



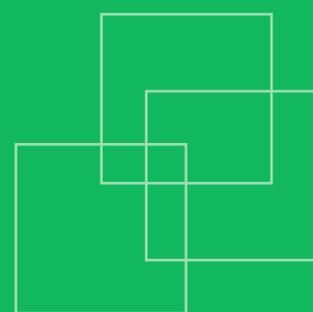
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# ILO Training Package on Development of a National Programme of Occupational Safety and Health

Module 2  
Introduction to the National  
Occupational Safety and Health  
System





# ILO Training Package on **Development of a National Programme of Occupational Safety and Health**

## Module 2 **Introduction to the National Occupational Safety and Health System**



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## What this Module is about

This Module 2 covers the National Occupational Safety and Health System, its main components, functions and organization, and any potential problems from an international standpoint.

It does not describe each country's system, but rather provides trainees with background information on the generic components of a National OSH System, as well as on the relevant government institutions – and the operational and organizational options for their various functions in relation to OSH at national level. It also offers information on the most common problems with the various components of the National OSH System.

## Objectives

The aim of Module 2 is to strengthen trainees' knowledge of the various structures and functions of a National OSH System. At the conclusion of the module trainees will be able to:

- describe the content of the main components of a National OSH System;
- explain the purpose and relevance of the functions performed in the management of OSH at national level;
- enumerate the potential challenges faced by the main components of a National OSH System, and propose practical solutions;
- perform a critical analysis of the capacity and performance of a National OSH System.



This training material was produced under the Swedish International Development Cooperation Agency (SIDA) funded project “Linking safety and health at work to sustainable economic development: from theory and platitudes to conviction and action“. The project promotes the improvement of occupational safety and health for all workers through the development of global products addressing the methodological and informational gaps in this field and through the mobilization of national stakeholders towards the implementation of practical measures at national, local and enterprise levels. The outputs of the project include training materials, practical tools and policy guidance to reinforce national and local capacities in occupational safety and health and to help constituents design and implement occupational safety and health policies and programmes.



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# 1. NATIONAL OCCUPATIONAL SAFETY AND HEALTH SYSTEM

The National OSH System is the infrastructure (the legal and institutional framework) operating on OSH at national level; in other words, all the resources at national level available to carry out different types of OSH-related functions. The most relevant elements that should be in place in a National OSH System are the following:

## Main elements of the national OSH system

- Competent authority(ies).
- National tripartite advisory body.
- Laws and regulations.
- Mechanisms for ensuring compliance (inspection).
- Information and advisory services.
- OSH Advisory services.
- Bipartite cooperation mechanisms at the level of the enterprise.
- Education and training.
- Collection and analysis of information.
- Employment injury institutions.
- Strategic mechanisms for supporting enterprises.

National action on OSH comprises all activities (at any level in the national context) undertaken to ensure prevention of injury and sickness at work and is mainly implemented through the structures listed above. The following infrastructure makes up the framework of a national OSH system as a whole:

- Competent authority, which assumes the political responsibility for policies, strategies and overall national action, and should be designated by the government.
- A National tripartite body which articulates workers' and employers' participation in the national OSH governance (and frequently the coordination of the different public authorities involved in OSH).



- Laws and regulations which define obligations which should be acted upon by employers and other people involved and, where applicable, which lays down rights relating to OSH. Laws and regulations also lay down the functions and responsibilities of public and private institutions through which national action has to be organized.
- Regulatory action itself is not enough to achieve the desired aims. It is wishful thinking to presume that regulations will be adhered to simply because they have been published in a State Gazette, especially if compliance often involves considerable effort. Specific action which must be taken to promote, monitor and enforce compliance with regulations. Regulatory action and inspection, which should be carried out by public authorities, are not independent but closely inter-related.
- Experience shows that 'regulation-inspection'-type action is necessary but is frequently insufficient to ensure full compliance with OSH obligations. The availability of information and advisory resources at national level is necessary to promote and support prevention measures: awareness-raising, dissemination, information, guidance, technical assistance, and so forth. This does not mean that governments must necessarily carry out all these activities by themselves but, if they do not, they must provide incentives to ensure that other bodies or organizations will accomplish these tasks.
- The volume of and degree of specialization in OSH tasks frequently necessitates permanent or temporary specialized support, that should be provided by OSH Advisory Services or practitioners. OSH regulations frequently impose a duty on enterprises to hire these services (according to their number of employees or their level of risk).
- Complementary programmes, initiatives and mechanisms for supporting enterprises can be put in place to address specific and different situations. Many small enterprises need to have readily accessible information on their preventive measure obligations and on how they should be practically applied to their situation or on how they can obtain assistance to implement preventive measures.
- ILO Convention 155 states that "Co-operation between management and workers and/or their representatives within the undertaking shall be an essential element of organizational and other measures (..)”. National legislation defines the mechanisms for workers' representation at enterprise level. It allows workers to be represented in consultation, discussion and cooperation with employers on OSH.
- OSH education and training are essential components in the development of a basic preventive culture, of knowledge of health and safety procedures, or of the competences needed for OSH management. Therefore OSH should be introduced in the general educational system and national capabilities should be developed to deliver specific training curricula for those that need basic or highly specialized knowledge and competences.
- National action on OSH must be suitably planned. Planning should take into account the current situation (the prevalent risks, risk sectors, vulnerable groups, etc.) and should focus especially on priority areas. To detect such

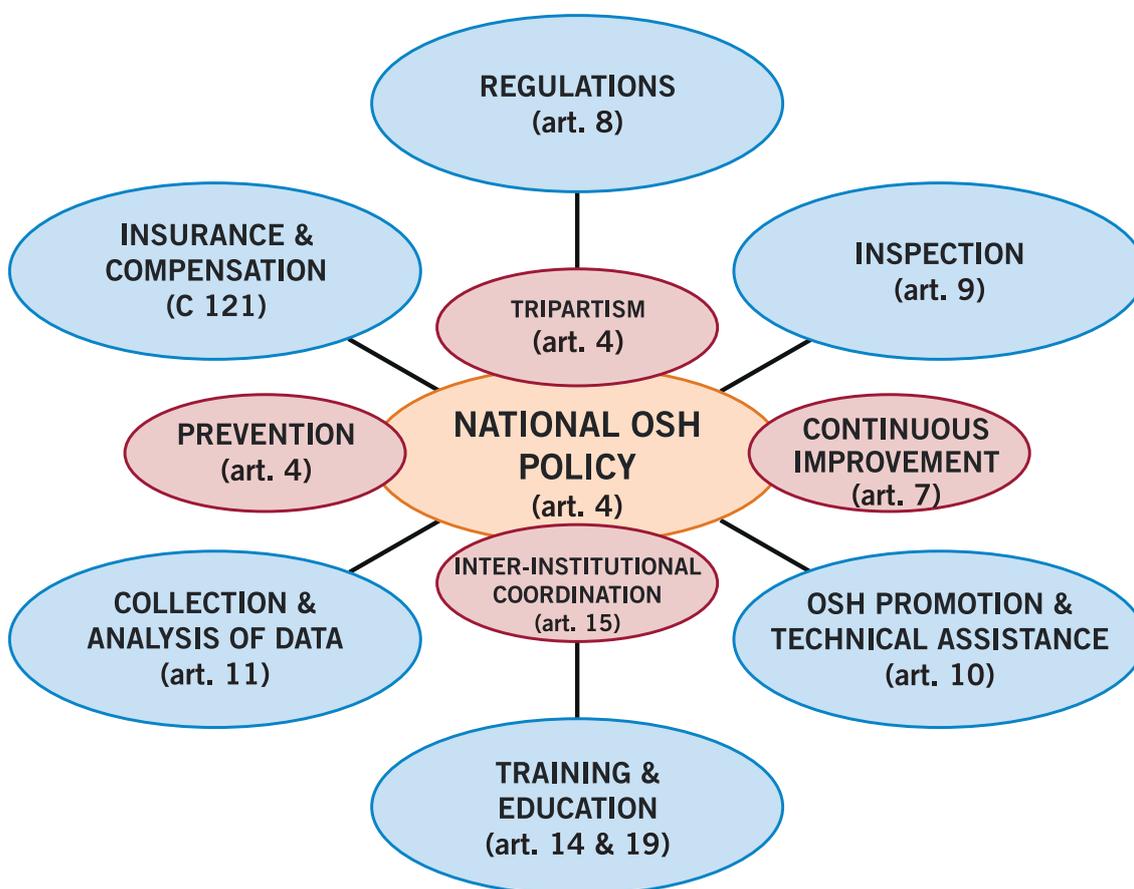


priority areas, it is necessary to generate and analyze information, collecting and processing information on occupational accidents and diseases, undertaking surveys and research, and so forth. Such information-gathering activities aimed at an analysis of the OSH situation must be regarded as an integral part of a national OSH system.

- The ultimate aim of a National OSH system is prevention of all occupational accidents and diseases. However, when such accidents and diseases occur, an employment injury scheme providing appropriate assistance and cash benefits should be in place. These insurance and compensation (i.e., non-preventive) activities can be viewed either as part of a national OSH system or as supplementary to such a system. However, prevention and compensation are activities that should not be addressed independently. For most of the time employment injury institutions also play a very important role in prevention activities.

All these different functions should be developed at national level to ensure that the main duty-holders in enterprises can work effectively on the development and maintenance of a safe and healthy working environment. Although the situation varies from one country to another, normally most of the actions are performed by government institutions, although some could also be carried out by private actors under the regulation of the authorities.

**Figure 1.** Main elements and functions of the National OSH System (From ILO Convention No 155 and other sources).



## 2. THE COMPETENT AUTHORITIES

One of the key components of OSH administration at national level is the authority (or authorities) competent in OSH. They should be designated by the government and made known to all. This competent authority should assume political responsibility for the policy, strategies and national programme. If there are several authorities, it is also important that there are mechanisms for setting out clearly the different responsibilities and ensuring coordination between these authorities. The leading OSH authority should also ensure appropriate consultations with representative employers' and workers' organizations<sup>1</sup>.

In most countries OSH falls within the responsibilities of the Ministries of Labour and Social Affairs. In others the competent authority is the Ministry of Health. It is quite common for there to be shared responsibilities between several government institutions and bodies with different duties in OSH (or related areas), variously dependent on ministries such as the Ministry of Labour or Ministry of Health (or sometimes, sectoral ministries in the field of agriculture, mining, etc.), and frequently involving social security institutions. In these cases, it is necessary to develop coordination relationships and mechanisms so that synergies or at least "harmony of action" can be developed through integration and coordination in implementation of activities. The most common form of coordination is the participation of all government departments involved in OSH in the Tripartite National Councils<sup>2</sup>. In some countries, even in some of those with National Councils or Committees, there is a **'central' or 'inter-departmental' coordination body** grouping together the (two or three) institutions or ministries with key competences in the field (for instance, health authorities, labour authorities, insurance institutions, etc.) to create a forum in which joint actions are agreed and any issues of jurisdictional overlap settled.

Frequently there are different departments with OSH competences within the same ministry. In some countries a specific autonomous agency has been created to perform all the functions of the competent authority in OSH, for example the Occupational Health and Safety Authority in Malta or the Work Environment Authority in Sweden.



<sup>1</sup> Promotional framework for occupational safety and health, Report IV (1) International Labour Conference, 95th Session, 2006. <http://www.ilo.org/public/english/standards/reim/ilc/ilc95/pdf/rep-iv-1.pdf>

<sup>2</sup> See next chapter.

## Swedish Work Environment Authority

The Swedish Work Environment Authority, Arbetsmiljöverket (AV), is the national supervisory body for occupational health and safety in Sweden. The Ministry of Industry, Employment and Communication is the Government Office in charge of AV, and appoints the director-general and deputy director-general. AV is empowered to issue regulations within its sphere of competence without having to submit them to the Government.

### Main problems concerning competent authorities

- Lack of definition of competences of the authorities involved.
- Different authorities with OSH competences acting in accordance with differing perspectives and principles.
- Lack of coordination in planning and interventions.



### 3. NATIONAL TRIPARTITE ADVISORY BODY

The preventive measures that the OSH system ultimately aims to put in place in enterprises should mainly be introduced by employers, with the acceptance and cooperation of workers who are the beneficiaries of such measures. Workers are often the first persons to identify OSH risks at the workplace and their regular reporting to their supervisors can prevent possible accidents and diseases. Therefore participation in the OSH governance by employers' and workers' organizations is not merely a generally applicable principle but an essential prerequisite for the system's efficiency, as the viewpoints of the parties directly concerned are thus integrated into the operation of the system.

The most common mechanisms developed by countries to guarantee workers' and employers' participation in OSH governance are the **Tripartite National Councils or Committees** on OSH on which all or most of the ministries and institutions involved are represented, including social partners. The composition of the advisory bodies differs from country to country. In a number of countries representatives of additional institutions are involved on a permanent or *ad hoc* basis, for example representatives of the academic world who are invited to play a guest role, frequently with restricted rights (voice but no vote).

The roles and functions of these National Councils vary from country to country. They range from a mere consultative role on the activities and projects of the main institutions to a decision-making role in the definition of national policies and priorities and in drafting laws and regulations, with responsibilities for strategy development and implementation and the general coordination of the National OSH system. Such Councils are often empowered to create working groups and subcommittees to study particularly significant issues and to propose agreed solutions in an inter-institutional and tripartite manner. It is important for the main institutions to be represented at the highest possible level, so that their recommendations can be presented more effectively to the authorities concerned.



### National Council of Occupational Safety and Health, Malaysia<sup>3</sup>

In Malaysia, the National Council of Occupational Safety and Health (NCOSH) is the highest forum in the Ministry of Human Resources in which tripartite discussions are held on issues related to the direction, national policy and implementation of occupational safety and health in the country. NCOSH was formed by the Ministry of Human Resources in 1995 under Section 8 of the Occupational Safety and Health Act 1994 (Act 514), as a product of the Government's continual efforts to make safe and healthy work practices a part of Malaysian culture. Members are representatives of government departments, of workers' organizations, of employers' organizations, experts and representative bodies nominated by the Minister of Human Resources.

Its function is the presentation of suggestions to the Ministry of Human Resources on the following matters:

- changes deemed appropriate for OSH legislation;
- administration and enforcement of OSH legislation;
- open communication between management and employees regarding workers' safety, health and welfare;
- adequate control methods for industrial chemicals in the workplace;
- work-related death and accident statistical analysis;
- issues addressing the safety, health and welfare of woman, the handicapped and other groups in the community;
- encouraging the development and acceptance of an industrial codes of practice related to workers' safety, health and welfare;
- development of rehabilitation plans and facilities to help those injured in the workplace.

3

In Federal States or very decentralized countries, where regional authorities have exclusive jurisdiction or share competences with the central government in key areas (such as labour inspection, accident statistics, expert training, etc.), regional authorities are part of the **Tripartite National Councils**, as is the case for example in Australia and Spain. In other cases **ad hoc committees for coordination between regional authorities and central government** are set up, to plan joint actions and, above all, to harmonize criteria and procedures.

The creation of this group, the definition of its roles, member institutions and basic rules of functioning should be the product of a legislative instrument. This will ensure certainty and permanence. Also especially important is a Secretariat to support the activities of the advisory bodies.

<sup>3</sup> Official website of the Department of Occupational Safety and Health, Ministry of Human Resources Malaysia: <http://www.dosh.gov.my/>



### Danish Working Environment Council (Arbejdsmiljøråd)

The Danish Working Environment Council, the highest advisory council for the participating institutions (representatives from the most important labour unions and employers' associations) and interest groups, acts as advisor to the Danish Minister for Employment on OSH issues, and provides recommendations for action. It discusses how to improve workplace safety and health in Denmark and prepares proposals for regulation or system changes to the minister. A Secretariat consisting of six staff members provides the Council with services such as:

- developing policy and initiative ideas;
- preparing meeting documents;
- carrying out the Council's initiatives and activities;
- communicating the Council's work to the public.

In some countries there are also **Tripartite Sectoral Coordination Committees**, which assess the issues and coordinate action in certain especially hazardous industries (for instance agriculture, construction and mining).

Another mechanism for guaranteeing the participation of social partners is the creation of **consultative bodies for institutional administration**. These are bodies within a government OSH institution through which employers' and workers' organizations, along with the institutions whose functions are complementary to those of the host institution, are represented. These bodies are consulted by the institution's administration on its policies, priorities and programmes. In general these bodies are very useful for achieving agreements that facilitate institutional administration, and bolster cooperation between the host institution and the organizations represented.

National tripartite advisory bodies work well especially when the following points apply:

- roles and responsibilities of the advisory group are clearly defined;
- membership issues relating to the advisory body are sufficiently discussed and agreed;
- institutional follow-up mechanisms to its proposals and recommendations are established;
- there are functioning secretarial and logistical support systems



# 4. LAWS AND REGULATIONS

Public bodies (whether government departments, or autonomous bodies) play an important role in setting the framework within which liabilities and responsibilities emerge, through formulating both general and specific rules on the duties of various categories of people, as well as participating in the enforcement of these rules. General rules regarding OSH, and specific rules applicable to particular industries or particular hazards, may be laid down by different instruments as laws or regulations, codes of practice or technical standards approved by public bodies.

## 4.1 Scope and coverage of OSH regulations

The workers' right to OSH is a universal right. Therefore the regulatory framework must protect all salaried workers (i.e. people who work for an employer) and cover all OSH-related risks to which workers may be exposed, irrespective of what sort of job they do, of the industry in which they work, or of any other circumstances. However, the regulatory frameworks of many countries have one or more of the following deficiencies:

- Discrimination between groups: certain groups of workers (for instance, public-sector workers, migrant workers) or workers of some sectors of activity (agriculture, the informal economy) are wholly or partly unprotected.
- Discrimination by risk: certain risks are not considered, or are considered only for certain industries and groups (despite their presence in others), or are addressed superficially (despite the fact that other risks of equivalent significance are addressed in detail).

In some countries OSH regulations also cover apprentices and even self-employed workers. Furthermore, in many countries regulations protect workers against physical or mental fatigue; against certain nuisances such as high temperatures that pose a health hazard, unpleasant smells, or similar; and they even demand well-being requirements, sanitary facilities and rest areas in workplaces. In other countries many of these issues are not covered by national regulations and are left to collective bargaining. It is recommended that there should be progressive adoption of regulations addressing:

- safety conditions that must exist in workplace facilities and services (structural stability, space, means of access and evacuation routes, signaling, electrical installations, lighting, ventilation and air conditioning, gas, heating, elevation, fire safety, etc.);



- safety, selection and acquisition, installation, use, maintenance, storage and disposal of work equipment, raw materials (where applicable) and collective or personal protection equipment (i.e., ‘work resources’);
- conditions applicable to the physical, chemical and biological work environment (noise, vibration, thermal stress, ionizing and non-ionizing radiation, dangerous chemicals, etc.);
- working procedures especially those for performing potentially hazardous operations (handling of heavy loads, work with live electrical facilities, explosive atmospheres, high- or low-pressure environments, etc.);
- psycho-social and ergonomic risks (stress, musculoskeletal disorders, etc.).

## 4.2 Organization of the regulatory framework

In some countries the regulatory framework on OSH has structural problems. Instead of a full and hierarchical ‘regulatory corpus’, there are dispersed regulatory texts with gaps, overlapping contents and even, sometimes, contradictory provisions. All this creates confusion for the duty-holders (causing ‘legal uncertainty’) and makes it difficult to comply with obligations. To avoid this problem, there should be a single basic regulatory framework implemented at high level so that it can serve as a context for the remaining regulations, setting down employers’ general obligations and workers’ rights and obligations.

This same basic regulatory framework, or the supplementary regulations, may also set down employers’ additional obligations with respect to certain worker groups or categories requiring special consideration due to the nature of their personal circumstances (pregnancy, disability, youth, advancing years, special susceptibilities, etc.), working conditions (requirement for shorter working shifts, for instance), or contract terms (including temporary or seasonal workers).

Although the rules applicable to industry and services are generally regarded as the ‘general framework’, specific regulations by sector of activity (industry and services, construction, mining, fisheries, transport, etc.)<sup>4</sup> are also usually adopted. In general terms these sectoral regulations are adopted if the sector of activity is of special significance for a country (in terms of number of employees, enterprises or level of risk). This sectoral approach allows a more specific approach to the particular conditions and working environment in the sector.

The terms used in relation to the OSH legislation may vary according to the country. However there are some common international terms that can be found in all country legislation. Some of these terms are:

- act;
- regulation;

<sup>4</sup>

Among ILO sector-wide Conventions on OSH, the following are highlights: Convention 120 (Commerce and Offices); Convention 152 (Dock Work); Convention 167 (Construction); Convention 176 (Mines); and Convention 184 (Agriculture).



- code of practice;
- collective bargaining agreement; *and*
- technical standards.

**Act:** most countries have acts addressing OSH; for example, the Factories Act or the Health and Safety at Work Act. Acts are legal statements of general OSH principles and responsibilities in a particular country which are drafted or approved by the government or parliament. Acts are fully supported by law and therefore carry much potential power, but generally that power is only effective with adequate enforcement.

**Regulations:** once an OSH Act is passed, then a minister (usually the Minister of Labour), the Cabinet or the state, provincial or even national government will develop detailed Regulations. Regulations are fully supported by law and employers are therefore required to comply with them, as with the overall act which the regulations accompany. Regulations tend to cover specific industries or hazards and set out the mandatory minimum standards and objectives for hazard control, “safe levels”, training, and so forth; and they apply to specific workplaces. Regulations cannot be stronger than the Act which they accompany.

**Codes of Practice (CoPs):** CoPs provide general guidance to employers (and workers) on how to comply with the minimum standards and objectives that are detailed in the Regulations. These CoPs are adopted and amended by a relevant government body, usually within the Ministry of Labour. Although normally CoPs are not required by law, in some countries, such as the United Kingdom, CoPs have a special legal status; and if employers are prosecuted for a breach of OSH law and it is proved that they have not followed the relevant provisions of the approved CoP, a court can find them at fault unless they can prove that they have complied with the law in some other acceptable way.

**Collective bargaining agreement:** these agreements result from negotiations between an employer and a group of employees (often represented by a union) that determine the conditions of employment. The result of a collective bargaining procedure is known as the collective bargaining agreement or contract. Once adopted and signed by each party, its provisions are enforceable by the labour authorities. Sometimes collective bargaining agreements, including OSH provisions, are used at sectoral or enterprise level to overcome some of the limitations of OSH legislation and bring about rapid improvements in the workplace, as changes in national legislation may take place more slowly.

**Technical standards:** these standards address the design of machinery, ergonomic principles, and regulate access to danger zones, safety components or devices, and specific types of machinery. Although they are not binding, sometimes other legal OSH regulations request the duty-holders to comply with the provisions of



a specific technical standard in such a way as to attribute legal force to them. Technical standards are normally approved by official standards organizations.

Issues that need strong legal backing (because they are the basis on which the regulatory framework is built) and durability (because there are long-term supporting policies) should be part of legal instruments approved by the highest regulatory authorities. However the introduction of amendments to these instruments might require much time and effort. More technical and specific issues (usually covered by technical standards or collective agreements) may require more frequent and rapid updating and therefore should be part of instruments such as those mentioned where amendment or change is relatively easy. Regulators should make appropriate decisions on the content and requirements needed for each level of instrument, according to their importance.

### 4.3 Changing principles of the regulatory framework

Until the 1970s OSH legislation focused almost solely on specific workplaces such as factories, quarries and mines, and covered in some detail particular items of plants and processes and the risks attached to them, for example boilers or cranes. In recent decades, however, OSH legislation has changed profoundly from a specific to a more all-embracing approach which is today applied to all employment sectors and risks.

Old national OSH legislation tended to adopt a prescriptive approach, imposing on employers a very large number of specific obligations deriving either from the main OSH law or from supporting regulations, decrees and ordinances. The emphasis was placed on compliance with specific requirements, mainly protective measures to address specific hazards, rather than adopting a holistic, prevention-oriented approach to OSH. The ILO's work in standard setting in the field of OSH has evolved considerably in terms of its basic underlying principles, exemplified by the Occupational Safety and Health Convention, 1981 (No. 155), which spread generalized and comprehensive obligations for preventing occupational accidents and diseases. The provisions of the European Union Framework Directive on safety and health at work, 89/391/EEC<sup>5</sup> is a good example of this new approach.



<sup>5</sup> Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work. European Union, 1989  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31989L0391:EN:HTML>

### Framework Directive 89/391/EEC

The Framework Directive 89/391/EEC contains many features of the ILO Conventions Nos. 155 and 161 which the countries of the European Union have implemented in their national laws and practices. Some of the main provisions cover:

- the development of a coherent overall prevention policy at the enterprise level covering the working environment, technology, organization of work, working conditions and social relationships
- the responsibility of the employer for ensuring the safety and health of workers in every aspect related to the work, including prevention of occupational hazards, provision of information and training, and provision of the necessary work organization, control measures and means by which occupational safety and health activities should be carried out in collaboration between employers and workers
- the requirement that workers should receive health surveillance adequate for the health risks they incur at work
- the requirement that workers have the right to receive all the necessary information concerning the safety and health risks as well as preventive and protective measures in respect of both the enterprise in general and each type of workstation and work practice
- the requirement that the planning and introduction of new technologies should be subject to consultation with the workers and/or their representatives, as regards the choice of equipment, working conditions and the working environment for the safety and health of workers
- the requirement that the general principles of prevention should include the elimination of occupational hazards; evaluation of hazards which cannot be avoided; combating risks at source; adapting the work to the individual, especially as regards the design of workplaces, the choice of equipment and working and production methods; adapting to technical progress; replacing dangerous substances by non-dangerous or less dangerous ones; giving collective protective measures priority over individual protective measures; giving appropriate instructions to the workers.

This new approach to legislation made **top management** responsible for achieving acceptable OSH standards in their enterprises and making them unequivocally clear, that the only practical way of discharging such a comprehensive obligation successfully being by using a management approach to OSH.



### Systems of internal control

In 1992 Norway, and in 1993 Sweden, introduced systems of internal control (IC) or self-regulation including the basic responsibility of the employer to organize systematic work on safety and health. The Norwegian Working Environment Act 1990 makes IC obligatory for the employer at each workplace, requiring the employer to work systematically to improve the working environment of the enterprise. This includes the obligation to identify goals and responsibilities and to carry out safety and health activities as well as risk assessments, to define a plan of action, to carry out performance monitoring, as well as to document the measures established in order to provide a sound working environment.

New regulations impose duties on the employers to ensure that the enterprises put in place a preventive organization (along with preventive resources and the means of ensuring consultation with and participation by workers) and management practices that include performance of preventive activities and measures. The most common are:

- Risk assessment
- Control of working conditions
- Training and information for workers
- Surveillance of workers' health
- Environment monitoring
- Emergency planning
- Recording, documentation and notification of OSH information
- Investigation of occupational accidents

Unlike the prescriptive approach, the new approach gives more freedom to the employers in terms of decision-making, but provides general guidance on the principles that should be respected. The afore-mentioned EU Framework Directive 89/391 states that "The employer shall implement the measures (...) on the basis of the following general principles of prevention:

- avoiding risks;
- evaluating the risks (...);
- combating the risks at source;
- adapting the work to the individual (...);
- adapting to technical progress;
- replacing the dangerous by the non- or the less dangerous;
- developing a coherent overall prevention policy (...);
- prioritizing collective protective measures over individual protective measures;
- giving appropriate instructions to the workers.<sup>6</sup> "

<sup>6</sup> Ibidem



This new approach has been implemented in most of the countries with a high level of OSH performance and has proved more successful in terms of reduction of occupational accidents and diseases.

Another important change in the OSH regulation **is the progressive inclusion of new health hazards**. Traditionally the OSH regulation was focused on safety hazards and accident prevention and later progressively covered health hazards. In more recent years other health problems have been included in the newly adopted regulations, mainly on ergonomics that can result in musculoskeletal disorders and psycho-social factors that can result in problems such as stress, burn-out, mobbing, etc.

### Main challenges concerning OSH laws and regulations

- All OSH risks including new and emerging risks should be covered by the regulations.
- Dispersed OSH regulations issued by different authorities should be harmonized.
- All groups of workers should be covered by the regulations.
- Gaps, overlaps or contradictory provisions arising from the lack of a single basic regulatory framework and resulting in regulations issued by different government departments should be amended and corrected.
- “Legal uncertainty” because of the lack of quality of the regulations or the lack of an accurate amendment process should be clarified.
- The recommended approach to OSH management needs logistical and technical support to be completely successful.



# 5. MECHANISMS FOR ENSURING COMPLIANCE

Within this context **compliance** means observance of the laws and regulations concerning occupational safety and health. The mechanisms for ensuring compliance involve all of the efforts, activities, initiatives or schemes of any stakeholder (public agencies, enterprises, trade unions and others) to promote or monitor compliance with relevant OSH laws and regulations in the workplaces.

## 5.1 Ensuring compliance

Compliance does not flow automatically from the mere existence of legislation, an inspection system and threat of sanctions. Compliance with any particular legal requirement will be determined by a complex interplay of factors that are partly external to the government and partly arising from the actions of regulatory authorities.

The capacity of labour administration to establish the necessary institutions and carry out the functions required for delivery of regulatory programmes is fundamental. The Administration should be able to clearly define the roles and responsibilities of its different institutions and make sufficient financial and human resources available for them. This means employing staff with necessary legal, technical, scientific skills, providing training and information for inspectors and sufficient administrative, office and transport facilities for inspection and enforcement purposes. Finally, the whole administration should have an effective and modern institutional management system, covering human, financial and information matters, including the collection and analysis of relevant data and information.

Social dialogue is vital to achieve compliance with the law. At a national level, there needs to be dialogue and negotiation between representatives of governments, employers and workers and other stakeholders, so as to reach agreement for improving compliance with labour issues, at national, sectoral and enterprise levels. At the enterprise level, the same is necessary, though the public authorities will not be involved in day-to-day dialogue between employers and their worker representatives. Nevertheless, the same model applies, so that all parties collaborate so as to ensure that minimum legal requirements are met and that, if possible, working conditions actually go beyond the law so as to provide decent working conditions for all.



Economic and social environments should be analysed, key stakeholders identified, the factors working for and against compliance assessed, and the indicators of its effectiveness defined. A strategy can then be proposed, describing specific activities that would be undertaken to promote, monitor and enforce compliance.

The OECD has produced a simple checklist for the assessment of the implementation strategy.

### Implementation Assessment Checklist<sup>6</sup>

1. Is the law drafted in a way that will facilitate implementation and enforcement?
2. What is the strategy for securing compliance with the regulation?
3. What functions will be required to make this strategy work properly?
4. How will compliance promotion and other communications activities be carried out?
5. How will compliance monitoring be carried out?
6. How will regulatory requirements be kept up to date?
7. How will enforcement be carried out?
8. What types of information will be required for operation of the programme? How will it be generated, compiled, protected, and disseminated?
9. What kind and level of human and financial resources will be required? How will they be acquired and managed?
10. What organizational structure will be optimal to provide a suitable balance of control, accountability, and freedom to provide services?
11. What arrangements will be required for security?

Three of the main factors determining the regulatory compliance are related with the quality and dissemination of the legislation, the strategies to promote and ensure the compliance and the sanction schemes.

<sup>7</sup> Improving the quality of Laws and regulations: economic, legal and managerial techniques, OECD, 1994: [http://www.mfcr.cz/cps/rde/xbcr/mfcr/OECD\\_Regulation\\_Quality\\_Tools\\_1994.pdf](http://www.mfcr.cz/cps/rde/xbcr/mfcr/OECD_Regulation_Quality_Tools_1994.pdf)



## 5.2 Dissemination of legislation

Drafting sound legislation is not enough on its own, and the government must also be able to make it work in practice. This requires a strategy and an institutional system, which will work together for the practical application of the legislation. There are important implications here for the enforcing authorities and also for less coercive tripartite, bipartite or independent organizations appointed to give advice and information, to help promote compliance with the law.

The wide dissemination of information about what the legislation actually requires, via National Gazettes, publications, websites and other means, will help duty-holders and this will be an important element of the overall strategy to promote compliance. Such dissemination is becoming easier as information technology systems develop and become more powerful, and are increasingly used by developing as well as by industrialised countries. More and more enterprises now have access to the internet, and even the more remote labour inspectorate field offices are now being equipped with modern IT systems. But more needs to be done in this area.

### “A guide to the Occupational Health and Safety Act”, Ontario, Canada<sup>7</sup>

It explains what every worker, supervisor, employer, constructor and workplace owner needs to know about the OSH Act. It describes everyone’s rights and responsibilities and it answers, in plain language, the questions that are most commonly asked about the Act.

There are also many information and advisory service organizations, set up to support the labour inspectorates and to provide good advice to employers, workers and other stakeholders as to how best to meet legal requirements and promote best practice (which often goes beyond what the law requires). Such services are increasingly available on-line. These vary in the kinds of advice they provide – some are private commercial organizations, while others are part of the government services for the wider implementation of decent work.

Wider national or regional programmes, campaigns, conferences and seminars are another increasingly popular means of promulgating information, and labour inspectors can have an active part to play in these initiatives even if they are not the principal driving force behind them. These activities may be multi-faceted, that is they comprise publicity (about the law and what is required), conferences and seminars, regular meetings between key stakeholders, especially the government and its social partners, and – importantly in the present context – a targeted inspection programme that matches the overall aims and foci of the programmes



<sup>8</sup> [http://www.labour.gov.on.ca/english/hs/pdf/ohsa\\_g.pdf](http://www.labour.gov.on.ca/english/hs/pdf/ohsa_g.pdf)

and targets enforcement accordingly. An approach which takes advantage of the synergic effects of information and inspection is in the following box:

### New Approach (The Netherlands)

A new approach was adopted in The Netherlands to coincide with the new Working Conditions Act that came into effect on 1 January 2007. Before carrying out an inspection, the inspection service now sends out a booklet to businesses that it intends to visit, containing an overview of the regulations and risks for the sector concerned. The inspection service also indicates which standards will apply during the inspection. To emphasise the cooperative aspect of this new approach, the Inspectorate also supplies examples of practical solutions to hazardous working conditions. The Inspectorate stresses that the aim of the service is not to hand out warnings and fines, but to make improvements in the workplace.

The overall aim of such initiatives is not only to raise awareness of the law amongst the general working population, but also to change attitudes of employers and workers towards it and to create more of a preventative culture. Such initiatives are more especially important for those enterprises that do not have in-house expertise on labour legislation, such as small and medium sized enterprises (SMEs) and the self-employed. In addition, there are those parts of the workforce that are hard to reach, such as migrant workers and temporary or seasonal agricultural workers, etc. Some initiatives may be able to influence intermediary organizations, such as NGOs and community organizations that are in touch with such groups.



### UK Safety and Health Awareness Days<sup>8</sup>

These were started in the agriculture sector and later extended to others like construction. In partnerships between the labour inspectorate the Health and Safety Executive (HSE), the national employers' and workers' organizations and the national training institutes, awareness-raising events were held at training centres that were primarily aimed at SMEs and the self-employed. Lasting half a day, the events focused on safety and health priorities set by the labour inspectorate, which were known to cause the most serious safety and health risks. The events were very practical and trainers gave demonstrations of how to improve working conditions and prevent the risks.

Attendance is voluntary and free of charge, with lunch and refreshments provided.

Free information and guidance is available during the day. The incentive to come to the events was an undertaking by the inspectorate not to select the enterprises for preventive inspection in the following 2 years. Such an incentive proved very successful, and many SMEs and self-employed attended. Subsequent evaluation showed that many of them put the advice into practice as a result.

HSE has run over 140 of these events in the past ten years, which have been attended by over 43,000 people. The audience is usually made up of family farmers, the self employed and those employing up to four workers.

Much has recently been written about information campaigns, such as those on safety and health,<sup>10</sup> all with the aim of helping duty-holders to understand what is legally required of them, where to find more information and to encourage them to comply. Some initiatives have specially targeted the self-employed and "hard-to-reach" groups using TV and the media.<sup>11</sup> Nevertheless, there still remain significant differences across the working population as a whole, between people groups and sectors, in terms of the understanding of any given law and their motivation to comply. Differences are especially noticeable between small and large enterprises, as the text box below shows.

<sup>9</sup> <http://www.hse.gov.uk/agriculture/shads.htm>

<sup>10</sup> European Agency for Safety and Health at Work, "Health and Safety Campaigning – Experiences from across the European Union and tips on organizing your own campaign – Getting the message across", 2001: <http://osha.europa.eu/en/publications/reports/102>

<sup>11</sup> In the United Kingdom, a series of 45 second TV programmes under the heading "Worksmart" was produced for local television. Each features real people involved in a serious accident – with a simple safety message for each: <http://www.hse.gov.uk/campaigns/worksmart/videos/#construction>



### Knowing about new legislation: the gap between large and small enterprises (OECD, 2000)

A study of occupational health and safety compliance in England and Wales found that large companies and companies with safety personnel had little difficulty in comprehending and using information about compliance requirements. These companies were much more likely to have effective systems for ensuring compliance than small companies without safety personnel where management usually lacked the time and resources to read and understand the large amount of literature on health and safety.

In 1991, new Norwegian regulations came into force that required all public and private employers to establish and maintain a control system for environmental, health and safety issues. In 1994, an evaluation study was undertaken of how well the regulations had been implemented. The study found a major difference between small and medium-sized enterprises (SMEs), which make up 90 per cent of Norwegian corporations, and large businesses, which make up 10 per cent of them. In SMEs, 43 per cent of managers had never heard of the regulations, while in large corporations, only six per cent had never heard of them. Overall only 31 per cent of top managers in SMEs were strongly engaged in implementing the system.

Such differences clearly have an important impact on overall levels of compliance and makes for big differences between SMEs and large enterprises.

The issue of language translation is also one that needs to be considered where countries have several official and/or possibly many tribal or regional languages. In such cases, governments need to decide as a matter of policy to what extent they publish materials in different languages, balancing the cost of doing so on one hand and the need to do so on the other. Especially in rural areas where inspectors visit infrequently if at all, it is important that legal requirements are properly understood so that employers and workers can comply with them; this may well have big implications for translation and for other awareness-raising programmes and initiatives.

## 5.3 Promoting compliance with OSH regulations

Traditionally public authorities address compliance with OSH standards almost exclusively through its checking and enforcing by the inspection services in the workplaces. However as these instruments are very important, the best practices used by countries that are successful in OSH have demonstrated that there are several mechanisms that can contribute strongly to compliance with OSH standards.

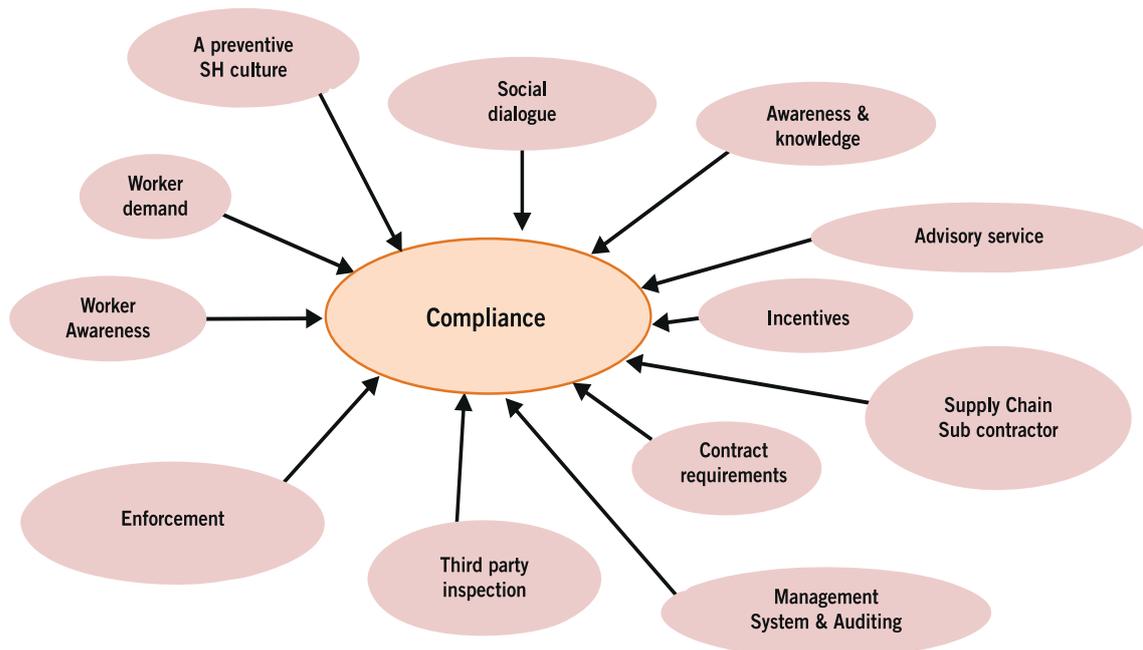


Basically these mechanisms try to: increase the knowledge and awareness of both workers and employers as to OSH standards, and provide them with support for compliance with the standards; increase workers' participation; and offer incentives and involve other actors to create additional motivations to employers for compliance.

Some of the mechanisms for ensuring compliance are:

- **Enforcement:** The action of checking by public authorities and, if necessary, forcing compliance.
- **Third-party inspection:** Systems to accredit private bodies to perform technical inspection and certify the safety status of certain devices (boilers, lifts, gas devices and others).
- **Supply chain subcontractor:** Encouraging those at the top of the supply chain (usually large organizations, often with relatively high standards) to use their influence to raise OSH standards further down the chain. (Major customers may be encouraged to use their buying power to apply pressure on their suppliers to adopt good labour standards and working conditions).
- **Management system and its auditing:** Promoting the (voluntary) adoption of OSH management systems in the enterprises, which should be audited to certify their successful implementation.
- **Contractual requirement:** The inclusion by public (and private) organizations of contract clauses requiring contractors to certify OSH compliance.
- **Incentives:** Provision of benefits for good OSH performance (rewards, reduction in contributions to accident insurance and so forth)
- **Worker awareness:** Increasing knowledge, skills and proactive attitude among workers for the prevention of occupational accidents and diseases.
- **Workers demands:** Strengthening of the role of workers as the first line in prevention of occupational accidents and diseases and in avoiding non-compliance with OSH regulations.
- **Preventive OSH culture:** Promoting among managers and employees of such values, attitudes, rules, managerial systems and practices, participatory principles and working behaviour as are conducive to creating a safe and healthy working environment.
- **Social dialogue:** Discussions and negotiation between the representatives of governments, employers and workers to reach agreement for improvement in relation to OSH issues at national, sectoral or enterprise level.
- **Advisory services:** Development of advisory schemes for the provision of guidance to enterprises in the carrying out of preventive actions.
- **Awareness and knowledge:** Seeking additional ways to get across messages and advice to key target groups, at an early stage.



**Figure 2.** Main mechanisms for ensuring compliance with the OSH standards.

These mechanisms may be complementary. Knowledge and understanding of the standards are essential conditions for compliance with the standards; they are the WHAT. Incentives and sanctions create additional motivations for compliance; they are the WHY. Advisory services and OSH management systems are the HOW.

They are promoted mostly (but not exclusively) by public authorities. Enterprises, workers' organizations, employers' organizations, public institutions (the labour inspectorate and others) – or even private actors – also play an important role in the undertaking of these initiatives.

## 5.4 Labour inspection

To ensure effective compliance with OSH regulations it is necessary to have an inspection system in place covering all enterprises in order to monitor compliance with OSH regulations, identify non-compliance and rectify it.

The main aim of the inspection system is to promote and ensure compliance with the relevant labour legislation and policies in workplaces. This should be achieved through the following functions, as indicated in the Art. 3. of ILO Convention No. 81 on labour inspection:



### Functions of a labour inspection system<sup>12</sup>

- to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young people and other connected matters, in so far as such provisions are enforceable by labour inspectors;
- to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- to bring up to the competent authority any defect or abuse not specifically covered by existing legal provisions.

Inspection should cover all enterprises in a country. However, in some countries there are enterprises or even entire sectors of activity which are not covered by the OSH inspection system because the regulations exclude some economic sectors, or because of the lack of capacity and resources of the inspectorate to reach them.

It is difficult to determine, using a generally applicable quantitative criterion, the minimum resources that an inspection system must possess in order to carry out its functions. However the main aim is clear: the inspection system must exert a minimum of pressure on employers to make them aware that they could be inspected at any time. Otherwise an inspection system does not create a deterrent effect which prevents non-compliance with OSH regulations in the enterprises, and the regulatory framework then becomes a statement of intention without practical application.

## 5.5 Inspectors' powers and duties

Obviously powers and duties of inspectors must be in accordance with the inspection system's goals. The main powers of intervention of the Labour inspection are:

- **Supervision:** including the right of free entry to establishments and the right of free inspection.
- **Injunction:** ordering the enterprise to adopt necessary measures to remedy defects in accordance with labour legislation.



<sup>12</sup> Art. 3. ILO Convention No. 81 on labour inspection. <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C081>

Regarding supervisory powers, labour inspectors shall be empowered to act as shown in the box below:

### Powers of inspector<sup>13</sup>

- a) To enter freely and without previous notice at any hour of the day or night any workplace liable to inspection.
- b) To enter by day any premises which they may have reasonable cause to believe to be liable to inspection.
- c) To carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular:
  - To interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions.
  - To require the production of any books, registers or other documents the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them.
  - To enforce the posting of notices required by the legal provisions.
  - To take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.

Regarding the injunction powers, depending on the nature or degree of non-compliance found, the inspector should have powers to:

- make legal orders and require the adoption of measures needed to correct the law breach or the defects observed in plant, layout or working methods within a set timeframe;
- order the immediate adoption of corrective measures or, failing that, require the immediate stoppage of working activities in the event of serious health and safety risks;
- apply, or propose to the competent authority, a procedure to impose sanctions and penalties, either at the time of a breach or once the term for its correction has expired without such correction having been made;

<sup>13</sup> According to the Article 12 of the ILO Convention No. 81 on labour inspection.  
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?C081>



- decide in each case to issue advice or warning, or recommend or institute legal enforcement proceedings.

In many countries inspectors have the powers described above. However the efficiency and quality of the inspection depends also on a wide range of factors (how activities are planned and delivered, inspectors' training, their supporting resources, etc.). The conditions of service<sup>14</sup> of the labour inspectors then play an important role in the performance of the labour inspectorate. Labour inspectors must be:

- public officials whose status and conditions of service are such that they are assured of stability of employment;
- recruited solely on the basis of their qualifications (women shall be eligible for appointment to the inspection staff);
- adequately trained and provided with the necessary instructions, information or support<sup>15</sup> for the performance of their duties;
- competent to undertake their responsibilities;
- impartial and independent of changes of government or of improper external influences.

In addition the inspectors' remuneration and career prospects must also be sufficient to attract and retain qualified personnel and safeguard them against undue outside influence.

Among the inspectors' duties is an obligation of professional secrecy (inspectors shall not reveal manufacturing or commercial secrets or working processes of the workplaces) and confidentiality (they shall keep confidential the source of any complaint brought to their notice. Inspectors' actions must be implemented objectively and impartially. Therefore inspectors should have no personal interests in the enterprises they inspect, which implies that they must be subject to an incompatibility regime.

In any event, to protect their independence from improper incentives or pressures, it is necessary that their legal situation provides them employment stability, good working conditions and, particularly, adequate pay.

## 5.6 Organization of the inspectorate

Most of the basic or general OSH requirements, either organizational or technical (the existence of a Joint OSH Committee, or the height of a staircase handrail, for instance) can be verified easily. To check whether these requirements are met or not, specialized knowledge is not needed. However, when regulations go in depth

<sup>14</sup> Modules 2 "Introduction to the Labour Inspection" of the ILO Training Package "Building modern and effective labour inspection systems".

<sup>15</sup> In its wider meaning, including and also specialist, technical, scientific, legal, methodological and other support - adequate offices, IT support, means of transport, etc.- to assist them in carrying out their duties.



into fields such as machine safety, electrical risks or exposure to chemical agents, and other more complex requirements, specialized knowledge is required and, in many cases, special instruments for measuring certain parameters such as noise levels, the concentration of a chemical substance in the environment, and so forth, are needed. In these cases inspectors must possess adequate know-how on technical resources, or have the support of personnel who can provide it.

There are many ways of conceiving an inspection system for OSH<sup>16</sup>. A common categorization is the distinction between specialized and generalist inspection:

- Specialized inspection: inspectors engage exclusively in monitoring OSH conditions and possess the knowledge and technical means to do so; except in special cases they do not need external support (i.e. Italy, Ireland, and United States). Under the specialized inspection model, inspectors are autonomous, and they can thus avoid delays, coordination issues and other difficulties inherent to cooperative efforts. On the other hand, other inspectors will be needed to monitor the remaining working conditions, with all the drawbacks that multiple inspections give rise to.
- Generalist inspection: inspectors have a broad mandate that covers promoting fair conditions of employment and labour relations, combating illegal work, and social security issues including OSH and general working conditions (i.e. Japan, France, Spain, and Mexico). The inverse pros and cons are in evidence; it can be as valid as the above model, provided that inspectors have technical assistance from external sources and the minimum know-how needed to understand the aims and scope of the technical criteria set down in the regulations.

Frequently, the inspectorate with the most significance for OSH is attached to the Ministry of Labour. In some countries, notably in Asia and Africa, two different inspectorates exist side by side (or two departments under the same inspectorate), one a specialist inspectorate addressing OSH, the other a general inspectorate addressing general working conditions or industrial relations. These inspectorates (or departments) usually report to the same Ministry and have, or should have, good cooperation at national and local levels.

However mainly for historical reasons many countries have additional inspection services **with competences in OSH** which report to different government departments. For example, in some countries the Ministry of Health often takes the responsibility for inspection of occupational health issues and prevention of industrial diseases, while inspection of safety issues is under the responsibility of the Ministry of Labour. In other countries insurance entities also possess powers to inspect (Germany and France). Inspection of certain especially hazardous substances or conditions (ionizing radiation, for example) may be entrusted to specialized bodies (Zambia). In some countries there are **inspectorates within sectoral ministries** (mining, fisheries, agriculture, transport or public-sector workers). In some countries local authorities and municipalities have powers

<sup>16</sup> Modules 2 “Introduction to the Labour Inspection” of the ILO Training Package “Building modern and effective labour inspection systems”.



to inspect, either using their own regulations or with delegation from central authorities (on fire safety for instance).

### The Inspection system in Denmark<sup>17</sup>

In Denmark, a single legislative act for health and safety at work, the Working Environment Act, applies to all sectors of industry. The Working Environment Authority has responsibility for overseeing matters of health and safety in all sectors of industry, but in certain sectors its enforcement lies with other government departments. Oversight of health and safety on seagoing ships lies with the Danish Maritime Authority in the Ministry of Economic and Business Affairs, whilst aviation falls under the responsibility of the Department of Transport. Health and safety on off-shore installations is monitored by inspectors from the Department of Energy, whilst the Ministry of Employment has an agreement with the Institute of Radiation Hygiene, a part of the Department of Health, to monitor the use of ionizing and non-ionizing radiation at work. Responsibility for general fire matters at workplaces falls under the responsibility of the local fire authorities.

In some federal or decentralized countries inspections carried out in states or regions may be wholly autonomous, even if the national labour law applies to all states and regions. Indeed, in some federal countries the system is even more complex as labour inspection systems differ from one province, state or territory to another (e.g. Australia, Canada, and USA). There are also States with a federal structure but with a central authority for labour inspection at federal level (Nigeria, Brazil, and the Russian Federation).

Such a plurality of inspection systems can cause confusion to employers due to the constant attention paid to the enterprise by different bodies with which they must cooperate, sometimes without fully understanding what their respective competences are. Whenever this sort of problem arises, the necessary measures must be taken to separate competences and harmonize assessment criteria, either (preferably) through changes in the regulatory framework, or through implementation of procedures to coordinate the relevant inspection systems.

## 5.7 The sanctions scheme

Legal regimes usually provide the enforcement authorities with the powers to propose or impose sanctions for non-compliance with OSH regulations. Each legal system sets out a variety of sanctions for non-compliance with administrative



<sup>17</sup> From the webpage of the Senior Labour Inspection Committee of the European Union, Organization for Labour Inspection in Denmark, 2005.

requirements, ranking from the (more common) imposition of monetary sanctions to the closure of the facility or the imprisonment of the responsible personnel. There is a wide range<sup>18</sup> of options available to inspectors or other enforcing authorities, which are set out below.

- Verbal or written warnings; provision of information and recommendation for the application of the regulations or the rectification of a situation.
- Administrative directives or orders: these are written orders with legal force to oblige duty-holders to take specific measures to rectify some non-compliance (improvement notice) or to suspend the operation altogether until a hazardous situation has been removed (prohibition notice).
- Administratively imposed monetary penalties: these are financial penalties imposed by the enforcing authority itself without recourse to the courts, as happens in many countries (Germany, Sweden, USA, the Netherlands, etc.).
- Penalty notices, on-the-spot fines and ticketing: regulators in some provinces of Canada and Australia are authorised to impose small penalties on all workplace parties.
- Increased regulatory burden: this option is used, for example, to request offenders to follow more stringent reporting requirements, or more intensive risk assessments, inspections or examinations of equipment.
- Negotiated solutions to non-compliance, enforceable by various methods.
- Probation for companies and directors: companies and directors on conviction are placed on probation for offences committed, and any further offence within a set time limit would result in punishment related to the original offence.
- Adverse publicity for the offenders.
- Contract listing: offenders lose the right to apply for government contracts for a certain period of time, a measure promoting enterprises with good compliance records and neutralising the competitive advantage that can occur if companies lower their compliance costs through non-compliance.
- Variations of licences or conditions for enterprises (e.g. closure or suspension of operations of the establishment; suspension or revocation of the employer's or manager's operating licence).
- Civil and criminal prosecution (which may also result in criminal fines, imprisonment or a wide array of possible remedial orders).

In many countries the injured party (the worker) can claim in the civil courts compensation damages in addition to those covered by insurance. Other penalties or repressive measures may be considered, for instance in connection with insurance against occupational accidents and diseases (increased premiums to the employment injury institutions, etc.).

<sup>18</sup> Modules 4 “Labour Inspection: designing strategies of compliance” of the ILO Training Package “Building modern and effective labour inspection systems”.



## Sanctions

In general, a sanction system is effective only if:

- the severity of the sanctions (their nature, their amount in the case of fines, or the effort needed to repair the damage done) is such as to have a real deterrent effect on potential non-compliance.<sup>19</sup> The severity and seriousness of the different types of sanction will not have the same impact on all offenders/target groups.
- the speed and certainty of sanctioning increase their impact: immediate sanctioning (tit-for-tat policy) will have more effect than postponed sanctioning. The procedures for applying sanctions should be rapid, avoiding excessive delay of the process through constant appeals. Compliance will not be encouraged if the potential offenders know that legal proceedings are very laborious and time-consuming for the inspectorate, that law courts give low priority to OSH offences or that their resources are very overstretched.

Evaluations of labour inspectorates typically focus on the direct effects of workplace inspections, yet the greatest potential impact of their activities arises through deterrence: the threat of inspection spurring on changes in compliance or practices. Deterrence is related to duty-holders' perceptions that the likelihood of inspection and possible enforcement and sanctions is high enough to make it worthwhile for them to comply voluntarily with the law.<sup>19</sup>

It has often been observed that if the amount of the sanctions is less than the cost of internalizing OSH management measures, some employers are likely deliberately to risk a sanction, especially if this sanction is merely a fine. This is especially true if enforcement of OSH standards is lax. The legislation of many countries has been criticized for failing to declare certain forms of misconduct as penal offences, or for applying overly mild penalties to those offences.



<sup>19</sup> The sanctioning process may also have additional costs and disadvantages such as bad publicity, loss of respect/reputation or the legal fees.

**Main challenges concerning mechanisms to ensure compliance**

- The inspectorate should be able to cover all national enterprises.
- The inspection system should create a deterrence effect.
- The amount or the nature of the sanctions should have a real deterrent effect.
- Procedures for applying sanctions should not be slow or subject to excessive delays of the process through constant appeals.
- There should be enough inspectors and they should be properly qualified.
- Labour inspectors should have adequate powers and logistics to perform their duties.
- Overlapping competences or differing procedures by different inspectorates to assess potential breaches should be avoided.



## 6. OSH INFORMATION

The availability of structures at national level to provide information on OSH to different target groups with different purposes and using a set of methodologies is a necessary of a National OSH System. In the context of a national action on OSH, information activities aim to:

- raise awareness among employers, workers and the general population on the importance of the prevention of occupational accidents and diseases and the need of OSH practices;
- inform employers and other people affected by the existence of preventive duties so as to 'motivate' them, provide them with access to information and respond to any queries they may have;
- enable the OSH specialists to access the essential up-to-date information and resources to perform technical activities.

These information needs are not separate categories but reflect different target groups, purposes and methodologies for delivering the information.

**Basic information and dissemination.** Basic dissemination, aimed at promotion and awareness-raising, is commonly implemented by organizing campaigns through the media, holding annual events such as 'OSH days', awarding prizes for the best preventive practices, and other methods. This basic dissemination may raise awareness of OSH issues among the general population, but also change the attitudes of employers and workers regarding these issues and create a more preventive culture. There are parts of the workforce that are hard to reach such as migrant workers, temporary or seasonal agricultural workers, and informal economy workers. However the initiatives may be capable of influence intermediary organizations such as NGOs and community organizations that are in touch with such groups.

**Information on OSH regulatory duties.** The mere existence of legislation and an inspection and sanctions system does not automatically ensure compliance with OSH regulations. Compliance with any particular legal requirement will be determined by a complex interplay of factors. One of the main factors is dissemination of OSH legislation. Written guides are quite a common way of providing this information.

Guides or guidance notes on OSH regulations are also adopted and amended by relevant government bodies. They are not required by law, nor do they have the semi-legal status of CoPs. Guides provide official detailed technical information and recommendations, with three main objectives:

- to help employers, workers and other people interpret and understand what the law says;



- to help employers comply with health and safety regulations; *and*
- to provide technical advice and practical information on how to comply.

Wide dissemination of information on what OSH legislation actually requires, via National Gazettes, publications, websites and other means, will help duty-holders. This will be an important element of the overall strategy to promote compliance.

Such initiatives are more important for those enterprises that do not have in-house expertise on OSH legislation, such as small and medium-sized enterprises (SMEs) and the self-employed.

**Technical dissemination** is mainly implemented through organizing general or specific trade fairs and conferences and through specialized information centres, systems and publications addressing the most important issues, setting out the latest technical advances and presenting successful experience.

Technical dissemination has the disadvantage that its content is pre-set, and the information needs of many people may not be satisfied. Therefore it is advisable to have information centres or systems that collect information from different sources, structure it and make it available to users by providing open access or by supplying information in response to users' specific requests. The first and most traditional 'information centre' is the library, with its bibliographical search services. Generally the most important information centres issue newsletters and periodical publications that set forth and summarize any new information available, and operate a standardized system for receiving, processing and responding to queries. All this has greatly changed with Internet.

Dissemination is becoming easier as Information Technology systems develop and become more powerful, and are increasingly used by developing as well as industrialized countries. An increasing number of institutions have their own website on which they present their functions, activities and results. Using these websites a wealth of information can be obtained on current legislation, training programmes, research in progress or completed, accident statistics, documents and periodicals, scheduled events, and so forth. A number of 'portals' facilitate searches through access to the websites of a range of national and international OSH bodies, and on which inter-connected institutions present information in a shared way.

Internet provides a vast amount of information on virtually any subject. However, practical doubts and difficulties arising in everyday preventive activities rarely have a pre-set and available answer. Hence the most practical information systems provide quick responses by telephone, fax or e-mail setting out a non-routine solution that addresses the specific problem. Unfortunately, such systems are expensive, as they require a team of specialists – the broader, the better – to meet rapidly growing demand.



In almost every country there are public or private bodies carrying out dissemination and information activities. Governments must decide whether such activities are adequate and whether they should be improved or made more comprehensive.

### Ways of promoting information services

- Disseminate knowledge of OSH regulations to employers, workers and the general public.
- Stress the OSH preventive culture in the information services provided.
- Create structures or expertise to provide basic and technical OSH information to employers, workers and the general public.



# 7. ADVISORY SERVICES ON OSH

OSH regulations are increasingly reflecting the need for enterprises to perform preventive activities that require a specialized level of expertise. At the same time regulations in many countries are requiring enterprises (especially large enterprises and those with high levels of risk) to have their own technical resources for implementing preventive activities.

However it would be meaningless and unprofitable (in both economic and social terms) to oblige enterprises to have internal resources to perform all legally required preventive activities. Therefore a large majority of enterprises, especially small and medium-size enterprises, need external technical advice to know exactly which rules apply to them, how they must organize prevention, and so forth. They also need external technical advice to implement activities requiring specialized knowledge or resources, such as assessing the risks of exposure to noise or chemicals or measuring noise levels. Even large enterprises that (voluntarily or through legal requirements) have their own specialists and measuring instruments may need the help of specialized bodies to analyze certain environmental or biological samples or to perform special medical examinations on their workers.

There are two main types of legislation regulating OSH services:

- One views the OSH service as an integrated multidisciplinary infrastructure and stipulates the objectives, activities, obligations and rights of the various partners, the conditions of operation, and the qualifications of its personnel. Examples include the European Union countries.
- The other is found in many industrialized countries and is more fragmented. Instead of a single act stipulating the OSH service as an entity, it involves a number of laws that simply oblige employers to carry out certain activities. These may be stipulated quite specifically or merely in general, leaving issues of their organization and conditions of operation open.<sup>20</sup>
- In many developing countries this legislation is applicable only to the main industrial sectors, while large numbers of other sectors such as agriculture, small-scale enterprises and the informal sector remain uncovered.

<sup>20</sup> Encyclopaedia of Occupational health and Safety, 4<sup>th</sup> Edition . ILO  
[http://www.ilo.org/safework/info/databases/lang--en/WCMS\\_113329/index.htm](http://www.ilo.org/safework/info/databases/lang--en/WCMS_113329/index.htm)



## 7.1 Role of public authority

The main role of the Government regarding OSH advisory services is to ensure that they are available in sufficient quantity and quality to provide enterprises with the guidance and technical assistance they need. In this regard, the situation in different countries varies widely.

In some countries no restriction exists on the external resources an enterprise is allowed to use. Many other countries require that guidance and technical assistance should only be provided by competent persons or bodies (whose staff hold certified and standardized specialist qualifications) accredited by the competent authority. This is to ensure that any employer requiring such assistance can rely on the quality of the services provided.

The employers should guarantee the application of the OSH standards in their activities and, if external guidance and technical assistance is needed to meet that obligation, they should in principle bear the expense. But it is advisable for governments to provide enterprises with some support, whether for all enterprises or for those which most require assistance owing to their small size or the hazard levels in their activities. Many countries have support programmes for enterprises, but their effectiveness is often limited, mainly for economic reasons. To support enterprises effectively it is necessary to have a relatively large pool of professionals available, as in the case of inspection activities. This is difficult to achieve, given the vast range of enterprises. Hence, in order to bolster such programmes and make them more efficient, a number of supplementary measures can be taken to bring additional resources into play and mitigate the limitations on Government's role in this regard.

## 7.2 Models of Advisory Services

ILO Convention on Occupational Health Services No. 161 describes the occupational health service as an integrated, comprehensive, multidisciplinary team entrusted with essentially preventive functions and responsible for advising employers, workers and their representatives in undertakings on

- improving health at work,
- improving the working environment,
- promoting workers' health,
- adapting work to the physical and mental capabilities of workers, and
- the overall development of the structural and managerial aspects of the workplace needed for health and safety.

OSH Advisory Services are provided by OSH professionals functioning individually or as part of special service units of the enterprise or of external services. The



OSH Advisory Service may be a single integrated entity (covering occupational medicine, occupational hygiene and occupational safety) or a composite of different occupational health and safety units unified by a common concern for workers' health and well-being.

The primary decision of whether or not to have an OSH service may be determined by law, by a collective agreement, or by management's concerns about employees' OSH. The model for providing OSH services may be dictated by laws or regulations which may be general or applicable only to certain industries. Sometimes laws allow enterprises to choose between different options and models. A number of different models of OSH services have been developed<sup>21</sup>, of which the most common are:

- **In-company model:** many large (often multinational) private and public enterprises have an integrated, comprehensive unit with professional staff hired by the enterprise that provides a full range of OSH services.
- **Group or inter-enterprise model:** sharing of OSH services by groups of small or medium-sized enterprises has been widely used in industrialized countries such as Sweden, Norway, Finland, the Netherlands and Belgium. A variant of the group model is the industry-oriented (branch-specific) model. This entails joint use of the OSH service by a number of enterprises in the same industry, trade or economic activity.
- **Private consultancy firms:** OSH specialists or a company with a group of OSH professionals can usually provide short-term OSH services to a number of enterprises. Sometimes they provide long-term services (including the staffing of the internal OSH unit). In contrast with the group model, the consultancy has the decision-making authority over how it operates and it performs its activities within a provider-customer relationship with the client enterprises. In some countries this type of service is also provided by public and private hospitals through a fee-based scheme.
- **Public or semi-public model:** in some countries, OSH services are provided by special units organized and operated by the social security system (organization responsible for employment injuries) or by an occupational health service system. In this model enterprises have the obligation to affiliate themselves to one of these OSH services (frequently based in specific industries or geographically distributed). The service is under the control of public (or semi-public) authorities.
- **Primary health care units:** primary health care units are usually organized by municipal or other local authorities or by the national health service, and usually provide both preventive services and primary health care. An advantage of this model is its good coverage of the country and its location in the communities where people work and live. This has the particular advantage of providing services to small-scale enterprises and, particularly, to agricultural enterprises, the informal sector and the self-employed. A weakness is its concentration on general curative health services and treatment of emergencies with only limited ability to carry out surveillance of the working environment and to institute the

<sup>21</sup> Ibidem



preventive measures needed in the workplace. Since general physicians and nurses usually lack specialization and experience in occupational health, the success of this model critically depends on how much training in occupational health and occupational medicine can be arranged for the health professionals.

### Ways to promote OSH Advisory Services

- Define clear regulatory requirement on OSH Advisory Services.
- Train a sufficient number of OSH specialists in the country.
- Support the available OSH specialists in ensuring provision of quality services.
- Establish an adequate network of OSH Advisory Services to meet the priority needs of the country.



## 8. BIPARTITE COOPERATION SYSTEMS AT THE LEVEL OF ENTERPRISE

For its effective operation, OSH legislation relies in many countries on the participation of workers' OSH representatives at enterprise level. Several ILO Conventions and recommendations include provisions in this regard. It is also recognized in the ILO Guidelines on OSH management systems, ILO OSH 2001<sup>22</sup>, that worker participation is an essential element of the OSH management system in *enterprises*. There are two main systems under which workers can be represented in consultation, discussion and cooperation with employers on OSH at enterprise level:

- Workers' OSH representatives, for small enterprises.
- Joint worker-employer committees on OSH.

**Workers' OSH representatives:** in a wide range of countries these representatives play a vital role in the application of OSH legislation and standards in the workplace. Training of workers' OSH representatives is very important for their effective role in prevention of accidents and diseases. The most prevalent functions of the worker OSH representatives are listed in the box below.

### Typical functions of Worker OSH representatives

- talking to workers, and taking up their complaints with management;
- involving, informing, and consulting workers on their priorities, and concluding agreements on strategies for tackling risks;
- working closely with the workers and worker representatives;
- collecting and distributing OSH information;
- systematically checking OSH in the workplace on a regular basis;
- finding out about health and safety problems using surveys;
- identifying hazards, and investigating and tackling the risks;
- investigating accidents, ill health and near misses;

<sup>22</sup> ILO Guidelines on OSH management systems, ILO OSH 2001.  
[http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/normativeinstrument/wcms\\_107727.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/normativeinstrument/wcms_107727.pdf)



- checking that the employer is complying with health and safety requirements;
- consulting and negotiating with management;
- sitting on joint worker-employer/management OSH committees;
- following up problems and making sure that something is done about them;
- talking to Government health and safety (labour) inspectors;
- liaising with other organizations; for example pesticides action groups, hazard centres;
- addressing work-related environmental issues.

**Joint committees on OSH:** in medium and large enterprises worker OSH representatives have an additional structure for consultation, discussion and cooperation with the employer in order to address OSH problems: namely, the joint OSH Committee. The establishment of joint OSH committees is legally required in many countries, for example Estonia, France, Norway, Romania, South Africa, and Tanzania, typically, in enterprises employing up to a certain number of workers (the number of workers varies from country to country and could be 20, 25, 50 or other). ILO Recommendations Nos. 81 and 133 both advocate the setting up of joint worker-employer OSH committees. These committees can play an important role in improving workplace OSH standards. In practice such committees are far more prevalent and active in the industrialized sector than in the non-industrialized sector.

Bipartite OSH activity in the workplace is not just restricted to the committee; workers OSH representatives also play an active role. In general workers' OSH representatives address OSH matters on day-to-day basis but link with the OSH committee to address longer-term aspects.

Another participatory structure (not specific to OSH) that can have an impact on OSH policies at enterprise level is the **Works Council**, which is essentially a body elected by all non-managerial employees and which is entitled to meet with the management and be informed, consulted and involved in management decisions. Formally, and also to a large extent in practice, there is a clear division of labour between works councils and trade unions. The main function of works councils is participation in management decisions, whereas the primary task of the unions is collective bargaining.



### Work Councils in the European Union

All twenty seven European Union Member States have works councils<sup>23</sup> (exact titles vary between countries) or similar bodies through which employee representatives are informed and consulted on management decisions, or even take part in such decisions. The Works Council Directive (94/45/EC)<sup>10</sup> applies to companies with 1,000 or more employees, including at least 150 in two or more Member States. In spite of the various forms of institutions in the different countries, it is fair to say that the works council is an institution with a significant impact on industrial relations in Europe. Works councils also exist in other European countries such as, for example, Norway. The spread to countries outside Europe has not been overwhelming, but it is interesting that South Africa introduced works councils around 2001.

### Support measures favoring bipartite cooperation mechanisms at the level of the enterprise

- Establish regulatory provisions to support bipartite structures and mechanisms.
- Assist enterprises in organizing bipartite structures and mechanisms for effective operation.
- Provide information and training to workers' and employers' OSH representatives to increase their OSH competence.

<sup>23</sup> Works Council Directive (94/45/EC).  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994L0045:EN:HTML>

<sup>24</sup> Ibidem



# 9. EDUCATION AND TRAINING

This section addresses the introduction of OSH to the general education system (i.e., elementary education, vocational training and universities) and with the importance of ensuring that the national capacity exists to deliver the specific training required by professionals and others with precise OSH duties (i.e., OSH specialists, inspectors, workers, etc.).

## 9.1 OSH in the education system

There is widespread agreement on the importance of creating and consolidating a 'safety culture' as the basis for gradual improvements in OSH conditions. To create this culture it is essential to introduce teaching and training on 'risks and prevention' in basic education for children since, unlike adults, they can easily acquire appropriate attitudes and habits. Therefore OSH should be a topic incorporated into school programmes. Furthermore, the creation of a specific subject on accident prevention (traffic accidents, accidents at home, work-related accidents, etc.) is also useful and highly desirable. There are several successful examples of good experience in this regard<sup>25</sup>.

Vocational training allows potential workers to acquire the knowledge and skills necessary to perform the job. The training should also include acquisition of skills to work safely that is to use appropriate working procedures and to be able to detect and address the risks inherent to respective jobs. Unfortunately, vocational training programmes barely touch on the subject and, moreover, training institutions themselves have defective safety facilities. Workers using such facilities and machinery may acquire unsafe habits. Hence, it is advisable to address the issue of OSH in vocational training organizations, keeping in mind the following needs:

- to introduce OSH subjects into training programmes (this involves training staff on OSH subjects, adjusting curricula, preparing or making changes in training materials, etc.)
- to introduce an OSH management system in vocational training institutions (including, among other things, the use of safe working procedures and resources, or selection of safe machinery and tools for practical sessions).
- The introduction of OSH into higher education can be addressed in a way similar to that outlined for vocational training. In both cases trainees need to



<sup>25</sup> OSH in the school curriculum: requirements and activities in the EU Member States European Agency for Safety and Health at Work, 2009  
<http://osha.europa.eu/en/publications/reports/TE3008521ENC>

acquire knowledge and skills on the risks involved in their job and on how to avoid or control them, as well as their role in preventing risks to others. This last role is especially significant in certain jobs held by people with a university education: managers, production or personnel directors, product and process designers, architects, medical doctors, and others. The introduction of OSH principles into university education is therefore essential for mainstreaming preventive functions into professional activities. In any event the subject should be introduced into degree courses such as Engineering, Medicine, Business Administration, and others.<sup>26</sup>

## 9.2 Specific training on OSH

In addition to mainstreaming OSH into the education system, it is necessary to develop a training facility at national level for the skills development of those with special OSH responsibilities. This heading covers two basic types of training:

- training of OSH experts or specialists, tailored to people wishing to work professionally in this field; *and*
- skills training for carrying out certain OSH activities or functions; this applies, for example, to enterprise executives, supervisors, workers' representatives, manufacturers of potentially hazardous products, labour or OSH inspectors, and other government officials with OSH responsibilities.

### OSH training for employers in Vietnam<sup>27</sup>

- **Initial training.** Employers must be fully trained in all course content; at least two days for establishment owners or people authorized by establishment owners to manage production, directors, deputy directors, heads of organizations, agencies directly recruiting labour; at least three days for the direct management and administrators of construction sites, workshops or equivalent units.
- **Training periodically to supplement and update information, legal documents, new knowledge of OSH.** At least every 3 years, and each time for a duration of at least 2 days, for establishment owners or people authorized by establishment owners to manage production, directors, deputy directors, heads of organizations, agencies directly recruiting labour; and at least once a year and each time for a duration of at least 2 days, for the direct management and administrators of construction sites, workshops or equivalent units.

<sup>26</sup> Mainstreaming occupational safety and health into university education. European Agency for Safety and Health at Work, 2010.

[http://osha.europa.eu/en/publications/reports/mainstream\\_osh\\_university\\_education](http://osha.europa.eu/en/publications/reports/mainstream_osh_university_education)

<sup>27</sup> National Profile on occupational safety and Health and Fire - Explosion prevention in Vietnam, Period 2005-2009. Labour-social affairs Publishing Ha Noi - 2010



The training of experts can be approached on the basis of the level of expertise desired, the field of specialization and the facilities of the training centre. On the basis of these factors there are different training possibilities:

- mid-level training which does not require a prior university degree, taught at a centre or institution accredited by the competent authority;
- a specific occupational training qualification;
- a specific university degree at middle or higher level, either general in scope ('OSH expert') or specialized (Occupational Physician, Safety Engineer, Industrial Hygienist, expert in Ergonomics, etc.);
- postgraduate training (general or specialized) imparted by a university or other accredited institutions by the competent authority.

Expert training varies greatly between different countries and virtually every combination of the above possibilities can be found. The problem is that the existing situation in a country is often the result of an unplanned and unregulated process in which training initiatives by institutions or groups accumulate without prior assessment of the quantity and quality of specialized know-how and skills that the country really needs. To overcome this problem, some planning criteria for expert training are needed. In general terms, the training offered should match:

- the **characteristics of the country** (particularly taking into account the number of enterprises and their distribution by sector and size). For instance, for a developing country without widespread OSH expertise in the enterprises, a priority could be promotion of mid-level generalist training (short-period training for a large number of people) instead of a higher degree in Safety Engineering (long-term training for fewer people);
- the **requirements of OSH legislation**. For instance, when adopting specific regulatory requirements for specialist monitoring of workers' health, it is necessary to provide enough training capacity on Occupational Medicine.

The qualified professionals that carry out basic preventive activities (risk assessment, health surveillance, planning for emergency procedures, etc.), must have the know-how required to ensure that their services meet a **guaranteed quality standard**. In general, this means limiting legal recognition of training to qualifications obtained from universities and other reputable institutions accredited by the competent authority following an evaluation of their teaching programmes, training resources and, in due course, the competences acquired by the trainees. Many countries have formulated official or semi-official competence criteria for OSH professions.

OSH specialists should be in a position to act, individually or in a team, within the framework of a **multidisciplinary approach**. Hence expert training should include preventive areas and disciplines, irrespective of the field in which the expert eventually specializes. The ideal situation is a range of different training programmes that share a common background which facilitates harmonization of the language and concepts.



OSH specialists need **supplementary training** on certain subjects during their professional careers. One or more institutions should offer short training courses and seminars to extend and update their knowledge of specific subjects.

### Ways to promote education and training in OSH

- Enhance preventative OSH culture and awareness-raising among the country population on the importance of OSH education and training.
- Increase the training offered on OSH to meet the needs of the country.
- Train OSH specialists to meet the education requirements of the country.
- Increase the level of OSH knowledge and competences.



# 10. THE COLLECTION AND ANALYSIS OF DATA

Planning national action on OSH requires, as a start, an updated 'situation diagnosis' of the National Profile on occupational safety and health. This can only be achieved if there exists a system for gathering and analyzing data on the situation and if additional studies and research are performed whenever needed. The essential elements to be gathered include not only data on occupational accidents and diseases, but also much other relevant data that can be obtained from various sources.

## 10.1 Information sources

General data (such as the distribution of workers by economic sector, enterprise size, contract and insurance type, etc.) can be obtained from social and labour sources. This information, considered alongside OSH information, will allow conclusions to be drawn on OSH conditions in enterprises.

OSH information obviously includes data on occupational accidents and diseases, but there exist other fundamental data for assessing the preventive capability of enterprises, such as the most common breaches of OSH regulations, the functioning of Joint OSH Committees, the existence of Prevention Services, the existence of risk assessment reports, and so on. A large proportion of this information can also be collected via the activities of inspection and technical assistance provided to the enterprises. The professionals who perform these tasks generally have a good knowledge of the situation of enterprises, but such experience can be neglected if 'data-gathering' is not included among their task objectives.

Regular surveys, both general and by sector, can be carried out to ascertain employers' and workers' opinions on critical aspects of the organization and implementation of prevention in enterprises. If the survey is well conducted through an appropriate questionnaire, the information will provide an accurate insight into (among other things) the development of 'safety culture' in the sector or group surveyed.

It is a good idea to benefit from international information sources on studies and research performed in other countries. Although they may have distinctive features, most problems in one country are broadly similar to those elsewhere, and indeed may have already been studied or investigated in another country.



Such investigations can be very useful and save a considerable amount of research work. Internet provides easy access to international information sources which can be very valuable, especially for countries lacking reliable national statistics on occupational accidents and diseases. For instance, application of the 'average accident rate by sector of activity' recorded for a given country can provide an order of magnitude of the accidents that may be expected (and thus facilitate an estimate of any degree of under-reporting).

## 10.2 Notification of occupational accidents and diseases

In most countries notification of an occupational accident is an obligatory duty of enterprises which must prepare and send an 'accident report' to the insurance institution.<sup>28</sup> In many countries the accident must also be reported to the competent labour or health authority, irrespective of whether or not the accident is covered by insurance. If it is covered by the insurance, the same form is generally used for both notifications. Finally, in some countries fatal accidents must be notified through a specific urgent procedure.

Uninsured accidents are frequently more under-reported than insured accidents. For insured accidents the worker is usually the most interested party in requesting that the accident is reported in order to obtain insurance benefits. Under-reporting of insured accidents may be significant, however, in two very different cases:

- when accident benefits are the same, regardless of their occupational or non-occupational nature;
- when insurance covers the accident only if the employer has paid the contributions to the insurance institution. In this situation, for minor accidents employers who have not contributed properly or at all may prefer not to report them and bear the expense themselves.

Although fatal accidents are less under-reported, sometimes they are not reported as such if death does not occur immediately or during the days following the accident.

In any case, the definition of 'insured accident' tends not to match the technical definition of an accident. In many countries accidents are only reported for insurance purposes if they cause between one and three days absence from work.

Finally there are countries in which insurance does not cover a significant proportion of workers, and under-reporting of accidents in this uninsured group is very widespread, as notification brings no benefits and may lead to penalties imposed

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<sup>28</sup> Also named, workers' compensation or employment injury institution.



by the inspection system (which generally has great difficulty in monitoring this group of workers owing to their marginal nature).

As for the reporting of **occupational diseases**, only a small fraction of the diseases caused or aggravated by work is reported. The reason is mainly that if a certain type of disease can have an occupational or a non-occupational cause (as is usually the case), healthcare systems frequently do not investigate what the actual cause may be. In most countries occupational disease statistics only show diseases that are clearly occupational in origin (e.g. silicosis, mesothelioma, etc.) or can be presumed to be so (dermatitis, deafness, repetitive-strain injury, etc.). Given these circumstances, under-reporting is so high and widespread that the statistics rarely provide an idea of the real incidence of occupational diseases. In order to obtain even partial estimates, extrapolation from epidemiological research data is necessary.

On **accident report forms** the basic data are generally filled out by the enterprise, except for data on the injuries caused which are provided by the medical doctor who provided care to the accident victim. In some countries the information on the form is limited to details on the enterprise, the worker and the date of the accident. In many others it also includes basic data on the accident itself (how it happened, the nature and the location of the injury, material agent related to the injury, etc.) following a standard classification system. Finally, in some countries a **description of the causes of the accident** is also reported. The accuracy of the data entered on the form (especially the details of the causes of the accident and its description) depends on the knowledge of the person filling it out. In enterprises with a lack of prevention training for employees, the data quality can be very low unless external help is provided (normally from the insurance entity).

As for accident records, it can happen that not all the data on the form are recorded, especially when the institution in charge of processing them (often the insurer) is not the same as the institution that will use the data for preventive purposes. The best approach is to have all the form details recorded and allow institutions to access the resulting database (except for confidential personal data), so that every authorized institution can use that information.

For the **OSH statistics**, the number of accidents (either total figures or broken down by mode of occurrence, severity, causes, consequences, etc.) must be related to the number of workers or hours worked (total figures or broken down by industry, enterprise size, or work type - salaried or not, permanent or temporary, qualified or unqualified, etc.). For this purpose, different rates are commonly used, as shown in the box below



### Accident rates

**Incidence Rate:** number of accidents for 100,000 workers<sup>29</sup>. The formula to calculate the incidence rate is:

$$\text{Incidence Rate} = \frac{\text{number of accidents} \times 100,000 \text{ workers}}{\text{number of workers}}$$

**Frequency Rate:** the number of accidents for each million hours worked. The formula to calculate the frequency rate is:

$$\text{Frequency Rate} = \frac{\text{number of accidents} \times 1,000,000 \text{ hours worked}}{\text{total number of hours worked}}$$

Frequency and Incidence rates can be computed for fatal and non-fatal (permanent and temporary incapacity) injuries.

**Severity rate:** the lost workdays per 1,000 working hours. The formula to calculate it is:

$$\text{Severity Rate} = \frac{\text{number of lost workdays} \times 1,000}{\text{total number of hours worked}}$$

**Duration Rate:** The average lost time for accident. The formula to calculate it is:

$$\text{Duration Rate} = \frac{\text{number of lost workdays}}{\text{number of accidents}}$$

For planning purposes, at least the incidence and fatality rates and the average duration of absences from work for the various sectors and sub-sectors of the economy should be available. In general these data are only available (or can be trusted) for the insured sector, which essentially coincides with the salaried sector. In many countries where there are deficiencies in the quantity, quality and uniformity of recorded data, statistics on occupational accidents and occupational diseases generally do not provide an accurate picture of the country's situation in the field. Therefore it is necessary to supplement statistics with data from other sources and, where appropriate, with studies and research.

<sup>29</sup> Although frequently accident incidence rates are the numbers of accidents per 100,000 workers, sometimes the incidence rates are calculated per 1,000 workers



## 10.3 Research on Occupational Safety and Health

Sometimes it is necessary to commission and perform studies and research in order to better ascertain the realities of a particular situation for which the available information sources do not offer sufficient data. These studies and research can broadly be classified into five groups, according to the type of situation under analysis, as shown in the box below.

### Studies and research

- **Analyses of sectors, sub-sectors and activities**, which seek to identify the risks in a certain sector or industry and the most common solutions applied to mitigate or eliminate them. These ‘risk maps’ are very useful for businesses in the sector, are a considerable aid to inspection, guidance and technical assistance tasks, and can also be valuable for the training of professionals.
- **Analyses of groups of workers** seek to gain deeper knowledge of the situation of particular groups of workers that are presumed to be exposed to special or unusually severe risks: young workers, informal, seasonal or temporary workers, migrants, etc.
- **Analyses of risk agents** are generally carried out when it is known or suspected that a particular type of risk or risk agent is particularly hazardous, but it is unclear which sectors and activities it affects or to what extent it is under control. This is the case with certain chemicals (asbestos, for instance), physical agents (ionizing radiation) or biological agents, as well as certain machines, pressure vessels, electrical or gas-storage facilities, etc., which are especially hazardous.
- **Analyses of health damage** attempt to identify, mainly through epidemiological research, which agents or activities cause certain diseases or health impairments. Frequently such studies are initiated if a disease is detected among an unexpectedly high proportion of workers (a certain type of cancer, for example).
- **Analyses of compliance with legal requirements** are carried out to assess the degree of compliance with legal requirements considered critical to ascertaining the extent of implementation of basic legislation (the existence of Joint Committees or of risk-assessment documentation, for instance) or of a specific technical regulation.

Countries have used different approaches to the organization of such services. Whereas most of the industrialized countries have a national institute or a comparable structure with research, training, information and consultation services on OSH as its main functions, such structures are rare in the developing world. Where such an institute does not exist, these services may be provided by university research groups, social security institutions, national health service systems, governmental occupational health and safety authorities, or private consultants.



The experiences of industrialized countries has demonstrated the advisability of creating a special centre for OSH research and development in each developing country that can:

- provide support for policy development, evaluation and monitoring;
- provide continuous scientific support for setting standards and occupational exposure limits;
- develop and implement criteria for evaluating competences in the various OSH disciplines;
- provide and promote the creation of educational and training programmes to increase the number and competence of OSH specialists;
- provide information and advice on OSH matters to managers, labour unions, government agencies and the general public;
- conduct or commission any needed research on OSH.

If an individual institute is unable to supply all of the services needed, networking between several service units such as universities, research institutions and other such organizations may be needed.

### **Main points to improve the mechanisms for the collection and analysis of data on OSH**

- Increase the reliability of data on OSH by strengthening the data collection systems.
- Establish clear mechanisms for recording and notifying occupational accidents and diseases and let employers know their duties.
- Strengthen the institutional capacity for analysis and research on the collected OSH data.



# 11. THE EMPLOYMENT INJURY INSTITUTIONS

Insurance schemes for occupational accidents and diseases need to be properly developed, ensuring protection for all workers suffering from occupational injuries and diseases. While national OSH systems focus on preventive policies and action, it is important to integrate insurance schemes into these systems. There are at least three areas in which their collaboration on preventive policies could be very useful: provision of accident and disease data, financial support to prevention programmes, and development of economic incentives for enterprises to improve their performance on OSH.

If prevention fails and an occupational accident or disease occurs, it is necessary to provide compensation for the harm suffered by the worker and care for him or her. A common way of ensuring such compensation is an employment injury system. To analyze the kind of insurance available in a country, at least three factors should be considered:

- coverage (i.e., what contingencies and workers are covered),
- benefits (i.e., what the insurance provides as compensation) and
- organization and financing.

## 11.1 Coverage

The aim of an employment injury system is to guarantee that workers receive compensation for the harm resulting from occupational accidents or occupational diseases. In most countries the scope of insurance is determined by the legal definition of such contingencies.

The technical and typical definition of an **occupational accident** ('sudden, unexpected and undesirable event that may cause harm to a worker') is generally broader than the legal definition, which deems accidents to be only those events that cause actual injury to the worker. Generally, accidents that occur while traveling or working outside the workplace during working hours are recognized as occupational accidents. Most legal systems recognize commuting accidents as occupational (occurring on the way to or from work). Finally, the definition of an occupational accident specifies the circumstances that disqualify an accident from being termed occupational – the most common being 'force majeure' and



‘criminal negligence’. Depending on how such concepts are defined, an employer’s liability may be considerably diluted or accentuated.

As mentioned before, the definition of an occupational accident for insurance purposes usually differs from the definition for prevention purposes. The insurance definition does not include ‘accidents with no injury’, which obviously should still be considered for preventive purposes, but it does include certain accidents with basic causes which may be difficult for the employer to control (such as the aforementioned commuting accidents and other accidents that may occur in the workplace but for non-occupational reasons).

There are three available options when defining **occupational diseases**.

- The first is **an open definition**: An occupational disease is defined as ‘any disease caused or aggravated by work.’ In practice this definition, despite its apparent flexibility, is very limiting: For recognition of an occupational disease it must be demonstrated that a worker is ill, that he or she has been exposed to an occupational agent capable of causing that illness, and that a causal relationship actually exists (given the specific conditions of that workplace). Since 1964, when the International Labour Organization adopted Convention no. 121 (on employment injury benefits), this definition has been gradually dropped.
- The second option is to set down a **list of occupational diseases**. Each disease is associated with exposure to a certain ‘causal agent’. If exposure and the disease arise through a proven connection, it is assumed that the disease is the consequence of the exposure. This option makes acknowledgement of the listed occupational diseases easier, but excludes acknowledgement of diseases not included in the list, even if they have an occupational origin. In 2002 the International Labour Conference of the ILO adopted Recommendation 194 on the List of Occupational Diseases.<sup>30</sup>
- Finally the third, and probably preferable, option is to establish a **mixed system**: a list of occupational diseases supplemented by an open definition, which allows acknowledgement of diseases not on the list, given that their occupational cause is proven. For compensation purposes, many countries also recognize as occupational work-related diseases but also diseases aggravated by work (if that can be proven).

In some countries the ‘right to compensation’ is guaranteed only for **insured workers** (i.e., if the enterprise is affiliated to a workers’ compensation scheme and is up to date with its payments). In addition, such insurance may not cover certain industries or groups of workers. In other countries where a social security system exists, all salaried workers can benefit from the right to compensation. This does not mean that all salaried workers are covered by the same type of regime; it is common for some groups of workers, owing to their special features,

<sup>30</sup> the Recommendation 194 on the List of Occupational Diseases, 2002.  
<http://www.ilo.org/ilolex/cgi-lex/convde.pl?R194>



to be covered by specific legislation (special regimes), for instance agricultural or maritime workers, and, albeit less frequently, public-sector workers.

The status of insurance against occupational risk for self-employed workers varies greatly: such workers may be fully covered, they may be covered only in certain sectors, or they may be excluded; they may also be covered by voluntary insurance. A similarly heterogeneous situation can be found among students, who may be covered only in apprenticeship programmes, or be excluded entirely.

## 11.2 Benefits

Insurance benefits that workers receive in the event of an occupational accident or disease are essentially of two kinds: healthcare and cash benefits.

**Healthcare benefits** aim to provide workers with the care necessary to restore their health and recover from the accident or disease so that they can return to work. Medical care benefits are a recognized right in virtually all countries. The situation is less uniform in terms of recovery benefits. There are different healthcare benefits:

- medical and pharmaceutical treatment,
- prosthesis and orthopaedic devices,
- functional rehabilitation,
- occupational training and guidance, whenever the damage suffered prevents the worker from returning to his or her original job.

**Cash benefits** include subsidies in cases of temporary disability, and compensation (in the form of periodical payments or a lump-sum) in the event of permanent disability or death. These benefits are generally comparable to those for non-occupational accidents and diseases, but often higher in value.

The amount of a subsidy to cover temporary disability is variable. It usually ranges between 60% and 80% of the sufferer's basic salary. The worker begins to receive this subsidy in many cases on the day after the accident, in other cases three days later or even up to fifteen days later.

The situation regarding cash benefits for permanent disability is also very variable, even in terms of the nature of the damage necessitating compensation: the degree of body disability, loss of ability to work, or both. The parameter commonly used to determine the amount of benefits is the '% degree of disability'. A distinction may be drawn between disability to practise one's original job and an inability to perform any kind of work (100% disability). The value of this parameter usually gives rise to three alternatives:



- if the injury is not disabling, or the disability is very minor, compensation is practically non-existent;
- for minor disabilities, compensation is paid in the form of a lump sum;
- for severe disabilities, compensation is paid in the form of a pension, which may even exceed 100% of the worker's basic salary if he or she needs the assistance of third parties.

Finally, in case of the worker's death, legislation in most countries sets down - aside from payment of funeral expenses - a widow's pension and, where applicable, an orphan's pension.

## 11.3 Insurance institutions and financing

The organization of insurance, that is the recognition of rights and administration of benefits in the event of an occupational accident or disease, can be implemented in a great variety of ways. Many entities and bodies are often involved and play complementary roles (for instance, cash benefits and healthcare benefits under the administration of different bodies). In essence, there are three types of insurance entity:

### Types of insurance entities for occupational accidents and diseases

- Public bodies. In countries with a social security system that does not draw a distinction between occupational and non-occupational contingencies, public bodies are in charge of insurance covering occupational accidents and diseases. This is also the case in countries where, although such a distinction is drawn, insurance administration is performed by a specific insurance public body. These institutions frequently do not cover all workers, either because of the exclusions set forth under their governing regulations or because, in the event of an accident, they only take charge of benefits if the employer is up-to-date with contribution payments.
- Employers' associations ('mutual societies'). These non-profit employers' associations administrate the benefits due to workers in affiliated enterprises (for example, in Germany, Chile, or Spain). Sometimes these are private bodies, but in other cases they are self-governing public-law corporations that work alongside the State's social security system. Frequently benefits are administered by bipartite supervisory bodies (where both employers and workers of affiliated enterprises are represented). In some countries mutual societies are the only insurance entities (i.e. all enterprises must be affiliated to a mutual society), while in others affiliation is voluntary and an employer may opt for public-sector insurance. Finally, in other cases, mutual societies co-exist in open competition with private enterprises.
- Private insurance companies. These for-profit organizations may or may not engage exclusively in providing insurance for occupational accidents and diseases (for example, Argentina or Colombia). Such private companies often



address this kind of insurance in a similar way as with any other insurance (traffic accidents, damage to residential housing, etc.).

Sometimes the right to benefits is recognized by a public body, but the administration of benefits is performed by mutual societies or private insurance enterprises. There are several requirements or controls that may be set down by law. In any case, re-insurance is a general obligation.

## Forms of financing

In a large majority of countries the insurance system is mainly financed by employers, but in a few cases the Government and sometimes even the workers contribute. The situation is not uniform in terms of the rates actually paid, that is the amount contributed per worker, expressed as a percentage of salary, for insurance against occupational accidents and disease. There are three basic options, based on the relationship between the insurance rate and the accident rate:

- **Single rate:** All enterprises pay the same insurance rate, regardless of their accident rate. The rate may be specific (for the employment injury scheme) or may be part of the general social security rate. The countries adopting this type of rate implicitly assume that the costs of occupational risks should be borne equally by all enterprises (even if the risk varies from one sector or enterprise to another). The advantage of this system is its simplicity, but on the other hand it does not encourage preventive activities (an enterprise pays the same amount, whatever its accident rate) and it fosters under-reporting of occupational accidents (since all accidents, occupational or not, are frequently treated in broadly the same way).
- **Rate set according to occupation or economic activity of the enterprise:** The enterprises of an economic sector of activity have a specific insurance rate. Normally, the rate is made up of a fixed component for all enterprises in all sectors (to cover general administration costs, commuting accidents, etc.) and a variable component which is proportional to the costs associated with the average accident rate in the sector of activity. This system, probably the most widespread, is compatible with small corrections of the basic rate on the basis of the specific accident rate of each enterprise. If, as a result of such 'correction', the rate paid by an enterprise is directly proportional to its accident rate, the system becomes a 'rate by enterprise' system.
- **Rate by enterprise:** Every enterprise has its own individual rate. Theoretically, each enterprise's rate should be directly proportional to its accident rate, but this is very difficult to achieve for small enterprises. For example, in enterprises with five to ten workers, less than one minor accident per year can be expected. In these circumstances it is obvious that statistics are meaningless, unless they refer to long periods of time. In practice this system is used if the insurance system is managed by private companies.



The rating system could have a very important role in providing economic incentives to enterprises to improve their OSH performance. The experience rating (also called “bonus-malus system”) is the best known insurance-related incentive. Basically, it adjusts the rate paid by an enterprise according to its individual claim history.

### “Experience rating” in the European Union<sup>31</sup>

The costs of poor OSH management and performance on the part of companies are shifted on to society, which counters this by running workers’ compensation schemes and/or private insurance systems. Insurance-related incentives (incentives through tariff adjustments) aim to recoup some of these costs from the companies concerned, thereby trying to establish a link between the insurance premium paid by the companies and their behaviour and OSH performance. The simplest way of implementing an insurance-related incentive is through ‘experience rating’: insurance premium rates depend on the number of claims in the past, which provides an incentive for companies to emphasise prevention in the workplace. Such an insurance premium variation (gradation) may be focused on the performance of the economic sector to which the company belongs or on that of the individual company (European Agency for Safety and Health at Work, 2005). Premium calculation/variation based on experience rating exists both in countries with private, competitive insurance workers’ compensation schemes (Belgium, The Netherlands, Portugal, Finland) and public, monopolistic systems (Bulgaria, Czech Republic, Germany, France, Italy, Cyprus, Luxembourg, Poland)

### Main challenges concerning employment injury institutions.

- Development of an employment injury scheme.
- Increase in the coverage of the employment injury scheme.
- Assured coordination between the employment injury scheme and the competent authorities on OSH.
- Development of preventive approaches in the institutions.
- Development of economic incentives to promote the reduction of occupational accidents and diseases.

<sup>31</sup> Economic incentives to improve occupational safety and health: a review from the European perspective. European Agency for Safety and Health at Work, 2010.



# 12. STRATEGIC MECHANISMS FOR SUPPORTING ENTERPRISES

In addition to OSH regulations which create a framework of rights and obligations to manage OSH in enterprises, there are other **complementary measures and strategies** aimed at ensuring a safer and healthier working environment. Some of the most important and necessary strategies are:

- Prohibition and certification systems
- Schemes for OSH Management Systems
- OSH promotion schemes for micro, small and medium-sized enterprises

## 12.1 Safety requirements: Prohibitions, restrictions and certification systems

These systems are adopted by public authorities to limit workers' exposure to hazardous substances and products. Some of these systems involve:

- prohibition of, severe restriction on, or need for authorization for, the occupational use of very dangerous products;
- safety regulations governing products, creating an obligation on manufacturers (or product importers or distributors), to place only safe products on the market;
- a certification and market surveillance system, to verify that a product meets the safety requirements.

Prohibition of dangerous products. In order to avoid high levels of risk in the work environment, countries adopt systems to ban, restrict, or require advance notification and authorization for, the occupational use of very dangerous products, such as certain pesticides, benzene and, asbestos which are already banned or restricted in many countries.<sup>32</sup> ILO guidelines ask countries to empower public authorities to impose this requirement.



<sup>32</sup> List of chemicals banned or severely restricted to certain uses owing to their effects on health and the environment in the countries of EU, 2004.  
<http://www.ilo.org/legacy/english/protection/safework/cis/products/safetytm/clasann6.htm>

### Power of prohibitions and authorization<sup>33</sup>

The competent authority should have the power, if justified on safety and health grounds, to either:

- a) prohibit or restrict the use of certain hazardous chemicals; or
- b) require advance notification and authorization before such chemicals are used.

When all or some uses of hazardous chemicals are prohibited for reasons of safety and health at work, this prohibition and the reasons for it should be communicated by the exporting State to any importing country. States should designate a competent authority to perform the exchange of information about decisions regarding the import or export of chemicals.

**Product safety regulations** are those regulations that address minimum standards on the safety of a product that is sold to the public. These regulations have a very important effect on health and safety at the workplace, since the enterprises are the major consumers of the products such as personal protection equipment, machines, pressure devices, chemicals, and so forth. A product is deemed safe if it does not endanger the health and safety of a user who installs, maintains and uses it in accordance with the manufacturer's instructions.

<sup>33</sup> List of chemicals banned or severely restricted to certain uses owing to their effects on health and the environment in the countries of EU, 2004.  
<http://www.ilo.org/legacy/english/protection/safework/cis/products/safetytm/clasann6.htm>



### Manufacturer and distributor obligations<sup>34</sup>

Manufacturers must put on the market products which comply with the general safety requirement. In addition, they must:

- provide consumers with the necessary information in order to be able to assess a product's inherent threat, particularly when this is not directly obvious;
- take the necessary measures to avoid such threats (e.g. withdraw products from the market, inform consumers, recall products which have already been supplied to consumers, etc.).

Distributors are also obliged to:

- supply products that comply with the general safety requirement;
- monitor the safety of products on the market;
- provide the necessary documents ensuring that the products can be traced.

If the manufacturers or the distributors discover that a product is dangerous, they must notify the competent authorities and, if necessary, cooperate with them.

Product safety and the responsibility of designers, manufacturers and distributors are two concepts that are extensively addressed (both implicitly and explicitly) in various ILO standards and texts<sup>35</sup>.

**Certification and market surveillance system.** The essential aim of certification is to verify that a product (the prototype, the finished product or every unit, depending on each specific case) meets the established safety requirements before they reach the market. In countries where a body of legislation on product safety - either of a general nature or limited to certain product types (personal protection equipment, machines, pressure devices, chemicals, etc.) - exists, there are also organisations in charge of certifying or standardising these products, usually including a 'market surveillance' system.

Certification may be performed by a single public body (which is usually known as 'homologation') or by any duly accredited public or private body operating under a regime of open competition. Certification requires highly complex facilities and is an expensive activity, the cost being paid by the product manufacturer.

<sup>34</sup> Under the Directive 2001/95/EC of the European Parliament and the Council of 3 December 2001 on general product safety [Official Journal L 11 of 15.1.2002].

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0095:EN:NOT>

<sup>35</sup> See, for instance, Convention 119 on Guarding of Machinery (Art. 2.1.); Convention 155 on Occupational Safety and Health (Art. 12); Convention 170 on Chemicals (Arts. 6, 7, 8 and 9); and the ILO code of practice on Safety and Health in Construction (Arts. 2.6.3 and 2.6.4).



As a supplement to certification, market surveillance seeks to monitor compliance with product safety regulations at the points or channels through which products are launched. This kind of inspection may be difficult to implement if the goal is to analyse the safety aspects of the products, but can be very effective even if it is restricted to checking that products have the certification, officially-recognised marks and safety instructions required by law.

OSH inspection systems in the enterprises can identify 'illegal' products in companies (i.e., products that do not meet safety requirements applicable at the time of their acquisition or, at least, lack the required certificates, marks or instructions) and enforce corrective measures.

## 12.2 Schemes for OSH Management Systems

Another successful approach to improving OSH performance is promotion of voluntary initiatives (VIs) in enterprises. During the last 20 years, voluntary initiatives are becoming more and more important. These initiatives include codes of conduct or other enterprise initiatives not required by law, which address the performance of enterprises in respect of occupational health, safety, the environment (HSE) and other criteria. These VIs provide additional incentives for enterprises to improve their general HSE performance by adopting systematic management practices and self-sustaining mechanisms including an approach of proactively and continuously improving their principles.

The most relevant VI on OSH is the Occupational Safety and Health Management System (OSH-MS). An OSH-MS is a management approach, comprising a set of interacting elements integrated in a continuous cycle for improving the OSH performance of enterprises. It is voluntary and in no way a substitute scheme for the official Regulations. In fact, OSH-MS is helpful in promoting compliance, as it provides a sound organizational framework within which legal obligations and responsibilities can be more readily identified and met. It also creates the most proactive framework for improving OSH.



### Guidelines on Occupational Safety and Health Management Systems (ILO-OSH 2001)<sup>36</sup>

ILO-OSH 2001, adopted in 2001, provide a unique international model, compatible with other management system standards and guides. They also reflect ILO values such as tripartism and relevant international standards such as Conventions Nos. 155 and 161.

The Guidelines comprise a set of five elements integrated in a continuous cycle of policy, organizing, planning, implementation, evaluation and action for improvement. These follow the internationally accepted Demming cycle of Plan-Do-Check-Act, which forms the basis of the “system” approach to managing OSH. ILO-OSH 2001 encourages the integration of OSH management system elements into overall policy and management arrangements of the enterprise.

ILO-OSH 2001 is not legally binding and its application does not require certification, as with other international standards, but countries may formally recognize it as good practice and use it in developing their own guidance on the subject. ILO-OSH 2001 promotes the establishment of a national framework for OSH-MS including the nomination of:

- a competent institution(s) for OSH-MS;
- the formulation of a coherent national policy and the establishment of a framework for an effective national application of ILO-OSH 2001.

For example, Ireland (2004) Israel and Argentina (2005) adopted the ILO OSH 2001 and are on the way to promoting its implementation in national organizations and enterprises.

There are other interesting initiatives used by public authorities to promote the use of the OSH-MS approach through non-legally-binding instruments, such as the Voluntary Protection Programmes (VPP) in USA. As an incentive of the Occupational Safety and Health Administration, enterprises that meet the requirements of VPP can be exempted from preventive inspection.



<sup>36</sup> [http://www.ilo.org/safework/normative/codes/lang--en/docName--WCMS\\_107727/index.htm](http://www.ilo.org/safework/normative/codes/lang--en/docName--WCMS_107727/index.htm)

### Voluntary Protection Programmes in the USA<sup>37</sup>

The VPP is an initiative launched in 1982 by the Occupational Safety and Health Administration (OSHA) of the United States. Basically, VPP sites are committed to effective employee protection beyond the requirements of OSHA standards. In the VPP, management, labor, and OSHA establish cooperative relationships at workplaces that have implemented a comprehensive OSH management system to effectively identify, evaluate, prevent, and control occupational hazards to prevent employee injuries and illnesses.

Approval into VPP is OSHA's official recognition of the outstanding efforts of employers and employees who have achieved exemplary OSH. VPP sets performance-based criteria for a managed OSH system, invites sites to apply, and then assesses applicants against these criteria. OSHA's verification includes an application review and a rigorous onsite evaluation by a team of OSHA safety and health experts.

Statistical evidence for VPP's success is impressive. As a result, the average VPP worksite has a lost workday incidence rate at least 50 percent below the average of its industry. OSHA removes participant enterprises from programmed inspection lists.

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## 12.3 OSH promotional schemes for micro and small-sized enterprises

The coverage of workers in small and micro enterprises (SMEs)<sup>38</sup> is perhaps the most daunting challenge for OSH systems. In most countries SMEs comprise the vast majority of business and industrial undertakings, reaching as high as 90% in some of the developing and newly-industrialized countries, and they are found in every sector of the economy. Frequently SMEs have problems meeting official OSH requirements and countries have designed special initiatives to resolve this situation. Some possible initiatives to be adopted could include<sup>39</sup>:

- Developing better understanding of SMEs' needs: as regards OSH regulations there is a general demand for simplification of administrative procedures and for a review of the regulatory framework in order to keep it up-to-date, comprehensive, user-friendly and as simple as possible.
- Developing complementary regulation approaches: the 2006 ILO Governing Body discussion on labour inspection acknowledged that, "Recent years have

<sup>37</sup> Voluntary Protection Programs (VPP), Occupational Safety and Health Administration, United States  
<http://www.osha.gov/dcsp/vpp/index.html>

<sup>38</sup> Micro enterprises (less than 10 employees) and small-scale enterprises (less than 50 employees).

<sup>39</sup> Labour Inspection: A guide to the profession. W. von Richthofen. ILO, 2002.  
[http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---safework/documents/publication/wcms\\_108665.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_108665.pdf)



seen a dramatic rise in private systems for assessing a private (and sometimes public) enterprise's performance in respect of labour. These schemes have potential to contribute to decent work in that they can engage multiple actors in the supply chain, provide incentives, market access and facilitate the transfer of technology which can ultimately contribute to enterprise social and economic upgrading." At the same time the Governing Body stressed that "from an ILO perspective, voluntary forms of self-regulation can be a complement to public regulation but not an alternative."

- Strengthening partnerships with social partners. The structures of workers' and employers' organizations could provide strong support to SMEs. There are several bipartite-managed organizations that provide OSH support to SMEs, such as the Occupational Foundation of the Construction in Spain or the CNAC-NAVB Action Committee for Safety and Health in Construction in Belgium. Other initiatives are managed in cooperation with the employers' organizations or with the trade unions, such as the Regional Safety Representatives scheme in Sweden.

### Regional Safety Representatives, Sweden<sup>40</sup>

In Sweden, there are regional safety representatives (RSR) appointed by the trade union and act on behalf of small workplaces as long as at least one workplace employee is a trade union member. Each RSR covers a number of specified small workplaces.

Although their duties, position and status are essentially the same as those of enterprise safety representatives, they can partly be seen as consultants to small business owners who frequently ask them for advice on work environment matters (Frick et al,2005). In fact, they have spread knowledge of, for example, risk assessment methods and persuaded owners of small enterprises to use them. In 2003, regional safety representatives visited about 65.000 small workplaces,

Financially the trade unions are stepping up their economic responsibility for RSR and they nowadays fund about half the costs, while government pays the other half.



<sup>40</sup> The role of health and safety representatives in Sweden– The implementation of EEC Directive 89/391  
<http://gupea.ub.gu.se/bitstream/2077/10220/1/2008-1.pdf>

- Supporting the building of strategic partnerships: if traditional social partners are weak, new strategic partnerships must be built up, for example with public health care systems, the media, NGOs, education institutions and even religious and church organizations and groups.
- Devising new ways of getting the message across: new ways have to be developed of explaining to the SME target group that it is unnecessary or even inappropriate to choose between productivity and labour protection. These two should be mutually reinforcing, as ILO experience shows.
- Promoting mentoring by large employers. Public authorities can help to build and influence partnerships between large companies and SMEs so as to raise safety and health standards in small firms that are their contractors, suppliers or neighbours. In Ireland the labour inspectorate (HSA) launched its Good Neighbour Scheme in 1996. Larger companies, with the necessary infrastructure and specialist arrangements in place to address a range of related issues, offered a helping hand to smaller firms.

The Japanese Labour Standards Bureau (the labour inspectorate) developed a system of Labour Accident Prevention Instructors. Its members are in full-time employment with medium or large companies (as experienced trade union members, personnel managers or even managing directors), who work as volunteer advisers and instructors to smaller companies. They are paid travelling expenses and a small honorarium financed by the budget of the Labour Standards Bureau.

Finally, the box below contains a description of the ILO's Work Improvements in Small Enterprises (WISE) programme.



### WISE<sup>41</sup>

Work Improvements in Small Enterprises (WISE) is one of ILO's longer-running international programmes. It is based on the concept that working conditions, product quality, productivity and competitiveness are interlinked to strategic issues for small businesses. The use of local "best practices" and the practice of bringing business managers together in groups have proved highly successful in generating solutions involving simple and low-cost improvements that link productivity with a safer and better workplace. This training is effective when it focuses on:

- a multifaceted approach building on local practice;
- positive achievements and feasible solutions which are locally attainable, including low-cost solutions; *and*
- learning-by-doing, which directly involves managers through group work.

A typical training course consists of a checklist exercise, group discussions of low-cost examples from the participants' enterprises, group work aimed at proposing and implementing (during the course) simple improvements, and group presentations of the results. Many practical improvements have been carried out in WISE training courses in almost 100 developing countries. By providing real workplace opportunities, it is adaptable and effective in varying local conditions. The "six principles" of WISE, which are seen as the key to successful participatory programmes in SMEs, are as follows:

- build on local practice;
- focus on achievements;
- link labour protection with other management goals (quality, productivity);
- use "learning-by-doing";
- encourage exchange of experience (in groups); *and*
- promote workers' participation.

Although WISE was originally created with developing countries in mind, it has now been adopted, sometimes slightly modified, in developed countries as well.



<sup>41</sup> More information: <http://www.ilo.org/public/english/dialogue/ifpdial/la/gp/philippines.htm>

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