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Freshfel Europe calls for support of the European Commission to secure more time and flexibility for an orderly and less impacting introduction of the new French plastic packaging legislation on the fruit and vegetables sector

On 1 January 2022, a new legislation banning plastic packagings will come into force in France. The new law No. 2020-105 of 10 February 2020, also known as "AGEC law", is adopting in the French national law the European Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment into the French national legal framework. The French law is going well beyond the requirements of the European Directive, providing limited flexibility to reach the reduction of plastic products. It only considers a phase-out option for consumers packaging of less than 1,5 kg. Freshfel Europe is urging the European Commission to request France to allow more time for the fresh produce sector to adapt to the new French legislative requirements. Freshfel Europe warned that the new legislation might also significantly endanger other environmental priorities undertaken by the sector, namely its commitments towards food quality and the highest safety ambition for fresh produce as well as waste prevention initiatives. Freshfel Europe also voices its concerns that, pending the introduction of new innovative solutions on stickers, information to consumers might also be compromised.

Over the past months, Freshfel Europe and its members extensively discussed the many changes resulting from the new European packaging requirements which reduce the use of plastic and follow the transposition into national law of the European Directive (EU) 2019/904. The fruit and vegetable sector is committed to adhering to European and national environmental and climatic strategies reflected in the European Green Deal and the Farm to Fork Strategy. The fresh fruit and vegetable sector also fully shares the objectives of reducing plastic packaging. This is already widely demonstrated by proactive sectorial initiatives and new business practices to engage in a progressive move out of plastic packaging and search for innovative solutions anticipating legislative requirements. Freshfel Europe laments that the transposition of the European Directive 2019/904 in France has disregarded these efforts and the concerns of public stakeholders, including the European Commission, other Member States, as well as the voices of the private sector both in France and at European level, on the far-reaching implications of the new French law.

While some temporary derogations are set by the French decree 2020-105, Freshfel Europe has multiple apprehensions about the fast-tracked introduction of a national legislation that goes well beyond the requirements of the European Directive. This is endangering the good and fair functioning of the Single Market as it opens the door to a proliferation of different rules and timing among its Member States. As of the 1st of January, almost all plastic packagings for sales to consumers as well as all non-home-compostable stickers will be banned in France. This is expected to lead to distortions of competition and discrimination among operators across the European Union. Philippe Binard, General Delegate of Freshfel Europe commented: *"While the deadline for plastic phase-out is set in France for 2040, the phase-out target for fruit and vegetables is set on 1st January 2022 with only limited temporary derogations to 2026 for some particularly fragile*

products. The same pressure is not placed on other food products, hence representing a discriminatory status for the fresh fruit and vegetables". He added "The French law is not considering alternative solutions such as the use of recyclable plastic packagings, the ban being the only option. The removal of most of fruit and vegetables plastic packagings with such a short notice is not allowing an alternative to be timely tested and introduced and stocks of existing packaging to be cleared".

Philippe Binard also warned: *"The impact of the entry into force of AGECE Law is just as worrying for the adhesive labels affixed to fresh fruit and vegetables sold to French consumers. The major difficulty today is that there is still no company capable of supplying "Agece-compatible" labels being domestic friendly compostable or made of biosource material. The ban on non-home compostable stickers without having an alternative on the market is problematic as it will significantly endanger the labelling of essential information conveyed to consumers on the stickers such as origin, brands, geographical indications, or organic".*

First alternatives might only start to be placed on the market at the earliest only towards the end of 2022 at best. While this announcement is to be welcomed, Freshfel Europe considers that it might lead the sector to new costly machinery investment costs. More time should be given to secure for the sector access to a diversity of solutions at affordable conditions before enforcing the new law. Philippe Binard added: *"The provisions for stickers in France are very confusing. French producers and traders would be allowed to affix stickers on the fresh produce in France but only if shipped for consumption to another members states or internationally. Affixing labels by operators located outside France would be restricted if the final destination would be France, which is not easy to anticipate for producers at the time of packing."* Freshfel Europe views the French provision on stickers leading to a lot of incoherent consequences and many uncertainties for the free movement of goods within the European Union.

Pending the elaboration of alternative solutions for both consumers packaging and stickers, the sector fears as well several side effects of the new rules that should not be overlooked as being also very relevant for the Farm to Fork Strategy. The quality and safety of products might be challenged as well as the food waste sector's prevention initiatives. The reshape of packaging policies is also expected to further exacerbate the costs increase of packagings for the sector in search of alternative solutions or materials.

Given the lack of transparency in the interpretation of the law, the limited flexibility, and the tight deadline for the coming into force of the French Law as from 1 January 2022, Freshfel Europe urged the European Commission to act. On 17 December 2021, in a letter addressed to 6 European Commissioners, Freshfel Europe requested the European Commission to enter into dialogue with the French Authorities to secure more time for the fresh produce sector to adjust to the national French Law until technical solutions for both sales packaging containers and stickers are available. Philippe Binard stated: *"It is crucial to allow more time to avoid market disturbances and steps that would deeply endanger the free circulation of goods in the internal market and would generate distortion of competition and discrimination among operators"*. He underlined: *"The Commission should take all the necessary steps to prevent the proliferation of different rules for the transposition of this directive as it will only lead then to a complex, costly and confusing business environment"*. Beyond the individual objective of the plastic strategy, Freshfel Europe insists that it is of paramount importance to protect the competitiveness of the fruit and vegetable sector and prevent the introduction of costly new burdens upon a sector that represent products identified by many as an undisputed essential partner for the solutions to climate, societal, and environmental challenges.

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Note to the Editors: Freshfel Europe is the European Fresh Produce Association, representing the interests of the fresh fruit and vegetables supply chain in Europe and beyond. Freshfel Europe currently has over 200 members, including both companies and associations. For more information, please contact Philippe Binard at ph.binard@freshfel.org