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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft 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, mutagens or reprotoxic substances at work (first reading) - Adoption of the legislative act = Statement

Commission has requested that the following statement be entered in the Council minutes

In order to prevent or reduce exposure to carcinogens, mutagens and reprotoxic substances, Directive 2004/37/EC establishes a hierarchy of technical and organisational measures. In this context, personal protective equipment (PPE), in particular individual respiratory protection equipment, should be used as a last resort.

To ensure its full effectiveness, PPE should be selected to be appropriate for the risks involved, without itself creating any additional risk. It should correspond to the existing conditions at the workplace, take account of ergonomic requirements and the worker's state of health and fit the wearer correctly after any necessary adjustment, in accordance with Articles 4 and 5 of Directive 89/656/EEC. PPE should also comply with the relevant Union provisions on design and manufacture with regards to safety and health, in particular Regulation (EU) 2016/425.

In addition, it is necessary to ensure that PPE is maintained in good working order and satisfactory hygienic condition through the necessary maintenance, repair and replacement measures. Since the use of PPE, mainly respiratory protective equipment and protective coveralls, may have an impact on workers' health, breaks may be necessary.

As a consequence, two provisions have been added into CMRD VI to address these issues:

- The first provision adds a subparagraph to Article 5(5) and clarifies that “individual protection measures” referred to in article 5 “Prevention and reduction of exposure” (5) point g include PPE and that they should be used in the respect of the hierarchy of control measures and Directive 89/656/EEC.
- Article 10 “hygiene and individual protection” is supplemented by paragraph (2)(a) addressing the impact of PPE on workers' health. Where employers identify that PPE is required in accordance with the hierarchy of control measures, they shall assess any additional risks created by the use of PPE and determine the duration and frequency of the regular breaks. For the implementation of this provision, breaks required or provided under other existing legal or practical arrangements can be taken into account, provided that the objectives pursued by Article 10(2)(a) are achieved.
