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Working in an Overseas Jurisdiction: Everything You Always Wanted to Know about International Safety, but Were Afraid to Ask

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Introduction

Health and safety professionals will often be appointed by an organisation to manage the occupational health and safety management system and to monitor its implementation. They are good at their job and, certainly because of the culture in which they are raised, understand just what is happening in the country that in which they are residing.

When I was a child, going "overseas" was a big thing. A trip to Europe was considered to be a luxury—something looked forward to, which involved train travel, a sea voyage, and horror of horrors, policemen standing on street corners being armed with hand guns.

Now it is not unusual for British people to drive their cars onto a car train transporter, go to France for a couple of hours, go shopping, and return on the same day. How small perhaps our world has become!

What does this mean for the safety professional?

- Easy migration of workforce labour, bring varying cultures into the working environment.
- The opportunity to work overseas.
- The responsibility for overseas jurisdictions.

In the early 1990s, the author took the step of moving overseas. I went from working within the confines of British Industry to being an expatriate, a safety manager in a foreign land. After returning "home," work has increasingly been on an international front. I now manage the functional areas of responsibility across Europe, Middle East and Africa. Language difficulties aside, there is a huge learning curve that must be negotiated in order that the safety professional may be effective in the international role.

In this paper, the author will endeavor to provide some practical strategies for the practitioner to adopt not only in the scenario of "being resident" overseas but also for being able to manager a

safety function across international boundaries. Increasing, there is also the need for safety professionals to be aware of the migrant workforce within the domestic labour environment.

The International Scene

It would be a broad statement to make that health and safety across the world, in effect, is comprised of two elements:

- Standards, and
- The implementation of those standards.

In other words, no matter how you address the issue, safety professionals will develop a system that takes into account legal and other standards, and will implement and monitor the system to achieve the desired effect of preventing harm to individuals and losses to the employer. Part of the system functionality, of course, looks at system break down (i.e., when an individual does get hurt, there is a loss within the business), and the resulting action either from a statutory perspective or compensating the injured person.

The role or function of the safety professional is to be able, on an international level, to identify the applicable standards, understand the nature of the environment into which the standards need to be applied, and then implement and monitor the system chosen to achieve the desired objective.

Most system will be based on one of three established models;

- **HS(G) 65:** Developed by the UK Heath and Safety Executive (HSE), Policy, Organising, Planning and Implementation, Measure Performance, Review Performance and Auditing
- **BS OHSAS 18001–2007:** Developed by British Standards Institute (BSI), Policy, Planning, Implementation and Operation, Checking and Corrective Action, Management Review and Continual Improvement
- **ILO–OSH 2001:** Developed by the International Labour Organisation**,** Policy, Organising, Planning and Implementation, Evaluation, Action for Improvement and Audit

As can perhaps be observed, the similarities between the three major systems approaches are such that a practitioner of one can adapt to others with great effort.

<u>International Labour Organisation (ILO)</u>
The ILO formulates International Labour standards and attempts to establish minimum rights, including freedom of association, right to organise, collective bargaining, abolition of forced labour, equality of opportunity and treatment, and other standards that regulate conditions across all work-related activities.

As a special agency of the United Nations, with 178 member states, the ILO develops standards which are motivated to:

- Improve working conditions with respect to H&S and career advancement
- To allow member states common standards so that no single country has a competitive advantage over another due to poor working conditions.

This is achieved by the creation of *Conventions,* which can be defined as international treaties signed by all members states and which therefore, each country has an obligation to comply; and *Recommendations*, which guide the members states so that common international practice may be developed and followed by the adoption of a Convention.

This then as experience has shown that strong safety cultures are truly beneficial for workers, employers and governments. Certainly, removal of competitive advantage or "levelling the playing field" has shown that the high standards in some countries, which are a direct result of social dialogue, collective bargaining between trade unions and employers, and effective safety legislation backed by positive and potent labour inspection, has, in many areas, produced a rise in standards across the globe.

What Is the Challenge of Working Overseas?

In the view of this author, working overseas, as briefly stated above, can be placed into two main areas:

- The resident overseas professional, and
- The professional assuming responsibility for operations in overseas jurisdictions

Resident Overseas Professional

As a safety professional, you are recruited to perform safety management functions as an expatriate, living and working in the overseas jurisdictions. This of course creates social and or domestic challenges in addition to those of professional nature, including establishing a living environment in a foreign land, maintaining relationships with family and friends from a distance, and even such normal 'domestic' administration, such as banking and financial transactions.

Professional Assuming Responsibility

In this scenario, the safety professional is usually employed by a multi-national organisation and is required to manage the safety function in the overseas operations of that business. Often called the "corporate seagull" it is someone from the head office that flies in, makes a lot of noise, demands to be fed, and then flies out again.

The Role and Challenges of a Safety Professional

The true safety professional should have a transferable skill set which, in many respects, may be applicable to various environments:

- **Understanding of Legal Requirements**. This of course may be true for an individual in a home location. However, the ability to understand the legal requirements of perhaps 30 countries is not an everyday skill.
- **Accident Prevention.** This is truly a transferable skill, understanding the principles of machine guarding or prevention of falls, basic electrical safety or manual handling operations.
- **Safety Communication.** The methods adopted must equal the needs and culture of the population towards whom they are directed.
- **Risk Management** Application of basic techniques in the field to reduce the losses to the business.

- **The Compensation Culture**. An understanding if an injured person will be eligible for "non-blame" compensation or if legal action needs to be taken against the employing organisation.

Perhaps one of the common strengths that causes so much doubt and concern among us as professionals is the issue of legal requirements. Most of the time, we understand the legal system within our own jurisdiction; we are trained and competent in respect of interpretation of legal obligations towards the practical. We do, however, recognise that we are not experts in international requirements; most of us, as individuals, do not know off the top of our heads when an accident must be reported to the enforcement authorities.

How many of us understand that, using a very broad-brush approach, accidents are reported for two primarily legislative reason, dependent on the local culture or way of doing things? Let me illustrate:

- In the Peoples Special Administrative Region of Hong Kong, the primary reason for reporting an accident is to allow the injured person to be able to claim "compensation" from the insurance-based workers compensation scheme. Only after such due process of the compensation has been dealt with will the '*Form 2*' be reviewed before being passed to the Labour department for enforcement or preventative action.
- In the United Kingdom, the primary reason for reporting an accident is that of enforcement action and preventative measures. The '*F2508'* is by and large sent directly to the enforcing authorities. Compensation for any injuries is a process that is not linked to the reporting of the event; it is a matter for the civil law, not a criminal or statutory undertaking.

The safety professional must therefore look toward establishing the fundamental pillars of an OSH strategy, including the building and maintenance of a preventative safety and health culture, and the introduction of a systems approach to OSH management. A preventative safety and health culture is one in which the right to a safe and healthy working environment is respected at all levels; where employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties; and where the principle of prevention is accorded the highest priority. Building and maintaining a preventative safety and health culture require making use of all available means to increase general awareness, knowledge, and understanding of the concepts of hazards and risks and how they may be prevented or controlled.

The International Labour Organisation (ILO) has been established as an agency of the United Nations for many years, and, it must be commented, it has published some interesting papers on preventative OSH systems in the international arena. A systems approach to OSH management at the enterprise level is developed in the ILO *Guidelines on Occupational Safety and Health Management Systems* (ILO-OSH 2001). This strategy was enhanced in 2003 in the ILO paper "Global Strategy for H&S," which advocates sound principles for the safety professional to follow.

The World as We Know It

> The United Nations is an international organization founded in 1945 after the Second World War by 51 countries committed to maintaining international peace and security, developing friendly relations among nations and promoting social progress, better living standards and human rights. Due to its unique international character, and the powers vested in its founding Charter, the Organization can take action on a wide range of issues, and provide a forum for its 192 Member States to express their views, through the General Assembly, the Security Council, the Economic and Social Council and other bodies and committees. (United Nations Web site)

Today the "civilised" world, as we know it, could therefore be said to consist of 192 countries. Each one of these countries will have some element of legal and social requirement for a "safe working environment." The extent to which this requirement will be implemented is not the subject of this paper. However the safety professional working in such environments will be required to understand the local requirements, the local culture and, importantly, the implementation of safety management systems.

<u>European Union (EU)</u>

> With 27 member countries and a population of nearly half a billion, the European Union covers a large part of Europe. Since its creation, it has worked to bring prosperity and stability to its citizens. Its policies and actions affect us all directly and indirectly.
>
> The European Union aims to be a fair and caring society, committed to promoting economic prosperity and creating jobs by making companies more competitive and giving workers new skills.
>
> With its neighbours and others, the EU works to spread prosperity, democratic progress, the rule of law and human rights beyond its frontiers. The European Union is the world's biggest trading power and a major donor of financial and technical assistance to poorer countries. (Europa, European Union Web site)

<u>European Legislation</u>

The European Community treaties established the Community (now the Union) and are its primary source of law. They are binding on the institutions of the EU and on the Members States, and in certain circumstances, create rights for individuals enforceable in national courts.
The European Communities Act 1972 provided that any UK legislation has effect, subject to existing enforceable community rights. It therefore follows that the UK Parliaments' sovereignty is now limited to passing Acts that do not conflict with EU legislation. EU law, in effect, takes precedence over UK law, and if the latter runs counter to EU law, it may be suspended or declared invalid. The EU Council and Commission are empowered by treaty to make "secondary legislation:"

- **Regulations:** Immediately applicable in each member state without the need for a member state to pass legislation to implement it.

- **Directives:** The directive sets out an aim or minimum standard for a particular area of concern, (e.g. Temporary and Mobile Work Site Directive). Each member state has some discretion as to how the intent of the Directive can be reflected in national legislation (e.g., UK Construction Design and Management Regulations).

Perhaps one of the most interesting elements of the European Union is the rights of workers or citizens of the EU to be able to work within most, if not all, of the 27 member states. By its very nature, this brings challenges of communication for the safety professional.

Within the EU, there are at least 22 different languages spoken by its 495 million inhabitants. Perhaps therefore, on a very superficial level, it will seem that the safety professional will need to be very specific in the art of communication. Translation for the native tongue to a format that the individual worker can understand is vital to ensure that messages are understood.

During the author's time as a resident safety manager on an overseas project, a simple device of a red laminated card was always kept in the pocket. This, shown to the workers onsite, brought about the cessation of the hazardous activity. Implementing the solution was of course always done with one of the local team, who, to the shame of the author, had not only a command of English but also the local language.

Understanding Local Legislative Requirements

A statement of the obvious: The framework for regulating H&S will vary across the world, Pacific Rim countries tend to adopt the U.S. framework, whereas Caribbean countries tend to adopt the UK framework, and European Countries adopt the EU model.

Micro-comparison of legal systems demands no particular preparation. The specialist in one national system is usually qualified to study those of various other countries of the same general family. His chief need is access to bibliographical material. In the United States, each state has its own statutes and, to some purposes, its own common law. Thus, an American safety professional must be a micro-comparatist, as he takes the 50 state systems and the federal law into daily account in his practice of the law. The same is true, to a large extent, of the Australian, or Indian, or Kenyan safety professional, who must take into account not only his own national system but also the laws of England and of other common-law jurisdictions in the Commonwealth. Whatever can be said of the common-law systems holds largely true for the Roman-law and socialist families. French comparative law students encounter little difficulty in contrasting the laws of certain countries, so long as they confine their study to French, German, Italian, and Dutch law, which are related in tradition and structure and serve a similar type of society.

It is important to be aware of the various specific requirements within the country of operation. While not professing to be an expert in the Untied States of America, I am led to understand that an organisation that has a formal, approved management system may be exempted from inspection from OSHA. Such will not be the case in the United Kingdom. Countries such as Germany, Sweden, Japan, Finland, Korea, Mexico and the Czech Republic (this list is not exhaustive) have formally adopted the ILO OSH-2001 standard at a national level, and, therefore, enterprise and other organisations are expected to adopt the same.

Contrast this with the move from prescriptive legislation (1974 onwards) to risk-based legislation in the Untied Kingdom to the self-regulatory safety management system approach developed in Norway and New Zealand as examples.

Let me offer a word of advice: Never be afraid to say that you are not certain. Use your local colleagues to learn more about the legal system of the jurisdiction in which you wish to operate. But be careful to verify the information that you are given.

During 2007, the author undertook a very unscientific study of 110 individuals who were all based in the same building, all of the same nationality, of various ages from 21-62, and of a fairly equal mix of male and female. One question was asked of the participants: "Is speeding in a motor car a criminal or civil wrong?" Less than forty percent gave the correct answer. We may conclude from this that the majority of people know something is wrong but are unable to say why. There are a lot of "back room" lawyers and a lot of misconceptions in respect of the law.

More words of advice: Fools rush in. The local legal system of any jurisdiction has developed over the progress of time. You have chosen to work in that particular environment and, while you may believe that your "home" requirement is a comfortable or pragmatic approach to situation, be open to new ideas.

Remember also that locals have a greater understanding of "how it happens;" not necessarily how laws are made, but, certainly, local culture and attitude to laws and the specifics of such elements as accident reporting. Use the resources that you have at your disposal.

The world contains a vast number of national legal systems. The United Nations brings together representatives of some 127 states, but these states are far outnumbered by legal networks, since not all states—notably federal ones—have accomplished unification within their own frontiers. It is thus an enormous task to try to compare the laws of all the different jurisdictions. This problem, however, should not be overly magnified. Differences between the diverse systems are not always of the same order; some are sharp, others are so similar that a specialist in one branch of a legal "family" often may easily extend his studies to another branch of that family.

In the United Sates of America, as well as in England and Wales, it has been historically the case that a purely *adversarial* system of justice was in place. In the United Kingdom, this was so both in criminal and civil proceedings. The practical implication is that the parties were left to present and fight their cases in whatever manner they wished. The judge (and jury) simply listens to the evidence and argument, without interference in the trial process. Intervention would only take place to obtain clarification and see that the parties stuck to the rules. Each party's evidence is tested by cross-examination of the witness by the legal advocates for the opposing party and not by the judge.

In contrast, the French legal system is an *inquisitorial* system. In a French criminal case. the judge will himself direct investigations, collect evidence, choose and call witnesses, and then cross-examine them.

It must, however, be stated that the tendency in England and Wales is to move away from the pure adversarial system and for the courts (judges) to take a more active role in case management. The Criminal Procedure Rules 2005 and the supporting Consolidated Criminal

Practice Direction effectively codified all existing rules governing procedure in criminal courts and provide a more manageable process.

Legal Systems

Germany

Germany has a federal system of government built on democratic principles, made up of 16 *Laender* (federal states). It is a member state of the European Union (EU), the association of a number of European states. Under the Constitution of the Federal Republic of Germany, which is known as the Basic Law (*Grundgesetz*) and lies at the foundation of all other legislation, the highest legislative bodies are the *Bundestag* and the *Bundesrat*, the two chambers of parliament. The Federal Constitutional Court is the highest body of the judiciary, and the Federal President and the Federal Government are the highest bodies of the state executive. This structure is mirrored at the level of the *Laender*, with state parliaments, the state constitutional courts, and state governors and governments.

German law is governed by the federal nature of the Federal Republic of Germany and is thus not dissimilar to legal systems such as the ones in the United States or Australia. However, in contrast to these jurisdictions, the federal principle is not confined to national borders, i.e., the relations among the individual *Laender* and their relations towards the Federation. It extends to, and is crucially influenced by, Germany's membership of the EU, which by now affords an extensive body of legislation that is binding on its individual member states directly or that needs to be implemented in national law. There are basic treaties, regulations and directives. Bilateral and multilateral agreements between EU member states are now mostly replaced by EU treaties.

Germany is a civil law jurisdiction. The law is divided into three major areas: private law, public law and criminal law. The sources of the law in Germany comprise statutory law as the central and primary source, which includes the constitution, statutes and executive orders, regulations, decrees, and charters. Court decisions are another source. However, in contrast to jurisdictions such as the UK or the U.S., it does not have a precedent function, in that courts are not bound to follow the decisions of higher courts in a previous case. Courts are bound by the law rather than by precedents. Custom is generally recognized to be yet another source of the law, as are interpretations of the law.

The German legal tradition and culture go back to the law of the Roman Empire, which made a strong impact on its emergence and development. German law is codified law. The idea of codification dates back to the period of European Enlightenment during the 17th and 18th centuries and, propelled by the aspirations for unification during the 19th century, resulted in the creation of law codes for the major areas of the law (Exter and Kammer, 2001). The development of the law in Germany must also be seen in the context of similar developments in other parts of continental Europe. There has always been strong mutual influence and exchange, which is now culminating in the rapprochement of legal systems, as mentioned above.

Codification was first promoted by the enlightened rulers of Prussia and Austria (Prussia's *Allgemeines Landesrecht* of 1794 and Austria's *Allgemeines Bürgerliches Gesetzbuch*) as a means for people to know their rights and duties. Another strong impetus emanated from the adoption in 1804 of the *Code Napoleon*.

Trade union involvement in safety matters is a strong concept in Germany, with statutory appointments and workers' councils being the norm. Employers are required to facilitate

appointments of workers' representatives, and ensure that the training required is undertaken and funded as part of the working week for an employee.

The Napoleonic Code

The Napoleonic Code was founded on the premise that, for the first time in history, a purely rational law should be created, free from all past prejudices and deriving its content from "sublimated common sense;" its moral justification was to be found not in ancient custom or monarchical paternalism but in its conformity to the dictates of reason.

Under the Code, all male citizens are equal; primogeniture, hereditary nobility, and class privileges are extinguished; civilian institutions are emancipated from ecclesiastical control; and freedom of person, freedom of contract, and the inviolability of private property are fundamental principles.

The first book of the Code deals with the law of persons: the enjoyment of civil rights, the protection of personality, domicile, guardianship, tutorship, relations of parents and children, marriage, personal relations of spouses, and the dissolution of marriage by annulment or divorce. The Code subordinated women to their fathers and husbands, who controlled all family property, determined the fate of children, and were favoured in divorce proceedings. Many of these provisions were only reformed in the second half of the 20th century.

The second book deals with the law of things: the regulation of property rights, such as ownership, usufruct, and servitudes.

The third book deals with the methods of acquiring rights: by succession, donation, marriage settlement, and obligations. In the last chapters, the Code regulates a number of nominate contracts, legal and conventional mortgages, limitations of actions, and prescriptions of rights.

With regard to obligations, the law establishes the traditional Roman-law categories of contract, quasi-contract, delict, and quasi-delict. Freedom to contract is not spelled out explicitly, but is an underlying principle in many provisions.

The code was originally introduced into areas under French control in 1804: Belgium, Luxembourg, parts of western Germany, northwestern Italy, Geneva, and Monaco. It was later introduced into territories conquered by Napoleon: Italy, The Netherlands, the Hanseatic lands, and much of the remainder of western Germany and Switzerland. The Code is still in use in Belgium, Luxembourg, and Monaco.

During the 19th century, the Napoleonic Code was voluntarily adopted in a number of European and Latin American countries, either in the form of simple translation or with considerable modifications. The Italian Civil Code of 1865, enacted after the unification of Italy, had a close but indirect relationship with the Napoleonic Code. The new Italian Code of 1942 departed to a large extent from this tradition. In Latin America in the early 19th century, the Code was introduced into Haiti and the Dominican Republic and is still in force there. Bolivia and Chile followed closely the arrangement of the Code and borrowed much of its substance. The Chilean code was, in turn, copied by Ecuador and Colombia, closely followed by Uruguay and Argentina.

In Louisiana, the only civil-law state in the United States (which is otherwise bound by common law), the Civil Code of 1825 (revised in 1870 and still in force) is closely connected with the Napoleonic Code.

The influence of the Napoleonic Code was diminished at the turn of the century by the introduction of the German Civil Code (1900) and the Swiss Civil Code (1912); the former was adopted by Japan and the latter by Turkey. In the 20th century, codes in Brazil, Mexico, Greece, and Peru were products of a comparative method, with ideas borrowed from the German, French, and Swiss.

France

In France, there are actually two judicial systems: administrative and judiciary. The administrative system is responsible for settling lawsuits between the government and the individual. This provides French citizens with exceptional legal protection. Suits are brought to the 22 *Tribunaux de Premiére* Instance, and appeals may be made to the *Conseil d'Etat* (Council of State). This is one of the most prestigious bodies in France. One of its roles is to advise the government on the conformity of proposed legislation with the body of existing law. Running parallel to the administrative system is the judiciary, which is responsible for civil and criminal cases. The criminal courts include the *Tribunaux Correctionels* (Courts of Correction), the *Tribunaux* de Police (Police Courts), and the *Cours d'Assises* (Assize Courts), which try felonies. Appeals are referred to one of the 28 *Cours d'Appel* (Courts of Appeal).

All court decisions are subject to possible reversal by the Supreme Court of Appeals (the *Cour de Cassation*). All judges in France are career professionals who must pass a very competitive examination. In criminal courts, the judge has a more active role in the case than in Britain, and conducts most of the questioning of the witnesses. A French jury is actually a mixed tribunal, where six lay judges sit with three professional judges. A two-thirds majority of this jury may convict. The jury of peers (as used in the UK) was abolished in 1941 in France.

Remember that, from a management perspective, no matter what language is spoken in the workplace, unless an instruction is written in French, it is not an enforceable document.

England and Wales

The British legal system has been established over many years; its origins, in many respects, are taken from Roman Law. While it must be acknowledged that, with the exception of the major reform established during the 1970s, King Henry II (1154- 1189) laid the foundations of the British legal system.

While there are differences between the “English” legal system and the “Scottish,” in essence, the system is, from a criminal perspective, adversarial in the courts.

The law of England and Wales is effectively divided into two main areas:

- Common Law
- Criminal Law

There is a fundamental distinction between crimes and civil wrongs, which are dealt with by different courts and by different procedures. Perhaps by way of explanation, we should consider an accident scenario: An individual slips on a pool of water on the floor in an access way

in the workplace. The fall results in the individual fracturing a leg and being absent from work for a period of six months.

Criminal Law: Within the UK, the accident described above must be reported to the enforcing authorities (statutory requirement), an investigation into the accident would be established, and the *prima facia* duty of the employer to provide *safe* access and egress would result in a prosecution coming before the courts. You will not hear that any part in the above proceedings relates to the injured person, other to determine that an accident had occurred, and that no criminal proceedings are required against the individual.

Common Law: The individual will have suffered not only the trauma of the accident but will have some financial burden in respect of loss of earning and out-of-pocket expenses. The only remedy is via the common law within the civil courts. The individual will need to show that a *duty* of care was owed to them by the *defendant* (usually the employer), and that duty was breached in some way. It is usual that the tort or wrong of negligence is cited. Should the case be established "on the balance of probabilities," compensation will then be awarded. It must be noted that, in the UK system, there is no ability to award punitive damages, only to place the individual in financial terms in a position as if the accident had not occurred.

The United Kingdom, unlike the Untied States of America, does not have a written constitution; therefore, some areas of law are not written down, are not "codified" into a statute or law. It is based primarily on judicial decisions or precedent and customs. It can be seen therefore that this area of law has been developed over hundreds of years. It would be perhaps a simplification but a working definition would be: A system of codes of conduct which establish the torts, relating to the rights and duties of individuals towards individuals. A *tort* is a civil wrong arising from a breach of duty created not by agreement. Largely, therefore, decisions of the courts are based on previous cases and, as such, this area of the law is not codified.

To illustrate this particular point, the reader should think of a game of football. There are of course rules (laws) which allow for fair play and for the game to be conducted in a manner which is understood by all. Sanction for any breach of the rules is a penalty. The severity of the penalty applied is dependent on the severity of the breach. During the game, one of the players is abusive to another. The act of being abusive may not be written into the rules. The act does not cause harm, nor does it affect the fairness of the game. The act can be said, however, to have no "moral character" but to be "unsportsmanlike." and therefore be a tort.

The law of torts has developed historically from the actions of judges in the courts. As we observed earlier in this paper, various legal systems have differing aims or objectives. In the British legal system, reporting an accident is for the benefit of the enforcement authorities. For the injured person to receive any form of compensation, remedy must be sought via the civil law and, therefore, by showing that a tort has been committed by the employer. Commonly this will be either the tort of "breach of Statutory duty" or "negligence."

Enforcement

As we have seen, there are a variety of legal systems in place across the globe. In order that the safety professional can operate on a functional level, they should be aware of the roles and responsibilities of enforcement authorities. For example, in the United Kingdom, the primary role

of the Health and Safety Executive (HSE) is, surprisingly, “assistance and advice.” It can be said that, with respect of the formation of this government body therefore, the prevention of accidents was the main focus (this is echoed in the Republic of Ireland). Their role is also the formulation of laws, regulations and Codes of Practice, setting advice and also the enforcement in industrial settings, and the prosecution of transgressors in the Court.

The Police Services are the “keepers of the Queen’s Peace.” It is their duty to prevent crime, undertake detection, and refer the matter to the Crown Prosecution Service in order to advocate the case through the criminal court.

The local authority Fire Services, since the Regulatory Reform Order of 2005, have an increasing role in the enforcement of legislation relating to fire safety and appear to be less prominent in the role of provision of fire safety advice to industry.

It has been the experience in France that Fire Services will not provide advice, and will often resort to sanctions in preference to advice. This has anecdotally been the case in respect of Labour Ministries.

In Australia, it has been the experience that the state “Work Cover” Inspectorate will seek to work with industry in order that prevention of accidents is achieved.

The Element of Compensation

When the safety management system breaks down, an individual that has been subject to harm will seek to achieve compensation. Let me, as a primary thought, state that “compensation” must be defined as a monetary award that seeks to put the claimant into such a financial position as if the event that facilitated the loss had not occurred. In other words, it compensates the victim for the losses that will be experienced with respect to salary, out-of-pocket expenses, and loss of future earnings. It is not a mechanism to punish the defendant of the claim. As mentioned earlier in this paper, within the UK, compensation is achieved by use of the Civil Law procedure.

In many other parts of the world, a concept of “no fault” compensation has been adopted. The Woodhouse Report in New Zealand advocated such a scheme that, in practice, would result in employers’ insurance premiums being funnelled into a state-administered scheme. No fault schemes exist in many parts of the world, including the Scandinavian countries and the Hong Kong SAR.

Safety Communication

It cannot be overstated that the need to ensure that communication of safety messages is a primary function for the professional, no matter if he working in a “home” country or abroad. It is therefore vitally important that an understanding of the local culture is achieved. This is perhaps best understood by the Chinese concept of “face.” This is not easily translated into a Western expression but is best understood by not causing offense, and not being belittled or belittling. Consider the very correct or proper way in which to exchange a business card in several different countries.

Thailand: Business cards are exchanged when the host initiates this, and should be offered to the most senior person first. You should give and receive cards with your right hand, and inspect them respectfully before placing them on the table in front of you or in a business card holder. Wait to be told where to sit, as there are rules of protocol relating to the hierarchy. First names are usually used in Thai business, preceded by the honorific title "Khun" which is used for both men and women.

China: Business cards are exchanged at the outset of a meeting. The guest presents a card with both hands. It is the height of disrespect to offer a paper business card with one hand and to receive it with one hand. The card is then placed on the meeting table until the conclusion of the meeting. Family names are the norm to be used with the suffix of “San.”

France: If you are visiting France, do not expect for example that you will achieve much between the hours of 11.30–14.00. Why? Because in the French culture, people will be at lunch.

Netherlands: In the Netherlands, people will eat a sandwich at their desk but will not continue with business. This time is reserved for socializing.

United Kingdom: In the UK you will find employees at their desks, continuing to work while eating a sandwich.

The **Swiss** have this tendency to stare for longer than may seem socially acceptable perhaps to American or UK-based individuals; when it happens and can be a little intimidating. In general, they are very polite and greet you at all opportunities. English is quite widely spoken although it is not one of the four official languages.

Be careful of language; native English speakers tend to accelerate the pace of speaking when identifying someone that can converse in English. Conversely, remember that speaking loudly and slowly will not make you understood by all.

Working overseas is challenging, both at a physical level and also an intellectual one. The golden rule must be to “Vive la Difference!”

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Additional Resources

Internet web pages as detailed in the text.