

New scope for the Community health and safety at work strategy 2007-2012

PAGE | 5 |

Laurent Vogel, Researcher, ETUI-REHS, Health and Safety Department

Better working conditions remain at the top of the trade union agenda, which prompted trade union representatives from the 25 European Union countries in the Advisory Committee for Health and Safety to map out their joint priorities for the framing of a new Community strategy for health and safety for the period 2007-2012. This statement broadly outlines their common approach, specific aspects of which will be filled out in other documents published at some future point.

Community health and safety at work policy is important

European Community health and safety at work policy has delivered tangible benefits in different Member States. The 1989 Framework Directive in particular has helped set a new momentum going. But the big picture is not uniformly good. The potential offered by the Community policy has not been fully unlocked, for preventive systems remain flawed by lamentable failings. Also, social and technological developments have changed some of the workplace conditions in which prevention policies are pursued. Some risks may diminish while others increase. This makes regular policy proofing essential, and it must result in whatever changes prove necessary to the legislative framework.

After the European Constitution was rejected in the referendums in France and the Netherlands, political conservatives put their own spin on what the vote meant, claiming it as a public rebuff for a Europe whose regulations were intruding too much into every aspect of their daily lives. They argued for a bonfire of European legislation in various fields. But this is a distorted picture. Mistrust of creeping bureaucracy is not the same as a belief in naked self-interest. What people want for the workplace and environment are stronger and better Community provisions to move towards a wider harmonization of living and working conditions in Europe.

Trade unions in European Union countries are solidly opposed to any deregulation of health and safety at work or any "legislative breathing space". They denounce most pronouncements on legislative simplification or "better regulation" as misleading and smokescreens for deregulation. The Framework Directive and its various individual directives are kingpins of the Community legal framework, which had to be adopted in order to establish the European single market. The approach taken by Community health and safety at work legislation is relatively uncomplicated, and implementing it is essential to protecting workers' life and health. The management demands it places on employers and very much less so on public authorities are absolutely

justified and proportionate to the objectives pursued. The Workers' Group of the Advisory Committee sees no good grounds for a programme to simplify health and safety at work legislation.

A mixed scoreboard

Figures from different European Union countries show that social inequalities of health are growing, and working conditions are a big causative factor in this. Some types of cancer-related mortality, for example, show marked occupational group differentials, and reflect high levels of workplace exposure to chemical hazards. There are also wide cardiovascular mortality gaps between occupational groups much of which can be explained by workers' lack of autonomy in their work organisation and stress, but other factors – like job insecurity, and working in firms that have made mass layoffs – are also contributory.

Taking just the direct causes of mortality, the International Labour Organisation estimated in 2005 that approximately 130 000 people die in a work accident or from a work-related disease in the European Union each year. These figures show both the huge price paid by workers for the lack of prevention and the gradual shift in occupational health problems. The fact is that fatal work accidents make up only a very small part of the total (about 4 to 5%, with wide between-country variations). Exposures to dangerous substances alone are responsible for at least four times more deaths than work accidents.

What these figures mean is that scientific and technological progress is no sure recipe for improvements in working conditions. There remains a wide gulf between what prevention can do and the real health and safety at work picture in our societies.

The Dublin Foundation started its fourth survey of working conditions in the European Union in September 2005. The findings will be published in the first half of 2006, and will show what progress has been made since the first survey in 1990. They will be a timely input that is certain to inform the debate on the new strategic programme for 2007-2012.

But even before the results are known, national data from many Community countries offer an early pointer to some dominant trends. The Community directives, especially the 1989 Framework Directive, helped Member States to improve their health and safety at work legislation. While practical implementation in workplaces leaves much to be desired, some advances are coming through, not least a reduction in work accidents. But it is a shaky progress, undermined by the spread of casual hire and fire, management methods that reduce workers' control over their working conditions, and a sharp increase in the time-pressure of work.

Workers are still paying a very high price for the lack of prevention. Recent findings from national surveys include:

- French workers' exposure to most work-related risks and strains showed a rising trend between 1994 and 2003. But this picture conceals diverging trends, with some types of exposure increasing, and others falling, significantly so in some cases. So,

long working days are now less the norm, and repetitive work is less widespread, but organisational constraints and physical strains are both on the rise. Exposure to biohazards is unchanged, but exposure to chemicals has increased. Overall, it is lower-skilled workers, like those in farming and construction, for whom the risks and strains have got worse.

- The fifth Spanish national survey on working conditions done in 2003 found curiously enough that although significantly more resources have been put into prevention, working conditions have not improved. Compared to the last survey, done in 1999, the organisation of prevention has certainly improved in terms of numbers. The share of firms with a prevention rep has risen from 12.8% to 41.6%. In 1999, 24% of businesses had no form of preventive service. This had fallen to about 9% by 2003, but this increased preventive provision is mostly bought in from outside providers who have little say over the employer's strategic choices. Work organisation factors are a source of growing discontent: nearly 10% of workers complain about having to work too fast, 6% a lack of autonomy. The health impacts are also clear. 15.7% of workers went to see their doctor about a work-related health problem in the year preceding the survey (against 13% in the 1999 survey), while 16.8% of workers regularly take painkillers (against 12.5% in 1999).
- The most recent Swedish survey on work-related health disorders found that one in four Swedish workers had suffered work-related ill-health in 2005. 28% of women and 22% of men reported having suffered from work-related disorders in the 12 months preceding the survey. Most health problems are caused by uncomfortable working positions, handling heavy loads, repetitive work, stress, harassment and violence. Work accidents are falling steadily, however: 30 484 work accidents were reported in 2004 (employed and self-employed workers) against 39 334 in 2000. There are marked health gaps between workers. 34% of female machinery operators reported work-related health disorders in 2005. The other worst-affected sectors are services and health care. Among men, manual workers have the highest percentage of work-related ill-health at 25%; within this category, carpenters and joiners top the list with 31%. Few sufferers think anything has been done to improve working conditions. Of workers who did report health problems, 7% of men and 9% of women said changes had been made to their work in order to improve their situation. Total working hours had been reduced for 3% of the men and 5% of the women. About 2% of workers had transferred to another job in the company, and approximately 3% had left their employer. Collective preventive measures were also very patchy: 31% of women and 24% of men said steps had been taken to prevent the problems getting worse or being repeated.

The efforts made over the past fifteen-odd years need pulling together within a more coherent strategy. That means taking a critical look and giving a fresh impetus to health and safety at work policies at both national and Community level. The objective set in 1986 of harmonising working conditions while maintaining the improvements made is as relevant as ever. It is this objective that the new Community strategy for 2007-2012 must strive towards.

A brief review of the past period (2002-2006)

In March 2002, the European Commission adopted a Communication on the Community strategy on health and safety at work for 2002-2006, which was meant to be an instrument for adapting to changes in society and work. The analysis behind that strategy was generally right, but it was still sorely lacking in practical measures and a timetable. Instead of being a detailed work programme, it was over-heavy on general pronouncements about the need to combine many different approaches and instruments. This failing was made worse by drastic downsizing of the European Commission's health and safety at work unit. Inaction by the Council of Ministers and a relatively unfavourable political context were also big contributing factors.

Four years on, a quick run-through what has been achieved shows that the failings of the 2002-2006 strategy were not overplayed. Real progress has been achieved in two fields of Community legislation – asbestos and physical agents. The adoption of Directive 2003/18 on 27 March 2003 represents distinct progress where asbestos is concerned. In practise, it makes any further manufacture of asbestos-containing materials or products for export unlawful. Other positive aspects include lowering the occupational exposure limit to 0.1 fibre/cm³, and widening the Directive's scope to certain categories of so-far excluded workers.

On physical agents, a series of individual directives have been adopted to protect workers against the risks arising from exposure to mechanical vibrations (Directive 2002/44/EC), noise (Directive 2003/10/EC), electromagnetic fields (Directive 2004/40/EC) and artificial optical radiation (Directive 2006/25/EC).

The European agreement on stress entered into by the trade unions and employers' organisations on 8 October 2004 could produce real progress if it is implemented and built on in the different Member States. It is as yet too soon to judge how the national negotiations to carry the agreement over are going. If they succeed, other matters can be considered for European collective bargaining.

There have been many hold-ups, mostly from the political context. The stalled issues include the revision of the Pregnant Workers Directive and developing binding exposure limits for the main carcinogens. Question marks hang over other areas, like revising the Carcinogens Directive to include substances toxic for reproduction (reprotoxins). With the 2006 year-end dateline fast approaching, Commission initiatives in other areas – like drafting a Directive on musculoskeletal disorders, and violence at the workplace – are still falling far short. Also, a very disturbing signal has been sent out with the proposal for a revision of the Working Time Directive, where the Commission proposals take the unprecedented step of actually reversing social gains by relegating the protection of health and safety at work to a secondary objective.

The scaling-down of Community occupational health action is sometimes explained away by "mainstreaming", i.e., integrating health and safety requirements into legislation that covers other areas. But it is a patchy integration at best.

Where work equipment is concerned, the revision of the Machinery Directive should be completed quickly. But while that revision represents general progress, it will not

be enough to address the issues raised by inadequate market surveillance and industry-dominated technical standards development by CEN (European Committee for Standardization). The activity of the notified bodies is also concerning due to the lax oversight of them by the public authorities.

Where chemicals production and marketing are concerned, the original REACH reform proposals contained principles capable of significantly improving workers' health. The Commission's October 2003 proposal was watered down on a number of key points from the contents of the White Paper published in 2001. What REACH will finally contain and what that will mean for improved prevention policies is as yet shrouded in deep uncertainty. One particular issue to watch will be compliance with the principle of compulsory substitution of the most dangerous substances, rightly reaffirmed by the European Parliament in November 2005.

The Commission's 2002 proposal for a Directive on temporary agency work does not address the key health and safety issues in this sector, and the Commission looks ready to drop any idea of bringing in a general regulation on temporary agency work in the European Union.

In other areas, health and safety at work issues have not been mainstreamed at all, and Community initiatives are directly or indirectly calling into question workers' rights to protect their life and health. The proposal for a Directive on services in the internal market (the so-called Bolkestein Directive) is an example of a Commission economic proposal that pays no regard to occupational health.

Likewise, the Commission's only agenda in its sectoral proposals on port work was to open the sector up to increased competition. That proposal was strenuously opposed by dockers and their unions. Happily, the European Parliament once again rebuffed the proposals in January 2006.

One serious flaw in the measures taken between 2002 and 2006 was to disregard labour relations and labour market changes. Failure is not too strong a word to use on three particularly big issues:

- Despite the pledge to mainstream the gender dimension across health and safety measures, the policies pursued in practice are unchanged, and the gender equality aspects of health and safety have gone largely disregarded. The report on the practical implementation of the Framework Directive and five individual directives put forward by the Commission in 2004 illustrates this trend. There is a pressing need to come up with gender-sensitive evaluation methods. Likewise, the debates on REACH have hardly ever addressed the gender dimension of exposure to chemicals, although a large body of research finds that women are often concentrated in sectors and occupations where such exposures are significantly less well controlled than in the mainline chemical industry.
- The spread of casual hire and fire has not been high on the agenda. Contingent employment is still often spun as a way of accessing the labour market, despite the evidence that it may become a medium- or long-term factor of exclusion from work through ill-health.
- The treatment of working time has chiefly reflected employers' demands for extreme flexibility.

Our proposal for the new Community strategy

In early 2005, the new Commission published its new Social Policy Agenda focused on two priority areas: full employment and equal opportunities. Under the Communication subheading “A new dynamic for industrial relations”, the Commission flags up plans for a new health and safety at work strategy for the period 2007-2012. It should focus on new risks, safeguarding minimum levels of protection, and coverage for workers not adequately covered.

The Commission’s pledge to focus its activities on these areas can only be welcomed. Protection cannot be harmonized at a minimum level without adopting directives that lay down a common basic set of rights for European workers. To be effective, the programme must do a status review of public resources (regulatory, financial and human) allocated to health and safety in each member country. If there is one lesson that can be learned today from Community policy over the past 15 years, it is the importance of joining-up national and Community prevention strategies. States have too often seen their role as confined to implementing directives in their legislation by copying out the wording without providing the means to put them into effective practice.

The new strategy must lay down better-targeted measures with a timetable. Trade unions expect the new Community strategy to take a much more practical approach than its predecessor, focus on selected priorities, and clearly specify what measures must be taken and by when. There should be regular evaluations to assess whether the planned initiatives have resulted in practical measures, and if need be, the initial program should be bolstered by new measures where justified by developments in the health and safety at work situation.

Our agenda includes structural and strategic priorities that relate to all preventive strategies and systems irrespective of the risks, and cross-cutting priorities that relate to a wide-ranging category of risks delimited by a common origin. The gender dimension must be mainstreamed across all the priorities defined, i.e., they must be worked out, implemented, evaluated and redefined at regular intervals, factoring in the aim of gender equality.

Three particular objectives must be borne in mind:

1. ensure that men and women have access to all jobs in conditions that do not damage their health;
2. ensure that working conditions are sustainable, i.e., healthy for short-term exposure, and consistent with staying healthy throughout the individual’s lifetime;
3. factoring the interactions between paid and unpaid work into all prevention policies.

For this kind of approach, all the indicators used and evaluations must be genderized, which they very rarely are at present. Also, the pronounced gender discriminations that typify national occupational disease recognition systems need to be addressed through a minimum harmonization of those systems. More than forty years after the first recommendation on this matter was adopted, the time has come to draw the conclusions of the failure of a harmonization policy that lacks the right tools for the job, i.e., legally binding instruments.

The first priority: strengthen preventive systems

The first structural and strategic priority is to strengthen preventive systems by taking account of changes in work. The basic premise here is that a national health and safety at work strategy must be underpinned by a preventive system. Preventive systems are made up of a host of players, institutions and provisions. The proper working of each and joined-up working between them all are fundamental requirements for pursuing an effective prevention strategy.

The participants in a preventive system can arguably be divided into two levels. The first level comprises all the players that commonly operate in the workplace, chiefly the employer, workers, union branches, workers reps, and in-house or external preventive services. The second level comprises a sprawling collection of players that operate “upstream” of firms. The authorities and official agencies play a major part, but other organisations like occupational risk insurance schemes, employers’ organisations, union confederations, joint industrial bodies, professional associations, etc. can also have a big role.

The Community directives deal chiefly with employer-employee relations, and have little if anything to say about players that operate in a wider environment. To some extent, that is inevitable. National preventive systems differ in significant ways and are organized around no less different labour relations, public health and social security systems. It would not be possible to harmonise all the components of these preventive systems. But it should be possible to find a middle way between an almost total lack of Community policy and unification.

The problem can be put as follows. A policy to harmonize matters that affect workplaces will be effective only if it makes the linkage between the implementation of legislative provisions and the adoption of coherent national prevention strategies. Broadly speaking, the problems encountered with the implementation of Community directives are less due to inadequate transposing legislation than the lack of a coherent prevention strategy in the Member States. The most far-reaching provisions of legislation too often lie dead in the water because the labour inspectorate lacks the resources to do its job properly, or because public support for information, training or research is under-funded.

The new Community strategy should make it possible to pursue a much more active policy so as to give impetus to individual Member States’ national prevention strategies and set minimum criteria for the key components of national preventive systems.

We consider that a particular focus should be put on the following aspects:

1. Strengthening labour inspection systems

There is copious research to demonstrate the importance of properly working labour inspection systems. The evidence since the turn of the 19th century shows that enacting labour laws was likely to be futile unless the authorities set up a competent, independent inspection system with the necessary powers.

The inspection systems of most European Union countries are severely under-resourced (in material and human terms). The needs-resources gap is widening. Needs are increasing in response to a range of factors. The scope of prevention has widened to include traditionally ignored aspects like psychosocial factors, bullying and the long-term effects of chemical exposures. Procedural obligations have grown much more specific, not least with risk assessments and the planning of preventive activities. The fragmentation of production activities and the emergence of often highly complex subcontracting chains makes effective enforcement harder.

These developments require both major resources and skills development that take account of the new dimensions of inspection. Many Member States are allowing a parlous situation to develop by increasing employers' paper prevention obligations while undermining the credibility of inspection systems. In some countries, too, the labour inspectorate's missions are being positively thrown into question. For the most free-market governments, the labour inspectorate's basic job is no longer to effectively police and enforce employers' compliance with the law, but increasingly to become consultants, providing advice to "customers". The use of procedures certification by private agencies has in some cases reduced the labour inspectorate's role to a box-ticking one of checking certificates that in practice are found not necessarily to reflect a real improvement in working conditions.

2. Putting effective, deterrent and proportionate sanctions in place

Employers going unpunished for health and safety contraventions remains a huge obstacle to prevention. The remote likelihood of incurring a penalty and the often ludicrously low level of fines give a competitive advantage to firms who flout their prevention obligations. Even fatal accidents that are prosecuted seldom result in a conviction. And where exposure to chemicals whose effects may appear only in the long term is concerned, employers even more regularly escape scot-free. The United Kingdom government has been dithering for almost a decade over proposals to allow prosecutions for corporate manslaughter. Despite repeated promises, no legislation has yet come onto the statute books.

There are as number of preconditions for establishing a system of effective penalties:

- More efficient health and safety inspection.
- A bigger focus on employer offending by the different criminal justice agencies (police, prosecution service, criminal courts, etc.). To cite just one example – countless breaches of safety rules are plain to see on building sites. But the police in most countries get no practical instruction or training to enable them to take effective action. The fact is that almost nowhere in the European Union do health and safety inspector's infringement notices ever lead to criminal convictions. This is why some countries, like Spain, have begun setting up specific units within prosecution services to deal with health and safety at work.
- It is often hard to bring prosecutions against complex businesses where decisions are not taken by a single individual. Several European countries have brought in reforms to enable corporate prosecutions.
- To have a deterrent effect, the level of fines could be related to company earnings. Other penalties like barring companies from carrying on a particular business or from bidding for public contracts may act as deterrents.
- The legal systems of some Member States are still obstructing civil claims for

damages against employers for work accidents or occupational diseases. In Belgium, for example, employers are almost immune from being sued in this field.

Penalty systems are essentially a Member State rather than Community responsibility. That is no reason for the Community strategy not to address this issue and provide the means to monitor national practices. Effective, deterrent and proportionate sanctions are a prerequisite for proper transposition of Community directives. Policing these conditions falls squarely within Community competencies, even if it does not entail harmonization measures.

3. Having all workers covered by safety reps

Employee representation in health and safety is central to any workplace health policy. But in most European countries, large numbers of workers have no such representation, while in some countries (United Kingdom, Denmark) things have even got worse. Without structured representation, there can be no worker participation in health and safety. Many surveys point to a direct link between the existence of workers' representation and the quality of workplace health and safety policy. Obviously, the mere existence of a representation body is no guarantee of effective participation, but experience has shown that where such representation is lacking, the forms of direct participation played up by some employers are just smokescreens. In some EU countries – the United Kingdom and Belgium are cases in point – regulations have been brought in to organize this kind of “direct participation” in firms with no mechanisms for representation. These regulations have delivered no benefits. Workers' rights to collective representation are enshrined in the 1989 Framework Directive.

That is why we see coverage of all workers by forms of health and safety representation as a central aim for the period ahead. A special focus will need to be put on small and medium-sized firms, and the different forms of contingent employment. The Community strategy should provide the means to keep developments here under ongoing review. In sectors with a very high small firm base, the introduction of area representation systems can be a useful adjunct to workplace representation, as the example of Sweden shows.

4. The operation of preventive services

Significantly more resources have been put into prevention since the Framework Directive came in. The number of professionals working in preventive services has risen sharply in most Community countries. But the Framework Directive's objectives are nowhere near being delivered.

The following objectives must be given priority in the strategy for 2007-2012:

- Ensuring that all workers are fully covered by preventive services.
- Ensuring multidisciplinary preventive action. This requires national regulations and approval or enforcement systems to set a clear base of core skills. This means prevention professionals from different fields (occupational health service, safety, occupational hygiene, ergonomics, psychology, etc.) working long-term within the same service and ensuring that their actions complement one another as part of an overall approach.

- Coherent multidisciplinary working means genuinely testing the expert knowledge of the different prevention professionals against the collective knowledge, priorities and perceptions of the workers.
- Ensuring that an internal service and an external service enlisted to provide the expertise lacking in-house work in concert. It is particularly important to avoid outsourcing too many preventive activities.
- Ensure prevention-focused action based on the order of priority of preventive measures. That means, in particular, seeing that activities are not focused on immediate priorities driven more by cost-cutting aims than improvements in working conditions. The experience of several countries where cutting absence rates is seen as an overriding priority shows that there is a real risk of preventive services being turned into health-screening employee selection services, or policing departments.
- Linkages between the employer's own prevention management and the preventive services' activities are essential.
- Health surveillance criteria must be spelled out to make a more effective link with prevention. Genetic screening in employment must be outlawed by Community legislation.
- More effective protection (against dismissal, in particular) is needed to guarantee prevention professionals' independence from employers.
- Provide continuing training and facilitate linkages between prevention staff and research institutes.
- Lay down procedures for workplace oversight of their activities by workers' reps. For outside preventive services, strengthen the links between workers' reps in the firms being serviced and the trade union reps in the watchdog bodies for those services.
- Lay down procedures for public oversight of outside services, especially through approvals. It is important to set quality standards that take account of the public service provided by these bodies and conflicts of interest between the apparent client (the firm) and the end-user (the workers).
- See that prevention experiences are collectivized through a public health and safety at work policy. Projects like the SUMER survey in France – a nation-wide survey on working conditions and their health impact voluntarily carried out by nearly 1 800 occupational doctors in detailed interviews with around 50 000 workers – show the immense potential inherent in such collectivization.

5. Adequate coverage of contingent workers

Ensuring equal protection for all workers means that the health and safety of workers with no job security must be made a priority. The spread of casual hire-and-fire is taking a heavy toll on health across Europe, and existing Community provisions do not address the problem properly.

The approach taken must not legitimize the use of contingent employment. This means framing specific provisions that protect the life and health of contingent workers, while also strengthening the methods of public and workplace oversight that enable casualization as such to be tackled.

A particular focus is needed on temporary agency employment, which has expanded quite rapidly right across the European Union, albeit with some between-country variations. Research done by the Dublin Foundation estimates the number of temporary agency workers in the 15 "old" Member States at between 2.5 and 3 million.

Accurate estimates are more difficult for the new Member States, but there is a discernible rise in this kind of employment. National work accident figures suggest that temporary agency workers are particularly at risk of accidents. No systematic health and safety at work data are kept on agency workers outside the reported accident statistics. This omission by itself bespeaks the failings of public prevention policies. But there is a body of research which shows that agency workers tend to be exposed to harmful working conditions that are damaging to their health.

Directive 91/383 deals with the health and safety of two categories of workers: workers on fixed term contracts, and temporary agency workers. It was drawn up in singular circumstances, and was the stripped-down product of an original much more far-reaching proposal that would have covered all the working conditions of temporary agency and fixed-term contract workers. The political difficulties involved in adopting such a directive (which, in the Eighties, would have required unanimity) led to the text of Directive 91/383 being in effect severed from a more wide-ranging project. From the outset, there were consistency issues between Directive 91/383 and the Framework Directive, whose broad policy guidelines it only partly reflects. Directive 91/383's main failing is its lack of clarity about the mechanisms to be put in place for the Framework Directive's provisions to properly apply on the same basis. Furthermore, it has not always been properly carried over into law by all Member States. The Commission has done very little by way of enforcement in regard to these transpositions. Its reports on the practical implementation of the Directive are superficial and ignore the stark reality that agency workers are in practice denied most of the health and safety at work protection and prevention provision.

The new Community strategy should set the aim of ensuring the same level of health and safety protection for all workers in practice. It must be consistent with the order of priority of preventive measures, and prohibit contingent employment in circumstances where the evidence is that such protection cannot be guaranteed by preventive provision. It is noteworthy that many Community countries do not allow the use of agency labour in jobs involving exposure to carcinogens. Belgium has legislation on the books governing business relations between user firms and temporary employment agencies, whereby a firm may not enter into a contract with an employment agency, and nor may an employment agency enter into a contract with a user firm, that it knows or ought to know is in breach of its health and safety obligations. Registration and authorisation procedures for temporary employment agencies should take account of their health and safety at work policy.

Issues requiring priority attention and a revision of the 1991 Directive include:

- Prior scrutiny by workers' reps of the decision to use agency labour, so as to avoid the dangers of high risk jobs being addressed through agency labour.
- Organising effective health surveillance based on a realistic risk assessment for jobs being performed by agency workers.
- Appropriate training and prior information based on a precise risk assessment.
- Access to preventive services.
- Health and safety reps for temporary agency employees.

Other factors of casualization also need to be taken into account, including:

- Paid domestic labour. The strategy for 2007-2012 should extend the scope of the Community directives to do away with the existing discrimination against domestic

employees (overwhelmingly women).

- Countless non-standard forms of employment, some of which lie in a sort of no man's land between employment and self-employment.
- Self-employment as such may be associated with forms of casualization (common in the building trades).
- Subcontracting may contribute to insecurity without necessarily affecting the forms of employment.
- Part-time work is often an identifiable contributor to the spread of contingent employment for women, frequently involving lower-skilled work and extreme flexi-working.

What all this shows is that effective prevention involves legal provisions that go beyond the bounds of employer-employee relations. The European Union has so far been very unwilling to enter that territory. Barring the Mobile and Temporary Work Sites Directive, it has adopted no binding provisions that would impose prevention obligations in business contract relations.

6. Migrant workers

There is a large body of evidence pointing to a higher prevalence of health damage among migrant workers than nationals of the country in which they work. This finding also applies to some extent to minority ethnic workers of immigrant origin.

There are various reasons why:

- An ethnic division of the labour market reproduces on a large scale discrimination against first- and sometimes later-generation immigrant workers. Education systems and employment discrimination tend to perpetuate this ethnic division down the generations. It often leads to migrant workers being concentrated in hazardous or unhealthy jobs, with less effective cover by preventive provision. These workers also tend to be under-represented politically and in trade unions compared to non-immigrant workers.
- The division of labour is even more rigid for female than male migrant workers. Those in paid employment face acute segregation which tends to concentrate them in a very narrow range of occupations or sectors (in particular domestic employment, personal services, etc.). In unpaid work, they are often subjected to an even more unequal family structure.
- Non-EU migrant workers often face status discrimination. Those in illegal situations are often unscrupulously exploited. Legislation in some countries allows asylum seekers to stay, but not to work, and severely curtails their access to social security benefits. This provides employers with labour that can be held to ransom.
- Specific information and training issues may arise, mainly due to language barriers.

Improving the working conditions of migrant workers goes well beyond the traditional bounds of prevention policies, and means tackling societal discriminations. It also means focussing more systematically on sectors often ignored by health and safety policies: domestic employment and other services to private individuals, the hospitality industry, farm labour, especially seasonal work, etc.

7. Enforce the safety obligation, including in complex undertakings, subcontracting and transnational operations

The Framework Directive rightly places a duty on all employers to ensure the health and safety of workers in their workplaces. Practice shows that this obligation should not be limited to those workers to whom the employer is legally bound by an employment contract. The point is to enforce the safety obligation in the work process as it really is.

We want the employers' safety obligation to be extended and clarified in at least three areas:

- In subcontracting relations, to place liability on all employers in a subcontracting chain right up to the main work specifier.
- In complex undertakings, to prevent central management diluting its responsibilities through mechanisms to delegate authority.
- In transnational operations, to enable effective surveillance and enforcement.

Second structural strategic priority: making a success of enlargement

The enlargement that took place in 2004 is unprecedented in the history of the European Union on at least three counts:

1. The number of countries and size of population involved (over 75 million people, just short of 20% of the population of the pre-2004 fifteen Member States).
2. The range and breadth of situations has increased substantially. The per capita GDP of the new Member States in 2001 was about half that of the old Member States. There are also big differences in working conditions, as revealed by the European survey on working conditions done by the Dublin Foundation in 2000-2001.
3. Eight of the ten new Member States underwent a rapid and often harsh transition from a state-controlled to a capitalist economy between 1989 and the present, but political, economic and social circumstances have not become stabilised.

There are real risks of an undercutting war that would drag working conditions down. It is a situation in which any break or standstill in Community activities would be a grievous mistake.

The evidence of recent years is that privatisation in the former Soviet bloc countries has seriously destabilized living and working conditions. Much public health care and health and safety inspection provision has been undermined. The alliance between an emerging section of national capitalists and multinationals has been forged around ultra-free-market demands to dismantle trade union rights, underpinned by the absence of democratic participation by workers at workplaces in the monolithic one party-state era. This view sees social/employment rights as a drag on free enterprise and an obstacle to competition rules.

Notwithstanding the specific characteristics of the new Member States, the key issues for health and safety are not fundamentally different from those existing in the old Member States. They may appear on a bigger scale in some areas, but do not warrant a different approach in terms of the legislative framework.

By contrast, the general context means that carrying the Community directives over into law is only a first step. The crunch issue is to develop national prevention strategies that recognise the right of all workers to health and safety, that prompt them to act in workplaces to improve working conditions, and that give trade unions a big part to play. Workplace social democracy is a priority demand after four decades of party-state control and over fifteen years of extreme free-market dominance.

Enlargement will not succeed unless sufficient resources are allocated to improve working conditions. Community social funds must be made available in specific work environment programmes. Projects must be selected through a strict tripartite procedure.

Setting up a Community monitoring system on the health impact of working conditions is also a priority. Many Member States lack their own national provision for keeping working conditions under ongoing review. This omission is a serious obstacle to the framing and evaluation of national prevention strategies.

A specific focus is required in national prevention strategies on several factors, which should be backstopped in the Community strategy:

1. The share of self-employment has risen sharply in several new Member States, including elsewhere than in agriculture and the retail trade. Self-employed workers are usually outside health and safety legislation. This shows that the approach so far followed by the European Union (which has stopped short at adopting a recommendation on it) certainly no longer matches the needs.
2. Collective bargaining between trade unions and employers' organisations and the other forms of social dialogue are beset by many problems. Employers' organisations are frequently unrepresentative and may be highly fragmented. Trade unions have been weakened in the private sector. Large swathes of workers are not covered by collective agreements and have no form of representation whatever.
3. Low pay is an incentive to the systematic use of overtime. Actual working time is well above the average for the old Member States. The danger money that appears as a necessary adjunct to low pay is an obstacle to prevention.
4. Women's situation has got much worse than men's. Their employment rate has often dropped. Juggling paid and unpaid work has been made more difficult by the dismantling of some collective provision and the playing-up of highly inegalitarian traditional family models.
5. Social protection systems tend to provide income bridges at too low a level to lift people out of poverty. This encourages growth in the informal economy and forces many pensioners to carry on working in often highly insecure conditions.

New countries will join the EU in the years following the 2004 enlargement. Whatever the actual timetable, the gap between national situations will widen even more sharply over the coming decade. The applicant countries total over 100 million people, living and working in conditions generally well below EU standards. The "European social model" will face unprecedented challenges. The health and safety strategy must lay the groundwork now for the next round of accessions. Those countries that have not yet banned asbestos must do so without delay, and bring in a package of measures to deal with the asbestos legacy (register of asbestos-containing buildings, criteria for asbestos removal work, health care and financial compensation for victims, fair changeover for workers in asbestos product manufacturing firms, etc.). Along

with this immediate priority, national preventive provision must be made, supported by Community programmes.

A more joined-up prevention policy approach to chemical risks

Chemical risks are a major cause of health damage. The death rate from exposure to dangerous chemicals far outweighs work accident mortality, but this is partly masked by systematic under-recognition of cancers related to occupational exposures. One priority of the strategy for 2007-2012 should be to rekindle a comprehensive debate on the recognition of occupational diseases with a view to working out the bases of a minimum harmonization, with a specific focus on the different medical conditions caused or made worse by exposure to chemicals.

The reform of the legislative framework on the production and marketing of chemical substances affords a big opportunity to formulate an overall strategy for improving health and safety at the workplace. REACH should provide important information for improved prevention, prompt substitution of the most dangerous chemicals and encourage information flow between producers, users and public authorities. But it would be naive to believe that REACH will improve health and safety at the workplace all by itself. A range of measures are needed at both Community level and in Member States' national strategies, to make full use of the potential of REACH. The feedback of experience from workplaces is one key to making REACH work. That means linking workplace risk assessments to the different obligations of chemicals producers so that their "duty of care" is given practical effect through regular re-evaluations of the products put on the market and substitution of the most dangerous products.

At Community level, the 1998 Chemicals Directive is a good basis, but it is clear that in practice other provisions need to be added for it to be fully effective.

The development of Community limit values is going at a snail's pace. An initial list of 62 indicative exposure limits was adopted by the Commission Directive of 8 June 2000, after which a second list was finally adopted by the Commission on 7 February 2006 containing 33 limit values as compared to the 44 in the original 2002 proposal. Employer lobbying to get nitrogen monoxide (NO) delisted was successful, just as it had previously got nitrogen dioxide (NO₂) dropped from the first list of limit values. This is a set-back for the prevention of respiratory diseases caused by occupational exposures, and has set very dangerous precedents that put the entire limit value-setting process at risk. The new strategy must clearly state that indicative limit values are to be defined on the basis of the most recent scientific evidence, and set exposure thresholds below which given substances should not have any harmful effect on health.

The same problems arise with setting binding limit values, which are currently an exception in the Community legislation. The Council of Ministers has pointed out that the protection of workers against carcinogens is sadly wanting. The adoption of a binding limit value for crystalline silica is a clear priority, as it is one of the main carcinogens to which workers in Europe are exposed.

The trade union movement wants binding limit values adopted for the main hazardous chemicals. Community limit values must in all cases be set at least at the lowest limit value currently accepted in one of the Member States (including the countries of the European Economic Area). Exposure limits must be supplemented by biological indicators used for health surveillance of exposed workers wherever necessary. Limit values must be regularly reviewed in the light of new scientific and technical data. This makes the revision of the 1982 limit values for lead a priority.

A strengthened prevention policy focused mainly on substitution is required for the most dangerous substances. For this, we want the scope of the existing Carcinogens Directive to be extended to include mutagens and reprotoxins.

Where reproductive health is concerned, both the European Parliament and trade unions have for years been stressing the need for a revision of the Pregnant Workers Directive. Preventive removal of pregnant workers away from exposure must not be a reason for not developing collective prevention by replacing dangerous chemicals.

More effective action on work organisation, especially to prevent MSD

Work organisation is key to company prevention policies, but in practice, employers still tend to see it as their sole preserve. We do not believe that any significant progress can be made in health and safety at work unless there is substantially more democracy in the workplace, unless workers, their representatives and their unions have a greater opportunity to exercise effective control over decisive aspects of work organisation.

Work organisation is a causative factor in all health and safety problems. The scale of musculoskeletal disorders (MSD) shows up the need to make work organisation central to prevention strategies. The existing directives are not an adequate framework for dealing with MSD. A directive is needed that addresses all the contributory factors in MSD within an overall ergonomic approach to work situations.

In other areas, too, better prevention requires a critical appraisal of work organisation. The different forms of physical and psychological violence in employment relationships cannot be explained away by individual behaviour alone, but can usually be traced to the hierarchical relationships of domination built into work organisation. The gender dimension of these relationships of domination is ample justification for an overall approach to sexual harassment that covers all forms of violence in the workplace, and prefers a collective prevention approach to individual conflict resolution.

The sharp rise in bullying and other forms of physical and psychological violence as occupational health problems is mainly due to changes in work organisation. New management methods tend to foster increased inter-worker and inter-departmental rivalries. A culture of naked self-interest clearly allows, not to say encourages, the worst kinds of deviant behaviour.

Without going too deeply into details, a number of salient points can be made:

- New management styles often introduce “controlled autonomy” for workers which is based on conflicting demands: relatively wider discretion in methods of working

combined with tighter control over work outcomes and procedures. These forms of management significantly undermine collective solidarity. Some of the constraints are exerted directly in the workforce.

- The personal involvement in work demanded in most firms means that individual needs always come second to the dictates of production.
- Work intensification necessarily involves eliminating “idle times” (from the immediate profitability angle) which are also times out that workers need to exercise real control over their work.
- Work intensification produces very different ill-health responses in different individuals. Stress breakdown by some may have a sort of off-putting effect on their workmates who themselves feel under threat from problems, causing them to go into denial.

Prevention of violence in its different form must be a priority of the Community strategy for 2007-2012.

Mobilize all the players

One major failing of national health and safety policies is the lack of coordination between the many players involved, a flaw also mirrored in the Community strategy.

The asbestos scandal clearly illustrated the disastrous consequences of this lack of coordination. Faced with all-out lobbying by industry employers, channelled by many governments, the European institutions dithered for a quarter of a century before finally outlawing asbestos. The cost of this delay was tens of thousands of avoidable deaths. Although not the only reason, the lack of coordination between the different Commission Directorate Generals was certainly a contributory factor. Asbestos raised issues with the regulation of the internal market, health and safety at the workplace, environmental policy and public health.

Even now, poor co-operation between different Directorate Generals and often unduly narrow interpretations of Community competences are preventing the problems created by the past mass use of asbestos from being addressed. Essential measures like compiling registers of asbestos-containing buildings could not be adopted, and the Directive on the protection of workers exposed to asbestos still does not cover self-employed workers.

Commission

The Commission plays a key role. It is the only institution able to formulate proposals for directives. It plays a decisive role in monitoring the practical implementation of Community rules. It can give the policy stimulus to Community action. Specifically, the Commission is responsible for coordinating action by the different participants, and mainstreaming the health and safety requirements across other policy spheres. The Commission's internal resources for pursuing health and safety at work policies are woefully inadequate, and this undermines the credibility of its action. Amid an increase in the areas covered by Community health and safety at work policy, and a doubling of the European Union's size from 12 to 25 Member States, the staff of the Commission's health and safety at work unit has been slashed compared to the early

1990s. This is part of the reason for the delays dogging infringement proceedings for failure to properly implement the directives, and the backlog in the evaluations of practical implementation of the directives.

But this under-staffing is made worse by the scant regard for health and safety at work issues in other Commission departments, including the Directorate General for Employment and Social Affairs. While setting up a specific coordination unit has certainly helped, the fact remains that workplace health and safety issues are systematically ignored in the Commission's legislative proposals and the policies prompted by it. The Directorate General for Social Affairs kept a noticeably low profile in the debate on REACH.

The strategy for 2007-2012 should lay down mechanisms and procedures for giving the health and safety requirements more prominence in all Community policies, with a specific focus on:

- the internal market;
- the environment;
- research;
- social cohesion;
- gender equality.

The Commission is also responsible for ensuring consistency between the policies pursued on the basis of the Community legal framework. On various occasions in recent years, the Commission has bowed to pressure from the Member States and accepted amendments that flout the basic principles of the Framework Directive. A case in point is an amendment to the Noise Directive allowing the exposure level to be calculated taking into account the reduction of noise that would result from wearing personal protective equipment. Likewise, the Commission's ready support in September 2005 for the European Parliament's amendment to put solar radiation outside the scope of the new Directive on non-ionising radiation sent out an extremely negative message about the self-consistency of Community health and safety at work policy.

Council

The Council of Ministers reflects the political balances between the governments of the twenty-five Member States. Health and safety at work has not been a priority in recent years. Many Commission proposals have been watered down by Council. The fact that Council discussions are held behind closed doors is no aid to democratic oversight of the different governments. It is often hard to find out what agendas have been argued and the basis on which compromises have been engineered. Only a few European Union countries (essentially Sweden and Denmark) have made provision to open up the positions espoused by their representatives in Council to greater public scrutiny.

European Parliament

The European Parliament has generally tried to beef up the proposals submitted to it, and many amendments have been put down to improve prevention policies. But there have been deeply regrettable exceptions, not least Parliament's putting solar radiation outside the Directive on non-ionising radiation.

As co-legislator, the Parliament has a major responsibility in monitoring the practical implementation of the legislation passed. To date, it has played only a limited role in this respect. The adoption of a new strategy for 2007-2012 could give an opportunity to mount a policy debate on the basic issues of health and safety at work in Europe.

Economic and Social Committee

The Economic and Social Committee has given impetus in some areas, especially on asbestos. A more systematic focus on health and safety at work issues could help bring them to greater prominence in other Community policies.

Court of Justice

Over the period 2002-2006, the Court of Justice gave a series of rulings on the interpretation of the health and safety at work directives. An examination of this case law leads to several conclusions:

- There have been many fewer infringement proceedings than might be expected. That reflects the Commission's diminished capacity to effectively police national transpositions of the directives. No proceedings have been brought over flagrant omissions in implementing some health and safety directives (except in cases of total failure to implement). The Working Time, Fixed-Term and Temporary Workers, and Pregnant Workers Directives are all cases in point.
- Referrals for preliminary rulings helped clarify the interpretation of a number of directives. The largest body of case law is on the Working Time Directive. This shows the importance of trade unions acting more systematically to raise strategic issues for preliminary rulings.

Luxembourg Advisory Committee

The Luxembourg Advisory Committee plays a key role, being the specialized tripartite consultative body for health and safety at work matters. The evidence of experience is that mere prior consultation when a directive is being drafted is not enough to ensure tripartite control of Community workplace health and safety action. Initial proposals may often undergo significant changes, and the Luxembourg Advisory Committee must be able to discuss these. This was made crystal clear in the different Directives on physical agents, where one of the provisions finally adopted for the Noise Directive goes against the order of priority of preventive measures laid down in the Framework Directive!

The Luxembourg Advisory Committee should also be more systematically involved in the follow-up of directives adopted. More specifically, it should have a full say in drawing up the questionnaire to be used for writing the Member States' single report on the practical implementation of the Community directives, and it should have sight of the report. It should also be informed about the steps taken by the Commission to deal with States' failings. More regular links between the Luxembourg Advisory Committee and the specialised bodies SLIC and SCOEL would also add consistency to Community policy.

Member States

A Community health and safety at work strategy can never deliver sustainable outcomes unless the Member States adopt national strategies that hang together with it. Such strategies must be worked out through tripartite consultation and be based on a detailed appraisal of each national situation. At present, only a minority of Member States have provision for systematically monitoring trends in working conditions and their health impact. Many countries often lack even the most elementary data. This undermines the effectiveness of the legislative instruments passed to transpose the directives.

Rationalising the reporting system on the practical implementation of Community health and safety directives should enable a policy discussion to take place on national strategies. The opportunity offered by writing an overall report must be fully grasped. The new method must not be approached as a form of administrative simplification, but should lead on to an in-depth tripartite discussion of the policies pursued and their effectiveness.

Bilbao Agency

The Bilbao Agency has a substantial budget, most of which goes to fund the provision of information. Based on recent experience, we feel that the Agency's information-providing activities could be considerably improved in a number of ways:

- Much of the information is supplied by national focal points. For that information to be comprehensive and not underrate the problems, these focal points must be run on a proper tripartite basis. The focal points must be more active in putting out information to workers in co-operation with trade unions. Government agencies can be reluctant to supply information on unresolved issues and failings in preventive systems.
- The information should be handled by a team of subject specialist researchers. Agency publications are long on visual impact, but patchy when it comes to content quality. Some, like the factsheets, are generally useful, while others add very little of substance (e.g., the Agency report on "The State of Occupational Health and Safety in Europe").
- The Agency should assess the real value of its different publications and website at regular intervals in order to improve them by reference to what users actually need.
- The Agency should examine how far it is really helping to address practical problems. Too many of the "good practices" describe ideal (or idealised?) situations that cannot be reproduced in many workplaces.
- The Agency should stick to its basic job of helping to improve the work environment by providing information. Latterly, it has often given the appearance of also working to improve productivity, which is definitely not part of its terms of reference and could in some cases clash with its primary task. Its central concern should be with the real situations of workers and their needs for preventive measures.
- The Risk Observatory set up within the Agency should play a big role in supporting the Community strategy in the years ahead. It must have sufficient in-house skills to process the often relatively non-standard data from a wide range of Community and national sources.

Dublin Foundation

Since its inception, the Dublin Foundation has done a unique job of monitoring and analysing working conditions. The European survey on working conditions in particular is an essential reference for Community health and safety at work policy. The fourth survey, launched in September 2005, will make it possible to measure the changes over fifteen years and give a basis for comparison between the different Member States of the European Union. The survey now covers 31 different countries.

Trade unions see it as essential that the Dublin Foundation should carry on with its work and produce detailed analyses of derived data from the survey in different areas. The gender dimension, the impact of contingent employment, and work organisation-related problems are among the issues that call for regular, in-depth follow-up. The linkage between living conditions and working conditions is another area where the Dublin Foundation's work can be invaluable by making it possible to address the broader issue of the relationships of unpaid domestic work to gender equality, and a range of working time issues.

Senior Labour Inspectors Committee (SLIC)

SLIC links together the senior health and safety officials of the different European Union countries. Its role is important, because properly run health and safety inspection is what largely determines whether Community directives are applied equally to all European workers. SLIC regularly runs joint coordinated campaigns in which national health and safety inspectorates focus their activities on a priority issue, like building sites, for a specific period. SLIC has also framed common principles for health and safety inspection. The operation of each labour inspectorate in a given country can be assessed by a team of labour inspectors from a different country under the aegis of SLIC to work out suggested improvements. A big issue for SLIC in the coming years is to improve co-operation between labour inspectorates in situations where an undertaking works on the territory of a country other than its country of origin. In March 2005, SLIC voiced justified concerns about the risks created by the proposal for a Directive on the services market (Bolkestein Directive).

Better linkages are needed between the activities of SLIC and the Luxembourg Advisory Committee, and the SLIC should make more use of the tripartite bodies involved in the operation of the different national labour inspectorates.

SLIC could also usefully contribute to framing a common strategy on the linkages between workplace inspections and market surveillance. In some European countries, both these functions are broadly carried out by the same body (the labour inspectorate), while in others, market surveillance tends to be separated from labour inspectorate duties, and may also be done differently for chemicals and work equipment.

Scientific Committee for Occupational Exposure Limits (SCOEL)

SCOEL has a key role in setting limit values. Where indicative exposure limits are concerned, the Commission has no business questioning the health-based exposure limits set by SCOEL. Any policy debates on setting a binding value different from the health-based value are referred back to individual Member State level. There are grounds

for concern about the first two lists of indicative exposure limits that were drawn up. On both occasions, lobbying by some sectors of industry succeeded in getting the Commission to delist limit values that SCOEL had already decided on. It is outrageous for the Commission to let the chemical industry veto values set by the competent, independent experts that sit on SCOEL.

European Committee for Standardisation (CEN)

CEN has a major role to play in the practical implementation of the Machinery Directive and other directives affecting the marketing of equipment (especially personal protective equipment). Starting in 1989, the Machinery Directive called for trade unions to participate in standardisation work at both Community level and in each State concerned by European standardisation (which also includes the European Economic Area countries).

The European Trade Union Technical Bureau for Health and Safety was set up by the ETUC to give a lead to that participation, amongst other things. The ETUI-REHS Health and Safety Department took over that brief in April 2005. Trade union participation in standardisation activities is patchy between the different countries. Generally, however, it is still marginal and does not allow the systematic feedback of workplace experience to standards development bodies. The derived data from work accident and health problem analyses are all-but unused in the standards development process. The Member States may be free to determine the arrangements for supporting trade union participation in standardisation activities, but it still behoves the Commission to check whether such participation has really been put in place, and whether the Community objectives laid down in the Machinery Directive have been delivered in the different countries.

The quality of technical standardisation must be improved through a bigger focus on real-life work situations, as opposed to the misguided headlong rush to extend the production of technical standards to other fields. In a way, the field of technical standardisation needs to be limited in order to ensure its quality in health and safety terms. Contrary to what a technocratic agenda may argue, a technical standards approach is not appropriate to labour relations. The trade union movement holds that most workplace health and safety rules fall outside the scope of technical standardisation. They object to the idea of organisations like CEN and ISO framing standards on workplace health and safety management systems.

The future Chemicals Agency

The responsibilities, resources and other characteristics of the future Chemicals Agency are not yet known. But it will have a central role to play in implementing the new regulation on the production and marketing of chemicals. Among its key tasks will be establishing criteria for the systematic feedback of workplace experience to producers so as to improve initial risk assessments. The Agency must have the funding needed to enlist expertise that is independent of the chemical industry, and must link its work with the different national chemicals market surveillance authorities. The trade union movement also wants to see trade union representatives sitting on the Agency's management bodies.

The international dimension of Community health and safety at work policy

Any health and safety at work policy must have an international dimension if it is to avoid an undercutting war that will drag working conditions down. International responsibilities for labour standards-setting lie with the International Labour Organisation (ILO). One priority for the 2007-2012 strategy should be to strengthen co-operation between the European Union and the ILO.

This would include:

1. Ratification of the ILO health and safety at work Conventions by the EU Member States. The situation here remains very unsatisfactory. Such key Conventions as Occupational Safety and Health Convention 155 (1981) and Occupational Health Services Convention 161 (1985) have only been ratified by a small number of Member States. But the situation is equally concerning over specific health and safety Conventions concluded in the past twenty years, like Safety and Health in Construction Convention 167 (1988), Chemicals Convention 170 (1990), Prevention of Major Industrial Accidents Convention 174 (1993), Safety and Health in Mines Convention 176 (1995), Maternity Protection Convention 183 (2000) and Safety and Health in Agriculture Convention 184 (2001).
2. Compliance with ILO Convention provisions when drafting Community legislation. The proposal for a revision of the Working Time Directive flouts international labour standards by excluding "on-call work" from the definition of working time.
3. EU governments should champion within ILO those principles they have enshrined in Community health and safety at work directives.
4. ILO health and safety at work Conventions should be used as benchmarks for a co-operation policy with other parts of the world.

The European Union should work more actively to get a world ban on asbestos, an issue over which the big economic powers are currently split. The asbestos lobby has the full backing of Canada, Russia, China and Brazil, and also benefits from the United States' equivocal policy. While the European Union is the only regional block to have come out clearly for an asbestos ban, it could leverage a growing groundswell in Latin America, Africa and Oceania. Asia is the biggest asbestos user, and the situation is more problematic, although some progress has been made, not least with Japan's banning of asbestos. The European Union should provide the resources to work more systematically to promote an asbestos ban in international organisations, at the same time ensuring that European multinationals drop their double standards and stop producing, marketing or using asbestos in other parts of the world.

Linking up the different instruments

The European Union's health and safety at work policy has developed over time. The first specific programme in this field dates from 1977, almost twenty years after the Treaty of Rome. The 1986 Single European Act was a watershed. In preparation for the single market in 1992, the Member States added a new provision to the Treaty setting the objective of harmonization of working environment conditions while maintaining the improvements made. By then, it had become clear that Community policy had to

be delivered through binding instruments that cover all workers, which is why harmonization is carried out through a set of directives. Also, health and safety at work regulation is seen as an adjunct to the different rules that organise the single market. The twin-track nature of the legislative output in these two fields is a defining feature that sets the making of Europe apart from other regional entities. The near-simultaneous adoption of the 1989 Framework Directive and Machinery Directive stands as a powerful symbol of how the European single market was to be shaped by a set of rules that protect life and health.

The harmonization of health and safety at work legislation addresses three aims:

1. protecting workers against risks;
2. stopping competition from forcing working conditions downwards;
3. enabling firms to do business within a broadly harmonised legal framework within the European single market.

Since the objectives of the 1992 single market were achieved, this aspect of Community policy has been under constant fire. The past ten years has seen an almost uninterrupted wave of deregulation campaigns. The Dutch presidency of the European Union in the second half of 2004 was notable for the stridency of its onslaught on Community health and safety at work legislation. The Commission's more recent drive for "better regulation" and "simplification of the regulatory environment" contain somewhat more diplomatically couched, but no less unacceptable, deregulationist policy thrusts.

The need to ensure an equivalent minimum level of protection for all workers in the European Union means that the Community legal framework comprised of the health and safety at work directives must be kept intact and further developed to plug existing loopholes and factor in changes in working conditions, technical and scientific knowledge, and workers' expectations for healthy and safe work. The European Union must provide the resources needed to monitor its practical implementation in the different Member States.

Community legislation is implemented through linkages created between a set of national and Community instruments. The relevance of each instrument must be assessed through the prism of practical experience, and the evidence is that recommendations rarely prove to be effective health and safety at work instruments. More than 40 years since the first recommendation on occupational diseases was adopted, its objectives are nowhere having been achieved, and the final tally for other recommendations on health and safety for self-employed workers or ratification of ILO Home Work Convention 177 (1996) is little better.

Collective bargaining at both Community and national levels can make a significant contribution in areas that fall mainly within the purview of labour relations, provided:

- the fundamental rules on protection of life and health are enshrined in legislation (it would make no sense to try and agree a list of carcinogens through collective bargaining);
- machinery exists for delivering the outcomes of collective bargaining to all workers affected by the bargaining issues. This is nowhere near being achieved in most European Union countries, where the share of workers covered by collective bargaining can differ radically.

It would be mistaken to see either industry or inter-industry collective bargaining as an alternative to legislation. Health and safety at work often goes beyond the narrow bounds of employer-employee relations, and requires systematic intervention by the public authorities to be orchestrated with other policies like public health and the environment. Collective bargaining supplements and facilitates the implementation of legislation.

Community guidelines can be highly useful in promoting a common, consistent interpretation of the contents of directives and leveraging the most advanced prevention schemes. A big effort should be made on this. In many areas, Community directives do no more than lay down a handful of general principles where guidelines could provide useful clarification.

They include:

- the operation of preventive services and the organisation of health surveillance (including keeping exposure registers);
- the linkage between the future chemicals market regulation (REACH) and health and safety at the workplace;
- taking limit values into account in prevention;
- carrying out risk assessments in different areas to factor in workers' experience and incorporate a multidisciplinary approach.

Establishing Community information systems should also be a priority for the 2007-2012 strategy. The general provisions of directives are going unapplied in many areas for want of a sufficient body of systematic, independent information.

Areas where Community information systems would be particularly useful include:

- compiling databases on personal protective equipment, actual performance-related selection criteria, conditions of use, and where they can be replaced by collective preventive measures;
- establishing an information system for the feedback of experience with work equipment to facilitate a selection process that is fully informed by the health and safety requirements. Such a system would be a big help to market surveillance and should be organised in a way that integrates the actual experience of workers;
- establishing an information system on chemicals. This is a requirement if the reform of the market rules (REACH) is to be effective and properly implemented for health and safety at workplaces;
- the compilation of databases on substitutes for dangerous substances.

Health and safety at work issues should also be a consideration when establishing Community information systems on public health. Cancer cannot be tackled effectively without systematically-organized data on the linkages between occupational exposures and cancers. Similar initiatives could be organised for reproductive health and respiratory disorders.

The strategy for 2007-2012 should include new initiatives on adopting specific health and safety at work indicators for performance appraisal of the different States and setting common objectives if need be (benchmarking). Conventional indicators (official figures for work accidents and recognised occupational diseases) are of dubious significance and not readily comparable. Indicators of means should be considered

(e.g., the resources and operation of the labour inspectorate, workers' representation in health and safety, risk assessment, etc.). Indicators on exposures are a possibility. But developing indicators and objectives as part of Member States policy coordination should not detract from the thrust of Community action – the directive-based harmonization of working conditions.

What the trade union movement will contribute

Trade unions are a key player in implementing health and safety at work policies. Where trade unions can mainly contribute is through their workplace organisation. The existence of hundreds of thousands of workers' health and safety reps is crucial to practical implementation of prevention policies. Most of these reps are trade union activists, and receive union support for their work in many ways: training, information, issue-specific campaigns, organisation of health and safety networks, political and legal support in disputes with employers, etc.

At Community level, unions will be actively involved in the tripartite consultations and will frame their proposals in the Luxembourg Advisory Committee. They will also ensure that the different social dialogue bodies (inter-industry and industry) give full weight to health and safety requirements. The European Industry Federations also play a prominent part in developing European work's councils' activities on health and safety at work. The unions will also mount joint campaigns on the priorities set out in this declaration.

The Community-level union organizations will orchestrate their activities better than in the past with trade unions' national health and safety at work strategies. Developing structured workers' health and safety representation is a priority here. Two objectives will be pursued through improved legislation, collective bargaining and trade union support: full coverage of all workers by safety reps, and giving momentum to these reps' input into the development of prevention.