

- Mr./Mrs. Europe
- SOC-2

(Mr. E 2016/083)
10/03/2016

RESPIRABLE CRYSTALLINE SILICA
DRAFT JOINT LETTER TO COMMISSIONER THYSSEN
URGENT ACTION 11/3/2016 AT 12H00

Dear Colleagues,

Following our circular Mr.E.2016-074, dated 1/3/2016, and according to the discussions that took place during the SOC-2 meeting yesterday I had a discussion with the colleagues of IMA-Europe and we considered that the best option would be that FIEC co-signs the draft joint letter indicating in a footnote that we are not signatories of the NEPSI agreement and that therefore we do not express any position as regards the agreement, whilst supporting the other arguments mentioned in the letter.

Therefore, please find attached herewith **a final draft version of such letter**.

As discussed yesterday and because of the urgency, the letter will be sent out tomorrow afternoon. We therefore kindly ask you to inform us **by Friday 11th March at 12h00 at the latest** in case you do not agree that FIEC co-signs the attached letter.

The deadline is very short, but you have had the opportunity to read the letter before the SOC-2 meeting (circular Mr.E.2016-074) and during the meeting all the opinions expressed were unanimously positive with the exception of the paragraph on NEPSI. Thank you for your cooperation.

Best regards,

Domenico Campogrande

Marianne Thyssen
European Commissioner for Employment and Social Affairs
European Commission
Rue de la Loi / Wetstraat 200
1049 Bruxelles

Brussels, 10 March 2016

Dear Commissioner,

The undersigning organisations represent the European producers of mineral raw materials and downstream manufacturing industries which use these materials. Our members provide or use mineral raw materials and products needed notably for buildings, food and drink packaging, transport, infrastructure, health care, communication and education in the EU, and also those needed for high-tech applications and maintenance of eco-system services. More than 14% of jobs in the EU are in businesses which depend on mineral raw materials, representing around 30 million jobs.

Those materials and products all contain amounts of **CRYSTALLINE SILICA**, which is a naturally occurring ubiquitous mineral.

Based on informal information, we understand that the Commission might be intending to bring Respirable Crystalline Silica (RCS) under the scope of a proposal for amending Directive 2004/37/EC on the protection of workers from the risks of exposure to carcinogens and mutagens at work (known as CMD), due to take place this semester.

We would like to respectfully bring to your attention the fact that the project faces three severe issues regarding the inclusion of Respirable Crystalline Silica in the text. We hope that you might wish to re-consider the inclusion of Respirable Crystalline Silica in the proposal and to allow further time for reflection and dialogue.

1. A scientific evaluation by the expert committee of the European Commission is currently in process and this evaluation should be taken into consideration.

Recognizing a need to update the scientific evaluation of this substance carried out 10 years ago, the Commission mandated the Scientific Committee for Occupational Exposure Limits (SCOEL) in December 2015¹ -- with end December 2016 as the deadline for releasing their new evaluation. This mandate places emphasis on the new SCOEL Methodology for the Derivation of Occupational Exposure Limits². It is anticipated that the result of this assessment will fundamentally change the perspective for substances with threshold health effect (i.e. which do not show health effects below a certain exposure level). There is growing scientific evidence that crystalline silica belongs to this group of substances.

¹ On 14 December 2015, SCOEL received from the Commission a "Request for a Recommendation on occupational exposure limit value(s) ('OELs') and/or a scientific Opinion in accordance with Commission Decision 2014/113/EU: Silica, crystalline."

² Key Documentation - Version 7, June 2013

If the Commission continues with its proposal for new legislative measures, without first allowing time for the SCOEL to deliver its most up to date scientific opinion, there is a risk that the resulting legislation in the CMD will be disproportionate to the risk.

2. The Respirable Crystalline Silica occupational risk is already specifically addressed by a multi-sectoral Social Dialogue Agreement. The future of this successful agreement will be at risk if the Commission were to proceed with legislative proposal.³

A multi-sectoral autonomous Social Dialogue Agreement⁴ was established 10 years ago to protect workers' health by managing the occupational risk of exposure to RCS. This was triggered by the 2003 SCOEL evaluation [SUM DOC 94 final] and by the two-stage consultation carried out by the Commission. It was the first Agreement of this kind and has received continuous support from the EU Commission since then. In the view of the social partners, this SDA continues to fulfil its stated objectives and indeed brings continuous improvement. It is noteworthy that the Commission is currently assessing the performance of this SDA and first results indicate that the Agreement and its implementation mechanisms are suitable to achieve its objectives, including better protection of workers. It has improved knowledge on risk, control and health impacts among the managers and employees of the signatory industry sectors.

Furthermore, in the perspective of the re-launch of Social Dialogue, triggered by the Juncker Commission, such a successful autonomous Social Dialogue Agreement has precedent value which should be acknowledged when examining legislative proposals.

If the Commission maintains its proposals for RCS, without acknowledging the risk reduction efforts of the signatory social partners and their commitment to continuous improvement, this would be ignoring the achievements so far and undermine the future of this pioneering and highly successful example of social dialogue. The signatories of the Social Dialogue Agreement have demonstrated an alternative mechanism to the CMD. The development, evolution and sharing of tested good practice guidance, relevant to each industry sector, adds value that cannot be achieved by general CMD obligations. On this basis, the signatories of the Social Dialogue Agreement should expressly receive an exemption and not be under the scope of CMD obligations which may contradict or be less effective than those of the Agreement.

3. Transparency is important

It is recognized that this RCS file bears a significant socio-economic weight. It seems therefore particularly important to apply the principles of Better Regulation and allow a constructive

³ NB: The European Construction Industry Federation (FIEC) is not a signatory of the Agreement and although it supports its general prevention approach it does not express any position regarding this specific paragraph.

⁴ In 2006, the employers and employees of 14 industry sectors signed the **Agreement on Workers Health Protection through the Good Handling and Use of Crystalline Silica and Products containing it** (so called NEPSI Agreement – European Network for Silica, published in the EC Official Journal (OJ 2006/C279/02).

participation of the numerous stakeholders that would be impacted by the measures, from the description of the different options through their complete impact assessment.

This would not be possible if RCS were to be maintained in the currently planned amendment proposal.

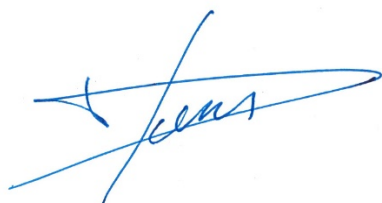
It must be clear that our industries take very seriously their obligation to manage and continually reduce the occupational risks arising from workplace exposure to RCS. We remain proactively open to any proportionate and effective improvement of the measures taken.

In order to give an appropriate reflection space to this process, we suggest however that this should happen outside of the fixed agenda imposed by the current revision of the Directive 2004/37/EC on the protection of workers from the risks of exposure to carcinogens and mutagens at work.

We kindly ask an appointment to meet at your earliest convenience and discuss this further.

Thank you in advance for your consideration,

Yours Sincerely,



Didier Jans

IMA-Europe Director General

On behalf of the following Associations:

BIBM – The International Bureau for Precast Concrete

CAEF – European Foundry Association

CEMBUREAU - The European Cement Association

CERAME-UNIE – The European Ceramic Industry Association

EMO – European Mortar Organization

EURIMA -The European Insulation Manufacturers Association

EUROMINES – The European Association of Mining Industries

EUROROC - European Federation of Natural Stone Industries

EXCA – European Expanded Clay Association

FEVE – The European Container Glass Federation

FIEC - The European Construction Industry Federation

Glass Fibre Europe – The European Glass Fibre Producers Association

Glass for Europe – European Association of of building, automotive and transport glass manufacturers

IMA-Europe – The European Industrial Minerals Association

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KNB – Royal Dutch Construction Ceramics Association

UEPG - European Aggregates Association

cc.

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Vice-President J. Kaitainen

Vice-president V. Dombrowski

Commissioner E. Biewkowska