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SHIPBUILDERS COUNCIL OF AMERICA

01273

Ad Hoc Committee on Asbestos
Minutes

A meeting of the Ad Hoc Committee on Asbestos was held on November 2, 1978 at the offices of the Shipbuilders Council of America in Washington, DC. Present were:

David R. Lavalette, Chairman	General Dynamics Corp.
Joseph Bogni, M.D.	General Dynamics Corp., Quincy Shipbuilding
George L. Bowen	Bethlehem Steel Corp.
French Caldwell	Litton/Ingalls Shipbuilding
John A. Chantrey, Jr.	Ogden/Avondale Shipyards, Inc.
Vernon E. Duke	Alabama Drydock & Shipbuilding Company
Stephen Gould	National Steel & Shipbuilding Co.
Russell Guy	Bethlehem Steel Corp.
Charles K. Klein	Newport News Shipbuilding
Daniel Whichard	Litton/Ingalls Shipbuilding
Frank R. Kesterman	Shipbuilders Council of America

ASBESTOS STUDY

Mr. Lavalette provided the Committee with a summary report on the Council's survey of employment and asbestos related disease claims since 1941. It was the consensus of the Committee that the number of workers compensation claims and third party litigation actions is increasing exponentially as can be seen from the results of the SCA asbestos questionnaire attached. The potential liability for workers compensation alone is in the $billions. For example, it has been estimated that for claims where the last exposure occurred before the 1972 amendments to the Longshoremen's and Harbor Workers' Act, the claim value will probably be under $100,000 per claim. However, where exposure last occurred after the 1972 amendments, the value of a claim will probably be in the range of $250,000-$750,000 including escalation and litigation costs. Even the most conservative assumptions made about claim experience in the future will produce a figure which could be potentially ruinous for the industry.

CONSULTANTS REPORT

Versar, Inc. has been retained by Avondale Shipyards, Inc. to provide an overview of the asbestos problem. Dr. Michael Markels, President of Versar, Inc. provided the Committee with background information comprised of two volumes (1) legislation proposed in the 95th Congress relating asbestos-related diseases and (2) documents relative to

"black lung" legislation and the parallel to "white lung" legislation for shipyards. Dr. Markels noted in his presentation that various government agencies are researching their own historical involvement with asbestos regulation. These agencies include the U.S. Navy, Department of Labor, General Accounting Office and the Maritime Administration.

LITIGATION PATTERN

The Navy had on file $2.1 billion in pending asbestos claims as of October 1, 1978. It appears that the claimants in private and naval shipyards file workers compensation claims against their employers and also fill lawsuits against asbestos suppliers. The suppliers are in turn seeking indemnification from the shipyards and the Government. Two recent settlements are mentioned below:

In May 1978, a former employee of AMOCO Refinery was given an jury award of $750,000. This case was settled out of court for $275,000 under threat of appeal.

On October 4, 1978, Gwaltney, former employee of Norfolk Naval Shipyards settled out of court with Johns Manville the day before trial for $157,000. Johns Manville is suing the Navy for full recovery under the indemnification theory. Johns Manville claimed the shipyard was negligent in the use of the product and in failing to warn employees of hazards. The shipyard defense is that workers compensation payments are the exclusive remedy of their employees.

RECOMMENDATIONS TO THE BOARD OF DIRECTORS

After considerable discussion, the Committee agreed that they would recommend to the Board of Directors, on December 13, 1978 that indemnification legislation be pursued.

The indemnification sought could be in the form of "white lung" legislation or a National Toxic Substances Indemnification bill. The Committee recommended that, the Council pursue Toxic Substances Indemnification legislation because of the increasing danger of more occupational diseases being discovered and growing to epidemic proportions. In addition to asbestos, shipyards must be prepared to deal with welding fumes, silicosis, lead, hydrocarbons and carcinogens yet undiscovered. The mechanics of such a legislative remedy have not been thought out. The proposed legislation would have to have sufficient safeguards on presumption of responsibility, mal-administration, and offsets to workers compensation and social security programs. The source of funds would be the U.S. Treasury and most likely a general tax on industry.

The principal argument for such legislation is that the shipbuilding/ship repair industry could not have known of the dangers of asbestos until the 1960's or later. In fact, the U.S. Government required asbestos to be used, provided specifications and maintained responsibility for public health standards. Therefore, the Government is the ultimate "responsible party", even more responsible than asbestos manufacturers. The Committee believes that the case for Government responsibility should be documented for possible use in litigation, and to convince the Government that it should support some type of indemnification of shipyards. It was also noted that government indemnification may be the only recourse for former employees of the many shipyards that have gone out of business. After proper preparation, it was recommended that meetings be held with the Department of Defense, Department of Labor and the Maritime Administration to gain their support for this approach.

ADJOURNMENT

There being no further business, the meeting was adjourned at 3 PM.

Frank R. Kesterman
Vice President and
Secretary

SUMMARY RESULTS
ALLEGED ASBESTOS RELATED DISEASE QUESTIONNAIRE

A. EMPLOYMENT (1)

Years	Tot. Avg. No. Employees on Payroll (as of Dec. 31)	Tot. Avg. Employed Annually (Including turnover) (2)	Estimated Total Different Employees (3)
1941 - 1945	440,200	704,300	1,760,800
1946 - 1950	80,000	128,000	320,000
1951 - 1960	81,000	129,600	567,000
1961 - 1970	104,000	166,400	728,000
1971 - 1975	146,000	233,600	584,000
		GRAND TOTAL	4,563,800

B. WORKERS' COMPENSATION CLAIMS

Period of Filing	No. Claims Filed for Alleged Asbestos Related Diseases
1960 - 1965	5
1966 - 1970	10
1971 - 1975	159
1976 - 1978	294

C. THIRD PARTY AND LIABILITY ACTIONS (4)

Period of Filing	No. of Actions
1960 - 1965	0
1966 - 1970	3
1971 - 1975	5
1976 - 1978	125

(1) Insufficient data was reported regarding approximate average age of workforce.

(2) Turnover rates assumed to be 60%/yr. or column 1 X 160%

(3) Column 1 payroll at start of each period plus 60%/yr. x yrs. in period

(4) This includes actions brought by or on behalf of members of employees family and other actions such as enjoinment by asbestos producers and/or suppliers regardless of merit or result.

ASBESTOS SURVEY - REPORTING COMPANIES

ALABAMA

AVONDALE

BATH

BETHLEHEM (ALL)

GENERAL DYNAMICS (ELECTRIC BOAT)

GENERAL DYNAMICS (QUINCY)

JACKSONVILLE

LITTON-INGALLS

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