

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 8 May 1989

**communication from the Commission to the Council
concerning negotiating directives relating to
safety in the use of chemicals at work for the
International Labour Conference**

SEC 225/1

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concerning negotiating directives relating to
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International Labour Conference**

1. In its Decision of 22 December 1986, the Council defined the procedure for Community participation in the drawing up and negotiation of conventions within the ILO relating to subjects within the sole jurisdiction of the Community.

In the pre-negotiation phase, this procedure provides for Community replies to the ILO questionnaire to be communicated by the Commission to the ILO after adoption by the Council. Replies have to take into consideration the results of consultations with employers' and workers' representatives, which can be annexed to the reply forwarded to the ILO.

In preparation for the first reading of the draft Convention, the Commission is sending a communication to the Council recommending a Decision authorizing the Commission to negotiate and giving negotiating directives.

The Commission is spokesman for the Community. To this end, it acts in close consultation with the Member States.

If difficulties arise which cannot be immediately overcome, the commission shall refer the matter to the Council according to normal procedures.

The same procedures shall apply mutatis mutandis for the rest of the procedure; the Council shall only intervene a second time if the Commission asks that the negotiating directives be adapted or completed.

Voting by the Member States shall be on the basis of the Community position.

Agreement by the Member States on this procedure enabled the Commission to withdraw its appeal to the Council in Case No 217/86 regarding the refusal of the Council to authorize the Commission to take part in negotiations within the ILO relating to safety in the use of asbestos.

2. In accordance with this Decision of 22 December 1986, the Commission addressed a Communication to the Council on 26 July 1988 on the subject of the ILO report concerning safety in the use of chemicals, at work, together with a proposed reply to the ILO questionnaire drawn up by the Commission (COM (88) 405 final).

The commission considers that the subject matter covered by the questionnaire is within the sole jurisdiction of the Community.

Only one "grey area" has come to light, concerning the closest possible collaboration of workers with their employer in carrying out their duties. However, the Member States forwarded their individual replies directly to the ILO. The Decision of December 1986 was not respected.

In December 1988, the Commission stated that it reserved all rights in the matter and would place before the Council a request for negotiating directives for the International Labour Conference in June 1989.

3. The 76th session of the International Labour Conference opens in Geneva on 7 June 1989. Safety in the use of chemicals at work will be the subject of preliminary discussion based on draft conclusions by the ILO in the light of answers given to the questionnaire. ⁵Safety in the Use of Chemicals at Work, Report VI (2), Geneva 1989).

The subjects covered by the draft conclusions are the same as in the questionnaire. Some points relating to the questionnaire have been clarified.

These subjects fall within the sole jurisdiction of the Community, since safety in the use of chemicals has been regulated at Community level by a considerable number of Directives

(in particular those relating to the classification, packaging and labelling of dangerous substances (67/548/EEC and 79/83/EEC) and preparations

(88/379/EEC) and the Directives on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (80/1107/EEC 88/642/EEC) and individual Directives based on this framework.

On 13 February 1989, the Council adopted a Common position on the proposed directive relating to the implementation of measures to improve health and safety at work.

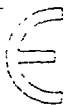
4. In this context, and in accordance with the Council Decision of 22 December 1986, the Commission is to negotiate the draft Convention and Recommendation on the basis of negotiating issued by the Council.

The Council is therefore asked for a Decision that:

1. The community shall take part in the negotiations at Geneva within the International Labour Conference with a view to the adoption by the ILO of a Convention and Recommendation relating to safety in the use of chemicals at work.
2. The Commission shall express the point of view of the Community in accordance with the attached Directives, in close consultation with the Member States.

NEGOTIATING DIRECTIVES

- A. The Commission shall endeavour to ensure that the text of the ILO convention and Recommendation on safety in the use of chemicals at work, which will be negotiated at the International Labour Conference, is compatible with existing Community rules on the subject.
- B. In this context, the Commission shall in particular propose the amendments listed in the Annex.



"Industrial Medicine and Hygiene" Unit
V/E/2

PROPOSED MODIFICATIONS

to the ILO proposed conclusions
on Safety in the Use of Chemicals at Work, to be discussed
in June 1989 in Geneva, at the 76th session of the Conference

The following proposals amending the ILO proposed conclusions for Convention and Recommendation have been prepared on the basis of Community legislation taking into account comments received from Member States and the text agreed in Council (Council document 9248/88).

Only the parts of the text where it is felt necessary to modify the wording, are mentioned.

CONVENTION

I. Scope and Definitions

Point 6

Amend in item (a) the proposed word "or" into "and".

III. Prevention and protective measures

Point 9 (1)

Modify as follows: "...use at work, preferably or mainly based on or using existing classification and criteria systems, which have been validated in practice".

Point 9

Add a new point (2) as follows :

"These criteria and classification schemes should, as far as is appropriate, be harmonized with those already in existence although it is recognized that the latter may have as their objective the protection of man in a more general sense than that used in the present Convention".

The present 9.2 would then become Art. 9.3

Point 10 (1)

Delete "and methods of using it safely".

If too much information is included in the label it will become unreadable; the appropriate place for giving this specific information is the separate safety data sheet provided for in Point 11.

Point 12 (1)

Insert a new point between (a) and (b) reading (b) "adequately packaged"; (b) then becomes (c).

Insert a new point 12 (2) reading "Publicity material concerning hazardous chemicals should draw attention to the safety aspects"; 12 (2) and 12 (3) become 12 (3) and 12 (4), respectively.

Point 12 (2), old

Amend as follows: "..... using them safely, according to criteria and systems drawn up under Point 9.2."

Point 13

Amend the text by inserting the following words between the words "container" and "in": "or designated unambiguously in another way, combined with proper instructions and information to minimize risk".

Point 14

Add a new point (1) as follows:

"The employer must ensure that only chemicals which are not considered dangerous or only dangerous chemicals which are correctly classified and labelled are used and that the necessary precautions are taken when they are used."

Point 14 (1) and 14 (2) become 14 (2) and 14 (3), respectively.

Point 15 (1)

Replace the words "safe" in item (b) by "suitable".

Replace item (c) by "the application of suitable working procedures and methods".

Add a new item (h), worded as follows "the adoption of adequate hygiene measures".

V. Rights of workers

Point 18

Replace the text with the following: "Workers who, in the event of serious, imminent and unavoidable danger, leave their workstation and/or a dangerous area may not be placed at any disadvantage because of their action and must be protected against any harmful and unjustified consequences, in accordance with national laws and/or practices".

RECOMMENDATION

II. Preventive and Protective measures

Point 23

Change reference to Point 9.2 to Point 9.3 consistent with the changes introduced into Point 9.

Point 24 (1)

Add the following sentence: "Existing data bases and inventories should be used as far as possible."

Point 25 (2) (b)

Delete the word "durability".

Point 27

- 1) Replace the words "in particular on "by" such as".
- 2) Between (a) and (b) insert a new point worded: "physical/chemical properties of the chemical".

This omission is possibly an editorial oversight.

- 3) Delete item (d), as this is covered by point 34.

Point 29

Replace the first two lines by :

"The Competent Authority should ensure that the employer has taken all appropriate safety measures in the production, handling and use of hazardous chemicals, covering :"

Point 30

- 1) Replace the first two lines by :

"The Competent Authority should ensure that the employer has taken all appropriate safety measures in the storage of hazardous chemicals, covering:"

In item (b) exchange "properties" with "the physical/chemical properties".

Point 31

- 1) Replace the first two lines by :

"The Competent Authority should ensure that the employer has taken all appropriate safety measures in the transport inside the enterprise of hazardous chemicals, covering :

- 2) In item (b) exchange "properties" with "the physical/chemical properties".

III. Cooperation**Point 37**

Replace item (a) as follows "take care as far as possible of his own safety and health and that of other persons affected by his acts or omissions at work in accordance with his training and the instructions given by his employer".

IV. Rights of workers**Point 38**

Add at the end a new sentence as follows:

"This provisions should not release the employer from the obligation to guarantee the workers safe working conditions".