

ACHIEVING JUSTICE FOR ETERNIT'S ASBESTOS VICTIMS

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Cumulative asbestos consumption since 1920 has exceeded 195 million tonnes. Asbestos was mined, transported, processed and incorporated into the infrastructures of countries all over the world. It was a highly prized and valued natural resource that had nicknames reflecting the esteem with which it was held: it was called “white gold” and the “magic mineral.” It had thousands of uses and many wonderful physical properties. There was, however, one major drawback – exposure to asbestos could kill you.

As industrialists grew rich from the commercial exploitation of asbestos, concerns regarding occupational and public health were of minimal importance. Prioritizing profits, maintaining production and expanding markets were key concerns amongst asbestos giants such as Turner & Newall, Johns Manville, Cape and Eternit. Our focus today will be on Eternit, an industrial group which has been described as “probably the largest manufacturer of asbestos cement in the world.”

What Was Eternit?

Eternit has been the name of dozens of manufacturing companies and scores of building products; it was also a dominant multinational industrial group, two global asbestos conglomerates, a brand, a patent and a generic term: in many markets the word “Eternit” is used to denote a range of asbestos-cement building products regardless of the trade mark, such as Kleenex is used interchangeably for the word tissue and Hoover for all makes of vacuum cleaner. Two Eternit conglomerates – Eternit Switzerland and Eternit Belgium – had companies, affiliates and interests in Angola, Argentina, Belgium, Bolivia, Brazil, Burundi, Chile, Columbia, Costa Rica, El Salvador, France, Germany, Great Britain, Guatemala, Holland, Honduras, Italy, Nigeria, Paraguay, Peru, the Philippines, Saudi Arabia, South Africa, Switzerland, Uruguay and Zaire.

There were incestuous and overlapping interests and relationships across the spectrum of Eternit companies. There was also a shared philosophy which prioritized corporate profits over all else; in the climate which existed, hazardous asbestos exposures became a routine occurrence. Typical examples of the dangers to which Eternit workers and local people were exposed by the company's negligence are the following:

- In Japan, Eternit “made workers take their work clothes back to their houses...” Knowledge the company had about asbestos diseases amongst the workforce was closely guarded with victims and their families being kept in the dark about the results of health checks.
- Despite the fact that cases of asbestosis were diagnosed amongst Eternit workers in the Netherlands in 1956, 1972, 1975, 1981 and 1982, the company did not disclose this information to the authorities nor did it compensate the injured.
- When the Italian Eternit company declared bankruptcy in 1986, the factory in Casale Monferrato was shut with sacks of raw asbestos and contaminated debris left in place; Eternit never paid a penny to decontaminate the redundant buildings, the dumpsites, the soil or the river it had polluted.

- As late as 1995, bags of raw asbestos were still being opened with a knife and manually emptied into a mixer at the Eternit plant in Thiant, France.

If there were any doubt about the culpability of Eternit's executives, a letter obtained and translated from the original French by the International Ban Asbestos Secretariat (IBAS) establishes Eternit's awareness of the asbestos hazard from 1930. The letter, sent in 1950 from Eternit Belgium to Eternit Switzerland, was categorical:

“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 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...”

It appears that this letter was just one of many about the dangers of asbestos. There can be no doubt whatsoever that information on the asbestos hazard was known amongst senior Eternit management.

Eternit's Victims Fight Back

For decades, asbestos victims in some countries have been using the legal process to obtain recompense from former employers for occupational asbestos injuries. Many companies which mined, sold and used asbestos products have been forced into bankruptcy. Eternit, however, had escaped virtually unscathed. Their run of luck has come to an end. Legal and judicial victories in Latin America and Europe have signaled the empowerment of victims; their campaigns for human rights and social justice for asbestos sufferers have raised public awareness of the crimes Eternit committed. No campaign was of more importance than that mounted by Eternit's Italian victims; no victory was sweeter than that achieved on February 13, 2012.

The Great Asbestos Trial

“The Great Asbestos Trial,” was the largest and most complex asbestos case ever heard in a European criminal court. The legal proceedings in Turin were “great” in all senses of the word, in the: number of aggrieved parties (~3,000), legal representatives (~150), municipalities, issues and worksites involved; two-year duration of the trial; fundamental legal concepts explored; decades of painstaking and meticulous research required to bring the defendants to court; expectations of the bereaved that the verdict would recognize the cataclysmic nature of the crimes committed. Because of the extraordinary nature of this case and the lack of literature on Eternit in the English language, it was decided that IBAS would produce a monograph entitled: *Eternit and the Great Asbestos Trial*. This text was officially published on February 13, 2012 to coincide with the handing down of the court verdict.

The Defendants

The defendants in this trial were former executives from the Swiss and Belgian Eternit Groups, enterprises which exerted control over operations at Italian asbestos-cement factories. Industrialists Stephan Schmidheiny (Switzerland) and Baron Louis de Cartier de Marchienne (Belgium) were accused of causing permanent environmental disaster and failing to comply with safety rules as a result of which thousands of Italians died from asbestos-related cancers and respiratory diseases. That this lawsuit achieved an iconic status both in

Italy and abroad was a reflection of the universal principles considered. Was there, indeed, a human right to life, one which takes precedence over shortcuts that speed up manufacturing output and minimize production costs? Could individuals be held liable for the effects of commercial operations that endanger life and pollute the environment?

The Claimants

The claimants in this trial were principally asbestos victims who were exposed to Eternit's asbestos occupationally or environmentally in the Italian towns of Casale Monferrato, Cavagnolo, Rubiera, Bagnoli and Siracusa or surviving family members; however, among the ~3,000 claimants there were also municipalities and regions impacted by Eternit's negligence and individuals and associations representing the injured, such as the asbestos victims' group in Casale Monferrato: AFeVA.

The Verdict

On February 13, 2012, the defendants were found guilty for their part in the humanitarian catastrophe caused by Eternit's asbestos operations. For their crimes, Schmidheiny and Marchienne were sentenced to 16 years in prison and ordered to pay compensation estimated at more than €95 million (\$124.5m/ ¥9.6 bn). In court to hear the long-awaited judgment were 1,500+ people from Casale Monferrato, the town at the centre of Eternit's Italian operations. Twenty-three coachloads of asbestos victims, family members and community activists had set off before dawn from Casale to witness the resolution of this historic case. They were joined in the court by hundreds of representatives of asbestos victims' groups from France, Belgium, Switzerland, the UK, Brazil and the US. In recognition of the enormous international interest in this case, for the first time ever the provision of simultaneous translation into English and French was sanctioned by the authorities; these translations were streamed live over the internet.

The proceedings began at 9:30 a.m. when the Judges entered courtroom 1. The initial minutes were taken up by procedural aspects and then it was announced that the reading of the verdict would start at 1:15 p.m. Within seconds of the afternoon session beginning, the wait was over. As we heard the English translator pronounce the words "In the name of the Italian people, the Turin criminal court declares the defendants Schmidheiny and De Cartier guilty," we knew that the victims' 30-year campaign for justice had succeeded. Commenting on the outcome, Bruno Pesce of the Associazione Familiari Vittime Amianto (Association of Asbestos Victims' Families/ AFeVA) said:

"[we] believe this judgment is a turning point in history as Justice is awarded to thousands of workers and members of the community who were killed, slaughtered, especially in Casale Monferrato and Cavagnolo, where the Italian Eternit plants were."

The case against Eternit would never have come to court without the diligence of AFeVA. For decades AFeVA worked closely with trade unions, labor federations and municipal authorities to expose Eternit's negligence – even while Eternit declared that asbestos use was safe, workers were dying. There were no old men at the Eternit asbestos-cement factories. The deadly dust taken home on work clothes led to the deaths of wives and children. But the contamination was not limited to them – thousands of townspeople in Casale Monferrato, Cavagnolo and other Eternit towns died from environmental exposures. The sustained political and public pressure brought by the coalition backing this case finally caught the attention of Turin Public Prosecutor Raffaele Guariniello who in 2000 began an investigation

into Eternit's crimes. Prosecutor Guariniello soon discovered that the health and safety policy followed by staff at Eternit's Italian factories was dictated by the company's foreign owners – it was men sitting in corporate boardrooms in Switzerland and Belgium who made decisions about the acceptable levels of hazardous exposures which inevitably led to the asbestos deaths in the Italian towns. Speaking to journalists after the verdict was announced on February 13, Guariniello said: "Today we have the right to dream that justice can be done and must be done."

Reacting to the Turin verdict, defendant Stephan Schmidheiny's legal team issued a statement saying: "This verdict is totally incomprehensible for Stephan Schmidheiny's lawyers, which is why they plan to appeal to the next higher authority." Schmidheiny lawyer Astolfo Di Amato told journalists: "The sentence is dangerous because if in Italy we affirm the principle that the major shareholders of a multinational company is responsible for what happens in each peripheral plant, no one can invest in Italy any longer."

Post-Verdict Developments

On June 28, Public Prosecutor Guariniello announced that he had appealed the judgment. Considering the crimes committed, 16 years in jail was an insufficient punishment. Guariniello is calling for the sentences to be increased to 20 years for both defendants. The public prosecutor's office, he added, is now investigating the deaths of 117 Italians who worked in the Swiss and German Eternit plants as well as the asbestos deaths of Italians in Brazil and France who were exposed to Eternit asbestos. On July 16, it was reported that Schmidheiny's legal team had submitted a 500-page appeal to the Turin Court, which looks to overturn the verdict on grounds of constitutionality, jurisdiction and statute of limitations.

The guilty verdict handed down by the Turin Court was a great victory not only for the people of Casale Monferrato and other Italian towns where people's lives counted for nothing in Eternit's pursuit for profits, but also for asbestos victims elsewhere. Media coverage of the case was massive in Italy with front page stories about the verdict in national newspapers and TV reports on many channels. In Canada, speculation is rife about the implications of this trial for asbestos propagandists and executives in Quebec. In France, attempts to replicate the Turin process are being made but success has yet to be achieved, while in Brazil, another country which has experienced massive damage at the hands of Eternit, prosecutors regard the 128-page Italian verdict as a precedent to be used in Brazilian asbestos lawsuits.

As they have done in the past, around the world Eternit entities continue to use their considerable financial resources, well-paid public relations advisors and legal experts to create a climate in which claims by asbestos victims can be marginalized. Despite all Eternit's money, political influence and power, the verdict of the Great Asbestos Trial gives us hope that in every jurisdiction asbestos profiteers can be held to account for the damage they have done. Our vision is justice for the injured and an asbestos-free future for all.