Opinion of the Economic and Social Committee on ‘Asbestos’

(1999/C 138/09)

On 19 and 20 March 1997 the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, decided to draw up an Opinion on ‘Asbestos’.

The Section for Employment, Social Affairs, and Citizenship, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 4 March 1999. The rapporteur was Mr Etty.

At its 362nd plenary session (meeting of 24 March 1999), the Economic and Social Committee adopted the following opinion by 55 votes in favour and 9 votes against, with 13 abstentions.

1. Introductory remarks

1.1. Asbestos has already been recognized by the EU for many years as a proven human carcinogen. Relevant EU legislation is in place since 1983.

1.2. The Committee has, in several earlier Opinions on asbestos — and asbestos related EU legislation, endorsed the Commission’s view that all types of asbestos are carcinogenic. It has also maintained that ‘it is not possible to lay down “safe” exposure levels for the harmful properties of asbestos (…). Even a very low dose can cause cancer. Therefore, the only truly “safe” solution is to ban asbestos. The limit values laid down for asbestos (…) must be regarded not as “safe” limits based on scientific findings, but rather as the outcome of a weighing-up process in which non-health considerations have played a role.’ (1)

New scientific findings have been followed systematically by stricter limit values.

1.3. Most of the serious, mainly deadly, illnesses caused by asbestos (a/o. different forms of cancer, asbestosis) become manifest only many years (5 - 10 or more) after first exposure. Despite protective legislation in the past decades, scientifically based forecasts for the occurrence of asbestos-related diseases are still alarming. For instance, a recent study commissioned by the Dutch Ministry of Social Affairs and Employment states that in the next 35 years 40 000 asbestos-related diseases will be diagnosed in the Netherlands. In the period 1945-1995, it is estimated, some 10 000 people have been exposed to asbestos in factories in the Netherlands, working with raw asbestos. Furthermore, some 330 000 people have been exposed to asbestos by handling and working with materials and products containing asbestos. 19 000 cases of pleural mesothelioma are expected, and 19 000 of asbestos-related lung cancer (2). In a very recent publication Dr J. Peto, a leading expert, has forecasted that a quarter of a million individuals will die of asbestos-related mesothelioma in Western Europe over the next 35 years. Peto’s study focused on six countries: Germany, Great Britain, France, Italy, the Netherlands and Switzerland (3).

1.4. In the EU, only two of the three commercially used asbestos fibres (blue and brown asbestos) and the products containing them are completely banned since January 1986. White asbestos (chrysotile) is prohibited in fourteen product categories, but it is still used in asbestos cement products (e.g. drain pipes, roofing materials, wall claddings — some 85 % of use volume), friction materials (9 %), textiles, seals and gaskets (6 %) and in a few very specialized applications as medical filters.

1.5. Nine Member States (Austria, Belgium, Denmark, Finland, France, Germany, Italy, The Netherlands, Sweden) have now imposed a ban (with exceptions) on the first use (production, transformation, sale, importation and marketing) of asbestos. Ireland and Luxembourg support a ban in principle. The Government of the UK is presently engaged in consultations about the introduction of a ban. The Governments of Greece, Portugal and Spain, countries which have important asbestos cement industries, still support the status quo. They say that they do not accept the scientific reasons underlying the position of the other Member States and point to the adverse economic effects of a ban.

1.6. In addition to the risks for workers and consumers, related to the first use of asbestos, there is exposure of workers and the general public in the EU to existing asbestos, particularly in buildings, by demolition, maintenance, repair, and electrical and plumbing work. There is EU legislation in place pertaining to these situations and activities.


(3) British Journal of Cancer, vol. 79 (3/4). The number of lung cancer deaths caused by asbestos is at least similar to the number of mesotheliomas. So the total number of asbestos-related deaths in Western Europe over the next 35 years is likely to be more than 500 000.
2. Motivation for this own-initiative opinion

2.1. There is ever overwhelming scientific proof of the harmful, and often fatal, effects of exposure to asbestos (including white asbestos). It is aware that in many cases only few Member States are still using these derogations, which suggests that if they had been needed at one stage — and some Member States used them initially — this is no longer the case.

2.2. It must be feared that existing EU legislation and enforcement do not sufficiently protect workers and the general public. First, there is the fundamental point, made earlier, that it is not possible to lay down safe exposure levels for the harmful properties of asbestos. Secondly, experts think that it is difficult in many cases to control exposure of workers and others who handle or use asbestos or products containing asbestos. Limit values set by EU legislation may often be exceeded.

2.3. The Committee is also of the opinion that the current derogations are far too wide, and allow the unnecessary importation and use of white asbestos, either where there is no need for the use of asbestos at all, or where safer substitutes are available. It is aware that in many cases only few Member States are still using these derogations, which suggests that if they had been needed at one stage — and some Member States used them initially — this is no longer the case.

2.3.1. Of more concern, however, is that such derogations should only exist where there are no comparable alternatives available. Since in almost all cases such alternatives do exist, we are left with a peculiar situation whereby the derogations should not be needed, but are in practice used to a greater or lesser degree (in one case, a Member State has a specific derogation but has used it only eight times). The Committee thinks that, where suitable alternatives exist, derogations are superfluous and should be abandoned.

2.3.2. The Committee is also concerned that the science used to determine whether derogations should be allowed has been flawed in that it has dealt only with the manufacture and initial use of such products containing asbestos, rather than their use after time, when they are being worked on or are decaying. Throughout the EU materials containing asbestos, which are indeed safe when in perfect condition, are crumbling and releasing fibres into the working and wider environment, whether they are being consciously disturbed or not.

2.4. The present situation in the EU, with nine Member States now in favour of a ban on the first use of asbestos, means that there is a clear qualified majority for an EU banning policy for white asbestos.

2.5. Industry has made significant progress in the development of regulated alternatives to asbestos judged to be safer(1). Studies done for the European Commission have shown that there are now, for practically all uses of white asbestos, substitutes available which are considered to be less dangerous than the latter, such as polyvinylalcohol fibre, cellulose and p-aramid(2).

2.6. The Committee, taking these points into account, is pleased that the Commission has announced that it intends to prohibit the first use of white asbestos in the very near future. Allegedly, there will only be a very limited number of derogations from this ban. The instrument will take the form of an amendment to Annex 1 of 'Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos)'. It will include provisions for transitional periods.

2.6.1. Obviously, a ban on the first use of white asbestos will have important repercussions for the asbestos cement industries in Greece, Portugal and Spain. The Committee wishes to express its views on the matter.

2.7. The Social Affairs Council of 7 April 1998 asked for a strengthening of existing controls on the exposure of workers to asbestos. A Directive, totally banning or stringently restricting the marketing and the use of asbestos, will be an important step into the right direction. It will, however, not touch the enormous problems created by existing asbestos in the EU, which will remain with us for several decades to come. These problems must, once again, be addressed.

2.8. Another reason for the Committee to produce this Own-Initiative Opinion is the complaint which Canada, the world's biggest exporter of white asbestos, has lodged against France at the World Trade Organization (WTO) following the French decision to ban chrysotile. The complaint targets measures taken by France, in particular the Decree of 24 December 1996, with respect to the prohibition of asbestos and products containing asbestos, including a ban on imports of such goods. Canada alleges in its complaint (WT/DS 135) of 28 May 1998 that these measures violate Articles 2, 3 and 5 of the Agreement on Sanitary and Phytosanitary Measures, Article 2 of the Agreement on Technical Barriers to Trade, and Articles II, XI and XIII of GATT 1994. Canada also alleges nullification and impairment of benefits accruing to it under the various agreements cited. If Canada would succeed with its complaint, this could have highly undesirable consequences for relevant EU legislation.


(2) Environmental Resources Management (ERM) study underlying the CSTEE (Scientific Committee on Toxicity, Ecotoxicity and the Environment) Opinion of 15.9.1998.
2.9. Finally, The Committee's initiative is motivated by concern about the situation in several, and perhaps all, of the candidate Member States. In Central and Eastern European countries, for a very long period, little attention has been paid to the effects on the health of workers of exposure to asbestos. Most probably, large quantities of products containing asbestos have been used in building and construction. Many of the problems referred to above will exist in these countries — and on a large scale. According to the European Commission some of the candidate Member States have recently started to take legislative measures with regard to the protection of workers against the effects of exposure to asbestos.

3. Current state of legislation in the EU Member States (in particular with regard to derogations)

3.1. The main derogations allowed by European law are in terms of asbestos cement products; seals and gaskets; and friction materials. There are many detailed derogations for specific products in each Member State, but overall, the picture is as follows: where a country is not mentioned there is a general derogation for products where no suitable, safer alternative exists — the countries referred to below have either banned the use entirely or allow only very limited derogations.

3.2. Derogations for asbestos cement expired in 1994 or 1995 in Germany, Italy and Austria (with the exception of water pipes). Its use has been banned for much longer in Denmark, Finland, the Netherlands and Sweden. Its use was banned in France from 1997. Seven Member States still have general derogations for asbestos cement.

3.3. Derogations for seals and gaskets are allowed in a number on Member States — Denmark (for combined high pressure and high temperature conditions), Finland, the Netherlands (same conditions as Denmark) and Sweden (ditto) — but have expired in Austria (1993), Germany (except for diaphragms in chlor-alkali electrolysis in existing plants) and Italy. Even where the derogations exist, in each case alternatives must be used if available. Only in eight Member States does a general exemption exist.

3.4. Derogations for friction materials (banned as of 1.1.1999) existed in Denmark (but only where there is no substitute, and then only in vehicles registered before 1988), Finland (if no comparable substitutes available), France, the Netherlands (certain heavy transport vehicles) and Sweden (where there is no comparable substitute), in Germany (where they are applied only to railway clutch linings) and Italy. Seven Member States until recently had a general exemption.

3.5. In addition to what the Committee has said explaining its motives for this Opinion in para. 2.3 above, it is also concerned about the implementation in practice of existing European legislation. It fears that practice in the EU falls short, and that capacity in the Member States to monitor and control implementation is, in many cases, not sufficient.

4. Alternatives for asbestos

4.1. If there are safer substitutes available, there is no need to retain derogations (especially because many derogations already allowed for the phased introduction of such alternatives).

4.2. Often, the ‘substitute’ for asbestos is simply not to use the product at all or to make it without asbestos in it. Asbestos has too readily been used as the safety solution for risks (e.g. fire) which did not, in practice, exist. In identifying the need to use asbestos products, the risks involved in not using those products ought to be considered and properly evaluated.

4.3. Thus, many roofs are built with materials containing asbestos when there is no need, and no need to use alternatives to asbestos either. Similarly, the need for materials containing asbestos (or their substitutes) can be engineered out of the buildings and processes for which asbestos or a suitable alternative is currently considered necessary.

4.4. The Committee is assured that there are alternative products on the market for almost all the current uses of white asbestos in the EU. Some differ marginally in performance criteria, and several differ significantly in terms of price (but the price differential in part depends on whether a ban is in place). Substitutes are least available for asbestos seals and gaskets used in conditions of simultaneous high pressure and high temperature.

4.5. There are often several alternatives for a product containing asbestos and, in some cases, some alternatives are natural products (often vegetable-based) rather than the synthetic mineral fibres which are often the focus of discussion about asbestos substitutes.

4.6. The Committee accepts that some of the alternatives to asbestos, especially in terms of synthetic mineral fibres, may well be hazardous, sometimes grievously so, and it notes what the opinion of the DG XXIV Scientific Committee on Toxicity, Ecotoxicity and Environment has to say on this matter. More research should indeed be conducted into these substitutes. The Committee welcomes the important conclusion that the three alternative products for chrysotile, mentioned in para. 2.5 above, involve a risk which, with regard to carcinogenesis and lung fibrosis, is likely to be lower. The Committee fully agrees with the SCTEE's recommendation to expand research in the areas of toxicology and epidemiology of the substitute fibres as well as in the technology of the development of new thicker/less respirable fibres. It also supports the SCTEE's call not to relax environmental controls of substitute fibres at workplaces.

4.7. The Committee rejects the suggestion made by some interested parties that, until further research has been conducted, workers should continue to be exposed to the known risks of white asbestos. A joint meeting of Canadian and UK scientists on 30 September 1997, organized to give the Canadians the opportunity to present evidence on the control
of health risks of chrysotile, agreed that white asbestos can cause lung cancer, mesothelioma and asbestosis\(^{(1)}\). In these circumstances, the known risks should be dealt with before dealing with the speculative risks of the other products — but the Committee agrees that these less understood products should be used with extreme caution.

5. Relevant international instruments

5.1. The ILO has Convention No 162 on Safety in the Use of Asbestos (1986) and Recommendation No 172 on idem. The Convention is about the controlled use of asbestos, including the types already completely banned in the EU and it allows derogations. It prohibits the use of blue asbestos and the spraying of all forms of asbestos. The protective and preventive measures deal with the same elements as relevant EU legislation, but generally they have a more procedural character and they are less strict and detailed. The same holds for the rules prescribed for surveillance of the working environment and workers’ health, as well as for information and education of workers and employers with regard to health hazards inherent in exposure to asbestos, and for methods for prevention and control.

5.2. Up until now, the Convention has been ratified by 22 Member States of the ILO, among them are only five Member States of the EU: Belgium, Finland, Germany, Spain and Sweden. Portugal ratified the Convention by Presidential Decree No 56/98 of 2 December 1998; although the instrument of ratification has not yet been deposited. In the Netherlands, Parliament gave its approval in early 1999, so ratification will take place shortly.

5.3. This is the only specifically relevant international Convention and it is of great importance that as many countries as possible will become a party to it. It is unfortunate that most EU Member States have not yet ratified it. The reason for this is not that the Convention would conflict with existing EU legislation, but rather that the European Commission has, for some time, claimed exclusive competence with regard to certain important aspects of the ILO standard setting and implementation process in the field of safety and health.

5.4. Ratification by all EU Member States would not only contribute to the reputation of the ILO Convention as a major instrument for world-wide protection of workers’ safety and health. It would also, and more importantly, eliminate the (false) argument, used by many developing countries, that the simple fact that only a few of the EU Member States are apparently capable of ratifying the Convention proves convincingly that the standards, set by this instrument, are excessively high and that therefore they cannot be expected to ratify it. This is certainly not the case. As stated earlier, EU legislation is much more detailed and strict than the standards incorporated in Convention No 162. (It should be noted that ILO Conventions and Recommendations are designed to provide minimal universal standards on which to build by countries in all stages of economic development, and not binding commitments in terms of maximum standards which cannot be improved upon in the national legislation of countries that have ratified the instruments.)

6. Proposals for EU action

6.1. As a point of principle, the Committee thinks that the EU should introduce a total ban on the first use of all asbestos. It welcomes, therefore, the Commission’s intention to adapt Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos) by banning all forms of asbestos from being marketed or used.

6.2. It recognizes, that a ban without any exemption is at present not a realistic political option. Therefore, the Committee strongly recommends that if the EU will allow derogations, these should be limited to the utmost in both scope and time, and should not be wider that the strictest regime existing for that particular use within the EU.

6.3. To prevent stockpiling dangerous products, the Committee thinks that the use of products containing chrysotile which have not been applied by the time a ban comes into force should be prohibited at very short notice thereafter.

6.4. As regards the economic consequences of a ban of chrysotile asbestos for Greece, Portugal and Spain, and in particular for the asbestos cement industry in these countries, the Committee notes what the Environmental Resources Management report, commissioned by the European Commission, has to say about this: a five year transition period could provide sufficient time for adjustment of the asbestos cement industry in terms of investment in asbestos free production technologies (thus retaining employment) and absorption of redundant workers within local economies\(^{(2)}\). It also notes that the three countries will receive financial support


\(^{(2)}\) In the three countries, 13 firms are operating 15 asbestos cement plants with in total 2 480 jobs. Indirect and induced employment is calculated by ERM as 5 695 (statistics for the year 1997). Products are roofing materials and pressure pipes. Greece has the only working asbestos mine in the EU since Italy stopped its mining operations in 1991. If Greece, Portugal and Spain will get a transition period of 5 years, ERM estimates that slightly over one third of the 2 480 direct jobs will be retained. Job losses in the asbestos cement industry will be offset to a considerable extent by the job gains which are likely to occur in companies manufacturing PVC pipes and steel sheets. It is possible that up to 1 000 jobs could be created in these companies.
from the EU Structural Funds in order to overcome the employment and economic restructuring difficulties caused by the ban, while other Member States, which have already banned white asbestos, have had to solve these problems by their own means.

6.5. A total ban (or a ban with strictly limited exemption) will require an extra effort by Member States in the field of monitoring and control of compliance with legislation. The Committee invites the Commission to investigate in the very near future compliance with already existing legislation and to move forward with proposals for measures to promote effective compliance and enforcement measures.

6.6. As regards demolition and maintenance, the Committee notes with concern that the occupational groups most at risk currently are those required to work with asbestos in repair, maintenance, refurbishment, demolition and removal. Their exposure is often dependent on chance rather than design, and unlike the manufacturers and installers of such products who already suffer such high rates of fatality and illness, the maintenance and removal workers are exposed to less than perfect states of the materials concerned. Many of them are self-employed. Because of the mobility of their work, they hardly ever see a labour inspector. The health and safety of these workers requires effective regulation of their employers (including effective licensing and quality assessment), proper regulation of the details of their working conditions, and effective enforcement of such regulations, including sufficient inspection by the public authorities. The Committee is not satisfied with the current implementation of the EU safety law in this regard. It requests the Commission to cooperate closely with national authorities to improve the situation and, if such cooperation does not lead to significant improvement in the near future, to come forward with proposals designed to remedy these problems.

6.7. Some Member States already have registers of buildings which contain asbestos (France, Germany, Netherlands) or have collected relevant data. As a first step, the Commission could study the underlying motives and experiences of these efforts at national level and make an assessment of the practical utility and value of a register. On this basis, the Committee urges the Commission to examine the practicability of a proposal for the establishment, in each Member State, of a register of buildings and installations which contain asbestos.

6.8. There is also need for national laws to require building owners to develop a plan, in cooperation with occupiers, to identify any asbestos in their buildings which, through the use of surveys for example, would ensure that no worker has to begin work without knowing whether there is asbestos present.

6.9. As regards removal and disposal, the Committee recognizes the vast amount of asbestos in the built environment of the EU, including workplaces and dwellings. Where such asbestos is effectively contained, there should be a higher priority to deal with other asbestos-containing materials in precarious condition, where there is a significant risk that workers or the public could be exposed to fibres. The first priority must therefore be to remove or repair damaged asbestos, and leave the removal of asbestos still sealed in place until the most hazardous sources have been addressed. This implies that, where asbestos is undisturbed, it should for the time being not be removed, as the risks associated with such operations can outweigh the risks of leaving the asbestos undisturbed.

When asbestos is removed, however, it is vital that it be removed safely, and disposed of with proper attention to the protection of workers and the environment. Asbestos removal should always involve the evacuation of staff not engaged in the removal operation; the use of permit-to-work systems before, during and after the removal; the licensing and monitoring of the quality and operation of the firms engaged in the removal; and stronger practical protective measures for the removal workers than those for maintenance workers outlined above.

6.10. It is highly desirable that effective measures be developed to prevent resale and second use of asbestos containing material.

6.11. In addition to the proposal made in paragraph 6.5 above, the Committee would like to see the Commission take new measures for reduction of the risks to workers. Proposals should include:

- tightening of limit values for exposure;
- training, education and information for employers, workers and the general public (including young people);
- obligatory investigations of the presence of asbestos by the owners of buildings in case of demolition or maintenance;
- information campaigns on safer substitutes, active promotion of the use of these by various means;
- information campaigns on the risks inherent in the use of substitutes.

The Committee hopes and expects that the relevant services of the Commission will be adequately equipped to cope with these tasks.

6.12. The Committee draws the attention to the very special case of military personnel. It fears that existing EU legislation does not adequately protect them, and it urges the Commission to develop ideas which must improve that situation.

6.13. The Commission should actively support research into the hazards for the health and safety of workers and the general public arising from the use of substitutes for asbestos.
6.14. In some Member States, interesting developments have taken place with regard to the recognition of asbestos related diseases as occupational diseases and to compensation schemes for the benefit of victims or their surviving family. Mesothelioma is recognised by the EU, WHO and most Member States as an occupational disease. Other asbestos-related diseases are generally accepted as occupational diseases. Some countries have registers of mesothelioma victims, but few do the same for other cancers caused by asbestos. Against this background, the Committee urges the Commission to re-examine its Recommendation of 22 May 1990 to the Member States concerning the adoption of a European Schedule of Occupational Diseases to see whether or not it is necessary to upgrade its current requirements (1).

6.15. Recent efforts by the Member States to improve legislation with regard to safety and health of workers have not only resulted in stricter legal instruments, but also in the development of 'soft law' and codes of conduct. Examples are practical 'step-by-step' guides for the removal of asbestos containing material from buildings, covering both technical and occupational safety and health aspects, and developed by employers' and workers' organizations at industrial branch level. The Committee recommends that the Commission stimulate a similar development at European level, in addition to legislation.

6.16. The Committee is extremely concerned about the possible impact of the Canadian WTO-complaint against the banning by France of chrysotile. It is very surprised that, as yet, there has been no public debate whatsoever about this matter in the EU. The Committee invites the Commission to open a debate with a critical assessment of the Canadian complaint. It invites the Council of Ministers to issue a strong statement of support for France.

6.17. With reference to the Committee's 1995 Opinion on EU/IL0-relations, it is proposed that the Commission urgently take an initiative for co-operation with the Member States in order to promote in the very near future ratification of ILO Convention No 162 on Safety in the Use of Asbestos by the 10 Member States which have not yet done so. Some elements of ILO Recommendation No 172 might be used for future European legislation and/or soft law.

(1) In this context, also see the ESC own-initiative Opinion on 'Occupational Medicine', OJ C 307, 19.11.1984.


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of the Economic and Social Committee
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