



22 February 2011

RESPONSE TO 2ND STAGE SOCIAL PARTNER CONSULTATION: ALIGNING HEALTH AND SAFETY DIRECTIVES WITH CLP REGULATION

I. Introduction

1. The European Commission on 18 January 2011 launched the second stage consultation of European social partners on the amendment of five directives on health and safety at work as a result of the adoption of the Regulation on classification, labelling and packaging of substances and mixtures (CLP Regulation). This Regulation aligns the EC system with the United Nations Globally Harmonised System (GHS). This follows the first stage consultation, which was concluded in February 2010.
2. The consultation concerns the technical amendment of the following health and safety directives to take account of the changes introduced by the CLP Regulation:
 - Protection of health and safety of workers from risks related to chemical agents at work
 - Protection of health and safety of workers from risks related to exposure to carcinogens or mutagens at work
 - Minimum requirements for provision of safety and/or health signs at work
 - Introduction of measures to encourage improvements in safety and health of pregnant workers and workers who have recently given birth
 - Protection of young people at work.
3. The Commission proposes at the same time updating minor elements of the Annex of the directive on protection of young people at work. This is to reflect changes to other EU directives which are referred to in the annex of this directive. The proposed changes are not linked to alignment with the CLP Regulation.

II. General Comments

4. BUSINESSEUROPE supports the amendment of the specified directives on health and safety at work, to align them with the CLP Regulation. This is necessary to ensure consistency, simplification and legal certainty.
5. Amendments should have a neutral effect on the policy objectives of the directives. We note that this point is shared by respondents to the first stage consultation.
6. We agree with the Commission that a single amending directive would be most appropriate to make the necessary changes in a simple and effective way.



III. Specific comments

7. BUSINESSEUROPE would like to make the following comments in response to the specific requests to social partners:
 - (1) *Forward an opinion or, where appropriate, a recommendation on the content of the envisaged regulatory initiative pursuant to Article 154(3) of the Treaty on the Functioning of the European Union;*
8. BUSINESSEUROPE favours policy option 1: a new directive amending those parts of the health and safety directives which refer to chemical classification, to bring them in line with the CLP Regulation. Changes should be restricted to those elements referred to in Annex 1 of the consultation document. This ensures that changes are purely technical and only related to compliance with the CLP Regulation. We also agree that this would be the most appropriate way to align the directives without affecting their policy objectives. This means without reducing or adding to the existing requirements.
9. In line with better regulation, a single amending directive will more likely result in a simplified legislative framework than amending the five directives individually, which would be unnecessarily complex and more time-consuming. Simplification of legislation facilitates compliance by companies. This is important in attaining the overall objective of protecting workers' health and safety, without introducing additional burdens for companies. Moreover, this is important given that companies are already faced with considerable administrative burdens and costs to implement GHS, in addition to REACH.
 - (2) *Indicate whether they favour an approach that includes maintaining a formal link to the EU chemical classification system (CLP Regulation) or whether they prefer an approach based on the use of general descriptor terms.*
10. We support the proposal to maintain a formal link to the CLP Regulation, rather than using general descriptor words to describe different categories of chemicals. Making specific reference to the CLP Regulation would be a better way to ensure legal certainty than general descriptor words, which may not be precise enough. This is important for companies to ensure that they are compliant with the directives in question.
 - (3) *Inform the Commission whether they consider that additional non-binding measures, such as explanatory guidance, should be developed for employers and workers to help them to understand occupational safety and health issues arising from the new requirements for chemical classification, labelling and packaging. If so, they should specify what measures would be useful, outline the level of detail that may be necessary, and say how such measures could be effective at EU level.*
11. We agree that additional non-binding measures would be useful to assist employers in understanding and complying with the new requirements. This would



be particularly important for SMEs. Practical guides are a useful tool in this respect. Work has already been undertaken at European level in developing practical guides in a number of areas, in particular in the framework of the Advisory Committee on Safety and Health (ACSH). However, further efforts need to be made regarding the dissemination of practical guides, to ensure that they reach the intended recipients, in particular SMEs. Although a certain amount of detail is necessary, practical guides should be written in an easy and understandable language, in particular to improve accessibility for SMEs.

- (4) *Inform the Commission if they agree with the approach proposed for updating the Annex of Directive 94/33/EC on Young Persons at Work.*
12. We agree that the Commission could use this opportunity to make some minor amendments to the Annex of the Directive on Young People at Work. This should be restricted to technical amendments, as stated in the consultation document, to reflect changes to EU legal texts referred to in the annex. These changes should also be policy-neutral.
- (5) *Inform the Commission about their readiness to start a negotiation process on the basis of the proposals described in this document pursuant to Articles 154(4) and 155 of the Treaty on the Functioning of the European Union.*
13. Given that the approach taken by the European Commission is for a restricted technical amendment of the directives concerned, which is in line with the position taken by BUSINESSEUROPE in its response to the first stage consultation, we do not intend to start a negotiation process on this topic.
