



EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

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

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EUROPEAN COMMISSION

Regulatory Scrutiny Board

Brussels,

Ares(2018)

Opinion

Title: Impact Assessment / Reducing marine litter

(Version of 6 April 2018)*

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Context

Marine litter causes economic, social and environmental harm. Approximately 65% of beach litter consists of fishing gear and ten single use plastic items. Some argue that existing legislation on recycling, waste management, wastewater treatment and port reception facilities are not enough to address the problems posed by the items.

Motivated by the success of the Plastic Bags Directive, this initiative proposes targeted interventions for each of the top ten single use plastic items. Existing and planned legislation addressed negative incentives for fishermen to properly discard end-of-life fishing gear ashore. This initiative proposes adding positive incentives.

The Marine Strategy Framework Directive requires Member States to implement “Programmes of Measures” for reaching “Good Environmental Status” by 2020. The Waste Framework Directive obliges Member States to adopt waste management plans and waste prevention programmes. Additional legislation such as the Urban Waste Water Treatment Directive, the Waste Framework Directive, the Fisheries Control System and the Port Reception Facility Directive are also being evaluated or revised. This initiative would need to complement existing and planned measures while avoiding duplication.

(B) Main considerations

The Board acknowledges that the revised impact assessment shows more clearly the limited scope of this initiative: it addresses macro-plastics only, representing a small fraction of the mass of marine litter.

However, the report still contains serious shortcomings that need to be addressed. As a result, the Board expresses strong reservations and gives a positive opinion only on the understanding that the report shall be adjusted in order to integrate the Board's recommendations on the following key aspects:

(1) The revised report still fails to make a compelling case for additional measures on fishing gear, beyond the recent revisions of legislations.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

- (2) Although the report makes it clearer that the 10 most frequently found single-use plastics are harmful as a group, this is not shown for each individual item, especially for those that are least frequently found.**
- (3) The report does not analyse why it is better to introduce new legislation for single-use plastics. It does not explain why improving implementation of existing legislation, in particular on waste management is not the way forward.**

(C) Further considerations and adjustment requirements

(1) The revised report still does not substantiate where and why the existing legislation falls short of addressing the identified problem drivers, especially for legislation that is not implemented yet or is currently being reviewed.

For fishing gear, it remains problematic that this initiative intends to add new layers of legislation, while parts of the existing or proposed legislation appear to have already addressed the issue. The revised report states that the main shortcoming of the existing legislation is the insufficient incentives for fishermen to bring back their gear to shore. However, the legislation in the pipeline not only makes it illegal to dump garbage into the ocean, it requires the mandatory marking of fishing gear, its retrieval in the event of loss, the notification of the loss in case retrieval is not possible, and the inclusion of this information in the electronic reporting obligations. Furthermore, the proposal for the revision of the Port Reception Facilities Directive introduces clear incentives for delivery of waste. It foresees the removal of financial disincentives to return waste to the port and has increased reporting and inspection obligations for fishing vessels. This proposal also foresees that a reduced waste fee would be applied for ships that can demonstrate sustainable and environmentally sound waste management on board. Finally, the European Maritime and Fisheries Fund can also provide financial support for the recovery of lost gear and for the waste handling on ships. In the current state, the report does not make the case for actions on fishing gears and proposes initiatives which are unnecessary and burdensome.

For single-use plastics, the analysis of the current policy framework (section 2.4) should clarify to what extent plastics end up in the oceans as a result of a lack of ambition of current legislation or because of weak implementation. It should also demonstrate that introducing measures to reduce the occurrence of each of the 10 most found single-use plastics is more effective and/or efficient than strengthening the existing legislation or its implementation.

(2) The case for taking action at EU-level on marine litter has been reinforced in the revised report. However, some of the arguments could be further strengthened. Besides cross-border protection of the environment, the revised report cites market fragmentation as the legitimation to introduce Europe-wide measures. However, it does not prove that fragmentation indeed poses a problem either for the market or for addressing marine litter.

(3) The report discusses the harmful effects of the 10 most frequently found single-use plastics as a group, while it foresees measures for each of the items individually. It should therefore show that each of these items is sufficiently harmful to warrant the proposed measures. This is particularly relevant for those items that are found less frequently, as they represent only a small proportion of the macro plastics in the seas.

(4) A number of options address recycling of macro plastics, which does not directly tackle

the main problem of plastics in the seas. While recycling improves the use of natural resources, it does not in itself reduce littering or increase the percentage of waste returned to ports. The report should re-assess the appropriateness of including such options.

(5) The revised report has clarified the use of statistics on plastics in the seas. However, there remain inconsistencies in the data that are not highlighted in the presentation. In particular, different parts of the report state that single-use plastics represent half of all items (plastics and non-plastics) on the beach, but also that they represent half of the count of plastic items, which cannot both be correct. More generally, the report should avoid imprecise and/or unfounded assumptions and statements. Additionally, the report should explicitly mention the large uncertainties of the modelling and its assumptions regarding the effectiveness of the proposed measures.

The Board takes note of the quantification of the various costs and benefits associated to the preferred option of this initiative, as assessed in the report considered by the Board and summarised in the attached quantification tables.

(D) RSB scrutiny process

The lead DG shall ensure that the report is adjusted in accordance with the recommendations of the Board prior to launching the interservice consultation.

The attached quantification tables may need to be adjusted to reflect any changes in the choice or the design of the preferred option(s) in the final version of the report.

Full title	Reducing marine litter: action on single use plastics and fishing gear
Reference number	PLAN/2017/2170
Date of RSB meeting	Written Procedure

ANNEX: Quantification tables extracted from the draft impact assessment report submitted to the Board on 6 April 2018

(N.B. The following tables present information on the costs and benefits of the initiative in question. These tables have been extracted from the draft impact assessment report submitted to the Regulatory Scrutiny Board on which the Board has given the opinion presented above. It is possible, therefore, that the content of the tables presented below are different from those in the final version of the impact assessment report published by the Commission as the draft report may have been revised in line with the Board's recommendations.)

<i>I. Overview of Benefits (total for all provisions) – Preferred Option</i>		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
<i>Direct benefits</i>		
Reduction in marine litter (tonnes) from SUP	4,850 tonnes per annum	
Reduction in marine litter (tonnes) from ALDFG	5,383 tonnes per annum	Over and above reductions due to planned initiatives for Port Reception Facilities, Fisheries Control Regulation and European Maritime and Fisheries Fund
Reduction in marine litter (by count) from SUP	Around 50% of total SUP (56% of Top 10 SUP)	
Reduction in GHG	2.63 million tonnes	
Benefit of cleaner seas to fisheries, ports and tourism	€10 million- 30 million per annum	For removal of 10,000 tonnes per annum Estimates vary within this range
Reduction in external costs	11.1 billion Euros	Not financial benefits, but estimated monetary equivalent associated with a range of environmental impacts but in particular disamenity associated with litter on land and in water
Savings for consumers	6.5 billion Euros	Net saving as reduced expenditure on single-use items and switch to multi-use. Estimate includes washing costs for consumers. Does not include any additional inconvenience.

(1) Estimates are relative to the baseline for the preferred option as a whole and provided for SUP and fishing gear separately;

II. Overview of costs – Preferred option						
	Citizens/Consumers		Businesses		Administrations	
	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Cigarettes				€102 m pa - Information costs		€4m pa – waste management
Bottles				€102 m pa - Information cost		€535m pa – waste management
Cotton buds						€0.4m pa – waste management
Crisp packets and sweet wrappers				€102 m pa - Information costs		€30m pa – waste management
Wet wipes				€58 m pa - Information costs €36m pa – compliance costs		€25m pa – waste management
Sanitary towels						€25m pa – waste management
Cutlery				€174m pa – commercial washing and refill schemes		€8m pa reduction – waste management
Straws						€8m pa reduction – waste management
Stirrers				€294m pa – commercial washing and refill schemes		€2.1m pa reduction – waste management
Drinks cups and lids				€150m pa – commercial washing and refill schemes €102 m pa - Information costs €16m pa – compliance costs		€24m pa reduction – waste management
Food containers				€697m pa – commercial washing and refill schemes €102 m pa - Information costs €18m pa – compliance costs		€26m pa– waste management
Fishing Gear			€18m set-up costs	€10m collection, transport. processing €4m administration		

(1) Estimates are compared to the baseline



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
Ares(2018)

Opinion

Title: Impact Assessment / Reducing marine litter

(version of 5 March 2018)*

Overall opinion: NEGATIVE

(A) Context

Marine litter causes economic, social and environmental harm. Approximately 65% of beach litter consists of fishing gear and ten single use plastic items. Some argue that existing legislation on recycling, waste management, wastewater treatment and port reception facilities are not enough to address the problems posed by the items.

Motivated by the success of the Plastic Bags Directive, this initiative proposes targeted interventions for each of the top ten single use plastic items. Existing and planned legislation addressed negative incentives for fishermen to properly discard end-of-life fishing gear ashore. This initiative proposes adding positive incentives.

The Marine Strategy Framework Directive requires Member States to implement “Programmes of Measures” for reaching “Good Environmental Status” by 2020. The Waste Framework Directive obliges Member States to adopt waste management plans and waste prevention programmes. Additional legislation such as the Urban Waste Water Treatment Directive, the Waste Framework Directive, the Fisheries Control System and the Port Reception Facility Directive are also being evaluated or revised. This initiative would need to complement existing and planned measures while avoiding duplication.

(B) Main considerations

The Board acknowledges the substantial efforts to collect data and analytical material under time pressure.

However, the Board gives a negative opinion, because the report contains important shortcomings that need to be addressed particularly with respect to the following key aspects:

- (1) The report does not state clearly whether focussing on 10 single use plastic items and fishing gear is meant to reduce significantly marine litter or to address its**

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most hazardous part. It does not demonstrate how newly emerging problematic plastic items would be addressed.

- (2) The report does not analyse shortcomings of existing environmental, fisheries and maritime legislation in preventing the named items from ending up in the sea.**
- (3) The report does not argue convincingly that this is a cross-border problem that is best addressed at EU-level. It also does not consider the role and impact of existing legislation, especially for fishing gear.**
- (4) The construction, the description and the comparison of the options does not make clear that the final package combines the most cost-effective solutions for the different products.**
- (5) The report misses the views of the stakeholders throughout the document.**

(C) Further considerations and adjustment requirements

(1) The problem description should explain what problem the initiative wants to tackle: the mass of marine litter in the ocean, or the number of plastic items on the beach or in the ocean. Given its limited impact on the mass of marine litter, the report should clarify that the approach is meant to tackle the most hazardous marine litter, including a discussion of the harm done. Additionally, the report needs to convincingly demonstrate and motivate why the scope of the initiative has to be limited to the top 10 single use plastic items and lost or abandoned fishing gear. The report should demonstrate the relevance of the list of 10 items and that it is future proof, in particular in comparison to national and international initiatives. The report should check the consistency and qualify the robustness of the various figures on marine litter and plastic marine litter in the main report and the annexes. The analysis of impacts and comparison of options should reflect the revised problem analysis.

(2) The report should provide an in-depth analysis of why existing legislation does not succeed to prevent the identified items from becoming marine litter. The question remains whether lacking enforcement of existing legislation is not a main problem driver. In this case, the initiative should consider measures to improve implementation instead of introducing an additional layer of legislation.

(3) The report should argue more convincingly why a legislative initiative at EU-level is the best way to address the problem of marine litter. The facts that the Commission has an abundance of data and that Member States have decided (not) to take different measures resulting in a patchwork approach are insufficient evidence that EU-level legislation is justified.

(4) The report should explain in a clear manner how the proposed actions address the problem drivers and complement existing legislation. Additionally, it does not sufficiently explain the logic behind the grouping of measures for each plastic item into the different option packages. This makes it difficult to understand the effectiveness of the individual measures and packages, so that the choice for the preferred options is not sufficiently substantiated. The options for fishing gear need to be complemented and developed from types of measures into well-defined interventions. The report also needs to discuss how this initiative would tackle marine litter in the long-term.

(5) The report should describe the numerical models and assumptions used for the analysis.

(6) The analysis should present stakeholder views systematically in its different sections, in

particular in the problem description and when discussing the options. The discussion should illustrate whether the preferred option varies among stakeholders and which mitigation measures are being considered to address stakeholder concerns.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG shall ensure that the report is revised in accordance with the above-mentioned requirements and resubmitted to the Board for its final opinion.

Full title	Reducing marine litter: action on single use plastics and fishing gear
Reference number	PLAN/2017/2170
Date of RSB meeting	21 March 2018