

Former asbestos cement workers search for justice

Aeternum, Eternal, Eternit. It was the enduring properties of asbestos that prompted Austrian Ludwig Hatschek to dub his recently-invented asbestos cement manufacturing process “Eternit” in 1901. The name would soon become a byword for a business success story before becoming indissociable over half a century later from the biggest health scandal in industrial history. Blinded by the qualities of the “magic fibre”, asbestos cement manufacturers would ignore the build-up of scientific evidence to conceal the product’s hazards from their workers. Hundreds of former asbestos workers are now sick. Many others have already died. Asbestos sufferers and deceased’s families are trying to break down the wall of silence and standing up to demand justice.

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Gaston Bequet (54), Franzi Blondeau (69), René Boltz (69), Giovanni Bordignon (44)... on 13 July 2004, a regional daily in Wallonia, southern Belgium, gave its front page over to rows of small white crosses on a black background under the headline *102 names: the roll of agony*. The media bombshell rocked the village of Harmignies, where asbestos cement had been manufactured until 1987, and the Mons region (western Belgium) where the local community and councillors had little inkling of the tragedy. For Michel Verniers and Vivian Lescot, it was a matter of “job done”, as the silence about asbestos victims was finally broken. The grisly toll

now stands at 116 dead and 49 sick, out of the 250 people working for the Belgo-Swiss Eternit group subsidiary when it shut down.

The two former workers and trade union reps became aware of the scale of the horror only in recent years when old workmate friends began dying of pleural mesothelioma or lung cancer. “I started writing the names of the Coverit dead in a notebook”, recalls Michel Verniers, who soon after got in contact with ABEVA, the recently-founded Belgian asbestos victims support group.

Still an active trade unionist, the ex-worker had been harrying the Belgian Confederation of Christian trade unions (CSC) leadership – to good effect, as an asbestos action unit was not long after set up in one of the union’s regional federations. The first meetings were held in 2004, to inform and try to create awareness among ex workers. Not the least paradox in the whole “asbestos affair” is that this union action started over 15 years after the factory closed.

France drives the agenda

Aware that the battle has to be waged worldwide, the ex Coverit workers soon began looking to strike up contacts with Eternit workers abroad. For several months now, Michel Verniers and his group of activists have regularly been crossing over the French border to meet up with former workers at Eternit France’s Thiant and Prouvy factories, two neighbouring villages in the Valenciennes region (northern France)¹. France, which seems to have a much greater awareness of the scale of the tragedy than Belgium, as the recent French Senate and National Assembly reports show², stands as a textbook model for Belgian anti-asbestos activists.

In 1995, the Valenciennes asbestos victims set about organising their response through CAPER, the



Thousands of asbestos victims march in Paris on 15 October 2005 calling for asbestos to be “put on trial” for killing 3 000 people a year in France. © AFP

¹ According to ANDEVA, the asbestos victim support organization in France, 1 200 asbestos-related occupational diseases, including 200 deaths, have been recorded in the France Eternit group. Cf ANDEVA *Lettre d'information* (newsletter), October 2005.

² *Le drame de l'amiante en France: comprendre, mieux réparer, en tirer des leçons pour l'avenir*, French Senate report, 26 October 2005, 333 p. Downloadable from www.senat.fr/rap/r05-037-1/r05-037-1.html (in French only). *Rapport fait au nom de la mission d'information sur les risques et les conséquences de l'exposition à l'amiante*, French National Assembly report, 23 February 2006, 2 volumes. Downloadable from <http://hesa.etui-rehs.org> > News (in French only)

committee for asbestos prevention and compensation. The association, with a membership now standing at 725 (sufferers and deceased's families), decided to focus its activities on court action.

"We laid the first complaint for causing actual bodily harm in October 1996. We were pretty much going it alone at the time", reminisces association president René Delattre. At the same time as this bold move in the criminal courts, they also began suing for compensation through the civil courts. The association won its first big victory on 30 June 1999, when the Douai Court of Appeal found Eternit guilty of gross negligence (see box *Eternit in the courts*).

So far, CAPER has won over 500 cases! On the criminal side, four former directors and Eternit as a legal entity are under official investigation. In August, the case was transferred to the Paris District Court's "public health unit"³.

Victim support groups view the consolidation of criminal complaints as a good thing, but query the lack of funding to conduct serious investigations. "If they are not driven forwards, asbestos prosecutions may not come to trial for ten years, by which time the culprits and victims will be dead", says René Delattre.

Eternit: "criminal behaviour", claim ex workers

Neither Belgian nor French workers are in any doubt: Eternit bosses acted like "pure criminals". Having known for years how harmful asbestos was, they took no serious steps to reduce their employees' exposure to the killer fibres.

"For decades, there was no protection. The asbestos came in bags, which were slit open by hand and workers poured the contents into a mill. The asbestos fibres went everywhere in the factory; the

Eternit in the courts

Italy: In 2003, the Turin public prosecutor's office brought a prosecution against Stephan and Thomas Schmidheiny, the former owners of Eternit in Switzerland, for manslaughter and criminal damage in relation to 2 000-odd cases of Italian workers who had worked on Eternit sites in Switzerland. The Turin investigations did not let the Belgian "wing" of the group off scot-free – the former chairman of Eternit Belgium's board of directors, baron Louis de Cartier de Marchienne, is also being prosecuted. On 27 May 2005, eight former Eternit managers were convicted by a court in Syracuse, Sicily. The co-accused were sentenced to 21 years in jail – three of them for manslaughter, and five for wilful neglect of safety at work measures.

Switzerland: In November 2005, a criminal complaint was laid by the German asbestos victims group for manslaughter against Stephan and Thomas Schmidheiny. A Turin examining magistrate was also recently authorized by the Swiss courts to consult the medical records of Italian workers who had worked at Eternit sites at Niederurnen, the company's principal place of business, and Payerne between 1950 and 1993.

France: In 1997, Eternit lost its first case for civil damages for gross negligence brought by a worker. Since then, the company has repeatedly been ordered by French courts to compensate its former workers or their families for gross negligence. Prosecutions have also been brought against former Eternit factory managers in France. Two judicial investigations for unintentional homicide by wounding were opened last December for the first time by a public prosecu-

tor's office in Paris. One is against Eternit in Albi (Tarn). Previous judicial investigations on liability for asbestos-related occupational diseases had always been opened following a criminal complaint with a joined civil claim for damages, not a criminal complaint alone.

Belgium: In 1996, an Eternit worker affected by mesothelioma filed a complaint against his employer. He was non-suited, the claim being held admissible but unfounded. On appeal, the higher court upheld the decision, finding that while serious wrongful acts had indeed been committed, they were not "intentional". For the claim to succeed, the worker would have had to prove that the employer made him breathe asbestos in order to make him ill! In 1999, a mesothelioma sufferer living next to the Eternit Kapelle-op-den-bos factory also filed a complaint against the asbestos cement producer. The proceedings are still ongoing. Meanwhile, the victim has died, as has one of his sons, also from mesothelioma.

Netherlands: On 25 November 2005, Eternit was ordered to compensate the family of an environmental victim of asbestos, who died of mesothelioma in 2002 following exposure to asbestos in 1971 during the construction of a storage shed with Eternit products. The Dutch Court held that Eternit was already aware of the harmful effects of asbestos at that time.

Brazil: In August 2004, Eternit Brazil was ordered to compensate its workers suffering from asbestos-related diseases in legal proceedings brought by the São Paulo public law officer's department.

³ Marseille District Court also has its own public health unit. The Paris unit has only three examining magistrates and seven deputies, whereas over a hundred victims filed complaints in the Jussieu asbestos case alone.

Eternit – “a family affair”

The way complaints in “the asbestos scandal” are handled in the criminal courts raises issues about the liability of the main asbestos industry firms who have always played down any links between them.

Where Eternit is concerned, it is a matter of record that the word originally referred to a patent, not a company name. But there is plentiful evidence of “family ties” between a select few of the asbestos cement industry “nobility” throughout the 20th century.

Two recent publications have shed light on these low-profile but undeniable links between the Emsens (Eternit Belgium), Cuvelier (Eternit France) and Schmidheiny (Eternit Switzerland) families.

In *Eternit et l’amiante. Aux sources du profit, une industrie du risque*^a, historian Odette Hardy-Hémery informs us that “the Eternit companies were linked from the very start by multiple interlocking holdings”. The Belgian Emsens family, for example, was a founder investor in the joint stock company Eternit France on its incorporation in 1922. Seven years on, Eternit Belgium, Switzerland, Spain and Italy set up a joint subsidiary in Germany. Eternit France’s board of directors decided that it “could not afford not to be involved in this international event”, and took a 5% stake in the company’s capital.

SAIAC – the association of asbestos cement industry companies – was set up the same year to exchange information on technology developments in the asbestos industry. But joint raw materials purchasing was a second strategic objective of the consortium. All Eternit companies across Europe, as well as the UK’s Turner & Newall, were founder members.

The interplay of interests between the different Eternit companies was to carry on throughout the 20th century. The book *The tragedy of asbestos*^b reprints the memberships of the board of directors of Compagnie Financière Eternit (Eternit Belgium) in 1966, 1976 and 1980, where the Schmidheiny brothers and members of the Cuvelier and Hatschek families sit alongside high-profile Emsens family names.

Despite the highly active management and production co-operation between the different Eternit firms, their former heads still staunchly deny having been aware of the dangers of the “wonder mineral”. When some former representatives of the “asbestos cartel” have to explain themselves before the courts, that will be for justice to decide.

^a O. Hardy-Hémery, *Eternit et l’amiante. 1922-2000. Aux sources du profit, une industrie du risque*, Presses universitaires du Septentrion, 2005, 272 p.

^b R.F. Ruers, N. Schouten, *The tragedy of asbestos. Eternit and the consequences of a hundred years of asbestos cement*, 2005, 122 p. Downloadable free in English from: <http://international.sp.nl/publications/asbestos.pdf>.

workers looked like snowmen”, recalls Michel Verniers. “The asbestos shop was cleaned every week by workers, who would scrape off the asbestos residues then sluice them down with water”, goes on the trade union activist, who started work at Coverit when he was just 14 years old.

“When I was taken on in 1977, I was trained at Kapelle-op-den bos⁴. Everything seemed to be fine, no problems at all, until the press picked up on the issue”, fumes Vivian Lescot. The former Coverit employee does not see how Eternit could not have known. In fact, the first press reports stung the company to action, sending out a memo to workers, “Eternit sent round a memo telling its workers that chrysotile was a product that could only cause health problems if it was combined with smoking and other things”, recalls Vivian Lescot.

In the early 1980s, the first preventive measures were brought in, like wet fiberizing, and automatic self-opening bags. But these half-hearted precautions did not go with any proper programme to inform and educate the workers. As a result, many went on slitting the asbestos bags by hand, as was still happening at Eternit’s Thiant factory in 1995.

A 1996 labour inspectorate report – the only one on the asbestos cement industry in France between 1975 and 1996! – singles out the glaring prevention failings in this particular factory⁵.

Blaming the workers

Employers’ failure to inform their employees meant that workers for too long viewed the danger of asbestos as theoretical. The epidemic of cancers has not yet broken out – there is a latency of 20 to 30 years before the first symptoms appear. And very few occupational doctors try to delve that deeply into the matter. Workers get an annual lung x-ray. Those with breathing difficulties are quizzed on their smoking and drinking habits. “You’re smoking far too much!, the occupational doctor told us. Even those who had never touched a cigarette”, Michel Verniers testifies. Alcohol was also singled out as a culprit, but never asbestos.

The fact is that doctors attached to the Eternit factories were ill-advised to go against the interests of the world leader in asbestos cement. René Delattre recalls the fate of one woman doctor: “In 1984, she took over from a company doctor who was employed by Eternit Thiant. She did thorough examinations which found

⁴ Eternit’s main factory in Belgium.

⁵ Including: automatic debagging system not working properly (broken bags), materials moving system not leakproof (allowing major dust escape), poor servicing and supervision of dust extraction equipment, poor design and chronic under-maintenance of the machining unit. See: www.senat.fr/rap/o97-041/o97-0416.html.

Belgian inconsistency

On 17 March 2005, Belgium's Senate (upper house of parliament) passed a resolution urging the government to promote an international convention for a world ban on asbestos production and use*. In a press release, the resolution's author, the economic liberal senator Alain Destexhe, was quick to liken the Belgian anti-asbestos initiative to its vanguard role in getting anti-personnel mines banned and the International Criminal Court set up.

So keen is Belgium to spearhead the international fight against asbestos that Belgian lawmakers have had to leave some of their fellow-citizens damaged by asbestos to sink or swim alone. The problem is that only employees whose firms contribute to the Occupational Diseases Fund, the public agency that deals with compensation for work-related illnesses, get compensation. Many self-employed workers who have been exposed to asbestos (heating engineers, mechanics, electricians, etc.), and people contaminated by non-occupational exposure, are left out in the cold.

A series of private bills have been tabled in recent years to set up a compensation fund for these forsaken victims, similar to those that have been operating for some time in France and the Netherlands.

In June 2005, the National Labour Board (CNT), a joint employer-union body which gives opinions on employment issues for the government and parliament, found itself "currently unable to give an informed opinion on whether non-occupational asbestos victims should be compensated". Environmental victims will no doubt shed a tear for their plight...

A new, more solidly legally-based proposal promoted by an ecology party MP is being drafted and should be laid before parliament before long.

*The text of the resolution is available (in French) on: www.diplomatie.be/berlinfr/media/berlinfr/Initiative5.pdf

problems among 40 to 50 % of the workforce. Three years later, she was given the shove".

Sad to say, the trade unions did not ring many warning bells either. In France, apart from Force Ouvrière, the main trade unions sit on the notorious CPA – the standing committee on asbestos – described in the recent French Senate report as "an industry front"⁶. The economic context in particular is very harsh. The industrial bastions of northern France and southern Belgium are hard hit by industry shake-ups. Union priorities lie elsewhere. The main thing is saving jobs; health issues come second. But it is a wider threat, because asbestos risks do not stop at the factory gates.

What about environmental victims?

In the factory villages of Prouvy and Thiant, asbestos is everywhere. The paternalist tradition meant that Eternit could be open-handed, sharing around as widely as possible the "benefits of the magic fibre". This is why management let workers take away asbestos cement pipe length cut-offs which, once crushed, could be used to lay out attractive garden pathways. The jute bags in which the pure asbestos had been stored were re-used as potato sacks, or "recycled" into home handyman's aprons.

The village of Prouvy even boasts a workers' housing estate built entirely out of Eternit. Roofs and walls

are 100% asbestos cement. A few hundred metres away stands a tipping site where production residues have been open-dumped since 1922. "After the Prefect's (departmental chief executive officer) intervention, the tip was landfilled at the end of the 1990s, because airborne asbestos dust was contaminating local residents' houses", recalls René Delattre.

It would be surprising if environmental victims did not crop up in the two Valenciennes villages. A local butcher who died of mesothelioma at the age of 25 is just one. In recent years, a growing number of people who have never worked in the asbestos industry have fallen ill. The wives of workers contaminated by washing their husbands' work clothes, people living in the factory vicinity, people working in asbestos-insulated buildings, etc. For these environmental victims, getting compensation is a full-time detective job to identify the source of the contamination which, in most cases, occurred dozens of years before the onset of the disease.

France has a compensation fund – the FIVA – from which environmental victims can claim compensation. Unfortunately, it is one of the few. But a European initiative is necessary, because the best-case estimates predict 250 000 asbestos-related deaths in Western Europe over the next thirty years⁷. ■

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⁶ *Le drame de l'amiante en France*, op.cit., p. 83.

⁷ Agence Europe, 26 September 2005.