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February 23, 2022

Sent via email: Ec.plastique-plsatics.ec@canada.ca

The Honorable Steve Guilbeault, P.C., M.P.
Minister, Environment and Climate Change
200 boul. Sacré-Cœur
Gatineau, Québec, K1A 0H3

Tracey Spack
Director, Plastics Regulator Affairs Division
Environment and Climate Change Canada
351 Saint-Joseph Blvd.
Gatineau, Québec, K1A 0H3

RE: Notice of Objection and Request for Board of Review in relation to the Single-Use Plastics Prohibition Regulations, *Canada Gazette*, Part I, Volume 155, Number 52, 2021-12-25

Dear Minister Guilbeault:

Dart Container Corporation (Dart) formally objects to the proposed "Single-Use Plastics Prohibitions Regulations". We respectfully request the establishment of a Board of Review under section 333 of the *Canadian Environmental Protection Act*. The reasons for our objection and the need for a Board of Review are contained in this submission.

ABOUT DART

Dart is a leading manufacturer of sanitary, recyclable foodservice containers. We manufacture foodservice ware containers from paper, recycled content, bio-resin, as well as from several plastic resins - polyethylene terephthalate (PET), polypropylene (PP), polystyrene (PS) including expanded/extruded polystyrene (EPS/XPS).

Headquartered in the United States, Dart operates in four countries. We have been manufacturing in Canada since 1975. We have a plant located in Toronto, a distribution warehouse in Mississauga, and a salesforce located throughout the country.

Our Toronto facility manufactures items from material targeted to be banned. We directly employ over 300 hardworking Canadians.

Sustainability is a strong focus for Dart. We inspire our customers, employees, and industry to be part of the solution and join us in driving measurable environmental change. We minimize our company's environmental impact by innovating new or improved processes, programs, and products with thoughtful design for sustainability. And we invest in real solutions for environmental issues at home, on the go and around the world. One of our recent investments provides up to USD100,000 in grants for municipalities in Canada and the United States for the purchase and installation of UltraTech's patented Ultra-Drain Guard stormwater management products, which prevent litter, oil, and sediment from entering waterways via storm drains.

Returning to innovation, in 1990 Dart pioneered recycling of post-consumer polystyrene foam (PS foam) foodservice packaging and shape molded PS foam. Thirty years later we remain a leader in this space through the recycling facilities and collection depots in which we are involved.

Dart has a long record of working in partnership with Ontario municipalities to assist them in acquiring the necessary equipment to recycle PS foam such as densifiers, recycling communications, and assisting with end markets for the material municipalities collect. This work and our investments in Ontario recycling infrastructure has contributed to a growing market and processing innovations for PS foam that contribute to a Circular Economy and supports the goal of zero plastic waste, investment, and jobs.

Dart is a founding member of the Canada Coalition of Plastic Producers (Coalition). The Coalition represents companies involved in the manufacture of plastic packaging and resins. Its members produce plastic food packaging, single-use and reusable bags in Canada and have extensive experience finding solutions for their products at end-of-life.

Dart is also a member of the Chemistry Industry Association of Canada's (CIAC) Plastics Division, which represents Canada's leaders in plastics industry sustainability – a $35 billion sector that directly employs over 100,000 Canadians.

SCOPE CREEP WITHOUT CONSULTATION

The October 2020 consultation proposed six plastic items be prohibited based on the following criteria:

- Environmentally problematic
- Recovery problematic
- Alternatives Exist

The six targeted plastic items are checkout bags, cutlery, stir sticks, straws, ring carriers and "problematic" foodservice ware which includes foamed polystyrene, black plastics, and polyvinyl chloride. Based on this list we were surprised to find in Canada Gazette 1, issued on December 25, 2021, additional items to be banned. Two new items are compostable products and all extruded polystyrene. This is a significant expansion of the original scope.

The term “extruded polystyrene” means solid/rigid polystyrene as well as foamed polystyrene. This is a very troubling expansion. Further the expansion was done without any scientific evidence or consultation.

The Regulatory Impact Analysis Statement (RIAS) indicates that compostable plastic single-use versions of the six originally targeted items will also be banned. The rationale for this inclusion is not evidence based. Further, adding items to the prohibitions, without further scientific analysis, engagement or consultation is a breach of the regulatory process.

BANS DO NOT TAKE INTO ACCOUNT TECHNOLOGY OR EXTENDED PRODUCER RESPONSIBILTY PROGRAMS

To our dismay, innovative and critical technology along with extended producer responsibility (EPR) programs were not considered by the government when assessing items for prohibition. Dart is in particular concerned how this impacts polystyrene foam, black plastics and plastic cutlery given they are part of our product portfolio.

Polystyrene Foam (PS foam)

As a manufactures of PS foam, which includes extruded polystyrene foam and expanded polystyrene foam, we object to PS foam being classified as not having available value recovery options.

Collection and recycling of PS foam has been available to the Canadian public in areas that offer depot or curbside pickup for more than a decade. With the provinces implementing industry led EPR programs, as part of the CCME Zero Plastic Waste Strategy, more PS foam will be collected and recycled.

PS foam can be recycled in mechanical processes to make new PS products such as picture frames and architectural products. New innovations in mechanical PS foam recycling will be better able to manage post-consumer PS foam foodservice facilitating its use in food contact applications, therefore increasing end-markets for recycled PS foam.

PS foam recycling using advanced recycling (depolymerization) technology is commercialized and is recycling post-consumer PS foam. The recycled product is a styrene oil monomer that can be manufactured into food packaging and a multitude of products, making PS foam one of the most circular materials in the economy. Companies using this technology in Canada and North America include Green Mantra, Pyrowave, Polystyvert, INEOS Styrolution, Agylix and AMSTY. Further, the circular economy of polystyrene is already being demonstrated in Quebec. This is a very positive development that Canada should be showcasing to the world vs trying to crush it. Unfortunately the government is signaling it prefers to stop innovation and pursue the unsuccessful approach of banning products and falsely believing bans will stop litter and create a circular economy

Not acknowledging the current commercial polystyrene recycling technologies and established market led to the erroneous determination that PS foam is recovery problematic contributing to its inclusion in the proposed ban regulations.

Black Plastic

The fact that plastics are black is not a limiting factor in being able to recycle the material. Black plastics are valuable and desired by end markets. There is technology on the market today to sort black plastic and the capacity to process higher volumes of carbon black plastics. For example, there are optical sort technologies capable of detecting black and dark plastics (Source: CPIA Emerging Technologies for the Management of Black Plastics Technical Report 15 May 2018) and the availability of this equipment is growing.

We object to the ban on black plastics given it is recyclable and being recycled. The move to ban plastics will damage the circularity of colored plastics which is counter to increasing the circularity of plastics.

Plastic Cutlery

Shape or form of an item does not render it unrecyclable. Rather, a knife, spoon, fork, or spork can and are recycled both through mechanical as well as advanced recycling processes. The federal government should, at a minimum, allow plastic cutlery to be given upon customer request vs an outright ban on the items.

ERP across all plastics

The RIAS demonstrates a fundamental lack of understanding of EPR programs. By removing any single-use plastic items from EPR programs forces consumers to find substitutes that in many cases do not have the value recovery proposition plastics possess. Further, it removes value from the recycling system which is not a positive for the province or the economy, counter to the position stated in the RIAS.

EPR programs require that producers meet recycling targets thereby ensuring that value-recovery is derived from plastics. Under EPR the concept of a single-use item will disappear. We believe a Board of Review would conclude that under EPR plastic manufactured items currently deemed recovery problematic would no longer be evaluated as such.

LACK OF SCIENTIFIC RIGOR: ALTERNATIVES NOT SCRUTIINIZED AND THE LITTER STREAM REARRANGED -NOT CORRECTED

Briefly touched upon earlier in this submission, bans only serve to rearrange the litter stream; they will not stop litter. A real-life example comes from San Francisco, California. The city decided to ban PS foam and said it would stop litter. The city went as far as to have an audit done before the ban went into effect and an audit after the ban had been in effect. The two audits found the same amount of litter. The only change being the litter was now paper products which replaced the banned PS foam products. Nonetheless, the RIAS focuses heavily on single-use plastic litter and its impact on the environment as rationale for the proposed prohibitions. But the RIAS also states that it is assumed the single-use plastic alternatives will be littered at the same rate as their single-use plastic counterparts. Why is the government ok with any litter if one of their main concerns is how the environment is impacted?

A significant oversite with the government's action is it did not look at the environmental impacts of the alternatives, the use of bamboo, fiber, etc. The RIAS even downplays the harm the alternative products will have when littered saying they are not expected to result in long-term harm. How do they know this if they have not tested them? Additives in the alternative may have severe impacts over time as a result of cumulative exposure, which must be explored by risk assessors who are the experts in that area.

Another type of harm the alternative will bring is the amount of waste they will create. The regulations are expected to increase waste generated from the alternatives by around 3.2 million metric tons over the 10-year period between 2022 to 2032. Ultimately, the result of the proposed prohibitions will be a greater mass of waste and litter in the environment with unknown, or unstudied, long-term impacts.

Further, government also did not consider the increased transportation emissions as a result of increased weight of material being transported to management facilities given alternatives to plastic are generally heavier.

Lack of scientific rigor is reflected in the RIAS treatment of Life Cycle Assessment (LCA) literature which is not aligned to standard practices. LCA sources are neither cited nor are they compared through any appropriate, standard methodology such as ISO14040/44. A Strategic Environmental Assessment (SEA) analysis relies on other evidence sources including the Science Assessment of Plastic Pollution. Rather, the RIAS relies on the October 2020 Science Assessment as a statement of the impacts associated with plastic in the environment even though the government itself identified it as incomplete.

SUMMARY

Dart's objection to the bans and request for a Board of Review are justified as explained in this submission. In summary the government has:

- failed to stay within its scope of covered products
- failed to consider recycling of the six targeted products
- failed to consider innovations in recycling and EPR programs
- failed to look at the environmental impacts of alternatives
- failed to demonstrate scientific rigor in this process

We look forward to the conclusion a Board of Review will have on this issue.

Sincerely,

AnnMarie Treglia
Global Director, Government Affairs