

## I. Form of the international instrument or instruments

1. Should the International Labour Conference adopt an instrument or instruments consolidating existing international labour standards on chemicals?

Yes

### Comments

A new binding instrument to complement Convention 170, which is up-to-date, is necessary to update and incorporate provisions of those conventions and recommendations identified by the Standards Review Mechanism as in need of updating

2. If so, should the instrument or instruments consolidate and revise: <sup>2</sup>

- the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4)?
- the White Phosphorus Recommendation, 1919 (No. 6)?
- the White Lead (Painting) Convention, 1921 (No. 13)?
- the Benzene Convention, 1971 (No. 136)?
- the Benzene Recommendation, 1971 (No. 144)?

### Comments

YES on the consolidation and revision of all the instruments above. However, we do not believe any of these instruments currently ratified by a member state should be denounced until a new instrument consolidating key measures has been ratified by that member state. For example, C136 has 38 ratifications conferring duties and rights. Denunciation before ratification of a new instrument would reduce the normative protections in those member states.

3. Should the instrument or instruments take the form of:

- (a) a Convention?
- (b) a Recommendation?
- (c) a Convention supplemented by a Recommendation?
- (d) a Protocol to the Chemicals Convention, 1990 (No. 170)?
- (e) a Protocol to the Chemicals Convention, 1990 (No. 170), supplemented by a Recommendation?
- (f) a Convention comprising mandatory provisions and provisions providing guidance? <sup>3</sup>

<sup>2</sup> See paragraph(s) XXX of the [full title of report].

<sup>3</sup> See paragraph(s) XXX of the [full title of report].

- (g) a Protocol comprising mandatory provisions and provisions providing guidance? <sup>4</sup>

### Comments

Our preference is for an instrument with both binding and non-binding provisions. We recognise the value of review by ILO supervisory bodies of a Convention or Protocol to C170. We recognise too that having a Protocol to C170 would allow for consistency between C170 and new provisions. This would be our preferred option, subject to how the provisions of the new instrument was elaborated. We reiterate our strong support for a protective and progressive instrument that does not regress on protection offered by C170 and R177 and other relevant instruments. We will consider arguments regarding inclusion of non-binding provisions in a protocol, with the proviso these are subject to ILO supervisory processes through CEACR, or a supporting recommendation. We also accept there could be value in a rapid amendment process/simplified amendment procedure that could enable a timely response to new evidence of harm associated with chemicals or category of chemicals that could require a more protective response.

## II. Preamble

4. Should the Preamble of the instrument or instruments recall the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work by the International Labour Conference at its 110th Session (2022)?

Yes

### Comments

The ILO fundamental safety conventions C155 makes explicit reference to protections from chemicals at work, covering all workers regardless of their employment status. All ILO safety instruments should be understood as supporting these fundamental protections

5. Should the Preamble of the instrument or instruments note the need to pursue coherence of chemicals-related international labour standards, in the light of scientific, regulatory and societal developments since their adoption, in order to achieve safe chemicals management and ensure the continued and future relevance of international labour standards in this area?

Yes

### Comments

The instrument needs to be responsive to the introduction of new chemicals, new applications and processes and new evidence of risks and their elimination or, where this is not possible, effective controls.

6. Should the Preamble of the instrument or instruments note the need to consolidate and revise the White Phosphorus Recommendation, 1919 (No. 6), the White Lead (Painting) Convention, 1921

<sup>4</sup> See paragraph(s) XXX of the [full title of report].

(No. 13), the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4), and the Benzene Convention (No. 136) and Recommendation (No. 144), 1971?

Yes

**Comments**

This consolidation and revision is mandated by the ILO Governing Body

7. Should the Preamble of the instrument or instruments recall the continued relevance of the Chemicals Convention (No. 170) and Recommendation (No. 177), 1990, further noting that the new instrument or instruments would complement these up-to-date standards?

Yes

**Comments**

Any new instrument or instruments must complement and wherever possible improve on the existing instruments, with absolute respect for non-regression. It should be noted too other instruments are directly relevant, including the occupational cancer convention C139 and the associated recommendation R147, the major accident hazards convention C174, the asbestos convention 162, ILO sectoral safety conventions C167 (construction), C176 (mining) and C184 (agriculture), the occupational health services convention C161 and the associated recommendation R171 the Working Environment (Air Pollution, Noise and Vibration) Convention C148 and related recommendation R156 and the employment injury benefits convention C121, and the ILO List of Occupational Diseases R194. Several of these instruments are already included in the preamble to the chemicals convention C170.

Further, recognising issues of a shortfall in regulatory capacity and of suitable and sufficient regulation in some ILO member states, instruments addressing human rights and due diligence throughout the value chain are directly relevant, including all ILO's fundamental conventions, as are instruments to protect vulnerable populations, including C169 on indigenous peoples (Article 7.2 and Article 20.2(c) and the Migrant Workers Recommendation R100 (paragraph 46).

8. Should the Preamble of the instrument or instruments note the relevance of international instruments, frameworks and programmes for the sound management of chemicals and waste, such as:

- the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- the Stockholm Convention on Persistent Organic Pollutants;
- the Minamata Convention on Mercury;
- the Global Framework on Chemicals – For a Planet Free of Harm from Chemicals and Waste;
- the Globally Harmonized System of Classification and Labelling of Chemicals (GHS);

- the Inter-Organization Programme for the Sound Management of Chemicals (IOMC)?

**Comments**

All the identified instruments, frameworks and programmes are relevant

9. Should other considerations be included in the Preamble of the instrument or instruments? If so, please specify.

Yes

**Comments**

Other instruments, frameworks and programmes, are also relevant, including:

- UN Consolidated list of products whose consumption and/or sale have been banned, withdrawn, severely restricted or not approved by Governments.
- Montreal Protocol. This is an evolving instrument and may at subsequently add more bans and restrictions, which has implications for elimination and substitution of chemicals.
- International Agency for Research on Cancer list of Group 1 and Group 2A occupational carcinogens.
- Other relevant protective instruments as they arise, on international chemical regulation or addressing newly recognised or emerging risks related to chemicals or categories of chemicals and their elimination and, where not possible, control.

### III. Definitions

10. Should the instrument or instruments include definitions? If so, please specify.

Yes

**Comments**

The instrument should reflect definitions in C170 (Article 2), and further update/clarify these definitions where appropriate.

With regard to regulatory developments and risk reduction strategies, there must also be recognition of substances or categories of substances where more protective provisions are necessary.

These categories requiring more extensive protective provisions, listed in an annex to the instrument and providing a mechanism to allow periodic updating, would include:

- \* Carcinogens, Mutagens and Reprotoxic chemicals,
- \* Endocrine Disrupting Chemicals,
- \* Substances of Very High Concern.

- \* Neurotoxins (peripheral and CNS), eg organic solvents (for example, benzene), organophosphates, carbamates, lead, mercury other relevant metals
- \* Sensitisers/asthmagens
- \* Other substances recognised as causing serious, irreversible and/or progressive harm to health (for example, silica, asbestos, diacetyl)
- \* Substances that have not been evaluated for health risks or where there is not sufficient evidence of a 'no effect' level
- \* Substances where any exposure can be lethal – eg competitive or non-competitive inhibitors like cyanide, carbon monoxide, dichloromethane.

## IV. General provisions

### Occupational exposure limits

11. Should the instrument or instruments provide that the competent authority should fix occupational exposure limits or other exposure criteria for chemicals, as appropriate, and periodically review and update them in the light of technological progress and advances in scientific knowledge?

Yes

#### Comments

We support the inclusion of occupational exposure limits or where more appropriate other relevant limits, which are prepared, reviewed and updated "in consultation with employer and workers' organisations", noting the chemicals convention C170 Article 12(a) requirement to "*ensure that workers are not exposed to chemicals to an extent which exceeds exposure limits or other exposure criteria*".

Further, the fundamental safety convention C187 Article (2(1) requires member states shall promote the "continuous improvement" of national policies, systems and programmes, in consultation with the most representative organisations of employers and workers, "to prevent occupational injuries, diseases and deaths". Periodic review and updates of OELs is therefore necessary and must be consistent with these requirements.

We note the occupational health services convention C161 and the related recommendation R171 have language on assessment of risk. OELs and Biological Occupational Exposure Limits provide a reference for the minimum protection required in reference to these risk assessments.

Including the proposed provision in the new instrument is also necessary in order to adequately reflect the provisions of C136 and R144 and C13 and R4. For example, we note the benzene convention C136 Article 6(2) specifies an occupational exposure limit.

We also believe the standard should have additional more protective duties for identified substances and categories of substances presenting a higher risk at work (as identified in our responses to Q10), prioritising an

elimination of exposures and where this is not possible a reduction in the numbers of workers potentially exposures and with more stringent requirements to protect workers.

This should reflect for example the extensive protections specified in C139 Article 2(1) and 2(2) which require ratifying member states to ensure duty holders:

*“shall make every effort to have carcinogenic substances and agents to which workers may be exposed in the course of their work replaced by non-carcinogenic substances or agents or by less harmful substances or agents; in the choice of substitute substances or agents account shall be taken of their carcinogenic, toxic and other properties.*

*The number of workers exposed to carcinogenic substances or agents and the duration and degree of such exposure shall be reduced to the minimum compatible with safety.*

The approach is amplified in the related cancer recommendation, R147 paragraph 4. This higher protective duty must be required by member states of employers, suppliers, distributors and others in control of chemical provision and use where carcinogens (or other hazards categories we identify in our response to Q10) are used.

For other substances, the hierarchy of control should also be applied, with the use of hazardous chemicals eliminated, or where this is not possible minimised, noting this is already a requirement in some member states, including in EC chemical agents directive.

Further, there should be more protective standards and additional employment and health protections for vulnerable groups, including pregnant or breastfeeding women those with relevant health concerns. The provisions should include protection from discrimination.

We also believe there should be a reference to the precautionary principle, requiring wherever possible no approval or use of chemicals in the absence of the publicly available, independent scientific and medical research necessary to make an adequate assessment of risk to workers' health.

Provisions on Biological Occupational Exposure Limits should also be included in the new instrument, where these provide a more accurate assessment of risks. Any medical suspensions or other protective actions must be subject to employment and pay protection and where necessary a right to transfer to alternative work. Medical privacy shall be protected under the provisions of the new instrument.

OELs must be informed by first determining the No Observable Effect Limit (in EU legislation, referred to as Derived No Effect Levels). Standards must aim to eliminate and where not possible minimise health risks.

We believe the instrument should include a comprehensive annex of best practice occupational exposures, with consideration given to a mechanism to allow updating

12. Should the instrument or instruments provide that the competent authority should make public in a timely manner information on occupational exposure limits or other exposure criteria for chemicals?

Yes

**Comments**

Transparency and timely provision of information on limits is critical to the protection of workers. It must result in the introduction of more protective standards at the first opportunity after relevant scientific and/or medical information becomes available.

13. Should the instrument or instruments provide that the competent authority should define the sampling and analytical methods for assessing compliance with occupational exposure limits for chemicals?

Yes

**Comments**

Methods of determining analytic methods should be transparent and agreed in consultation with the employer and workers' organisations. We note the benzene convention C136 Article 6(3) requires competent authorities to give direction on sampling methods.

## Non-discrimination

14. Should the instrument or instruments provide that Members should ensure that any prohibition or restriction on employment in specific occupations or tasks involving the use of chemicals is based on a risk-based approach that ensures equal opportunity and treatment for women and men?

Yes

**Comments**

The instrument should ensure protection of equal opportunities for women and men, and that and protective measures, including medical suspensions or transfers to alternative work, do not result in pay or employment disadvantage.

It must also recognise the need for more effect determination of risk, for example to recognise reproductive and other risks posed by chemicals are not limited to women, noting for example evidence on the reproductive hazard to male workers posed by lead, DBCP and many other chemicals.

Further, these protections should prevent other forms of employment discrimination, including protection from workers with disabilities, health problems and other susceptibilities or vulnerabilities. This includes conditions like sickle cell and thalassaemia, which are prevalent in certain racial groups. Priority must be given to removing the risk and ensuring the protection of the worker and their employment.

## Information exchange

15. Should the instrument or instruments provide that Members should make arrangements, as appropriate, for the exchange of information and for coordination on hazardous chemicals among relevant national authorities, including environmental, public health, and occupational safety and health authorities, and with scientific institutions, including when applying Article 19 of Convention No. 170? <sup>5</sup>

Yes

### Comments

Transparency on bans, restrictions and other controls is essential to ensure members states can make informed decisions about whether or under what conditions to allow import or use of chemicals, and to have the necessary protections in place where their import and use is authorised. All relevant information should be made available to representatives of employer and workers' organisations at the earliest opportunity.

## Research

16. Should the instrument or instruments provide that Members should make arrangements, as appropriate, to promote and support research on the use of chemicals at work where the available information is insufficient?

Yes

### Comments

Member states must ensure there is sufficient information available to make a reliable determination of risk, either by supporting research or requiring it of those involved in the provision of chemicals to the workplace.

This is consistent with the fundamental occupational health and convention C155 Article 7 which requires safety reviews to identify major problems and "evolving effective methods for dealing with them and priorities of action, and evaluating results." The proposed text also helps to transpose provisions contained in benzene recommendation R144 Para 26.

In realising this requirement for relevant information, C155 Article 12 also says member states shall require that "those who design, manufacture, import, provide or transfer... substances for occupational use" shall "undertake studies and research or otherwise keep abreast of the scientific and technical knowledge necessary."

For such a time as the available information is insufficient, a precautionary approach must be taken.

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<sup>5</sup> Convention No. 170, [Article 19](#).

For all chemicals, the hierarchy of control should apply, with priority given to elimination of risks, then substitution, then engineering and administrative controls.

## Classification and labelling of chemicals

17. Should the instrument or instruments provide that Members should make arrangements to ensure that their system of classification and labelling of chemicals, as required under Articles 6 and 7 of Convention No. 170,<sup>6</sup> is aligned, where appropriate, with the Globally Harmonized System of Classification and Labelling of Chemicals (GHS)?

Yes

### Comments

GHS provides as standardised, recognised and easily understood and implemented system and is already widely applied internationally, and is supported by ILO as a member of the UN global partnership to implement the GHS

## Health surveillance

18. Should the instrument or instruments provide that Members should make arrangements to ensure that workers who are involved in work processes where they are exposed or liable to be exposed to certain hazardous chemicals, as determined by the national authority, should undergo:

(a) a thorough pre-assignment medical examination;

Yes

### Comments

This requirement is helpful but must be accompanied by protections of health and medical confidentiality and must not lead to discrimination in employment or recruitment, noting this is an existing protection in disability/equality law in some member states. The chemicals recommendation includes relevant protections. Paragraph 18(3) reflects this, noting medical examinations "should not be used to discriminate against the worker." Paragraph 18(6) requires that medical confidentiality is respected.

We note Q18 transposes provisions related to medical measures contained in the benzene convention C136 Article 9 and recommendation R144 Para 15 (as well as in the white lead convention C13 Article 5III(a) and (b) and lead poisoning (women and children) recommendation R4 Para 2(d)).

Provisions on medical surveillance are also included in chemicals R177 Para 18.

(b) periodic examinations at intervals fixed by national laws and regulations.

Yes

<sup>6</sup> Convention No. 170, [Article 6](#), Classification systems and [Article 7](#), Labelling and marking.

### Comments

The proposal is consistent with the provision periodic health assessments included in the occupational health services recommendation R171, paragraph 11(b).

These examinations should be subject to the employment and medical confidentiality protections include in our response to Q18(1).

There are relevant protections in the chemical recommendation R177, paragraph 11(2), which specifies the need for provisions "to protect the privacy of workers and to ensure that health surveillance is not used for discriminatory purposes or in any other manner prejudicial to their interests."

Anonymised data on these examinations should be available to workers and their representatives, in line the chemicals recommendation R177 paragraph 18(8) in order to enable the evaluation of health risks associated with use of particular chemicals or processes and any protective measures that may need to be employed.

The occupational health recommendation R171 paragraph 12 recognises the use of "examinations and investigations which may be necessary to detect exposure levels and early biological effects and responses."

It should be noted in some instances where workers are working with substances presenting potentially serious risks to health, some more extensive periodic medical surveillance may be necessary, for example work with carcinogens, dusts causing restrictive lung diseases including asbestos and silica, and substances including lead. This allows for the early identification of problems and prompt protective actions and medical treatment where necessary.

Where exposures can lead to conditions with long latency or that may only cause disability in later life, health surveillance should be continued through the working life and into the post-work years.

- 19.** Should the instrument or instruments provide that such medical examinations should be:
- (a) carried out under the responsibility of a qualified medical practitioner with the assistance, as appropriate, of a competent laboratory?

Yes

### Comments

The proposal transposes provisions related to medical measures contained in C136 Article 9 and R144 Para 17(a) (as well as in C13 Article 5III(a) and (b) and R4 Para 2(d)).

- (b) certified in an appropriate manner?

Yes

**Comments**

The proposal transposes provisions related to medical measures contained in C136 Article 9 and Article 10, and R144 Para 17(b) (as well as in C13 Article 5III(a) and (b), and R4 Para 2(d)).

Provisions on medical surveillance are included in R177 Para 18 but not in C170. Accordingly, we request that the text proposed in Q18 and Q19 is included among binding obligations.

(c) carried out, to the extent possible, during working hours?

Yes

**Comments**

The fundamental occupational health and safety convention C155 Article 21 specifies: "Occupational safety and health measures shall not involve any expenditure for the workers."

The ILO occupational health services convention C161 article 12 further clarifies "the surveillance of workers' health in relation to work shall involve no loss of earnings for them, shall be free of charge and shall take place as far as possible during working hours."

(d) at no cost to workers?

Yes

**Comments**

The fundamental occupational health and safety convention C155 Article 21 specifies: "Occupational safety and health measures shall not involve any expenditure for the workers."

The ILO occupational health services convention C161 article 12 further clarifies "the surveillance of workers' health in relation to work shall involve no loss of earnings for them, shall be free of charge and shall take place as far as possible during working hours."

## Reporting, recording and notification of occupational accidents and occupational diseases and collection of data

20. Should the instrument or instruments provide that Members should, in accordance with national conditions and practice and in consultation with the most representative organizations of employers and workers, establish, implement and periodically review procedures for:
- (a) the reporting, recording, notification and investigation of occupational accidents and occupational diseases that are caused by exposure to chemical hazards and, as appropriate, dangerous occurrences, by the employer or by any other person responsible?

Yes

### Comments

Consultation with the most representative organisations of employers and workers is required by Article 4 of the fundamental occupational health and safety convention C155.

In relation to Article 4, provisions of effective notification of occupational and diseases processes are included in C155 Article 11(c) and the associated protocol P155 Part II.

Further C81 Labor Inspection Convention Article 14 and C129 Labour Inspection Agriculture Article 19 require procedures for notification of occupational diseases to the labour inspectorate. Similar requirements are present in other safety instruments such as those on construction C167, mining C176, and biological hazards C192.

The inclusion of dangerous occurrences is welcome, as this allows for recognition of opportunities for preventive interventions.

- (b) the production and publication of annual statistics, disaggregated by sex, on occupational accidents and occupational diseases caused by exposure to chemical hazards and, as appropriate, dangerous occurrences?

Yes

### Comments

The fundamental occupational health and safety convention, which includes chemicals explicitly in its scope, requires "the production of annual statistics on occupational accidents and diseases" (Article 11(c)). Disaggregation enables the identification of difference impacts of chemicals on women, including those that may be the result of occupational segregation.

The proposed text allows the transposition of provisions contained in benzene recommendation R144 Para 27, which requires competent authorities have a statistical system for reporting data on poisonings.

- (c) the holding of inquiries by the competent authorities into serious cases of occupational accidents, occupational diseases or any other injuries to health caused by exposure to chemical hazards?

Yes

**Comments**

The proposal based on the provision on the fundamental occupational safety and health convention C155 article 11(d), and is acceptable if accompanied by the provisions proposed in Q20.d, below, as modified in our comments, removing the limit on only "serious cases.

- (d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;

YES

**COMMENTS**

The proposal based on the provision on the fundamental occupational safety and health convention C155 article 11(d), however is insufficient and unacceptably limited because it limits reporting to 'serious' cases – this should be removed. C155 instead refers to conditions that "appear to reflect situations which are serious".

Some conditions that are not considered serious health conditions can still provide important intelligence on serious risks and situations - for example, chrome ulcers or pleural plaques are an indication of exposures that could lead to deadly cancers in chromium and asbestos exposed workers. Related inquiries could identify protective and preventive measures to be introduced in relevant industries and occupations and effective health and medical screening for at risk workers.

Dermatitis too might not be considered serious, but like many other conditions which do not present a risk to life is including in national notification and reporting system, covered by occupational injury compensation systems, and is including in the ILO List of Occupational Diseases Recommendation R194. These conditions could have a devastating impact on workplace sickness levels as associated production and financial costs, both to employers and the public purse. Inquiries could have a protective and preventive function

## **Chemical hazards, extreme weather events and changing weather patterns**

21. Should the instrument or instruments provide that Members should evaluate risks and take preventive and protective measures to address risks arising from the use of chemicals at work that are aggravated or altered by extreme weather events and changing weather patterns?

Yes

**Comments**

Extreme weather and changing weather patterns impacts on the types of volumes of chemical use (for example increased use of more potent

pesticides in higher volumes to contend with extended vector geographical spread and resilience), the risks posed by chemicals (flooding and contamination of water and land, breaches of chemical bunds and storage pools etc; hurricanes, tornadoes, tsunamis causing physical damage and threats to the integrity of chemical plants etc) and the level of emissions from and problems caused by chemical plants. Normative systems need to take account of these factors. This is consistent with ILO's agreed position on incorporating climate language in new instruments.

These factors are already within the scope of associated ILO instruments. The preamble to the convention on major accident hazards C174 includes a need to consider causes including 'natural forces'.

Employment and Decent Work for Peace and Resilience Recommendation R205 paragraph 2(a) defines a disaster as a serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts," all of which can apply to the impact of extreme weather events on chemical safety and the integrity of chemical plant.

And recently agreed instruments, including the Biological Hazards Convention C192 and the ILO revised Codes of Practice on Construction and on Forestry, include information on climate-related measures.

Not all communities are equally at risk from the chemical hazards that might related to extreme weather events, and the instrument should take account of that and provide relevant protections. For example, the Indigenous and Tribal Peoples Convention C169 Article 20.3(b) requires "that workers belonging to these peoples are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances."

Those working and living at locations at risk of flooding or wildfires can be especially vulnerable to associated chemical disasters and incidents, and to associated occupational exposures, emissions and wastes.

Language on disasters in the recommendation on peace and resilience R205 includes protection from "hazardous events" leading to "human, material, economic and environmental losses and impacts". These protections are relevant to this proposed chemicals instrument.

## Occupational safety and health across supply chains

22. Should the instrument or instruments provide that Members, in consultation with the most representative organizations of employers and workers, should establish measures to address occupational safety and health risks arising from the transfer and handling of chemicals within outsourced production arrangements, including cases not covered by the supplier obligations set out in Article 9 of Convention No. 170?

Yes

### Comments

Supply chain responsibility needs to be operationally locally and internationally, including due diligence and cooperation on information exchange on protective measures, bans, restrictions and controls. Chemical risks and trade are cross-border and global.

23. Should the instrument or instruments further specify that such measures aim to ensure the communication of relevant chemical hazard information and preventive measures throughout all stages of the production process?

Yes

### Comments

The ILO strategy on decent work in supply chains calls on supply chain language to be included in future ILO standard-setting exercises.

The ILO chemicals convention C170 Article 9 and Article 10 require that suppliers (ie those that manufacture, import or distribute chemicals) must ensure that chemicals are correctly classified, marked, labelled and accompanied by the corresponding chemical safety data sheets.

We are concerned this obligation does not cover suppliers of mixtures of chemical agents that, taken together, do not constitute a new chemical substance placed on the market. The absence of a clear requirement for the transferring enterprise to communicate information on the chemical properties, hazards, and necessary preventive measures,

the subcontracted operator may be unable to implement adequate occupational safety and health protections.

Encouraging that such information is shared systematically throughout the supply chain would close this regulatory gap and guarantee that workers remain protected even in cases where Article 9 does not formally apply. Establishing such a provision would therefore reinforce the overall level of protection afforded to workers across the entire production process.

Accordingly, we support text proposed in Q22 and 23 and we request it is included among binding obligations.

We note the EU REACH legislation, which has been widely copied by other regulators, includes duties on "all actors in the supply chain". This reflects the language in C170, but could also usefully include the role of procurement, financial institutions and investor responsibility in influencing responsible policy on chemicals procurement and trade

## Compliance with laws and regulations

24. Should the instrument or instruments provide that Members should ensure the enforcement of national laws and regulations concerning the use of chemicals at work through an adequate and appropriate system of inspection and, where applicable, other mechanisms for ensuring compliance?

Yes

### Comments

While we welcome the recognition of the fundamental requirements on member states under the fundamental occupational safety and health convention 155 to have an inspection and enforcement regime, we are concerned by the reference to undefined 'other mechanisms.' This could include self-regulation and inspection amnesties, which could undermine good practice and create a two-tier enforcement system. This is unacceptable.

25. Should the instrument or instruments establish that Members should provide for adequate penalties and remedial measures for violations of national laws and regulations concerning the use of chemicals at work and ensure their effective application?

Yes

### Comments

The language on penalties reflects the fundamental duties in the fundamental occupational safety and health convention C155 Article 9(2). The inclusion of 'remedial measures' in addition to penalties is welcome.

## Amendments

26. Should a procedure for amending specific provisions be considered when drafting the instrument or instruments in order to ensure their continued relevance in the light of scientific, toxicological or regulatory developments impacting the prevention of exposure to chemical hazards in the working environment?

Yes

### Comments

We could support a Rapid Amendment Process/Simplified Amendment Procedure for certain prescribed functions. The amendment process would however require the integration of explicit protections. Non-regression protections would be essential to ensure any amendments only enhance or improve upon existing provisions. The Amendment mechanism will also have to respect ILO's tripartite processes.

27. If so, please indicate the topics or subject areas related to the regulation of chemical hazards for which a simplified amendment procedure could be appropriate, if any.

### Comments

An amendment process could be employed where there is new evidence justifying improved occupational exposure limits or elevating chemicals to a category requiring prohibitions or greater restrictions or controls (for example, compelling new evidence of carcinogenicity). This could for example mean a chemical because subject to enhanced protective/elimination requirements (for example, as a result of substance falling under the high level requirements of the cancer convention C139), or medical surveillance etc. It could also have a role in the possible development, improvement or compilation of occupational exposure limits.

## V. Methods of application

28. Should the instrument, if it takes the form of a Convention or a Protocol, provide that Members should give effect to it by means of national laws and regulations, as well as through collective agreements or other measures consistent with national practice?

Yes

### Comments

This is consistent with the requirements of the fundamental occupational safety and health convention C155

## VI. Other considerations

29. Are there unique features of national law or practice that are liable to create difficulties in the practical application of the instrument or instruments?

No

### Comments

The instrument is intended to complement existing ILO normative provisions.

30. (For federal States only) In the event of the instrument or instruments being adopted, would the subject matter be appropriate for federal action or, wholly or in part, for action by the constituent units of the federation?

Choose an item.

### Comments

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31. Are there any other pertinent issues not covered by the present questionnaire that ought to be considered when drafting the instrument or instruments?

Yes

### Comments

Several key issues are missing from the proposals:

The assessment of and response to complex/mixed exposures, and consideration of the risk of potentiation/synergies in control strategies, health surveillance and occupational exposure limits

Explicit content on rights of workers and their representatives – information, participation, right to refuse and access to health reports/statistics/analyses

Whistleblower protection. We note a relevant Article is included in the biological hazards convention C192, Article 6(b) and 6 (c).

Just Transition – where an instrument has explicit language on prohibitions and restrictions, ILO's commitment to just transition should also be reflected in the text.

Use of biomonitoring – an increase in the ease of biomonitoring and digitisation of the finding means language on prior consultation with workers and their representatives prior to any introduction of this technology is essential, and should only occur with the consent of the worker. Where the technology is used, protection of worker privacy and employment is essential.

Data minimisation should be prioritised.

In situations of where exposures can lead to long-latency/long tail diseases, health surveillance/health tracking throughout and after cessation of work is necessary.

Use of AI in process control, worker monitoring, environmental monitoring has to be properly assessed and controlled – there must be enforceable rights of workers' and their representatives to be involved in decision-making about if, how, when and to what purpose the technology is used, and to be consulted at the earliest possible opportunity about problems, proposed changes or other issues or concerns arising.

Workers' epidemiology – workers' organisation and workers' representatives should be provided the time, facilities and access to anonymised health information necessary to determine patterns of ill-health by job, exposure or process.

Paraoccupational exposures - recognising that chemicals contaminating skin, hair, clothing or otherwise contaminating workers can transfer risks outside the workplace, measures should be taken wherever possible to eliminate this risk and measures should be in place to determine any paraoccupational disease relating to these exposures.