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REGULATORY SCRUTINY BOARD OPINION

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL
amending Directive 2009/148/EC on the protection of workers from the
risks related to exposure to asbestos at work**

COM(2022) 489
SWD(2022) 311-312



Brussels,
RSB/

Opinion

Title: Impact assessment / Protection of workers from risks related to exposure to asbestos at work

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

Asbestos is a highly dangerous carcinogenic agent and although its use in the EU was banned in 2005 in all Member States, it is still present in many older buildings and installations. The Asbestos Working Directive (Directive 2009/148/EC) limits the workers' exposure to asbestos to maximum 0.1 fibres/cm³.

The risk of workers' exposure to asbestos is mostly related to the handling of asbestos and dispersion of asbestos fibres during renovation and demolition works. The time lag between exposure to asbestos and the first signs of cancer is about 30 years. 41% of total work-related deaths in EU is attributed to past exposures to asbestos. Workers' exposure to asbestos is expected to increase in all EU countries as the implementation of the Renovation Wave Strategy progresses.

The initiative aims to lower the maximum exposure level to asbestos, affecting an estimated 4.1 to 7.3 million workers in the EU.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report does not present the key new scientific evidence supporting the need to update the occupational exposure limit (OEL) for asbestos at this point in time. It does not sufficiently show the degree of consensus among stakeholders on the need to act.**
- (2) The report does not sufficiently account for the uncertainties of the benefit and cost estimates given the limitations of the evidence base and stakeholders' feedback. It does not sufficiently explain to what extent the preferred option is sensitive to alternative modelling assumptions.**

This opinion concerns a draft impact assessment which may differ from the final version.

(3) The report does not sufficiently explain the scores for effectiveness and coherence of the different options. It does not sufficiently assess the proportionality of the preferred option.

(C) What to improve

(1) The report should present clearly the rationale for intervention at this point of time. It should provide, upfront, the relevant evaluation findings and explain to what extent the current OEL has been effective and why there is a need to act now. It should explain the content of the Risk Assessment Committee of the European Chemicals Agency (RAC-ECHA) scientific opinion. It should clarify what the new scientific evidence entails and what its implications are. It should indicate upfront the degree of consensus among stakeholders on the need to act.

(2) The report should be clear, upfront, on the limited scope of the initiative, given that the occupational exposure limit is only one aspect of the protection required to reduce workers' exposure to asbestos. Given the political expectations expressed in particular by the European Parliament, it should explain why it discards other measures that would fall within the scope of the Directive.

(3) Given that legal basis provides only for the setting of minimum harmonisation measures, the report should better explain how the revision of the exposure limit will lead to greater harmonisation of limit values across the EU. It should discuss how far Member States will be able to deviate from the EU OEL and how this may affect achieving a level playing field. It should examine how the legacy building stock and historic national building regulations have led to differing exposure risks across Member States.

(4) According to RAC-ECHA scientific opinion, asbestos does not have a safe exposure level, which means that any exposure to asbestos may eventually cause an asbestos-related disease. In designing options the report should be clear upfront that none of the proposed options can prevent all possible damages, thus fully addressing the problem of workers' exposure to asbestos, and explain why setting a zero fibres/cm³ OEL would not be feasible.

(5) The report should set out convincingly that the evidence it uses throughout is the best available. It should be clear how the literature and non-EU evidence was complemented by stakeholders' views and how stakeholders' alternative modelling assumptions were taken into account.

(6) Given the limitations of the evidence base and stakeholders' feedback, the report should explain better the uncertainties of the impact analysis. In particular, it should account for the uncertainties of the key assumptions that drive the cost and benefit estimates by undertaking the sensitivity analysis. It should explain how the estimates are sensitive to alternative modelling assumptions.

(7) The analysis of the health impacts of the options should take into account that the most ambitious option (OEL of 0.001 fibres/cm³) faces technical measurement challenges in dusty environments, such as construction sites.

(8) The report should add a subsection on the 'one in, one out' approach and be clear on the costs in scope of that approach. The administrative costs should be presented with sufficient granularity.

(9) The comparison of options should better justify the scores for effectiveness, efficiency and coherence. The effectiveness score should be closely linked to the health impacts of

the options. When costs exceed benefits many times, an option cannot be ranked as being equally efficient as the baseline. The coherence analysis should explicitly analyse the coherence with the objectives of the Climate Law.

(10) The preferred option includes a set of transitional periods based on stakeholders' feedback but with no further analysis. It should include transition periods in the options' design and analyse their impacts, including cost and benefit implications, for all options. At minimum, it should provide such analysis for the preferred option.

(11) Given the long latency for benefits to materialise and the high net costs, the discussion on proportionality should be more detailed, balanced and critical. Impacts on particularly affected SMEs should be better documented.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

Full title	Protection of workers from risks related to exposure to asbestos at work
Reference number	PLAN/2020/7863
Submitted to RSB on	30 March 2022
Date of RSB meeting	27 April 2022

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
Direct benefits		
Savings for companies	€1 700 000	Reduced absenteeism, productivity losses and insurance payments. In addition, not quantified benefits include legal clarity, simplification in ensuring legal compliance and a more balanced level playing field for businesses across the EU.
Savings for public sector	€ 3 400 000	Having reduced health care costs. Avoidance of loss of productivity and mitigation of financial loss of national social security systems, reducing the costs of healthcare and the loss of tax revenue due to morbidity and mortality.
Savings for workers & families	Method 2: €166 000 000 Method 1: €323 000 000	More effective protection of their health, reducing suffering of workers and their families, increased length, quality and productivity of their working lives, avoiding premature deaths, less costs of informal care.

Note: Estimates are relative to the baseline as a whole (i.e., the impact of individual actions/obligations of the preferred option are aggregated together).

II. Overview of costs – Preferred option					
		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent
	Compliance costs	€3 billion	€20 billion	€1 500 000	
	Monitoring costs		€110 000 000		€1 billion
	Administrative costs		€15 000 000		
Costs related to the 'one in, one out' approach					
Total	Direct adjustment costs	negligible	negligible		
	Indirect adjustment costs				

	Administrative costs (for offsetting)	negligible	negligible		
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