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## CEEMET POSITION PAPER ON THE REVIEW OF THE DIRECTIVE ON CARCINOGENS OR MUTAGENS AT THE WORKPLACE

On 13 May 2016, the European Commission launched its proposal to amend Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (CMD). It aims to add or revise occupational exposure limits for a number of substances by amending annexes one and three of the Directive. The proposal will be done in two steps with one batch of substances already proposed and another to be proposed by the end of 2016.

While we welcome the revision of this Directive and see its benefit as a method to protect workers from exposure to carcinogens and mutagens, there are a number of factors with which we take issue in its construction.

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### European legislation is not consistent in setting Occupational Exposure Limit Values (OELs)

As MET employers, we support the idea of harmonisation of OELs across the European Union, this creates a level playing field for industry. Unfortunately, member states are free to set lower OELs which does not create a good environment for businesses who have to adhere to different OELs in different member states, furthermore this does not help in the application of the single market.

Companies are faced with at least four limits when dealing with chemicals in the European Union:

- I. The value of the **International Agency for Research on Cancer (IARC)** which is informally taken on board by authorities;
- II. The European value stemming from **EU Directives**;
- III. The European value reinforced by **member states** in the national transposition;
- IV. The value from **REACH**.

### The data used for this review is not relevant

In our assessment, the figures used for the review of this Directive are based on obsolete data. The figures which the Commission are using are from the CAREX report "Occupational exposure to carcinogens in the European Union in 1990-93"<sup>1</sup>. This report from the Finnish Institute of Occupational Health was published in 1998 and is based mainly on data from Finland (1990-1993) and the USA (1981-1983).

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<sup>1</sup> [http://www.ttl.fi/en/chemical\\_safety/carex/countries/pages/default.aspx](http://www.ttl.fi/en/chemical_safety/carex/countries/pages/default.aspx)



There is the addition of some average European figures in order to try to extrapolate a European Union figure. As employers, we understand the need to protect workers from exposure to carcinogens and mutagens at the workplace. However, when the data which is being used to calculate this exposure is more than 20 years old, and taking into account the changes in processes and methods of protection, such as personal protective equipment, which have changed dramatically over the last 20 years, we call into question the relevance of the data and therefore the conclusions reached.

## **CEEMET advocates a holistic approach to chemicals at an EU level**

CEEMET supports the principle of a holistic approach to the management of chemicals at EU level. In this light, we support a process aimed at creating a single regulatory framework for both the CMD and Chemical Agents Directive (CAD), but also for coordinating the interaction between requirements for the environment, health and safety, major hazards, storage, use and transportation legislation. It is of the utmost necessity that the existing EU framework for chemicals be streamlined and consolidated. As it currently stands it is inconsistent, overlapping, confusing, and uncoordinated. CEEMET calls on the Commission to develop exposure limit values which are consistent across all EU member states and which are consistent across EU legislation which legislate both areas of workplace and environmental chemical exposure. These limit values should then be set by the Scientific Committee on Occupational Exposure Limits (SCOEL). Currently there are many bodies setting limit values, such as the European Chemicals Agency Risk Assessment Committee (RAC) and IARC. In our opinion, the body best placed to set these limits is, a fully funded, SCOEL.

There have been many actors in this field who have advocated for a more practicable regulatory framework for EU chemicals legislation. Examples include, the Nickel institute and the EU-wide cross-industry initiative for better regulation in chemicals management. CEEMET adds its weight to these calls for a more feasible EU regulatory landscape for chemicals.

## **The addition of new substances needs to be done on an evidence based approach**

We support the amendments to annex one and three of the Directive adding new substances, however we do not support modifications to the articles of the Directive as they are fit for purpose. Furthermore, we do not believe that an arbitrary target of the addition of 50 new OELs should be set, OELs should only be proposed on an evidence based approach.

## **The legislative process must take account of the evaluation of all EU OSH legislation**

CEEMET calls on all actors involved to wait for the outcome of the evaluation of all EU OSH legislation, particularly in relation to the interface between REACH and OSH legislation, before going ahead with further steps in this process. These steps include the publication of the second wave of substances to be added to the Directive which the European Commission is to bring forward by the end of 2016, and the legislative work in the European Parliament's committees.



## Particular substances of interest proposed by the European Commission:

### *Respirable Crystalline Silica (RCS)*

Crystalline silica (SiO<sub>2</sub>) is an essential component of materials which have an abundance of uses in industry and are vital in many products and objects we use every day. Examples include cars engines and windscreens, roads or other transport infrastructures. Although crystalline silica is ubiquitous in nature, the inhalation of fine dust containing a proportion of it may constitute a hazard at the workplace.

The European Commission proposes to include in Annex I to the Directive, work involving exposure to respirable crystalline silica dust generated by a work process and establish a corresponding limit value in Annex III of 0.1 mg/m<sup>3</sup>, while the current proposal is acceptable to MET employers', we have a concern to do with waste and substitution, for instance in the mining and casting industries. In these industries, the waste will be classified as a hazardous substances and would need to be handled in a very costly manner. And for certain industries, like mining, it will be impossible to substitute the bedrock which they work with.

### *Hardwood dust*

For this substance, the European Commission have proposed an Occupational Exposure Limit of 3 mg/m<sup>3</sup>, lowering it from the previous level of 5 mg/m<sup>3</sup>. In some member states the exposure limit for hardwood dust is higher than what has been proposed by the European Commission. For many companies, it is already difficult to comply with the current limit value, the European Commission proposal makes it even more difficult.

### *Chromium VI*

Chromium VI is a substance which is used in the treatment of metals, e.g. chromium water tap. Although Chromium VI is a carcinogen, no alternatives are available in many cases. The industries which we represent are of the opinion that companies should immediately replace Chromium VI if and when an alternative is available. Having said that, in certain member states, the limits proposed by the European Commission are higher than what already exists, creating a difficulty for business to comply.

### **About CEEMET:**

**CEEMET (Council of European Employers of the Metal, Engineering and Technology-Based Industries)** is the European employers' organisation representing the interests of the metal, engineering and technology-based industries. Through its national member organisations, it represents 200 000 companies across Europe. The vast majority of them are SMEs, providing over 13 million jobs.

