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Trade, Labor and EU Law Perspectives

Preparing the post-Brexit world for a plastics circular economy

Alasdair Tyrrell (Legal Consultant) and Elske Raedts (Freshfields Bruckhaus Deringer) · Monday, January 15th, 2018



It's 2018 and new years' resolutions are upon us. While many of us seek to quit our vices of smoking or drinking, both the EU and the UK have announced plans to hasten the end another addiction of sorts – the use of plastics. Long identified as an issue, the call to action on plastic waste has perhaps been driven by China's recent announcement that it will soon discontinue importing plastic waste for processing.

UK 25 Year Environmental plan aims to break plastic habits

On 10 January, Theresa May announced her government's 25 Year Environmental Plan (the ***UK Plan***). As part of the plan, the 5p charge on carrier bags which was imposed on large retailers from October 2015 in England will be extended to all retailers, and supermarkets will be encouraged to introduce plastic-free aisles in which unpackaged items will be sold.

Like any bad habit, the use of plastics may prove a tough one to break. While on their face, the announcements would appear to be welcome news to environmental campaigners, criticism has immediately been leveled. In particular, suggestions have been made that the UK Plan does not go far enough – for example no deposit and return scheme is to be introduced on plastic bottles. Moreover, the Westminster government is accused of playing catch up (with the Secretary of State for the Environment, Michael Gove suggesting that he was driven to action by a November episode of David Attenborough's *Blue Planet*, this may be hard to refute...) and critics point to the more proactive stances made by the devolved administrations. Indeed, the Plan does appear to continue a theme in which the plans announced for England lag behind those in other areas of the UK such as Scotland, which moved earlier on plastic bag charges, has brought in a deposit/return scheme, and recently proposed a ban on plastic cotton buds.

With the announced UK policy not currently backed by legislation, progress reliant on the self-regulation of retailers, and avoidable plastic waste to be phased out only by 2042, the UK approach may single a softly-softly approach to environmental regulation in the post-Brexit world.

Will the EU introduce a tax on plastics?

Meanwhile, the idea of an EU-wide tax on plastics was also floated last week by the EU Budget Commissioner, Günter Oettinger. This statement came one week before the release of the Commission's Plastics Strategy and appears to contradict announcements from the EU in 2017 that no such tax would be considered. While a tax on plastics may be welcomed by environmental groups, seems not only to be driven by environmental reasons but rather to shore up a predicted shortfall in the post-Brexit budget. It appears to be in part aimed at helping fill the EUR 10-15 billion hole in the EU budget that will be left by Brexit.

More clarity tomorrow..

Clarity on this EU proposal may come with the release of the Plastics Strategy (which is expected tomorrow, 16 January 2018). Oettinger has stated that details of the proposed tax are still being worked out, and it is unclear whether the tax will apply to producers or consumers. No matter how it is constructed, however, the suggested plastics tax, if imposed, (as well as the broader Plastic Strategy) will present a post-Brexit divergence in environmental strategies between the EU and the UK.

This notwithstanding, it remains entirely possible that (also) the UK strategy will evolve beyond self-regulation in the coming years. Announcements have already been made by Gove that a charge of 25p on disposable coffee cups will be considered, and it is perfectly plausible that further taxes and charges will develop. Like many others made in early January, the stated desire to eradicate plastic waste may prove to be an "I'll do it next year" kind of resolution.

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