

# Asbestos ban: Brazilian government fudges the issue

**B**razil is the world's fourth asbestos producer, and the biggest asbestos producer and user in Latin America. Asbestos production started in the 1930s but took off under the military dictatorship. It soared from around 1 000 tonnes in 1965 to 169 000 tonnes in 1980, levelling-off at around 200 000 tonnes in the 1990s.

The Lula government's announcement in March 2004 of an imminent asbestos ban in Brazil had the opposite effect to that intended. A year later, SAMA, the operator of the Minaçu asbestos mine in Goiás State put out a triumphant press release announcing an all-time production high. With a total 255 104 tonnes of output over the twelve months to March 2005, it had achieved its highest level since the record books began. While the consensus among economic analysts was that asbestos production in Brazil was in its death throes, current production levels are well above what they were under the military dictatorship and the predecessor governments to the Lula coalition. What lies behind this spectacular turnaround?

## A powerful social movement to outlaw asbestos

A wide range of Brazilian organisations had demanded the banning of asbestos, ranging from trade unions through environmental and public health defence organizations to asbestos victim support groups. Production of asbestos and asbestos-containing manufactured goods is a two-tier system: a small handful of companies dominate the sector (in practise, now just Eternit), with a swarm of small and very small companies handling the least profitable and most dangerous work. Historically, the dominant industry presences came from Europe, with the Brussels-based Eternit and Saint-Gobain companies controlling much of the sector, from mining to primary processing, mainly in the form of asbestos-cement. During the production boom under the military dictatorship, it was nigh-impossible to speak out publicly against the damage asbestos was doing to workers' health<sup>1</sup>. Practically, the only exception was Paulo Nogueira Neto, who trailblazed environmental defence in Brazil and

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<sup>1</sup> Recent articles in the *O Globo* daily newspaper illustrate how European and US multinationals colluded with the military dictatorships in Brazil and Argentina to crack down on trade unionists and political opponents (José Casado, *Empresas ajudaram militares na repressão a sindicalistas*, *O Globo*, 15 May 2005; and *As empresas e a ditadura argentina*, *O Globo*, 16 May 2005).

was the first Secretary of State for the Environment from 1974 to 1986. He first called attention to the dangers of asbestos in 1975, but his warnings were countered by a disinformation campaign run by the employers' organisations. Prior to 1983, there are almost no reported medical studies on asbestos-related diseases: the literature reports fewer than twenty cases, even though asbestos has been used since the early 1930s. In 1983, an occupational health doctor reported 14 cases of asbestosis in a single company. The following years saw a disturbing rise in the number of reported cases.

Asbestos was gradually to become a focus of labour dispute and debate. In 1987, an inter-agency group on asbestos was set up in São Paulo State. Trade unions were to play an important role in it and, with help from labour inspectors, lifted the lid on poor working conditions and widespread health damage in asbestos-using firms<sup>2</sup>. Labour Party (PT) MPs in Rio de Janeiro State have been calling for an asbestos ban since 1993. Brazil's main central labour federation, the Unitary Labour Confederation (CUT), came out in favour of an asbestos ban in 1994. In the same year, motor manufacturing industry trade unions won a tripartite agreement to have asbestos replaced by less dangerous fibres, but the agreement was blocked by a government refusal to ratify it in 1996. In December 1999, the CUT set up a national campaign around the slogan "Asbestos kills. In time". Brazil's other union federations have also lined up behind an asbestos ban.

In 1995, ABREA, the Brazilian Association of People Exposed to Asbestos, was set up in Osasco, a city in the São Paulo industrial belt. The association's membership includes many current and former Eternit workers, and is expanding rapidly in other parts of Brazil. There is also political opposition to asbestos, and bans were declared by municipalities and States in the late 1990s in face of the Cardoso government's failure to act. Most of the prohibitions were prompted by the Labour Party. At state level, the lead was taken by Mato Grosso do Sul State, which outlawed asbestos in January 2001, followed in May and June 2001 by three of the country's most populous States - São Paulo, Rio de Janeiro and Rio Grande do Sul. Pernambuco State brought in banning legislation in May 2004, followed most recently by Mato Grosso State in April 2005, initiated by a female Labour Party MP<sup>3</sup>. Nearly twenty municipalities have also decided to outlaw asbestos use in new building construction, Brazil's biggest metro area, São Paulo, among them in February 2001.

The industry reaction was swift. Most State laws and municipal ordinances were appealed to the federal

supreme court, where they were struck down on the grounds of allocation of legislative authority between the federal State and subnational tiers of government. The supreme court's decision is not on the legitimacy of an asbestos ban per se, but the fact that the decision is for the federal authorities to take.

The situation in early 2002 appeared to be stalemated. State asbestos bans looked like dead letters, and the federal government under Fernando Henrique Cardoso was shying away from any initiative. Some government ministries (Health and Environment) favoured an asbestos ban, while the main government coalition party (the PSDB) was largely swayed by asbestos lobby spin. President Cardoso has taken no official line, but his fence-sitting favours the status quo. Brazil's decision to join with Canada in the 1998 WTO proceedings to challenge France's asbestos ban leaves little doubt about where the government's real sympathies lie<sup>4</sup>.

### Lula's election: all change or more of the same?

Many thought that the election of Luiz Inácio da Silva (Lula) as President of the Republic in October 2002 would lead to an early asbestos ban. The new government, formed in January 2003, included many ministers from the Labour Party, including in the four key ministries for this issue - Labour, Environment, Mines and Health - as well as leaders from the main central labour federation, the CUT. Considerable time was lost during 2003, but there is no evidence to suggest a change of line. At the international conference on asbestos held in Dresden in September 2003, the Brazilian government representative announced, "We are taking work forwards which will lead to an asbestos ban". He had approved the Conference final declaration, recommending a worldwide asbestos ban. It would appear that in "taking work forwards", the objective became somewhat lost to sight. Instead of preparing a responsible and fair transition by coming up with solutions in terms of jobs for asbestos mine-workers, the government sent out a host of conflicting signals.

In March 2004, the government announced a ban on asbestos. Labour Ministry official Ruth Vilela clearly described it as government decision<sup>5</sup>. In June 2004, an interdepartmental committee was set up of representatives from all seven ministries concerned plus the Presidency Civil Office. It was due to give its conclusions on an asbestos ban by the end of 2004.

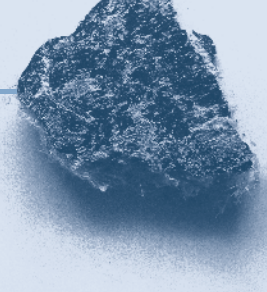
Out of the blue, the Mines and Energy Ministry decided on 16 July 2004 to set up another committee

<sup>2</sup> Giannasi, F., A atuação Interinstitucional no controle da Exposição ao Asbesto: A Experiência de São Paulo, *Revista Brasileira de Saúde Ocupacional*, vol. 16, nº 63, São Paulo, 1988, p. 73-75; and Giannasi, F., As Condições de Utilização do Asbesto nas Indústrias de Fibrocimento do Estado de São Paulo, *op.cit.*, p. 41-50.

<sup>3</sup> Assembléia proíbe amianto em MT, *Diário de Cuiabá*, 15 April 2005.

<sup>4</sup> See: Asbestos disputes in the WTO: battle won - but not the war, *TUTB Newsletter*, No. 17, June 2001, p. 20-28.

<sup>5</sup> Fernandes, F., Rolli, C., Governo vai banir uso de amianto no país, *Folha de São Paulo*, 28 March 2004.



to promote the so-called “controlled use” of asbestos. Various organisations, including the National Occupational Health Association, slammed the move as a ploy to slow down the banning of asbestos. The Minister in charge was Dilma Vana Rousseff, the leader of the Labour Party. On 16 August 2004, the National Environment Board moved in the opposite direction to put asbestos on the hazardous waste list<sup>6</sup>. In September 2004, a further deeply negative signal was sent out when the Brazilian government failed to support the inclusion of chrysotile in the list of hazardous chemicals that are subject to the Rotterdam Convention’s prior information and consent procedure before being exported<sup>7</sup>. The interdepartmental committee eventually produced a thousand-plus page report in April 2005, evidencing the split between the two views within the government. Labour Minister Ricardo Berzoini (Labour Party) worked for a consensus view right to the end, but was foiled by an alliance of the Minister for Mines (a Labour Party colleague!), and the pro-employer and sometime head of the country’s biggest meat producer, Development, Industry and Foreign Trade Minister Luiz Fernando Furlan. This left the President of the Republic with the final say. The “Civil Office”, the President’s staff of close officials responsible for coordinating action across government departments, has so far hung fire on the matter. This can only favour the status quo, and has been hailed as a victory by the asbestos industry. With good reason...

### Money talks

Pressure from asbestos multinationals, mainly the Eternit group<sup>8</sup>, and the industry lobby explain much of the Brazilian government’s issue-dodging. With help from the Chrysotile Institute (a Canadian organisation funded by the asbestos industry and Canadian government), the asbestos lobby mounted a wide-ranging propaganda campaign of playing down, not to say denying outright, the dangers of asbestos. Also, as per usual when workers’ health protection is on the agenda, the employers lobby ran a scare campaign on job losses. Giant hoardings and countless press adverts spun the message that asbestos provided 200 000 jobs in Brazil. What the campaign glossed over was that were asbestos to be banned, the processing industries would easily be able to continue their production with substitute products. As in Quebec, an upsurge of nationalist rhetoric claimed that attacks on asbestos were a disguised attempt to undermine Brazil’s national economic development.

The arguments may have been fairly lightweight, but other more persuasive means were also deployed.

Through SAMA, the company that runs the Minaçu mine, the Eternit group had “invested” heavily in the Brazilian political world and managed to build up a pro-asbestos lobby within Parliament based mainly on MPs from Goiás State, where the mine is situated. The weekly magazine *Epoca* published a report on 7 April 2005 showing how SAMA had funded the recent election campaigns of various Goiás State MPs. It is not partisan about the political influence it buys. While former President Fernando Henrique Cardoso’s centrist party, the PSDB, came off best with 350 000 *reais* for two candidates<sup>9</sup>, the old-school right was not left out (the PFL got just under 200 000 *reais*). Nor did the Labour Party turn down the interested support of the multinational (its candidate received 70 000 *reais*). The Brazilian press was quick to point out the contrast between the financial treatment meted out to Eternit workers suffering from mesothelioma, and the company’s open-handedness to political parties. After 22 years’ working in Eternit’s Osasco factory, where he contracted mesothelioma, Nelson de Oliveira received a payout of just under 25 000 *reais*. When the money came into his account, he had already been dead for two days. Approximately a third of his compensation went to pay for his funeral and headstone.

But the asbestos industries also engaged in systematic harassment of those who speak out against them. Eternit has brought repeated lawsuits against a São Paulo labour inspector, Fernanda Giannasi. While they have all been thrown out, their clear purpose was to browbeat labour inspectorate staff. Fernanda Giannasi’s bosses also piled on pressure to pull her off asbestos-using plant inspections<sup>10</sup>. The general political context in Brazil is not currently conducive to an independent and effective labour inspectorate<sup>11</sup>. Their budgets have been slashed, and employers have mounted an assault on the more enterprising inspectors. The murder of three labour inspectors and their driver on 28 January 2004 shows the level of violence that some employers’ circles are ready to use against a labour inspectorate that they see as standing in the way of free enterprise (see box p. 21).

### “Government falters while society moves on”

Government inertia contrasts with the robust movement in Brazilian society to get asbestos banned. Significantly, the mass circulation *Epoca* weekly magazine published an article on 29 April 2005 titled *Government falters, society moves on*, reporting on the Asbestos Tribunal, a gathering of academics, asbestos victims, trade unionists and political personalities in São Paulo in April 2005. A pro-asbestos

<sup>6</sup> CONAMA Resolution No. 349, *Diário Oficial da União*, 17 August 2004.

<sup>7</sup> See: Chrysotile: Canada undermines Rotterdam Convention, *TUTB Newsletter*, No. 26, December 2004, p. 35. Brazil sided with the Bush administration and abstained.

<sup>8</sup> Eternit’s asbestos-cement production-related activities in Brazil generate turnover of some 430 million *reais* a year. Total industry turnover is around 2 billion *reais*. Direct employment in asbestos-cement companies amounts to approximately 5 000 workers. Indirect employment is estimated at about 200 000 workers. (Fernandes, F., *Governo adia decisão de banir amianto do país*, *Folha de São Paulo*, 20 February 2005).

<sup>9</sup> A *real* is worth approximately 0.33 euros.

<sup>10</sup> See: Kazan-Allen, L., Open Season on Brazil’s Labor Inspectors, *International Journal of Occupational and Environmental Health*, Vol. 10, No. 2, 2004, p. 240-241.

<sup>11</sup> The special teams of child labour inspectors were dissolved in November 2004, for example.

press campaign was stopped by the national advertising standards authority as encouraging consumption of a substance known to damage health<sup>12</sup>. All the Brazilian Chrysotile Institute's attempts to challenge the decision were thrown out.

The number of lawsuits against companies that exposed their workers to asbestos are also increasing, and the amounts awarded in damages are acting as a deterrent to some Brazilian employers. A large number of asbestos-using firms are planning to switch over to less harmful substitutes. Most spectacularly, Saint Gobain's Brazilian subsidiary, Brasilit, has gone over entirely to asbestos-free production, investing 100 million *reais* in a factory that manufactures the asbestos substitute, polypropylene, at Jacareí in São Paulo State. The company employs 850 workers and has an annual turnover of some 200 million *reais*<sup>13</sup>, or just under half of Eternit's turnover for asbestos-cement production.

Brazilian researchers have developed new processes, in particular for using plant fibres in the production of building materials. In public, Eternit looks set to defend asbestos to the death, but behind the scenes it is not ruling out reconversion. While the general press is filled with its proclamations of steadfast loyalty to asbestos, the specialised economic press reports that Eternit is considering cutting loose from its Minaçu mining subsidiary, SAMA<sup>14</sup>, and is preparing to diversify its production<sup>15</sup>. What this adds up to is the conditions for a rapid pull-out from asbestos. The government's indecision is creating widespread uncertainty and obstructing an appropriate switch-over that respects asbestos workers' interests, and paves the way for viable, job-creating alternatives.

Some MPs are trying to spur the government to action. Two Green Party MPs, Eduardo Jorge<sup>16</sup> and Fernando Gabeira, have revived a bill to outlaw asbestos first tabled in 1996. It is supported both majority and opposition MPs alike. It is too soon to tell whether it will come onto the statute books. The asbestos lobby has a powerful influence in the Brazilian Parliament. On 17 March 2005, the Speaker of the House, Severino Cavalcanti<sup>17</sup>, gave his public backing to the Goiás State pro-asbestos group of MPs. Whatever else its merits, the parliamentary

debate will compel the country's political leaders to show their hands and force the government to finally take a public stance on the matter.

### Exporting the risks to poorer countries

Brazil is currently the fourth world asbestos producer after Russia, China and Canada<sup>18</sup>. Over half Brazil's asbestos production is exported to other countries. Its main markets for this killer fibre are Thailand (28% of export sales), India (21%), Mexico (12%), Indonesia (9%) and Colombia (7%). Working conditions in these countries leave no room for illusion about what good the "controlled use" of asbestos will do. Brazil's policy on asbestos is in some ways akin to Canada's. Asbestos use on the Brazilian home market has fallen sharply in recent years (almost 50% in the six years between 1997 and 2003), while exports have soared, more than doubling in the same period. In 1997, 30% of Brazil's asbestos output was sold abroad. In 2003, that had risen to 60%, while asbestos imports were about a third of what they had been in 1997. While asbestos fibre exports have increased significantly, exports of asbestos-containing manufactured goods have levelled off at 59 million tonnes in 2003 against 60 million tonnes in 1997. In other words, the Brazilian government is pursuing a policy of an international division of labour where the most dangerous activities are transferred to poorer countries. The Brazilian government also refuses to carry out prior information and consent procedures with the public authorities of the countries concerned by asbestos exports, showing how little credence it places in the possibility of controlled asbestos use. For the Lula government to keep up its asbestos production and world exports would be to sacrifice thousands of workers' lives to asbestos industry profits.

But there is another way. Former asbestos producer and exporter South Africa is moving towards a total ban. From being the sixth-largest world asbestos producer in 1997 (with 60 000 tonnes), it cut output to under a quarter in five years to be wound down altogether. This shows that there is no iron law about "once an asbestos producer, always an asbestos producer". ■

	1997	1999	2001	2003
Production	208 447	188 386	172 695	231 117
Imports	38 941	24 049	33 136	11 856
Exports	63 164	49 418	53 919	144 343
Apparent domestic consumption	184 224	147 716	151 912	98 630

Source: Ministério de Minas e Energia, Departamento Nacional de Produção Mineral

12 Decision 251-04 of the national advertising standards authority prohibiting the campaign run under the slogan "Asbestos – chrysotile. Respecting life – growing Brazil".

13 Brum, E., Cançado, P., Barrocal, A., Vida e morte pelo amianto, *Epoca*, 7 April 2005, p. 10-13.

14 Mandl, C., Eternit estuda separa mineração de amianto, *Valor Online*, 3 September 2004.

15 Mandl, C., Frisch, F., Eternit planeja diversificar productos, *Valor Online*, 1 December 2004.

16 Eduardo Jorge is a former Labour Party MP who went over to the Green Party after a rift with the Labour Party leadership.

17 Cavalcanti is a leader of the Progressive Party (PP), a right-wing party.

18 Brazil, Canada and Kazakhstan's outputs are fairly close. Brazil's place varies between fourth and fifth world producer, according to the year, with around 10% of the mineral market.



### Contract killers go after labour inspectors

On 28 January 2004, three labour inspectors and their driver were mown down by hired killers on the Unaí-Buritiz road in Minas Gerais State. They were on their way to inspect the working conditions of seasonal bean harvest workers on the region's big farming estates. But they were also actively working against the forced labour and forms of slavery still found in rural Brazil. The slaying was a professional hit.

In July 2004, the federal police arrested the murderers, who admitted to carrying out the contract killing. The man who ordered it, businessman Hugo Pimenta, seemed to have no personal grudge against the murdered inspectors. But the police investigations revealed close links between his road haulage business and large agricultural interests.

In August and September 2004, the police rounded up a number of businessmen. The main suspects behind the organization of the slaying are two brothers: Norberto Mânica, one of Brazil's biggest employers in the bean-growing sector, and Antério Mânica, who is also a local political luminary<sup>a</sup>. In October 2004, despite being held on remand, Antério Mânica managed to get himself elected mayor of Unaí on a PSDB list<sup>b</sup>. According to Pastoral Land Commission Chairman Tomás Balduino, the list also had the backing of José Alencar<sup>c</sup>, federal Vice-President and Defence Minister in the Lula government<sup>d</sup>. The examining magistrate's investigations revealed that nearly a dozen businessmen and landowners had contributed to help pay for the killing.

The main agricultural employers' organization in Minas Gerais State is also keeping up its vindictive campaign against the labour inspectorate. In a letter sent to Vice-President José Alencar after the inspectors' murder, the organization complains of "inspection terrorism", and against all the evidence denies the existence of farm slavery in the State<sup>e</sup>.

It is no surprise, then, that organizations fighting to ban asbestos in Brazil should take very seriously the many attempts at intimidation and death threats against labour inspector Fernanda Giannasi, who has championed the cause of workers exposed to asbestos.

<sup>a</sup> Dantas, I., PF indíca Mânica por assassinatos em Unaí, *Folha de São Paulo*, 6 August 2004.

<sup>b</sup> Suspeito por morte de fiscais do trabalho se elege em Unaí (MG), *Folha Online*, 4 October 2004.

<sup>c</sup> The Liberal Party's José Alencar owns Brazil's biggest textile group, and has very close links with employers' circles in his home State of Minas Gerais.

<sup>d</sup> José Alencar é conivente com o trabalho escravo, diz dom Tomás, *Folha de São Paulo*, 20 April 2005.

<sup>e</sup> Memorandum of the Farming Federation of Minas Gerais State, 9 July 2004.