

Striding forward on health and safety

‘When the workers came up from the shift they said that the air smelled funny and that other workers should not go down. The workers did not want to go down, they were worried about the conditions. But they went down. Later there was the explosion. Many miners were killed’

‘I remember going to the morgue with relatives of the dead miners. We went to identify and claim the bodies. But this was very difficult to do. There were body parts – arms legs and whatever, all piled together, on top of each other. It was very traumatic.’

The above quotes were taken from a then CWIU official, talking about the Middlebuilt disaster – an explosion in the Sasol Coal mine in 1995, where 32 miners were killed. They illustrate the dangerous conditions that workers were working under and insufficient worker rights regarding health and safety.

Jump to 1999 where CEPPWAWU and Sasol Coal Mines management signed a path breaking agreement in the area of health and safety. An agreement that stands as an example to others on what innovative thinking and strong negotiations between powerful and committed parties can achieve.

Xmas Tsolo, a CEPPAWU shopsteward at Sasol and chairperson of the Mpumalanga region, presented the agreement at a

Tanya van Meelis reports on the CEPPWAWU/Sasol Mining Occupational Safety, Health and Environmental Agreement.

seminar which formed part of the SA Labour Bulletin/FES Collective Bargaining Seminar Series. He and Shirley Miller (who was CEPPWAWU’s national co-ordinator for health and safety) also gave of their time to be interviewed on the agreement.

Why the agreement?

After health and safety disasters in 1993 and 1995, the union took a demand from members at Sasol Coal to regulate health and safety through agreed procedures. The new Mine Health and Safety Act of 1996 also placed a legal obligation on parties to set up structures with representatives to deal with health and safety. Tsolo explains: ‘Our members were exposed to dangerous working conditions. We wanted to promote negotiations on health and safety to ensure that management complied with the new legislation and improved our members’ working lives in terms of health and safety. We also wanted to empower our members’

The unions submitted a draft agreement and embarked on the long negotiation process in March 1996. The agreement was

eventually signed in March of 1999. According to Miller, this long period can be explained by the fact that: 'management changed negotiation teams. This delayed the process because the new people didn't know what had gone on before.'

Although the negotiations took a long time, Miller thinks that there were clear benefits: 'The negotiations were long and difficult. However, we developed our relationship and ensured that we all have the same understanding of the agreement. It was worth spending all the time we did on negotiations because we now have a quality agreement that both parties can support.'

Principles

General principles in the agreement include.

- Every worker has a right to know the nature of hazards to which he or she is exposed and the preventative measures put in place by management to eliminate them
- All health, safety and environmental issues, codes of practice and policies operative in the company are negotiable between the union and the company.
- All health and safety hazards will be addressed according to a hierarchy of controls:
 - elimination,
 - substitution;
 - engineering controls (including ventilation),
 - personal protective equipment and administrative controls will be used as a last resort.
- The company undertakes to continually search for ways to improve the working environment and to control and minimise the effect of production on the environment. Where applicable, internationally recognised standards

will not be seen as the goal but as the minimum acceptable standards

- No worker will be victimised in any way for identifying unsafe and unhealthy conditions
- It is the right of each employee to work under safe, healthy and sound conditions. This includes basic human needs such as provision of clean water, toilets and appropriate waiting facilities
- All CEPPWAWU shopstewards are also entitled to represent workers and negotiate occupational safety and environmental procedures. This will be done in terms of the existing procedures for the operation on shopstewards

Many of the above principles are path breaking for the union - especially those that establish the union as a prime partner in health and safety. This is supported by other clauses in the agreement. For example, the agreement provides for a monthly meeting where the union will meet with the company to deal with health, safety and environmental issues. It also maintains the principle of proportional representivity for any working groups that may be set up 'Any working group formed to jointly investigate any health, safety and environment topic will be constituted according to the principle of proportionality with regard to other unions'

Advantages

Tsolo's presentation outlined a number of advantages the agreement holds for the union. These include:

- shopstewards have access to information;
- shopstewards have the right to inspect;
- shopstewards have the right to withdraw workers from an area they

- regard as unsafe;
- the union has the right to use its own experts and the costs will be borne by the company where it consents to do so;
- the company will keep training records for health, safety and the environment;
- workers have the right to choose personal protective equipment;
- the union has the right to call an inspector to inspect the workplace;
- shopstewards get time off for health and safety issues and training;
- the company must ensure that the mines and operations operate according to intended design and production capacity.

Scope

In many situations, contract and casual workers feel that they are not protected by a union or existing agreements. The CEPPWAWU/Sasol Coal agreement makes explicit provision for covering all workers working at Sasol Coal: 'This agreement

shall cover all workers employed at the various mines and works where the CEPPWAWU is the representative union. This includes all temporary workers, casual workers and permanent workers...' Tsolo stresses that even those who do not work for Sasol Coal, but are on the company premises, for example delivering goods, will be protected by the agreement.

Structural arrangements

The Mine Health and Safety Act of 1996 provides a legal obligation on parties to agree on how to set up a structure with representatives to deal with health and safety issues.

The CEPPWAWU/Sasol Coal agreement sets up a three-level structure - all safety representatives form the first level; safety representatives are elected from the first level to meet with a higher level of management on the second level. The highest health and safety structure is the third level where the managing director (MD) and executive sit with

Committee system

	1st level	2nd level	3rd level
Management level	shaft manager plant manager divisional manager	operational manager mine management	managing director
Attendance	<ul style="list-style-type: none"> • all health and safety reps elected from the designated working places • 2 mine overseers/chief foremen • 4/5 shift supervisors/foremen • human resources/ventilation • health and safety/training manager of the area • full-time health and safety stewards 	<ul style="list-style-type: none"> • 12 health and safety reps nominated from the 1st level • full-time health and safety steward • shaft/divisional managers • chairperson from the 1st level • human resources • safety and health • training/ventilation • operations manager 	<ul style="list-style-type: none"> • 8 health and safety representative from the 2nd level • full-time health and safety stewards • executive workgroup members • managing director • chairpersons from the second level meetings
Frequency of meetings	monthly	bi-monthly	bi-monthly

representatives from the second level.

The agreement also provides for full-time health and safety stewards elected from the shopstewards. The union had argued strongly for this saying that a shopsteward would have the skills and knowledge to deal with management on health and safety issues. The company commits itself to providing the necessary facilities for the full time health and safety stewards to perform their duties.

For Miller, the agreement helps ensure more robust structures for the union than are provided for in the Health and Safety Act. 'It shows how unions can play a positive role in health and safety'

Prevention and safety procedures

The union concentrated on prevention and safety procedures. As such the agreement states that the company will ensure that the mines and operations are operated according to intended design and production capacity.

The parties will address the promotion, provision and maintenance of health and safety through:

- identification of hazards;
- control of hazards which includes training as a control measure;
- monitoring the effectiveness of control measures.

Parties accepted that the wearing of personal protective equipment is the last resort and that the health and safety committee must be consulted on the choice of personal protective clothing. It would take the experience/opinion of workers into account when choosing personal protective equipment.

Other clauses on prevention and safety procedures include:

- The mechanisms to perform such identification of hazards, the setting up of control measures and the evaluation

of the results will be the subject of ongoing negotiations between the parties. The nature and frequency of risk assessments and audits will also be subject to negotiation between the parties.

- No new chemicals or physical agents or new installations or processes or modifications thereof, that may be harmful to occupational and environmental health and safety, shall be introduced until all the available data, concerning its impact on health and safety has been evaluated and its use endorsed by a joint meeting of the company and union.
- The collection, maintenance and interpretation of statistics will be the subject of negotiation between the parties.
- No exemption of safety and health matters will be applied for without the consent and support of the union.

Link to working conditions

CEPPWAWU wanted to link health, safety and the environment to working conditions and restructuring. Tsolo gives the motivations the union gave to management in order to win these clauses and contain managerial prerogative: 'We were trying to avoid management imposing new technological decisions on workers. We said that technology will have an impact on health and safety so we need to do proper research first. We have to work to make sure that new technology will not result in a decline in health and safety standards.'

The union's proposal was accepted by management and the agreement now states that 'no permanent worker, contract worker, temporary worker, casual worker or permanent employee temporarily transferred, shall be allowed to commence work unless they have completed the

necessary health, safety and environmental induction training, and/or the specialised training applicable to a particular job'.

It also states that 'The introduction of any new processes, production methods, plant or equipment, substances, modifications, or work re-organisation shall be accompanied by appropriate formal training.'

Recipe for success?

Tsolo attributes the success of the negotiations and the agreement to three primary factors

- the mature nature of the relationship between the parties,
- strong support from membership throughout the negotiations (as Tsolo says 'they gave us power');
- an excellent team of negotiators

Tsolo also gives management credit: 'The MD was willing to see that we were trying to reach agreement and gave negotiators support. He could see that there was a serious problem and wanted to solve issues. He also wanted to be sure that there would not be misconceptions around the agreement.'

Key lessons

Tsolo is able to draw a number of key lessons that he thinks other unionists may benefit from:

- be assertive - have a strong argument and argue it strongly;
- be positive - focus on the positive not the negative in order to make progress;
- where there is a problem, break up into smaller groups to deal with it. Explore options and bring the recommendations back to plenary;
- make sure that you do proper research that can back you up in looking for solutions;
- exchange information.

Challenges

While the union has made substantial gains with this agreement, Tsolo still thinks there are challenges ahead, one being ensuring that the union remains central in the process of taking up health, safety and environmental issues: 'We need to work to make sure that shopstewards are elected as health and safety representatives. They have the necessary capacity and skills to challenge issues. However, we also need to find ways to ensure that they are not overburdened'

Miller also stresses the need to build capacity around the agreement, although she stresses that the commitment from senior levels of management must be carried down to lower levels of management. 'While the union must train its members on the agreement, Sasol must also train its management to ensure that all levels of management are able to implement the agreement in good faith.'

Tsolo also wants to extend what he regards as limitations on shopstewards' rights in the agreement. For example:

- while shopstewards can inspect, they need the consent of management to do so,
- while shopstewards have the right to withdraw workers from dangerous work, they need to consult health and safety representatives;
- while the union has access to members, it has to have the consent of management.

It is issues such as the above that the union will be challenging in the future. Miller stresses that like any agreement, this one is not perfect. However, the parties have built in a review clause: 'We must ensure that we evaluate the agreement and its implementation on a regular basis. It is a living agreement and we have made provision to alter it where we find improvements can be made.' ★