



Council of European Employers  
of the Metal, Engineering and  
Technology-based industries

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## RESPONSE TO PUBLIC CONSULTATION ON THE NEW EU OCCUPATIONAL SAFETY AND HEALTH POLICY FRAMEWORK

### CEEMET General Remarks

Employers in the MET (metal, engineering and technology industries) sector welcome the opportunity to put forward our view on the 2007-2012 EU OSH strategy and future direction. This is of particular relevance as CEEMET represents 200,000 companies (mostly SME's) employing directly, over 13 million workers in Europe. In light of the current economic and monetary difficulties facing Europe, MET companies continue to embrace and implement good OSH practices, while adhering to existing regulatory requirements.

CEEMET strongly supports effective management of health and safety risks in working environments to ensure the protection of workers. We have recently published a brochure "Our commitment to a proactive role in occupational safety and health", which showcases a collection of examples of practical actions that CEEMET members are taking at national level to promote continuous improvement of occupational safety and health.

CEEMET is committed to improving the management of risks to health and safety and so further protecting employees from harm. Not only is it morally the right thing to do, but it also represents good business.

We fully recognise the responsibility of employers to provide safe working conditions and protect their employees from harm. Action taken by employers over the years has greatly reduced accident and ill health rates in manufacturing industry. We are committed to promoting further improvement.

We also recognise the need for separate but dependent responsibilities and rights for employees in order to achieve improvements in health and safety conditions. Efforts should be made to improve the individual responsibility of employees for OSH issues.

We are concerned that the original, holistic approach to assessing and managing risks is being undermined by the introduction of precautionary hazard-specific directives which are not evidence based and which do not adequately deal with the issue of risk.

In terms of a future OSH strategy or policy framework we believe that:

- The essential EU legislative structure established by early Health and Safety directives was holistic, well considered and remains largely fit for purpose;
- A holistic approach is essential in any health and safety framework to ensure that significant risks are identified, assessed and prioritised effectively;
- This holistic approach is being undermined by non evidence based hazard-specific Directives such as the Artificial Optical Radiation Directive and the Electromagnetic Fields Directive (due to come

into force in July 2016) which impose unnecessary costs and bureaucracy on industry and where the requirements are not proportional to the risk;

- Attention should now focus upon ensuring that the original H&S Directives are fully effective and have been fully implemented across all Member States. The Commission need to look in detail at the practical implementation and enforcement in Member States of existing Directives before considering new Directives; CEEMET members are ready to lend their active support to this approach;
- New hazard-specific precautionary Directives should not be introduced, unless they are both risk and evidence based;
- It must take into account the current economic and financial context. The use of resources needs to be optimised and OSH priorities should be focused on aligning with or assisting rather than hampering economic recovery for business and SME's;
- There should be a competitiveness check of all existing and proposed OSH Directives which informs any OSH policy framework or strategy development;
- The outcomes of the report due to be published by the Commission in 2015 on the current evaluation of OSH Directives being carried out by Member States (completion 2013) should be used to determine the Commissions OSH framework or strategy from 2015 onwards and should concentrate on simplification, consolidation and revocation of Directives which are precautionary and are not evidence based. The Framework Directive could be broadened and future proofed in order to remove overlaps and duplication from the various daughter Directives;
- There are, inconsistencies, overlaps, and synergies which can be identified across and between the Directives, e.g. requirements for risk assessments and medical surveillance which not only appear in the framework Directive but almost all daughter Directives. Risk Assessment and Health Surveillance requirements should only be contained in the Framework Directive;
- Any future EU Commission Strategy should only look at significant risks (not one size fits all);
- Any future OSH framework or strategy should update out dated Directives, e.g. the Display Screen Equipment Directive (90/270/EEC). Advances in computer technology now mean that the use of computers is now ubiquitous in both the workplace and society as a whole. It also means that the screens now used no longer present the potential vision risks identified by the original Directive in 1990. It is now impossible to distinguish computer use in the workplace from that outside the workplace. Provision of eyesight tests and eye appliances (spectacles) is extremely costly to business and SME's. It is time to review the Directive and consider removing the requirement for vision testing from its scope.

## Answers to specific questions

**1. Do you agree with the assessment of the EU OSH Strategy? Did it lead to tangible results?**

We give some credence to the conclusion of the 2007-2012 EUOSH Strategy evaluation, that it has “been relevant” and provided “a clear policy basis and framework for coordination, and a common sense of direction for many of the actors involved in the OSH policy area”, while serving as “an important policy signal and driver for national action on OSH”. However, reservations remain in the Commissions assessment of individual elements of the strategy.

The evaluation conducted an ex post analysis and assessment of this strategy. However, there are no starting indicators (ex ante) to use as a reference point to fully conduct a proper analysis of the strategy. Therefore this is an underlying weakness. The assessment should evaluate the whole process, not just the how it was implemented. One example is the EU OSH strategy’s goal to decrease occupational accidents by 25%. To employers this was not primarily a quantitative target or an indicator but a qualitative target in the sense of a vision that was designed to encourage coordinated measures towards a 25% decrease of occupational accidents.

Furthermore, the evaluation clearly says, that there are “uncertainties in the data” underpinning EU OSH statistics. Therefore, it is difficult to see the tangibility of EU statistical targets having being reached, in light of the “limited data” conclusion that is laid out in the evaluation. For example, the absence of predefined indicators before the strategy was launched undermines any subsequent evaluation.

To improve this situation, it may be beneficial to carry out research into coherent European OSH statistics and create an improved database, in order to achieve a better measurability and compilation of data in this area. Any new EU OSH strategy could be used to set out a framework to reach an improved coordination and harmonisation between national statistical offices and Eurostat.

Finally, in accordance with the better/smart regulation agenda, there should be an adherence to the principles of subsidiarity and proportionality. Reducing red-tape and administrative burdens produced by existing legislation and new European initiatives is necessary through rigorous implementation of the principles of subsidiarity and proportionality. All parts of the impact assessment process need to be improved including using the specific knowledge and expertise that employers have on the practical implications of planned legislation. This is especially the case in the field of health and safety legislation.

**2. In order to improve workplace safety and health, do you consider it necessary to continue coordinating policies at EU level or is action at national level sufficient?**

This is dependent on conditions under which co-ordination at EU level is likely to bring real, tangible improvements in workplace safety and health.

National strategies do deliver important improvements in safety and health at work and should be recognised by the Commission where these are proven to work. Whilst there is no ‘one size fits all model’ national strategies are generally seen as being more responsive to national systems, cultures and needs.

Continuing EU co-ordination should not lead to precautionary, non risk and evidence based Directives. Any further steps towards regulatory harmonization should be done in line with the principles of proportionality. As provided for under Protocol II of the treaties, all draft legislative acts should contain a detailed statement making it possible to appraise compliance with these principles. This statement

should furthermore contain a detailed assessment of the proposal's financial impact (costs and benefits) and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation.

Lastly, as provided for under the treaties, at EU level, minimum requirements for the protection of health and safety of workers at the work place should be established. However, there should be much more emphasis on best practice and guidance. This is even more salient considering there are twenty-four Health and Safety Article 153 directives in operation, with many of a technical and complex nature, which are difficult for SMEs to understand i.e. physical agents directives.

**3. If you deem such a framework at EU level is necessary, explain why. Which aspects should be covered?**

Better implementation and simplification of existing legislation should be the underlying priority in line with 'smart regulation' objectives.

The European Parliament and Commission should direct their attention to ensuring that the original H&S legislative structure is successful in practice. There also needs to be effective and consistent enforcement across all Member States. Enforcement activity should be risk-based, directing activity to higher risk sectors and those who are managing risks badly. CEEMET is ready to commit to providing practical support for this approach, helping to promote and support good management of significant risks.

**4. With respect to your answer to the above questions is there a need for a new EU OSH Strategy or should alternative measure be considered?**

Any future EU OSH strategy or framework should be delayed until the Commission completes its evaluation and review of all existing OSH Directives (expected to report back in 2015). This is set in the context of the Commission's Regulatory Fitness Communication of December 2012, where the Commission agreed to, "step up implementation and enforcement" and also stressed its "evaluate first" policy.

Therefore, once this evaluation exercise is complete, a new EU OSH strategy or framework could be introduced from 2016 onwards. In the intervening period, the current strategy should be extended until the end of 2015. This is in line with one of the key policy recommendations of the 2007-2012 evaluation: *Recommendation 2: The Commission should - until the new strategy has been developed - continue to implement the initiatives of the present strategy.*

**5. If EU level action is necessary in order to improve workplace safety and health, do you consider it necessary to set broad goals and priorities and to coordinate national policies at EU level?**

In order to make an EU OSH approach work in the long-term, the essential first step is for the Commission to start by defining OSH aims and strategic objectives. Any strategy must start first with broad overarching aims, followed by strategic objectives and then the setting out of detailed targets and actions to achieve these objectives. Objectives then need to be evaluated using pre-determined key performance indicators.

One essential key strategic objective is to facilitate an EU wide level playing field in OSH requirements, which leads to an overall reduction in work-related diseases, ill-health and accidents at work. Furthermore, this objective should be linked to the Europe 2020 strategy.

Any new EU OSH approach should also explain how it will contribute to the objective of achieving a more competitive economy over the next 10 years with smart, sustainable and inclusive growth, which can lead to job creation, higher employment participation rates, etc. Improving the potential of the workforce by efficient OSH policies can have positive results on the competitiveness of European business.

**6. What would be the added-value of including specific targets into a possible new EU OSH policy framework to measure progress in improving workplace safety and health in the EU?**

See CEEMET response to Q5. Determining success in implementing strategic objectives will have to be evaluated using predetermined key performance indicators. These could be set at EU level, but it may be more relevant to follow the progression of performance in individual Member States over time rather than comparing indicators between countries.

**7. Should a new policy framework include a list of objectives, actions, calendars and actors involved in the implementation of actions or should it be limited to setting a vision for the future, and a definition of goals and priorities?**

As outlined in the ACSH opinion in the “Community Strategy Implementation and Advisory Committee Action Programme” (2033/11), CEEMET supports the introduction of a new EU OSH framework that describes the current state of OSH in the EU and refers to the results of the EU strategy 2007-2012. Any new strategy should outline whether objectives were achieved or not, whether instruments, measures and indicators were appropriate and effective or not, and which ones should therefore be continued. The approach will help define future strategic and objectives, targets, actions and measures. The role of the EU’s institutions in delivering the tools and instruments to implement the approach should be emphasised.

We therefore support the prioritisation of future EU OSH policy as set out in the European Commission's work programme for 2012, which highlights three operational objectives including:

- a) enhancing voluntary OSH governance at EU level, in particular as regards the establishment of national OSH strategies and the coordination of Member States' policies;
- b) improving implementation of the EU legal framework;
- c) promoting health and safety at the workplace, by supporting the Member States' efforts through European campaigns and awareness raising initiative.

**8. What are the key challenges in the OSH area? How would you prioritise them?**

At EU level one of the key challenges of OSH is the proper implementation of existing OSH regulation, especially at SME level. The Commission needs to do more to enable SMEs to tackle OSH issues.

The report on the evaluation of the 2007-2012 H & S Strategy indicates there is some way to go on simplifying the existing OSH legislative framework. The report says that “no evidence has been found

during our analysis that exchange of good practices on the specific topic of reduction of administrative burdens has taken place, while the extent of what the Commission has done to adapt and simplify the legal framework over the past five years has overall been quite limited”.

CEEMET members are convinced that, in the field of social policy and by extension health and safety, more adaptability will contribute to improved competitiveness. In our view, all existing and forthcoming social policy regulations at European and their national implementation should always be checked against the principles of subsidiarity and proportionality. Improved impact assessments are vital in contributing to properly identifying necessary and proportionate EU legislation. As a general rule, the following three questions should always be asked before any European legislative proposal is considered:

- Is there an objective need for it?
- Are the costs, including those caused by administrative burdens, proportionate to the benefits?
- At what level of government – whether European, national, regional or local – is action most appropriate?

Social Partners and their members can play an important role in contributing to these impact assessments using their specific knowledge and expertise and their insight on the practical impact that planned legislation is likely to have on the day-to-day operations of companies.

We also see no reason why automatic review mechanisms, for checking the effectiveness of legislative initiatives after they have been in force for a few years cannot be formally written into all EU legislation. Finally, we would like to see all European institutions, including the various Directorates of the European Commission, co-ordinating in a better way their different policies and initiatives.

In terms of key challenges we see the greatest challenge in the area of Chemicals (REACH Regulations, Chemical Agents Directive, Carcinogens and Mutagens Directive, Classification, Labelling and Packaging (CLP) Regulations) and Nano materials.

There should be only one regulatory framework covering both Environmental and Occupational Health exposures to Chemicals Hazardous Substances (including Biological Agents and GMO's), Nano Technologies and Synthetic Biology.

In the field of chemicals and limit values, it would make sense to simplify the existing overlapping regulatory structures that currently exist in the area. For example, although REACH and H&S legislation should ultimately complement one another, their requirements overlap to some extent and this has the potential to give rise to inconsistencies in their application. Therefore, it is of utmost necessity that the existing OSH framework for chemicals at EU level is simplified. A global strategic approach to chemicals and its interactions with H & S is necessary. This requires better coordination and coherence in setting EU wide agreed and not country specific OELs (occupational exposure limit values), IOELVs (indicative occupational exposure limit values), BOELVs (binding occupational exposure limit values) and DNELs (derived no-effects levels). It is also important that the regulatory framework allows the development of NCE's (new chemical entities) without unnecessary restrictions in order to encourage 'growth'.

**9. What practical solutions do you suggest to address all or some of these challenges?**

It is important to identify measures and tools that will help SME's and companies in understanding and complying with legislation, therefore improving implementation. This means focusing on development of practical guidelines and exchanges of best practice, and further development and dissemination of information and practical tools to assist employers and workers.

**10. Do you consider that such a framework should develop initiatives to provide further protection for vulnerable groups of workers and/or for workers in specific high risk sectors?**

More Flexibility and Clarity is required. There should be more of an onus on individual worker responsibility. There was a concern expressed that current legal requirements have the undesired effect of discouraging employment for women of child bearing age.

We do not support individual initiatives for selected groups that are not a result of predefined strategic objectives and would recommend that the Commission withdraw specific Directives for particular groups, and focus attention on Individual Capability and Fitness for Work for at risk individuals through the Risk Assessment process in the Framework Directive.

**11. Do you consider that measures for the simplification of the existing body of EU OSH legislation should be included in such a political instrument? If so, which ones would you suggest?**

As outlined already, CEEMET advocates that the better implementation and simplification of existing legislation should be the underlying priority before additional legislative proposals are brought forward in health and safety. This is especially the case at SME level. Attention should focus upon ensuring the original legislation is fully effective.

Any future EU OSH strategy should be delayed until the Commission completes its evaluation and review of all existing OSH Directives (expected to report back in 2015), including any future Commission policy on WRMSD's or Ergonomics or psychosocial issues. This is set in the context of the Commissions Regulatory Fitness Communication of December 2012, where the Commission agreed to "step up implementation and enforcement" and also stressed its "evaluate first" policy.

Furthermore, the Commissions practical implementation review of all H & S Directives provides a timely opportunity to develop evidence and understanding of the current legislative framework, providing valuable data on how successfully the current legislation has been implemented across Member States. The Review could inform the development of further EU-level activity, allowing it to focus on the areas where support is most needed.

**12. Do you think that such a framework should specifically identify and address the challenges posed by the ageing of the working population? If so, which measures would you suggest?**

See previous answer to Question 10.

Employers generally support the vision of a "sustainable working life" that centres on more people being in work and remaining in employment longer. However, ensuring a "sustainable working life" is not only determined by OSH policies, but is also linked to public health issues.

**13. What measures would you suggest to reduce the regulatory burden on SMEs and micro-enterprises, including reducing compliance costs and administrative burden, while ensuring a high level of compliance with OSH legislation by SMEs and micro-enterprises?**

We favour an approach that encompasses the points we have made in our reply to this consultation, in particular a focus by the Commission on its activities regarding guidance for prevention and exchange of good practices instead of focusing on legislation, recognition of factors external to the work place and adherence to smart regulation principles etc. This will facilitate a greater engagement by SMEs.

**14. Do you have any views on the role of social dialogue at EU and national level to the identification, preparation and implementation of any new initiatives to improve health and safety at work?**

CEEMET, as a formal EU sectoral social dialogue partner places great value in social dialogue. However, we firmly believe that the principle of representativeness is fundamental to the process and should be upheld at sectoral social dialogue level. This means that European sectoral social partners should be fully representative of the sectors they represent. Otherwise, any agreements negotiated by European sectoral social partners lack a true sector wide mandate, if they are concluded by sectorial partners not representative of the whole sector in Europe.

CEEMET is also concerned about the increasing trend of the Commission to launch public consultations in areas where social partner consultations would be the appropriate choice.

The Commission should organise further consultations on a new EU OSH framework in the context of the ACSH in order to fully consider social partners' views.

CEEMET believes that one of the main weaknesses of the EU OSH strategy was a lack of social partner ownership. This weakness was also highlighted in the evaluation of the EU OSH strategy 2007 – 2012. Therefore a key factor for the success of any new EU OSH approach will be the ownership of social partners. This in turn can only be achieved through a serious consultation of social partners.