

1. ETERNIT AND THE SAIAC CARTEL

Bob Ruers¹

The Swiss multinational Eternit, managed by the Schmidheiny family, and the Belgian multinational Eternit, under the direction of the Emsens family, were closely intertwined and cooperated with each other for almost seventy years. In order to further and defend their asbestos interests, and primarily their asbestos-cement interests, they made use of a world-wide cartel, as well as market and price agreements.

Asbestos Cement

The most important use of asbestos has undoubtedly been in the production of asbestos cement using the method patented by its Austrian inventor Ludwig Hatschek in 1900.² Hatschek called his new material “Eternit” and trademarked the name. Because asbestos cement generally consists of from 10 to 20% asbestos with almost all the rest being cement, in addition to raw asbestos, a ready supply of cement is required in its production. In this regard, it is significant to note that the Swiss entrepreneur Ernst Schmidheiny had as early as 1910 established a cement cartel in Switzerland, and that in 1930 he succeeded, by means of the financial holding company Holderbank Financière, in bringing major cement interests in every corner of the globe under his control.

The first asbestos cement factories following the arrival of the Hatschek process were:

Niederurnen	Switzerland	1903
Poissy	France	1904
Ambler, Pa	USA	1905
Haren	Belgium	1905
Lomma	Sweden	1906
Casale Monferrato	Italy	1907
Baku, Lublin, Rostow	Russia	1908
Braila	Romania	1910

(source: D. Steiner, *Architektur Beispiele* Eternit, 1994, p. 25-26.)

The Belgian entrepreneur Alphons Emsens was, in 1905, one of the first to obtain a licence for the Hatschek process. Emsens was at the same time able to get his hands on a licence for the British market with a duration of 18 years, and established there the firm of G.R. Speaker.³ Emsens was the owner of a building materials company and had a significant interest in the Antwerp cement firm Cimenterie et Briquetterie Réunis (CBR). In 1922, Ernst Schmidheiny and Alphons Emsens met for the first time, and their business liaison signalled the beginning of an almost 70-year period of intense and lucrative cooperation between the two powerful entrepreneurial families in the areas of cement, asbestos and asbestos cement. Schmidheiny took a major stake in Emsens’ asbestos cement firm and a year later Schmidheiny acquired an interest in CBR. The other important asbestos cement producer in Western Europe, the French entrepreneur Joseph Cuvelier, also had a background in building materials and cement. In 1922, Cuvelier came into contact with the Belgian Eternit manufacturer Jean Emsens, who was planning to establish an asbestos cement factory in France. Cuvelier and Emsens came to an agreement and decided to set up such a factory together, which they did in September, 1922, the new factory beginning production in Prouvy before the end of the same year [1].

Cartel Formation

In 1929, Ernst Schmidheiny, together with the British asbestos multinational Turner & Newall (T & N), established the cartel Internationale Asbestzement AG, “SAIAC” [2]. The Swiss author W. Catrina had this to say of it in 1985:

“What Schmidheiny, in the fields of cement and bricks had already achieved, namely linking the producers together in cartels, he began after the war to do also in relation to the producers of asbestos cement.” [3]

¹ Bob Ruers is a lawyer based in the Netherlands who specialises in asbestos litigation. He is also the legal advisor to the Dutch Committee of Asbestos Victims and a member of the Dutch Senate. He is currently finishing his PhD thesis on the regulation of asbestos in the Netherlands. Email: ruers@woutvanveenadvocaten.nl.

² The Canadian author Cirkel had this to say in 1905 about Hatschek’s asbestos cement patent: “A new invention and one which probably will revolutionize all systems of roofing has just been patented in Austria.”

³ With regard to Speaker, Eternit Building Products Ltd. told the Simpson Commission in 1976 that it was a firm: “... which started trading in 1903 as an importer of asbestos cement manufactured materials from Eternit Belgium, and has been importing them ever since, except for the intervention of World Wars.”

The SAIAC cartel was, in common with Schmidheiny's Eternit Group, established in Niederurnen, Switzerland. Eternit manufacturers from Austria, Great Britain, Spain, France, Belgium, Italy and Switzerland participated in the setting up of SAIAC [4]. The first SAIAC project was the establishment in 1929 of the Eternit corporation Duitse Asbest-Zement AG (DAZAG), in Berlin. Schmidheiny received 27% of the shares of this new company, the Belgian Eternit company under the direction of Emsens took 23%, and the remaining shares were divided amongst the other participants. That by this time there already existed a close relationship between the members of SAIAC and Johns-Manville (J-M), the United States' biggest asbestos producer and owner of Canada's biggest asbestos mine, is shown by the fact that J-M owned 10% of Eternit Germany. In addition to the Eternit companies, T & N, which held, amongst other things, sizeable interests in asbestos mines in South Africa, was an important participant in the cartel. In its annual report for 1929, T & N explained its decision to participate in the asbestos cartel:

“We have become such a large part of the Nation's entire industry, that we have been able to arrange with the principal manufacturers of ten European countries an International Cartel. The position of the European Asbestos Cement Industry is thus rationalised, and we expect great benefit by way of improved technique and economy to accrue to all concerned. This miniature League of Nations has a great future before it, for it is based upon the principle of mutual help, which now displaces the previous atmosphere of distrust and suspicion.

Capitalists in such conditions are made welcome by the Government of the Country. They are not regarded as parasites, but rather as one of the primary constructive forces upon which depend the evolution of civilisation.”

T & N also elaborated on the SAIAC cartel's long-term plans:

“The objects of this cartel are, inter alia:

- the exchange of technical knowledge,
- the establishment in Switzerland of an Institute of Research for the entire industry,
- the foundation of new factories in neutral countries,
- the organisation of the export business,
- the standardisation of quality, and minimising unnecessary variety in the product;
- mutual assistance in securing the necessary raw materials on the best terms.

Here again our object is to give better service and better value to the consuming public, for we recognise that only by so doing can we justify our activities and retain the public confidence.” [5]

On the business culture within SAIAC in the first decades, Catrina had this to say:

“The international Eternit scene of the 1920s and 1930s resembled a clan in which some members were married to each other, while others were related or had become friends as a result of their common interests. During the meetings of the SAIAC ‘family’, people did not put their cards on the table, the business with this successful material, asbestos, being as it were a private matter. Based on the connections and internal relations from this period between the two wars, the Eternit branches in the industrialised west continue even today to be dominated by certain powerful families of industrialists, for whom mutual financial commitments, in the challenging climate of the 1980s, mean ever greater mortgages.” [6]

After 1929 the position of the Swiss Eternit corporation grew steadily. Originally, the Schmidheiny family's business made up only a few per cent of the cartel, but after fifteen years it had reached a third of the total issue. Via SAIAC, the Swiss and Belgian asbestos multinationals were also in a position to reach significant agreements concerning raw asbestos. In 1925, the Eternit Groups even succeeded in obtaining a concession from the Soviet government for the right to exploit an asbestos mine in the Urals, in cooperation with the American entrepreneur Armand Hammer (1898-1990) [7]. In 1932, the world's three biggest asbestos-producing countries – Rhodesia, Canada and the Soviet Union – came to an agreement in principle at a meeting in London and together established the company Raw Asbestos Producers Ltd. In this, T&N managing director W. Shepherd played an important role. In his report of July 1933 Shepherd had this to say about the situation regarding raw asbestos in Canada and the US:

“At the conference of asbestos producers which was held in London in July 1932, it appeared likely that if there had been no embargo on Russia fibre in the United States market, the Russians would have been prepared to agree to a scheme of co-operation with Rhodesia and Canada on the basis of equal division of the world markets between these groups of producers, Rhodesia being one group, Russia a second,

and all the producers in Canada and the U.S.A. the third..... In March 1933, the embargo on Russian fibre in the U.S.A. was lifted by the newly installed Democratic administration, and thus the obstacle to Russia's participation in a scheme of co-operation was removed."

That the joint purchase of asbestos, and mutual support in securing the "necessary raw materials," led to a situation in which SAIAC was able to achieve a profitable preferential position amongst the asbestos producers, the "Raw Asbestos Distributors," can be seen from a report written by Shepherd in 1938:

"At a meeting of SAIAC Members held in Zurich on the 10th October, SAIAC were informed on behalf of Raw Asbestos Distributors Ltd. that R.A.D. would not be able to supply them with more than 20,000 tons of Rhodesian shingle fibres during 1939 and that the quantity available for SAIAC might be as little as 17,500 tons, which latter figure was all that R.A.D. could commit themselves to at that time. Mr. Schmidheiny indicated that SAIAC's total requirements of shingle fibre during 1939 would probably be approximately 50,000 tons, and as it was doubtful whether it is possible or desirable to make a contract with the Russians, SAIAC therefore found themselves in a position of wishing to purchase approximately 30,000 tons of Canadian fibres for 1939 delivery." [8]

After Shepherd had been informed by the Canadian mine owners of the series of already concluded contracts and had learnt that Johns-Manville was bound by contract to certain obligations to "outsiders" at prices "which did not include any differential to protect SAIAC," he succeeded in the negotiations, which he conducted on behalf of SAIAC with the Canadian mine owners, in bringing all parties to a settlement. In this it was agreed:

"That both the Johns-Manville Corporation and the Johnson's Company agree that they will not accept any further business from outsiders in Europe without imposing the appropriate differential of either 10% or 12.5% on the prices charged to SAIAC, except in those cases where it has been agreed by SAIAC that it is impossible to impose such differential."

Shepherd concluded: "This arrangement appeared to be satisfactory to all the Canadian producers and is also satisfactory to SAIAC."

The SAIAC Inquiry, 1950

In 1949 the Dutch government recognised asbestosis as an occupational disease and brought before parliament a legislative proposal to introduce the "Silicosis Law," in which the risk of asbestosis was also described. The legislative proposal contained a provision empowering the government to take measures to limit the use of asbestos. This development provided the impetus for the Dutch Eternit corporation in Amsterdam, a wholly-owned subsidiary of the Belgian Eternit Group, to make inquiries at the SAIAC cartel headquarters in Switzerland about the experiences of other SAIAC members regarding asbestosis. The SAIAC cartel decided as a result to conduct an inquiry amongst its members. Reactions came in from many countries: From Dr. Paul Cartier, who was employed at Thetford Mines in Quebec; from Eternit Pietra Artificiale in Genoa; from DAZAG in Berlin, Everite in Johannesburg and from the Turner Asbestos Cement Co. Ltd. (TAC) in Manchester. TAC noted that:

"In Great Britain for more than half a century the Workmen's Compensation Acts have imposed on employers a liability to pay compensation where in any employment to which the Acts applied, 'personal injury by accident out of and in the course of employment is caused to a workman'."

From the reaction of Eternit Belgium it becomes evident that the firm had, as early as the beginning of the 1930s, corresponded with the SAIAC cartel regarding the risk of asbestosis (see Appendix):

"You will remember that we ourselves have already drawn your attention to asbestosis, through our letter of 15 May 1931. In 1933 we received the report of Dr E.R.A. Merewether, which was discussed in July 1933 at the seventh sitting of the Correspondence Committee for Industrial health of the International Labour Office, and since then we have been continually occupied with precautionary measures, of which we have already for many years been aware... As for the disease itself we think that it is not actually an occupational disease, given the fact that only in an extremely small number of cases has it appeared amongst workers who have been exposed to particles of asbestos dust."

Only Eternit Switzerland made explicit mention of a single case of asbestosis which ended in death. In August 1950, SAIAC informed all of its members about the outcome of the inquiry, concluding that there was no

risk of asbestosis, or that it was very small.⁴ In September 1950, Eternit Amsterdam reported the results of the SAIAC inquiry to the other Dutch asbestos cement companies:

“We enclose a copy of this exposé. From this you will see that practice has shown that in the asbestos cement industries of the affiliated members of this bureau – industries which are spread practically over the whole world – symptoms of asbestosis are never observed. Furthermore, the conclusion of this inquiry has been that, when good precautionary measures are taken, using suction to remove dust etc, the chance of asbestosis will remain nil. It may be assumed that such precautionary measures in the form of good suction systems etc. are applied in full measure in today’s factories, because this is already demanded by the labour inspectorate. We can therefore, without any further action, confirm that the possibility of the occurrence of asbestosis (silicosis) in the asbestos cement industry is nil.”

In April 1953, the Netherlands Labour Inspectorate also observed that the asbestos multinationals had a huge influence on the use of asbestos. In a letter to the Ministry of Social Affairs, the Head of the Labour Inspectorate of Utrecht remarked that asbestos was still much in use, but also noted that in ships’ engine rooms there were increasing complaints about the dirt and mess caused by the asbestos sprays. On the other hand, the Inspector indicated that a significant reduction in the use of asbestos was not to be expected in the short term because “the Companies which own the mines have such extensive financial interests in the use of asbestos, and in all countries [occupy] a paramount position, one that they will try to hang on to. They direct their attention to the new insulation materials in order to preserve and maintain their position.”

TEAM

Cooperation within SAIAC in relation to the establishment of asbestos cement companies in developing countries was structurally supplemented in 1962 through the setting up of a common venture under the name TEAM. This acronym derived from the names of the participants: Turners, Eternit And Manville. TEAM’s aim, according to documents originating in 1962 in the Australian asbestos firm James Hardie & Coy:

“TEAM is a Company which has been formed by the three largest asbestos-cement groups in

the free world – Turners, Eternit and Manville. It aims to set up asbestos-cement factories in those developing countries which demonstrate a need for such products. IN NO WAY can it be termed a monopoly because each partner will continue to trade competitively throughout the world. Rather it is a means whereby the financial risks involved in those countries which are not politically or economically stable can be shared by the three partners, thus making it possible to set up factories under circumstances which would probably deter any one of the partners from facing the risks on his own.” [9]

That the corporations cooperating in the SAIAC and TEAM nexus did not flinch from stabbing each other in the back is made clear by the “Nigerian incident,” described in the James Hardie documents:

“The Nigerian incident concerned the proposal for a third factory in Northern Nigeria. Turners and Emsens are each operating separately in the east and west of Nigeria respectively. A joint venture (possibly TEAM) was planned in Northern Nigeria and a meeting between Turners and Emsens had been set up for approximately a month hence. In the meantime, Turners allege they got a report that the Japanese intended going into Northern Nigeria and without reference to Emsens went ahead and registered a Company which secured tax free operations. Ken Neve had written to Emsens explaining the circumstances and suggesting a meeting to discuss the division of shares in the Company but Emsens were aggravated by Turners’ unrefereed action which they claim was due to urgency.”[10]

From the beginning, in 1962, TEAM’s share capital was divided into three equal parts between each of the participants [11]. In 1971, 8.68% of TEAM’s shares were in the hands of the Belgian Eternit branch, the Compagnie Financière Eternit (CFE), an interest which CFE increased to 20.05% in 1977 [12]. In 1978, CFE placed its overseas interests in a separate undertaking, Eteroutremer S.A., to which the interests in TEAM were also assigned. In that same year Eteroutremer’s share in TEAM amounted to 18.04%. In the years which followed this share grew to 33.90%. Eteroutremer had at its disposal in 1985, via TEAM, interests in, *inter alia*, Eternit Gresik, Indonesia; ACIL, Pakistan; and ACIB, Bangladesh. In addition, by the middle of 1986 a major investment in China had been added to the pile in the form of the Guangzhou-Eternit factory. By 1989 the Bel-

⁴ This information was submitted during the first such court case in the Netherlands, one brought by three widows of Eternit workers against Eternit.

gian Eternit Group had taken over, from the Swiss Eternit Group, 25% of the shares in CFE, which meant that its interest in CFE grew to 62.9%. This resulted in Eteroutremer taking into its hands almost the whole of TEAM's capital and thus having interests in asbestos cement factories in Mexico, Colombia, Argentina, China, Bangladesh, Pakistan, Indonesia, Greece, Turkey, Senegal and Kenya. CFE's Annual Report for 1990 reported an interest in TEAM S.A., Luxemburg, of 96.31%.

In September 2008, Eternit Netherlands claimed, during a lawsuit that a victim of mesothelioma had brought against the company, that TEAM should not be seen as a cartel. According to Eternit, TEAM was "no cartel but a financial partnership to which Eternit was affiliated."

The Monopolies Commission, 1973

In 1973, the United Kingdom Monopolies Commission stated in its report on the British asbestos industry that in 1930 T & N had entered into agreements with the "continental Eternit companies" regarding the sale of asbestos cement products. These agreements were named as the "Continental Wenham Scheme." This meant, according to the Commission, that T & N would take 80% of the entire market of the UK and Ireland and that the remaining 20% would be assigned to the continental Eternit corporations. The aforementioned agreements would have concerned only the period from 1930 to 1945. The report stated further, that in 1929 T & N had concluded an agreement with the Italian asbestos cement firm SA Eternit Pietra Artificiale on the use of the Mazza patent on asbestos pipes. In return for the payment of lump sums and royalties, T & N received the exclusive right to use the Mazza pipe process in the UK until the expiry date of the patent [13]. On the activities of the SAIAC cartel after 1945, the Monopolies Commission had nothing to say, as was also the case for the TEAM cooperation network. In relation to the asbestos mining industry and the world market, the Commission reported that:

"Most of the asbestos mined in the world (outside Eastern bloc countries) is produced by vertically integrated companies which mine and mill the material and fabricate asbestos products, the largest company of this type being Johns-Manville Corporation, of New York. Other vertically integrated mining interests include Turner & Newall Ltd. and the Cape Asbestos Company in the United Kingdom. The largest producer of asbestos fibres without associated manufacturing interests is the Canadian company, Asbestos Corporation Ltd. Apart from the T & N and Cape groups and Tunnel's connection with the Cyprus mines no manufacturer of asbestos products in the U.K. owns or holds interests in mining operations."

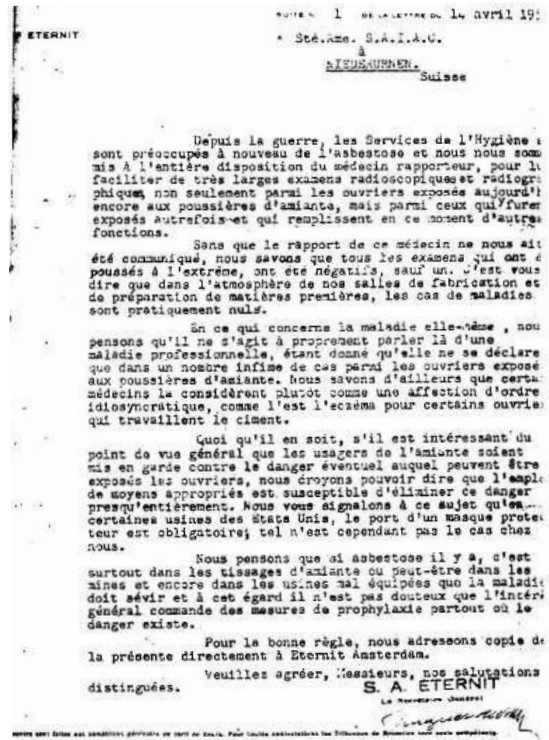
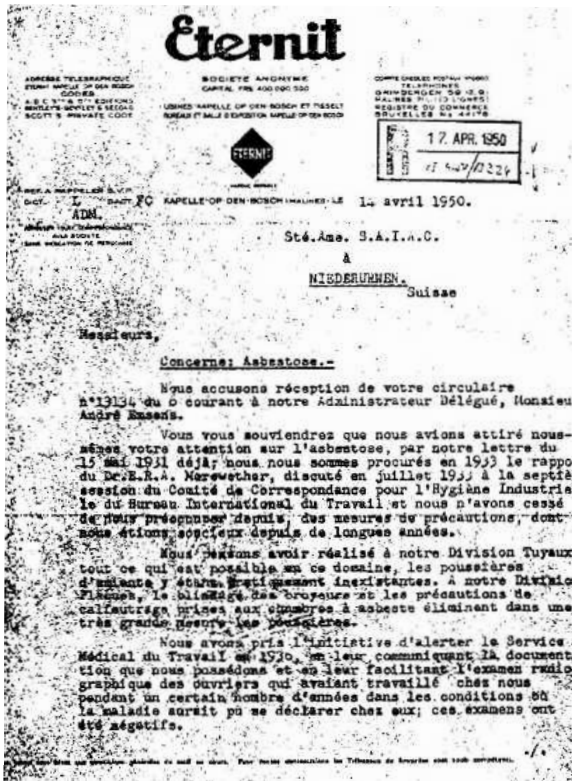
In this, the Monopolies Commission completely ignored the major mining interests of the Swiss and Belgian Eternit concerns in South Africa and Canada and the fact that the Belgian Eternit Group had supplied Great Britain with asbestos cement products, as well as producing them there, from as long ago as 1903.

March 2011

References

1. O. Hardy-Hemery, *Eternit et l'amiante 1922-2000*, p. 18.
2. M. Roselli, *Die Asbestlüge*, 2007, p. 79.
3. W. Catrina, *Der Eternit Report*, p. 39.
4. Catrina, 1985, p. 39.
5. T&N Annual Report 1929, p 9.
6. Catrina 1985, p. 40.
7. Hardy-Hemery, p. 38, 39.
8. Verslag Shepherd "SAIAC and Canadian Raw Asbestos Producers," on his journey of 15 Oct. - 23 Nov. 1938, p. 2.
9. Report from J.P. McCormack, Feb. 1962.
10. Information from M. Peacock, Australia
11. CRISP Report 1966, p. 144.
12. CFE Annual Report 1977, p. 16.
13. The Monopolies Commission, 1973, p. 128.

Appendix



Gentlemen,

Reference: Asbestosis

We received the memorandum N° 13134 dated the 6th of this month that you sent to our delegated administrator, Mr. André Emsens.

You will remember that we ourselves have already drawn your attention to asbestosis, through our letter of 15 May 1931. In 1933 we received the report of Dr E.R.A. Merewether, which was discussed in July 1933 at the seventh sitting of the Correspondence Committee for Industrial health of the International Labour Office, and since then we have been continually occupied with precautionary measures, of which we have already for many years been aware.

We believe that we have succeeded in our Pipe Division all that is possible, asbestos dust being practically non-existent there. In our Plate [Sheet] Division, the shielding of the mills and the sealing precautions of the asbestos rooms have eliminated the dust to a large degree.

We took the initiative of alerting the Medical Services of Labor in 1930 by sending them the documentation we have and by facilitating the X-ray examination of the workers who have worked for us for a number of years in conditions when illnesses could have occurred. These examinations have been negative.

Since the war, the Health Services are again concerned with asbestosis and we have put ourselves at the disposition of the examining doctor to help with the many radioscopies and X-rays, not only among the workers still exposed today to asbestos dust, but also for those who might have been exposed in the past and who now occupy other positions.

Although we have no knowledge of the doctor's report, we know that the examinations went as far as they could, and all, except for one, were negative. This tells you that in our areas of production and raw materials, cases of illness are in fact nil.

As for the disease itself we think that it is not actually an occupational disease, given the fact that only in an extremely small number of cases has it appeared amongst workers who have been exposed to particles of asbestos dust. We also know that some doctors consider this illness an idiosyncratic occurrence akin to eczema in the case of some cement workers.

In any case, from a general viewpoint while it is good for users of asbestos to be alerted to the possible danger to which they might be exposed, we believe that with appropriate means it is possible to eliminate this danger almost entirely. We call your attention to the fact that in some U.S factories, it is obligatory to wear a mask. It is however not the case here.

It seems to us that if there is asbestosis, it happens mostly in the weaving of asbestos, or perhaps in the mines, or in badly equipped factories that the illness occurs and in that regard, it is clear that the general interest requires control measures wherever there is danger.

As is the rule, we are sending a copy of this letter directly to Eternit Amsterdam.

Please accept our salutations.

S. A. ETERNIT