

Mr. Günter Verheugen
Vice President of the European Commission
Commissioner for Enterprise & Industry
1049 Brussels

Brussels, 1 June 2005

**Proposal for a directive on the protection of workers
from risks arising from exposure to optical radiation at work
Council Common position and European Parliament 2nd reading
COD/92/0449/D**

Dear Commissioner,

CEEMET is the Council of European Employers for the Metal, Engineering and Technology-based industries. CEEMET represents national employer organisations from these industries in 15 European countries. ORGALIME represents the mechanical, electrical, electronic and metal working industries of 24 European countries. Between them CEEMET and ORGALIME represent about 200,000 companies employing some 12 million people. This is one of the main employers in the EU and a sector, which has seen significant and continuous progress in measures to ensure the health and safety of workers and clients alike.

We thank you for your enquiry regarding the need for simplification of EU legislation. ORGALIME will be sending you a comprehensive answer to this issue in the coming weeks. However, we believe that immediate action is needed on the Physical agents (Optical Radiation) proposal, which in our opinion runs counter to the better regulation principles proposed by the Commission. We take this view for the following reasons:

- No detailed impact assessment has been carried out before the relaunch of this proposal, which was initially issued in 1993. Neither the cost benefits which this proposal will bring, nor the cost and administrative burden, which this proposal will entail on business, have as yet been identified.
- In our opinion the proposal is not a proportionate answer to any benefits, which regulators feel might accrue. In short the need for regulation in this area has not been established.

Following the adoption of the Common position of the Council on the Optical radiation directive on 18 April 2005, we have analysed the result of the conclusion of the first reading as well as the report of the Rapporteur to the Employment Committee of the European Parliament, Mr. Csaba ÖRY, that was tabled in French and Hungarian only, at the EP Committee meeting of 24 May (See our position enclosed).

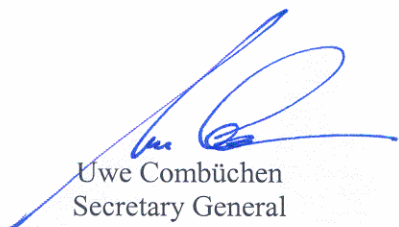
While we found that a number of the proposals in the Council's common position, showed the way forward to achieving a less damaging and therefore more workable proposal, we feel that the proposal including amendments tabled by the European Parliament (many of them we understand with the support of the Commission) lead to compliance costs and administrative burden for manufacturers and employers, which are out of all proportion to any policy objectives that might be achieved:

- Policy objectives: there is no justification for the measures proposed on the basis of data of work accidents or ill-health directly.
- Scope: there are catch-all provisions based on scientific but theoretical prevention recommendations that set thresholds and a general obligation for all employers to assess a risk, which in practice does not exist for many. This gives rise to needless cost and bureaucracy. Asking employers to be responsible for the effects of sunlight and the protective measures which workers should take when working outdoors seems disproportionate, especially since it is in practice impossible to separate exposure to sunlight occurring during leisure time from that occurring at work.
- Complexity of the provisions: the technical Annex is only understandable to experts in optical radiation. It is therefore unusable by the overwhelming majority of employers without detailed guidance, which the proposal does not include as a condition of entry into force.
- Conformity assessment: existing product safety legislation in our field (for example the Machinery and Low Voltage directives) and the high level of safety that it has introduced are completely ignored. We have specifically requested that, where such legislation supported by harmonised standards exist, these should be used to provide presumption of conformity under the present proposal. We believe that it is essential that the Commission support effective solutions which should however remain as simple as possible.

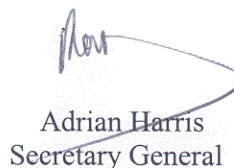
We therefore kindly request the Commission's support for driving towards the enactment of proportionate regulation in this area which does not lead to a further deterioration of the framework conditions under which manufacturers and employers have to work in the EU. **In the absence of such modifications and a proposal, which is supported by a proper impact assessment, we recommend that the Commission should consider withdrawing the present proposal.**

A copy of the present letter has been sent to your colleague, Commissioner Špidla as well as to the Secretary General of the Commission, Mr. O'Sullivan.

Yours sincerely,



Uwe Combüchen
Secretary General



Adrian Harris
Secretary General

Cc: Messrs Tempel, Mordue, Oel (Cabinet)
Messrs Reichenbach, Zourek, Weissenberg, Montoya and Mr. Bogers (DG Enterprise)

Cc: Mr. O'Sullivan – Secretary General of the Commission