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.

QUESTIONS & ANSWERS

1. WHERE IS THE AGREEMENT APPLICABLE?

The Agreement is applicable on all sites (and ancillary activities such as handling, storage and transport, as well as mobile workplaces) simultaneously fulfilling the following criteria:

- ☐ the site is situated in the EU-25,
- ☐ crystalline silica is present on the site in a product or raw material,
- ☐ the company is directly or indirectly a member of one of the signatory European industry associations,
- ☐ the workers are directly or indirectly represented by one of the signatory European trade union federations.

If these criteria are not fulfilled, the agreement may be applied on a voluntary basis. Monitoring and reporting are optional in that case.

2. WHEN DID THE AGREEMENT ENTER INTO EFFECT?

The agreement was signed on 25 April 2006, and entered into effect 6 months later, on 25 October 2006, when its translation into the 20 official EU-languages was available and circulated.

3. AM I STILL ALLOWED TO USE CRYSTALLINE SILICA OR PRODUCTS CONTAINING IT?

Yes. Silicosis is a well known preventable disease: the agreement was negotiated in order to propose appropriate, responsible, credible and workable measures to improve workers health protection.

The signatories of the agreement agree that crystalline silica and materials / products / raw materials containing crystalline silica are basic, useful, and often essential components / ingredients for a large number of industrial and other professional activities contributing to protecting jobs, and securing the economic future of the sectors and companies, and that their production and wide-range use should therefore continue.

The object of the agreement is to address how to handle and use crystalline silica.

4. WHAT IS THE REPORTING PROCEDURE?

Reporting will be done once every two years at site, company, national and European level using the reporting format provided in Annex 3 of the Agreement. At company and site levels, Employees need to be designated as responsible for the monitoring of the application of the Good Practices.

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 and do not show any improvement) 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.

In 2007, a preliminary reporting on the status of implementation of the Agreement will take place.

The first reporting year was set to 2008. The time frame for reporting following the signature of the Agreement is as follows:

- 25 April 2006: Signature of the Agreement.
- 25 October 2006: Entry into effect of the Agreement.
- 2007: Intermediate report on the status of implementation of the Agreement
- 2008: First reporting to the Council.

Reporting will take place every second year as from this date (2010, 2012, 2014,...).

The Council will meet in June of each year in order to draft the Summary report, which should be made available by the 30th of June. Companies should arrange that their reports are sent in time to their national / sector association, in order to meet the deadline for the Council's Summary Report.

5. WHAT IS NON APPLICATION?

Non application means non-observance of the Agreement including Good Practices resulting in an increased exposure of Employees to Respirable crystalline silica and resulting risk to health that could have been avoided by observing the Good Practices.

6. WHAT ARE THE INDICATORS OF APPLICATION?

The reporting format (Annex 3) provides a number of indicators of the application of the agreement at workplaces where workers are potentially exposed to respirable crystalline silica. On the basis of the number of workers potentially exposed, the information below is required:

- ☐ number of workers covered by risk assessment
- ☐ number of workers covered by exposure monitoring
- ☐ number of workers with risk assessment requiring Health Surveillance Protocol for Silicosis (Annex 8).
- ☐ number of workers covered by generic Health Surveillance Protocol
- ☐ number of workers covered by the Health Surveillance Protocol for Silicosis (Annex 8)
- ☐ number of workers covered by training on General Principles of Prevention
- ☐ number of workers covered by training on task sheets
- ☐ technical and organizational measures to reduce RCS
- ☐ use of PPE (Personal Protective Equipment) where necessary

The 'key notes' section allows the reporting sites, companies or organizations to explain or justify significant data (e.g. an increase of the exposure due to new acquisitions of entities where the Agreement was not implemented).

The reporting format includes clear references to the relevant parts of the Agreement and Good Practice Guide.

7. WHAT ARE THE EFFECTS OF AUTONOMOUS EUROPEAN SOCIAL PARTNER AGREEMENTS?

European social partners agreements concluded under Article 139 EC create contractual relations between the Parties. They do not have a direct legal effect on the national level so that it is important that the Social Dialogue Agreement is implemented by the Parties and / or their members themselves at national and company level, taking into account national traditions.

8. WHAT WILL HAPPEN IF I DO NOT APPLY THE AGREEMENT?

The Council will focus on indicators of improvement in the application of the Agreement. The first reporting on application will take place in 2008 and every two years from then on. In the long term and on the basis of consolidated sector reports, the Council made-up of 15 Employer and 15 Employee representatives may inquire on particular situations of non-application and decide on appropriate action according to its decision-making procedure, i.e. consensus or double qualified majority of 75%.

9. IF THIS AGREEMENT APPLIES TO ME, DOES IT REPLACE THE EXISTING REGULATIONS WITH WHICH I MUST CURRENTLY COMPLY?

No. The agreement clearly states that EU and national law on issues such as health and safety must be complied with at all times (notably Directive 89/391and Directive 98/24). However, if a proposal for a new EU legislation conflicting with the Agreement was to be issued, the signatories would have the opportunity to meet to agree on appropriate action (e.g. withdrawal from the agreement, or modification of its provisions).

10. WHAT DOES 'INDIRECTLY REPRESENTED' MEAN (ART 3.1)?

Indirectly represented designates the companies or employees which are not direct members of the European associations which negotiated the agreement (the Parties) but belong to national organisations themselves affiliated to each one of the Parties.

11. WHAT IS THE GOOD PRACTICE GUIDE?

The Good Practice Guide (Annex 1) is the major tool to implement the Agreement and its fundamental provisions: it provides a procedure for risk assessment and a set of general and sector specific task sheets describing good practices to be implemented at the workplace.

12. WHAT IS THE RISK ASSESSMENT PROCEDURE AND WHERE CAN I FIND IT?

The risk assessment is the first step to take in order to apply the Agreement. It is a procedure which:

- Helps you to determine the risk related to respirable crystalline silica on your workplace,
- Gives instructions on the appropriate measures to implement, according to the results of the risk assessment.

The detailed procedure can be found in Part I - chapter 4 of the Good Practice Guide.

13. WHAT ARE 'GOOD PRACTICES'? WHERE CAN I FIND EXAMPLES OF GOOD PRACTICES?

The term 'good practices' refers to Directives 89/391 and 98/24 (on the improvement of the safety and health of workers at work and on the protection of the health and safety of workers from the risks related to chemical agents at work respectively). The Good Practice Guide is an illustration of these

good practices, notably the general and specific task sheets of Part II of the Good Practice Guide. These task sheets provide advice, for each job function, to employers and workers.

14. WHAT ARE THE 'GENERAL PREVENTION PRINCIPLES'?

In the development of the Good Practice Guide (Annex I of the Agreement), the prevention strategy – including nine prevention principles - which is described in Council Directive 89/391/EEC and its transposition in the national laws was respected. The general prevention principles are outlined in chapter 4 of the Good Practice Guide.

15. IS THE APPLICATION OF THE TASK SHEETS MANDATORY?

As they are an illustration of good practices, these task sheets are not mandatory, provided other good practices as efficient or more stringent are implemented. The Guide gathers good practices applicable at the workplace in signatory industries. Depending on the risk assessment and the relevance to the specific activity, each company/site should select which practices are appropriate.

16. WHO WILL DO RESEARCH ON CRYSTALLINE SILICA?

It's up to you: you may contribute to the sector-level commitment requesting the signatories to discuss gaps in research and data and make recommendations as to research on improving the safety of products and processes, or on data collection projects.

17. WILL I HAVE TO PROMOTE THE GOOD PRACTICES?

Only within your own structure: it is the companies' or sites' responsibility to give information and training on Good Practices to their workers, and up to the national and sector organisations to promote these within and possibly outside their membership.

18. TO WHICH EXTENT DO I HAVE TO REDUCE EXPOSURE TO RESPIRABLE CRYSTALLINE SILICA?

In any case, European and national regulations should at any time be complied with, and the level of exposure at the workplace should remain below the national occupational exposure limit.

The Agreement aims at providing appropriate protection and prevention measures contributing to the minimization of exposure to respirable crystalline silica. These measures are developed in the Agreement (training, dust monitoring, health surveillance, application of Good Practices) and notably in the Good Practice Guide.

If the results of the risk assessment outlined in the Good Practice Guide indicate that there is no potential for personal exposure levels to exceed the national occupational exposure limit, continuous reviews should be carried out regularly to retain status quo.

In addition, the Agreement requires you to monitor the application of good practices and report on it.

19. WHAT IS THE COUNCIL AND WHAT DOES IT DO?

As from the entry into effect of the Agreement, each signatory European industry sector association and trade union federation will be represented within a bi-partite Council (15 Employers' representatives – 15 Employees' representatives) set up by them.

This Council will be in charge of: the follow-up of the implementation of the agreement, interpretation and application issues, revision recommendations and adaptation of the Good Practices, communication with third parties, review of the sectors' consolidated reports, drafting of summary reports and executive summaries.

The Council will take decisions by consensus. If consensus fails, the decisions will be taken at a double majority of 75%.

20. WHAT IS THE SECRETARIAT AND WHAT DOES IT DO?

The Council will be assisted in his tasks by a Secretariat. The NEPSI Secretariat established under art. 8.5 of the Agreement shall call for all the meetings and provide administrative and logistical support to the Council: it will prepare the meetings' agendas and reports, which must be approved by the Bureau. It shall assist where appropriate with information, advice and hearing of Council Members.

The Secretariat assures relations with public institutions, the press or the general public on behalf of the Bureau.

21. WHAT DOES 'CEASE TO EXIST' MEAN (ART. 8.3)?

'Cease to exist' refers to any process by which the sector association would be deprived of a legal personality.

22. WHEN CAN THE AGREEMENT BE MODIFIED?

The Council can make recommendations for modifications of the agreement.

If a new EU legislation related to crystalline silica is proposed, the signatories have reserved the right to evaluate the impact of this proposal on the Agreement and take appropriate action.

23. CAN GOOD PRACTICES BE MODIFIED?

Annex 7 of the Agreement provides a procedure for the modification of Good Practices.

The Good Practice Guide is meant to be a dynamic document: individuals, sites, companies and national associations can propose modifications to the task sheets at any time. Proposals for new or revised existing task sheets must be sent to the adequate European industry sector association, or trade union federation. These proposals should include a justification of why and how these modifications improve the level of protection or provide an alternative way of reaching the same level of protection.

If the association or federation supports the suggestion, it will submit it to its counterpart. If both agree, the suggestion is submitted to the Council which may adopt it.

The adopted modifications are valid and circulated 3 months after the Council's approval.

24. WHAT DO I HAVE TO DO IF I ALREADY IMPLEMENT GOOD PRACTICES ON MY SITE?

You should conduct a risk assessment to determine whether these are efficient. The risk assessment should be performed regularly so as to ensure continuous improvement or status quo if further improvement is not possible.

If the good practices you apply provide better protection from exposure than those illustrated in the Good Practice Guide (Annex 1), or if amendments to existing good practices illustrated in the Good Practice Guide can provide better protection, please notify the European industry sector association of European trade union association to which you are affiliated. This input will be considered by the Council according to the procedure in Annex 7.

25. CAN WORKERS REFUSE TO ATTEND TRAINING SESSIONS?

Directive 89/391 states that *"It shall be the responsibility of each worker to take care as far as possible of his own safety and health and that of other persons affected by his acts or Commissions at work in accordance with his training and the instructions given by his employer"*.

In this respect, the European industrial sector associations and European trade union federations signing the Agreement have agreed on a reciprocal commitment: Employers undertake to organise training sessions, while all concerned employees (exposed to respirable crystalline silica) undertake to follow these training sessions.

Guidance on training can be found in the Good Practice Guide, task sheet 1.1.19.

26. HOW DO I ORGANISE ON-SITE MONITORING OF THE APPLICATION?

The Employer will designate:

(1) An Employee or several Employees to monitor the application of the good practices on one or several sites. All sites should be covered.

(2) A responsible individual at company level to elaborate an action plan with the works council and the workers' representatives for the monitoring of the application, and to collect and consolidate site reports.

The periodicity and form of the reporting by the designated Employee(s) on site were expressly not specified, it is up to each company to organize internally in the most suitable way provided you send in your report duly filled in and on time.

The Employee designated at company level will also be in charge of the company's report to the Council (Annex 3).