

IT

14 May 2008  
Right Honourable Lord Gill  
Chairman ICL Inquiry

Inquiry Secretariat  
The ICL Inquiry  
3rd Floor  
Lothian Chambers  
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Dear Lord Gill

### **The ICL Inquiry**

The Scottish Trades Union Congress has supported the families of those who lost their lives in the tragedy of May 11, 2004; the circumstances of which are now subject to the Public Inquiry that you will chair.

Additionally, in the immediate aftermath of the incident we assisted a number of injured workers to access services allowing some to move to alternative employment. During this dialogue we developed an understanding of working conditions and industrial relations practices in this workplace that, not only raised concerns for the STUC, but also for many of the families of those who died.

Of major concern was the attitude of management towards consultation with workers on health and safety matters and an apparent reluctance to address specific issues raised by individual workers.

The companies concerned have no history of trade union organisation and anecdotal evidence from a number of workers suggests management hostility towards any collective representation.

Despite this the company had a duty to consult with employees under the Health and Safety Consultation with Employees Regulations 1996 and, as far as we are aware from our discussions there is no evidence to suggest that formal consultation procedures were in place. These regulations, introduced to provide more limited protection to workers in non unionised workplaces, are not as effective as the Safety Representatives and Safety Committees Regulations 1977 and, with no independent third party involved, remain largely ignored, particularly in smaller workplaces.

It is also the case that both sets of regulations are not enforced by the regulator, the Health and Safety Executive. A search for prosecutions under each set of regulations shows that not one prosecution has occurred as a result of failure by employers to adhere to these regulations. The HSE take

the view that such breaches are industrial issues and, as such, the remedy comes through accessing the Tribunals Service. While trade unions may have the resources to support such cases workers in small workplaces, such as ICL Tech may not have the financial resource, knowledge and confidence to do so in isolation. It is the view of the STUC that all health and safety regulations should be enforced by the regulator with breaches prosecuted as necessary.

HSE research shows that workplaces where trade unions appoint health and safety representatives are safer and healthier than others. Where such schemes exist workers are far less likely to be injured or made ill by their work than in non unionised workplaces. This is a testimony to the training provided to health and safety representatives, who increasingly have professional health and safety qualifications recognised by the Institute of Occupational Health at practitioner level.

However, the regulations are now over 30 years old and many feel should be extended to allow trade union safety representatives to use this expertise to protect members and other workers in non-unionised workplaces.

The STUC would like the Inquiry to investigate the following;

1. Extension of the rights of trade union appointed health and safety representatives including the provision to inspect workplaces and employers where trade unions are not recognised.
2. Opportunities for these new Roving Safety Representatives to issue "Provisional Improvement Notices" forcing employers to take action to stop dangerous work practices or address health and safety failures
3. Examination of best practices in the United Kingdom and Europe, particularly in Sweden, where trade unions appoint Regional Safety Representatives with responsibility for all workplaces within a designated geographical area, including those where no recognition exists.
4. Given that around 70% of private sector workers in Scotland are disenfranchised from trade union protection, as was the case in ICL, reviewing and extending the rights of representatives to inspect third party workplaces would reduce the possibility of such a tragedy occurring again.

We hope this is of use to the Inquiry and would be happy to provide more information on the above or provide oral evidence if required.

Yours sincerely

Ian Tasker  
Assistant Secretary