

## **UEAPME response to the second-stage consultation of the European social partners on the amendment of certain EC directives on health and safety at work as a result of adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures**

### **Introduction**

UEAPME wishes to reply to the European Commission's second-stage consultation of the social partners launched on 17 January 2011, regarding the amendment of certain EC directives on health and safety at work as a result of the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

### **General comments**

The adoption of the CLP Regulation aims at bringing the EU system in line with the United Nations Globally Harmonised System (GHS) on the classification, labelling of substances and mixtures and to ensure common standards within the EU. Accordingly the objective is to adapt five specific directives on health and safety at work<sup>1</sup> to the CLP.

As previously stated in our reply to the first stage consultation, UEAPME considers that any adaptation of the five individual regulations to the CLP must be undertaken on a purely technical basis and not strengthen employee protection.

### **On the specific questions**

*1 - Forward an opinion or, where appropriate, a recommendation on the content of the envisaged regulatory initiative pursuant to Article 154(3) of the Treaty on the Functioning of the European Union;*

*2 - Indicate whether they favour an approach that includes maintaining a formal link to the EU chemical classification system (CLP Regulation) or whether they prefer an approach based on the use of general descriptor terms.*

UEAPME underlines the need for the five directives to be adapted in such a way as to have a neutral effect on the protection of workers and therefore avoid additional administrative burdens for SMEs. As put forward in our reply to the first consultation, we believe that a single amending directive is the best approach for ensuring the relevant modifications.

We consider that a formal link to the EU chemical classification system should be maintained to ensure legal certainty. Moreover, the references in the current directives should point to the respective requirements in the annex of the CLP directive (e.g. directive 2004/37 should refer to Points 3.5. and 3.6. of the CLP-Annex).<sup>2</sup>

The adoption of the CLP regulation creates new hazard classes which do not endanger workers' health at the workplace. This concerns for example the hazard classes "gas under pressure" and those with a "corrosive

<sup>1</sup> Directives 98/24/EC, 2004/37/EC, 92/58/EEC, 92/85/EEC, 94/33/EC.

<sup>2</sup> For further examples on lack of conformity see UEAPME examples on CLP provided by Austrian Federal Economic Chamber

effect on metals”. Consequently they should be exempted from the term “dangerous chemical work substances”.

UEAPME believes the new security data sheets could be extended to include exposition scenarios, for instance regarding the handling of a respective substance if it is contained in mixtures. This would prevent knowledge gaps occurring in the area of employee protection.

Further, the revision must not be used as a pretext to enlarge the scope of application of the Carcinogens directive (2004/37) to hazards toxic to reproduction. With regard to transitional provisions UEAPME favours a common date, i.e. 01.06.2015 by which the definitions of the chemical legislation should be incorporated into the employment protection regime. The reason is that legal certainty in the use of new definitions in the area of employment protection legislation can only be provided once the chemical legislation has been fully implemented.

*3 - Inform the Commission whether they consider that additional non-binding measures, such as explanatory guidance, should be developed for employers and workers to help them to understand occupational safety and health issues arising from the new requirements for chemical classification, labelling and packaging. If so, they should specify what measures would be useful, outline the level of detail that may be necessary, and say how such measures could be effective at EU level.*

UEAPME supports additional non-legislative measures to assist employers and employees notably in small businesses with the handling of the new CLP regulation. This should be userfriendly and strike the right balance between being simple to read, easy to understand and of an appropriate length.

*4 - Inform the Commission if they agree with the approach proposed for updating the Annex of Directive 94/33/EC on Young Persons at Work.*

UEAPME supports updating the Annex of Directive 94/33/EC in order to ensure that its references correspond to current legislation. It should be limited to technical considerations and aim at providing transparency and legal certainty.

*5 - Inform the Commission about their readiness to start a negotiation process on the basis of the proposals described in this document pursuant to Articles 154(4) and 155 of the Treaty on the Functioning of the European Union.*

Given the highly technical nature of this subject matter, UEAPME does not see an added value in entering into social partner negotiations.

Brussels, 23/02/11

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