

**RE: Revision of Carcinogens and Mutagens Directive**

Dear Mr Servos,

I am contacting you in relation to the meeting held on Thursday April 21 where we were informed about the content of the proposal for the revision of the Carcinogens and Mutagens Directive.

We would like to stress our concern about the process, in particular the late involvement of the social partners and the absence of any documentation.

Given the importance of making progress, this is literally a life and death issue for the thousands of workers concerned, we do not want to create any further delays and I set out below our analysis and demands to achieve adequate prevention from work related cancer.

**Specific comments on some proposed Occupational Exposure Limits (OELs)**

We consider that there is a need to follow the best practice from different Member States in setting OELs. Many Member States already provide a higher level of protection than the level proposed by the Commission. This demonstrates that more protective OELs are achievable and technically feasible (see the table in annex).

We particularly want to highlight the following

**Respirable Crystalline Silica.** The proposed OEL (0,1ppm) is completely inadequate as it would expose workers to a high risk of

lung cancer. We share the view of the Scientific Committee for Occupational Exposure Limits) that the “OEL should lie below 0.05 mg/m<sup>3</sup> of respirable silica dust” (SCOEL recommendation on RCS, 2004). Such an OEL is already implemented in several Member States and has been recently adopted in the USA. From a legal point of view, we draw the attention of the Commission that Respirable Crystalline Silica should also be included in annex I of the CMD.

**Hardwood Dust.** The proposal of the Commission is to set an OEL of 3 mg/ m<sup>3</sup>. This is unacceptable because it does not protect workers from cancer. We draw the attention on the fact that wood dust in general and not only hardwood dust is carcinogenic. We propose an OEL of 1 mg/ m<sup>3</sup> progressively reducing, over a short period, to 0,5 mg/ m<sup>3</sup>.

**Chromium VI.** The proposed OEL is 25 µg / m<sup>3</sup> and this is unacceptable. Several new studies have been published after the conclusions in the 2011 study carried out by IOM for the Commission. The Commission’s proposed OEL would correspond to a life time cancer risk of 10%. According to the Risk Assessment Committee of ECHA (December 2013), there is a reference dose response relationship for carcinogenicity of chromium VI for workers with an excess lifetime lung cancer mortality risk of 0,4% per µgCr (VI)/m<sup>3</sup> . In accordance with the upper risk limits agreed on in both the Netherlands and Germany, the exposure would need to be limited to a concentration value in the range between 1 and 10 µg / m<sup>3</sup>.

**Refractory ceramic fibres.** The Commission proposal is an OEL of 0,3 f/ml. We propose an OEL of 0.1 f/ml which corresponds to an additional cancer risk of 4 per 1,000 exposed workers.

I attach a more complete analysis prepared by our experts.

We also remind you of that the revision of the CMD should not be limited to the adoption of OELs in annex III. In particular, we insist on two major amendments which should be included.

The scope of Directive 2004/37/EC should be extended to include substances meeting the criteria for classification as toxic for reproduction category 1A or 1B in accordance with the CLP Regulation. The current situation where workers are protected from the risks of reprotoxic substances by the Chemical Agents Directive (98/24/EC) is far from satisfactory. The nature, the severity and the irreversibility of the health effects resulting from exposure to substances toxic to reproduction are of particular concern for workers of both sexes in a wide range of industrial sectors, including the agricultural, mining, manufacturing, health and service sectors.

Therefore, such health effects have to be prevented and levels of protection of workers have to be raised by applying the more stringent provisions of the Carcinogens Directive. Expanding the Carcinogens Directive to include substances that are toxic to reproduction would improve prevention for workers of both sexes in general and for pregnant workers in particular. It should be recalled that one of the faults in the legislation on the protection of pregnant workers (Directive 92/85/EEC) is that the health and safety measures only have to be implemented once the worker reports to her employer that she is pregnant (often around the 10th week of pregnancy).

However, there are major risks of birth defects caused by exposure to a substance toxic to development during the first few weeks of pregnancy. Many substances toxic for reproduction are also identified as endocrine disrupting chemicals. In that case, as there is no safe exposure level for endocrine disruptors, the health-based OELs that might be derived for threshold reprotoxic substances would be useless to protect workers from endocrine disruptors' adverse effects. Having all substances toxic for reproduction included in the scope of Directive 2004/37 will automatically

ensure that the more stringent provisions of the Carcinogens Directive also apply to many endocrine disruptors. The findings of the health, socio-economic and environmental impact study ordered by the European Commission were that the qualitative assessment undertaken of the impacts in two Member States that have extended the scope in their national legislation (France and Germany) clearly shows evidence that this has led to benefits in terms of a reduction in workers' exposure to reprotoxic substances.

Article 14 of the CMD should be amended in order to guarantee that workers who have been exposed to carcinogens and mutagens should be entitled to a health surveillance even after the end of the exposure and the end of their employment. Early detection of cancer would save many lives.

Finally, we were surprised to learn that the revision of annex III would cover 13 substances or process generated exposures and that 12 other OELs would be proposed before the end of 2016. We don't find any justification for limiting the revision of annex III to 25 agents.

The Dutch government has provided the Commission with a list of 50 priority agents. The ETUC has established a list of 71 substances or process generated exposures. We don't accept the argument given by the Commission that the revision of annex III should be limited to the OELs on which the Advisory Committee has found global agreement. Additionally, we do not find any justification for limiting the first list to 13 agents.

We note that on 15 December 2015, Commissioner Thyssen sent a letter to the Belgian trade union confederations. She explicitly refers to the need to include 50 substances or processes in Annex III. The letter states « with regard to the proposed list of OELs for 50 carcinogens the commission prepared a workplan to fix values for these substances by 2020. The workplan includes a large consultation of stakeholders which has already started» (our

translation from the Dutch original letter). We insist on the need to cover a majority of exposed workers with adequate OELs.

I look forward to hearing from you

A handwritten signature in blue ink, appearing to read 'Esther Lynch', is positioned above the typed name.

Esther Lynch  
ETUC Confederal Secretary