FILE NAME: CertainTeed (CERT)

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DOCUMENT DESCRIPTION: Contract of CERT with Turner Asbestos Fibers

TURNERS ASBESTOS FIBRES LIMITED

Renegotiation of Certain-teed Supply Agreement

BACKGROUND INFORMATION

(i) Supply Agreement Terms

This Agreement was entered into in 1962 and has been extended in its entirety three times, most recently in 1972. The present extension terminates in June 1981, providing that a two-year notice of termination is given at the earliest possible date, i.e. June 1979.

The Agreement provides for T.& N.Ltd. to have the right to supply and Certain-teed to purchase all Certain-teed's requirements for asbestos fibre up to a maximum of 75,000 tons p.a. on prices to be agreed but comparable to T.& N.Ltd. sales prices to Subsidiaries and Third Parties and upon other terms to be agreed upon from time to time. There is no reference to grades, although by implication it must be fibre suitable for use in the manufacture of a-c pipes (N.B. "suitable is not ideal"). In practice, Certain-teed have indicated their requirements to be around 43,000 tons p.a. for the next five years, made up of 31,000 tons of Group 4, 8,500 of Group 5 and 3,500 of Crocidolite.

(ii) Operation of Agreement

The Agreement has never been operated as originally intended, largely because of the loss to T.& N.Ltd. of Rhodesian fibre. In practice a large majority of Certain-teed's fibre has been supplied by Cassiar via Bell. Until recently, T.& N.Ltd. supplied Crocidolite via Dublin and a small amount of Chrysotile, 2,000/3,000 tons p.a., from other T.& N.Ltd. Mines. For the balance of their requirements Certain-teed pursued an independent purchasing policy contrary to the Agreement, but presumably with the approval of the T.& N.Ltd. Board, and they have bought from Johns-Manville and Pacific Asbestos and latterly Asbestos Corporation Ltd. and Russia. They prefer to avoid using Havelock fibre if at all possible.



(iii) Fibre Availability

There is a growing imbalance in the worldwide demand/supply situation, particularly in the grades required by Certain-teed, which may well result in a shortage of the order of 10% by 1981 of fibre available to the West in Grade 4. There is little likelihood of additional supplies being made available by that date in sufficient quantities to overcome this shortfall and only if demand was reduced, due to an exacerbation of the health problem, would the demand/supply equation change. Fibre price increases in excess of average international inflation rates might help to reduce overall demand but this is unlikely to have a major impact on Grades 4 and 5. It is unlikely that substitute reinforcing fibres of acceptable quality for asbestos-cement products will be developed to the point where they will be available in sufficient volume to materially affect demand for the key asbestos grades.

B. COMMENTS AND CONCLUSIONS

(i) T.& N.Ltd. cannot supply the requirements of Certain-teed from Bell and Havelock, even if all production in the required grades were switched to Certain-teed.

(ii) T.& N.Ltd. Companies are facing a growing shortage of asbestos fibre in Grades 4 and 5 which we will have to try to overcome by purchases from non-Group mines under long-term contracts.

(iii) T.& N.Ltd. cannot guarantee to supply Certain-teed's fibre requirements without incurring the risk of significant liability for unsold fibre under long-term Third Party purchase contracts if Certain-teed's requirements are overstated due to demand fluctuations, anti-asbestos legislation in the United States etc.

(iv) It appears that T.& N.Ltd. derives little financial benefit at present, nor will it do so in the future, from the Fibre Supply Agreement, though there may be policy considerations unknown to T.A.F.Ltd. which outweigh this lack of direct benefit, e.g. under the Agreement Certain-teed management agree to support the appointment of two T.& N.Ltd. Directors to their Board.

(v) In the present supply climate there is little or no advantage to T.& N.Ltd. in adding Certain-teed's fibre purchase requirements to our own for negotiating supply agreements as the size of the combined requirements is an embarrassment rather than a negotiating strength. This will be particularly

true when Clinton closes as we could use the whole of our likely Cassiar allocation within the Group. The only exception to this could be the slight possibility that Asbestos Corporation Ltd. might be persuaded to treat T.& N.Ltd. and Certain-teed as one purchaser to qualify for a volume discount.

C. RECOMMENDATIONS

(i) Unless there is some overriding T.& N.Ltd. policy consideration unknown to T.A.F.Ltd., every effort should be made to terminate immediately the Supply Agreement with Certain-teed on the grounds that:-

(a) T.& N.Ltd. cannot supply Certain-teed's total requirements from its own Mines.

(b) Such fibre as T.& N.Ltd. does control is generally not liked by Certain-teed.

(c) Certain-teed may be able to obtain better terms from Third Parties than through T.A.F.Ltd., e.g. Russia.

(d) The Agreement has in practice been ineffective for many years during which period Certain-teed has built up its own independent position as a purchaser.

(ii) If (i) is unacceptable, we propose that the existing Agreement be allowed to run its course and that we will do our best to help meet their fibre requirements. The situation will be more formalised than previously in that they will have to bid for fibre annually as do all other customers and they will be allocated an annual fibre contract under our Standard Conditions of Sale. These Conditions include an unambiguous "Force Majeure" clause.

They will be free to purchase from non-T.& N.Ltd. sources and we would probably only offer to supply Havelock fibre (Certain-teed already has a 5-year Agreement with Bell). Negotiations with Cassiar for supplies would be Certain-teed's responsibility. Any long-term agreements with either Cassiar or other mines would be in Certain-teed's name and not T.& N.Ltd's or T.A.F.Ltd's.

(iii) If both (i) and (ii) are unacceptable, we offer a Supply Agreement for a maximum of five years providing for all or any combination of the following:-

(a) Up to 5,000 tons p.a. (inclusive of the 2,000 tons p.a. already covered by the Bell/Certain-teed Agreement) in 4's and 5's from Bell, providing they take some volume of shorter grades.

(b) Up to 4,000 tons p.a. in HVL/4 and HVL/5 from Havelock.

(c) T.& N.Ltd. to use its best endeavours to ensure that the reduction in Certain-teed's allocation from Cassiar is no greater than the overall reduction for T.& N.Ltd's Subsidiaries.

(d) We will, if required, purchase the balance of their requirements from wherever we can, apart from Russia, at the best price we can negotiate. Such purchases to be underwritten in all respects by Certain-teed.

A. NELSON

AN/BJG
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