

## **'A licence to kill': The dirty legacy of asbestos**

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'A licence to kill': The dirty legacy of asbestos

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By Nico Krols and Marleen Teugels

THE European Union finally outlawed the use of asbestos in January 2005, decades after the European Commission (EC) first recognised its link with cancer in 1962. The delay can be attributed entirely to lobbying from major asbestos cement (1) companies, including the Belgian and Swiss Eternit groups (2), and to governmental inertia (3). Several European countries are currently taking legal action against company directors who gave their workers little or no information about the risks of exposure. In recent court cases leading industrialists continued to claim that they were unaware of the dangers (4).

On 4 September 2006 a court in Lille fined Alstom Power Boilers ?75,000 (\$96,000) for exposing its workers to asbestos risks between 1998 and 2001, and the company was ordered to pay each of its 150 employees ?10,000 (\$12,800) compensation. These were the maximum penalties that could be imposed on a company for "endangering the lives of others". A former director of the company received a suspended nine-month prison sentence and a ?3,000 (\$3,850) fine. Eight senior directors of Eternit are appealing against suspended prison sentences imposed on them last year in Sicily. Senior Belgian and Swiss executives from Eternit are currently the subject of a major investigation in Turin.

Asbestos seemed to be a miracle mineral, durable and cheap: it is still mined in Canada, Russia and South Africa. Industry turned it into thousands of products, including corrugated sheeting, textiles, brake linings and insulation. However, medical researchers soon recognised its danger. As long ago as 1906 a French factory inspector, Denis Auribault, blamed "pneumoconiosis, consumption and sclerosis of the lungs" for the deaths of some 50 workers in an asbestos spinning and weaving factory near Condé-sur-Noireau in Normandy. He suggested that dust extraction systems would improve the situation. It took the European asbestos industry another 70 years to adopt general preventive measures, and even then these precautions were inadequate, since, although asbestos is recognised as a carcinogen, no one has any idea of the level at which it becomes

dangerous.

#### The 1970s peak

Asbestos processing reached its peak in the 1970s as the industry continued to market a substance that it knew to be toxic. In 1962 the EC had issued recommendations and a list of occupational diseases (5) that included lung cancer as well as asbestosis. A report by experts gave a detailed breakdown of the risks of direct and indirect exposure and described the main sources of danger, including "the manufacture and processing of asbestos cement products (for example, Eternit), acoustic and thermal insulation, and the treatment of asbestos waste".

In 1966 the EC recommended that the report should be distributed as widely as possible to employers' and workers' organisations, company doctors and universities, as well as government departments and private institutions. "Through a better knowledge of the risks," it said, "the Commission hopes to contribute indirectly but significantly to the prevention of occupational diseases and to facilitate the work of doctors" (6).

Sweden and Denmark were the first countries to introduce partial bans on asbestos production during the 1970s and 1980s. But the delay of a complete EU ban until 2005 caused catastrophe: asbestos workers, their families and people living near factories are still dying today. Asbestosis and cancers of the lung and pleura (mesothelioma) are expected to kill 500,000 people by 2030 (7).

The asbestos industry owes its survival to a sophisticated marketing and lobbying strategy. According to Bob Ruers, a Dutch lawyer who specialises in asbestos, between 1929 and 1930, at a time when the pathogenic effects of asbestos were already well known, the industry established a global cartel, the Sociétés Associées d'Industries Amiante-Ciment (SAIAC). As the 1929 annual report of the British manufacturer Turner and Newall revealed, the SAIAC divided the world market into a "miniature League of Nations".

#### Fighting off the scientific challenge

Meanwhile its members participated in International Labour Organisation discussions on the link between asbestos and asbestosis. According to Ruers: "The future was decided. Since then, the asbestos industry has stubbornly resisted the increasing number of attacks on it and has defended its interests tooth and claw" (8).

The industry has attempted to undermine scientific research. In 1965 its employers' federation dismissed the famous French lung specialist, Jude Turiaf, after he proposed a thorough investigation into a case of pleural cancer. That was not an isolated incident.

In the early 1960s another lung specialist, Irving Selikoff, found irrefutable proof that asbestos was responsible for cancer of the lungs and pleura. Since the 1964 New York Academy of Sciences international conference on asbestos, there has been a scientific consensus. Selikoff, who co-chaired the conference,

gave talks in an attempt to alert the industry; these were published widely and were cited in many scientific journals. Internal documents show that the industry regarded him as "dangerous" (9). After the 1964 conference, the US multinational Owens Corning circulated an internal note: "Our present concern is to find some way of preventing Dr Selikoff from creating problems and affecting sales" (10).

During the first international conference of Asbestos Information Bodies, in London in November 1971, the industry discussed a shared strategy (11). The president, MF Howe of the Asbestos Information Committee, advised colleagues that the easiest way to prevent drastic legislation and influence regulations was to collaborate in the development of the stricter legislation that had been envisaged. Foreseeing that attacks on asbestos would increase, he proposed a strategy of lobbying and public relations.

### Bringing in the PR merchants

The communication strategies used by the asbestos industry during this period were like those that had been used by cigarette manufacturers. The industry also used the public relations consultancy, Hill and Knowlton, which had worked for the tobacco lobby. "The asbestos manufacturers implemented every-thing agreed at the conference," explained Jean-Paul Teissonnière, a lawyer representing French victims. "As a result, when new regulations were introduced in France in 1977 they were less strict than those introduced in Britain in 1966. The British victims' organisations described our legislation as a licence to kill."

Legal proceedings in recent years have revealed internal documents that give an insight into industry thinking. SAIAC members met regularly to decide a response to attacks by scientists, trade unions, the press and governments. Meetings organised at European level by Eternit's Belgian and Swiss officials were always on the theme of "asbestos and health". During a review of the situation in Paris in 1979, company representatives decided: "Substantial investment will be necessary at various European levels to maintain the asbestos lobby against workers, unions, clients and politicians. In the long term, it will be in the industry's interest to find substitute products, but it is essential that no company abandons asbestos" (12).

There was another review in 1981 to agree the position to adopt in relation to the then European Economic Community. Most of those present shared "the feeling that the industry will have to fight for asbestos in Europe. We must involve members of the European parliament in our business, especially those with asbestos factories in their constituencies. We must also take action to build the confidence of those who commission (architects, research departments and public services) or use asbestos-based products" (13).

### What good is a job if it kills you?

The belated European ban followed a campaign, fought differently but always with difficulty in every country. Italy's trade unions took up the struggle in the 1960s. The suspicions of Nicola

Pondrana of the Italian General Confederation of Labour (CGIL) were aroused when he was 24 years old and working in the Casale Monferrato asbestos cement factory near Milan. "Almost every day on my way to work I would pass funeral processions. The factory was already run down and working conditions were appalling. Two months after I started there, I joined the union. It was hard to convince workers back then - you were taking their bread and butter from them. But good sense won out. What good is a job if it kills you?"

The workers made 20 trips to Rome to demonstrate outside parliament and the ministries involved. There were prolonged strikes which aimed to get filters, masks and healthier working conditions. Asbestos was finally banned in 1992. As Bruno Pesce, the former secretary of the CGIL, complained: "The struggle dragged on for 25 years. We demanded decent compensation for victims from former Eternit officials, but it was hopeless. The main thing was that the unions, the workers and people living near the factories fought side by side."

The families of the Casale Monferrato victims now pin their hopes on Raffaele Guariniello, the public prosecutor in Turin, who has spent five years gathering evidence against the main executives at the former Eternit factory.

Sergio Bonetto, a lawyer who fought for the victims for years, said: "Louis de Cartier de Marchienne, of Belgium, and the Swiss executives Thomas and Stephan Schmidheiny, are accused of serious criminal offences. I hope we can reach a settlement without going to court; but if the prosecutor opposes any financial agreement, the trial will go ahead. I would prefer a settlement that offered the victims financial compensation. Imprisoning the senior executives doesn't really achieve anything."

Ruers has spent the last 15 years helping some 1,500 people in the Netherlands, including dozens of Eternit victims. A settlement has now been agreed. Ruers said: "It wasn't secured without a struggle. It wasn't easy to motivate workers, who resented what they saw as an attack on work in their factories. After a lot of pressure, in 1989 three widows of former workers seemed ready to sue Eternit. The company then offered reasonable compensation and the widows accepted it."

After that there was a flood of cases. Almost every time Eternit had to give in. According to Ruers: "By 1999 the company had lost so many cases that it surrendered and offered to settle with former workers, even when they hadn't started legal action. Eternit paid compensation of a little over ?48,000, plus an indemnity for real material damage amounting to as much as ?200,000 in exceptional cases. A few years later the company also offered a settlement to the families of former workers. Six months ago an agreement was reached with victims who didn't work for the company, provided they fulfilled certain conditions."

#### Family business

The shareholders of Eternit Belgium belong to the old nobility. By the beginning of the 20th century the Emsens were already a wealthy business family with connections to the Belgian court. Members of each of its several branches occupy, or have occupied,

positions at the top of Eternit companies. These include Baron Louis de Cartier de Marchienne; Jean-Marie, Stanislas and Claude Emsens; and Paul Janssen de Limpens. There was little transparency. Eternit (like the current Etex group) was never listed on the stock exchange. The structure was feudal: top management had far more direct contact with leading political officials than with ordinary workers.

In Belgium only employees are entitled to compensation from the occupational diseases fund (FMP); self-employed workers, members of employees' families and people living near factories are ineligible. But since a series of press articles, the government has decided that every year from 2007 it will allocate ?10m to a fund for asbestos victims. Parliament has yet to decide whether this will come entirely from the public purse, or whether the industry will have to contribute.

Amid all this emphasis on shared responsibility, the former asbestos companies in Belgium are unlikely to face huge compensation claims. The government, the industry and the unions have come to an agreement whereby employees who make a claim from the FMP cannot sue company executives unless they can prove deliberate negligence. At present there is only one civil case in progress.

The brothers Stephan and Thomas Schmidheiny control a significant part of the Swiss economy. Stephan was a major shareholder and board member of Swissair, Nestlé, Swatch, the banking group UBS and the multinational Asea Brown Boveri; Thomas runs the cement group Holcim. Stephan, a former director of Eternit Switzerland, denies any responsibility and claims to be a major force in sustainable economic development (14).

In October 2006 the current management of Eternit Switzerland set up a foundation to compensate Eternit asbestos victims whose cases had been proved and who were in financial difficulties; but its capital is limited to \$1m.

Legal proceedings and claims for compensation will not end the problem in Europe. Huge quantities of asbestos still remain in private dwellings, industrial sites and public buildings. The old asbestos industry rarely, if ever, meets the costs of decontamination, leaving individuals, companies and the authorities to deal with the waste. The catastrophe could have been prevented if the asbestos industry had observed the precautionary principle. Even now it is not certain that the industry and Europe have learned the lesson. As country after country banned asbestos, manufacturers either sold their equipment or granted licences in the developing world.

During a conference held at the European parliament in September 2005, Xavier Jonckheere, president of the Belgian association of asbestos victims (Abeva), said that asbestos "affects every country on the planet, like an octopus spreading its tentacles. We may have banned it here, but it is legal elsewhere, in countries where labour is not regulated, where there is virtually no protection and where the asbestos lobby remains powerful" (15). Canada, a model nation, continues to mine asbestos. There is no reason to suppose that it will stop until the deposits are exhausted.

Translated by Donald Hounam

\* Marleen Teugels and Nico Krols are journalists in Belgium and are supported by the Pascal Decroos foundation based in Flanders

(1) Ludwig Hatschek invented a process to combine asbestos fibres with cement at the beginning of the 20th century.

(2) Eternit is a patent; differently owned companies have taken the name.

(3) Belgium, Britain and France did not introduce complete bans until the 1990s.

(4) See Patrick Herman and Annie Thébaud-Mony, "The asbestos conspiracy", Le Monde diplomatique, English language edition, July 2000.

(5) "Recommandations de la Commission de la CEE", Journal officiel des Communautés européennes, dd 31.8., n° 80, 23 July 1962.

(6) Ibid, dd 9.8., n° 147, 20 July 1966.

(7) Hesa Newsletter n° 27, June 2005, Brussels, summarising the EC's first written submission to the special group of the World Trade Organisation, Geneva, 21 May 1999. The latency period for mesothelioma is often more than 30 years.

(8) See RF Ruers and Nico Schouten, The Tragedy of Asbestos, May 2006, <http://international.sp.nl/publications/tragedyofasbestos.pdf>. This is a translation of a document published in July 2005 by the Socialist Party of the Netherlands.

(9) Report of a 1971 meeting of the Asbestos Textile Institute, which discussed how to combat Dr Selikoff. See Barry Castleman, Asbestos: Medical and Legal Aspects, Aspen Publishers, New York, 2005.

(10) Owens Corning, internal note published in Castleman, op cit.

(11) Internal document, International Conference of Asbestos Information Bodies, London, 24-25 November 1971.

(12) "Rapport tour d'horizon", Paris, 29 October 1979.

(13) "Rapport tour d'horizon", Brussels, 24 February 1981.

(14) See <http://www.stephanschmidheiny.net>

(15) "Asbestos: the human cost of corporate greed", European United Left/Nordic Green Left, Brussels, 2006.