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Island Council

INFORMAL TRANSLATION

ISLAND ORDINANCE TO BAN SINGLE USE PLASTIC (AB 2020 Nr. 6)

THE ISLAND COUNCIL OF THE PUBLIC ENTITY SABA

Considering:

that, in the interests of environmental protection, it is necessary to reduce and, as far as possible, limit the burden of litter on the environment, and to that end adopt rules on the handling of single-use plastic products;

that on September 18th, 2018 the Island Council agreed to a motion to develop regulations aimed at reducing the supply and use of single-use plastic products;

that the public entity Saba, represented by the Island Governor, signed a letter of intent on July 15th, 2019 to achieve a phase-out of single-use plastic products by 2020;

that it is therefore desirable to adopt an Island Ordinance on the use of single use plastic products

Taking into account:

Article 149, first paragraph, and Article 152 of the Wet openbare lichamen Bonaire, Sint Eustatius en Saba:

HAS DECIDED:

to adopt the Island Ordinance to ban the use of single use plastic products.

Article I Definitions

For the purpose of this regulation shall apply:

- a. Cutlery: spoons, forks, knives and other utensils used for eating;
- b. Cup: high cup for drinking;
- c. Confetti: party decorations in the form of scraps to be scattered;
- d. Carrying bag: bag, with or without handle, to transport products;
- e. Placing on the market: making a product available on the market for the first time;
- f. Plastic: a material consisting of a polymer, to which additives or other substances may have been added, and which can be used as a main structural component of end products, with

the exception of natural polymers that have not been chemically modified and including styrofoam;

- g. Single-Use Plastic Product: A product made in whole or in part from plastics that has not been conceived, designed, or marketed to make multiple cycles within its lifetime by being returned to a manufacturer for refilling or reuse. for the purpose for which it was made.
- h. Monomer: a substance that can form covalent bonds by repeated coupling of similar or dissimilar molecules under the conditions of the polymerization reaction used for that process;
- i. Making available on the market: the provision of a product for distribution, consumption or use in the course of a commercial activity, whether or not for payment;
- j. Polymer: a substance consisting of molecules characterized by a sequence of one or more types of monomer units. Those molecules must be distributed over a range of molecular weights, the differences in molecular weight primarily due to differences in the number of monomer units. A polymer contains the following:
 - a) a weight majority of molecules consisting of at least three monomer units covalently bonded to at least another monomer unit or other reactive substance;
 - b) less than a weight majority of molecules of the same molecular weight.In this definition, "monomer unit" means the reacted form of a monomer in a polymer;
- k. Drinking straw: a tube for sucking up drinks;
- l. Stirring rod: utensil used for mixing or stirring drinks;
- m. Food packaging: all products that can be used for the enclosure, protection, delivery and provision of food;
- n. Cotton swabs: a swab with a small tuft of cotton on one or two ends.

Article 2 Scope

The provisions of this Regulation apply to plastic cutlery, cups, plates, confetti, carrier bags, straws, stirrers, food packaging and disposable cotton swabs

Article 3 Prohibition standard (plastic) single-use carrier bags

1. The placing on the market of single-use plastic carrier bags is prohibited.
2. Disposable carrier bags made of a material other than plastic may not be placed on the market for free.

Article 4 Prohibition standard for other single-use plastic products

It is forbidden to bring the following single use plastic products on the market:

- a. cups;
- b. cutlery;
- c. plates;
- d. confetti;
- e. straws;

- f. stirrers;
- g. food packaging, and
- h. cotton swabs

Article 5 Exemption from the prohibition

1. The Executive Council can grant exemption from the prohibition in Articles 3 and 4 on a motivated written request.
2. Conditions may be attached to the exemption.
3. A motivated written request for exemption must be submitted six weeks prior to the commissioning of the products concerned.

Article 6 Supervision and investigation

1. The following are responsible for supervising compliance with the provisions of or pursuant to this Regulation:
 - a. Police officers;
 - b. The officials designated for this purpose by the Executive Council or Lieutenant Governor of the island management cluster;
 - c. Other officials designated by the Executive Council or the Lieutenant Governor.
2. Police officers as referred to under paragraph 1 under a of this article, are authorized to issue orders that are necessary for the maintenance of public order in the event of violation of the provisions of or pursuant to this regulation in the event of a disturbance of public order or serious fear of its arising.

Article 7 Entering

The officials charged with supervising compliance with or detecting a violation of the regulations laid down by or pursuant to this Regulation to maintain public order, tranquility, safety, public health, are authorized to enter a home without the resident's consent.

Article 8 Penalty provision

Violation of the provisions of or pursuant to this Regulation will be punished with a maximum of three months' imprisonment or a fine of up to the second category and may also be punished by making the court decision public.

Article 9 Entering into force

1. This Regulation shall enter into force on January 1st, 2021.
2. Notwithstanding the first paragraph:
 - a. Article 4, sections a to f and h shall enter into force on May 1st, 2021
 - b. Article 4, section g shall enter into force on October 1st, 2021

Thus established by the Island Council of the Public Entity Saba in the Public Island Council meeting on August 27th, 2020.

The Island Registrar

The Chairman

A.M. Levenstone

J.G.A. Johnson M. Ed.

EXPLANATORY MEMORANDUM

THE ISLAND COUNCIL OF THE PUBLIC ENTITY SABA;

General:

1. Introduction

The public entity Saba strives for a healthy living environment for all residents and a strengthening of the green image of the island. In this context, the public entity works towards reducing the amount of (litter) waste and harmful substances that end up on the island and in particular towards reducing materials that have a high risk of ending up in the environment, such as plastic products. To achieve this, the public entity is working with the Ministry of Infrastructure and Water Management on measures aimed at reducing plastic litter. The present island ordinance on the use of single-use plastic products fits in with this.

The measure is expected to significantly reduce the share of single-use plastic products in litter.

2. Considerations when introducing a ban on categories of single-use plastic product

Litter

Saba faces a plastic litter problem that results from the use of single-use plastic products. Single-use plastic products are marketed on Saba in large numbers. Most of those products are imported and remain on the island in the waste stage. After discarding, the disposable plastics spread across the landscape and out to sea, posing a threat to the environment and coral reefs around the islands, which are known for their beauty and are also of considerable importance to the local economy.

The single-use plastic products not only threaten Saba's nature and local economy, their recycling potential is also limited in the small-scale recycling system on Saba. Some plastic products, such as plastic bottles and other hard plastics, can be easily separated from other residual waste and then exported for recycling. Many other disposable plastics, on the other hand, are incinerated with the residual waste in an open air burner and that is associated with emissions of harmful substances. The incineration of single-use plastic products is unfortunately often a necessity, because exporting those categories of plastic products is usually too expensive and, moreover, yields too little in the recycling process due to the low value of this type of plastic. The latter also ensures that there is little outside interest in purchasing this waste stream. The export possibilities are therefore very limited.

Administrative and societal developments

The desire to find a solution for reducing single use plastics has been present on Saba for a long time. In 2018, the Saba Island Council passed a motion to develop regulations aimed at reducing the supply and use of disposable plastics. In the summer of 2019, the public entity, represented by the Island Governor, and the Secretary of State of the Ministry of Infrastructure and Water Management signed a letter of intent aimed at phasing out single-use plastic products on Saba. Introducing a ban on Single-use plastic products is also part of broader developments in this field in Europe and the rest of the world.

In recent years, a social trend has also been observed on Saba in the direction of replacing disposable plastics with environmentally friendly alternatives, especially at restaurants and hotels. One hotel has independently banned the use of plastic bottles. They offer guests a reusable water bottle and there are various water taps on the premises. Several hotels and restaurants have now switched to sustainable alternatives to disposable products, such as paper or grass straws and cardboard food bowls.

Although cautious efforts have been made by some players in the hospitality and service industry to help reduce the use of single-use plastic products, it cannot be said that the market players on Saba voluntarily took structural responsibility for that type of product after putting it on the market. The retail industry has occasionally experimented with the purchase of sustainable items, such as take-away packaging made of cardboard, but this has not yet led to structural changes. Market parties do not give enough thought to what should be done with single-use plastic products after consumption, while the impact of such products on the environment is large. At an earlier stage, attempts were made to inform market players about their responsibilities in reducing disposable plastics through informal agreements. For example, a covenant was concluded to reduce the use of plastic bags at supermarkets. However, this turned out not to be an effective measure. Intervention through regulation by the public entity is therefore more reasonable, in view of experiences from the recent past and the related request from the market for a level playing field.

Consultation and support

In anticipation of the implementation of a ban on disposable plastics, various rounds have been held with stakeholders to discuss measures to reduce the use of disposable plastics. Talks were held with the sectors that are reasonably affected by the prohibition of disposable plastics, namely the hospitality industry and supermarkets. In total there are 6 hotels, 15 restaurants and cafes, 6 supermarkets and 1 market vendor on the island. In addition, islanders were also asked for suggestions on how to deal with single use plastics through an island wide survey. Various measures to reduce the use of single use plastics were also discussed via a think tank, in which supermarkets, hospitality businesses and citizens were represented. From these discussions, and the previous consultations with stakeholders, it became clear that there is broad support for the introduction of a ban on certain categories of single use plastics.

During the discussion about the approach to single use plastics, there was a strong request from both the business community and the citizens to take a strong position on single use plastics through government intervention and to come up with mandatory measures. Citizens as well as businesses consider a public entity scheme to be the most effective measure for reducing single use plastics on the island. The main argument from businesses is that a scheme contributes to creating a level playing field for all involved. This leaves no room for businesses to ignore the phasing out of single-use plastic products.

3. The scope of the ban

The new ordinance aims to strongly reduce the most polluting and least recyclable single use plastics by prohibiting their placing on the market. The aim is to reduce the impact of (micro)plastics on the environment and to reduce the proportion of plastic in the waste system and in litter in particular. In order to drastically reduce the most polluting and least recyclable single use plastics, the ban covers the following range of single use plastic products: cutlery, cups, plates, confetti, carrier bags, straws, stirrers, food packaging and disposable cotton swabs. The stakeholder consultation held by Saba shows that there is support for a complete ban for these specific products.

The ban does not apply to products that, when imported to Saba, are packed in products referred to in Articles 3 and 4 and which are subsequently placed on the market (for example, fruit and vegetables packed in plastic bags or eggs packed in styrofoam packaging). It is not advisable to apply the prohibition to such packaging, because this has too great an impact on the (fragile) import lines. It is, however, forbidden to package products locally in products referred to in Articles 3 and 4 and then place them on the market. This also applies, for example, to packaging fruit and vegetables after import.

For a further explanation of a part of the plastic products to which the ban applies, a connection has been sought with what is meant by this in everyday usage, with the understanding that the term (carrying) bag in these articles means any bag or pouch that you take with you (usually by hand) to store what you want to bring with you. A carrying bag is therefore a packaging bag, with or without a handle, intended for transporting - whether or not a collection of- products in the hand or on the back. This also includes bags, with or without a handle, that are often used in (super) markets for unpackaged food, such as fruit and vegetables. Garbage bags do not fall under the ban.

The ban will apply to the categories of single-use plastic products designated in Articles 3 and 4. Those categories of products can be made from a wide variety of plastics. Plastics come in many shapes and sizes. For the description of plastic products in this ordinance, a connection has been made with the definition used in European regulations. Plastics are defined as polymeric materials

to which additives may have been added. There is no doubt, therefore, that the so-called styrofoam food packaging often used on Saba to pack takeaway products falls within the scope of prohibited single-use plastic products.

However, some natural polymers may also fall under the definition of plastics cited above. This concerns so-called bioplastics. The single-use plastic products designated in this Island Ordinance that are produced with modified natural polymers or that are produced from biological, fossil or synthetic base materials do not occur in nature and therefore also fall within the scope of the prohibition. The definition of plastics therefore also includes polymer-based rubber products and biobased plastics and biodegradable plastics, whether they are derived from biomass or intended to biodegrade over time. Biologically based plastics and biodegradable plastics have the same life cycle as plastics produced from fossil fuels, unless processed in a commercial compost facility. Since Saba does not have a commercial compost facility and disposable plastics also have a relatively high chance of ending up as litter, it has been decided to ban the aforementioned products made of plastics in the broad sense of the term.

4. When does the ban apply?

Starting January 1, 2021, it is forbidden to distribute single-use plastic bags. It was opted to have a relatively speedy introduction of the ban, because stakeholders are already familiar for some time with the plans with regards to this ban. Also, there are already sufficient alternatives available in the form of paper bags and reusable bags. The stakeholders will have until January 1, 2021 to finish their current supply of plastic bags.

On that same date, single-use bags that are fabricated of another material than synthetic material may not be released for commercial purposes free of charge. Retail businesses or service providers who decide to sell single-use bags that are not made of synthetic material, such as paper bags, may set the price of these bags themselves. It was opted to introduce this measure at the same time to prevent confusion for stakeholders as much as possible. Both measures will be communicated simultaneously.

For cups, cutlery, plates, confetti, straws, stirrers and cotton swabs, stakeholders will have until 1 May 2021 to use up the current stocks. For these products, more time is given to give stakeholders, in addition to time for phasing out, sufficient time to find suitable alternatives. Food packaging will be banned as of October 1, 2021. Consultations with stakeholders have shown that finding alternatives to this product is the most challenging. For that reason, stakeholders get over a year before the ban on this product takes effect.

5. To whom does the ban apply?

The ban on distributing synthetic material products for single-use focuses on all persons on Saba who release for commercial purposes one of the products mentioned in article 3 and 4 for one-time use. That can be, but not solely, producers, store owners and importers. Because the ban applies to everyone who, in the context of trade activity, whether paid or not, distributes single-use plastics with the aim of distribution, consumption or use, local distributors, suppliers and web shops will also resort under the prohibition. More concrete this means that the ban applies to the entire retail business and services sector of Saba.

6. Exemptions

It has been decided to introduce an exemption from the ban. An exemption request can be made when products referred to in Articles 3 and 4 are necessary for medical purposes or in other contexts where hygiene cannot be sufficiently ensured otherwise. In order to guarantee as much as possible that the exemption only takes place in situations where there is no other option than using single use plastic products, it has been made possible to attach conditions to the exemption. A motivated request can be submitted to the Executive Council, which will assess the request. Administrative legal protection is regulated by the Administrative Administrative Law Act BES.

7. Consequences for citizens and companies

With the implementation of the ban of single-use plastics companies, in particular the food service industry (horeca) and supermarkets, will be obliged to look for alternatives for the synthetic material single-use products that are currently offered. Alternatives that have appeared on the island in the past few years are paper and bagasse plates, cups and food packages, reusable straws, reusable cutlery, cotton bags for fresh produce and reusable shopping bags.

Because sustainable alternatives are often more expensive than single-use plastics, a full switch to alternatives can have financial consequences. If companies decide to transfer such costs in the retail prices of their products, it can also affect the individual consumer.

On the other hand, the cost increase may not be as bad. Not all single-use products that are now offered have to be necessarily replaced by an alternative. Supplying straws with drinks for example is not necessary, as well as the providing of plastic cutlery with a take-out meal. The higher purchasing costs of sustainable alternatives that have to be carried by companies can be partially mitigated by foregoing on purchasing of (sustainable, reusable) straws or cutlery. It is up to the companies to make their own choice in this. If the choice is made for the replacing of products for single-use by reusable varieties, higher costs will only have to be made one time.

It is impossible at this stage to make an accurate estimate of the way in which companies will give content to the ban on the release for commercial purposes of single-use synthetic material products.

Companies have after all the choice to replace products by sustainable single-use alternatives, reusable alternatives, or companies can opt not to purchase a replacement for some products at all. The consideration to opt for certain compliance options differ per company and will have to turn out in the future.

Citizens will have to get used to new products and materials. Besides that, it can happen that certain products will become a bit more expensive for consumers. It is calculated that the higher costs for alternative products will only amount to a small percentage of the total costs that households spend on groceries. In order to further mitigate the consequences for citizens, the following measures will be taken.

Through a still to be developed communication campaign citizens (and companies) will be advised on available and suitable alternatives, including the use of reusable and affordable alternatives such as carton products, and if possible, support will be offered by presenting the first set of alternatives to Saba residents. An amount of US \$19,000 is reserved for the communication campaign. The most important part of the campaign is aimed at offering the 'starters package' with information and alternatives for single-use plastics to all households on the island. The distribution of these packages will be done by local ambassadors from the schools or the Lion's Club. Aside from this, posters and video's will be dispersed as part of the campaign. Cooperation will be sought as much as possible with the youngest generations of Sabans via the schools and otherwise. Furthermore, an amount of US \$5,000 is reserved for the introduction of alternatives via events.

Steps are not only being taken by the public entity. A store on Saba has started with the purchase of sustainable alternatives for single-use plastics and has been sharing several products for free to companies, with the objective of becoming a supplier of sustainable alternatives. Saba will support such initiatives as much as possible, so the retail sector and the service providing sector on Saba is prepared as well as it can for the use of reusable and sustainable alternatives when the ban on the release for commercial purposes of the in the waste ordinance specified single-use plastics has been fully implemented.

8. Enforcement and compliance

The public entity is responsible for the enforcement of the ban. Enforcement of the measure is directed at a relatively small number of companies. The claim on the total enforcement capacity can therefore be limited to a minimum. The enforcement tasks will be placed at the current teams that are responsible for the inspection of the food service industry and supermarkets. The execution of a control on the presence of the single-use plastics designated in the ban during regular food industry and supermarkets controls is a small extra task. Consumers who want to report a violation of the ban can do so at the Government Information Services, after which the report is sent to the responsible policy officer of the public entity.

The prohibition standard will have to result in a change of behavior of all involved, from store owner to consumer. The market participants will have to orientate on other products and in some cases point out to the client that one has to pay for single-use bags. The consumer on his turn should act by bringing his own bag and other reusable products once the ban is implemented. Research by the public entity has shown that the public support among the Saba residents is big and the ban is found to be acceptable. It is estimated that this accepting basic attitude and the immaterial benefits that can yield norm-conform behavior, will contribute to the compliance with the ban. An awareness and information campaign with clear communication about the ban by the public entity should further support compliance.

In addition, the regular enforcement and supervision provisions have been included that allow police officers, special investigative officers and officials appointed by the competent authority to supervise compliance. The penal and enforcement and supervision provisions are in accordance with the options as stated in the public entities law of Bonaire, St. Eustatius and Saba.

9. Consultation and participation

A think tank with citizens and representatives of the business sector was created after the first stakeholders' consultation. This think tank was consulted at various moments regarding the content of a ban on single-use plastics. Based in the input of the think tank, a definite list was drafted of products that will resort under the ban. Other measures were considered as well, such as a covenant to prevent the use of other single-use plastics that are not included in the ban, such as balloons, and thoughts were exchanged on ways to stimulate the use of reusable products. Among other things, the plan to put together a 'starters' package' for households, containing several reusable products, was drafted with the input of the think tank.

A final concept of the regulation was presented to interested parties and island residents for consultation at **PM**.

PM: results consultation

10. The entering into force

The coming into force of the ban will be phased, starting with synthetic material bags, followed by other products on the list, with the exemption of food packaging, after which finally food packaging will become forbidden. This phased implementation was opted for to give companies sufficient possibility to find alternatives. Several good alternatives are available and already locally in use for synthetic material bags. More time will be given for other products, because companies, in particular restaurants and cafeteria, need sufficient time to find and test qualitative solid and

affordable alternatives. The latter is a challenge for food packaging, as has been proven from talks with stakeholders who have tested these alternatives. For this reason, it will take a few more months before the ban on food packaging is implemented.

Explanation per article:

Article / Definitions

This part contains a description of some of the terms used in the regulation. The description of the terms synthetic material, single-use synthetic material products and the distribution are based on the definition of these terms in the Guideline (EU) 2019/904 with regards to the diminishing of the effects of certain synthetic material products on the environment.

As a result of this description, the so-called ‘bio plastics’ are also categorized under single-use synthetic material products. These are synthetic material products that are produced with alternated natural polymers of synthetic materials that are produced based on biological, fossil or synthetic basic substance.

In the definition of synthetic material, it is explicitly stated that the material ‘Styrofoam’ is part of that. The material Styrofoam is used on a large scale on Saba as a one-time food packaging for take-out meals. Styrofoam packaging frequently end up as trash in Saba’s environment. In order not to create confusion as to whether Styrofoam should also be considered a synthetic material, it is explicitly included in the definition of synthetic material.

The definition of bag refers to the bags that are used to transport products. Examples are, but are not limited to shopping bags, bags for fresh produce and bags for take-away orders. Garbage bags, zip-lock bags etc. do not fall under this category.

Article 3

In this article, the ban on the release for commercial purposes of single-use synthetic material bags is introduced. The ban on the release for commercial purposes counts for all single-use synthetic material bags. What is meant with synthetic material bags is further described in the general part of the explanation.

This article also contains a ban on the free of charge release for commercial purposes of single-use bags made from other material than synthetic material. This means that the consumer has to pay for paper bags. A financial contribution also needs to be paid for all other bags that are meant for single use, but which are not made of synthetic material. The amount charged for these bags cannot be incorporated into the cost of a product (e.g. food), but must be separately stated on the receipt.

Article 4

This stipulation contains a summary of single-use synthetic material products which can no longer be released for commercial purposes. For the description of the products in the parts *a* to *h*, a connection was sought with the terms that are commonly used.

Article 5

This provision provides for a (temporary) exemption from the prohibition. The Executive Council determines whether a request is eligible for exemption and can attach conditions to an exemption. Administrative legal protection is regulated by the Administrative Law Act BES.

Articles 6, 7 and 8 regulate enforcement and supervision in accordance with the options as referred to in the Public Entities of Bonaire, St. Eustatius and Saba Act.

Article 9 arranges the coming into force.