European chemicals and worker protection seminar

Trade union representatives from 23 European countries were in the Latvian capital, Riga, from 26 to 28 January for a seminar hosted by the European Trade Union Confederation's research institute (ETUI-REHS) to discuss union actions and ways of improving health and safety for the millions of European workers who are exposed each day to chemicals in their workplaces.

Chemicals are widely used across many sectors of the economy: in the chemical industry that manufactures them, but also in many downstream user sectors, like the building, textile and car-making industries, health care, etc. Using Eurostat findings, the ETUI-REHS calculates that a third of recognised occupational diseases each year in Europe are related to exposure to dangerous chemicals[1]. Chemical risks are also a major cause of deaths among European workers[2].

The seminar put a special focus on three topics:
- how the European legislation to protect workers against chemical risks is being applied in the different Member States;
- the new European legislation on the use of and trade in chemicals (REACH); and
- occupational exposure limits for carcinogens.

The same problems in all EU countries

European legislation to protect workers exposed to dangerous chemicals is mainly found in two directives: the 1990 Carcinogens Directive[3] and the 1998 Chemicals Directive[4]. These directives have been implemented into national law in the 25 EU countries, and require employers to do a workplace risk assessment, and to take the necessary preventive and protective measures.

Whatever country they came from, the seminar participants all reported the same thing – these laws get very patchy application in the workplace. Very large firms are judged to have done a satisfactory job, though they could do better, but huge problems with application remain in small and medium-sized firms (SMEs) in all sectors. There are many reasons why. Some employers may not (or claim not to) know about the legislation, the lack of preventive and protective measures often coincides with their being no workers' representatives in the company, workers are untrained in chemical risks, the dangers and hazards of chemicals are very often unknown (missing or faulty labels, incomprehensible or no safety data sheets).

The participants agreed that the trade union priorities for ways to improve the implementation of these laws in workplaces were: strengthening the trade union presence in SMEs; more training and information for workers on chemical risks; demanding that national authorities implement a comprehensive health at work strategy (better coverage of workers by preventive services, tighter labour inspectorate controls, measures against contingent working).

REACH: dispelling the misconceptions

The Riga seminar was also an opportunity to review REACH, the reform of European chemicals use and trade legislation currently under discussion by the European Parliament and Member State governments.

REACH was put forward because current European laws were seen as no longer giving the necessary protection to human health and the environment against chemical risks, but also to boost the competitiveness of the European chemical industry.

The new REACH system requires chemical manufacturers and importers to prove, through a registration dossier, that the risks from using their substances can be controlled before they can be put on the market. They will also have to get authorisation for the use of substances of very high concern like carcinogens, for example.

The reform has been hotly debated for some years right across Europe. Industry has spelled out in capital letters that the reform is too far-reaching, too bureaucratic, will be much too costly, and especially that it will cost many jobs in SMEs.

These arguments, taken up by the European press but also in firms, are part of a lobbying strategy by the employers to water down if not defeat this draft regulation. The Riga seminar unpicked each of these arguments, and showed how REACH can benefit workers.

[1] See: Tony Musu, *REACHing the workplace. How workers stand to benefit from the new European policy on chemical agents*, TUTB, 2004.
[2] Kogevinas *et al., Estimation of the burden of occupational cancer in Europe*, study financed by Europe Against Cancer (contract SOC 96-200742 05F02), 1998.
[3] Directive 2004/37/EC.
[4] Directive 98/24/EC.

REACH – too far-reaching and costly?

The REACH reform concerns only substances produced by any one manufacturer in quantities of more than one tonne per annum, i.e., 30% of the 100 000 chemicals listed on the European market. But not all the European firms that handle chemicals will have to put in a registration dossier, only those that manufacture or import them. So the only big obligation on downstream users (construction, textiles, garages, etc.) will be to apply the risk management measures communicated by their suppliers.

Firms will also have time to prepare, as their obligations (and so the associated costs) will be spread out over an 11 year timetable. The direct costs that the chemical industry will have to bear have been assessed by the European Commission at 2.3 billion euros over 11 years, equal to less than 0.04% of the European chemical industry's annual turnover (586 billion euros in 2004).

Will REACH cause job losses in Europe?

The scaremongering about industry relocation and job losses due to REACH, backed by many subjective impact assessment studies, does not stand up to an objective analysis of the facts. So, the findings of the further impact assessment study done under the supervision of a multi-party working group of Commission, industry, trade union and NGO experts, show that the risk of industry flight from REACH alone is not on the cards[5].

The main reason for switching production elsewhere is more often lower labour costs in the new country than any marginal costs associated with the rules designed to protect human or environmental health in the country of origin.

European trade unions strongly endorse REACH

The European Trade Union Confederation (ETUC) is all for the reform because, by encouraging industry to develop cleaner substances, REACH combines enhanced competitiveness for European industry with better protection for workers, consumers and the environment. The ETUC study to assess the benefits of REACH[6] finds that the new legislation will help avoid 90 000 cases of occupational diseases from workers being exposed to dangerous chemicals each year in Europe. That would add up to total average savings of 3.5 billion euros over 10 years and more than 90 billion over 30 years for the EU-25. The savings will boost social security coffers through reduced sickness benefit payments, while workers will enjoy health-related quality of life gains, and employers in all sectors will avoid productivity losses from sickness absenteeism.

Role of trade unions at national level?

The seminar participants agreed on the need to start or carry on explaining REACH at national level to firms in the different branches of industry. It was also thought important to put the ETUC's positions across better to policymakers in each EU Member State. A trade union information brochure on the benefits of REACH – available in 12 European languages[7] – has been produced by the ETUI-REHS to help do this.

Occupational exposure limits (OELVs)

There are two kinds of OELV in European legislation: indicative (directive 98/24/EC) and binding (directive 98/24/EC and directive 2004/37/EC).

Indicative occupational exposure limits (IOELVs)
IOELVs can be established when an assessment of the available scientific data leads to the conclusion that a threshold can be clearly identified below which exposure to the substance should not have an adverse impact on human health.

Under article 3 of Chemicals Directive 98/24/EC, feasibility factors (socio-economic and technical in particular) are not to be taken into account when establishing IOELVs. Directives containing IOELVs are adopted by the European Commission in accordance with the adaptation to technical progress procedure laid down in article 17 of Framework Directive 89/391/EEC.

For any chemical for which an indicative OELV has been established at Community level, Member States must establish a national exposure limit which takes account of the Community indicative exposure limit and is in accordance with national legislation and practises. A hundred chemicals have IOELVs under directive 98/24/EC since the European Commission adopted directive 2006/15/EC drawing up the second Community level list of IOELVs.

Binding occupational exposure limits (BOELVs)
BOELVs reflect socio-economic and technical feasibility factors, plus criteria taken into account when establishing IOELVs. For any chemical for which a BOELV has been established at Community level, Member States must establish a corresponding national BOELV which may go further but may not exceed the Community exposure limit.

BOELVs under directive 2004/37/EC have been established for only three chemicals (benzene, vinyl chloride monomer and hardwood dust). Lead (and its derivatives) is the only one to have a BOELV under directive 98/24/EC.

5 "Trade union view on supplementary economic impact studies", *Hesa Newsletter,* No. 28, October 2005, p. 8-11.
6 Simon Pickvance *et al., The impact of REACH on occupational health with a focus on skin and respiratory diseases,* University of Sheffield, ETUI-REHS, 2005. Available to order from http://hesa.etui-rehs.org > Publications.
7 Musu, *op. cit.*

Trade union approach to carcinogen exposure limits

In March 2004, the European Commission set going a revision of directive 2004/37/EC on the protection of workers against the risks related to exposure to carcinogens and mutagens. As part of this, it canvassed the social partners' opinions on how to remedy the legislation's shortcomings.

The main failing of directive 2004/37/EC is that substances toxic for reproduction are outside its scope[8]. But delays in bringing in occupational exposure limit values (OELVs)[9] for substances covered by the directive at European level are also a factor. Whereas OELVs for many carcinogens are found in different national laws, exposure limits have been set under the directive for only three substances (see box).

In its response to the first phase of consultations, therefore, the ETUC also stressed the need to improve this procedure and increase the number of substances assigned OELVs[10].

The Riga seminar's third discussion topic set out to map the broad lines of a European trade union consensus on a possible new Community procedure for setting OELVs for carcinogens. The ETUC has been asked to put its position on this to a tripartite seminar to be hosted by the Luxembourg Advisory Committee on Safety and Health in 2006.

The participants achieved a consensus on the following points:

1. Any new OELVs for carcinogens set at European level must be binding[11], but the procedure for setting them must not be influenced by technical or economic feasibility considerations, as is the case under the present legislation (see box).
2. The legislative function of these exposure limits must be as one of the ways to meet the secondary objective of the directive, which is to minimize workers' exposure where the primary objective cannot be met. The overarching objective is still to completely eliminate exposure to the carcinogen, or replace it by a safer alternative substance.
3. These "reference values" should always be communicated with the associated risk level[12] and be shown on separate lists from OELVs for non-carcinogenic substances.

Other concepts, like "acceptable risk", will be addressed at a forthcoming seminar set up by the ETUI-REHS to finalise the European trade union consensus on the matter.

Conclusions

The Riga seminar was an opportunity for trade union representatives to take stock of workplace chemical risk management in the different countries of the EU through a review of how the Community legislation on it is being applied nationally. Specifically, it allowed participants to discuss what role trade unions could play at different levels in the prevention of work-related diseases and accidents due to dangerous substances. Above all, it helped rekindle a European network of trade union experts which the ETUC can draw on to develop a united trade union line in such a highly technical field as occupational exposure limits. A network that will also help cascade at national level the consensus positions of the ETUC and its members on legislation in the works, like the REACH reform. ■

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[8] It covers only category 1 and 2 carcinogens and mutagens.

[9] Airborne concentration below which exposure to the substance should not have an adverse impact on human health.

[10] http://hesa.etui-rehs.org/uk/dossiers/files/20-Res-ConsultCancerRep-gb.pdf.

[11] European OELVs are of two kinds: binding (directive 98/24/EC and directive 2004/37/EC) and indicative (directive 98/24/EC). For the former, employers must ensure that the breathable concentration of the substance on the workplace is equal to or lower than the OELV set in the directive. For the latter, the airborne concentration of the substance may be above or below the directive value.

[12] Probability of a worker developing cancer from an exposure of 8 hours a day throughout his working life.