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## Special levy on single-use plastic products

### Industry criticizes unnecessary bureaucracy caused by single-use plastic fund

2.11.2022 Berlin - Today's decision by the German government to introduce a special levy on certain single-use plastic products has been met with incomprehension by the business community. According to the proposal, manufacturers of certain single-use plastic products are to pay levies into a state fund to cover the costs of cleaning up the corresponding waste in public spaces. The proposal for a special levy comes at an inopportune time, because the German economy is fully occupied with maintaining operations despite skyrocketing energy prices and thus ensuring the preservation of hundreds of thousands of high-paying jobs. The decision contradicts the "burden moratorium" adopted by the German government on September 29, 2022, to avoid disproportionate bureaucracy in the current crisis and should therefore be put on hold or at least designed to be as low-bureaucratic as possible.

Not only the timing of the proposal is criticized, but also its content. In order to avoid unnecessary bureaucratic costs for companies when implementing the EU requirements, seven trade associations had already submitted a detailed proposal for a private-sector implementation of extended producer responsibility in March 2021. "Compared to the current draft legislation, our proposal has the advantage that it places a considerably lighter burden on companies because implementation - as in other EU member states - is placed in the hands of the economic sectors concerned," explains Antje Gerstein, Managing Director of the German Retail Association HDE e. V. Unlike the planned special levy, the private-sector model would not require the creation of 30 new posts at the Federal Environment Agency (UBA), and no duplicate structures would have to be created because registration could largely build on the data already available from the Central Packaging Register Office.

The business representatives also have little sympathy for the fact that the Federal Environment Ministry and the Federal Environment Agency want to play central roles in implementing the law. "The EU rules stipulate that the costs to be apportioned are to be determined "between the players concerned", i.e. between industry and local authorities," explains Dr. Martin Engelmann, Chief Executive of IK Industrievereinigung Kunststoffverpackungen e.V. "Under the current proposal, on the other hand, the costs are to be determined by the Environment Ministry alone. And the UBA is to be able to determine who is to pay for what. This no longer has anything to do with the principle of producer responsibility," criticizes Engelmann.

The associations consider the so-called Disposable Plastics Commission provided for in the draft law to be too weak to effectively represent the voice of industry. "According to the cabinet decision, the commission is only to have an advisory function in setting the levy rates. This is clearly too little. A 1:1 implementation requires a commission with real decision-making powers," demands Dr. Andreas Gayk, Managing Director of Markenverband e.V. There is also a dispute about the planned composition of the commission. "Environmental and consumer associations are not "affected actors" according to EU specifications. Voting members of the commission may therefore only be representatives of the affected industry and municipalities in equal numbers. This is the only way to create a high level of acceptance among those affected," Gayk said.

It is currently still unclear how high the special levy will be. "It is unacceptable - especially in these times - that the draft law does not specify the amount to be charged to the economy and consumers," explains Jan Mücke, General Manager of the German Association of the Tobacco Industry and Novel Products e.V. (BVTE). The still outstanding determination of the costs which can be transferred may take place alone on basis of the weight. He rejects suggestions that the number of units and the volume should also be taken into account. "The extension to other cost parameters besides weight is not practical and would lead to a massive over-recovery of the actual costs of the municipalities. The cost share must be in a concrete relationship to the waste volumes, so we consider amounts that exceed the weight-based share of 175 million euros per year to be unjustified," notes Mücke.

Finally, there is criticism of a lack of exemption for deposit-required disposable beverage bottles. "In Germany, an effective deposit system ensures that the risk of littering from plastic beverage bottles is greatly reduced. Nevertheless, the proposal also wants to impose a special levy on bottles with deposits," criticizes Peter Feller, Deputy Chief Executive of the Federation of German Food and Drink Industries (BVE). It is true that it is a step in the right direction that the proposal provides for different levy rates for deposit and non-deposit bottles. "However, this is not enough: for manufacturers of beverage bottles subject to deposits, registration, notification and processing mean a considerable amount of bureaucracy. This effort is completely disproportionate to the very low levy level envisaged," criticizes Feller, calling instead for a de minimis limit under which products that account for less than 1 percent of the volume of waste and litter are exempt from the requirements.

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