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EDITORIAL

Wanted now - a programme to deliver the strategy

The Commission has just published a Communication entitled *Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006* which was heralded in the social agenda adopted at the Nice Summit.

In June 2001, the ETUC called on the Commission for a strategy in which the responsibilities of the different actors and levels of actions are clearly established, and which emphasizes the central role of the public authorities. It demanded a strong European programme for health and safety which addressed the worrying trends of deteriorating working conditions and an increase in occupational ill-health in many sectors.

Reaching much the same conclusions about changes in the working population (it is growing older, women's share is increasing), new and different patterns of work (mostly insecure) and new forms of work organization (non-standard working hours), the Commission recognizes that all these issues are major shaping factors on work-related health problems.

Its Communication comes down firmly on the side of an overall approach to health and safety at work.

True, it lays down guidelines and flags up a handful of initiatives for this year and next, but most of what it comes up with are proposals for potential actions, and vaguely-worded ideas; in some cases - like the gender dimension - all it does is to set objectives.

The mid-March Barcelona European Council pointed out the need to enhance the qualitative aspects of work, in particular the health and safety dimension, and to give priority to examining the Commission Communication. This pledge to get the Communication on an early agenda is welcome, and a Social Affairs Council resolution is expected for June 2002.

NEWSLETTER

Hopefully, this time, the Council will come up with concrete conclusions, having failed to do so on the previous proposal for a strategy. We want the Council to:

- support the objectives set up in the Communication, by calling for appropriate instruments, including legislation;
- recognize the central role of the public authorities in health and safety issues;
- give an impetus and set guidelines to keep efforts focused and the necessary indications for resources to be allocated at European level to deliver these priorities;
- call for concrete proposals for evaluating, adapting and supplementing Community legislation;
- adopt proposals that are already on the table;
- establish a framework for monitoring working conditions and, in consultation with the social partners, put in place the open method of coordination to improve working conditions and ensure that all workers are covered by prevention services;
- actively support the development of guidance that gives practical effect to the principles underpinning the directives, promote policies that deliver their objectives, and establish coordinated linkages between individual directives and the framework directive.

The essential next step will be for the Commission to draw up an action programme before the end of 2002. We shall be keeping a careful eye on that, because we believe that the state of working conditions in the EU and candidate countries demands that the Council and Commission make a renewed effort, with appropriate material and institutional resources, to turn the guidelines laid down by the framework directive over 13 years ago into workplace reality. ■

Marc Sapir,

Director of the TUTB

Our proposals for what should be in the strategy were published in *A New Impetus for Community Occupational Health Policy*, ETUC-TUTB, June 2001, 44 pages. See also our website: www.etuc.org/tutb/uk/pdf/politique-com.pdf

THE EUROPEAN TRADE UNION TECHNICAL BUREAU FOR HEALTH AND SAFETY was established in 1989 by the European Trade Union Confederation (ETUC). It provides support and expertise to the ETUC and the Workers' Group of the Advisory Committee on Safety, Hygiene and Health Protection at Work. The TUTB is an associate member of the European Committee for Standardization (CEN). It coordinates networks of trade union experts in the fields of standardization (safety of machinery) and chemicals (classification of hazardous substances and setting occupational exposure limits). It also represents the ETUC at the European Agency for Health and Safety in Bilbao.

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Long on ideas, short on means

The Commission has just unveiled its Communication on a new Community strategy on health and safety at work for 2002-2006¹. It is a long-awaited document adopted at the outcome of countless debates² and a generally rocky passage. It was late in being published due to the fault lines which emerged within the Commission. The original version drafted by DG Employment and Social Affairs was amended by other Commissioners. The majority view wanted it less ambitious or less specific on certain points (especially on psychological harassment and violence at work). This article gives a general assessment of the strategy document without going into all the specifics.

A new strategy was needed - of that there is no doubt. The health and safety directives have not delivered the goods. Since 1992, the Commission seems to have been at a loss for a proper strategy. Faced with strong deregulatory pressures, it has tended to aim low for one-off measures. The Commission's own resources for health and safety have been cut to the bone. And changing patterns of work have thrown up new issues which the directives did not properly address.

The Commission Communication contains much interesting analysis. It is possible to agree with its findings in many places where the analysis could have done with being clearer and better-developed. But the practical proposals are weak, very vague in parts and clearly fearful of provoking opposition from the employers and governments with the most free market attitude towards any form of social legislation. In short, it gives the impression of a clear-sighted but not too-responsive Commission whose hands are virtually tied.

Positive but only partial or unclear opportunities

The openness to a gender perspective is certainly positive. It is a wholly welcome breakthrough in the Commission's thinking on workplace health and safety³. But the Communication takes a fairly defensive approach. It makes workplace health and safety too passive a matter which must "take account" of the gender division of labour, when it should arguably play an active role and help work against job segregation. This objective appears only once, in a paragraph on fisheries policy. There are no concrete proposals, other than on developing research, and a very general suggestion that prevention services must have a gender perspective. To our way of thinking, it should also have addressed the issue of indicators, and come out in favour of harmonizing the systems for declaration and recognition of occupational diseases to put an end to current discriminatory practices. The gender perspective should also have been used to underpin clearer proposals on violence in the workplace and musculoskeletal disorders.

The Communication rightly says that musculoskeletal disorders are a priority of workplace health and safety. We do not believe that existing directives address this issue effectively, since they are limited to specific risks (work with display screen equipment, manual handling and, shortly, vibrations). A general directive on musculoskeletal disorders laying down essential ergonomic requirements would be a significant advance in this area, where the value of a Community contribution is beyond all doubt. The Nordic countries aside, no Member State has managed to bring in regulations specifically to address these issues. The difficulty is more political than technical: tackling musculoskeletal disorders at source means acting on work organization, and, in particular, bearing down on work intensification⁴. The Communication contains two passages on Community initiatives in the field of musculoskeletal disorders, announcing a Communication which will look into their causes and will propose amendments or new legal provisions in fields in which coverage is still incomplete. This is an equivocal statement: work could already have been started in both areas by revising existing individual directives to improve failings, and preparing a new, more general directive on essential ergonomic requirements for the prevention of musculoskeletal disorders.

The Communication also notes a rise in psycho-social problems and illnesses, singling out psychological harassment and violence at work. The version drafted by DG Employment and Social Affairs announced preparations for a directive on both issues. The version finally adopted by the Commission is less clear-cut. The Commission will "examine the appropriateness and the scope of a Community instrument on psychological harassment and violence at work". One of the underlying issues in the debates is: do psychological harassment and violence at work constitute working environment problems which are detrimental to health? If so, the Treaty makes provision for adopting directives (old article 118A, subsumed into current article 137). In some quarters, the view is that psycho-social factors and working time issues are not really objective components of working conditions

¹ Document COM (2002) 118 final of 11 March 2002.

² The trade union line adopted in June 2001 is set out in the TUTB and ETUC publication: *A New Impetus for Community Occupational Health Policy*.

³ Which makes some clumsy expressions ("an increasingly feminised society") and woolly claims - "men accounted for 93% of musculoskeletal problems and haematological illnesses" - the more regrettable. On what basis these two illnesses are lumped together, and where these far-fetched figures come from, is beyond imagining.

⁴ A political difficulty thrown into sharp relief in the United States. After years of debates and protests, ergonomics regulations were finally enacted in 2000. President Bush led a campaign which resulted in the federal regulations being revoked by Congress in March 2001 on the excuse that they would prove too costly to employers. US trade unions report that 600 000 workers a year suffer injuries or accidents which could have been prevented by applying the federal Occupational Safety and Health Agency (OSHA) rules.

which should be addressed by workplace health and safety policies, and Community jurisdiction has been challenged on this very issue. This was the UK position on the Working Time Directive. The ECJ may have ruled clearly in favour of a wide construction of the notion of “working environment”⁵, but the Commission seems to be divided on the matter. The debate is clearly more a political than legal one: the more free market-minded Commissioners do not want to see the exercise of employers’ powers officially regulated.

The Communication rightly addresses two key pillars of any preventive system: prevention services and the labour inspectorate. On prevention services, it says that they “should be genuinely multi-disciplinary, embracing social and psychological risks, and the gender factor”. This is a perfectly proper approach. Sadly, it puts up no concrete proposals for delivering this objective, which is far from reflecting the facts as they are. The labour inspectorate gets a more detailed analysis. The Communication stresses that it must be capable of appraising all the risks, combining their inspection role with a prevention function, and be open to audit, using result and quality indicators. The checks carried out by the inspection services must give rise to uniform sanctions which are dissuasive, proportionate and effectively applied. That is all said in so many words, but the Commission seem to envisage no other initiatives than exchanges of experiences and the organization of different forms of cooperation, assigning the Senior Labour Inspectors Committee (SLIC) a fundamental role. This is far from the Community setting a minimum level for Member States’ control responsibilities as is the case in environmental matters. Finally, the Communication is completely silent on a third pillar of prevention systems: employee representatives. Is this because the Commission considers it a secondary issue, or that the situation is satisfactory in this area?

Other positive opportunities deserve to be pointed out, notwithstanding that the proposals for actions are not always clear. These include, among others:

1. The Communication starts off the discussion on a more effective way of dealing with infringements in “transnational” situations, where a firm is operating in a state other than that in which it is established.
2. The role of the European Social Fund in terms of promoting a safe and healthy working environment will be “analysed”. This would be a crucial initiative were it to lead on to specific programmes for improving the working environment in the Community.
3. The Communication refers to the importance of collaborating with the ILO, but regrettably fails to address the issue of Member States’ ratifying the Conventions already adopted where there is already a serious backlog building up!
4. The Communication suggests that Member States should produce a single report on their implementation of the directives. This is clearly patterned

on the scheme introduced in the environmental sphere.

5. The proposal to integrate stress-related complaints and illnesses into the employment guidelines is highly positive. But the final version of the text is significantly qualified: the Commission will “examine the appropriateness of proposing the integration” of the problem. This officialese does not bespeak overwhelming enthusiasm. Other than that, stress issues would be referred to the social dialogue between employers and trade unions.
6. The linkage between workplace health and safety and market rules is addressed. The proposals are good as regards feedback of experiences, but completely gloss over the other key strategic factor of market regulation.
7. The Communication takes up the issue of EU enlargement to new Member States, stressing that the *acquis communautaire* must be properly applied. The ideas put forward are not without interest, but shy away from the fundamental point that a Community programme is needed to fund the development of national workplace health and safety policies. Transfers of experiences and twinning will not be enough.
8. Drawing up guides on how to apply the directives in conjunction with governments, the trade unions and employers’ organizations should certainly improve the way the directives are being applied.
9. A “risk observatory” is to be established. An excellent idea, but not so easy to deliver. The Communication says it will be based on examples of “good practice” collected from firms or specific branches of activity - a method that might be more suited to a registry of impeccable behaviour.

Major failings

The Communication does not address the existing scope of Community directives which exclude self-employed workers and domestic staff. This is a major flaw in the existing set-up. As things stand, for example, an employer who wishes to disregard asbestos or noise exposure limits merely has to bring in independent contractors. We have repeatedly pointed out that the domestic service exclusion indirectly discriminates against women, who make up the overwhelming majority of domestic help. Under existing Community provisions, women domestic workers are not even entitled to maternity leave!

The Communication’s purported analysis of the relationship between insecure employment and workplace health and safety is bankrupt not say distasteful. It comes up with the idea that “lack of motivation” may be a cause of the higher work accident frequency rate among such workers. What next - research into suicide trends among temporary workers?

The Communication says nothing about harmonizing the declaration and recognition of occupational

⁵ Judgement of 12 November 1996, United Kingdom v Council. See *TUTB Newsletter*, No. 5 (1996).

diseases, which makes the proposal for coordinating national policies on the basis of comparisons ("benchmarking") between declarations of occupational diseases ludicrous. The occupational disease declaration rate per 100 000 workers currently varies between 1 and 30. This discrepancy has nothing to do with objective differences in working conditions or the effectiveness of prevention, but is due to the systematic concealment of countless diseases as work-related by obstacles in declaration and recognition systems.

The Communication skirts round chemical risk and environmental protection issues, which feature only in a very piecemeal way (extending the scope of the "carcinogenic agents" directive, a reference to improving the linkage between market and environmental rules - set out in a series of other policies). This is little enough! The prevention of chemical risks is fraught with complex problems. The very first thing should be to give a new impetus to the policy of setting exposure limits and draw up lists of priority substances for which binding exposure limits are needed. A policy of replacing dangerous substances wherever they can be should also be put in place. Market rules are set to undergo radical changes in the coming years, so it is vital to frame a strategy for the workplace which takes them into account. The recent disaster in Toulouse threw two key factors into stark relief: the lack of effective employee representation, and the dire consequences of multi-tier subcontracting⁶. Neither of these issues are addressed by the Seveso major industrial hazard directive, and the latter appears nowhere in the health at work directives.

Integrating people with disabilities into a healthy and, if need be, adapted work environment is not really touched on. The only reference is to the role of the Bilbao Agency in connection with the European Year of Disabled People 2003. There is no mention of the fact that the only proposal for a directive intended to facilitate access to employment for people with disabilities (adaptation of transport) has been deadlocked for more than 12 years past.

The role of the public authorities

The Communication says far too little about the responsibility of governments. Apart from the possible adoption of a Community instrument on national reports on how the directives are being applied, everything else is a matter for the states' discretion (especially the minimum criteria for inspections). It could have drawn on the Community experience with environmental protection to go further and lay down a minimum framework for public authorities' responsibilities.

The Communication opens up the prospect of convergence in national policies on the basis of comparable indicators ("benchmarking"). Quantified

national objectives should be set for reducing the rates of work accidents and prescribed occupational diseases, and the number of days lost as a result of both. The scope of these indicators will not be looked at here other than to say that the second (and, therefore, the third which stems directly from the other two) makes no sense until there is a harmonized system for the recognition of occupational diseases at Community level. Also, from a gender perspective, the effect of these three indicators would be to greatly underestimate the damage to women's health. Comparability of the structural indicators of prevention systems (prevention services, employee representatives, percentage of workers actually covered by them, etc.) is not addressed. The Communication glosses over the key role played by the Dublin Foundation's Europe-wide survey of working conditions as an invaluable addition to the official work injury and occupational disease figures.

The consolidation conundrum

The Communication says that the existing legislation needs to be consolidated. Although it is less complex and copious than in other areas (the chemicals market, for example), consolidation *per se* is not an idea to be dismissed lightly. In the current political context, setting this as an objective is to set oneself a conundrum. Three different scenarios are possible.

Consolidation could simply be a screen for deregulation. There will certainly be enough pressure for it. Some will want to hold it down to "the essentials", putting the focus on employers' self-regulation and "corporate social responsibility".

Consolidation can just be a simple technical operation to coordinate all existing provisions, neither repealing nor adding anything. It would simply combine the different articles in a simplified presentation. So, instead of having provisions on worker information in each directive, there would be one general provision applicable to all areas. On the surface, this is an appealing solution since it would sidestep political difficulties. But its practical scope would be minimal. The Member States have already transposed the directives. Coordinating them would not affect the national legislation. And the national rules is what end-users (be it the labour inspectorate, employers or workers) refer to. The only benefits of this arrangement would accrue to new Member States (provided they have not yet transposed the directives) and teaching the subject.

Consolidation can be part of an exercise to evaluate the consistency of existing provisions, in which case it would go beyond simple coordination of provisions. It could, for example, be used to spell out the roles of the stakeholders (especially the public authorities), take account of the ILO conventions, clarify what health surveillance should do and how

⁶ The same factors are also present in many other "disasters": the Mecnavi fire in Ravenna, Italy (13 fatalities in 1987), the explosion on the Piper Alpha offshore drilling rig off the coast of Scotland (167 dead in 1988).

(dealt with in a fragmented and inconsistent way across different directives), bring in a full gender perspective, etc. Should the Commission choose to go down that road, it would get our full support.

Context and prospects

The Commission Communication is likely to be debated by the Council of the Ministers under the current Spanish Presidency, probably resulting in a Council resolution setting out its own position. It could come down behind the Commission proposals, or winnow out selected ones it wishes to support.

There are already growing voices for halting the development of social Europe in favour of more flexibility and labour market reform. The joint declaration adopted on 15 February 2002 by Messrs Blair and Berlusconi reflects that approach, which is endorsed by the Spanish government. Other governments would prefer to see a new impetus for Community action on workplace health and safety,

knowing that Community developments would help buttress improvements at national level. Closely-run elections are looming in Portugal, France, the Netherlands, Germany in particular. All of this suggests that we should not expect a Council resolution which goes beyond the Commission Communication, notwithstanding that a long series of national debates show the clear need for a new impetus for workplace health and safety policies.

Once the Council has adopted its resolution, the Commission will have to spell out its strategy through a work programme, laying down the different initiatives and setting a timetable. Trade unions will have an essential job to do in safeguarding the new elements in the Commission Communication, getting the Commission to turn them into workable proposals, and getting the necessary support from the European Parliament and Member States. ■

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Framework Directive up before ECJ

The ECJ has handed down rulings in the first two sets of non-compliance proceedings on the 1989 Framework Directive. In both cases, the Court held that the States concerned - Italy and Germany - had failed to transpose the Framework Directive properly. But proceedings are also pending against other States, and some national transposing legislation has been amended as a result of Commission threats to open formal proceedings. These include the French government's passing of the Decree of 5 November 2001 requiring a written statement to be drawn up of the results of the risk assessment and updated at least once a year, and the Belgian government's Royal Decree (regulations) of 10 August 2001 on the consultation of workers on welfare at work in firms with no collective representation bodies (Occupational Safety and Health Committee, or, failing that, a shop stewards' committee).

The ruling against Italy

The ECJ handed down its ruling in case C-49/00, *Commission v Italy* on 15 November 2001, upholding the three grounds of complaint put forward by the Commission, namely:

1. The risk assessment provision of Decree-Law No 626/1994 refers to a specified set of risks. It does not make it clear that this list is indicative, and that all risks must be evaluated by the employer. The Court held that Member States must require employers to carry out a risk assessment of all sources of risks in the workplace.
2. The Italian legislation did not make the enlisting of external prevention services compulsory where the skills available within the undertaking were insufficient. In practice, circumstances vary widely, and many firms simply use the services of a "competent doctor" where health surveillance is compulsory.
3. The Italian legislation did not define the capabilities and aptitudes that the workers appointed to form the company prevention services must possess, nor the external expertise. It left employers too much discretion.

Interestingly, it is not just the Italian transposing legislation that falls down on the latter two points - enlisting external prevention services and the capabilities of internal prevention service personnel. Other countries (the United Kingdom and Ireland in particular) have brought in very similar rules to the Italian legislation so as to leave employers wide discretion in the choice of what preventive services to establish. In Italy's case, the 1993 draft legislation to incorporate the Framework Directive clearly defined the capabilities and aptitudes of the internal prevention service personnel and left the expertise of external service personnel to be defined by future regulations. But Confindustria, the main Italian employers' confederation, took violent objection to this provision, and the government caved in to the employers' demands in flagrant violation of Community law when passing

Legislative Decree 626 of 19 September 1994. Every government that came and went between 1994 and 2002 failed to enact the necessary regulations, and the capabilities and aptitudes of all prevention personnel (apart from occupational health doctors) were never defined. The practical outcomes of this soon filtered through: the evidence of many assessments of the implementation of the Framework Directive is that the formation of preventive services is completely shambolic. An unregulated prevention consultancy market has developed, whose professional abilities do not necessarily match the real needs.

The ruling against Germany

The ECJ handed down its ruling in the proceedings against Germany (Case C-5/00) on 7 February 2002. The Commission's view was that by exempting employers of 10 or fewer workers from the duty to keep documents containing the results of a risk assessment the German legislation had not properly transposed the Framework Directive.

The Commission's arguments focused on three issues:

1. the need for a written risk assessment regardless of the size of the firm;
2. the employer's obligations as regards risk assessments;
3. the method of transposition used in Germany, where some of the Framework Directive's obligations were laid down in compulsory regulations made by the *Berufsgenossenschaften* (statutory work accident insurance institutions).

The ECJ ruling found in the Commission's favour on the first point. All firms must have a written risk assessment statement. The German legislation exempting small firms is in breach of the Directive.

But it sided with Advocate General Geelhoed's view that the Commission had not brought proof that Germany had used an unsatisfactory method of transposition.

The Court also upheld the German government's contention that a regulation which requires occupational health doctors and safety officials to draw up a risk assessment is inherently equivalent to the Directive's requirement for employers to be in possession of a risk assessment. This is a questionable finding based on too rigid a distinction between article 9 of the Directive (which requires the employer to be in possession of a document containing the results of the risk assessment but does not specify by whom the document is to be drawn up) and article 6 of the Directive, which requires the employer to evaluate those risks which cannot be eliminated. Arguably, two distinct documents - one containing the specific input of certain specialists to the risk assessment, and the overall assessment covering all working conditions - are not one and the same thing. The essential thing here is not to specify who should draw up the document, but to make it clear that the risk assessment is a multidisciplinary exercise covering all aspects of a business activity. It is open to discussion whether a two-tier preventive service (occupational health on one hand, safety on the other) can come up with such a comprehensive assessment.

Here, too, the scope of the judgement reaches beyond the facts of the German case alone. Legislation in other countries allows groups of employers to evade their obligation to be in possession of a written risk assessment. Italy is a case in point where a sort of self-certification system allows family businesses employing 10 or fewer workers to declare that they have evaluated the risks without providing a shred of written evidence on the contents of their assessment.

These two judgements are the first cases in which the ECJ has found Member States guilty of non-compliant transposition of the Health at Work Directives in cases other than complete failure to transpose. The Commission's job, of course, is to ensure that Member States give full application to the Directives. But where occupational health is concerned, we have time and again pointed out how seriously under-resourced the Commission is to do this. It must be better-resourced if it is to be an effective watchdog not just on the transposition, but also the practical application of the Directives. ■

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ECJ rulings on compulsory membership of a statutory work accident insurance body

Insurance against occupational risks is compulsory in all EU countries (apart from the Netherlands where it forms part of the more general sickness and invalidity insurance system). Historically, it was the first branch of social security to be made compulsory. Depending on the country, it may be provided by the general social security system (e.g., the United Kingdom and France), by semi-public bodies overseen by the social security system (e.g., Spain and Germany) or by private insurance companies (e.g., Belgium for work accidents, Denmark and Finland).

That administered by the social security system or semi-public organizations tends to be run along non-competitive lines (Spain is an exception) which avoids price distortions and ensures more internal consistency of services generally. Broadly-speaking, these public or semi-public agencies are more proactive in prevention and have significantly lower administration costs than private insurance companies.

In recent years, employers in some EU countries have been campaigning for partial privatization of this branch of social security. What that generally means is allowing private insurers to compete with the social security system. That partly reflects pressure from insurance companies for access to a substantial market. But it would doubtless also give the employers a tighter grip on how these organizations are run. In France, the main employers' confederation, MEDEF, is running what amounts to a shake-down campaign: employers would be ready to grant better conditions for compensating occupational diseases and work accidents if private insurance companies are allowed into the market.

In Italy, compulsory insurance against work accidents dates back to the Act of 17 March 1898. It was extended to occupational diseases in 1929 under a single framework covering all occupational risks. In 1926, private insurers were excluded from the

sector. At present, most private sector workers are covered by the National Institute for Insurance against Accidents at Work (INAIL), which also has responsibilities for prevention and rehabilitation of work accident victims.

The principle of compulsory membership of INAIL has challenged in some political and employers' circles. In May 2000, a series of referendums aiming to unpick social gains were organized by a small group of market economy hardliners headed by former European Commissioner Emma Bonino and Mr Pannella. The idea, among other things, was to scrap article 18 of the Employment Act and Regulations (provided for the reinstatement of unfairly dismissed workers), increase insecure employment (by doing away with limitations on fixed-term contracts), etc. One referendum proposed scrapping compulsory insurance with INAIL. The Italian employers' confederation, Confindustria, campaigned for some of the referendums to promote "labour market flexibility". Political groups on the Italian right were split by the "Thatcherite" radicalism of the idea. After much soul-searching, the party of the current Prime Minister, Mr Berlusconi, finally decided to abstain. In the end, the worker-bashing referendum campaign fizzled out. Some of the referendums were declared unconstitutional by the Constitutional Court (in particular, that on the INAIL), while those which were put to the vote were defeated by wholesale abstentions.

The *Cisal di Battistello Venanzio v INAIL* case concerned a craft worker who had not paid his INAIL contributions but had insured himself against work accidents with a private insurer. The question referred for a preliminary ruling by an Italian court was whether the Italian rules on compulsory membership of INAIL were compatible with Community competition law.

The ECJ gave its ruling on 22 January 2002. It concurred with the Opinion of Advocate General Jacobs given on 13 September 2001, which set out a detailed analysis of the Italian occupational risks insurance scheme and its relation to Community competition law. In its judgement, the Court reaffirms that Community law does not affect the power of the Member States to organise their social security systems. It stresses the social aims of work accident insurance and the principle of solidarity applied by the Italian scheme. The Court itself says that one result of the principle of solidarity is that: "The absence of any direct link between the contributions paid and the benefits granted (...) entails solidarity between better paid workers and those who, given their low earnings, would be deprived of proper social cover if such a link existed" (point 42 of the judgement). Compulsory affiliation, therefore, is essential for the financial balance of the scheme. Consequently, the INAIL fulfils an exclusively social function and does not therefore constitute an undertaking within the meaning of Community competition law.

This ruling has real political significance, inasmuch as the present Italian government is pursuing a clear free enterprise social agenda. The ECJ's ruling on the INAIL's social function pulls the rug from under the Italian employers' feet in its attempts to create a private insurance-based market for occupational risk compensation.

In an earlier judgement in non-compliance proceedings against Belgium, the Court ruled that in countries which have a free market in work accident insurance, that market should be open to insurance companies established in others Community countries. The Belgian government had argued that the special supervision which it exercises in respect of insurance undertakings can be exercised only vis-à-vis those which are established in Belgium, relying on the need for particularly strict rules, in particular as regards the financial equilibrium of the undertakings, the exclusion of cooperative societies from that insurance, separate management, the intervention of employers and employees as regards approval and withdrawal of approval, the requirement of a guarantee and the control of tariffs and terms of contracts. The Court dismissed these arguments in favour of a liberal interpretation of the Community directive of 18 June 1992 which coordinated the rules on direct insurance other than life assurance. ■

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References : Judgement of 22 January 2002, Case C-218/00, *Cisal di Battistello Venanzio & C. Sas v INAIL*. Judgement of 18 May 2000, case C-206/98, *Commission v Belgium*.

PPE Directive : A review of the proposed amendments

General application problems – Failings in the current PPE directive

The drafting group for the amendment of PPE Directive 89/686/EEC¹ set up by the European Commission concluded its work in September 2001. The draft was discussed in the last PPE Standing Committee in October and largely nodded through by the Member States. The new text aimed to improve the application of the Directive. The European Commission's initial suggestion that the amendment go through the SLIM process to produce a 'simplified' Directive was turned down by the Member States.

Looking at the Directive's implementation over the past ten years, it is clear that some problems were due to failings and loopholes in the text of the Directive as it is. Few of the Member States did much by way of market surveillance, so control of the workplace situation on PPE is poor and substandard products are mostly discovered after accidents. The PPE Directive's market surveillance provisions are weak, and Member States' obligations vague.

Manufacturers have problems classifying their products, and some even deliberately misinterpret the categories to downgrade the category they fall under. There is widespread abuse of the Directive's self-certification provisions. Notified Bodies do not all follow identical certification procedures, so tests and periodic controls are of varying quality. In practice, the certification process for some products (e.g., multi risk PPEs, whose parts are frequently assigned to different categories requiring different certification procedures) is very difficult. The directive's classification categories are unclear. Also, the Category I certification requirements are weak and the list of category III² products is incomplete. This leaves categories wide open to interpretation.

Failings in technical information and instructions for use of products are to blame for the selection of inappropriate PPEs that leads to a number of accidents. Poor selection of PPE is often due to insufficient, over-general provisions on information for use in the Directive, insufficient marking for category identification and far too many classes of protection.

PPEs are also failing in use because real working conditions bear little resemblance to the laboratory testing environment. A Finnish³ study tested a sample (21) of respiratory protective equipment for asbestos removal and found that only a small percentage of them (8) actually gave the protection claimed. Similar studies in the UK⁴ and France identified performance problems with PPEs in different working conditions (e.g., wet and dry environments)

and recognized the need to link equipment testing to work organization. The current directive's ergonomic requirements are poor and focus more on 'fitness for purpose' requirements than 'fitness for user' characteristics. The only comfort aspects addressed are anthropometric misfit and the physiological burden from the weight of PPE.

Finally, there is a migration of products for consumer use into workplaces. Products that are not regarded as PPE and have not undergone stringent examination procedures mislead workers about the protection offered. Again, the definitions for the different categories and exclusions are not clear enough.

Significantly, a large number of employers in Europe have flouted the directive's provisions and supplied workers with PPE as the first means of protection instead of taking collective prevention measures or making the pre-assessment required by work environment directive 89/656/EEC. This has led to workers rejecting the PPE, with the end result that they are little used, if at all.

Highlights of the draft amended text

The new text introduces some general amendments aiming at improving certification and official control procedures, and specific amendments to tackle technical issues arising out of the current text.

General amendments

Restructuring the Directive

The new draft is differently structured to the current directive. Definitions of terms used and a clear description of procedures to follow before placing PPE on the market have been added.

Setting up an independent PPE Standing Committee

The existing PPE Standing Committee of Member States' representatives that dealt with implementation and practical application of the Directive is unofficial (there is no provision in the current Directive) and operates as a subcommittee of the equivalent Machinery Committee. The new draft now puts the PPE Committee on an official footing with increased powers to bypass the regulatory procedure for amending the exclusive lists laid down in Annex I for PPE categories. This is intended to side-step time-consuming procedures for amending the legislation when practice shows that some products need reclassifying in a higher category.

General tightening-up of market surveillance

The draft amendment aims to tighten up market surveillance by adding new provisions to clarify Member States' obligations. It provides better control

¹ European Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment.

² There is a clear need to reclassify some category I products as category II, and category II products as category III.

³ *Santé et Travail*, No. 32, p. 34.

⁴ R. M. Howie *et al.*, "Workplace effectiveness of respiratory protective equipment for asbestos removal work", *HSE contract report*, No. 112, 1996.

of notified bodies by allowing authorities to withdraw approval from a body that repeatedly grants certificates which do not satisfy ESR. New provisions have also been added for administrative cooperation among Member States on the application, common interpretation of the Directive, and information on products that are unsafe or have been modified after a request from a Member State. Despite quite ambitious initial aims, however, the text ended up identical to the Machinery directive amendment which may slightly ease the work of Member States. Market surveillance of PPE is less easy than for other New Approach directives due to the wide variety of different products and categories. Also, the field of surveillance is wider because the end users are workers and consumers.

Limited validity for certificates

The validity of EC type-certificates is now limited to 5 years. Notified Bodies still have the same ongoing responsibility to ensure that the certificate remains valid, but manufacturers are now set a time in which they must apply for the certificate to be extended. The aim is to improve the Notified Bodies' control over manufacturers.

Clarification of categories

Definitions and explanations have been added for the three categories.

Certification procedures

New voluntary modules⁵ have been added in the PPE certification procedures for Category III products⁶. The Commission originally intended to provide the widest possible range of certification modules to manufacturers, including Module H, which does not involve third party quality testing of the product itself in the design and production stages. The module was opposed by most of the drafting group, however, and was eventually dropped.

Confidentiality

A new provision obliges Member States to ensure that information under the administrative cooperation between Member States is covered by professional secrecy.

Penalties

A new article lays down the Member States' obligations to define and ensure the implementation of the penalties adopted and notify the Commission accordingly.

Specific amendments

New exclusions from the scope of the Directive

One much-debated issue in the PPE Standing Committee and drafting group was whether *structural anchors* (parts permanently fixed in a wall or other structures) that are linked with the *anchor points* on the harness are PPEs for heights. In the current version, all connecting devices, including structural anchors and anchor points are considered as PPEs.

Manufacturers are keen for the amendment to separate anchor points from structural anchors, which they say are not personal. It was also argued that structural anchors are very difficult to test, because their reliability depends on the building or other structure to which they are fixed. The upshot is that permanent anchors are not considered as part of PPE, but anchor points are. Even so, Member States like France, Belgium, the Netherlands and Spain have lingering doubts. They either object to anchors points being classed as PPE (France) or want the definition to make it clear that they cannot protect the user.

Protective cream and fluids and insulating tools are now excluded from the scope of the directive. This new exclusion limits the definition of PPEs, so Member States can no longer translate the expression "PPE" in national legislation as protective means in the way they do at present.

Custom-made equipment

A request from the UK authorities has led to new provision being made for single items of custom-made equipment taking into account an individual user's medical or bodily specification. These can now be exempted from the certification procedures, since destruction testing of a sample is not feasible for such products.

Specific measures on inadequate families of PPE

Member States are given the power to order the withdrawal of obsolete PPEs that do not meet ESRs or the current state of the art. For example: were latex gloves to prove hazardous to users because of their allergic effects, and gloves could be made from new safe materials, latex gloves would be considered as an inadequate family of PPE.

Annex I

The Category I and III lists of PPEs have been modified. Some PPEs – like sunglasses in highly-reflective environments – have been upgraded from Category I to Category II, while things like ear muffs and ear-plugs for noise protection, PPE against biological agents, PPE against drowning, bullet-proof jackets, jackets against knife attacks, dry suits for diving in cold water, gloves for high mechanical protection and eye protection against laser radiation and solar eclipse viewing, have gone from Category II to Category III.

Annex II

At the last PPE Standing Committee plenary, it was decided that the amendment should not change the essential safety requirements (ESRs) in Annex II as this would involve changes to the relevant harmonized standards. But not all essential requirements have relevant harmonized standards, and the ESRs addressed important issues that stand in need of improvement.

⁵ See *Guide to the implementation of directives based on the New Approach and the Global Approach*, European Commission, 2000, pp. 31-35.

⁶ PPEs that are intended to protect against mortal danger or against dangers that may cause serious and irreversible harm to health.

The Finish Ministry of Social Affairs and Health and the Finish Institute for Occupational Health hosted a seminar on the revision of the PPE Directive in Kittilä⁷ (Finland) in December 2000 for subject-specialists representing different interest groups and national authorities across Europe. Specific remarks on Annex II produced by one of the workshops were submitted to the Commission to inform the amendment process.

Basically, they suggested:

- beefing up the current Directive's poor ergonomic provisions;
- requirements for information from manufacturers on PPE material allergies;
- enhanced information for use including selection guides and other warnings;
- a link to be made between end-user complaints and manufacturer (to be aligned with the provisions on the General Product Directive⁸, article 5);
- product labelling to facilitate product selection and market surveillance;
- compatibility control of PPE components of the same or different manufacturers;
- improvements in wording to avoid misinterpretation of the Directive;
- introduction of a new ESR on reliability of PPE incorporating electronic circuits (new-generation PPEs are heavily dependent on electronic circuits

and no relevant requirement was provided in the Directive).

All the suggestions were accepted apart from the obligations to label products and provide information on allergies, on which the members of the drafting group could not reach a consensus.

On the whole, the drafting group's document is good, but does not address all the application issues. Some Member States voiced concerns in the PPE Standing Committee about failings like the notified bodies' obligations being too weak, and the new text doing too little to strengthen market surveillance. The Commission stands too far apart from the process, and safeguard clauses remain bureaucratic procedures. Also conformity assessment of combined PPE is not detailed. A number of Member States also wanted the PPE amendment document more closely aligned with the General Product Directive.

The next stage is to launch a Business Impact Assessment for the new text which should be completed by the end of spring. Inter-service consultations will then take place, after which it will be put forward to the Council and Parliament. ■

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⁷ 5th seminar on personal protective equipment in Europe, Kittilä, Finland, 4-6 December 2000: *Seminar report*, Jurvelius H. (Ed.), FIOH, Vantaa, 2001.

⁸ European Parliament and Council Directive 2001/95/EC of 3 December 2001 on general product safety.

The gender dimension in health and safety

Initial findings of a European survey

The European survey on gender dimension in health and safety unearthed a welter of initiatives in different EU countries. 240 activities addressing a wide array of health issues were reported, ranging from research (70% of cases) through prevention schemes to industrial action, etc. The information collected on issues ranging from musculoskeletal disorders to the organization of working time, and across traditionally male strongholds like the construction industry to female-dominated occupations like nursing and cleaning services, all points to the gender dimension gaining recognition as a material factor in workplace health and safety. Some sectors are clearly much further on than others in this area: 36% of the reported schemes related to a specific sector. More than one in four were in the health and social services sector (mostly hospital nurses), one in ten related to distribution and retail (chiefly supermarket check-out staff). Not that many were in industry (under a quarter of identified sectors) and most of these were in the textile, footwear and clothing sectors.

The number and range of the schemes reported, however, cannot hide to view the fact that most OSH policies and prevention practice are still framed on a gender-neutral model - for which, read the standard male worker. So there is a point to looking closely at the roadblocks to a gender perspective of workplace health and safety, which interact in the four key areas surveyed: knowledge production, the policies in place, workplace prevention practices, how workers fight back. To a large extent, these interactions operate as vicious circles: research is not done into areas where change is not wanted, policies are not changed if there are no indicators to raise alarm, practitioners are geared up to deal with traditional risks and do not see the gender dimension as a relevant category, etc. Workers fight back

in very real and practical ways, revealed particularly through industrial discontent dating back over a century. But the far-reaching issues that they raise cannot easily be carried on from one generation to the next, or generalized into an overall strategy.

Knowledge production

Workplace health has never been taken as a field of scientific study in its own right, and occupies a fairly marginal place in the health sciences. Research into workplace health is very much dictated by the immediate demands of OSH policies. Often, the main workplace health research centres are national institutions which take a predominantly technico-medical approach to prevention and are run on a tripartite or joint basis. Those which depend on established compensation systems tend to have their agenda shaped by the visible cost of damaged health to these systems. Generally, OSH institutions have displayed very little gender awareness.

The only exception over the past decade has been those in Nordic countries. Elsewhere, the research input has come from institutions that are not mainstream OSH research bodies, or from collective initiatives by organizations and individuals involved in prevention policies but lacking significant institutional backing: trade unions, networks of occupational health doctors, ergonomists, etc.

Research itself suffers from policy compartmentalization. So, there is a large body of research on occupational segregation, but little of it deals with segregation-related OSH issues. Detailed "time budget" surveys in many countries have put a gender perspective on how time is divided between different activities, but few have linked this to working conditions to

The TUTB survey

The TUTB did a survey on the gender dimension of workplace health and safety in association with two research centres at the Brussels Free University and with backing from the Belgian EU Presidency. The survey was mainly questionnaire-based, supplemented by desk research and a seminar attended by a hundred-plus participants on 16 November 2001 in Brussels.

150 individuals and institutions in all EU countries apart from Ireland replied to the questionnaire. The biggest share of responses came from Spain and Italy (31 each), followed by France and Germany

(15 replies). Most respondents were trade union organizations (31%), research institutions (21%), agencies responsible for giving a lead to prevention policies (13%) and prevention services (9%). Institutions responsible for equality policies made a very poor showing, which probably reflects the little importance attached to OSH issues on the equal opportunities policy agenda.

The survey was coordinated by Laurent Vogel (lvogel@etuc.org) for the TUTB.

More details on the TUTB website:
<http://www.etuc.org/tutb/uk/survey.html>

see how these can produce exclusion and/or ill-health by making the work/life balance harder to achieve. The practical openings for gender-sensitive OSH research are quite limited, not least because they raise issues outside the traditional bounds of workplace preventive health policies. This situation is not set in stone, as the Quebec-based CINBIOSE project has shown¹ (Messing, 1999), but is still seriously holding back progress in Europe.

The gender kaleidoscope

The analysis of responses to our questionnaire shows that the gender dimension in workplace health research is interpreted in a wide range of ways.

For some, research focused on a largely female group addresses the gender dimension, so any research on nurses or textile workers is treated as gender-sensitive. For others, it involves at least a comparative analysis between men and women on the issue. At another level, there is the added insistence that it must be exclusively or mainly about issues relevant to women. So, a large number of responses reported research into reproductive health, sexual harassment and bullying, or the work-life balance.

Other research goes much further into the linkages between the organization of paid work and more general social determinants, in particular how paid work hinges on (and for women is often conditioned by) unpaid work. They also focus on social constructs of maleness (or masculinity) and femaleness both inside and outside the workplace, where research can perfectly well bring a gender perspective to the study of an exclusively male population².

It is not a case of putting up a prescriptive definition of the gender dimension with which to "label" research, as it were. Different understandings of the gender dimension emerge according to the field of research and a range of political and methodological choices. The point is to get a debate going between these different approaches. None of the scientific fields of study usually involved in workplace health research (medicine, ergonomics, psychology, toxicology, etc.) offer guarantees that the gender dimension will get full recognition as such. There are two key requirements to overcome this obstacle.

Cross-cutting approaches

The issue in the round - the linkage between human health and work - is split up between different fields of study which each have their own individual approach, but also between the different themes addressed (working time, mental health and work, work-related illnesses, linkage between paid work and unpaid work, etc.). Taking a gender perspective means combining interdisciplinarity with a cross-wise approach to the issues. This is what Eleonora Menicucci³ calls a "cross-cutting approach" which goes beyond workplace risk analysis to focus on the interaction between life time and work time.

Who asks the questions?

The important thing when looking at workplace health research is to know who is asking the questions. Karen Messing⁴ points out how one-eyed science can be when researchers have ignored the impact of working conditions on menstruation whereas a series of surveys of union stewards in female-dominated sectors show that this is a pressing issue for women workers. Little account is taken of subjective experience - i.e., the real lives of men and women workers as individuals and workforces in setting issues - in organized workplace health research. This raises a real issue about identifying what workers' want from it, which is partly bound up with what the big official sponsors want, which the employers try to control. The linkage between the relevance of the questions asked and workers' direct experiences is addressed very persuasively by Laura Corradi's⁵ remarkable book on night work in the Barilla Group's factories in Italy.

Policies in focus

The main hallmark of the policies pursued is how compartmentalized health at work, equality and public health policies are. Each is relatively impervious to issues in the others. Arguably, that makes each less effective in its own sphere.

Health at work policies

Health at work policies have tended to disregard the interaction between paid and unpaid work, developing mainly as correctives with a gender perspective at best tacked on to address certain specifically women's issues (labelled as a "vulnerable group" on the same footing as young people or people with disabilities).

At first, they were predominantly protective/exclusionary, and vestiges of this approach still remain. This policy, which dates back to the 19th century and remained the dominant approach at least up to the middle of the 20th century, is marked by a wide array of gender-differential prohibitions and rules in different areas (especially the handling of loads, lead exposure, etc.). Outside of the legislative rules, practice tended to legitimize the gender divide in work. A wide range of activities were prohibited to women: night work in industry, all work in mines and underground works, etc. Looking at the reasons behind these, a varying collection of motives can be discerned, ranging from the protection of health through the protection of morality to an implicit reaffirmation of certain male prerogatives. In Spain, for instance, Francoist laws banned women under 21 from driving tractors, agricultural machinery or any other animal-drawn vehicle. They were also prohibited from metal-forging trades.

The protective approach was compounded by a recognition of women's difference in the purely biological sense. Hence the emergence of the phrase "pregnant worker" in the specific context of

¹ Messing, K. (ed.), (1999), *Integrating Gender in Ergonomic Analysis. Strategies for Transforming Women's Work*, Brussels, TUTB.

² See: Molinier, P., (1997), "Psychodynamique du travail et précarisation. La construction défensive de la virilité", in *Appay*.

Thébaud-Mony, A. (ed.), (1997), *Précarisation sociale, travail et santé*, Paris, CNRS-IRESO, pp. 285-292.

Kjellberg, "Men are also gendered" in Kilborn, A., Messing, K., Thorbjörnsson, B., (ed.) (1998), *Women's Health at Work*, Stockholm: NIWL, pp. 279-307.

³ Menicucci, E., Scavone, L. (coord.) (1997), *Trabalho, saúde e gênero na era da globalização*, Goiânia: A.B. Editora.

⁴ Messing, K., (1998), *One-eyed science: occupational health and women workers*, Philadelphia, Temple University Press.

⁵ Corradi, L., (1991), *Il tempo rovesciato. Quotidianità femminile e lavoro notturno alla Barilla*, Milan: FrancoAngeli.

maternity. Here again, "biology" is used as a technique for domesticating what is a function of the work sphere. In a nutshell, it is both too specific and too unspecific an approach.

Too specific... in that most factors that threaten reproductive health endanger more than the health of just pregnant women. They affect the health of men and women generally at different levels. In many cases, the rules specifically relating to maternity have served to sidestep the substantive debate on eliminating at source a whole set of health-endangering agents. They have created the illusion of prevention by removing pregnant workers from particularly hazardous situations without tackling the problem at source by permanent collective prevention measures.

Too unspecific... in that this sudden concern for women's biological health is limited to maternity! Other issues linked to women's unique biology are rarely addressed. The literature on the linkages between working conditions and disruption of the menstrual cycle is all-but non-existent. Little study has been done on exposure to dangerous substances in relation to altered hormone regulation or the different composition of certain tissues. Only very recently have studies begun to be done on the possible connections between breast cancer and night work⁶.

The protective approach has gradually given way to a "gender-neutral" approach which addresses workplace health issues from the angle of an abstract worker - implicitly, the standard male worker ("standard" being a construct which clearly fails to accommodate the wide differences between real-life male workers). This is the main hallmark of health at work policies currently pursued in the European Union and its Member States, all the mainstreaming rhetoric notwithstanding.

The gender-neutral approach really falls down when tested against the only sector routinely excluded by health at work regulations in the European Union - domestic staff, who are (there is no getting away from the fact) predominantly female. Legislators see paid domestic work as a simple extension of the unpaid work which "naturally" falls to women. This approach to the division of labour allows a blind eye to be turned to the risks of such work - both those inherent in all domestic work (paid or unpaid) and the specific risks created or exacerbated by the employment relationship. But the scant evidence available on domestic service points to its being a high-risk sector. So, Belgian work accident data show an overall severity rate well above the private sector average (12.10 per thousand against 2.18 in 1998). Other surveys also point to it as being a sector where the power relationship may be marked by extreme violence, especially towards women domestic workers from non-Community countries who lack the opportunity to find lawful alternative employment.

Public health policies

Although public health policies have become more gender-aware in recent years, the main focus has been on biological differences and individual behaviours or lifestyles (or a combination of the two, in the case of policies on breast cancer). Neither paid nor unpaid work features greatly in most studies on the gender dimension of health⁷. What the factors highlighted have in common is to skate around gender differences in the workplace while recognizing (and this is their most positive contribution) that traditional approaches to health have paid little attention to women's "specific issues". The linkage between health and unpaid work has been considered in a handful of studies, but more to focus on women's lack of access to paid employment than to explore the linkage between "dual-career lives" and health.

There is one methodological barrier which affects both men and women, but women more. Public health usually brings working conditions into the equation only when there is an immediate and direct link between a particular factor and a medical condition. It is little inclined to include working conditions in the round in an analysis of the social determinants of health⁸. This form of denial is directly connected to a political obstacle. Any incursion by public health into the sphere of waged employment has consistently been knocked back by the employers. The workplace is seen as a private domain and the management of firms is claimed as a prerogative of employers. Even in cases where there is a clearly-evidenced link between occupational exposure and an illness, the employer has always kept a stranglehold on assessing (in order to minimize) risks, and especially a monopoly on risk management decisions. This is easily exemplified by the health disasters of first silicosis, then asbestos-related diseases. Pursuing a public health policy on working conditions would explode the shaky compromise on the concept of "occupational risks." It would show that damaged health is not just the result of accidents or abnormal occurrences, but also the normal effect of waged employment, the wear and tear and steady undermining of health that are its daily consequence.

Equal opportunities policies

The brief of equal opportunities policy is not to upset the workplace division of labour nor throw male domination open to question, but rather to deliver equality of opportunity for all individuals on the labour market regardless of gender and assure them of equal pay and other working conditions for equal work. From this viewpoint, the factors of inequality are often seen as the legacy of the past. There is even a growing trend away from "contextualizing" inequalities within workplace gender relations: so, positive actions would be confined to promoting the "under-represented sex", while legal challenges under EU provisions have in some cases ended up

⁶ Hansen, J., (2001). Light at Night, Shiftwork, and Breast Cancer Risk. *J Natl Cancer Inst*, vol. 93, pp. 1513-1515.

⁷ Among the rare exceptions are: Germany: Ducki, A., (2001), *Arbeit und Gesundheit, in: Bericht zur gesundheitlichen Situation von Frauen in Deutschland. Ein Bestandaufnahme unter Berücksichtigung der unterschiedlichen Entwicklung in West- und Ostdeutschland*, Stuttgart : Kolhammer, pp. 366-446.

Sweden: Ostlin, P., et al., *Gender Inequalities in Health. A Swedish Perspective*, Harvard School of Public Health, 2001.

⁸ Tuberculosis is a striking case in point. The epidemiology and policies on tuberculosis prevention almost entirely ducked the key issue of work-related wear-and-tear (Cottureau, A., *La tuberculose: maladie urbaine ou maladie de l'usure au travail?*, *Sociologie du Travail*, 1978, No. 2, pp. 192-224). The way in which public health policies address cancer generally is also indicative of a strategy of sidestepping working conditions.

blocking national measures intended to promote women's access to male-dominated jobs on the grounds that such measures would have constituted "discrimination on the grounds of sex"⁹.

There is no compulsion on employers to overhaul their work organization to improve gender balance in tasks and functions. This is the main reason why health at work policies are not joined up with equality policies. Workload defined in ways which systematically devalue women's jobs, heavily gender-biased job content which tends to exclude men or women from specific jobs based on role stereotyping, vast gender gaps in employment relationships (part-time, short-term contracts, etc.) - all these factors relate as much to health at work as to equality. In many countries, positive policies are pursued to promote gender balance at work. Most of the cases reported do not engage with changing working conditions for all workers, but generally stop short at vocational training, sometimes linked to psychological support.

Sexual harassment is also a telling case in point. The Community approach (broadly followed by national policies) is individually-focussed, addressing the issue as a matter of relations between harasser and harassee. But this is a blinkered view which fails to understand that sexual harassment can also be related to work organization and become instrumental in preserving male domination. It says much that this is such a widespread problem in occupations traditionally closed to women. It suggests that aside from the individual sexual purpose, there may be a collective purpose which is less sexual than symbolic and political: the intent to preserve a predominantly gender-based hierarchy. Notwithstanding the evidence that sexual harassment also constitutes a health risk, it has never been considered as a workplace health issue covered by the instruments put in place.

A relevant debate which sheds light on avoidance strategies

Analysing the gender dimension in health and safety is not about fine-tuning theories. It has far-reaching implications for policy-making and preventive strategies.

Changing patterns of work have redrawn the boundaries of inequality rather than leading to desegregation of work (both paid and unpaid). The lines of the division of labour have shifted, but its differential impact on the health of men and women has stayed the same.

Were the issue just about redistributing risks by occupations and sectors, that would pose no fundamental challenges for prevention policies. But the health impact analysis of working conditions shows that risk allocation is not simply gender-randomized. Put simply, one of the structural determinants of the gender division of labour itself is a normalization of male and female stereotyped risks.

According to a typology developed by Philippe Davezies¹⁰, health damage can be divided into three groups:

- direct physical injury generally due to physical agents (machinery, substances) or factors;
- overloading due to inappropriate or excessive wear on men and women. Here, it is the pace or repetitiveness of the work activity itself that is at issue;
- violation of dignity, in which respect there has been a notable increase in the types of psychological abuse (humiliation, victimization, bullying).

Obviously, these three categories are not mutually exclusive. There are interactions between the different types of health damage. For various reasons to do with the gender division of labour, women are today more at risk of category two and three

⁹ See Kalanke judgement, ECJ, 17 October 1995, ECR I, p. 3069.

¹⁰ Davezies, P., (1999), Evolutions des organisations du travail et atteintes à la santé, Contribution to the workshop "Nouvelles organisations du travail", in: *Travailler*, No. 3.

% reporting that	female manual workers	male manual workers
They work on a production line	24 %	7 %
They do repetitive work with cycle times of under a minute	27 %	10 %
Their superior dictates how to do the work	29 %	21 %
Their work pace is under at least daily surveillance control by their superior	43 %	37 %
Their work pace is set by standards or times of one hour or less to be met	41 %	34 %
Their work schedules are set by the firm and they cannot change them	84 %	87 %
They cannot choose when to take their breaks	22 %	13 %
They are not allowed to talk when working	10 %	2 %
They have no opportunity for group discussions of organizational problems or how the department is run	54 %	38 %
Their relationships with their superior are sometimes strained	25 %	31 %

Source: DARES 1998 survey in Gollac & Volkoff, 2000, p. 65.

abuses¹¹. In particular, there is a clear increase in the Taylorization of a number of female industrial jobs, and a nascent Taylorization of some female-dominated service jobs (hospital work, distribution, call centres, etc.).

In this connection, some DARES surveys in France have pointed out that women manual workers are experiencing a persistence of the “disadvantages of Taylorism with none of its benefits”¹². The table on page 16 is significant.

Prevention practice has tended to prioritise the first class of health damage which to some extent could be separated from normal work routine and portrayed as “accidents” or “failings”. In some instances, health damage has also meant disrupted production, so it could be considered that there was a common interest in implementing preventive measures.

The evidence from most surveys on working conditions is that women tend to be over-exposed to over-loading and violations of dignity¹³, which can least be treated as failings in the organization of production

but, to the contrary, stem directly from work intensity (and its profitability from the resource owner's view-point) and the chain of command.

Furthermore, a gender perspective must also take the paid/unpaid work equation on board. Finally, the indissoluble link between working conditions and stereotyped roles must lead to a critical analysis of the constructs of maleness (or masculinity) and femaleness.

This means that prevention practices must challenge the central tenets of work organization and social reproduction. But by doing so, they cease to be simple prevention practices. They forfeit their hallmark technical neutrality and have no option but to become part of processes of political and social change rolling out over a very much wider field than the elimination of workplace risks alone. Arguably, that explains the potency of the mechanisms we have found for keeping women invisible. ■

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A work in progress

The survey is just one stage of a longer-term activity. The TUTB's next staging posts are:

■ May 2002: publication of a Spanish edition of the book edited by Karen Messing, *Integrating Gender in Ergonomic Analysis. Strategies for Transforming Women's Work*. It was published in French and English as a TUTB venture in 1999, and has since been published in Greek, Portuguese and Italian. The Spanish version bears witness to the interest kindled by the collaborative venture between a research institution and trade unions in Quebec. This edition will include a new chapter on women's health at work in Latin America written by a Chilean researcher, Manual Parra Garrido of the *Centro de Estudios de la Mujer*. This book is being published as a joint venture between the TUTB, Editions La Catarata and CINBIOSE.

■ June 2002: publication in French and English of a book presenting the research findings. *The gender*

dimension in health and safety - Experiences in the European Union (provisional title) will review the key issues addressed by the research (developments, policies and prospects) and case studies from different EU countries illustrating research or actions in different sectors on different categories of risks.

■ 2-5 June 2002: International Congress on “Women, Work and Health” in Stockholm, where the TUTB will present the survey findings and moderate a workshop on trade union experiences.

■ The TUTB will also work with the Bilbao-based European Agency for Safety and Health at Work in its new project on the gender dimension in health and safety.

Regularly updated information on this topic is posted on our website:

<http://www.etuc.org/tutb/uk/survey.html>

¹¹ This is what emerges in particular from Annie Thébaud-Mony and Véronique Daubas-Letourneux's work on the data of the Dublin Foundation's surveys on working conditions in Europe. My thanks to them for having kindly shown me their findings before publication.

¹² Quoted from Gollac & Volkoff, *Les conditions de travail*, Paris, Éditions La Découverte, 2000, p. 64.

¹³ These findings must be approached with caution. The mechanics of women's exposure to physical and chemical risks often results in their being underestimated. A German study on exposure to chemical risks shows that the mechanics of exposure and exposure control resulted in a marked underestimate of the dangers to women workers. Kliemt, G., *Arbeitsplätze mit Gefahrstoffbelastung und hohem Frauenanteil*, BAuA, 1995.

France : yawning health divides

France's Public Health Committee (HCSP) has just published its third three-year report since being set up in December 1991. The report, entitled *Health in France 2002*, gives a full check-up on the nation's health, plus a critical study of the health care system and ways of making it more efficient. It is the outcome of eighteen months' work by the HCSP and many outside experts.

Despite having pierced the wall of silence about the wide social health gaps in its 1994 report, the Public Health Committee is forced to the grim conclusion that they have not reduced.

A 35-year-old manager can now expect to outlive a manual worker by 6.5 years. 2 in 8 manual workers now aged 35 will die before reaching 65, compared to 1 in 10 managerial staff. An unskilled worker has a probability of disability of 113, versus 89 for senior management (French average 100). The premature birth rate triples and the incidence of low birth weight doubles according to the mother's educational level.

The causes of death reflect the same wide social inequalities, as the table below shows.

The deeper research into occupation-related health gaps goes, the clearer it becomes that inequalities are entrenched not just in general mortality or morbidity, but in other areas, too, like disability, dependency needs, and how social and health systems cater for them. For example, for the same level of

disability, the proportion of children in institutional care is 3 times higher among manual and clerical workers than among managerial and middle-level occupations.

The Committee calls for a greater effort to survey and monitor these inequalities. Some existing "watchdog systems", like those for occupational or notifiable diseases, do not get directly to grips with these social inequalities. More research is needed into occupation-related health determinants and the use of prevention and care to look behind individuals' social and occupational groups and financial means to understand the "why" of these health situations and patterns, and this use of care.

Are postcode- and occupation-related health gaps an inevitability that we have to put up with, trusting in public funding for remedial care systems to put the situation right? The Public Health Committee thinks not, and wants government to make closing health gaps a priority not just of health policies but all public policies generally. It also argues that "generally speaking, the environment, working conditions, the living environment are all factors that condition our health which are not given sufficient importance in health promotion".

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The full report is available on:
<http://hcsp.ensp.fr/hcspi/explore.cgi/accueil>

Ratio of death rates of male manual/non manual workers between 45 and 59 years of age in Europe

	Lung cancer	Other cancers	Cardiovascular disease	Gastrointestinal disorders
France	1.65*	1.75*	1.14	2.20*
England & Wales	1.54*	1.07	1.50*	Not available
Ireland	1.95*	1.17*	1.23*	1.08
Finland	2.20*	1.14*	1.47*	1.37*
Sweden	1.46*	1.11*	1.36*	1.58*
Norway	1.62*	1.15*	1.35*	1.42*
Denmark	1.51*	1.09*	1.28*	1.65*
Switzerland	1.73*	1.29*	0.96	1.62*
Italy (Turin)	1.26	1.17*	1.08	1.85*
Spain	1.38*	1.31*	0.98	1.59*
Portugal	1.07	1.15*	0.76*	1.59*

* Significantly different to 1

Source : Kunst, A. E., Groenhouf, F., Mackenbach, J. P., "Inégalités sociales de mortalité prématurée: la France comparée aux autres pays européens", in Leclerc, A., Fassin, D., Grandjean, H., Kaminski, M., Lang, T. (eds), *Les inégalités sociales de santé*, Paris : Inserm-La Découverte, 2000, pp. 53-68.

Don't under-rate working conditions

This extract from the report* is a contribution by Marcel Goldberg of INSERM (National Institute for Health and Medical Research) on how the health impact of working conditions is downplayed.

The international scientific literature provides evidence to show that work-related factors play a large part in people's health. In particular, about a third of the social differential in cancer deaths in industrial countries is thought to be accounted for by work-related exposure, rising to about 50% for lung and bladder cancers. As well as cancers, which are the focus of intensive research, the work environment is also wholly or partly to blame for other major health problems: musculoskeletal disorders (at least 30% of adult males suffer low back pain, mostly work-related, while all countries which keep figures report joint problems rising to epidemic proportions in the past few years), damage to hearing, reproductive system disorders, non-carcinogenic respiratory disease, skin disorders, neuropsychiatric, cardiovascular and other problems. Alongside physical, chemical and biological hazards, work organization-related psychosocial factors also take a heavy toll on both physical and mental health.

The French occupational disease compensation system is based on a set of "schedules" that lay down criteria for the recognition of different diseases and the conditions of exposure to work-related pathogens. This system has often been taken to task as giving recognition to too few occupational diseases, and the postcode lottery of the probability that a disorder will be recognized as an occupational disease. Under-recognition most probably affects all occupational disorders for which compensation tables exist, and in most cases is hard to put a figure on. But the patchy data available on cancers and musculoskeletal disorders gives some idea of how big a problem it is.

About 500 cases of work-related cancers were compensated as occupational diseases in France in 1999, whereas best estimates from the international literature would put these at around several thousand cases a year. Work-based asbestos-related cancers are firmly established, but offer a particularly telling example: only 413 asbestos-related cancers were recognized as occupational diseases under the general scheme in 1998, whereas a "low" estimate of asbestos-related deaths in France puts the toll at 1,950 fatalities in 1996.

The same goes for joint disorders, especially carpal tunnel syndrome, an illness whose work-related etiology is most firmly established. A recent study in Montreal, whose findings broadly hold up when applied to France, shows that carpal tunnel syndrome requiring surgical treatment among manual workers had a work-related cause in 76% of men and 55% of women. And there are about 130 000 carpal tunnel syndrome operations a year in France, for about 2 000 cases a year of joint disorders recognized as occupational diseases. Not all this surgery is on manual workers, admittedly. But it is clear that, here too, there is a massive under-recognition of the work-related etiology of this disease, even though, unlike most cancers, the latency period after the exposure to the causative working conditions is short, so that most cases occur in people who are still working even though under occupational health surveillance. One consequence of under-rating work-related etiologies is that there is too little workplace prevention provision. By hitting firms in their pockets, the occupational diseases compensation system was designed to encourage preventive measures and improvements in working conditions. In fact, this massive under-estimation of the consequences of work-related exposure is very likely one main reason why the information and prevention needed to address these avoidable diseases is not happening.

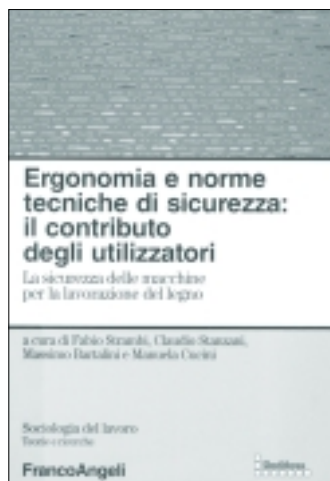
Also, the paucity of national data means that the proportion of work-related diseases is estimated exclusively from the evidence of international literature. The big problem with this is that it produces invalid estimates, since the share attributable to work-related factors cannot be divorced from the study population. More than that, though, it under-rates the extent of work-related pathologies, because a problem measured by reference to national data shared between a large number of actors is always seen to be much larger than when assessed by data taken over from other countries that only the handful of specialists in the field get to see.

Marcel Goldberg, Inserm U88

* Marcel Goldberg, "Déterminants professionnels: des effets qui restent largement sous-estimés", in *La santé en France 2002*, French Ministry of Employment, Public Health Committee (HCSP), January 2002, pp. 129-131.

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Safety of woodworking machinery : benefitting from workers' experience



Ergonomia e norme tecniche di sicurezza: il contributo degli utilizzatori. La sicurezza delle macchine per la lavorazione del legno (The user input to ergonomics and technical safety standards. Safety of woodworking machinery).

Edited by Fabio Strambi, Claudio Stanzani, Massimo Bartalini and Manuela Cucini, *Sociologia del lavoro teorie e ricerche*, Milano, FrancoAngeli and SindNova, 2001, 248 p.

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www.francoangeli.it

Following a data collecting project run in co-operation with the Swedish union LO in 1997, the TUTB commissioned SindNova, an Italian trade union institute, to develop a research project to involve workers and firms in assessing the effectiveness of technical standards on the safety of woodworking machinery.

The project was carried out in 1999 in Tuscany, Italy, by Fabio Strambi and colleagues from the Siena Local Health Authority Unit (USL). The outcomes were published under the title: *Safety of woodworking machinery in the Val d'Elsa: ergonomics and technical standards. Collected data on user input*¹, along with a series of articles dealing with safety, ergonomics and technical standardization in the woodworking industry (see inset).

This article reviews the project's methodology and main results, as well as future developments. Ongoing TUTB projects following up on the outcomes of this Italian pilot project are also described (see box p. 23).

Introduction

The project run in Val d'Elsa, Tuscany in conjunction with the Local Health Authority Unit (USL) aimed to introduce a participatory model in a specific high-risk industrial environment, collecting input from machinery users and integrating it into a strategy for improving machinery technical standards.

In 1998, Europe's wood and wood products industry suffered around 90 000 work accidents involving more than 3 days' absence from work. Fatalities rose by 5.0% in the period 1996-98. This is significant, seen in the context of the high risk in manufacturing workplaces of 1 to 9 employees, where the relative incidence is 28% above the industry average. Finally, a 1999 labour force survey identified craftsmen (+64%), and installation and assembly workers and machine operators (+55%)² as particularly high-risk groups.

Italy's woodworking industry is made up of more than 90 000 companies employing 370 000 workers in all – half of them craftsmen. Few of these companies employ more than 100 workers.

The woodworking trade in general industry rates as one of the most hazardous occupations in Italy. Rotating devices, cutting or shearing blades, in-running nip points, and meshing gears are examples of potential sources of workplace injuries, while crushed hands, severed fingers, amputations, and blindness are typical woodworking accidents.

In 1997, more than 3 600 work accidents leading to more than 3 days' sick leave involved woodworking machines in Italy. Over half these were in Tuscany, where thousands of woodworking sector SMEs represent the region's biggest economic resource.

The Italian Context

The National Industrial Injuries Insurance Institute (INAIL) is the main source of information on work accidents due to the obligations laid down by Presidential Legislative Decree (DPR) No. 1124 on compulsory insurance of work accidents and occupational diseases.

INAIL also has to submit to the National Health Authority annual data on workplace accidents and occupational diseases, together with a list of all companies insured. The Ministry of Health then sends relevant data out to all regional authorities. INAIL is also set to work with the central OSH agency ISPESL to develop new criteria for collecting and analysing data on workplace risk factors, but that is still very much a work in progress.

However, Legislative Decree 626/94 – transposing Directive 89/391/EC – has introduced into Italy's industrial relations system a new framework for enterprise representation, a network of joint regional bodies, and consolidated main offices for tripartite consultation. Workers' safety representatives (RLS) now have rights to access information, training, consultation on health & safety issues; trade unions and employers' associations can meet within *joint regional committees* to discuss and promote initiatives to improve working conditions; while the Standing Committee for Accident Prevention and Health examines operational issues of implementation of health and safety provisions in a framework of practical social partner involvement.

Basic source of information

In the first phase of the project, figures on woodworking sector accidents were culled from INAIL and from the Tuscany regional authorities so as to identify the most dangerous machines.

The research was then widened by collecting accident information from the Val d'Elsa USL, which has been collecting medical certificates and police reports in connection with work accidents for the past ten years.

The finding that **circular saws** and **spindle moulders** were responsible for most accidents was consolidated

¹ *La Sicurezza delle Macchine per la lavorazione del legno in alta Val d'Elsa: ergonomia e norme tecniche. Come raccogliere il contributo degli utilizzatori*, Fabio Strambi, Massimo Bartalini, Manuela Cucini, Simone Pintaldi, Corrado Barone, Alessandro Fattorini, Marta Dei, Marco Fanti, Claudio Stanzani.

² Eurostat, *Accidents at work in the EU 1998 - 1999*.

by analysing ISPESL's investigations into the worst accidents occurring in the Val d'Elsa region over the previous nine years. Relevant technical standards and various technical documents were also collected.

Local trade unions, employers' associations, and workers' safety reps (RLS) from different woodworking firms then attended workshops to identify the different parties' expectations of machinery safety, and to map out the strategy for phase two.

Working group activity

The analysis of accidents involving woodworking machines and the preliminary meetings of all parties involved were useful in pinpointing companies to be inspected to glean further information on how woodworking accidents happen. Preliminary inspections were to examine the working environment of the machines being studied, and describe it on special risk filter forms. Each company's accident book was then consulted to single out those involving **circular saws** and **spindle moulders** for further analysis.

In-depth analysis of single accidents now enabled the following aspects to be identified:

- poor machinery design;
- regulation machine guarding, but inappropriate or poorly designed;
- machine guards, even if in place, misused by the worker;
- inappropriate operating procedure.

Working groups were then formed, each group being made up of workers using the same machine (even if

in different companies), employees and/or employers with technical knowledge of that machine, and technical staff from the public prevention service.

Initially, each working phase was split into "basic operational tasks", which were examined to identify *operating procedures, knowledge base, risk factors and suggestions for injury prevention*. Consideration was given to job mobility, area of performance, ongoing operations in surrounding areas, specific hazards in the area, relative age of the workforce and job experience, applicable health and safety rules, and recognition of abnormal or unforeseen problems.

This was the time to validate the assumptions made by the experts in accident categorization, with the workers acting as key players in evaluating their own working environment. This information was tabulated as shown in the table below.

This systematic approach was overseen by experts from the public prevention service, which promoted and coordinated an open debate, and compared workers' input with past accident investigations and technical standard provisions³.

This exacting review of work *processes* was supplemented by an analysis of instruction books provided by manufacturers and user instructions compiled by employers.

From this exercise, recommendations were drawn up specifically addressing the provisions of relevant technical standards, as shown in the tables page 22.

Task	Operating Procedure	Knowledge Base	Risk Factors	Suggestion for Injury Prevention
1. Commissioning	Protection hood selection and setting up.	Angle work often requires changing of protection hood in order not to jam against the edge of the board and prevent cutting.	Incorrect hood selection leads to potential contact with saw blade.	Accessories to be provided so as not to perform cutting with unsuitable hood. Proper training in selecting protection hood.
2. Small workpiece cutting	Finishing work to be carried out by means of push block or push stick to push workpiece against the blade.	Push block must be carefully selected in relation to stock characteristics.	Finishing work and angle cutting may expose operator's hands to contact with the blade.	These sticks protect the hand while allowing good hand control of the stock as it is pushed through the cutting head or blade <i>only if carefully selected</i> . Instructions for use must address proper stick selection.

³ In particular EN 848-1:1998 (CEN/TC 142) Safety of woodworking machines - One side moulding machines with rotating tool - Part 1: Single spindle vertical moulding machines, and EN 1870-1:1999 (CEN/TC 142) Safety of woodworking machines - Circular sawing machines - Part 1: Circular saw benches (with and without sliding table) and dimension saws.

Recommendations	EN 1870-1:1999 relevant provisions to be improved
The standard does not address the manufacturer's obligation to define minimal dimension of removed wood chips, so as to use both protective hood and push stick in the space between hood's lateral edge and the rip fence. Minimum dimensions of workable stocks to be defined according to protection hood characteristics. Protections hood ought to be used even if push sticks are used.	5.2.7.1. Guarding of the tools 5.2.9. Safety appliances

Recommendations	EN 1870-1:1999 relevant provisions to be improved
<p>The risk of cutting, abrasion and stabbing during the manual handling of tools (blades) and raw material (especially some type of wood) is not considered and the related hazard is not included in the list of hazards.</p> <p>The use of suitable gloves is not recommended for handling tools and raw materials.</p> <p>The use of suitable safety shoes is not recommended to protect workers' feet from falling tools and raw materials.</p>	<p>4. List of hazards</p> <p>5.2.3. Protection against mechanical hazards: tool holder and tool design</p> <p>6.3. Instruction handbook</p>
<p>Provisions concerning the dimensions of machine table and extension table, the distance between the centre line of the saw spindle and the far end of the table (or table extension), the table height, should be improved to follow a coherent ergonomic approach which takes into account the position of the workers.</p> <p>Tipping of the workpiece is a common cause of accidents : maximum dimensions and weight of workpieces should be suggested depending on table dimensions.</p>	<p>5.2.6.2. Table size</p> <p>Annex E, Machine table and insert minimum dimensions</p> <p>6.3. Instruction handbook</p>

Other recommendations not referred to specific standard provisions were also classified:

Recommendations	Addressee
<ul style="list-style-type: none"> ■ Manufacturers of dust collection systems should provide the user with instructions on how to monitor design performances over the life cycle of the system. ■ Workers should be given information on how to safely perform finishing work when manoeuvring stocks in close proximity to blades; workers should be given information on how to periodically assess guard and safety device characteristics over the time, as well as information on maintenance. Workers should be informed about the training they must receive on the use of work equipment. 	<ul style="list-style-type: none"> ■ Manufacturers ■ Employers

Workers were also given questionnaires to evaluate what they knew about safe work practices, machine guarding, and protection devices, and were also asked for their opinions and comments to co-workers, employers, and manufacturers.

Conclusions and comments

The project successfully demonstrated the benefits of collecting user experience with work equipment, as well as data on accidents and near misses, to make technical standards more effective in specifying safer working environments.

The methodology could be systematically applied to monitoring specific machines in order to develop recommendations for new or existing technical standards.

After selecting an economic sector, relevant work equipment, and geographical areas in which the machine to be studied are sufficiently widespread, an Observatory made up of representatives of trade unions, public prevention experts, manufacturers and workers' safety representatives would carry out a preliminary study to classify accidents and near-misses involving the work equipment under study.

Working groups would then look at the work activity in the round, in order to frame recommendations which addressed specific provisions of standards.

The Observatory would collect the working groups' recommendations, and consolidate them to address the different parties.

Manufacturers would be asked to improve machinery design by developing solutions to the problems identified (e.g., making protection systems more usable⁴) and periodically update the instructions for use in the light of relevant comments and suggested improvements. The file might then be submitted to Notified Bodies (at least for Annex IV machinery). Collecting information on accidents or near misses involving a machine might also possibly be made an obligation for the manufacturer.

Employers would make good use of manufacturers' indications by incorporating them in training provision for workers to reinforce safe behaviour.

Workers' Safety Reps would be helped to identify appropriate prevention programs to be run in individual companies in co-operation with employers, based on workers' demands and suggestions.

Standards developers would have relevant supplements to the five-yearly revision process of technical standards.

Public authorities would be able to improve existing accident databases and possibly set up new ones to support prevention strategies. ■

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⁴ The analysis of accidents involving circular saws and spindle moulders showed that protection of workers relies on safety devices which must be – from time to time – selected for the specific job, properly set and correctly used. EN 1870 - for example – needs improvement as regards setting of devices to avoid contact with the saw and the *refusal* of the piece.

Participatory strategies for work equipment design

The TUTB and SALTSA¹ are currently running a project on "Trade Union Strategies for Improving Mandated European Technical Standards" which will conclude in June 2003.

The project falls into three main phases. The first two are essentially reporting – updating existing issues around trade union participation in the standardisation process, and the impact of globalisation on standardization. Phase three is the exploratory stage of the project, researching into new participatory strategies.

The project's research focus will establish best practice in the participatory design of equipment EU-wide, and will offer a systematic collection of end-user knowledge on the design process. As part of this, the TUTB will collect case studies and associated methods where workers have had a say in designing or improving the equipment and machinery they use, or have influenced a specification and selection process.

The first aim of the research is to prove that participatory methods and information from end-users can improve machinery design. The second is to achieve broader leverage over the design of various machines by feeding this information into the standardization process.

In order to build up strong, case-based arguments as to why operator data should be systematically used in the CEN process, projects that have led to changes in the requirements of working equipment technical standards will also be included in the research. At the same time, appropriate methods for collecting and analysing these data will be suggested to demonstrate the feasibility of the proposal.

In this project, the TUTB is co-operating with national trade union affiliates, Nottingham University's Institute for Occupational Ergonomics, Bordeaux I University's Ergonomics laboratory (LAP/ ADS), TNO's Ergonomics innovation team, and the Finnish Institute for Occupational Health.

The TUTB - SALTSA project comes as a follow-up to two previous pilot projects on participatory processes set up by the TUTB some years ago in Sweden and Italy. The first of these was run in collaboration with the Swedish Trade Union Confederation and the Swedish Wood Industry Workers Union in 1997. Information on users' experience of woodworking machines was collected by means of questionnaires. At the end, safety delegates successfully identified technical shortcomings in the design of the machines examined, and a

number of ergonomic improvements were suggested.

The second pilot study was carried out in 1999 in Tuscany (Italy) in collaboration with SindNova and the Local Health Authority Unit (USL), (see our article above).

Main outcomes

The case studies on participatory design of work equipment will be included in national reports that will be discussed in a workshop held in Brussels in June 2002.

The national reports will be analysed and presented in a consolidated final report to be published in early 2003.

A conference to present the results of the project will be staged in 2003.

The coordinator of the project at the TUTB is Theoni Koukoulaki, tkoukoul@etuc.org
Further information on our web site :
www.etuc.org/tutb/uk/standard-participation.html

¹ The Joint Programme for Working Life Research in a European Perspective is an undertaking by the Swedish Trade Unions LO, SACO and TCO and the National Institute for Working Life.

Environment not a trade issue

In its Opinion 2/00 of 6 December 2001, the ECJ makes it resoundingly clear that the environment is not a trade issue in international relations.

The Opinion deals with the Cartagena Biosafety Protocol drawn up by the signatory states to the Rio Biodiversity Convention of 5 June 1992. The Protocol applies to the transboundary movement, transport, handling and use of any living modified organism (LMO) that could have harmful effects on the conservation and sustainable use of biological diversity and also entail risks for human health.

The European Commission wanted to conclude the protocol under article 133 (common commercial policy) and article 174 (4) (cooperation with non-member countries and international organizations in environmental matters). The Council wanted to conclude it under article 175 (Community environmental powers).

Politically, the difference is significant. Considering the environment in international relations as a component of the common commercial policy would significantly restrict Member States' ability to take initiatives and improve on whatever the Community might do. The Commission even tried to slip through a new concept of the Community having "preponderant competence" in this sphere, which would leave the Member States with only residual competence, basing its argument in particular on the possible development of an environmental policy by the WTO.

The ECJ dismissed the Commission's argument, stressing that the environment in international relations was not to be equated with the common commercial policy. ■

France : damning report on workplace risk compensation and prevention

In a report published on 20 February 2000, France's Central Audit Office calls for a complete overhaul of the workplace risk management system. The report looks at all aspects of public provision on workplace risks, with a particular focus on asbestos, as a basis for a sweeping critical analysis of the parts played by the actors involved.

The report criticizes the "work injury/work-related diseases" branch of the social security system for ending up with an abnormal financial surplus by making flat-rate compensation payments that are too low, and seriously underestimating work-related diseases and their impact (especially in terms of the cost of hospital treatment, which is paid for by the sickness branch instead of the work injury and work-related diseases branch as it should be).

The report calls for changes in the way the schedules of occupational diseases are drawn up. Experience teaches that a lack of consensus has often enabled the employers to block recognition of diseases for years. The Audit Office cites the eight-year obstruction of the recognition of low back pain as an example of this. It suggests that an independent scientific body be set up to establish the work-relatedness of diseases. If it does so with sufficient scientific assurance, the public authorities would have to change the rules. If it cannot bring sufficient scientific assurance, the trade unions and employers' organizations would still have to agree, but the public authorities would retain their regulatory powers. ■

The full text of the report is available at : www.ccomptes.fr/FramePrinc/frame01.htm

Bhopal : people are still dying

More than 17 years on, the Bhopal disaster is still taking its toll on the health of the exposed population. An alliance of Indian organizations has published a call for an international campaign to bring pressure to bear on the multinational Dow Chemical, which has now merged with Union Carbide.

The call points out that at least a fifth of the half million exposed people are still suffering from chronic illnesses. Tens of thousands of young people exposed as children or unborn babies are suffering from retardation of physical growth and mental development. An abnormally high number of women have menstrual irregularities. Tuberculosis, infectious diseases and cancer have reached alarming proportions in the population. 95% of the survivors have received paltry compensation of just 15 000 rupees (about €350 at current exchange rates). The soil and water are severely polluted and more than 5 000 families regularly have to drink water which is contaminated by carcinogens and other toxic substances. 10 to 15 people die every month from the consequences of diseases caused by Union Carbide. The total number of deaths is now approaching 20 000 according to the Indian organizations engaged in the "Justice for Bhopal" campaign.

Legal action against the multinational has failed. The United States government is refusing to hand over Warren Anderson (Union Carbide's former Chairman) and other company officers to stand trial in India. The US Environmental Protection Agency (EPA) even went so far as to award Union Carbide an environmental management quality prize in 2000. In 1997, then US vice-president Al Gore had also awarded the multinational a prize for its "partnership" in developing environmentally-sound technologies. Many lobbies - including Greenpeace - condemned these acts of public

recognition when Union Carbide was refusing to accept responsibility for cleaning up the Bhopal site.

In February 2001, Union Carbide became a wholly-owned subsidiary of Dow Chemical, a giant of the world chemicals industry, and one of the most powerful companies in the US military industrial complex. Dow Chemical manufactured the napalm and agent orange used in the Vietnam war, among other things. Dow Chemical is still operating to double standards by producing and marketing in India a particularly dangerous pesticide (Dursban) which was taken off the United States market in 2000.

The Indian organizations are calling for a world campaign to force Dow to accept accountability for compensating the victims and cleaning up the site of Bhopal and releasing the relevant information that Union Carbide has always withheld as a trade secret. ■

For information on the National Campaign for "Justice in Bhopal" : www.bhopal.net/welcome.html

Major industrial hazards : French parliamentary report on AZF factory disaster in Toulouse

The commission of inquiry set up by the National Assembly to investigate the Toulouse disaster which occurred in September 2001 has now published its report. The explosion killed 30 people, 21 of them at work on the site (including 13 working for subcontractors) and caused incalculable damage to surrounding buildings. In less than three months, the commission of inquiry took evidence from nearly 400 witnesses and inspected 17 production sites all over France to look closely into many aspects of major industrial hazard management. It has come up with a list of 90 recommendations and gives a powerful political endorsement to the Commission "White Paper" on future chemicals

policy, highlighting the opposition of most employers' organizations to the "White Paper". Among other things, it calls for departmental information and safety committees to be set up, with the resources to commission second opinions. It makes 14 proposals to strengthen the hand of Health and Safety Committees, and calls for a ban on multi-tier subcontracting on so-called Seveso sites. A parliamentary bill to tighten up technohazard control tabled in the National Assembly on 18 February 2002 addresses three aspects of beefing up instruments to control new urban development near high-risk sites, consultation between the local stakeholders affected by industrial hazards, and improved risk prevention and management through closer involvement of workers' representatives in the activities of the firms concerned and those of outside contractors. Overall, these proposals usefully inform the European debate on improving the Seveso major industrial hazard directive and squaring it away with the occupational health provisions. ■

The full text of the report is available at : www.assemblee-nationale.fr/documents/index-enquete-rapports.asp
The bill is available at : www.assemblee-nationale.fr/projets/pl3605.asp

Italy : attacks on the prevention system

The Berlusconi government has launched an offensive against Italy's health at work laws. The first attack is on occupational medicine. Under Italian law, doctors who carry out prevention activities in workplaces are designated as the "competent doctors" and must hold a qualification in occupational medicine or other occupational health specialization. Order in Council No 402 of 12 November 2001, given statutory effect on 8 January 2002, provides that employers can enlist the services of doctors specialized in areas unconnected with health at work, especially forensic medicine, insurance medicine and hygiene. This

would increase the number of doctors qualified to act in workplaces from 8 000 to 80 000, which is far more than necessary and will lead to an undercutting war which employers will doubtless sit back and let happen, especially as Italian law does not require the prior agreement of workers' representatives when appointing such doctors.

But the government aims to throw into question the entire legal framework of prevention. It has secured powers from parliament to enable it to amend the existing rules. The powers are couched in the vaguest of terms which will enable it to do virtually what it wants, bypassing parliamentary debate. The intention is clear: to go from a punitive/enforcement approach to a preventive and "consultancy" approach.

This approach fails to appreciate that the main role of the public authorities in this is to guarantee life and health. Granted, prevention and advice are essential, but so too is punishment where safety obligations are flouted. Presenting the findings of a survey on the application of legislative decree 626/94 (the law which transposed the framework directive and other individual directives), Under-Secretary of State for Work Maurizio Sacconi came up with the bizarre argument that because employers are not complying with the rules, they should be simplified it and partially decriminalized.

This view brushes aside a number of things. First, the legislation has not long been on the books. It has been undermined by subsequent modifications which repeatedly deferred the date of full and complete application until 1999. Miracles were not really to be expected, especially given the inefficient public enforcement system. Also, many employers look on prevention as costly red tape and a shackle on free enterprise. That kind of resistance will be overcome by streamlining the rules or partial decriminalization. Quite the oppo-

site, the best way to improve compliance with prevention rules is to strengthen balancing forces like employee representatives, and put effective enforcement systems in place. To say it is an essentially punitive system does not reflect the facts. There is no known case of an employer being sent to prison even for offences which have killed workers. The acquittal in November 2001 of several executives of the Enichem chemicals group on charges of causing the death of more than 200 workers by exposing them to carcinogens is a telling illustration of the situation. A migrant worker who has not filled in the paperwork properly for a residence permit is more likely to end up in jail than an employer who has caused fatal accidents. But when the Minister of Labour belongs to a xenophobic free market political party like the Lega Nord/Northern League, it seems only to be expected. ■

Conciliation procedure agreement on Vibration Directive

The common position for a directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from vibration went for its second reading in the European Parliament on 23 October 2001. The EP voted on a number of proposed amendments to the draft Directive.

The most critical change was to reduce the limit and action values for whole body vibration from 1.15 m/s² to 0.8 m/s² and from 0.6 m/s² to 0.5 m/s² respectively. Another was to cut the particularly long transitional periods total from the entry into force of the Directive from a total of 9 years to 7 years. Also, the period for which employers would be allowed to supply workers with non-compliant equipment had been reduced from 6 years after the entry into force of the Directive to 3 years. Finally a negative amendment to improve the Directive - clearly designed as a

compromise to achieve a consensus within the EP group - was to include agriculture and forestry as potential sectors for derogations. The EP amendments were referred back to the Council for a second reading.

Because a stalemate had been reached, the matter was referred to the conciliation procedure, which involved meetings with EP and Council delegations.

The Council drafted its position on 16 January 2002. Basically, it threw out the amendment on the whole body vibration limit value, but accepted the reduction on the action value which triggers prevention measures and health surveillance at workplaces. It also insisted on the long transitional periods of the initial common position, adding only a sentence making consultation of the two sides of industry a prerequisite for the use of the transitional periods. On a more positive note, it rejected the inclusion of new sectors for derogation.

The EP sent its position following its delegation meeting on 6 February 2002. The EP could only accept the reduction of the action value if the transitional periods were reduced in line with the EP's original amendments. While acceptance of a lower action value was a positive sign of compromise from the Council, the question still remains why the limit value could not be reduced at least to 1m/s², to equal double the action value, as is the case for hand-arm vibration (2.5m/s² and 5 m/s²).

The conciliation procedure finally concluded with a compromise agreement between the Council and Parliament Committees. The key points of this were that the EP accepted the exposure limit values set in the Council's common position, while the transitional periods were set somewhere between the Council's position and the EP amendments. This means that the transitional period is now cut down to 8 years from the original 9 - i.e., the directive's provisions will be

applicable from 2010 for equipment supplied to workers before 2007 (5 years after the entry into force of the directive instead of 6 years) and from 2014 for the agriculture and forestry sectors (no change from the initial Council position). ■

The Transport and general Workers Union in the UK has reacted angrily to the decision to delay implementation of new vibration controls on workplace agricultural and forestry equipment. Barry Leathwood, head of the TGWU's rural and agricultural workers' group, welcomed the new EU physical agents directive, but said the decision to delay implementation of the new safety limits for agricultural and forestry equipment was 'disgraceful'. He added: 'Agricultural workers in this most dangerous of industries are not asking for special treatment - if vibration from working long hours on tractors and other work equipment is a danger to their health, then measures to safeguard their health should apply equally to all workers'.

Source: TUC Risks 42, 23 February 2002.

Risk reduction in SMEs : European Parliament funds second cofinancing programme

In December 2001, the European Parliament allocated a 4 million euro budget for a second programme to co-fund projects to cut work-related accidents in small firms. The 2002-2003 programme will be run by the Bilbao European Agency in the same way as the projects now being carried out under the first programme 2001-2002. The new programme's scope has been extended to reducing workplace accident risks as well as health and safety management in SMEs. 40 to 50 projects, either national or transnational, will be co-funded. ■

Full details and the call for project proposals form on the Bilbao Agency's website : <http://osha.eu.int>

European Week 2002 - Stress

The Bilbao-based European Agency for Safety and Health at Work's European Week 2002 will target the prevention of stress and psychosocial risks. The European Week will run throughout October, and national activities will be organized by the Agency's "focal points" in the form of awareness-building campaigns, information and training materials, and organized events. As every year, a good practice competition will be staged at European level, where a score of practical workplace solutions will be given recognition through Good Practice Awards.

The European Week closing conference will be held in Bilbao on 25 November 2002. ■

Details on the Bilbao Agency's website : <http://osha.eu.int> and the websites of the focal points in the 15 EU countries.

The next issue of the TUTB Newsletter will carry a special report on stress for European Week 2002.

Women, work and health

3-5 June 2002, Stockholm

The TUTB will present the findings of its survey on the gender dimension in safety and health at work to a seminar co-hosted with Swedish trade unions linked to the 3rd International Congress on Women, Work and Health. ■

More details on the survey on the TUTB website :

www.etuc.org/tutb/uk/survey.html

International Congress : <http://www.niwl.se/www/>

Standardization

3-4 June 2002, Brussels

Workshop on strategies for participation in work equipment design, presentation of case studies. ■

More details on the TUTB project in this issue of the *Newsletter*, p. 23.

Application of the Machinery Directive

13-14 June 2002, Brussels

The seminar will be given the first findings of a transnational study on the implementation of Machinery Directive 98/37/EC done by the TUTB in association with the French Ministry of Labour, Italy's National Institute for Occupational Safety and Health prevention at work (ISPESL), Germany's Occupational Health and Safety and Standards Commission (KAN), and the Finnish Ministry of Social Affairs.

This seminar is open to representatives of all those involved in the application of the Machinery Directive: manufacturers, trade unions, employers' organizations, national authorities, notified bodies and European institutions. ■

More details on the project in the last issue of the *Newsletter*, No 17, p. 12.

New TUTB Guidelines

Risk Estimation for Musculoskeletal Disorders in Machinery Design - Integrating a User Perspective

By Aleid Ringelberg, *convenor of the CEN/TC 122 Working Group "Biomechanics"* and Theoni Koukoulaki, *TUTB Researcher*

Musculoskeletal Disorders (MSD) are a major occupational health problem in Europe, affecting over 40 million workers. Current EU legislation - working environment Directives and product Directives - includes some ergonomic provisions related to MSD prevention, but does not adequately address specifically Upper Limb Disorder-related MSD risks. In neither case - equipment use or design - have any specific common methodologies to estimate or evaluate risks for MSD been framed at European level. A series of standards - all parts of prEN 1005 - on human performance for machinery design mandated under the Machinery Directive, is currently under discussion in CEN/ TC 122 Working Group 4: Biomechanics.

The TUTB has always argued that ergonomic aspects cannot be divorced from product design and use. Ergonomics is one thing that cannot be tacked on after a machine has been built - it must be designed in right from the start.

This guide aims to add to the technical toolbox of the ETUC-TUTB campaign on musculoskeletal disorders, especially the debate on machine safety standards. It offers a collection of estimation methods selected from a range of sources that we believe may prove helpful in estimating MSD risk factors in machinery design. It does not claim to be a "quick-fix" problem solver for evaluating every risk factor. With this guide, we aim to feed knowledge from the actual use of machines back to designers' and manufacturers' drawing boards. We mean to factor the end users' perspectives into the design process by showing how workplace knowledge can be channelled into the conceptual stage of machinery design.

The book provides detailed guidance on screening and estimating MSD risks, namely static and awkward postures, manual handling of loads, force exertion, repetitive movements,

vibration and energetic load, based on the EN 1050 (Safety of machinery - Principles for risk assessment) step-by-step approach. Two checklists for problem definition and hazard identification are included, along with 18 specific estimation methods in figures, tables and worksheets. Different types of user-related data are presented for the different phases of the risk assessment process.



TUTB, Brussels, 2002, ISBN: 2-930003-41-3, 80 pages, 210 x 295 mm, 25 €

Sustainable environment

June 2002, Seville

A joint ETUC/TUTB seminar to discuss the European trade union contribution to the Johannesburg Earth Summit in August-September 2002. ■

More details on the European trade union strategy on sustainable development in this issue of the *Newsletter*, p. 3.

Towards a sustainable system for worker participation in accident prevention in SMEs

9-10 September 2002, Brussels

A joint ETUC/TUTB seminar to round off the project developed by the ETUC, TUTB and different national partners under the Bilbao-based European Agency's Programme for accident prevention in SMEs. ■

Worker participation : vital to improving health and safety at work

The project is to identify, analyse and compare existing practice on employee participation and representation in health and safety in SMEs to come up with a model for worker participation in accident prevention in SMEs. The project looks at five countries (Italy, Spain, the United Kingdom, Sweden and France) and includes a transnational analysis of an industry sector. The woodworking industry - a high-risk sector for machinery-related accidents - is the subject of a specific comparative analysis.

The European seminar will be an opportunity to compare the practices identified with other national situations, especially in enlargement countries, and to work out sustainable systems for worker participation in accident prevention in SMEs. A focused workshop on the woodworking and furniture industry will be run in association with the European Federation of Building and Wood Workers.

Europe's unions map out strategy for sustainable development

The sustainable development debate goes to key issues for trade unions, like hazards, democracy, the principles of justice and access to natural resources. These issues are also central to the current debates on the future and international role of the European Union. The TUTB's input to spark off the debate on what contribution trade unions can make to a European sustainable development strategy is now being published jointly with the ETUC.

In a resolution on "Putting environment policy at the heart of a European employment policy" passed just ahead of the June 2001 Gothenburg Summit, the ETUC called on the Heads of States and Governments for an approach that integrates the environment into all the European Union's economic and social strategies. It wants to see a sustainable development strategy pursued at EU level which brings work life issues - especially social and employment rights - into the equation and builds on the Stockholm Conclusions' emphasis on employment measures to develop not just more, but better, jobs.

Trade unions throughout Europe are faced with a daunting challenge: that of the need to develop a new perspective on interest representation in the light of changing economic,

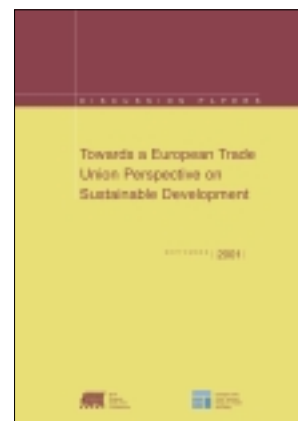
social and environmental requirements. At EU level, important policy developments, transitions and reallocation of resources are taking place, either in the context of explicit sustainability strategies or in connection with industrial reform, EU enlargement and disappearing trade barriers in which sustainability issues are an important shaping factor.

The TUTB has come up with a strategy for developing a European trade union perspective on sustainable development as a means for shaping trade unions' new role in the changes afoot in Europe. We have made proposals for forging a trade union role in the process following the launch of the EU sustainability strategy at the Council Summit in Gothenburg, as well as preparing a contribution to the Rio + 10 / Earth Summit being held in Johannesburg in September 2002, as the first steps in a five-year strategy.

The programme will address a limited number of key sustainability issues - which are also inherently key socio-economic issues - on which we propose that trade unions work in close cooperation through an ongoing exchange of information.

The proposed centres around four themes:

- tackling chemical risks;
- clean energy for sustainable work;
- sustainable food production and consumption;
- strengthening environmental competence. ■



Towards a European Trade Union Perspective on Sustainable Development
By Kees Le Blansch,
Debates Series, ETUC-TUTB, 2001, bilingual edition
English-French, 35 + 37 pages,
210 x 295 mm, ISBN: 2-930003-40-5, €10

The first steps

The programme got under way at the end of 2001 with the setting-up of a working group for each theme, chaired by a national trade union organization, to act as a platform for exchange of experience, the development of working models and framing policy options.

The first results to come out of the working groups will be presented and discussed at an ETUC/TUTB conference in Seville in June 2002 which will agree on the European trade union contribution to the September 2002 Johannesburg Earth Summit.



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