



27 March 2017

Communication on Occupational Safety and Health

KEY MESSAGES

- 1 Europe is characterised by high standards of health and safety at work and employers remain committed to ensuring that workplaces are safe, healthy and productive. The focus for EU policy should be on providing support and advice to businesses and workers so that they can make their OSH policies and actions future proof and adapt to new risks and challenges at the workplace.
- 2 The existing EU legal framework for occupational safety and health is comprehensive and provides for a level playing field for companies operating in the internal market. Therefore, there should not be unnecessary changes to EU legislation in this field, including as part of the announced programme to remove or update outdated provisions. The Commission should restrict itself to genuine better regulation objectives.
- 3 The overall approach of the Commission's communication is balanced, in particular the focus on implementation of existing EU OSH legislation and providing guidance and support to employers and workers to continue improving safety and health protection at the workplace.

WHAT DOES BUSINESSEUROPE AIM FOR?

- *BusinessEurope aims for the promotion of a prevention culture at the workplace, where both employers and workers understand and implement their respective obligations, and work together to find joint solutions.*
- *We aim for the EU and national governments to ensure that OSH legislation can be implemented by companies of all sizes across all EU Member States, so that there is a level playing field for worker protection across the EU. EU institutions should work together to ensure that enforcement and application of EU OSH legislation is adequate and appropriate at national level.*
- *As the key underlying principle of EU OSH legislation, we aim for risk assessment to focus on outcomes at the workplace rather than processes and papers.*
- *We aim for further clarification and guidance for employers and workers on the interplay between OSH and REACH legislation, whilst duly respecting the different legal bases and objectives of the two frameworks.*



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European Commission Communication on Occupational Safety and Health (OSH)

I. Introduction

1. On 10 January, the Commission published its Communication 'Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health (OSH) Legislation and Policy'. It is accompanied by a staff working document detailing the results of the evaluation of the existing EU OSH legislation and a guide for employers on implementing EU OSH legislation. The Commission also proposed a revision of the annexes of the directive on protecting workers from exposure to carcinogens and mutagens at the workplace.
2. The position paper is divided into five sections: firstly, our general remarks on OSH; secondly our general remarks on the Commission's communication; thirdly our views on the specific elements of the communication; fourthly our views on the interplay between OSH and REACH legislation; and finally, our views on the accompanying second wave proposal to revise the carcinogens and mutagens directive.

II. General remarks on occupational safety and health (OSH)

3. Employers are committed to protecting workers' health and safety at the workplace across the EU. Ensuring a safe, healthy and productive workforce is key to achieving the full potential of human capital on European labour markets.
4. **Europe is characterised by high standards of health and safety at work** and the situation is continually improving. There was almost a 30% reduction in accidents at the workplace between 2007 and 2011 and a quarter less fatal accidents between 2008 and 2013. The European Working Conditions Survey published in November 2016 highlights that over the last 10 years, there has been an ongoing improvement in the exposure of workers to physical risks at the workplace, albeit with differences between member states and between different sectors.
5. This positive trend is also perceived by workers. The European Working Conditions Survey highlights that 85% of workers are satisfied with their working conditions. It also highlights almost a 10% decrease between 2000 and 2015 in the number of workers who consider their health and safety to be at risk because of their work. Furthermore, according to the Commission's communication, the percentage of EU workers reporting at least one health problem caused or made worse by work decreased by nearly 10% between 2008 and 2013.
6. There is already a **vast amount of EU legislation protecting workers' health and safety at the workplace**. The existing EU legal framework, comprising 24 directives, is comprehensive and provides for a level playing field for companies operating in the single market. Based on a thorough assessment, the Commission usefully recognises in the communication that the overall framework of EU health and safety legislation remains appropriate. We also agree that the overall structure, consisting of a goal-oriented framework directive complemented by specific directives, is



generally effective in protecting workers in an efficient and proportionate way, whilst remaining on the whole fit-for-purpose. **We therefore call on the Commission to not make unnecessary changes to EU health and safety legislation or new legislation in this field.**

7. We acknowledge that some legislation is no longer fit for purpose and some is overly complex, which is not good for business nor workers. SMEs in particular are faced with compliance and administrative costs and burdens when complying with EU OSH legislation, given the prescriptive nature of many of the directives, potential inconsistencies between them and the cumulative burden. This makes it difficult to effectively implement legislation, which can have a negative knock-on effect on worker protection. To deal with this, the focus at EU and national level should be on **improving implementation** of the rules, including through simplification and modernisation, where this is necessary. The Commission should restrict its actions to **genuine better regulation objectives** and ensure that no new burdens are created for companies.
8. To tackle the key challenge of implementation of legislation, it is also necessary to **provide support and guidance to employers and workers**. This includes first of all raising awareness of the rules, as well as providing guidance on how to comply with them, which is user-friendly, simple and accessible. It is also important to raise awareness of the potential benefits of OSH for business productivity and performance. To achieve this, it is crucial for small and medium sized companies in particular, that **tools can be integrated with business strategies**, so that health and safety policies are not an add-on, but rather linked with production or service delivery by the business.
9. **Useful tools** include campaigns and training for example provided by public authorities, labour inspectors, health and safety agencies, as well as employer organisations and trade unions. Free and user-friendly on-line tools, which employers and workers can adapt to their specific situation, can also be useful to support actions and guide companies step-by-step, for example through risk assessment procedures. Written guidance material has an important role, such as the guidance documents produced by the Advisory Committee on Safety and Health, but also more hands-on guidance through training and exchanges of experience are necessary, so that companies get first-hand experience of what works well and what doesn't.
10. It is not only important to target guidance and support towards legal compliance, but also **development of prevention strategies and how to work together** with workers and their representatives. This is important in creating a culture at the workplace, which is conducive to finding joint solutions. This will become increasingly important in the future, in helping employers and workers make OSH policies and actions future proof, in particular in view of adapting to new risks and challenges at the workplace.

III. General remarks on the Commission's communication

11. **Overall BusinessEurope finds the approach of the Commission's communication balanced.** In particular, we welcome the acknowledgement that whilst legal requirements must be implemented and enforced, it is a culture of compliance in businesses which ensures that workers are actually protected in an effective and efficient way. The EU should also encourage a **prevention culture** at the workplace, where employers and workers understand their respective rights and



obligations, and work together to find joint solutions. This is what really makes for effective and efficient protection of workers. In this context, we welcome the Commission's acknowledgement that social dialogue has made a huge contribution to improving health and safety, at EU, national, sectorial and company level and we are convinced that it will continue to do so.

12. It is also crucial to ensure that the legal framework can be implemented by companies of all sizes in all Member States, as this is how we make sure that there is a level playing field for worker protection across the EU. Whilst the legislation is generally well transposed by Member States, it is important to acknowledge that there are inconsistencies between them in the application and enforcement of the EU OSH framework directive and specific directives. This is partly due to different cultures of enforcement. It is important to respect the different choices that Member States have made in how they transpose the EU OSH legislation, and in any case since the EU can only set minimum standards in this field, Member States may always go beyond the EU provisions. Therefore, there are bound to be some differences. Despite this, we believe it would be useful to look at how to improve the situation to make sure that enforcement and application of EU OSH legislation is adequate and appropriate in the Member States and to work on reducing the differences. We see a role for the European Commission, the Senior Labour Inspectors Committee (SLIC) and the European Parliament in this. We also call on the SLIC to better involve the social partners in this work, so that they can feed in the views of employers and workers.
13. We welcome the priority that the Commission gives in the communication to **continual awareness-raising, guidance and exchange of good practices**, and we welcome the guide for employers which accompanies the communication, as well as other work on guides (e.g. in the Advisory Committee on Safety and Health). We agree on the need to involve a broader range of actors from the world of education and management training, but also from human resources and those providing worker training. We believe this is crucial to achieve better implementation of the rules, as well as more generally creating a culture of compliance and prevention in companies.
14. Employers are responsible for providing a safe place of work, which includes complying with regulations. This brings costs for companies, but beyond this, **employers already invest a lot in OSH and this generally pays off**, for example by contributing to business productivity and performance. How much return a company gets on its investment, **however, depends on many different factors**, including the economic situation of the company. Therefore, the statement in the Commission's communication that the employer will have a return in double for every euro spent on OSH is a vast generalisation.
15. We are concerned about the way in which ILO "estimations" about fatal work-related diseases are used by the Commission to underpin its goal to undertake possible actions in the area of OSH in the future. The Commission press release (10 January 2017) accompanying the proposal states that "it is estimated that about 160.000 Europeans die from illnesses related to their work every year". While the Commission points out in its communication that "according to the most recent available data the number of workers who died in accidents at work dropped by almost 1/4 as compared with the situation in 2008", the figure used in the press release conveys a misleading impression. The definition for occupational diseases which is the basis for the figure used in the Commission's press release stems from an ILO study from 2009. In this study the authors use a very broad definition which for example regards circulatory



system diseases as a work-related disease. However, in the majority of cases these diseases are not caused by work-related factors. We question the value of using such estimations which make it impossible to draw policy conclusions. It would have been more transparent and informative if the Commission had used a more concise definition only taking into account fatalities due to work-related diseases. For example, according to the German Social Accident Insurance (DGUV) 2409 people died in Germany because of work-related diseases in 2015 (DGUV, 2016). Therefore, one might assume that the number of fatalities in the EU due to work-related diseases is significantly lower than 160.000.

16. Another “estimation” can be found in the Commission’s communication on page 3: “It has been estimated that in the EU-28 122,600 (range: 91,500 – 150,500) people with past exposure to carcinogenic substances at work were newly diagnosed with cancer in 2012 and that 79,700 (range: 57,700 – 106,500) cancer deaths were attributed to work-related exposure to carcinogenic substances in 2012 designating cancer as the first cause of work-related deaths in the EU.” To justify further EU action in the area of occupational safety and health the Commission should use more meaningful and informative figures in the future instead of referring to estimations with a very wide range.
17. BusinessEurope is ready to discuss how to ensure that EU OSH legislation is fit-for-purpose now and in the future, also linked to the rapid developments in digitalisation and changing work patterns. However, we insist that this remains a separate exercise to the European pillar of social rights.

IV. Remarks on specific elements of the Commission’s communication

18. This part of the position paper provides our views on the different sections of the Commission’s communication, including links to the staff working documents on the evaluation of EU OSH legislation and the guide for employers.

Comments on section 2. of the communication: ‘Helping businesses comply with OSH rules’

- ***Make risk assessment about action at the workplace***

19. BusinessEurope supports the focus on helping businesses to comply with OSH rules. This rightly acknowledges that the necessary legislative framework already exists and that implementation should be the focus from now on. We recall that workers also have obligations under EU OSH legislation, therefore the focus should be on improving implementation across the board.
20. In this context, we agree that one of the key areas of attention should be risk assessment, as this is the key principle underpinning the EU OSH legislative framework and prevention culture. As stated in the staff working document, the Esener-2 survey indicates that already 76% of establishments in the EU carry out a risk assessment, although compliance varies for different sizes of companies and from one Member State to another. Making risk assessments work in practice is key to ensure that all businesses across the EU are able to protect their workers in a cost-effective way, which is proportionate to the specific risks at their workplace. Whilst acknowledging that many companies document their risk assessment in



writing, we believe there needs to be a shift in focus away from paper-driven to result-oriented measures. The focus should be on real and appropriate action at the workplace, rather than on the underlying principles or on the specific instruments used to define those actions, such as the risk assessment process and documents. The focus should not be on having a risk assessment per se, but rather using it as a tool for appropriate control and prevention measures at the workplace.

21. We believe that the proposal of the Commission to facilitate an exchange of best practices between Member States on ways to reduce compliance costs of SMEs could be useful. However, cost is not the only obstacle to compliance, but also the lack of expertise, personnel resources and knowledge. The Esener survey for example shows that lack of expertise to document their risk assessment is one of the main reasons for companies not having developed a documented OSH policy, management system or action plan. Smaller companies, like other sizes of companies, generally know how work should be done in a safe way. However, they may have to resort to external expertise to assist in their risk assessment, in particular to document it. This can be very expensive. The aim should therefore be to seek as little external expertise as possible. The guide for employers accompanying the Commission's communication is a useful tool in this respect. In the exchange process the focus should be on appropriate action and not on underlying principles, instruments, documents (see point 15.)

22. As stated in the guide, risk assessment and the resulting preventive and protective measures are not a one-shot action. We agree that it is crucial to monitor efficiency and effectiveness of actions, adapt plans if necessary, as well as looking out for new risks which can arise with changes to work practices or activities. This is important to avoid focusing only on risk assessment, but rather helping companies to implement the full risk management process. These actions should, however, be for each company to decide, depending on its specific situation.

- ***Help business to future proof OSH***

23. We recognise that there are challenges at the workplace concerning psychosocial risks and musculoskeletal disorders. Whether these risks are rapidly increasing at the workplace is debatable – it is rather that the nature of OSH is changing, due to, for example a more diverse workforce, more varied types of work organisation and working practices, and that this is putting a spotlight on such challenges.

24. It is important to acknowledge that these are also clearly societal challenges. As stated in the communication, these are complex, multidimensional issues, where negative impacts can be caused by factors at the workplace but also outside work, i.e. these issues do not only affect those in work, but also, for example the unemployed, retired people and students.

25. Musculoskeletal and psychosocial risks, where they occur at the workplace are best dealt with through a preventive approach framed by an open culture at work floor level to find solutions. This should be based on a shared responsibility between employers, employees and co-workers. We therefore agree with the approach taken by the Commission in the communication, to facilitate sharing of good practice and produce guidance to raise awareness of and assist employers and workers to tackle



these issues. This is the best way to improve workers' protection in practice, as it allows for action to be targeted to different sectors, and to the specificities of the workplace, the identified risks and the workers. For example, regarding musculoskeletal disorders, the communication rightly highlights that different jobs entail very different exposures and that there are considerable age, lifestyles and gender differences. When developing guidance, it is important that this is done in collaboration with employers and workers, and their representatives at national and sectoral level, to ensure that it is of high quality and useful. It is also important to avoid duplicating guidance, as this can create confusion for SMEs in particular.

26. The focus in the communication also rightly recognises that there are different national approaches and that a number of actions have already been taken in Member States. Also, from a legal point of view, as the Commission states, all risks at the workplace are covered by the framework directive. For these reasons, new legislation in the area of psychosocial risks or musculoskeletal disorders is not necessary or appropriate.
27. The communication rightly points to the importance of acknowledging that lifestyle-related risk factors, which are not caused at the workplace – such as unhealthy diets, physical inactivity, smoking, the harmful use of alcohol, as well as use of drugs – are contributing to the heavy burden of chronic disease across Europe. It is also important to see this issue from the point of view of employers - as the communication states, this has an impact on workers' productivity, performance of work and therefore the performance of the company. At the same time, employers are increasingly taking voluntary initiatives, for example as part of corporate social responsibility policies, to promote wellbeing of workers.
28. We see that there is an increasing diversity of the workforce, for example an ageing workforce, as well as more women on the labour market and more migrant workers. We agree that risk assessments should take account of the diversity of the workforce, or perhaps better put, risk assessment should take account of the fact that there may be different profiles of individuals at the workplace, of course depending on the specific situation in each enterprise. This also includes younger workers, who may have less practical experience of health and safety matters/procedures at the workplace. However, as highlighted in the guide annexed to the communication, the legal obligations of an employer, as laid down in the EU framework directive on health and safety apply equally to different workers at the workplace. Therefore, there is no need to carry out a separate risk assessment for different groups of workers. In any case, this would not be an effective way to ensure protection at the workplace, given that individuals, even in one age or gender group, differ.
29. We believe that it could be useful for the Commission and/or the EU Agency on Health and Safety at Work (EU-OSHS) to compile examples of existing national, sectoral or company level guidance and good practices on dealing with musculoskeletal disorders, psychosocial risks and diversity at the workplace, to show how the framework directive is implemented in these fields.



Comments on section 3 of the communication: ‘Removing or updating outdated rules and refocussing efforts on facilitating compliance, a broader coverage of people and better enforcement’

- ***Avoid unnecessary changes to EU legislation***
30. Whilst recognising that some provisions in EU OSH directives may be obsolete, we call on the Commission to not make unnecessary changes to legislation as part of the announced programme to remove or update outdated provisions. Any follow-up to the communication must lead to real improvements on the ground, not just on paper. And it is crucial that the EU respects its competences in this area, where it is restricted to setting minimum standards.
31. At all stages of the process, social partners must be informed of and consulted on any follow-up action including through the Advisory Committee on Safety and Health.
- ***Encourage Member States to reduce administrative burdens in national OSH legislation***
32. We welcome the focus that the Commission puts on the need to reduce administrative burden in national OSH legislation, as in many cases, Member States have implemented more detailed or stringent requirements than those specified at EU level. This increases compliance costs for businesses, makes it more difficult to achieve a level playing field across the EU and ultimately damages worker protection. We therefore welcome the intention by the Commission to initiate a peer review process with the specific aim to reduce administrative burden in national legislation while maintaining workers' protection. This must respect the different approaches taken at national level, as well as ensuring involvement of social partners in the review process.
- ***Respect Member States' practices in coverage of OSH policies***
33. The 2014 opinion of the Advisory Committee on Safety and Health on ‘Improvement of the protection of the health and safety at work of self-employed workers’, highlighted that there are such strong differences in law, custom and practice amongst the Member States in relation to self-employed workers and that a single EU-wide approach on the protection of their safety and health at work could therefore not conceivably address all the different systems fairly and coherently. This is due to the fact that there is wide variation between Member States in the definition of a self-employed worker, the scope of the legislation applying to them and the extent of their obligations. We therefore agree with the approach taken by the Commission to focus on implementation of existing measures, including the existing council recommendation on self-employed.
- ***Promote adequate and appropriate labour inspection***
34. We acknowledge that inspections play a role in terms of compliance. Labour inspection is a national competence and the different approaches taken by Member States should be respected. At the same time, adequate and appropriate inspection is important in creating a level playing field between companies at national level. To make improvements in this area, inspections need to be re-defined – they should not



only focus on legal compliance or only be about checking and sanctioning; labour inspectors should also provide support and advice to employers and workers, to assist them in implementing the rules, but also in creating a culture of prevention. They should also work more closely with employer and worker organisations, to better understand the needs of their members.

V. Remarks on interplay between OSH and REACH

35. Section 1. of the communication refers to the complementarity between REACH and OSH chemical legislation in terms of protecting workers from exposure to dangerous chemicals. It notes at the same time that work is ongoing to clearly establish the interface between REACH and OSH and that the Commission will present a common approach on this in 2017.
36. BusinessEurope fully agrees with the objectives of REACH to protect human and environmental health and to ensure a free circulation of substances on the internal market. Similarly, we support in general the EU framework for protecting workers from exposure to chemicals and carcinogens and mutagens at the workplace. It is important to remember that the EU Treaty stipulates that legislation protecting workers' health and safety at the workplace is, like other EU social legislation, based on EU minimum standards. In contrast, the EU Treaty base for REACH is the much broader objective of internal market harmonisation, while achieving improved protection of human health and the environment.
37. These different treaty bases naturally result in different objectives and procedures when it comes to setting exposure limit values. To ensure safe use of chemicals by workers at the workplace, the EU sets Binding or Indicative Occupational Exposure Limit Values (BOELS/IOELVs) in the framework of the chemical agents directive and carcinogens and mutagens directive. It is important to note that indicative OELs are only indicative in the sense that Member States may put in place a stricter OEL. They do not provide a less binding provision, as Member States are legally obliged to take regulatory action and put in place a national OEL, which should be at least equivalent to the EU one. And employers are obliged to comply with the limit value at the workplace. In contrast, in the framework of REACH, 'derived no effect level' (DNEL) limit values are rather designed to support the definition of risk management measures for the purpose of registering chemical substances.
38. We would like to dispel any myth that may exist, that the current procedures for setting occupational exposure limit values are less rigorous or provide for weaker worker protection than those used in the framework of REACH.
39. The current procedure is based on a number of essential elements: Firstly, the limit values are based on a recommendation from the Scientific Committee for Occupational Exposure Limits (SCOEL). This ensures that they are based on sound scientific evidence. Secondly, the limit values proposed by the European Commission are generally based on the opinions adopted by the EU Advisory Committee on Safety and Health. This allows for the consultation of government, employer and worker representatives from all 28 EU member states – a crucial process, as they are those who will enforce and implement the limit values at national level. These actors take into account the socio-economic impact and feasibility



factors for defining a limit value at a certain level. This is vital to make sure that their implementation is technically feasible for industry - after all, if industry can't implement the limit values, workers will not be adequately protected. Whilst stricter limit values may exist in some member states, it is not always clear whether these are actually implemented.

40. It should also be recalled that when it comes to protection at the workplace, EU and national legislation includes many other requirements for employers, in particular conducting risk assessment, but also providing access to personal protective equipment, working hour limitations, setting up of closed systems, as well as access to Safety Data Sheets and other relevant information. This also shows why different approaches are appropriate.
41. It is also important to note that the process for deriving DNELs as part of REACH has in fact been simplified to allow registrants to calculate them also when toxicology data are limited. This allows for the calculation of a DNEL to be done without collecting in-depth expert knowledge.
42. Whilst efforts have been made to enhance the consistency between REACH and other pieces of legislation, notably on the risk management options analyses (RMOAs), this interface between EU OSH and REACH derived limit values continues to cause confusion and legal uncertainty for businesses as to which value is applicable at the workplace in practice. It also causes unnecessary duplication. For example, if workplace legislation rules or other RMOAs identify and manage risks regarding worker exposure to a certain substance, it does not make sense to spend additional resources on the candidate list or authorisation if no additional impact is expected.
43. We also recognise that the procedure for OEL-setting, in comparison to setting of DNELs in the framework of REACH, has been criticised for lack of efficiency in the system, as it can take a long time for limit values to actually be proposed by the Commission. We note, in particular in the last six months, that there have been improvements and for some substances the process has been speeded up, as the Commission has already presented first and second wave proposals for more BOELs in the carcinogens and mutagens directive, and a further wave is on its way. This shows that the system can work efficiently and effectively.
44. Of course, further improvements can be made, both in the working methods of the SCOEL and the Advisory Committee on Safety and Health, and BusinessEurope is willing to discuss with DG Employment, DG Grow and the Secretariat General how to achieve a more streamlined process for OEL-setting.
45. We also therefore support the Commission in its efforts to provide clarification and guidance in this area. We call on the Commission to ensure that the common approach contributes to improving the situation in terms of preventing overlap between REACH and workplace safety rules, so that duplication can be avoided. When it comes to setting limit values, this does not however mean that one procedure/method should apply for all situations. For example, if the Commission was to decide to shift some of the responsibilities of SCOEL to the Risk Assessment Committee (RAC), which operates in the framework of REACH, this would be



inappropriate given that SCOEL has a defined role to provide scientific evidence for occupational exposure limit values. This would also be in contradiction to the different legal bases of the OSH framework on the one hand and REACH framework on the other. Such an approach would also be detrimental to the important input of social partners (employers and employees alike) in the process of setting OELs within workplace legislation, through the Advisory Committee on Safety and Health.

46. A targeted approach to protecting workers from exposure to chemicals, carcinogens and mutagens at the workplace is much better achieved through the current OEL setting procedures. We are convinced that retaining the current OEL setting procedures, based on SCOEL providing the scientific recommendations and government and social partner advice through the Advisory Committee on Safety and Health, albeit with some improvements, is the best way to achieve this.
47. Clearly interaction and exchange of information between SCOEL and RAC is important, whilst clearly distinguishing their different roles. In this respect one useful clarification would be to insist that where an up-to-date EU-wide OEL exists, it takes precedence over DNELs for managing risks at the workplace. REACH Authorities could then recognise such a value instead of deriving a 'worker DNEL'. This will avoid double work, conflicts of opinion and confusion at the workplace/downstream user level, as well as improving legal certainty.

VI. Remarks on the second wave proposal to revise the carcinogens and mutagens directive

48. This part of the position paper provides our views on the accompanying second wave proposal to revise the directive on protecting workers from exposure to carcinogens and mutagens at the workplace.
49. We welcome that the Commission's proposal is based on the opinions of the tripartite Advisory Committee on Safety and Health (ACSH), representing a general consensus between worker, employer and government representatives from the 28 member states. We support that these opinions are based on the recommendations of the Scientific Committee on Occupational Exposure Limits (SCOEL). We call on all actors involved in this work to honour the agreements reached throughout the legislative process.
50. Employers are committed to effective protection of workers from occupational cancer. Preventing occupational cancers is in the interest of workers, society at large, as well as businesses. Furthermore, setting Binding Occupational Exposure Limits (BOELs) at EU level helps to provide a level playing field for industry and worker health and safety protection across the EU.
51. The process of setting BOELs must be based on sound scientific evidence, which is the aim of SCOEL, as well as technical and economic feasibility and a thorough assessment of the socio-economic impact, as provided for by the ACSH. Only those substances which are scientifically proven and classified as carcinogens in Europe should be added to the relevant annex of the directive. Proposing a series of substances for inclusion in the annex on the basis of unofficial lists, as opposed to



scientific evidence, should be avoided. Where relevant, the Regulation on Classification, Labelling and Packaging of Substances (CLP) should be taken into account. These conditions are crucial in allowing for an effective implementation of the limit values by industry and therefore a high level of worker protection.

52. Overall, we therefore support this 2nd wave revision of the annexes of the carcinogens and mutagens directive, as the Commission has restricted itself to including in the directive those substances which meet the above conditions.
53. The proposal correctly identified that some of the substances (e.g. mineral oils that have been used in internal combustion engines and in engines in portable machinery) are process-generated and are therefore not subject to classification in the CLP regulation, however that there is evidence of their carcinogenicity. This led the Commission to not include some substances in the proposal. We support this. It also led the Commission to include some types of work involving exposure to such substances in Annex I of the directive, but not to include a specific limit value. We also believe this approach is appropriate.
54. The other substances covered by the proposal meet the criteria for classification as carcinogenic (category 1A or 1B) in accordance with Regulation (EC) No 1272/2008 and it is therefore logical that they are covered by the directive. (i.e. polycyclic aromatic hydrocarbons (PAHs) mixtures containing benzo[a]pyrene, Trichloroethylene, 4,4'-Methylenedianiline, Epichlorohydrine, Ethylene dibromide, Ethylene dichloride).
