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REPORT

from:	Presidency
to:	Permanent Representatives Committee (Part I) / Council (EPSCO)
No. Cion prop.:	ST 8962/16 SOC 255 EMPL 158 SAN 187 IA 23 CODEC 666
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work - Progress report

INTRODUCTION

On 13 May 2016, the Commission submitted its proposal for amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. The proposal is based on Article 153(2) TFEU.

There is a broad political support for amending the list of carcinogens included in the 2004 Directive on carcinogens and mutagens. In 2015, the Council invited, in two separate sets of conclusions, the Commission to review the list of substances and, if necessary, the limit values included in the 2004 Directive.

The European Parliament, in its Resolution adopted in November 2015, highlighted the importance of protecting workers against exposure to carcinogens, mutagens and substances that are toxic to reproduction and called on the Commission to present a proposal for a revision of Directive 2004/37/EC with more binding occupational exposure limit values where necessary.

At this stage of the discussions, a large number of delegations are considered to maintain their scrutiny reservation on the proposal. DK, IE, MT, PL, FI and UK delegations have entered parliamentary scrutiny reservations.

COUNCIL DISCUSSIONS DURING THE NETHERLANDS PRESIDENCY

The Commission gave a detailed presentation on the proposal and on the accompanying Impact Assessment (IA). There was a broad political support for the Commission submitting the proposal. A majority of delegations have indicated that they are still examining the proposal.

The Working Party on Social Questions (SQWP) has held two meetings where the proposal and the related Impact Assessment (IA) were discussed. A questionnaire was sent to the delegations on which a majority of Member States replied. The replies to the questionnaire were discussed by the SQWP on 6 June.

The proposed revision concerns in particular Annex I and III of Directive 2004/37/EC. In Annex I, a provision is added on exposure to respirable crystalline silica dust generated by a work process. With regard to Annex III, while the current Directive includes three carcinogenic agents (hardwood dust, benzene, and vinyl chloride monomer) and their limit values for occupational exposure, the proposal revises the limit value for two of these substances and includes new limit values for eleven substances. In evaluating the latest scientific data, the Commission has been assisted by the Scientific Committee on Occupational Exposure Limits.

The delegations have recognised that the Commission had invested substantial effort in preparing its impact assessment. The 13 above-mentioned carcinogenic substances have required a separate impact assessment. Each individual impact assessment took into account how the substance in question is being used, which industrial sectors are being involved and what are the current rules on the substance in different Member States. A number of Member States already have occupational limit values for substances included in the proposal. However, not all Member States have set limit values and the existing values vary between them. While a large majority of the delegations have already expressed their appreciation for the extensive Commission's IA and for all the scientific work required for the preparation of the proposal, some delegations are still examining the IA. Once these replies to the questionnaire and related issues are clarified, a summary on the discussions will be submitted to the Committee of Permanent Representatives.

NEXT STEPS

Given the short time available, the preparatory work in the Social Questions Working Party has paved the way to further examination of the proposal after the EPSCO Council during both the Netherlands and the Slovak Presidency. The future work will mainly entail discussions on the substances and the respective limit values..

The Council will follow with interest the European Parliament's work on the file.

The Council has asked the European Economic and Social Committee and the Committee of the Regions to provide, as soon as feasible, their opinions on the proposal.

The Commission has indicated that a second batch of carcinogens (that is a second proposal to amend Annex III of Directive 2004/37/EC) can be expected later in 2016.