

<p>Market surveillance issues of health at work The European Trade Union Confederation line</p>
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1. Every year, reported work-related injuries leave between 6,000 and 8,000 people dead and hundreds of thousands more work-disabled in the European Union. Some of these accidents are caused by work equipment¹. The failings of personal protective equipment also play a role in some. About a quarter of EU workers report having to use personal protective equipment to protect their health².

The main physical hazards in the workplace tend to stem from work equipment: noise, vibrations, ionizing and non-ionizing radiation. Noise alone is the main cause of recognized, compensated occupational diseases in most Community countries. The Dublin Foundation's survey of working conditions reports a slight rise in the number of EU workers exposed to extremely loud noise for at least a quarter of their working time (27% in 1990 up to 29% in 2000).

Ergonomic factors are also central to occupational health, as the rising tide of musculoskeletal disorders shows. Here, too, work equipment plays a significant, albeit generally less decisive, role than the practical conditions in which it is used (fast-paced, monotonous and repetitive work, etc.).

Chemical hazards also raise crucial issues about market surveillance, proper risk assessment by players independent of producers, and experience feedback, although these issues are not directly addressed by this conference. In some cases, work equipment may even be a central factor in exposure to chemical substances, throwing most of the onus back on the effectiveness of personal protective equipment³.

2. The Community legislation brought in from the latter half of the Eighties is underpinned by two broad sets of rules - one market-related, the other workplace-related. Putting these regulations into effective action involves a wide range of different players: standards institutions, notified bodies, designers and manufacturers, importers and marketers, setters and installers, public policing and enforcement agencies (including customs services and the

¹ Significantly, national employment injury figures largely gloss over the role of work equipment in accidents. This issue will be addressed in detail later.

² Findings from the Dublin Foundation's 1996 working conditions survey.

³ In a Finnish survey of high performance respiratory protection equipment, only 8 of the 21 appliances tested protected workers against asbestos fibres (*Santé et Travail*, No 32, p. 34).

courts), employers, workers and workers' representatives, etc. It is vital that all these players - as well as the public authorities at both national and European level - work together.

That cooperation, however, falls foul of sharply diverging interests and great unwillingness to act completely in the open (private players to shield themselves from possible competition or penalties, public players from what may be relentless bureaucratic inaction). Here as elsewhere, it is hard to credit that the market can just magic an aggregate of individual self-interests into collective well-being.

Community legislation is still not being applied effectively enough. The CE mark is often no guarantee that essential safety requirements have been met. A 1995 survey by the Swedish labour inspectorate of 3000 machines put into operation after January 1995 found that a third did not meet Community safety requirements, although some 85% were CE-marked⁴.

The reason why Community legislation is not properly applied may be down to its patchy nature, vagueness and grey areas. It may also be due to lack of cooperation between the players and the failure to connect up workplace experience with market regulation and surveillance machinery. It is often due to Member States' own faulty policing and enforcement arrangements. That is why we have so often swum against the tide and adamantly opposed the various drives to deregulate over the past ten years⁵, as well as more recent attempts to drive a hole through health and safety with an approach which would bring social policies down to boosting employment or adjuncts to economic growth. Where people's lives and health are involved, the public authorities cannot just leave it all to market rules and give up their policing and enforcement functions. The public authorities cannot walk away from their job under the cloak of the "new approach".

3. The machinery of work equipment and personal protective equipment market surveillance differs widely between the Member States. Variability of the institutional players is not a real problem per se, if their activities were more or less equally effective. Sadly, they hardly ever are. Some States put major resources into market surveillance, others pay it scant attention. There is too little cooperation between the public surveillance agencies in the different countries, and even less between these national public authorities and the Community authorities. Even within the Community institutions themselves, cooperation between the different Commission Directorates General (internal market, social affairs, industry, research and development) is rarely what it should be.

4. Where the Community regulations fall down badly is the lack of rules on the marketing of used equipment. Notwithstanding the size of this market, there is still no Community initiative in sight in this area more than ten years after the Machinery Directive was adopted. The Commission has simply bowed to pressure from the deregulation lobbies. Workplace health and safety cannot be improved unless this failing is addressed. The whole situation at present turns on a fiction that there is no Community market in second-hand machinery, so that each Member State's specific legislation is enough to enforce safety standards. Not only that, but the compliance requirements for work equipment in EU workplaces seems to have

⁴ Joint Industrial Safety Council, Newsletter, No 1_1996, p. 2.

⁵ Most famously at EU level, the 1995 Molitor report, and the many misleading and dangerous attempts to simplify administrative procedures or create a "business-friendly" environment (SLIM, BEST, etc.).

spurred the export of dangerous second-hand equipment to non-EU countries, especially in central and eastern Europe. So, at least, report a number of European works councils.

5. Current regulations are in part based on the activities of private players in a competitive market. As the problems of safety at sea show in a different regulatory framework, a competitive market of private policing organizations (broadly defined) is no better than its weakest link. Where there are different levels of enforcement, private players who may have reason to feel that their activities could fall short of requirements may go to more permissive organizations. We say it is vital to harmonize and toughen up the rules on quality criteria and the responsibilities of the notified bodies, and get effective joined-up action going between the Member States, the Community institutions and these organizations in the European Union.

6. Community legislation may aim to protect the safety and health of equipment users, but current practice is still coloured by a narrow approach to safety. Specifically, standards development takes too little account of ergonomic criteria. Standard EN 1050, which is fairly central in laying down safety risk assessment requirements for machinery designers does not incorporate ergonomic requirements as it should. Its methodology does not properly address ergonomic issues and its reference to B-type standards does not plug the loopholes due to these standards' failings on the ergonomics front.

We argue that market surveillance must necessarily take account of all health issues and be properly resourced to do so by collecting data from all sources and steadily developing more consistent occupational health standards.

7. Information systems on the health impacts of work equipment cannot be set up without effective cooperation between the different players. This will be a monumental challenge in the coming years. It involves the ongoing collection of data in workplaces on accidents, incidents, ergonomic problems and other health issues (e.g., noise and vibration) with which to pinpoint issues relating to specific equipment. At present, there is no such organized data collection at European level, although some States have a good record on this which could serve as the basis for a Community policy. In most countries, even employment injury information is under-used for market surveillance purposes. Generally, we know exactly how many accidents occur on each day or hour of the week, or in each industry segment. But information about the equipment involved and exactly how it was being used is much less clear-cut. Accident reports, which in different forms are a compulsory requirement in all EU States, could be a far more effective contributor to the organization of prevention.

8. Work equipment information systems would also improve the selection of work equipment in line with working environment Directives by giving both employers and workers' representatives access to more comprehensive information than just that provided by equipment vendors. The preventive services set up nationally under article 7 of the framework directive would also have a key role to play, clearing the way for a better multidisciplinary approach.

9. Such information systems should interface with - so as to improve workplace risk assessment from - worker-generated data on the hazards of different equipment and an ongoing feedback of experience from the workplace to the market and design stage. Workers

must be involved in risk assessment, which is still too often seen as a tedious paper formality. The safety flagging sheets drawn up by workers' representatives in the recent scheme set up jointly by the French public authorities and trade unions are a good case in point.

10. Effective information systems would allow public market surveillance agencies to do their job properly as an essential part of the linkage between market rules and workplace experience. A structured approach would be able to pick out which equipment falls short of essential safety requirements because it does not match up to existing standards, and at the other extreme, those which reveal flaws and failings in standards. In this way, workplace realities could inform standardization work on a much more routine basis. More trade union participation in standards development is another basic demand here. The TUTB has for years been pointing out the very low rate of application of the Machinery Directive's participation provisions.

11. There are also three important conditions if information systems on work equipment (including personal protective equipment) are to work properly. They are:

1. they must be public and accessible to all interests involved (without compromising individual safeguards in court proceedings, obviously);
2. the ability to link up special particulars of equipment between countries and with the other elements of a more all-embracing occupational health information system (linkages with health, accident, and other data);
3. a linkage between such systems and Community procedures for early warning and market retraction procedures in line with the dictates of safety and health protection.

12. These issues also have a relevant international dimension.

First, the European Union must see that market control systems (regulations, standardization, surveillance measures, including banning certain types of equipment) are not placed in jeopardy by bilateral or multilateral trade agreements. The fact is that the United States is pushing hard for international authorities (especially the ISO) to outrank the European regulatory authorities. The hallmark of these international authorities is that they are driven, far more even than their EU counterparts, by the economic agenda of the dominant multinationals. Community policy on the World Trade Organization absolutely must pay more attention to the red line issues of health and safety protection than it has so far. We believe that the WTO Agreement on Technical Barriers to Trade (TBT) poses a potential threat to the Community system of market regulation for work equipment and chemical substances. The Commission needs to spell out the scope of the Agreement, size up potential conflicts with the established body of Community laws and regulations, and put up proposals for more substantial safeguard clauses to protect health, safety and the environment. Whatever negotiating brief the Council gives the Commission should cover these issues to ensure that commercial considerations do not outweigh health concerns in future negotiations.

Also, the European Union exports both new and used work equipment. Such equipment must meet at least the same safety standards as for the Community market (and more, if importing countries' rules set higher standards). The forthcoming enlargement shows that integration between internal market policy and external trade policy is more vital than ever before.

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