***Public consultation on the new EU occupational safety and health policy framework***

**Necessity and nature of a new EU OSH policy framework**

**1. Do you agree with the assessment of the EU OSH Strategy? Did it lead to tangible results?**

It is unlikely that the strategy played a significant role in influencing the national strategies in the UK, however it was used by unions in arguing for changes to the UK national strategy. The assessment of hazardous exposure shows that substantial efforts are still needed. However, the assessment underestimates the extent of musculoskeletal disorders and stress related illnesses. It also neglects the gender dimension of health in the workplace, which is an important issue that must be addressed by any future strategy.

It is important that the EU adopt a new strategy to send out a meaningful political message to show that the European Union, the Member States and the social partners all have to give high priority to harmonised progress in working conditions.

**2. In order to improve workplace safety and health, do you consider it necessary to continue coordinating policies at EU level or is action at national level sufficient?**

The main aim of EU policy in this area is to achieve harmonised progress in developing minimum standards of protection across member states. This requires not only coordinated action between EU bodies and national authorities, but also with social partners at all levels, The TUC believes that there is a requirement on the Commission to drive up standards. After all the Treaty of Rome requires that “The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts.”

The driving force behind the EU’s strategy, in line with the Treaty on the Functioning of the European Union, is the use of directives to establish a legislative framework. Improved coordination of EU policy should also be an important part of the new strategy.

**3. If you deem such a framework at EU level is necessary, explain why. Which aspects should be covered?**

The EU strategy must give priority to amending the existing legislative framework to tackle those risks which have not been adequately addressed or emerging risks which have not been covered by directives, the majority of which date back to 1985-1989. These include musculoskeletal disorders and psycho-social illnesses. It also needs to boost coordination of national policies with a view to improving the reach and effectiveness of bodies such as labour inspectorates and enforcement agencies, occupational health services and worker safety representatives. The aim must be to increase the number of workers given effective coverage by these bodies, to build their capacity to intervene and improve the quality of their work.

The EU’s strategy must ensure greater synergy between occupational health policy and other EU policies. This is of particular importance in the other social policy areas (gender equality, active ageing, restructuring, employment policy, democracy in the workplace); in internal market policy (chemical substances, technical standardisation); in environmental policy and in public health policy. The Commission also needs to address the link between poor working conditions and the widening social inequalities in health. The European strategy must consolidate the work done by institutions and specialised agencies such as SLIC, SCOEL, ACSHW and EU-OSHA. The strategy should ensure that due attention is paid to OSH issues in the work of other agencies or bodies such as the Dublin Foundation, European standardisation bodies, ECHA and the Institute for Gender Equality, to name but a few.

**Level of commitment**

**1. With respect to your answer to the above questions, is there a need for a new EU OSH Strategy or should alternative measure be considered? Please explain.**

The TUC believes that it is vital that a European strategy be adopted without delay for the period 2013-2020. Any other solution or any further delays would send out the message that workplace health and safety and the improvement of working conditions are no longer a priority in European Union social policy.

As a result of the economic crisis and cuts in public spending across the EU, occupational health and safety is being ignored by governments and regulation is being cut or undermined by a failure to inspect and enforce. The biggest victims are those who are most vulnerable such as migrant workers, those working for SMEs and those in low paid jobs. The enormous cost of workplace injuries and illness is obvious, although the human cost far outweighs even the enormous economic cost of our failures to address occupational health and safety. An ambitious strategy for prevention is by default one that would reduce costs.

**2. If EU level action is necessary in order to improve workplace safety and health, do you consider it necessary to set broad goals and priorities and to coordinate national policies at EU level?**

Absolutely. The broad goals must focus on developing and consolidating a framework for prevention across the EU with minimum standards of regulation and enforcement based on the evidence of the level of occupational injury and disease, including long-term diseases such as occupational cancers. In addition the EU should ensure that member states have practical strategies at national level agreed with social partners to address the specific issues relating to that state, but within the framework of the EU wide goals and priorities.

**3. What would be the added-value of including specific targets into a possible new EU OSH policy framework to measure progress in improving workplace safety and health in the EU?**

Specific targets have to take account of the importance of reducing exposure to risk factors. A reduction in work related injury and illnesses are a central priority. Sufficient resources must be made available to provide better and more consistent data-collection and analysis. This will allow better comparisons and evaluation of the effects of interventions in member states.

The TUC strongly believes that there should be targets for inspection as well with a minimum of one labour inspector working actively in the field for every 10,000 employees.

**4. Should a new policy framework include a list of objectives, actions, calendars and actors involved in the implementation of actions or should it be limited to setting a vision for the future, and a definition of goals and priorities?**

We believe that it should be a practical document that contains a list of actions rather than just being a vision for the future. There should also be a programme of evaluation of outcomes based in the benefits to the health of the workforce. A scoreboard would help to identify specific actions, the participants involved and the timeframe. The updating of the legal framework in particular needs to be tied to a timetable to avoid the huge delays that have built up over the last 10 years.

**Content of a new EU OSH policy framework**

**1. What are the key challenges in the OSH area?   
How would you prioritise them?**

The structures continue to be weak and do not offer protection to all workers. There needs to be a coordination of action between the EU and national levels to develop labour inspection, and multidisciplinary prevention services. Even where national governments do have good regulatory systems in place to ensure prevention, there is often little inspection and enforcement. The TUC believes that improving the level of enforcement activity is important.

More need to be done to strengthen the role of health and safety representatives, preferably through unions who can give them independent support. This is particularly the case for workers in the SME section who would benefit most from having the support of a workplace representative.

Prevention needs to be more systematically organised around health issues and in particular around the cumulative effects of risks and their long term impact. Improved prevention of work related cancers, protection against risks to reproductive health and endocrine disrupters and consideration of emerging nanotechnology risks are all priority areas. The impact of work organisation also has to be taken into account, especially as regards musculoskeletal disorders and problems related to psycho-social factors. The aim of prevention must be to allow both men and women to have access to a full range of occupations in conditions that are compatible with ensuring they enjoy good health throughout their working lives.

**2. What practical solutions do you suggest to address all or some of these challenges?**

The existing legislative framework is insufficient and inadequate as regards work-related cancers, reproductive health, endocrine disrupters and nanomaterials. It also needs work on developing new regulations on the prevention of musculoskeletal disorders and stress-related illnesses.

Binding limit values must be set at EU level for the substances causing the greatest concern (given their impact on health, the number of workers exposed and the practical conditions of that exposure). There should be an EU strategy for removing asbestos from all workplaces and removing exposure to other carcinogens through either elimination of substitution where possible. The new strategy should look into setting up a European register of workers’ exposure to nanomaterials. It should consider setting up databases and information systems on the substitution of the most hazardous chemical substances.

The current directive on electromagnetic fields only tackles their immediate effects. Their long-term effects on health, too, need to be addressed in EU legislation. The revision of the Working Time Directive has to be carried out in a way that strengthens its positive impact on prevention. The opt-out clause must be abolished. No country should be able to opt-out of any health and safety regulation.

There should be a requirement on all workforces to have a health and safety representative, with safety committees in all medium and large workplaces. The commission should audit the inspection and enforcement activities within member countries.

**3. Do you consider that such a framework should develop initiatives to provide further protection for vulnerable groups of workers and/or for workers in specific high risk sectors?**

The term ‘vulnerable workers’ is ambiguous. There are categories of workers who are cumulatively exposed to several different risks and who are often working under conditions where prevention is less systematic. This is less a case of them being vulnerable than of inadequate social conditions in terms of the division of labour and inadequate employment conditions. Here, three factors require closer attention in the future European strategy: women’s occupational health, given the gender differences in both the division of labour and the unequal sharing out of unpaid work; the need to combat the precarious nature of temporary work, agency work, and the use of subcontracted or independent workers; and the occupational health of migrant workers.

The idea of high risk sectors has is often a myth that has no place in occupational health and safety. It usually simply focuses on safety and is used to divert attention from the many occupational health issues which are often more common in so-called “low-risk” workplaces such as stress-related diseases and MSDs. There are sectors with increased specific risks (e.g. workplace injuries, violence in the workplace, repetitive work, exposure to carcinogens). The differences between individual workplaces are often greater than sector to sector differences when it comes to the quality of prevention systems in place. The TUC supports an evidence-based approach to policy making, inspection and enforcement, but the approach must be based on all risks, including long-term and potential risks to health, not only the risk of immediate injury.

**4. Do you consider that measures for the simplification of the existing body of EU OSH legislation should be included in such a political instrument? If so, which ones would you suggest?**

The existing body of OSH legislation is extremely simple and clear and commensurate with the issues that it has to tackle. EU health and safety regulation is an outstanding example of clarity and simplicity compared to regulation in many other areas. Trade unions welcome simple clear regulation however in respect of health and safety regulation there appears no need for it to be simplified. Given that it only sets minimum requirements, it leaves significant room for Member States to adapt and improve it. The European Commission’s insistence on simplification has become an obstacle to the progress of prevention in Europe and appears to focus more on de-regulation rather than actual simplification. This is sending out a negative message about the investment that is so badly needed to protect workers’ lives and their health. It also grossly underestimates the human and social cost of OSH issues. Efforts should be made instead to ensure that the minimum requirements are being effectively applied in all Member States. The Commission is not doing enough in this area.

**5. Do you think that such a framework should specifically identify and address the challenges posed by the ageing of the working population? If so, which measures would you suggest?**

The issue of ageing shows the importance of having an ambitious OSH strategy to achieve the goals of several EU policies. The European working conditions survey shows that for the majority of manual workers, working conditions are incompatible with their staying in their current job until the age of 60. The gap between social categories of workers has widened significantly over the past 10 years. The solutions to health problems related to ageing must go beyond special measures for older workers. Ageing is a social process in which cumulative exposure over a whole working life has a major role to play. Improving working conditions from the start of people’s working life is a determining factor.

**6. What measures would you suggest to reduce the regulatory burden on SMEs and micro-enterprises, including reducing compliance costs and administrative burden, while ensuring a high level of compliance  with OSH legislation by SMEs and micro-enterprises?**

Complying with requirements not to injure and kill their workforce is not a “burden” in is a responsibility, just as paying tax is. It is therefore regrettable that this question is being asked in this way. The TUC does not support any un-necessary bureaucracy or administrative costs. However strong regulation is the hallmark of a civilised society and no employer should be exempt from any regulation. However, in practice this is already happening. There is data to show that there are insufficient efforts are being aimed at injury and illness prevention in many SMEs, and a considerable proportion have not even done a basic risk assessment. As a result the “burden” rests, not on SME’s but their workers and by society as a whole.

National policies can be a useful way of giving small companies the tools they need in areas where they are lacking in expertise. The EU strategy could play a role in putting such tools in place where the European dimension creates added value. EU-OSHA’s experience in risk assessment, the establishment of databases on the substitution of chemicals that cause the most concern and the support given to sectoral social dialogue on occupational health and safety are all examples of the potential that the European strategy could draw on to improve working conditions in SMEs. Roving health and safety representatives, supported by unions, can also help SMEs as the experience from a pilot in the UK has shown.

**7. Do you have any views on the role of social dialogue at EU and national level to the identification, preparation and implementation of any new initiatives to improve health and safety at work?**

Health and safety policy must be based on a tripartite approach. In the UK there is little actual meaningful dialogue between the government and the social partners. Policy is determined by the government and the HSE board, where all members are appointed by Government ministers. The social dialogue initiatives that take place in the context of EU or national legislation are extremely useful. The European Commission must respect social partners’ independence in this area. It should take a more positive attitude when agreements are reached in the social dialogue context and the social partners request that the agreements be enacted in a directive. The TUC would also wish the Commission to give more weight to decisions of the Advisory Committee. The Commission should cut the mounting red tape created by impact assessments, and ensure that decision making on new regulation is based on the benefits to health and safety.

**8. Add any further aspects that in your view were not sufficiently taken into account by the above questions?**

The limitations of the questionnaire format and the bias that is inherent in some of the questions clearly do not allow the full range of issues to be addressed. When putting a new strategy together, the Commission should draw on the resolution passed by the European Parliament in December 2011, the opinion adopted by the ACSHW in December 2011, the opinions of the SLIC and other EU bodies. The TUC would also support the resolutions passed by the ETUC on the OSH strategy.

An EU strategy for occupational health and safety must also consider the international dimension of this policy. Closer cooperation with the ILO and the ratification of the main conventions on health and safety should be among the main aims of the new strategy. Health and safety in the workplace should be given greater priority in the European Union’s relations with third countries. The European Union should make a more active contribution to introducing a worldwide asbestos ban (and halt all further asbestos imports by abolishing the exemptions currently listed in Annex XVII to the REACH Regulation). The recent tragedy in

Bangladesh shows the importance of having stricter rules governing European companies that operate in other parts of the world.