

Joint German Occupational Safety and Health Strategy

Detailed Concept and Occupational Safety and
Health Objectives 2008 – 2012

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1. Introduction

A modern, prevention-oriented occupational safety and health system is an indispensable requirement for the maintenance and improvement of safety and health as well as employability. At the same time, it provides important contributions towards strengthening the competitiveness of companies, the sustained development of the economy and the stability of the social security systems.

The occupational safety and health system can only provide all this if it reacts to the fundamental changes to which industry and society are subject; in addition to technological changes, these include, in particular, the change in the world of work with new job profiles and forms of work as well as changed types of loads the demographic development relating to the ageing of the working population as well as the globalisation of the economy.

One task of our welfare state anchored in law is the guarantee of safe, healthy and humane working conditions. The German government, the federal states and accident insurance institutions assume special responsibility in this respect. In order to discharge their responsibility in view of a world of work which is undergoing deep-rooted structural changes, the German government, the federal states and accident insurance institutions are committing themselves for the first time to a Joint German Occupational Safety and Health Strategy.

With this, Germany is also allowing for European and international developments. Following on from the first joint strategy for safety and health at work 2002-2006, the EU Commission has presented a follow-up strategy for the period 2007-2012 which also includes general education and vocational training. In its resolution passed under the heading "Good Work" dated 30 May 2007, the Council of the European Union establishes that, through occupational safety and health, not only are the life and health of the workers protected and their motivation increased but that occupational safety and health plays, at the same time, an outstanding role for an increase in the competitiveness and productivity of companies and for the sustainability of the social security systems. At the same time, the Council called upon the member states to develop and implement, in co-operation with the social partners, coherent national strategies for safety and health at work which are tailored to the national requirements. If necessary, measurable objectives are to be laid down to achieve a further reduction in work accidents and the incidence of work-related diseases, in particular in the areas where the rates are above-average.

Accordingly, joint occupational safety and health objectives and fields of action are agreed as a core element of the Joint German Occupational Safety and Health Strategy by the German government, the federal states and accident insurance institutions with the involvement of the social partners and other expert groups relevant to occupational safety and health. This is achieved using recognised criteria and allowing for the social relevance.

Implementation measures, especially in the form of work programmes, are conducted in the joint fields of action. The results and the effectiveness of the programmes are evaluated using suitable indicators. On this basis the occupational safety and health strategy must be adapted and updated to suit changed conditions.

The "National Occupational Safety and Health Conference" is the decision-making body for the planning, co-ordination and evaluation of the measures intended for the implementation of the Joint German Occupational Safety and Health Strategy. The "Occupational Safety and Health Forum" serves to permit structured dialogue with all relevant players in occupational safety and health. Another core element of the Joint German Occupational Safety and Health Strategy is the improvement in the interaction between the government occupational safety and health authorities and the accident insurance institutions, especially in relation to

concrete, work-sharing supervisory and consultancy activities including the implementation of occupational safety and health regulations on an equal footing. This requires strategic and action-oriented co-ordination of the activities in each of their own areas of responsibility.

Last but not least, it is the aim of the Joint German Occupational Safety and Health Strategy to create together a transparent, coherent and therefore user-friendly set of rules and regulations.

In order to foster agreement on a joint strategic procedure, the mentioned core elements of the strategy, including the framework for the agreements necessary at the various objective levels as well as the control tools and organisational structures required for successful implementation of the strategy must be anchored in law.

2 Occupational safety and health objectives, fields of action and evaluation

2.1 Overriding objectives

The safety and health of the workers must be maintained, improved and promoted by means of a preventive and system-oriented, corporate occupational safety and health policy supplemented by workplace health promotion measures. The safety and health awareness of the employers and workers must be strengthened. Owing to the reduction in work accidents and work-related illnesses, the companies and the economy will save costs. Occupational safety and health is intended to promote innovations not impair them.

The Joint German OSH Strategy is therefore making important contributions

- towards maintaining and strengthening employability, including promoting lifelong learning
- towards supporting general health objectives
- towards relieving the social insurance systems
- towards increasing the competitiveness of companies.

2.2 Occupational safety and health objectives

The Joint German OSH Strategy helps the bodies responsible, i.e. the German government, the federal states and accident insurance institutions (see section 3.1) to optimally introduce their specific focal issues and strengths and generates synergetic effects in their interaction. The joint occupational safety and health objectives are derived in an understandable way on a transparent decision-making foundation and supported by all concerned. To achieve the objectives, the activities of the bodies are conducted in accordance with their statutory functions and possibilities. To this end, they work together with the social partners and players in health politics, especially the health insurance funds.

In determining the objectives, the needs of society (including relieving the social security systems), companies (including the company benefit) as well as the workers and those insured (including social aspects) just as much as practicability, feasibility and achievability are to be taken into account.

Occupational safety and health objectives relate to the fields of technical safety, accident prevention, health protection, workplace health promotion and humane design of work. Aspects of the work task, the design of the workplace and working environment, work organisation and staff development are included in this.

The occupational safety and health objectives are laid down for a period of about three to five years during which all the bodies responsible and other players contribute towards achieving

the objectives through concerted action and joint measures. The first objectives relate to the period up to 2012.

The fields of action and objectives crucial for a joint OSH strategy relate to:

- *Safety and health objectives*, e.g. prevention of musculoskeletal disorders, improvement in appliance, product and plant safety
- *Structure and process objectives*
 - at extra-company level: e.g. optimisation of the occupational safety and health system, system check, system consultancy
 - at company level: e.g. improvement in occupational health care, integration of safety and health into the company processes, occupational safety and health management.

Safety and health objectives are those which are aimed directly at reducing company risks of accident or illness or prevent hazards. Structure and process objectives shape occupational safety and health at company level. These objectives help to improve the environment (as regards the structure or the process) for safety and health at work and therefore, at least indirectly, to also have a positive impact on safety and health at company level.

The improvement in company and extra-company vocational training as well as the dissemination of knowledge about safety and health in the company are integral elements of all design and objective fields.

2.2.1 Procedure for deriving occupational safety and health objectives

The derivation of occupational safety and health objectives must, on the one hand, be based on verifiable, scientifically empirical data and, on the other, include the practical experience and expertise of the bodies responsible for the Joint German OSH Strategy. In the process of collating possible objectives and during the discussions and considerations down to the establishment of the occupational safety and health objectives of the Joint German OSH Strategy, additional, pragmatic and participative elements must create the necessary latitude in order to achieve results which are supported by all those involved.

The identification of possible occupational safety and health objectives and the establishment of the final occupational safety and health objectives take place in several steps. Between these steps there are frequently interactions and so iterative processes may sometimes also arise in the compilation and establishment of occupational safety and health objectives. All steps are controlled by the National Occupational Safety and Health Conference (NOSHC) (see section 3.2):

- Establishment of criteria which are to be used for the evaluation and prioritisation of possible occupational safety and health objectives.
- Identification of suitable data sources and their evaluation
- Systematic compilation of the possible occupational safety and health objectives from the viewpoint of the bodies responsible for the Joint German OSH Strategy.
- Discussion of the possible occupational safety and health objectives with the social partners on the basis of this compilation
- Evaluation of the possible occupational safety and health objectives using the criteria and establishment of the priorities
- Discussion of the occupational safety and health objectives with the Occupational Safety and Health Forum
- Establishment of the binding occupational safety and health objectives, joint fields of action and parameters for work programmes through the NOSHC.

The players in the field of safety and health protection, but in particular the social partners, are called upon, as part of the objective-finding process, to submit topic proposals on the fields of design and objective (technical safety, accident prevention, health protection, humane design, workplace health promotion) and the fields of action.

A tried-and-tested procedure for deriving occupational safety and health objectives is the IGA ranking procedure (IGA = Health & Work Initiative) developed by the umbrella organisations of the accident and health insurance institutions. It can be used whenever past data on accidents and illnesses are available. Objective criteria, such as the number of incidents, incapacity to work, costs, prevention possibilities, latency times etc., flow into the objective-finding procedure and permit a clear prioritisation on a scientific basis.

The procedure has already been successfully used to list prevention objectives in the design fields of work accidents and accidents to and from work, occupational diseases and illnesses. Further details and the results of the IGA procedure are shown in **Annex 1**.

2.2.2 Criteria for the evaluation and prioritisation of occupational safety and health objectives

Not every occupational safety and health objective is suitable as an occupational safety and health objective under the Joint German OSH Strategy. Occupational safety and health objectives which may come under consideration must therefore be evaluated for their suitability on the basis of appropriate criteria. Such criteria are also helpful to prioritise competing occupational safety and health objectives. The criteria to be applied are described in detail in **Annex 2** and summarised into criteria areas to provide a better overview and help with their application.

2.2.3 Sources of information and their evaluation according to possible occupational safety and health objectives

As part of the OSH Strategy, the focus must be aimed at informative sources of data. In line with forward-looking prevention and prospective action, the latest developments must be incorporated into the establishment of objectives and the derivation of corresponding fields of action.

Sound data sources which are as representative as possible not only serve as a basis for determining objectives but equally as reference values as part of the evaluation (see also section 2.2.6). In order to obtain sound indicators, routine data, process data of the social insurance funds as well as survey data must be compiled and summarised. The sources of data may relate, for example, to the following:

- **Change in the state of health:** "Bericht zu Sicherheit und Gesundheit bei der Arbeit" (Report on safety and health at work) of the German government with data on work accidents, accidents to and from work, occupational diseases as well as data on incapacity to work, health reports of the government and the federal states
- **Working conditions:** Knowledge gained from safety, ergonomic and occupational medical data, risk identification and assessment including knowledge of the load situations (exposures), data from market observation, branch-related evaluation studies, development of work design and work organisation including knowledge of hindrances to innovation, sound forecasts of future risks (e.g. the European Risk Observatory of the EU Agency or determining the priorities of occupational safety and health research), Survey Data BIBB/IAB, Reports (ESWC) of the Dublin Foundation
- **Key economic metrics:** Sources of information on economic aspects (e.g. early retirement, compensation payments), data on the business location Germany

Not only data and conclusions from past periods are to be taken into account in determining occupational safety and health objectives but also forecasts about future risks. These forecasts are generally based on surveys of experts who provide their estimates of future developments and trends in risks. The expert surveys in turn require suitable strategies (e.g. the Delphi method)) to condense the results and arrive at priorities.

Annex 3 shows which sources and data were used for the identification of concrete occupational safety and health objectives for 2008-2012 and which possible occupational safety and health topics were identified (later for determining the objectives).

Annex 4 provides a summarised overview of the occupational safety and health topics mainly mentioned in the sources which can be reformulated into possible occupational safety and health objectives. Each of the lines 1-10 stands for one of the sources evaluated. Line 11 contains other possible topics which were mentioned, in addition, by bodies responsible for the Joint German OSH Strategy. As the sources evaluated view aspects of safety and health from very different angles and involving different issues, the terminology used sometimes differs. This must be taken into consideration in the presentation of the results in Annexes 3 and 4 and in their interpretation.

Objectives and topics which arose from an initial formation of opinion based on a consultation process among the federal states and a survey among the accident insurance institutions are printed in bold in Table 4.

Many possible occupational safety and health objectives imply the possibility (or necessity) to also examine other objective levels at the same time or at least to take them into account in the underlying fields of action. One example: The objective "Reduction in musculoskeletal loads and disorders – MSDs". Mental loads which may favour MSDs play a role here. They must also be included in prevention considerations just as much as a lack of movement or heavy work in combination with other loads, e.g. vibrations. Certain groups of people (young/old or those subject to particular exposures) may be considered as suitable fields of action but also special branches (construction industry) or activities/professions (professional drivers). The objective levels are therefore definitely not clearly demarcated but overlap and merge with one another.

2.2.4 Explanations and establishment of the joint occupational safety and health objectives

It was explained in the previous section how possible occupational safety and health objectives were derived from relevant sources of data. Short specialised explanations are compiled in **Annex 5** for the most important of these possible occupational safety and health objectives (and a few others) as well as fields of action and possible indicators/key metrics provided. The procedure for preparing the short explanations was as follows:

- Description of which qualitative and quantitative key statements result from the sources evaluated.
- Creation of possible connections with other occupational safety and health objectives and issues of occupational safety and health.
- Explanation of other aspects and arguments which advocate the occupational safety and health objective.

It turns out that, in some cases, there are close connections between the possible occupational safety and health objectives and so merging them into one joint, overriding objective is advisable. The fields of action described and indicators/key metrics are to be understood as a list of examples which must be put into very concrete terms if the relevant occupational safety and health objective is identified as being suitable for the Joint German OSH Strategy.

After agreement among the bodies responsible and the social partners, detailed explanations are provided for the selection of prioritised occupational safety and health objectives using the criteria applied (**Annex 6**). On this basis and after further consultation with the social partners and discussion in the Occupational Safety and Health Forum, the joint occupational safety and health objectives and joint fields of action (see section 2.3) have finally been established (description plus brief explanation – **Annex 7**).

2.2.5 Indicators

To describe occupational safety and health objectives, to set priorities and for subsequent evaluation, it is necessary to select suitable criteria and indicators.

Wherever possible, indirect or direct impact indicators should be examined as they best describe the effects of intervention on the objective parameters safety and health at work.

However, the development and selection of such indicators is complicated. Direct impact indicators are those which make the effect of a measure directly recognisable. They are suitable where effects on the objective factor are quickly apparent, e.g. with work accidents. Indirect impact indicators provide information on factors of which it is known that they are early indicators for the development of the actual objectives. They are preferably used when the direct effect of interventions (e.g. decline in cancer illnesses) cannot be observed or only with a long delay in view of the long latency periods and the causal connection of intervention and development of the objective factors is relatively simple. Exposure data are one example of indirect impact indicators.

Indicators which have already been used in other relevant studies and publications, e.g. the indicator list of the health reports or European statistics, e.g. short list of the work-health indicators, are also well suited. Comparisons and, if needed, benchmarks are to be permitted in this way.

Action indicators are frequently used for structure and process objectives. The reason for this is that, on the one hand, the time effects of the intervention are often far in the future and, on the other, the connections between the actual action and the objective factors are very complicated.

2.2.6 Evaluation

The attainment of the objectives of the Joint German OSH Strategy is quality-assured and evaluated. To this end, an evaluation concept has to be prepared. This applies both to actions, campaigns and projects as well as to the routine procedures assigned to the objectives and the co-operation in occupational safety and health. Criteria and procedures recognised as being state of the art have to be used (usefulness of the evaluation, feasibility, fairness, accuracy, see for example standards for evaluation of the German Society for Evaluation).

In view of the problems described in section 2.2.5 in the development and selection of indicators for safety and health at work, it appears appropriate to examine, as a priority, individual work programmes by means of a pre-post evaluation.

2.3 Joint fields of action

The occupational safety and health objectives have to be put into concrete terms at the level of joint fields of action. Those branches where, in view of the developments in the world of work, specific safety and health risks for the workers and economic burdens for the companies and the social insurance funds arise are to be given particular consideration.

The establishment of joint fields of action requires consultation and control in the National Occupational Safety and Health Conference. Here, the following in particular must be allowed for:

- Connection to the risks, branch, people and system allowing for special hindrances to innovation at company level
- Choice of the occupational safety and health tools supervision, consultancy, qualifications, regulations and rules/standards, media, research, campaigns at the level of the occupational safety and health institutions.

In principle, joint fields of action can cover all areas where the competencies of the bodies responsible supplement each other and all these bodies can make contributions. The work programmes to fill up the joint fields of action can, accordingly, be performed jointly, in concerted work-sharing or supplement each other like complementary campaigns.

Joint fields of action are pursued and evaluated with concerted methodology. They are to be processed by all bodies responsible and must include as many players as possible. This involves a selection from numerous possible fields of action. Activities in these selected fields of action must be specially suited to help towards attaining the specific occupational safety and health objectives.

Moreover, important contributions towards attaining the occupational safety and health objectives are made in other fields of action which were either not prioritised as joint fields of action or which can only be implemented by individual bodies responsible for the Joint German OSH Strategy owing to their specifics or the lack of a legal basis for becoming active. Such other fields of action are also listed and supported under the umbrella of the Joint German OSH Strategy for achieving an occupational safety and health objective.

2.4 Work programmes

The focal topics with their respective objectives selected in the joint fields of action are put into concrete terms in work programmes. In these programmes specific occupational safety and health objectives and indicators are established which permit an evaluation of the results and effectiveness of the measures. The National Occupational Safety and Health Conference (NOSHC) lays down the parameters for work programmes.

In order to implement the occupational safety and health objectives in the joint fields of action, the work programmes are agreed on with binding effect between the supreme federal state authorities responsible for occupational safety and health and the joint federal state offices of the accident insurance institutions. Nationwide uniform implementation can also be agreed.

In addition, joint focal campaigns and programmes can be agreed in each state.

3 Bodies responsible for the Joint German OSH Strategy

3.1 Bodies responsible for the Joint German OSH Strategy

The bodies responsible for the Joint German OSH Strategy are the German government, the federal states and the umbrella organisations of the public accident insurance institutions. They co-operate in attaining the objectives of the Joint German OSH Strategy.

The tasks of the government are in particular in the field of legislation, occupational safety and health research and joint reporting on the status of safety and health at work. At the same time, the government promotes the issues of occupational safety and health at national

level, performs co-ordination tasks and represents German occupational safety and health abroad, especially in European and international occupational safety and health bodies.

The heart of the action of the federal states is to comprehensively safeguard safety and health at work. The states bear the responsibility for the execution of occupational safety and health laws. To this end, they create the general conditions and examine to what extent the corporate occupational safety and health system works and whether those involved are shouldering their responsibility in the system.

The occupational safety and health authorities of the federal states use all action possibilities in performing their tasks. These include information, motivation and consultancy as well as control and sanctions. Co-operation at company and extra-company level is encouraged.

Every company is a member of an accident insurance institution under the German Social Accident Insurance. The public accident insurance institutions replace the companies' liability. Their priority task is prevention. They impact with all suitable means on the prevention of work accidents, occupational diseases and work-related health risks as well as on effective First Aid. The accident insurance institutions fulfil their task in the companies through supervision, consultancy, providing information and further training. They pay compensation for work accidents and occupational diseases and also provide reintegration and rehabilitation payments.

3.2 National Occupational Safety and Health Conference

The "National Occupational Safety and Health Conference" (NOSHC) is being set up as the central decision-making body for the planning, co-ordination and evaluation of the measures provided for the implementation of the Joint German OSH Strategy. Its members are the German government, the federal states and the umbrella associations of the public accident insurance.

Its task is to develop concrete joint occupational safety and health objectives and derive from them joint fields of action and parameters for work and action programmes in consultation with those involved. The programmes are established in each case for a period of up to five years.

For each work programme an evaluation report is submitted which explains what objectives were planned and which objectives were attained. It serves to examine the effectiveness of the programmes. Occupational safety and health objectives and fields of action are to be updated to allow for the evaluation results.

Moreover, the NOSHC develops a national occupational safety and health controlling system with which the effectiveness and sustainability of the German occupational safety and health system is measured and advances in the field of safety and health at work can be determined.

The top-level talk between representatives of the federal states, the accident insurance institutions and the German government is integrated with its previous tasks, such as co-ordination of the supervisory services, in the National Occupational Safety and Health Conference.

All bodies responsible delegate three members with voting rights to the NOSHC. The members can delegate deputies. The representatives have the right to attend and speak. For the field of tasks "Occupational safety and health objectives, fields of action, parameters for work programmes and evaluation", a right to attend, propose and speak exists, as part of a consultative membership, for three representatives each from the employers and workers. This complies with the new agreement of the International Labour Organisation which was

passed on 15 June 2006 on the promotion framework for occupational safety and health and which contains a consultative function of the social partners.

The chair of the NOSHC rotates every year between the German government, the federal states and accident insurance institutions. To support the work of the NOSHC, the Federal Ministry of Labour and Social Affairs is setting up an office at the Federal Institute for Occupational Safety and Health. The bodies responsible for the NOSHC have the right to delegate employees to the office.

3.3 Occupational Safety and Health Forum

An "Occupational Safety and Health Forum" (OSH Forum) is held every year to ensure an exchange of experience with the groups and experts involved in safety and health protection as well as health promotion and research. The task of this OSH Forum is to advise the National Occupational Safety and Health Conference on the performance of its tasks. In this way, all relevant groups of occupational safety and health players can introduce their ideas into the decision-making process of the NOSHC. Moreover, the OSH Forum offers a platform for the regular exchange of information and experience between the groups of players in the occupational safety and health system.

The social partners, other social insurance funds, research facilities and specialised associations belong to the OSH Forum.

The National Occupational Safety and Health Conference invites people to the OSH Forum. The chairman of the OSH Forum is also the chairman of the NOSHC.

3.4 Statutory provisions

The establishment of the National Occupational Safety and Health Conference and the office at the Federal Institute for Occupational Safety and Health and the OSH Forum, their tasks and fundamental methods of work are laid down in the German Occupational Safety and Health Act and in the German Social Code VII. Details of the organisation of the NOSHC and OSH Forum have to be established in bylaws.

4. Optimisation of the dual occupational safety and health system

4.1 Objectives for the players in the dual occupational safety and health system

The occupational safety and health authorities of the federal states monitor, on a statutory basis, the observance of the national occupational safety and health regulations in companies and advise the employers on the performance of the obligations arising from the statutory provisions. In line with their prevention mandate under social insurance law in accordance with the German Social Code VII, the accident insurance institutions monitor the performance of the measures to prevent work accidents, occupational diseases and work-related health risks. They advise the companies and those insured and ensure there is effective First Aid.

In a time which is dominated by fundamental economic and social changes, the implementation of the objectives of the Joint German OSH Strategy requires reorientation as regards a joint and work-sharing procedure by the government occupational safety and health authorities and the accident insurance institutions.

The optimisation of the dual occupational safety and health system is therefore a key element of the Joint German OSH Strategy.

4.2 Occupational safety and health authorities of the federal states

To optimise the dual system in the field of occupational safety and health, strategic and action-oriented co-ordination of the activities of the federal state authorities is necessary. The Conference of Minister-Presidents established in December 2004 the cross-state quality assurance of administrative measures as well as performance and quality comparisons as being a major task of state co-ordination. Joint minimum standards, framework regulations, target agreements and their supervision are mentioned as tools. The Committee of the Laender for Occupational Safety and Health (LASI) is familiar with these tasks as the expert body of the Conference of Labour and Social Affairs Ministers.

4.3 Accident insurance institutions

To optimise the dual system in the field of occupational safety and health, strategic and action-oriented co-ordination of the activities of the accident insurance institutions is necessary. The accident insurance institutions will develop and use a set of tools as part of a quality assurance system across all bodies responsible. These tools include, in particular, framework agreements and guidelines on the design of the consultancy and supervisory activities. Other tools relating to all prevention tasks are derived from the results of the research projects "Quality in Prevention" and "Product Formation and Description"; they will optimise the efficiency and effectiveness of the prevention action of the accident insurance institutions in the long term.

4.4 Co-operation

The expansion and intensification of co-operation between the government occupational safety and health authorities of the federal states and the accident insurance institutions are important prerequisites for increased effectiveness and efficiency of action in the companies. Binding agreements and a systematic, data-based exchange of information can reduce the companies' costs incurred by supervision and, at the same time, increase the efficiency of their actions.

The objectives listed are operationalised by the conclusion of a framework agreement between the German government, the federal states and accident insurance institutions. This framework agreement contains provisions on co-operation both at government and state levels as well as at company level.

Important elements of the framework agreement are:

- Obligations for the joint implementation of the objectives and priority fields of action established by the National Occupational Safety and Health Conference with resultant work programmes at state level
- Obligation to perform a joint evaluation of the work and action programmes with the indicators determined by the NOSH
- Agreement on principles and guidelines for the performance of the consultancy and supervisory activities to implement the joint consultancy and supervisory strategy
- Guarantee of work-sharing and harmonised task implementation so that the overlapping of contents and the timing of activities in the companies are excluded
- Establishment of a joint state-related data and information basis for the co-ordination of the consultancy and supervisory activities
- Steering of the task implementation at state level by the supreme federal state authorities responsible for occupational safety and health and the joint state-related offices to be set up by the accident insurance institutions for each state
- Organisation of regular exchanges of experience.

With the framework agreement, the statutory mandates with the same wording on close co-operation between the government occupational safety and health authorities and the accident insurance institutions are put into concrete terms for supervising the companies and promoting the exchange of experience. In this way, the precondition for harmonised and work-sharing action based on trust is created between the supervisory services which takes into account the principles of modern, people-friendly and efficient administrative action.

As a supplement to the implementation of the parameters for work programmes passed by the NOSHC, the federal states and accident insurance institutions can plan, perform and evaluate joint, state-related occupational safety and health activities.

4.5 Statutory provisions

The German Occupational Safety and Health Act and the German Social Code VII stipulate that the existing obligation to co-operate between the federal state authorities and the accident insurance institutions, especially for supervising and advising the companies, is put into concrete terms by means of a framework agreement.

The tasks of the joint, state-related offices in Section 20 subs. 2, of the German Social Code VII must be adapted as part of the Joint OSH Strategy. In particular, the preparation and agreement of regional work programmes as a task of the joint, state-related offices must be included in the German Social Code VII. Moreover, it has to be regulated that the accident insurance institutions appoint a representative who has the authority to conclude these binding agreements on measures to implement the Joint OSH Strategy with the federal states after agreement with the accident insurance institution he represents. The German Occupational Safety and Health Act is to include a reference to the co-operation with the joint state-related offices.

5 Rules and regulations in occupational safety and health

A major component of an occupational safety and health strategy is the existence and optimisation of occupational safety and health regulations. This approach is specified by European and international law. Statutory regulations form the basis for the initiation and evaluation of occupational safety and health measures. This creates a sound legal basis for companies and workers. To this end, occupational safety and health regulations must describe in a clear and understandable way what is demanded from the target groups.

5.1 Developments and optimisation approaches in occupational safety and health legislation

The German Occupational Safety and Health Act and the statutory regulations issued on its basis transpose EU occupational safety and health directives based on Art. 137 of the EC Treaty into national law with the same contents. These relate to basic regulations geared to protection objectives. The degree of detail has been reduced.

This also complies with the general political demands for the deregulation of statutory regulations. More deregulation measures at European and national level may only be taken after careful evaluation of the existing regulations in order to maintain the level of protection attained and the advantages of sensible occupational safety and health measures in the interest of workers and companies. In line with the outcome of the evaluation, partial amendments may have to be made to national occupational safety and health legislation.

Moreover, the interaction between national occupational safety and health legislation and accident prevention legislation requires further examination.

As occupational safety and health regulations are increasingly being geared to protection objectives in the sense of dispensing with detailed provisions, company practice requires more assistance below the level of statutory provisions to apply such regulations and the supervisory services of the federal states and accident insurance institutions need such assistance to perform their consultancy and supervisory tasks. Therefore, an intermeshed system of national occupational safety and health regulations, accident prevention regulations of the accident insurance institutions and non-binding rules and information is required. This system must satisfy the above-mentioned statutory, professional and political requirements.

5.2 Accident prevention regulations

All those involved in occupational safety and health, the Federal Ministry of Labour and Social Affairs, the federal states, the social partners, the accident insurance institutions and leading business associations have already agreed in the thesis paper "Principles on the reorganisation of occupational safety and health legislation" that EU directives on occupational safety and health are always implemented by national law. Accident prevention regulations are only issued if this is absolutely necessary to concretise or supplement national occupational safety and health regulations. In the field of application of statutory regulations where national committees determine rules there is normally no need for supplementary or concretising accident prevention legislation. This objective is expressed in the regulation BGV A1/GUV-V A1 "Principles of Prevention" of the institutions for statutory accident insurance and prevention. The model developed there of referring to national occupational safety and health law develops a pilot effect for the needs analysis to be conducted in line with the guideline paper and makes a further reduction in accident prevention legislation possible.

The 81st Conference of Labour and Social Affairs Ministers (ASMK) also demands a needs analysis in that it requests the determination of the legislative competence of the accident insurance institutions on the "imperative" amendment or concretisation of national occupational safety and health legislation. The criteria of the needs analysis are anchored in the German Social Code VII. These points are to be regulated as part of the authorisation in Section 15 of the German Social Code VII.

The following in particular are considered as approval requirements:

- Amendment or concretisation of national law is imperative (development of "exclusion criteria" necessary)
- Accident prevention regulations are a suitable and necessary means of prevention
- The necessity should be examined in a separate procedure (instrument of needs analysis can be the project description; to this end, the principles of the institutions for statutory accident insurance and prevention and the GUV-G 9101 ("Principles of Social Accident Insurance") are to be revised in the light of the guideline paper). The early participation of federal states and the Federal Ministry of Labour and Social Affairs is to be planned.

The following provisions are currently being included in a working draft for a law to reform the social accident insurance:

"The accident insurance institutions can issue accident prevention regulations, as autonomous law, on measures for the prevention of work accidents, occupational diseases and work-related health risks or for effective First Aid provided that this is suitable and necessary for the purpose of prevention and national occupational safety and health regulations do not provide any rules on this."

Furthermore, the approval requirements for accident prevention regulations which were previously not laid down in detail in the approval procedure are to be anchored as such in

law. Accordingly, the accident insurance institutions have to specify in particular in the approval application "that

1. a provision on the measures specified in the regulations is not appropriate in national occupational safety and health regulations
2. the prevention objective aimed for with the regulations is, for once, not achieved with rules which are determined by a committee set up on the basis of the German Occupational Safety and Health Act and
3. the determinations necessary (for this) have been made in a separate procedure with the participation of occupational safety and health authorities at government and federal state level."

The further discussion of this field of topics within the working group, Joint German OSH Strategy, should largely proceed from these proposals.

5.3 Concept of "rules"

5.3.1 Technical Rules

Technical Rules in the sense of this section are rules which are passed by committees established in statutory ordinances. They are therefore recommendations of occupational safety and health expert bodies with pluralistic membership and anchored in law with the task of providing information on the state of the art, occupational medicine and hygiene and on other Codes of Practice and of determining how the requirements specified in occupational safety and health regulations can be satisfied.

The relevant occupational safety and health regulations determine that the employer can presume that the regulations have been met if the rules determined are applied ("presumption of conformity under ordinance law").

- The occurrence of the presumption of conformity requires a formulation of the Technical Rules which permit the employer to take concrete occupational safety and health action. To this extent, concrete examples of such occupational safety NS Health measures should, where feasibly possible, be included in the Technical Rules.
- The methodology of all "national committees" and the structure as well as the degree of detail of the Technical Rules determined by them are, as far as possible, to be adapted to meet practical needs.

5.3.2 Rules of the accident insurance institutions

Rules of the accident insurance institutions are drawn up expert committees/groups with the participation of the relevant groups and the self-administrations of these institutions. These rules collate contents relating to fields, work processes or workplaces from national occupational safety and health regulations and/or accident prevention regulations and/or technical specifications and/or empirical knowledge from the prevention work of the accident insurance institutions. Rules of the accident insurance institutions explain with what concrete prevention measures obligations arising from accident prevention regulations can be satisfied. In the application of the BGV A1/GUV A1 and, to the extent that Technical Rules are not to be observed with priority, rules of the accident insurance institutions may also provide explanations of national occupational safety and health regulations. Where there are no occupational safety and health and accident prevention regulations, rules of the accident insurance institutions show approaches on how work accidents, occupational diseases and work-related health risks can be avoided. In view of their set-up procedure which already allows for important quality criteria and the concentration of their contents on specific

company workflows or fields of use (branch orientation), these are expert recommendations with a high degree of practical relevance and informative value.

Companies, those insured, supervisors and other people who apply the law can, as a rule, assume that the rules of the accident insurance institutions contain measures to guarantee safety and health which are considered necessary by the majority of the working world and therefore can also be used as a suitable guideline for company preventive action. Owing to the participation of the self-administrations of the accident insurance institutions and the relevant groups in the creation of the rules of the accident insurance institutions, these reflect a substantial cross section of opinion and therefore have an outstanding position compared with information publications of the accident insurance institutions ("Information published by institutions for statutory accident insurance and prevention"/"Information of the Social Accident Insurance").

Rules of the accident insurance institutions are worked out on the basis of a project description in a procedure laid down by the accident insurance institutions (starting point BGG 900/ GUVG 9101). The project description is to explain, in particular, the need for rules of the accident insurance institutions in an understandable way. To this end, suitable criteria have to be developed. The project description is to be made accessible at an early stage to the federal states and the Federal Ministry of Labour and Social Affairs for their comments.

5.3.3 Connection between the rules of the accident insurance institutions and the Technical Rules

- The connection between rules of the accident insurance institutions and Technical Rules is governed by the guideline paper 2003. According to this, the Technical Rules determined by the national committees are the priority means for putting national occupational safety and health regulations into concrete terms.
- The key objective is to avoid duplicated regulations, in particular by the use of the co-operation model. In order to achieve this goal, sharing information and, where applicable, in-depth consultation during the preparation of rules are required.
- • Practical experience has shown that it is necessary to provide details of application cases of the co-operation model:
 - Typical application case: 1:1-takeover of the contents of a rule of the accident insurance institutions prepared by an expert committee/expert group of the accident insurance institutions (mention of the authorship); consequence: withdrawal of the rule of the accident insurance institutions.
 - Modification of the contents of a draft rule prepared in an expert committee/expert group of the accident insurance institutions by the national committee in co-operation with the accident insurance institutions is also covered by the co-operation model. Reference is made to the preliminary work by the expert committee.
 - The actual physical and procedural authority remains with the national committee even for initiatives and proposals of the accident insurance institutions for the inclusion or updating of a certain rule in the national committee. If the national committee does not identify any need for a Technical Rule, special substantiation in the needs analysis mentioned in section 5.3.2 is required for the preparation of a corresponding rule of the accident insurance institutions.

If insoluble differences of opinion arise in the agreement process on whether and, if necessary, in which body a rule is to be prepared, a statement by the National Occupational Safety and Health Conference is to be obtained. The relevant updating of the guideline paper is to take place by convening the "Co-ordination group for the reorganisation of occupational safety and health legislation" of the Federal Ministry of Labour and Social Affairs, comprising

representatives of the federal states, the umbrella associations of the Social Accident Insurance, the social partners as well as industry and trade.

5.4 Concept of information publications and action manuals

Information publications are intended to describe prevention and occupational safety and health-related topics for practical use (companies, supervisory services) as well as to explain rules and regulations and present concrete practicable occupational safety and health measures. The measures proposed are not legally binding and do not have any "presumption of conformity".

Information publications in this sense are mainly prepared by the accident insurance institutions (e.g. "Berufsgenossenschaftliche Informationen"/"GUV-Informationen") and the federal states (e.g. LASI guidelines). LASI guidelines are primarily intended internally for the supervisory authorities with the aim of achieving joint supervisory and consultancy standards in the federal states but they also serve as a source of knowledge for all occupational safety and health players.

Owing to their major inherent importance, the LASI and the umbrella organisations of the accident insurance institutions must each develop uniform standards governing procedures for the preparation of information documents; this includes, in particular, agreement on reciprocal participation. In individual cases joint action manuals from accident insurance institutions and federal states may prove to be sensible tools. Moreover, the information publications must have clearly definable fields of action in order to avoid overlapping with other sources of information and contain statements on the participation of other occupational safety and health players as well as on the safeguarding of statutory and professional consistency (quality assurance). The accident insurance institutions should increasingly assign the actual physical and procedural authority for the preparation of their information publications to the expert committees/groups and thus upgrade the information.