

This document is meant as guidance to industry for the implementation of the *Agreement on Workers Health Protection Through the Good Handling and Use of Crystalline Silica and Products Containing It*. In no way can it be used as a legal reference. Only the English version of the Agreement is authoritative for interpretation purposes.

GENERAL INTRODUCTION TO SECTORAL SOCIAL DIALOGUE

Sectoral social dialogue at European level has its roots in informal relations between representative bodies of workers and employers in the 1960s and 1970s: Joint committees established by the Commission served for the consultation of the European social partners, while informal working groups were set up at the request of social partners.

The bipartite social dialogue was launched in 1985 at Val Duchesse, on the initiative of the President of the Commission at the time, Jacques Delors. From then on, bipartite activities mainly led to the adoption of non-binding resolutions, declarations and joint opinions.

The integration of the provisions of the agreement negotiated on 31 October 1991 between social partners into Articles 138 and 139 of the Treaty of Amsterdam allowed the agreements negotiated between the European social partners to be given legal force through a decision by the Council and its transposition into the legislation of each Member State, or else to be implemented according to national procedures and practices, for example by the social partners themselves at national level. The first possibility led to the implementation of three agreements through Council Directives: on parental leave in 1995, on part-time work in 1997 and on fixed-term contracts in 1999.

The same year the Commission offered to fund sectoral social dialogue committees (SSDCs) at the joint request of social partners. Between 1999 and 2004, the number of committees has grown from 20 to 33 (as at 25 October 2006). Currently, each committee sets its own internal rules and agenda, while the participants' mandate to negotiate depends on the power delegated by its national members. The representativeness of European sectoral employer and worker organisations members of Sectoral Social Dialogue Committees is continuously monitored by the Commission.

In 2005 for the first time, European Employees' and Employers' representatives from 14 industry sectors negotiated a European multi-sectoral agreement.

INTRODUCTION TO NEPSi

NePSi is the acronym for the multi-sectoral Negotiation Platform on Silica. This platform held its first meeting in May 2005 to launch the negotiation of the *'Agreement on Workers Health Protection through the Good Handling and Use of Crystalline Silica and Products containing it'*. The final version of the text was approved in February 2006.

The Agreement was signed on 25 April 2006, and entered into effect 6 months after its signature i.e. on 25 October 2006.

1. BACKGROUND

In 1997, the International Agency for Research on Cancer evaluated crystalline silica inhaled in the form of quartz or cristobalite from occupational sources as carcinogenic to humans (group 1). *"In making the overall evaluation, the Working Group noted that carcinogenicity in humans was not detected in all industrial circumstances studied. Carcinogenicity may be dependent on inherent characteristics of the crystalline silica or on external factors affecting its biological activity or distribution of its polymorphs. Crystalline silica inhaled in the form of quartz or cristobalite from*



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occupational sources is carcinogenic to humans (Group 1). Amorphous silica is not classifiable as to its carcinogenicity to humans (Group 3)."

In 2003, the Scientific Committee for Occupational Exposure Limits¹ (European Commission) concluded that *"The main effect in human of the inhalation of respirable silica dust is silicosis. There is sufficient information to conclude that the relative risk of lung cancer is increased in persons with silicosis (and apparently, not in employees without silicosis exposed to silica dust in quarries and in the ceramic industry). Therefore preventing the onset of silicosis will also reduce the cancer risk. Since a clear threshold for silicosis development cannot be identified, any reduction of exposure will reduce the risk of silicosis. (...) It arises that an OEL should lie below 0.05 mg/m³."*

Acknowledging that crystalline silica although ubiquitous, may constitute a hazard that is limited to the workplace (sometimes only a few processes are concerned) where exposure can be controlled, the main industries using crystalline silica gathered to agree on appropriate and credible measures for the improvement of working conditions. The adoption of good practices for the handling and use of crystalline silica soon became the basis for the negotiation of a related social dialogue agreement.

2. THE NEGOTIATION

The industry sectors organizations and their counterpart trade union federations (a list of the signatories is included below) negotiated the social dialogue agreement within the NePSi platform.

The European Commission supported the project, qualifying it as innovative. An EC budget was granted to cover the costs of the negotiation, and the European trade associations which were not yet members of a social dialogue committee at EU level were considered after scrutiny by the Commission as eligible to participate in this negotiation.

Two working groups were set up for the negotiation: one Steering Working Group to draft the Agreement and discuss political aspects, and one Technical Working Group (made up of producers and consumers of products and materials that contain crystalline silica) to draft the technical annexes of the Agreement, especially the Good Practice Guide. Experts from national health institutes supported the technical working group.

The negotiations started on the 1st of September 2005 and ended on 2 February 2006 with a final plenary meeting. The text was unanimously approved by the negotiating Parties.

After its signature, the Agreement will remain open for signature at any time by other industry sectors.

¹ SCOEL SUM Doc 94-final

3. SIGNATORY EUROPEAN INDUSTRY SECTOR ASSOCIATIONS

European Glass Fibre Producers Association (APFE)
International Bureau for Precast Concrete (BIBM)
The European Foundry Association (CAEF)
The European Cement Association (CEMBUREAU)
Council of European Employers of the Metal, Engineering and Technology-Based Industries (CEEMET)
The European Ceramics Industries (Cérame-Unie)
European Mortar Industry Organization (EMO)
European Association of Mining Industries (Euromine)
European and International Federation of Natural Stones Industries (EuroRoc)
European Special Glass Association (ESGA)
European Insulation Manufacturers Association (EURIMA)
European Container Glass Federation (FEVE)
European Aggregates Association (UEPG)
European Industrial Minerals Association (IMA-Europe)
European Association of Flat Glass Manufacturers (GEPVP)

4. SIGNATORY EUROPEAN TRADE UNION FEDERATIONS

European Mine, Chemical and Energy Workers' Federation (EMCEF)
European Metalworkers' Federation (EMF)

National and EU law in the area of health and safety must be complied with at all times. If, in the future, a new legislative proposal related to crystalline silica was to be issued, the signatories of the Agreement have reserved the right to decide on appropriate action.

READING GUIDELINES TO THE AGREEMENT AND ITS ANNEXES

The core text of the **Agreement on Workers Health Protection through the Good Handling and Use of Crystalline Silica and Products containing it** is structured as follows:

Articles 1 to 15, respectively: *Objectives, Scope, Definitions, Principles, Good Practices, Monitoring, Reporting and Improvement, The Council-Secretariat, Confidentiality, Health Surveillance, Research-Data Collection, Duration-Revision, Change of Parties, Miscellaneous, Entry into effect.*

It is crucial to read the definitions provided in Article 3 of the Agreement, as they clearly state the places, individuals/entities and tools by / to which the Agreement will be applied.

The following documents are included as annexes to the Agreement:

Annex 1	Good Practices (Good Practice Guide)
Annex 2	Dust Monitoring Protocol
Annex 3	Reporting Format
Annex 4	List of Research Projects
Annex 5	Descriptions of Industries
Annex 6	The Council – The Secretariat
Annex 7	Procedure for the Adaptation of the Good Practices
Annex 8	Health Surveillance Protocol for Silicosis

The Agreement was signed on 25 April 2006, and will enter into effect on 25 October 2006. By that date, its translations to the 20 official EU languages will be ready, although the English version is binding for interpretation.

1. LEADING PROVISIONS OF THE AGREEMENT: RISK ASSESSMENT AND THE APPLICATION OF GOOD PRACTICES

Although the Agreement is applicable in the EU-25², national and EU law in the area of health and safety must still be complied with at all times. The Agreement aims at protecting the health of employees by:

- protecting the health of Employees and other individuals who might be occupationally exposed to Respirable Crystalline Silica at the workplace,
- minimizing exposure to respirable crystalline silica through the application of good practices as required in EC Directives,
- increasing knowledge of these good practices and the potential effects of respirable crystalline silica.

The Good Practice Guide compiled by the signatory sectors starts with a risk assessment procedure in the workplace and continues with documents to help employers and employees to reduce exposure levels through measures or good practices to apply. The risk assessment should be performed regularly thereafter so as to strive for continuous improvement.

² Outside the EU-25, the Good Practices may be implemented on a voluntary basis.

The second part of the Good Practice Guide includes some 60 task sheets **illustrating** good practices applicable to signatory industries as appropriate. Other good practices as efficient, or more stringent national practices, may also be kept in use in order to fulfil the Agreement's objectives.

2. MEASURES ON TRAINING, DUST MONITORING & HEALTH SURVEILLANCE

Whether deriving from the risk assessment requirements, their results or from provisions in the Agreement, the signatories have foreseen a number of measures in compliance with EU legislation, namely:

- Training

Employers undertake to organise periodic training on good practices. It is stipulated in the Agreement that the concerned employees commit to attend these training sessions. Advice on training is given in the Good Practice Guide (Task sheet 2.1.19).

- Dust Monitoring

Depending on the results of the workplace risk assessment, exposure monitoring should be done according to the 'Dust Monitoring Protocol' of the Agreement (Annex 2). Smaller sites may adapt this protocol to their needs. Within a single company made up of a multitude of small sites, these can be selected randomly.

- Health Surveillance

The scope of the medical examinations to be performed on workers will be defined depending on the results of the workplace risk assessment and in accordance with current national legislative requirements and the 'Health Surveillance Protocol on Silicosis' (Annex 8). This annex provides in addition that employers will facilitate the medical follow-up of retired and former workers having been exposed to respirable crystalline silica at the time they were employed by the company and at their request.

3. MONITORING & REPORTING OF THE APPLICATION

In addition to the obligations above, the signatories commit to:

- Monitor the application of the Agreement at site level

Within each company, the employer will designate:

- (1) An employee or several employees to monitor the application of the good practices on one or several sites.
- (2) An individual responsible at company level to elaborate an action plan with the works Council and the workers' representatives, where applicable, for the above-mentioned monitoring of the application, and to collect and consolidate site reports (see below).

The employee under (1) responsible for the monitoring will report on the application of the good practices to the individual under (2) responsible for company reporting.

- Report on application

Reporting will be done once every two years at site, company, national and European (sector) levels using the reporting format provided in the Agreement (Annex 3). At company level, the site reports will be consolidated by the individual responsible under (2) above.

Reporting will allow the NEPSI Council to assess the level of application of the agreement and good practices in a confidential and consolidated way. The Council is made up of a maximum of 15 Employee representatives and 15 Employer representatives taking decisions by consensus or at a double qualified majority of 75%.

Individual company reports will be sent to the respective national sector associations (in case you are directly affiliated to a European association and your company is not a member of a national sector association, please directly contact your European industry representative within NEPSI). The national sector associations will in turn communicate to their European sector associations. The latter will prepare consolidated sector reports (including a list of sites which are repeatedly in a situation of non-application) to be sent to the Council. After having reviewed the sector reports, the Council will issue a Summary Report to be forwarded to the signatories of the agreement and their members, the EC and national authorities, and an Executive Summary for the public if desirable.

The objective of the Council is to identify existing problems and to propose possible solutions, in order to see the number of non application situations of the agreement decrease in time. The Council will concentrate its efforts on promoting improvement situations. A confidentiality clause is applicable to its members, and to all interested parties. The Council is exclusively in charge of issues related to the interpretation, implementation and application of the Agreement, which should thus never be submitted to national courts.

Contacts with the Council will mainly be taken through its Secretariat.

4. RESEARCH

Bearing in mind that crystalline silica and materials, products and raw materials containing it are basic, useful and often indispensable components or ingredients for a large number of industrial and professional activities, the agreement makes provision for recommendations as to research and data collection.