

**Point 3.1**— **second paragraph:**

Delete the second sentence and replace with the following:

'The Committee criticises the fact that the environmental indicators in the documents in question (total of seven) are still inadequate.'

— **third paragraph:**

Delete.

*Result of the vote*

For: 40, against: 62, abstentions: 8.

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**Opinion of the Economic and Social Committee on the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work'**

(2002/C 94/09)

On 13 September 2001, the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 30 January 2002. The rapporteur was Mr Etty.

At its 388th Plenary Session of 20 and 21 February 2002 (meeting of 21 February), the Economic and Social Committee adopted the following opinion by 62 votes to 14 with three abstentions.

**0. Introduction**

0.1. In March 1999 the Economic and Social Committee adopted an Own-initiative Opinion on Asbestos in which, inter alia, it called for a ban on the first use of all asbestos and better protection for workers and self-employed who are required to deal with asbestos in repair, maintenance, refurbishment, demolition and removal.

0.2. The present Commission proposal for amendments of Council Directive 83/477/EEC is a response to the Committee's call for a review of the existing legislation as well as for new measures for reducing the risk for those exposed to asbestos at work, as noted by the Commission in its Explanatory Memorandum.

0.3. In 1999, the Committee expressed the hope and the expectation that the relevant services of the Commission would be adequately equipped to perform the tasks identified in the opinion. Today there seems to be reason for some concern as regards the financial and human resources required. In this context, mention should also, and once again, be made of the forthcoming enlargement of the EU.

0.4. The Commission proposals testify to the continued interest of the Commission for better safety and health conditions at work, in particular in relation to asbestos. The Committee notes, however, with regret that the Commission seems less concerned about the unintended consequences of the better protection of workers in the EU, such as export of dangerous products like asbestos mined in the EU, and of dangerous work such as the stripping of ships containing asbestos to other parts of the world where governments show less concern for these matters. In the latter case, the Commission must draw the attention of Member States to their responsibility in international organisations such as the IMO and ILO and under the Basle Convention.

**1. General remarks**

1.1. The ban on marketing and use of asbestos by Commission Directive 1999/77/EC could have allowed for a fundamentally different improvement of the protection of

workers and the self employed<sup>(1)</sup> from the risks related to exposure to asbestos at work. Taking as its starting point that products containing asbestos are no longer being manufactured in the EU and that, by consequence, workers do not need protection any longer in the pre-manufacturing and manufacturing process apart from the single exemption to the general prohibition (diaphragms for electrolysis), the new instrument could have concentrated on measures to be taken to better protect those people who are still at risk of exposure because they have to deal with existing asbestos products in their work, such as demolition, repair, maintenance, removal and similar activities. Unfortunately, the present Draft Directive does not make such a clean break. It still contains elements which are more appropriate to an asbestos-producing environment.

1.2. It could also have dealt with specific provisions for: health surveillance; registration; and information and training; the risks faced by the self-employed<sup>(1)</sup>; the risks posed to workers (and the population in general) from the second use of products containing asbestos; and improving the recognition of asbestos related diseases as occupational diseases. These are matters which the Commission ought to address through other legal instruments if this Directive is not appropriate.

1.3. The proposal contains several positive elements: it concentrates on workers who will be most exposed in the new situation, it contains simplifications of certain procedures, it introduces a reduction of limit values for exposure, requirements for identification of materials containing asbestos before starting demolition or maintenance, for the provision of proof of competence by firms engaged in this sort of work, and for training of workers. The Draft Directive could be improved by greater clarity as regards the mining of asbestos in the EU. It is also noted that the Commission has not responded to the Economic and Social Committee's proposals on the issue of national registers of buildings and installations containing asbestos.

1.4. After several amendments, the Council Directive of 1983 will become a rather complicated instrument. Therefore, the Committee recommends codification in the near future. A further complication is that certain provisions in the Carcinogens Directive also apply to the Asbestos Directive.

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<sup>(1)</sup> It is noted, following the adoption of this section opinion, that the Commission work programme of 31 January 2002 envisages a 'Proposal for a Council Recommendation on the health and safety at work for the self-employed', to be adopted in February 2002 (Art. 308).

## 2. Specific remarks

2.1. The Commission should reconsider the proposed replacement of Article 3.3, in particular the provisions regarding work situations involving the removal of asbestos coating, insulation or panelling. Instead of listing individual activities, the exceptions set out in Article 3.3 should be defined by means of a list of criteria. The Committee feels that Articles 4, 15 and 16 should not apply to small-scale work where a risk assessment has established that it does not fall within the category of high-risk activities (whereas the removal of sprayed or loosely bound asbestos, which is very dangerous, obviously does).

2.2. The new notification required by Article 4 (4) must be submitted prior to the start of the changed activities. It should still include all the information set out in Article 4 (2) and should in addition include information about the duration of the demolition, repair, maintenance or removal project, as well as on methods to be taken in order to limit exposure of workers involved.

2.3. Article 5 must contain a general prohibition of all handling of products containing asbestos, with exemption only for demolition, repair, maintenance and removal.

2.4. The proposed new text of Article 6.5 continues to make reference to the mining activities mentioned in the 1983 and 1991 Directives. Apparently, the Commission does not consider mining to be included in the marketing or first use of asbestos. The Committee thinks it has to be. The Commission should clarify this point.

2.5. The text of Article 7 (6), which specifies a particular method for measurement in air, is too specific. The Committee is concerned that some Member States believe the WHO-system laid down in this Article might not be satisfactory and that other methods such as the SEM-EDX method<sup>(2)</sup> should be allowed. So as not to be too specific, the Committee

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<sup>(2)</sup> The SEM-EDX (Scanning Electron Microscopy — Energy Dispersive X-ray Analyser) measurement system is a microscopy system which uses a scanning electron beam to visualise the fibres and particles. Depending on the methods/equipment used fibre shapes down to widths of about 0,05 microns can be determined. If SEM is fitted with the EDX system this can be used to determine the elemental composition of fibres with widths greater than 0,2 microns. This enables the analyst to differentiate asbestos from non-asbestos fibres, and also to determine what type of asbestos is present.

recommends that the Article be amended to allow other methods to be used as long as they achieve at least the same level of sensitivity as the WHO-method.

2.6. Article 8 of the Draft Directive proposes that employers shall ensure that no worker is exposed to an airborne concentration of asbestos in excess of 0,1 fibres per cm<sup>3</sup> as an 8-hour time-weighted average (TWA). The Committee believes that this is not consistent with the sort of working practices likely in future, because the work which will expose workers to asbestos is rarely carried out over an eight-hour day. A limit

of 0,1 fibres per cm<sup>3</sup> as a 4-hour TWA, which would reduce the exposure levels, would be preferable.

2.7. The content of training (Article 12 a) must be reviewed and renewed periodically.

2.8. The competence requirement for firms engaged in demolition or removal work, called for in Article 12 (b) must be made more specific. The Commission should make reference to the use of nationally-determined criteria, so that there is a clear and concrete standard against which the ability of the firms concerned can be judged. Governments of Member States should develop such criteria in close consultation with the relevant employers' organisations and trade unions.

Brussels, 21 February 2002.

*The President*  
*of the Economic and Social Committee*  
Göke FRERICHS

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APPENDIX

**to the Opinion of the Economic and Social Committee**

During the debate, the following amendment, which received more than 25 % of the votes cast, was defeated.

**Point 2.6**

Delete point.

*Reason*

Thresholds for chemical substances encountered in the workplace are always set by reference to an 8-hour period. It is not clear what the effect of using a shorter reference period would be. It could mean either an increase or a reduction in the threshold of 0,1 fibres per cm<sup>3</sup>. The opinion should therefore refrain from commenting on the threshold.

*Result of the vote*

For: 39, against: 40, abstentions: 7.

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