



Reaching agreement on crystalline silica

EU employers and employees concerned about the risks posed by respirable crystalline silica have reached Europe's first multi-sector agreement, aimed at workers' health protection. *Dr Michelle Wyart-Remy*, Secretary General of IMA-Europe, explains its road to approval and how it will work.

IN THE OCTOBER 2003 issue of *IM*, the IMA-contributed Legal Eye (see *IM* October '03, p.98) started with these words: "The European Commission is mulling over whether to establish a Union-wide workplace exposure limit for respirable crystalline silica (RCS). Accurate estimation and balanced assessment of the silicosis risk level is crucial, but given the lack of a cohesive monitoring and measurement system, the silica producing and consuming industries must get organised, urges Michelle Wyart-Remy of IMA-Europe/EUROSIL".

Less than three years later, while there is still no decision regarding a European occupational limit, we are proud to announce that we did it!

Negotiation history

IMA-Europe and EUROSIL have engaged some 14 European employers' organisations and two European workers' unions – EMCEF (European Mine, Chemical and Energy Workers' Federation) and EMF (European Metalworkers' Federation) – to negotiate and sign a Social Dialogue Agreement on Workers Health Protection Through the Good Handling and Use of Crystalline Silica and Products Containing It.

This achievement has been warmly welcomed by the European Commission (EC):

"This is the first time an agreement covering several sectors has been negotiated by the social partners through their own procedures. I would like to congratulate them on such a worthy agreement. It will protect workers in many sectors and help them benefit from better practices, making a real difference to their working conditions," said Commissioner for Employment, Social Affairs and Equal Opportunities Vladimir Špidla.

As early as 2002, EUROSIL investigated the mechanisms of such a European Union (EU) agreement, which – as described by Ursula Schliessner of McKenna, Long & Aldridge in Brussels (see *IM* February '04, p.74) – allows for self regulation by the social partners. This was followed by about two years of intensive efforts to develop the concept and to draft the outline of what could be a social dialogue agreement covering the production and the various uses, not only of crystalline silica, but also of the products which contain it.

The central idea was to base this agreement on good practices,

compiled in a good practice guide, which had to be developed to cover all possible sectors involved and all their possible industrial settings. The task facing the drafting team was huge. It decided to develop all of the principles and a general scheme, but for the good practices it concentrated on what it knew best, ie. its own circumstances. It was agreed that the sectors which could later join the negotiating process would have to complete the draft for their specific occupational circumstances.

At the start of 2004, the preliminary draft of the agreement was ready and IMA-Europe/EUROSIL started presenting it. We conveyed a Silica Task Force of some 40 European trade associations, covering a wide range of sectors where exposure to RCS may possibly be experienced. At the same time, the agreement was presented to some union representatives and to the EC Units for Social Dialogue and Health and Safety. It was essential to convince all the potential players that the social dialogue agreement tool could be used to address the complex RCS issue.

Broad representation

In order to guarantee a representative coverage of the future agreement, it was crucial to convince the sectors concerned by exposure to RCS to join the platform. However, the agreement was essentially so innovative and the social dialogue tools still so unknown by most stakeholders that it was critical to clarify a series of uncertainties.

Most of the concerned parties were not recognised social partners, and while social dialogue plans are usually concluded at sectoral or inter-professional level, it was a multi-sector initiative. Finally, this issue was one of the first to be so closely related to health and safety. More so, the exposure to crystalline silica dust was not necessarily acknowledged by those exposed to very low levels or by those with only a few processes concerned and, therefore, with no mandatory monitoring. All the questions were addressed and answers were found.

After due consultation within the sectors the potential partners were convinced that the challenge could be taken up. The organisations willing to join the negotiation that were not yet recognised as social partners sought a negotiating mandate from their membership and were scrutinised by the EC to demonstrate their sector representation.

As a result a negotiating platform for crystalline silica (NePSi) was set up, grouping together 15 trade associations and two unions. Employers from the aggregates, cement, ceramics, foundry, glass fibre, special glass, container and flat glass, industrial minerals, mineral wool, mines, mortar, natural stones and pre-cast concrete sectors were represented. Those sectors were represented at the negotiating table, respectively by: UEPG, Cembureau, Cérame-Unie, CAEF and CEEMET, GEPVP, APFE, ESGA, IMA-Europe, EURIMA, Euromines, EMO, EURO ROC and BIBM.

Their employees' counterparts were represented by: EMCEF (European Mine, Chemical and Energy Workers' Federation), representing workers from all involved sectors except the foundry, and EMF (European Metalworkers' Federation) for the foundry sector. The NePSi met for a first plenary meeting on 17 May 2005.

Reaching agreement

Negotiations went through three plenary meetings and seven concurrent meetings of the NePSi Steering and Technical working groups. The two working groups were respectively in charge of the core text of the agreement and its technical annexes, notably the good practice guide.

The negotiators invited national health and safety institutional experts to follow the negotiation process. Through this, experts from the UK's Health and Safety Executive, the German professional insurances (Berufsgenossenschaften), and the Spanish Instituto Nacional de Silicosis provided their experienced advice throughout the negotiation.

Nine months later, thanks to an astonishing discipline to abide to the fixed timetable, a set of strict working rules was agreed by all parties in an exceptionally fair negotiation atmosphere. The text was unanimously approved by the negotiating parties. The agreement was signed on 25 April 2006, in the presence of Mr Špidla, by all the industry sectors and unions that participated in the negotiation.

The agreement in detail

The agreement covers the entire production and use of crystalline silica and materials, products, and raw materials containing crystalline silica. It aims to protect the health of employees and other individuals occupationally exposed in the workplace to RCS. It aims to achieve this by minimising their exposure by applying stipulated good practices in order to prevent, eliminate, or reduce occupational health risks related to RCS, and by increasing knowledge about the potential health effects of RCS and about good practices.

The agreement includes eight annexes: good practice guide; dust monitoring protocol; a reporting format; a list of research projects; descriptions of the industries; council and secretariat (functioning); a procedure for the adaptation of the good practices; and a health surveillance protocol for silicosis.

Recognising the need for a continued use of crystalline silica, the interested parties accepted the following:

- Apply the agreement and good practices by conducting an initial risk assessment to identify RCS exposures on site, and respect general prevention principles
- Conduct risk assessments regularly in order to achieve continuous improvement as far as possible.
- Organise training, dust monitoring, and health surveillance, as well as to co-operate to increase knowledge (R&D)
- Monitor and report the application of the agreement, including the good practices

The good practice guide is the main instrument of the agreement. It was designed as a dynamic tool addressed to workers and employers. The first part of the good practice guide contains general

information on RCS and details how to conduct risk assessment of the potential exposure at the workplace. In its second part, it provides a set of detailed task sheets describing technical good practices to reduce exposure in the specific industrial settings encountered in each signatory industry.

The application of the good practices will be reported biennially to a bipartite Council at site, company, national and European level. The reported indicators will be reviewed by the Council, which will draw up a summary report of the application of the agreement.

Implementation

With the signature of the agreement, and to keep the acronym, the negotiating platform NePSi was changed to NEPSI (the European Network on Silica).


The agreement will enter into force six months after its signature, provided it has been translated into the 20 official EU languages. No delay is expected since the translations have already been launched thanks to a grant from the Commission. In 2007, a preliminary report on the status of implementation will be organised. Official reporting will take place from 2008, and subsequently every two years.

The agreement is intended to remain 'autonomous', which means that the parties involved are responsible for its implementation. It is to this effect that the NEPSI council, assisted by a secretariat, was set up on 25 April 2006 at the signature of the agreement. This bipartite council is made up of 30 members, 15 employers and 15 employees' representatives. Up to the 15 employers seats, each signatory European industry sector association is represented by one council member, or an alternate council member.

The council will meet at least every reporting year and will be in charge mainly of following up the implementation of the agreement; the interpretation and application issues; the adaptation of the good practices; the communication with third parties; the review of the sectors' biennial consolidated reports; and the drafting of summary reports and executive summaries every two years. The council will take decisions by consensus or at a double qualified majority.

Adherence to the agreement is totally voluntary and the agreement will remain open for further signature by additional sectors willing to join. While the agreement is only applicable in the EU, notably regarding the reporting of its application, the good practices developed in the guide may, obviously, be voluntarily implemented worldwide. Some signatory companies have announced that they are considering doing so.

Signing upon the agreement helps industry to improve risk management in the workplace and implementation of health and safety strategies. Moreover, by signing up industry demonstrate its commitment to industrial minerals sector values and strategies, such as corporate social responsibility. Therefore, it reinforces the image and credit of industry as a responsible partner. Finally, this is the only way to propose a realistic approach and appropriate measures to solve a health concern shared by all national and European health institutions, ie. workers protection and prevention of exposure to RCS.

Promisingly, the initiative was already recognised by several national and EU experts and authorities as credible and of high quality. It is now essential that we make a noticeable demonstration of our commitment by widely and quickly applying the agreement. This is the only way crystalline silica and products containing it may continue to be used safely, without inappropriate constraints. 



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