



THE ASBESTOS INSTITUTE

Montreal, June 6, 1986

His Excellency Thomas M.T. Niles
Embassy of the United States of America
100 Wellington Street
Ottawa, Ontario
K1P 5T1

Excellency,

Re: EPA'S PROPOSED RULEMAKING ON ASBESTOS

The Asbestos Institute considers the proposed rulemaking of the U.S. Environmental Protection Agency (EPA), to ban and phase out the use of asbestos in the United States, to be excessive and unjustified on health grounds. In order to avoid further distortions in international trade and trade relations, consideration should be given to the immediate withdrawal of the proposed rule.

The Asbestos Institute is jointly funded by the Governments of Canada and Quebec and the Canadian asbestos mining industry. It is a privately managed organization with representatives from industry and labour comprising the Board of Directors. The prime objective of The Asbestos Institute is to promote the safe use of asbestos worldwide.

It is the position of The Asbestos Institute that the approach to asbestos regulation should not differ markedly from that taken on most other potentially hazardous commodities. It should be based on the principle of "controlled use", with worker health and

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safety safeguarded via the application of rules governing exposure limits, medical surveillance programs, engineering controls and proper workplace practices and procedures. Only where this is not possible (e.g. spraying on insulation), should consideration be given to other measures.

EPA's proposal to ban asbestos outright is out of step with the growing international support for the "controlled use" approach to chrysotile asbestos regulation. Indeed, the "controlled use" approach is consistent with the position of a number of international organizations, including the World Health Organization (WHO), the International Labour Organization (ILO), and the Organization for Economic Cooperation and Development (OECD). Furthermore, this approach is reflected in regulations on chrysotile asbestos in Canada, the European Commission, EEC member countries and most other countries around the world.

The proposed ban of asbestos is based on EPA's finding of unreasonable risk. However, in undertaking its risk assessment analysis, the EPA officials have made a number of assumptions, which tend to ignore the most recent scientific evidence. For example, EPA has failed to distinguish between fibre types and sizes and types of industrial activity in assessing the potential risk of asbestos. Several highly reputable scientists have severely criticized the EPA for these and other shortcomings (see attachment 1). In general, there appears to be a growing consensus among the international scientific community that EPA's supporting analysis contains major deficiencies both from a scientific and methodological standpoint.

It is noted that the report of The Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario (ORCA) (see attachment II), which reflects the sworn testimony of the who's who of the international scientific community, concluded that, provided regulations controlling asbestos dust exposure at low levels are properly enforced, the risk associated with chrysotile mining and its major product applications can be reduced to socially acceptable levels.

The Asbestos Institute, therefore, seriously questions the scientific underpinnings of the proposed rulemaking. We also take exception to EPA's simplistic endorsement of asbestos substitutes and the Agency's statement that substitutes do not appear to present as great a potential for risk to human health as asbestos. By taking this position, the Agency is completely ignoring an ever growing body of scientific evidence which indicates that most respirable fibres, whether man-made or natural mineral fibres, are pathogenic when used in uncontrolled conditions. Moreover, EPA is placing workers and the general public in the United States and abroad at increased risk by encouraging the use of substitutes, especially where their production and use may not be governed by appropriate regulations and when these substitutes have not yet been proven safer. At least, in the case of asbestos, the public, industry and the workforce generally know that precautions should be taken.

Hopefully, we can learn from the past and make every effort to ensure that a tragic legacy of disease does not result from the uncontrolled use of asbestos substitutes. Moreover, if the June 2nd, 1986 Washington Times article, which related the Challenger disaster to regulations on asbestos, is correct (see attachment III), then it is clear that, in order not to compromise worker and public safety, existing products should not be removed from the marketplace until substitute products, with comparable technical performance, have been found and proven.

An increasing number of countries are beginning to recognize the potential danger to worker health and safety resulting from the uncontrolled use of other respirable, biologically active fibres. Indeed, some have already introduced regulation calling for their strict control in the workplace. In addition, the ILO has also recently issued a notice calling for information on the health effects of non-asbestos natural and man-made fibrous materials. Time may prove that all respirable, biologically active fibres should be included under the same regulatory umbrella as asbestos in order to safeguard worker health and safety.

The Asbestos Institute firmly believes that asbestos is essentially an occupational health and safety problem. It is not a public health issue, nor does asbestos pose a threat to the general environment. Consequently, we would agree with the position of the U.S. Government, outlined in a letter dated August 16th, 1985 to the Swedish Government regarding Sweden's proposed regulation to ban the import of newly manufactured cars containing asbestos in brakelinings. To quote this letter, "There is no risk to health from asbestos containing brakelinings when they are used as intended and replaced using a recommended procedure such as the wet method. In the U.S., a more flexible approach is taken to regulate the use of asbestos in manufacturing and disposal processes or facilities, rather than to totally prohibit its use. The U.S. government places the burden directly on the source of the problem, by controlling in the workplace the human exposure to materials which may be hazardous to health." (Attachment IV)

Since asbestos is primarily an occupational health and safety issue, the Asbestos Institute would have expected that the regulation of asbestos would have been left to the appropriate competent authority rather than EPA.

We do not believe that a no safe-level approach to asbestos regulation is reasonable. This approach is in conflict with a growing body of epidemiological evidence which shows no excess incidence of disease with respect to low levels of exposure to chrysotile asbestos in the workplace. Moreover, this approach does not address the fact that asbestos is an ubiquitous mineral found in the general atmosphere, natural water systems and as part of the ore deposits of most mining operations. To illustrate, much of California is situated on serpentine rock, the host rock for chrysotile asbestos. Clearly, it would be impossible to "eliminate any public exposure to asbestos" as proposed by the EPA. (Attachment V). As the asbestos in schools issue has clearly demonstrated, such attempts can serve to mislead the general public, create undue anxiety for families and cause wasteful expenditure of large sums of taxpayers' money to address, what are in many respects, trivial risks.

You should also be aware that since EPA began its deliberations some years ago on the asbestos issue, asbestos production in Canada has dropped significantly, as have sales to the U.S. market. Moreover, given that the EPA is not without influence abroad, Canada's exports to other countries have also suffered. Indeed, immediately following the recent publication of EPA's proposed rule in the Federal Register, Carey Canada Inc. announced the closure of its mine in East Broughton, resulting in a further loss of some 250 jobs in the Eastern Townships of Quebec. The record will show that of all chrysotile producing nations, Canada has accounted for most of the decrease in world production since 1979.

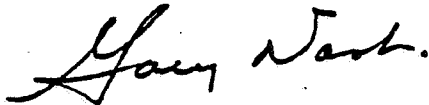
Canadian mine workers have fought hard and long for safe working conditions in Canadian asbestos mines in order to bring an end to diseases associated with past high uncontrolled exposures to asbestos. In this regard, labour has been very successful, in that management responded positively and Canadian mines and mills now serve as models to the rest of the world. It is unfortunate that EPA's shallow approach to asbestos regulation now threatens, not only the important gains made by Canadian labour in the occupational health and safety field, but also the present and future livelihood of Canada's asbestos mining communities.

The economic implications of EPA's proposed ban are not restricted to Canada. Indeed, the entire developing world could suffer severe economic consequences. The Asbestos Institute recently contracted a major study, the objective of which was to compare the socio-economic benefits of asbestos-cement (A/C) pipe manufacture vis-à-vis other competing pipe products, notably ductile iron and PVC pipe. Regardless of the social indicator chosen (e.g. employment, foreign exchange, etc...), A/C pipe outperformed all other competing products, even in those countries which have a domestic petrochemical industry. Moreover, the technology associated with asbestos product manufacturing is widely available and generally straight forward. This too, we believe, is of importance to developing countries. If EPA's proposal were allowed, and many developing countries were to introduce similar regulation, a misallocation of resources would occur, resulting in an economic burden which developing countries can ill-afford at this time.

EPA's proposed rulemaking will only serve to raise significant barriers to trade, distorting international trade and trade relations between many asbestos consuming and producing countries worldwide. Since the proposed ban of asbestos cannot be justified on health grounds, it is contrary to the principles underlying the General Agreement on Tariffs and Trade and the commitment of the United States to free trade. To avoid further damage in the marketplace, we strongly urge that appropriate action be taken to withdraw EPA's proposal immediately, and that the United States actively strive towards the international harmonization of asbestos regulation based on the "controlled use" approach.

I would ask that you please send a copy of this letter and the attachments to the appropriate officials at EPA before June 29, 1986, so that it can be placed on the public record.

Sincerely yours,

A handwritten signature in cursive script that reads "Gary Nash".

Gary Nash
President

cc: Rt. Honourable Brian Mulroney
Prime Minister of Canada

Rt. Honourable Joseph Clark
Secretary of State for External Affairs, Canada

Honourable James Kelleher
Minister for International Trade, Canada

Honourable Marcel Masse
Minister of Communications, Canada

Honourable Robert E. Layton
Minister of State (Mines), Canada

Ambassador A. Gotlieb
Canadian Embassy - Washington

Honourable Robert Bourassa
Premier of Quebec

Honourable Pierre MacDonald
Minister of External Commerce &
Division of technology, Quebec

Honourable John Ciaccia
Minister of Energy & Resources, Quebec

Honourable Raymond Savoie
Minister of State (Mines), Quebec