso, Inc. v. City of Coral Gables*, 2016-018370-CA-01

finding Sections 403.708(9) and 403.7033, F.S. relating to plastic bags and packaging unconstitutional thereby clarifying the City's ability to pass this Ordinance.

PASSED AND ADOPTED THIS NINTH DAY OF MAY, A.D., 2017.

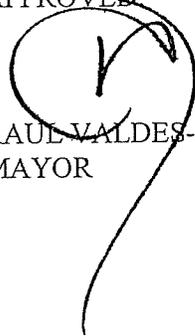
(Moved: Lago / Seconded: Keon)

(Yeas: Quesada, Keon, Lago, Mena, Valdes-Fauli)

(Unanimous: 5-0 Vote)

(Agenda Item: E-1)

APPROVED:



RAUL VALDES-FAULI  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:



CRAIG E. LEEN  
CITY ATTORNEY

The City of Coral Gables gave the final approval on May 9, 2017 to prohibit the use of single-use carry out plastic bags in Coral Gables. Retail establishments and restaurants received the benefit of a 12-month education campaign, during which the City of Coral Gables focused its efforts on educating all local businesses on the benefits of the new law and encouraging innovative ideas to eliminate single-use plastic bags. In addition to retail establishments, any entity or individual who has been issued a special event permit by the City is prohibited from providing items in single-use carry out plastic bags during special events.

Prior to the final adoption of the ordinance, City officials met with representatives from the business community to work amicably with merchants in allowing them use of their current inventory of plastic bags before transitioning to reusable or recyclable bags.

Certain exceptions exist for prescription medication bags, garbage bags and a few other limited categories. Residents will also be allowed to re-purpose carry out plastic bags.

The ultimate goal of the City of Coral Gables is to replace single-use carry out plastic bags with reusable, recyclable or compostable alternatives in order to reduce litter and pollutants on streets, parks, public spaces and waterways.

There are exemptions that allow the use of certain plastic bags such as those without handles used to protect food or merchandise from being damaged or contaminated, bags to hold prescription medications, those designed to be placed over articles of clothing on a hanger, door hanger bags, newspaper bags, garbage bags, pet waste bags and yard waste bags.

Thousands of marine animals and more than 1 million birds die each year in the United States after ingesting or becoming entangled in plastic debris. To marine animals, a plastic bag can be a floating minefield – to a sea turtle, a floating plastic bag looks like a jellyfish. Because plastic bags are so lightweight, they are easily airborne and found everywhere, littering the streets with many potential hazards and clogging up drains. Plastic bags are not accepted in most recycling collections including here in Coral Gables.

As part of this ordinance, stores in Coral Gables are encouraged to use reusable bags, compostable plastic bags (ASTM D6400 certified) and/or 40% recyclable paper bags. One reusable bag can replace hundreds or even thousands of single-use plastic bags over the course of its lifetime.

The City began issuing citations to retail establishments that failed to comply with the ordinance on May 10, 2018. Enforcement fines are per day and not per plastic bag. A \$50 fine may be imposed for first-time violations, with fines increasing to \$100 for a second violation, \$500 for a third violation, and \$1,000 for any subsequent violation within a 12-month period.

This plastic bags ordinance is similar to an ordinance enacted by the City regulating the use of polystyrene. In February 2017, the Eleventh Judicial Circuit Court in Miami-Dade upheld the City's ordinance as valid and enforceable and concluded that state statutes being used in an effort to prevent the City of Coral Gables from enforcing the ordinance were unconstitutional.

The European parliament has overwhelmingly backed a wide-ranging ban on single-use plastics in an effort to tackle pollution in seas, fields and waterways.

Under the proposed directive, items such as plastic straws, cotton swabs, disposable plastic plates and cutlery would be banned by 2021, and 90% of plastic bottle recycled by 2025.

Described by the European commission as a clampdown on “the top 10 plastic products that most often end up in the ocean”, the proposed legislation passed 571 votes to 53.

Labour MEPs said the EU plan must be respected by the UK after Brexit. Seb Dance, the party’s environment spokesman in the European parliament, said: “These new measures will slash the use of single-use plastics in the EU. With more than 700,000 plastic bottles littered in the UK every day, it would be negligent if the UK does not maintain these new targets if we leave the EU.

“Unless the UK mirrors EU action on plastics after Brexit, the Tories risk turning the UK into a dumping ground for cheap, non-recyclable plastics.”

Much plastic waste is washed into the ocean, where it may take centuries to fully degrade. Lightweight single-use items are among the most problematic of plastics because they can easily travel long distances, absorbing toxins along the way that damage marine flora and fauna.

The proposed legislation catapults the EU into a leadership position in tackling the growing plastic pollution crisis.

EU states still have to back the directive before it becomes law, but commission sources said they were optimistic that action would continue to move quickly.

“We hope to have a vote in the European council in November,” one told the Guardian. “If all goes well, we could have it in law by the end of the year.”

The UK is yet to bring forward primary legislation addressing the plastics issue despite publication of more than 20 consultations on the matter since the general election last year.

In February, the environment secretary, Michael Gove, became embroiled in a Twitter spat with the European commission’s first vice-president, Frans Timmermans, in which he denied that the EU was one step ahead of the UK in tackling the problem. Similar measures regarding single-use plastics are expected to be announced by the chancellor, Philip Hammond, the budget on Monday.

After Wednesday’s European parliamentary vote, the environment commissioner, Karmenu Vella, said: “Today we are one step closer to eliminating the most problematic single use plastic products in Europe. It sends a clear signal that Europe is ready to take decisive, coordinated action to curb plastic waste and to lead international efforts to make our oceans plastic-free.”



Brussels, 28.5.2018  
COM(2018) 340 final

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)

{SEC(2018) 253 final} - {SWD(2018) 254 final} - {SWD(2018) 255 final} -  
{SWD(2018) 256 final} - {SWD(2018) 257 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 REACH<sup>3</sup> 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 counts<sup>4</sup>. Beach litter item counts are internationally accepted as a reasonable indicator of the composition of marine litter, suitable to inform policy.

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<sup>3</sup> 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).

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

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 facilities<sup>9</sup> for the delivery of waste from ships, which is currently under revision<sup>10</sup>. 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 Regulation<sup>11</sup> 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

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<sup>9</sup> 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).

<sup>10</sup> COM(2018)33 final

<sup>11</sup> 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).

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 approach<sup>18</sup> and the Fitness check on Reporting and Monitoring<sup>19</sup>.

## **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

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<sup>18</sup> SWD(2015)111 final

<sup>19</sup> COM(2017)312 final

### 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.

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 reservations<sup>24</sup>, 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 Directive<sup>25</sup>. 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

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<sup>24</sup> <http://ec.europa.eu/transparency/regdoc/?fuseaction=ia&year=2017&serviceId=&s=Chercher>

<sup>25</sup> COM(2018)33 final

## 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

## **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.<sup>26</sup>

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

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<sup>26</sup> Explanatory Memorandum contained in COM(2018)33 final.

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 (PRODCOM<sup>27</sup> and COMEXT<sup>28</sup>) 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.

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<sup>27</sup> 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.

<sup>28</sup> Eurostat reference database for EU external trade, including imports and exports.

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 Committee<sup>30</sup>,  
Having regard to the opinion of the Committee of the Regions<sup>31</sup>,  
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 Plan<sup>32</sup>, the Commission concluded in the European Strategy for Plastics<sup>33</sup> 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.<sup>34</sup> Such approaches are also in line with United Nations Sustainable Development Goal 12<sup>35</sup> to ensure sustainable consumption and production patterns.

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<sup>30</sup> OJ C [...], [...], p. [...].

<sup>31</sup> OJ C [...], [...], p. [...].

<sup>32</sup> 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).

<sup>33</sup> 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).

<sup>34</sup> 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).

<sup>35</sup> The 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly on 25 September 2015.

waste<sup>41</sup> and the recently adopted objective in the Plastics Strategy<sup>42</sup> 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 Council<sup>43</sup> 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

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<sup>41</sup> 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).

<sup>42</sup> 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).

<sup>43</sup> 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).

- (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 requirements<sup>46</sup> 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

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

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 Council<sup>49</sup>.
- (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,

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<sup>49</sup> 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).

- (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 2011<sup>50</sup>, 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 Council<sup>51</sup>;
- (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**

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<sup>50</sup> 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).

<sup>51</sup> 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).

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

1. Without prejudice to Directive 2003/4/EC of the European Parliament and of the Council<sup>52</sup> and Directive 2007/2/EC of the European Parliament and of the Council<sup>53</sup>, 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

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<sup>52</sup> 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).

<sup>53</sup> 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).

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,

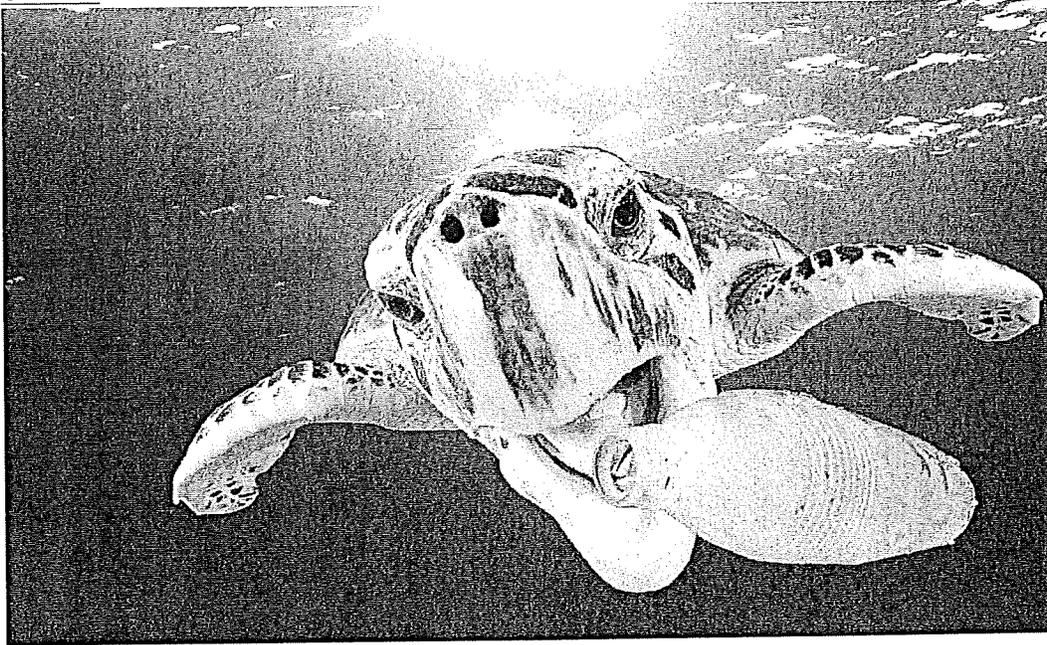
*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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# UK To Ban All Plastic Straws, Cotton Swabs, And Single-Use Plastics

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Science



The UK is set to ban all sales of single-use plastics, including plastic straws and cotton swabs from the country as early as next year. Prime Minister Theresa May announced the new ban during a meeting with Commonwealth nations, noting that plastic waste is one of the greatest environmental challenges the country faces.

The ban is a step toward the country's goals to eliminate avoidable plastic waste as part of the 25 Year Environmental Plan. This ban will help to clean up England's rivers, beaches, and oceans from harmful plastic, which is often ingested by marine life and later finds its way onto your dinner plate.

The newly proposed ban follows the successful implementation of a plastic bag charge and a microbead ban, both of which produced noticeable decreases in plastic in England's waters. After the UK's tax on single-use plastic bags similar to those used in grocery stores, the use of single-use plastic bags dropped by 90 percent, equalling 9 billion less plastic bags being used.

The past efforts by the UK to reduce plastic use have resulted in significant and measurable decreases in plastic waste across the country, which can be used as a case study for other countries considering similar bans or taxes.

With the newly proposed bans, the government intends to work with industry to develop and adapt to the new initiatives. While this may seem like a major blow to the fast food industry, McDonald's has already begun phasing out the use of plastic straws in their UK stores.

The UK government estimates that "there are over 150 million tonnes of plastic in the world's oceans and every year one million birds and over 100,000 sea mammals die from eating and getting tangled in plastic waste."

On top of that, estimates are that plastic in our oceans will triple in the 10-year span from 2015 to 2025. This has prompted England to reevaluate the use of plastics in every fashion. The government recently introduced a required deposit on plastic bottles, meaning customers pay a deposit when purchasing a plastic bottle and will be refunded once returned and recycled.

The newly proposed ban on plastic straws aims to curb the estimated 8.5 billion plastic straws that are thrown away each year in the UK alone.

Prime Minister Theresa May noted, "Plastic waste is one of the greatest environmental challenges facing the world, which is why protecting the marine environment is central to our agenda at the Commonwealth Heads of Government Meeting."

The United States has more of a piecemeal response to plastic bag use, with cities across the country banning or taxing the use of single-use plastics.