

Better protection for asbestos-exposed workers

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Directive 2003/18 of 27 March 2003¹ is a clear step forward. The new wording of article 5 to all intents and purposes bans any further manufacture of asbestos-containing materials or products for export. Other welcome developments include the reduction in the occupational exposure limit value to 0.1 fibre/cm³ and the extension of the Directive's scope to some previously-excluded categories of workers.

Directive was adopted (Germany, Belgium, Spain, Finland, the Netherlands, Portugal and Sweden). Only one of the new Member States has ratified it (Slovenia). This is despite the fact that the issue of controlling the qualifications of asbestos removal contractors was brought up in the Council Conclusions of 7 April 1998 which provided the basis for drawing up the Directive of 27 March 2003. The

How exposure limits for workers exposed to asbestos have changed in Community directives

	Commission's initial proposal in 1980	1983 Directive	1991 Directive	2003 Directive
Crocidolite	0.2 fibre/cm ³	0.5 fibre/cm ³	0.3 fibre/cm ³	0.1 fibre/cm ³
Chrysotile	1 fibre/cm ³	1 fibre/cm ³	0.6 fibre/cm ³	0.1 fibre/cm ³
Other kinds of asbestos	1 fibre/cm ³	1 fibre/cm ³	0.3 fibre/cm ³	0.1 fibre/cm ³

Priorities on asbestos

- Ratify ILO Convention C162. Only 8 of the EU's 25 States have so far done this.
- Extend the protection rules to independent contractors.
- Draw up a register of asbestos-containing buildings.
- Improve the recognition of asbestos-related occupational diseases.
- Stop exporting asbestos-containing waste to developing countries. In particular, ban the sending of asbestos-laden ships to breakers yards in India and East Asia.

The exposure limits set in the new directive are no reason not to take preventive measures to reduce exposures to lower levels wherever technically possible. The point is that no exposure limit offers total protection from carcinogens, so the aim must be to achieve the lowest exposure limit value technically possible.

The Directive is badly flawed in many worrying respects, which could throw its practical implementation into doubt. The final compromise proposal put up by the Danish Presidency made too many concessions to deregulatory governments, not least:

- The revised directive does not cover self-employed workers, so employers can get round its provisions by having independent contractors do the work without needing to take the required preventive measures. And there is no shortage of lump labour in the building industry.
- All demolition work on asbestos-containing buildings or installations, as well as asbestos removal work, must only be done by specialized contractors approved on the basis of appropriate criteria (training for workers, proper protection equipment, experience in this type of worksite, etc.). The Directive's provisions as they stand are too vague on this point (article 12b) and national practices reveal widespread abuse in the asbestos removal market. The use of casual hire-and-fire labour (agency workers, micro-enterprises involved in multi-tier subcontracting, etc.) is very disturbing. The Community directive's provisions on demolition and asbestos removal are a step back from ILO Convention 162 (1986), article 17 of which requires such work to be undertaken only by employers or contractors who are recognized by the competent authority as qualified to carry out such work and are empowered to undertake it. ILO Convention 162 has been ratified by only seven of the fifteen States in the European Union when the

wording of article 12b was considered lacking by both the Economic and Social Committee and the European Parliament.

- The requirements on notification of work involving exposure to asbestos need tightening up. A register of individually identifiable exposed workers should be kept so as to enable effective checks to be made and to bring health surveillance systems into action. This is particularly important given the serious failings in the registers of asbestos-exposed workers in most Community countries. A link between the works notification procedure and registers of exposed workers would help improve matters.

But the really big issue is less the Directive's failings – those could be put right by national implementing legislation – than actual compliance with the provisions adopted. The building industry is one of the main problem areas here, where health at work provision typically has little effect. It is rarely covered by multi-disciplinary preventive services, workers' health and safety reps cover only part of the sector. It is a sector typified by a very large number of fragmented small and micro-enterprises and much multi-tier subcontracting. Member States must face up to their responsibilities to improve on the structural arrangements provided for by the Framework Directive. This is an absolute must for the enforcement of any regulations dealing with a specific risk like asbestos. Probably no more than 50% of all workers are currently covered by a preventive service in Europe², and coverage by employee health and safety representative schemes is short of what is needed in many countries. Governments must also give labour inspectorates the added capacities needed to see that the new rules are properly enforced. The SLIC (Senior Labour Inspectors' Committee) initiative to make asbestos the theme of a future enforcement campaign across all European Community countries in 2006 is a welcome move. ■

¹ OJ, L 97 of 15 April 2003.

² See the special report on preventive services in *TUTB Newsletter* No. 21, July 2003, p. 19-37.