

Brussels, 18 October 2018
(OR. en)

13231/18

LIMITE

SOC 621
EMPL 476
SAN 328
IA 317
CODEC 1704

Interinstitutional File:
2017/0004(COD)

REPORT

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
No. Cion doc.:	ST 5251/17 + ADD 1
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 - second batch - <i>Analysis of the final compromise text with a view to agreement</i>

I. INTRODUCTION

On 5 October, the Committee of Permanent Representatives gave the Presidency a new mandate to continue negotiations on the above Directive (second batch). Based on that mandate, the Presidency was in a position to reach a provisional agreement at the fourth trilogue on 11 October, subject to approval by the Committee.

II. CONTENT OF THE PROVISIONAL AGREEMENT

New substances added to Annexes I and III

The co-legislators agreed to add all substances proposed by the Commission to the annexes to the Directive.

Not only were the **polycyclic aromatic hydrocarbons (PAH) mixtures** containing benzo[α]pyrene added to the list, but the scope was also extended to all PAH which are carcinogens within the meaning of the Directive. Article 18a of Directive 2004/37/EC was not amended to include a requirement for the Commission to assess the possibility of extending the existing point in Article 2 in Annex I and to define a limit value for benzo[α]pyrene.

On **Diesel Engine Exhaust Emissions (DEEE)** the agreement follows the lines of the extended mandate given by Coreper,

- including DEEE in Annexes I and III to the Directive,
- fixing the limit value at 0,05 mg/m³, measured as elemental carbon,
- this limit value applies as of two years after the end of the (two-year) transposition period for all sectors, and
- for underground mining and tunnel construction the limit value applies as of five years after the end of the (two-year) transposition period.

No second marker was defined and the Commission was not tasked with further evaluating the need for a second marker or tighter limit values for DEEE.

It has been clarified that the addition of **work involving exposure to 'oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine'** to Annex I and III is limited to dermal exposure to mineral oils.

Other issues relating to the body of the Directive

Social partner agreements, if concluded in the **field of Directive 2004/37/EC**, will be published on the EU-OSHA website, without the Commission being legally obliged to encourage the social partners to conclude such agreements.

Member States will not be obliged to **report on the number of inspections and inspectors** involved in the enforcement of Directive 2004/37/EC.

Recitals

Cytostatic/cytotoxic drugs are mentioned in the new recital (12) with a reference to guidance provided by the Commission to reduce occupational health and safety risks in the healthcare sector, including on the risk related to exposure to cytostatic/cytotoxic drugs, in a dedicated guide to prevention and good practice. No commitment to legislate on these substances has been made.

On the **health of fetuses and future generations**, in the new recital (14) reference is made to the promotion of the principle of prevention at the workplace, notably by sharing best practices among Member States, also in relation to carcinogens and mutagens having effects on future generations such as the negative impacts on both men and women's reproductive capacity and on foetal development.

III. CONCLUSION

Should the Permanent Representatives Committee approve the informally agreed text as set out in the Addendum to this report, the formal procedure requires that a letter be sent by the President of the Permanent Representatives Committee to the Parliament proposing that an agreement at first reading could be reached, subject to Parliament agreeing to adopt an identical text at its plenary session.

In order to pave the way for the final adoption of the Directive, in accordance with Article 294 TFEU, the Permanent Representatives Committee is invited to confirm, on the basis of the consolidated text set out in the Addendum to this report, that this text is acceptable and to agree to inform the Parliament accordingly.
