

INTRODUCTION

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“The Great Asbestos Trial” is the largest and most complex asbestos case ever heard in a European criminal court (see this monograph, Chap. 6). The Turin proceedings are “great” in all senses of the word, in the: number of aggrieved parties, legal representatives, municipalities, issues and worksites involved; prolonged duration of the trial; fundamental legal concepts explored; decade of painstaking and meticulous research required to bring the defendants to court; expectations of the bereaved that the verdict will recognize the cataclysmic nature of the crimes committed. In the dock are former executives from the Swiss and Belgian Eternit Groups, enterprises which exerted control over operations at Italian asbestos-cement factories. Industrialists Stephan Schmidheiny (Switzerland) and Baron Louis de Cartier de Marchienne (Belgium) are accused of causing permanent environmental disaster and failing to comply with safety rules. Should they be found guilty, they could face a twenty-year sentence for their role in the asbestos tragedies in Casale Monferrato (Alessandria), Cavignola (Turin), Rubiera (Reggio Emilia), Bagnoli (Naples) and Siracusa (Sicily). That this lawsuit has achieved an iconic status both in Italy and abroad is a reflection of the universal principles under consideration. Is there, indeed, a human right to life, one which takes precedence over shortcuts that speed up manufacturing output and minimize production costs? Can individuals be held liable for the effects of commercial operations that endanger life and pollute the environment?

The Turin trial marks a “judicial turning point in the international history of cases against asbestos industrialists. It targets the strategic behaviour of a few heads of multinational asbestos firms, those who organized the international-scale disinformation campaign on the health effects of asbestos that led to disaster not only in Italy but everywhere that asbestos was being used” (Chap.9). The proceedings, which began on December 10, 2009, were the culmination of fifty years of direct action by the workers from the Eternit Casale Monferrato factory who took “critical ownership of the reality of work... produced alliances between workers and scientists... [and] challenged the establishment’s take on reality” (Chap. 7). The practical and political support provided by trade unions and labor federations were of fundamental importance in helping shape public perception regarding Eternit’s responsibility for the asbes-

tos epidemic. The sustained commitment of the leaders and members of AfeVA (the Associazione famigliari e vittime amianto di Casale Monferrato – the Association of families and asbestos victims of Casale Monferrato) was decisive in the creation of the grassroots movement that sustained the long “struggle for justice, decontamination, research” (Chap. 6). Demonstrations, memorial services, public meetings and vigils mounted by the Casale Monferrato campaigners ensured that the Eternit scandal remained an issue high on the political and social agenda. The campaign’s flags, in the Italian colors of green, white and red, with the slogan “Eternit: Giustizia!” (Eternit: Justice) bedecked shop windows, balconies and public spaces throughout the town. The ubiquity of this image was a visual manifestation of the deep-seated and widespread backing for the victims’ battle for justice as were the crowds of local people who attended each hearing of the Turin trial. For the people of Casale Monferrato, the legal proceedings represented their day in court: a point in time when the faceless executives they held responsible for the deaths of their loved ones were named and shamed.

The judicial hearings have exposed: “an economic system that allowed easy profits to be made, with those making such profits apparently impervious to the harm they were inflicting on workers and communities” (Chap. 6). They have also revealed the lengths to which Eternit would go to preserve its “good name.” Documents seized by police from the Milan office of GCI Chiappe Bellodi Associates, the public relations company retained by Eternit, revealed the existence of a “super-web of Eternit-paid advisors,” who orchestrated a meticulous defense strategy to exert maximum control over “the Casale issue” (Chap 11). Vast financial resources were at the disposal of the spin doctors who recruited personnel from Eternit AG, Eternit S.p.A., the Swiss Eternit Group and Nueva Ltd., as well as independent experts and contractors as required to roll out the corporate communication plan. Crucial to the operational effectiveness of the Bellodi network was the input from “local PR correspondents,” spies recruited by the company to infiltrate AfeVA.

The Italian legal system within which this case has been mounted presents a real challenge to those of us from common law countries like England, India, the U.S., Canada and Australia where the asbestos-injured pursue civil claims for compensation. The fact that the Turin

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Photo from documentary: Dust - the Great Asbestos Trial
Bruno Pesce, Romana Blasotti Pavesi and Nicola Pondrano, pictured in 2009

proceedings, initiated by Public Prosecutor Raffaele Guariniello, incorporated a massive civil lawsuit enlarged both the complexity of the case and the numbers of parties involved. The possibility that defendants could effectively buy themselves more lenient sentences by doing deals with claimants is a difficult concept to comprehend as well as a bitter pill to swallow (Chap. 9, Appendix).

Despite its drawbacks, the Italian legal system has been just about the only one to have imprisoned business executives for toxic corporate crime (Chap. 10). Given the multifactorial nature of the Turin proceedings, the administrative nightmare of organizing evidence collected in over ten years of research, the technical hiccups (Chap. 10) and the limited time available – the 66 hearings were only held one or two days a week – reaching the end of the trial was an achievement in and of itself. The respectful attitude of the presiding judges towards the injured, the thorough preparation of Prosecutor Guariniello and his team and the input from a multinational team of legal advisors and experts have encouraged the victims’ hopes that an “exemplary sentence” will be handed down on February 13, 2012.

Eternit: Status and Modus Operandi

The Eternit group of companies was “probably the largest manufacturer of asbestos cement in the world.”¹ The totality of all global Eternit interests was so wealthy, powerful and influential that Eternit certainly deserved a status equal to that enjoyed by the other global asbestos Goliaths: the Johns Manville Corporation (US) and Turner & Newall Ltd. (Britain). Indeed, it

was Eternit which pioneered the historic alliances that enabled the asbestos-cement industry to flourish throughout the 20th century. In 1929 Ernst Schmidheiny, of Eternit Switzerland, established an organization designed specifically to advance the interests of asbestos-cement producers; the birth of the SAIAC Cartel was a pivotal moment in the history of the industry. SAIAC members agreed to exchange technical knowledge, centralize research activities, standardize product ranges and organize the export business (Chap. 1). Working together SAIAC members divided up global markets, pressurized national governments, fixed retail prices, and extracted favourable business terms from asbestos producers.

Describing the international Eternit scene during the 1920s and 1930s, Swiss journalist Werner Catrina wrote that it “resembled a clan in which some members were married to each other, while others were related or had become friends as a result of their common interests.” The recognition of the mutuality of commercial and personal interests amongst asbestos-cement stakeholders was extremely important to the industry’s future success. The family connections, friendships, shared financial investments, periodic meetings and joint commercial ventures which cemented the personal relationships of the global asbestos elite were diligently exploited to safeguard the industry’s interests.

Long before the internet age, Eternit personnel had easy access to decision-makers within as well as outside their own spheres of influence. So, when Turner & Newall Ltd. (T&N) began placing labels on asbestos sacks mentioning the cancer risk, something had to be done.

¹ Evidence given by Eternit Building Products Limited to the (British) Advisory Committee on Asbestos, 1976.

Etienne van der Rest, director of Eternit Belgium,² complained to T&N's Director of Personnel and External Relations H.D.S. Hardie in a letter beginning "Dear Harry."³ Referencing the protracted negotiations by asbestos stakeholders over the wording for "a suitable text to be placed at the bottom of the [asbestos sack] label," van der Rest reminded Hardie that it had been agreed that companies "were not to mention on the label the risk of cancer, but only to say that an incorrect use of the product could be harmful to health." T&N's deviation from the rule book was a "disappointment," with potentially serious consequences. Van der Rest speculated about the imposition of EEC industry regulations such as the mandatory provision of "a skull and crossed bones (sic) label..." on bags of asbestos fibre. The association of asbestos with a symbol universally understood to denote poison would not be good for sales. Concluding the letter, Van der Rest challenged Hardie to explain the decision regarding the new T&N wording in order that he may "defend the position of Turner (sic) towards all those who criticise her rather severely..."

Rigorous compliance with the Eternit party line is a theme which permeates this monograph. An example of the strict control exerted by high-level executives throughout the Eternit empire is the discipline enforced by public relations spin doctors tasked with keeping the evolving Eternit asbestos scandal below the radar in Italy (Chap. 11). A "PR Bible," designed to "guarantee that everything is and will be under control," was meticulously implemented: "The strategic orientation of our PR-policy has been carefully devised and laid down over the years. I think it is valid and should not be altered," wrote Milan-based consultant Guido Bellodi. While the efforts to deal with the situation in Casale Monferrato were undertaken primarily by persons working on behalf of Swiss Eternit interests, corporate authoritarianism was also rife in the Belgian Eternit Group, which in 1995 became the Etex Group. A 53-page document issued in January 2000 entitled: Corporate Identity Guidelines for Etex Group Affiliated Companies lays down exacting rules for the use of logos, typefaces, layouts, and colors in company letterheads, business cards, advertising, websites, exhibitions, technical documentation internal documents and emails in all 150 Etex companies in 37 countries across five continents. "The rules are pretty straightforward," wrote Paul van der Straten Waillet, Etex Marketing and Com-

munications Director, "but they must be applied in every case and in every company."⁴

That the two examples cited in the paragraph above are from the 21st century, a time when even former asbestos magnates had reinvented themselves as philanthropists and environmental gurus (Chap. 3), suggests the existence of a continuity of approach characterized by centralized decision-making and micromanagement. It is hard to believe that knowledge of the asbestos hazard available to the Eternit hierarchy as early as 1931 was not disseminated to others in the Eternit and SAIAC networks. In April 1950, a letter from the General Secretary of Eternit S.A. (Belgium) informed SAIAC that:

"You will remember that we ourselves have already drawn your attention to asbestosis, through our letter of 15 May 1931. In 1933 we received the report of Dr E.R.A. Merewether... and since then we have been continually occupied with precautionary measures..."

It is clear that the general interest requires control measures wherever there is danger."⁵

It appears that this letter was one of a series about the dangers of exposure to asbestos. One month earlier (March 13, 1950) the Secretary of SAIAC had written to N.V. Eternit in Amsterdam referring to previous correspondence from Holland on the subject of asbestosis and confirming the cartel's plans to instigate an enquiry amongst its members regarding their experience with asbestosis.

The facts as they are known present us with something of a conundrum. From the available documentation, it is clear that Eternit executives at company headquarters were aware of the risks asbestos exposure posed to human health eighty years ago and that "Eternit companies kept each other informed..."⁶ It is also clear that Eternit had a proclivity to regulate all aspects of corporate policy, behaviour and activity. How then could occupational safety and health, an incredibly important aspect of corporate policy, be left to the whim of unit managers and individual foremen. The most likely answer is that it was not – that the failures to adopt safer working practices, install adequate ventilation and in-

²It is of interest to note that the mother of Eternit director Etienne van der Rest was Marguerite van der Rest, née Emsens, a daughter of the Belgian asbestos entrepreneur Alphonse Emsens. <http://www.tv3.cat/multimedia/pdf/3/7/1297090719573.pdf>

³Letter from E. van der Rest, Eternit, Kapelle-op-den-Bos, 5th March 1980 to H.D.S. Hardie, Turner & Newall Ltd., Manchester.

⁴Eternit Archive: Box 9, 4087-4137.

⁵See Chap. 1 Appendix: translation of letter from Eternit S.A. (Belgium) to SAIAC, dated April 14, 1950; original version in French.

⁶Ruers B and Schouten N. The Tragedy of Asbestos: Eternit and the consequences of a hundred years of asbestos cement. May, 2006. Socialist Party (Netherlands).

roduce technological innovations to protect the workforce were a result of decisions taken at the highest levels of the company. Public Prosecutor Raffaele Guariniello believes that “key decisions were not made in Italy but at the Company’s headquarters [in Switzerland and Belgium], and therefore they applied to their global asbestos empire, not just to Italian plants but to all interests under the control of the majority shareholders” (Chap. 8).

Asbestos Superstars

Within the Eternit galaxy, no stars shone brighter than those of the Schmidheiny (Switzerland), Emsens (Belgium) and Cuvelier families (France) (Chap. 2), leading lights of their countries’ ruling classes. Their elevated status brought multiple benefits amongst which were cultural, educational, social and financial ties to politicians, bankers, lawyers, journalists and others whose actions determined their countries’ commercial climate, legislative program and social agenda. The wealth, political power, financial authority and media influence of individual members of these clans were substantial; the collective muscle of the asbestos-cement royalty was almost irresistible. Long-time Eternit observer Adrian Knoepfli noted in his paper the “Schmidheiny Family Imperium” that the Schmidheiny family constituted the “best known business dynasty of Switzerland.” “In the heyday of asbestos production,” Knoepfli writes “the Schmidheiny family controlled Eternit factories in sixteen countries, employing 23,000 workers, and they owned interests in factories, through their stake in the Belgian Eternit group (belonging to the Emsens family), in another sixteen countries” (Chap. 2).

Billionaire Stephan Schmidheiny, whose personal fortune was enlarged by profits from the Swiss Eternit Group’s asbestos-cement operations, nowadays writes about “green capitalism,” “corporate responsibility,” and “sustainable development” (Chap. 3). Schmidheiny’s charitable works as “one of the most generous philanthropists in Latin America” and his efforts to save the planet do not ease the distress of those who contracted asbestos-related diseases from exposure to Eternit asbestos. In an interview Schmidheiny gave to David Bank, a reporter from the Wall Street Journal, this issue was discussed. Bank wrote:

“Mr. Schmidheiny says it’s not his responsibility to compensate injured workers. Swiss employees can seek help from that company’s workers-insurance agency, he says, while workers else-

where can make claims against the companies that have acquired Mr. Schmidheiny’s stakes. ‘In almost all cases where we sold, there is a solvent big company capable of taking care of things,’ he says. For workers with nowhere else to turn, Mr. Schmidheiny has promised to address individual claims ‘on a humanitarian basis.’”⁷

While Stephan Schmidheiny made a tactical withdrawal from the asbestos industry, people around the world possessed intimate reminders of their connection to the Schmidheiny Imperium in the asbestos fibres embedded within their respiratory systems. “Thousands of people have been exposed to asbestos in plants in Europe, the Middle East, Africa and Latin America in which the Schmidheiny family once held ownership interests.”⁸ The long latency period for asbestos-related diseases, typically 10-50 years from exposure to disease onset, means that people dying from asbestos-related diseases now (2012), were more likely than not hazardedly exposed to asbestos before Stephan Schmidheiny “shed most – but not all – of his family’s asbestos operations.”⁹

A Global Perspective on the Humanitarian Disaster Caused by Eternit

While the focus of this book is on the Casale Monferato disaster and the forces which coalesced to bring to trial former asbestos businessman for their alleged roles in causing it, the tragedy of Italy’s asbestos dead is one replicated wherever Eternit asbestos-cement plants existed. Papers in this monograph about manufacturing operations in Italy, Brazil, France, Belgium, the Netherlands, Denmark and Japan document the determination of global and national Eternit companies to prioritize corporate profits while neglecting occupational safety. How else could you explain the fact that as late as 1995, bags of raw asbestos were opened with a knife and manually emptied into a mixer at the Eternit plant in Thiant, France (Chap. 15). For decades, it was common practice for Eternit executives to use medical information on workers’ asbestos-related illnesses to the company’s advantage whilst denying knowledge of diagnoses to the individuals involved and government authorities. Danish historian Kurt Jacobsen reports that from the mid-1950s the incidence of asbestosis amongst workers at Dansk Eternit grew steadily. “The workers, however, were not informed – at least only a few of them – and neither was the public” (Chap. 17). Japanese Eternit workers were given “no explanation of the hazardous aspects of asbestos or education for avoiding diseases... In addition, the company made workers take

⁷Bank D. Moral Fiber: Billionaire Activist On Environment Faces His Own Past – An ‘Eco-Efficiency’ Advocate Swiss Magnate Confronts Questions on Asbestos – Mr. Schmidheiny’s Conscience. September 12, 2001. The Wall Street Journal. http://www.pitt.edu/~mitnick/EBEweb/MoralBillActivEnWSJ12_9_02.html

⁸Ibid.

⁹Ibid.

their work clothes back to their houses” (Chap 18). A 2011 verdict from a Brussels civil court confirms the efforts made by the Belgian Eternit company to “belittle the health dangers of asbestos and to cover up the facts... [when it] knew with surety that exposure to asbestos involved a serious risk for the development of diseases such as asbestosis, lung cancer and mesothelioma” (Chap. 16).

Throughout the Eternit empire, it was routine for executives to manipulate government agendas to forestall the introduction of protective measures and the adoption of asbestos bans. Despite the fact that cases of asbestos-related diseases were diagnosed amongst Eternit workers in the Netherlands in 1956, 1972, 1975, 1981, and 1982, “in none of these cases did Eternit publish any information outside the firm. None of the victims was able to establish Eternit’s liability” (Chap. 14). The struggle by Dutch Eternit victims to obtain compensation is referred to by Bob Ruers as “the double agony”: the legal agony on top of the medical one. Avoiding liability for asbestos decontamination costs was another preoccupation of Eternit personnel. When the Italian Eternit company declared bankruptcy in 1986, “the Casale Eternit plant was abandoned with all its poisonous contents...” (Chap. 5). Current estimates for the decontamination of the town of Casale Monferrato exceed €160 million; to date, neither the Swiss nor the Belgian Eternit Groups has paid to clean up the former industrial site, local buildings, the polluted Po River or contaminated soil. When all else failed, Eternit’s policy was to attack the credibility of its critics; Eternit executives in Casale “denied that asbestos caused mesothelioma for years and dismissed as subversive, union battles in defence of workers’ health” (Chap. 5).

Nothing is as eloquent as the words of the victims in conveying the horrific reality created by Eternit’s negligent behaviour. French asbestos widow Mireille Wuilbeaux wrote that after years of ill health her husband, who had worked for 42 years at Eternit’s asbestos-cement factory in Thiant, had been diagnosed with mesothelioma in October 2001:

“Hell started then: chemotherapy, repetitive pleurisies, more and more frequent draining. From January 2005, my husband had nodules which required irradiation, radiotherapy. Then, in April 2005, a new scan and, an ice shower, the diagnosis of lung cancer on the right side. Hospital again; he had oedema in the lower limbs and could not walk anymore. To try to cure this new cancer he received heavy chemotherapy

which he barely stood. This therapy attacked his nervous system; he would tremble, faint, vomit. His whole body was aching: head, belly, legs. He could not even drink; we would refresh him with ice lollipops.

On 1st October 2005, Robert died. If hell is a virtual place, I can say my husband lived through hell and suffering; and I did too during those last months when I stayed by his side” (Chap. 15).

As complex as the Eternit story is, with its confusing array of corporate reorganizations, divestments, acquisitions, reconfigurations, amalgamations, name changes, cross-ownership and joint ventures (Chap. 2), this is basically a very simple tale. It is a story of the man-made decisions which transported a lethal substance up from the ground and into factories, workshops, homes and public buildings. The people who were in charge of the corporations which profited from this deadly trade are responsible for the consequences of their actions. Had things been handled differently at the Thiant factory, Mr. Wuilbeaux might have been spared the excruciating death described so poignantly by his wife. Had the managers responsible for the conditions at the Casale Monferrato plant taken steps to prevent asbestos pollution, generations of townspeople might have been saved from the fatal consequences of exposure to Eternit asbestos.

The chapters in this monograph document Eternit-caused asbestos tragedies in seven countries; given more time and resources similar stories could have been told of the damage associated with the Eternit name in scores of other countries in Asia, Africa, North America, South America and Europe. There are clearly limits to what can be achieved in a relatively short monograph when addressing such a huge subject. Although books about Eternit have been published, to our knowledge, none has yet appeared in English. To the acknowledged Eternit experts from Switzerland, France, the Netherlands, Belgium and Italy, please view this monograph as an invitation to write the definitive tome, with a version in English, on the multinational disaster caused by Eternit’s asbestos operations.

The papers in this collection were produced, revised and edited over a number months, last year. Due to the protracted production process, partly due to translation delays, there will be some instances where texts have been overtaken by events. For this reason we have annotated each chapter with the date it was last significantly altered.¹⁰

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¹⁰ On a technical note, we took the decision to retain the choice of spelling (English or American) and reference styles made by the original authors (or their translators).