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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work

Delegations will find attached document SWD(2022) 312 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

[…]

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council

amending Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work

{COM(2022) 489 final} - {SEC(2022) 342 final} - {SWD(2022) 310 final} - {SWD(2022) 311 final}

A. Need for action

Why? What is the problem being addressed?

Occupational cancer is the main cause of work-related deaths in the EU[1]. It is primarily caused by exposure to carcinogenic substances such as asbestos. Asbestos is a highly dangerous carcinogenic substance and although no longer in general use in the EU, it is still present in many older buildings. Exposure to asbestos can lead, for example, to mesothelioma[2] and lung cancer, with a lag between exposure to asbestos and the first signs of disease of as much as 30 years. Of all cancers recognised as occupational cancer in the Member States, 78% are related to asbestos[3].

The risk of exposure is mostly related to the handling of asbestos and dispersion of asbestos fibres during construction works, such as during renovation and demolition. The pace of asbestos removal can vary between countries depending on the age of the building stock and the strategies for addressing asbestos, but the growing need to increase energy efficiency means that workers in all Member States are increasingly affected. This need reflects the ambition of the EU set in the European Green Deal to become the first climate-neutral continent by 2050[4]. The exposure of workers to asbestos is thus expected to increase in all EU countries as the implementation of the Renovation Wave Strategy[5] progresses. It is estimated that 4.1 to 7.3 million workers are exposed to asbestos, 97% of whom work in the construction sector.

In the EU, the protection of workers against risks related to exposure to asbestos is regulated by Directive 2009/148/EC (the Asbestos at Work Directive (AWD)). The most recent in-depth evaluation of the AWD[6] concluded that the AWD remains highly relevant and effective. The study supporting this evaluation[7] concluded that there is evidence to support lowering the occupational exposure limit (OEL) value, to increase the relevance and effectiveness of the AWD. Revising the OEL is also supported by the latest assessment of the implementation of the EU Occupational Safety and Health (OSH) Directives, covering the period from 2013 to 2017[8]. In addition, in November 2021, the tripartite Advisory Committee on Safety and Health at Work (ACSH) unanimously agreed on the need to lower the current OEL.

If no action is taken at EU level and considering only those occupations where exposure to asbestos currently occurs, an estimated 884 cases of cancer attributable to occupational exposure to asbestos[9] will occur in the EU over the next 40 years. It is also predicted that 707 workers will die from

[1] With a share of 52%, occupational cancer is the first cause of work-related deaths in the EU, before circulatory illnesses (24%),injuries (2%) and all other causes (22%) (2017 data, thus covering the EU and the United Kingdom (https://visualisation.osha.europa.eu/osh-costs#!/)).
[2] Mesothelioma is a type of cancer that develops from the thin layer of tissue that covers many of the internal organs (known as the mesothelium).
[3] https://ec.europa.eu/eurostat/web/experimental-statistics/european-occupational-diseases-statistics
[4] https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en
[5] Commission Communication *A Renovation Wave for Europe – greening our buildings, creating jobs, improving lives* (COM(2020) 662 final).
[6] 2017 *ex post* evaluation of the EU OSH Directives (SWD(2017) 10 final).
[7] *Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in EU Member States*.
[8] Staff working document accompanying the EU strategic framework on health and safety at work for 2021-2027 (SWD(2021) 148 final).
[9] Including mesothelioma and lung, laryngeal and ovarian cancer.

cancer attributable to occupational exposure to asbestos over the same period. These estimated cancer cases will result in health costs of between EUR 228 million and EUR 438 million.

Number of exposed workers	Health effects caused	Expected no. of cases (2021-2061)	Expected no. of deaths (2021-2061)	Estimated health costs (net present value)
4 100 000- 7 300 000	Lung cancer Mesothelioma Laryngeal cancer Ovarian cancer	884	707	EUR 228 million- EUR 438 million

What is this initiative expected to achieve?

The main general objective of this initiative is to further strengthen workers' right to a high level of protection of their health and safety at work and to prevent disease and death caused by work-related cancer.

To support this general objective, this initiative will pursue the specific objectives:

- to make the OEL value under the AWD more effective by updating it on the basis of scientific expertise; and
- to achieve a more uniform and better protection of workers across the EU against asbestos.

What is the value added of action at EU level?

Updating the AWD to take account of the latest available scientific evidence is an effective way to ensure that preventive measures are updated accordingly in all Member States.

Revising the OEL under the AWD will not completely eliminate the differences between Member States, but will lead to a greater harmonisation of limit values across the EU. Therefore, a revised EU OEL helps achieve a more harmonised and better protection of workers, and level the playing field for businesses across the EU. Companies willing to operate in multiple Member States can further benefit from streamlined applicable limit values. This may result in savings, as common solutions can be adopted across facilities, as opposed to having to design site-specific solutions to meet various OEL requirements in multiple Member States.

EU-level action will likely bring about fairer conditions for workers and lower healthcare costs that are more fairly distributed across Members States.

Revising the EU OEL eliminates the need for Member States to carry out their own scientific analysis, with likely substantial savings on administrative costs. Amending the AWD can only be done by action at EU level.

B. Policy options

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

Both revising current guidelines and adopting specific measures for small to medium-sized enterprises (SMEs) have been discarded as these options were considered less effective in reaching the objectives of this initiative.

Revising the EU OEL under the AWD has been selected as the most appropriate approach. Several OEL scenarios have been assessed taking into account the scientific assessment of the Committee for Risk Assessment of the European Chemicals Agency[10], the opinion of the tripartite ACSH[11], and the OELs in place in the Member States. The scientific evaluation provides a solid evidence base, while the ACSH's opinion, which also factors in socio-economic and feasibility issues, provides important information for the successful implementation of the revised OEL.

Based on a thorough impact assessment, an OEL of 0.01 fibres/cm^3 has been selected as the preferred option as it represents the best scenario in terms of effectiveness, efficiency and coherence.

The option of revising other provisions of the AWD as requested by workers' organisations and the European Parliament resolution was considered but was not selected. The discussions with the tripartite ACSH, the scientific analysis and the two-stage consultation of EU social partners in line with Article 154 of the Treaty on the Functioning of the European Union focused on updating the OEL as a matter of urgency, rather than reviewing the AWD more comprehensively, based on the findings of the *ex post* evaluation of the AWD[12]. This has no bearing on the outcome of future assessments and possible revisions of other provisions of the AWD. Nevertheless, it should be noted that Member States can go beyond the minimum provisions of the AWD and that they are responsible for the specific implementation and enforcement of the national provisions transposing the AWD. As appropriate, the specific requests of workers' organisations and the European Parliament will be addressed in dedicated guidelines. These guidelines would be made available by the Commission after the adoption of the revised AWD, to support its implementation.

[10] *Opinion on scientific evaluation of occupational exposure limits for Asbestos*.
[11] ACSH, *Opinion on an EU Binding Occupational Exposure Limit Value (BOEL) for Asbestos under the Asbestos at Work Directive 2009/148/EC* (Doc. 008-21), adopted on 24.11.2021.
[12] SWD(2017) 10 final, 10.1.2017.

Who supports which option?

As part of the formal two-stage consultation of the social partners, both employers' organisations and trade unions supported lowering the OEL under the AWD.

The Employers Interest Group and the Government Interest Group of the ACSH support an OEL equal to 0.01 fibres/cm^3, while the Workers Interest Group is in favour of adopting an OEL equal to 0.001 fibres/cm^3.

C. Impacts of the preferred option

What are the benefits of the preferred option?

Thanks to this initiative, 663 cases of cancer (lung cancer, mesothelioma, laryngeal cancer and ovarian cancer) could be avoided over the next 40 years. This will reduce the suffering of workers and their families, and increase the length, quality and productivity of their lives, among other things. In economic terms, this health benefit translates into between EUR 166 million and EUR 323 million.

Making asbestos-removal work safer will increase the attractiveness of the sector. As a result of such an improvement in their public image, companies may find it easier to recruit and retain staff, reducing the cost of recruitment and increasing the productivity of workers.

What are the costs of the preferred option?

Action to adjust working practices to comply with the new OEL would result in increased costs for companies. These include mainly the costs of additional risk-management measures, notification, medical surveillance, monitoring and training. However, average costs per company over the next 40 years would be lower than EUR 15 000. These costs are, to a large extent, likely to be passed on to customers.

How will businesses, SMEs and micro-enterprises be affected?

Small companies, which account for more than 99% of companies working with asbestos in all sectors, will more likely be concerned by the reduced OEL. Costs can have a small impact (cost/turnover ratio between 2 and 4%) in the sectors of repair of electrical equipment, repair and maintenance of ships and boats, and maintenance and repair of motor vehicles (i.e. 0.02% of all companies dealing with asbestos). With the exception of SMEs in these sectors, the big majority of SMEs will not be impacted by necessary cost increases.

Will there be significant impacts on national budgets and administrations?

Enforcing authorities might incur additional administrative and enforcement costs. However, these costs are not expected to be significant (around EUR 390 000 per country per year). The selected option should also help mitigate financial losses of Member States' social-security and healthcare systems by preventing ill health. The estimated benefits for public authorities (EUR 3.4 million over 40 years) are smaller than the quantified costs (around EUR 421 million over 40 years).

Will there be other significant impacts?

The preferred option will also have a positive impact on fundamental rights, especially with regard to Article 2 (Right to life) and Article 31 (Fair and just working conditions) of the Charter of Fundamental Rights of the European Union.

Moreover, it will help achieve the Sustainable Development Goals (SDGs) on good health and well-being (SDG 3) and decent work and economic growth (SDG 8). It is also expected to have a positive impact on the SDG on industry, innovation and infrastructure (SDG 9) and on responsible production and consumption (SDG 12).

D. Follow-up

When will the policy be reviewed?

The effectiveness of the proposed AWD revision would be measured as part of the evaluation of the EU OSH Directives under Article 17a of Directive 89/391/EEC.