

# Workshop Presentation

## 9.2 JAPANESE SITUATION ON ASBESTOS ISSUES AND BANJAN'S ACTIVITIES

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### 1. Asbestos Use in Japan

Japan is one of the biggest consumer/importer countries of asbestos in the world.

Japan began importing asbestos in the 1930s. During World War II, asbestos imports were stopped, but after the war the government promoted the development of domestic asbestos mines (about fifty mines). However, none of these mining sites are in operation at present, except Furano, Hokkaido where only a small amount of asbestos from slagheaps is processed into fibers. Almost all the asbestos consumed in Japan has come from foreign countries.

Asbestos imports increased during the period of Japan's industrial growth in the 1960s and 1970s. In 1974, annual imports reached a peak at 352,110 tons. But following a global trend, Japanese asbestos industry stopped importing crocidolite (blue asbestos) since 1988 and amosite (brown asbestos) since 1993. Meanwhile in a regulatory move, the Japanese Ministry of Labour in 1995 amended the Enforcement Order of Industrial Safety and Health Law, banning the manufacture, import, supply and use of crocidolite and amosite and products containing them. Thereafter only chrysotile (white) asbestos has been used in Japan.

In response to an economic depression, asbestos consumption has decreased continuously since 1989. But compared to other industrialized countries, Japan's consumption still remains strikingly/embarrassingly high.

In 1999, Japan imported 117,143 tons of asbestos from Canada (59,146 tons, 50.5%), Zimbabwe (24,392 tons, 20.8 %), South Africa (13,302 tons, 11.4 %), U.S.A (6,835 tons, 5.8 %), Brazil

(6,359 tons, 5.4 %), Russia (4,674 tons, 4.0 %) and other countries (2,435 tons, 2.1 %).

Since asbestos has a number of attractive properties, such as thermal resistance and tensile strength, it is estimated that asbestos had more than 3,000 types of applications in Japan during the peak period. Recently, asbestos is mostly (more than 95%) used for construction materials such as asbestos cement products.

According to the 1995 Japan Asbestos Association's report, Japan imported 188.5 thousand tons of asbestos. Among them 42.1 % were used for flat slates (75.1 thousand tons), 20.6 % for wavy slates (36.8 thousand tons), 18.4 % for extrusion cement boards (32.8 thousand tons), 5.2% for bulb cement boards and slag plaster boards (9.3 thousand tons), 4.3 % for asbestos cement siding boards (7.6 thousand tons), 2.4 % for other construction materials, 2.9 % for friction materials for vehicles (5.2 thousand tons) and 1.4 % for joint seats (2.5 thousand tons).

## 2. Asbestos-related Disease and Compensation

In Japan, the first asbestosis case was reported in 1937, lung cancer due to asbestos exposure in 1960 and mesothelioma in 1973. Since then, asbestos-related diseases have been reported not only in asbestos products manufacturing plants, but also in shipyards, harbors, automobile manufacturing plants, construction worksites and others.

But, despite the large amount of consumption and the wide range of application, the number of victims killed by the deadly substance has remained at a surprisingly low level.

Japan's mesothelioma mortality figures became available since 1995 from official vital statistics (compiled by the Ministry of Health and Welfare). According to this, the mortality was 500 in 1995, 576 in 1996, 597 in 1997 and 570 in 1998. This means 5-6 per million per year. The great majority of mesothelioma cases are caused by asbestos, and it is said that each mesothelioma case is associated with between 1 to 2 (or more) asbestos-related lung cancer cases. So we assume that several thousands of asbestos-related deaths are occurring annually in Japan.

These figures are considerably higher than the figures estimated by experts in the past, but still much lower than current data for Western countries. According to experts, the comparatively low level of asbestos-related death in Japan is a result of lagging growth of asbestos consumption. They are warning that the rate may soon catch up – and outstrip in the future – that of Western countries, after long-term accumulation of the substance.

We feel the situation in Japan is quite serious. But unfortunately, the government has not taken enough action. Even support for victims and their families has been sloppy.

If a victim suffers asbestos-related disease due to occupational asbestos exposure, he/she (or survivors) can receive benefits from the Worker's Accident Compensation Insurance Scheme (See page 10-11). The number of annual compensation cases of asbestos-related lung cancer and mesothelioma was less than 10 before 1984, 10-19 during 1985 to 1991, 20-29 during 1992 to 1997 and 42 in 1998. The data on asbestosis is not available and the data on pneumoconiosis

includes asbestosis victims. Every year more than one thousand pneumoconiosis victims newly receive compensation. But these figures are far lower than the estimated total mortality mentioned above. The greater part of eligible victims is left uninformed by authorities, employers and medical doctors.

### 3. BANJAN and the Ban Asbestos Law

BANJAN (Ban Asbestos Network Japan) was established in 1987. This organization is composed of trade unions, citizen's groups, OSH groups and interested individuals. The ILO Convention No.162 concerning safety in the use of asbestos which was adopted in 1986, lead these organizations to unite. Member unions include the All Japan Prefectural and Municipal Workers' Union, the National Federation of Construction Workers' Unions, the All Japan Shipbuilding and Engineering Workers' Union and the All Japan Dock Worker's Union. Member citizens' groups include the Consumers Union of Japan, the Japan Citizen's Network for Wiping Out Asbestos. And OSH groups include the Japan Occupational Safety and Health Resource Center, its affiliated local occupational safety and health centers and the Association of Institutions for Community and Occupational Health Care.

Since its establishment, BANJAN has been lending itself to raising awareness about the hazards of asbestos and its health effects. In addition to holding a number of campaigns urging stricter regulations and the use of safer substitutes, we have been promoting/supporting victims and citizens' actions.

BANJAN compiled recommendations for asbestos policy in 1990 and put forward the draft of Ban Asbestos Law in 1992. This draft consists of the following provisions in the main body:

- (1) Introducing a ban on manufacture, import, supply and use of asbestos and asbestos-containing products (with an exemption of certain cases in which there is almost no substitute for asbestos available and only if the Prevention of Emission Standards are met).
- (2) Establishing the Council for Prevention Measures on Asbestos Health Hazards, a body that recommends measures to prevent asbestos health hazards to the government.

This proposal was submitted to the National Diet, and intensive campaigns delivered about 630,000 signatures in favor of enacting the Ban Asbestos Law. The bill, however, faced opposition of the Liberal Democratic Party and was rejected without deliberation.

### 4. Strengthening the Regulations

The rejection was a severe setback for Japan's anti-asbestos movement. But BANJAN has been continuing to press the government.

In Japan, the Labour Standards Law (enacted in 1947), the Pneumoconiosis Law (enacted in 1960) and the Industrial Safety and Health Law (enacted in 1972) had dealt with asbestos regulations at workplace in view of preventing asbestosis (as a part of pneumoconiosis).

In 1975, the Ordinance on Prevention of Hazards due to Specified Chemical Substances (enacted in 1971) was revised to strengthen regulations of carcinogenic substances. With this amendment asbestos was legally acknowledged as a carcinogen (classified as a “specified group-2 substance”) and spraying asbestos was prohibited in principle. (The spraying rock wool that contains asbestos less than 5 % continued until 1979.) This ordinance puts employers under obligations to appoint an operation chief at work from those who have completed specified skill training courses, as well as to provide ventilation systems and personal protective equipment, to measure concentration in the air, to make medical doctors conduct medical examination of workers, and to keep records on work and workers for 30 years.

In 1978, the Ministry of Labour set up the Recognition Standards for Workers' Compensation of asbestos-related diseases (asbestosis, lung cancer and mesothelioma) (See page 9).

Through our efforts, we have strengthened existing regulations. Below are some examples.

(1) In 1987, the removal of sprayed asbestos from school facilities became a big issue of public concern, causing a so-called “school panic.” Facing mounting public pressure in which BANJAN played a leading role, the Environment Agency, the Ministry of Health and Welfare and the Ministry of Education in 1987 and 1988 issued notifications to local governments to prevent air pollution caused by demolition and repair work of buildings. In 1988, the Building Center of Japan, an affiliated organization of the Ministry of Construction, issued technical guidelines to control dust emission from sprayed asbestos in buildings, while the Japan Construction Safety and Health Association, an affiliated organization of the Ministry of Labour, issued guidelines to prevent asbestos exposure during demolition and repair work of buildings. In addition, the Ministry of Health and Welfare issued notifications on control of asbestos waste.

(2) In 1988, the Working Environment Evaluation Standards were enacted. These standards set up the Control Concentration Levels, upper limits for asbestos concentration, as 0.2 fibers/cm<sup>3</sup> for crocidolite and 2 fibers/cm<sup>3</sup> for other asbestos. (Since 1976 the Ministry of Labour has used administrative power against employers to achieve the same levels.) In 1991, the Japan Asbestos Association (a member of the Asbestos International Association) set up a voluntary limit of 1 fibre/cm<sup>3</sup> to control chrysotile concentration in the workplace.

(3) In 1989, the Air Pollution Control Law and related orders were revised to classify asbestos as a “specified dust” and to set up 10 fibers/liter as the Concentration Standard at the Boundary of the Asbestos Dusts Generation Facilities (i.e. asbestos products manufacturing facilities).

(4) In 1992, the Waste Disposal and Cleanup Law and related orders were revised to classify “flyable” asbestos wastes as a “specified control industrial waste” and to set up its disposal standards.

(5) In 1992, the Ministry of Labour, in an effort to provide hazards information on chemical substances, established guidelines that require suppliers to provide the Material Safety Data Sheets if products contain more than 1% of asbestos. (This was introduced into an article of the Industrial Safety and Health Law in 1999. Another article of the law prescribes the duty of

employers to label asbestos containing products with hazards information since 1975 and the Japan Asbestos Association has voluntarily labeled “a” mark to those products since 1989.)

(6) In 1995, the Enforcement Order of Industrial Safety and Health Law and related ordinances were revised to prohibit the manufacture, import, supply and use of crocidolite, amosite and products containing them (Japanese asbestos industry had already stopped importing crocidolite since 1988 and amosite since 1993). And this order put on employers the following obligations: (a) to identify where asbestos is used in the buildings before beginning demolition and repair work and to keep records on those identifications; (b) to isolate the worksites where workers remove sprayed asbestos in the buildings by such means as covering the sites by vinyl sheets; (c) to notify the Labour Standards Inspection Office of the work plan at least 30 days before workers remove sprayed asbestos in certain fireproofed buildings.

(7) In 1997, the Enforcement Order of Industrial Safety and Health Law and related ordinances were revised to provide “health care notebooks” to those who have left asbestos manufacturing/handling work, if certain signs such as irregular shadows or pleural thickenings are found in his/her chest X-ray exam. This “health care notebook” makes it possible for the possessor to receive medical examinations free of charge every half year.

(8) In 1996, the Air Pollution Control Law and related orders were revised to designate demolition and repair works of buildings accompanied with removal of sprayed asbestos as a “specified dust generation work.” Those who wish to do such construction work were put under the following obligations; to notify the local government of the work plan at least 14 days prior to the beginning of the work and to comply with the asbestos removal work standards.

(9) In 1998, the domestic law to comply with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was revised to clarify that asbestos waste is subject to the law. (Japanese government has maintained the position that the wastes unintentionally containing asbestos should be covered by the Basel Convention (such as scrapped ships in which asbestos is used)).

(10) In 1999, the Promoting Chemical Control Law was enacted to introduce the PRTR (Pollutant Release and Transfer Register) system in Japan. The government included asbestos as a substance subject to the PRTR after BANJAN submitted public comments to this effect.

These regulatory developments have strengthened control measures of asbestos. However, it should be noted that chrysotile asbestos remains unregulated as long as it is not sprayed.

## 5. Positions of Japanese Ministries

BANJAN has been having discussions with officials of concerned ministries on asbestos issues and calling for an immediate ban on asbestos.

The positions of each ministry/agency are very inconsistent. This was one reason why BANJAN initially intended to enact a specific law to prohibit asbestos in Japan.

The Environment Agency recognizes international situations well and acknowledges the need for stricter regulations. But they said that they don't have the power to ban asbestos. (They are not in charge of it.)

The Ministry of International Trade and Industry recognizes international situations too. (They are kept informed by asbestos industries.) While they maintain “controlled use of asbestos” is reasonable, they also say they have been promoting substitution and reduction of asbestos content. Regarding the WTO case, in which Canada challenges the French ban on asbestos, they said they had not decided their position at this time.

The Ministry of Labour said, “We are making efforts to collect the latest knowledge/information, and if necessary we will consider additional actions.” This is a typical Japanese bureaucratic answer which means that they don't think it is necessary at this time. But we believe it is this ministry that could promptly lead Japan to a total ban on asbestos, since a ban on chrysotile asbestos can simply be introduced by amending the Enforcement Order of Industrial Safety and Health Law as was already done in the case of crocidolite and amosite.

The Ministry of Health and Welfare apparently regards asbestos as a past problem, despite the fact that every year thousands of people are dying from asbestos-related diseases. Last year one official asked us: “Does ‘the tile named chrysotile’ contain asbestos ?”

The Ministry of Construction seems to lack a clear view on ban and substitution of asbestos. Last year one official said that they put the fate of asbestos into the market's hands to see which construction material – the cheaper one or safer one – consumers would choose. This year they said that they have been using non-asbestos products for governmental buildings and clarified for the first time that they intend to promote substitution.

The Ministry of Transportation is supporting the French move at the International Maritime Organization (IMO) that proposed the International Convention for the Safety of Life at Sea (SOLAS Convention) to prohibit new use of asbestos on board ships. (In fact the Japanese shipbuilding industry has not used asbestos since the 1970's.) But they said that they don't intend to introduce new control measures in their transportation policies.

Last year, BANJAN requested the Japan Society for Occupational Health, which represents over 5,000 industrial doctors (professionals of occupational health), to take the initiative in introducing a ban on asbestos in Japan. This April, the society issued a provisional recommendation that “the Permissible Concentration Level” at workplaces should be 0.15 fibers/ml for chrysotile and 0.03 fibers/ml for other asbestos types. It has been calculated that these levels represent a 1/1,000 excess lifetime risk of contracting lung cancer and/or mesothelioma. The formal recommendation is expected to be announced next year.

At present, the Governmental Control Concentration Level at workplaces is 2 fibers/cm<sup>3</sup> for asbestos other than crocidolite and 0.2 fibers/cm<sup>3</sup> for crocidolite. In response to the BANJAN's demand, the Ministry of Labour promised that they would begin work on revising the figures soon. We are urging that the work be expanded to include a total ban on asbestos.

## 6. Raising Awareness Towards a Ban

Unfortunately, not only government officials but also politicians, journalists, trade unions and citizens are not paying much attention to the asbestos issue at present. The 1987-1988 “school panic” helped people recognize asbestos as a industrial killer, but many people are now thinking that asbestos is a problem of the past. They also do not know of international trends toward asbestos bans and the fact that Japan is isolated as the largest asbestos consumer country. No newspaper carried the news last summer when the EU decided on a total ban on asbestos by 2005.

So raising awareness is one of the major missions of BANJAN. To attract public attention, we are holding a number of talks and symposiums, as well as appealing to the media and union centers.

Using our “tip-off,” this February one of Japan’s major newspapers, the Mainichi Shimbun, ran an article on the front page that 2,243 people have died due to asbestos (mesothelioma) during 1995-1998 with a list of countries that have already introduced a ban on asbestos.

Japan’s largest national trade union center is RENGO-JTUC (Japan Trade Union Confederation). The position of RENGO on asbestos is that crocidolite and amosite must be banned and chrysotile must be regulated more strictly. This was decided nearly 10 years ago. (Crocidolite and amosite were banned in 1995.) We have been urging them to go ahead toward a ban on all asbestos. The news that the ICFTU is launching a campaign for a global ban on the use of asbestos is very encouraging for us.

## 7. Workers and Victims

BANJAN, JOSHRHC and local OSH centers set up the “Asbestos-Occupational Cancer Hotline,” a one-day telephone consultation service in 1991 and 1992. We received 325 calls in the first year and 193 in the second year. Local OSH centers have continued consultation services for asbestos victims and survivors to collect compensation and force employers to take responsibility. The efforts also include support for court battles. Some examples are presented on the JOSHRHC Web site ([http://jca.apc.org/joshrc/index\\_e.html](http://jca.apc.org/joshrc/index_e.html), English) (and See page 11).

As mentioned above, the number of compensation cases for asbestos-related disease is extremely low. But through our efforts, the number has been increasing step by step. (See page 10) We have helped several hundreds of victims to collect compensation already.

There have been only 7 personal injury litigation (civil damage compensation claim) cases over asbestos-related diseases in Japan. (See page 12) Among them 6 cases have already reached out-of-court settlements, and companies of defendant have paid 5-40 million yen (about 45-350 hundred US \$) per victim. There has been no litigation with regard to environmental exposure and product liability related to asbestos in Japan.

Member trade unions of BANJAN have been providing consultations, support and training/education on asbestos issues for their members.

It should be noted that some member unions of the National Federation of Construction Workers' Unions have recently established a scheme to gather thousands of X-rays and other medical data of their members from regular medical exams to be checked by experts for asbestos-related diseases. This is a great way for early diagnosis and uncovering hidden asbestos victims.

## 8. Citizens and Residents

BANJAN and citizens' group such as ASNET (Japan Citizen's Network for Wiping Out Asbestos) are offering advice and support for citizens and residents.

At the time of the "school panic" (1987-88) many local governments investigated the situation/condition of asbestos at public facilities and took measures to remove or control it. But now a lot of troubles are happening because these measures were inadequate. Regarding private buildings, the situation is much worse.

A strong earthquake that struck the Hanshin area and Awaji Island on January 17, 1995, killed more than 6,000 people, damaged more than 170,000 buildings and burned more than 179,000 buildings. Because of inappropriate/poor demolition work on collapsed/damaged buildings, a huge number of asbestos fibers was dispersed in this area. The Hanshin ASNET (Network for Improving Measures to Counter Asbestos in the Earthquake-damaged Area) was established by citizens to press authorities to take measures for preventing asbestos exposure. (Further information is available on its Web site:

[http://www1.mesh.ne.jp/~asbestos/mokuji\\_hm](http://www1.mesh.ne.jp/~asbestos/mokuji_hm), English).

## 9. Empowerment

We think that it is very important that victims, workers and citizens are empowered to take actions and exchange their experiences.

In Yokosuka City, asbestos victims established one branch of the National Association of Pneumoconiosis Victims. (NAPV consists of 5 thousand pneumoconiosis victims. As of now there is no organization composed of only asbestos victims at the national level in Japan.) And the Fund for Relief of Pneumoconiosis and Asbestos Victims was established in cooperation with the branch, trade unions, local OSH center, medical doctors and lawyers to extend their activities to further support victims.

In Bunkyo, one of 23 wards in Tokyo, about 100 children were exposed to a large amount of asbestos dust at a kindergarten last year, due to unsuitable repair work done without control measures. The parents of the children united to demand that the local government investigate the facts and take immediate as well as long-term measures. After exhausting discussions and fights, the local government finally set up an expert committee to assess the risk and recommend measures to be adopted. This expert committee, now in session, includes 3 BANJAN members on the recommendation of the parents.



## 10. Asia

In Asia, asbestos damage can become obvious in the near future. International asbestos industries are aiming to extend Asian markets. In November, an “International Conference on Chrysotile Asbestos” will be held by asbestos industries at New Delhi, India, sub-titled “Strengthening Responsible Use.” (See <http://www.asbestos-info-centre.org/>)

We think it is critical for the ban asbestos campaign to be expanded across Asia in order to achieve a worldwide ban on asbestos. And we are going to make efforts for it.

In 1997, the Asian Network for the Rights of Occupational Victims (ANROAV) was established by occupational victims’ groups of Asian countries, including Hong Kong, Taiwan, Korea, Thailand, India, Sri Lanka and others. JOSHR is a member of this organization. At this time, asbestos is not necessarily a main concern among the member organizations, but we can circulate relevant information through the network.

Also, the 3rd meeting of ASEM (Asia-Europe [Top-Level] Meeting) will be held at Seoul, Korea, in October. As part of this event, the People’s Forum is working with Korean and international NGOs to prepare a workshop entitled: “Globalism and Workers Health.” We will attend this workshop to report about the Global Asbestos Conference and international moves towards banning asbestos.

### A Case Study – The Yokosuka Shipyards and Naval Base

In 1982, a Japanese newspaper ran an exclusive story that one-third of the patients who died from lung cancer at a hospital in Yokosuka city in past 5 years were due to asbestos (39 persons, mainly naval and shipyard workers).

Shocked by this news, the Kanagawa Occupational Safety and Health Center (KOSHC), the Uraga Branch of the All Japan Shipbuilding and Engineering Workers’ Union and other concerned institutions began to conduct “voluntary collective medical examinations on pneumoconiosis/asbestosis” for former naval and shipyards workers since 1984 (11 times until 1989). (KOSHC is one of the pillar member of JOSHR.)

KOSHC has supported victims with asbestosis, who were found through these examinations, to collect compensation by the Workers’ Accident Compensation Insurance Scheme. In 1985, the Yokosuka Branch of the National Association of Pneumoconiosis Victims was established by asbestosis/pneumoconiosis victims.

In 1989, KOSHC and one of its affiliates, the Kanagawa Laborer’s Medical Cooperative opened the Yokosuka Chuo Clinic. The clinic has offered medical examinations as well as medical treatment to victims. For the last 10 years many asbestos-related victims – not only asbestosis, but also lung cancer and mesothelioma – have been found in Yokosuka. They account for a considerable part of the total incidence of asbestos-related disease certified in the Workers’

## Accident Compensation Insurance Scheme.

In 1986, extensive repair work on the aircraft-carrier Midway was done at the U.S. Navy Yokosuka base. Through this a large amount of asbestos waste was produced and KOSHC disclosed the illegal disposal of the asbestos waste. This incident, as well as the “school panic” during 1987-88, promoted the recognition of asbestos by Japanese people.

In 1988, 8 former shipyard workers with asbestosis sued Sumitomo Heavy Industries Ltd., In 1995, a bereaved family of a shipyard worker who died from asbestos-related lung cancer (the Labour Standards Inspection Office certified as an occupational disease) sued the same company. All victims had worked in the company’s shipyards in Yokosuka city.

Both cases settled in 1997. At the same time, the Uraga Branch of the All Japan Shipbuilding and Engineering Workers Union reached an agreement with the company for compensation applying to all retired workers. According to this agreement, the company should pay 10-16 million yen (according to victim’s age) to a family of a retired worker who died due to asbestos-related disease.

KOSHC, trade unions in the Yokosuka area, asbestos-related victims, medical doctors, lawyers and others which had supported the litigation cases, decided to continue activities, so they established the Fund for Relief of Pneumoconiosis and Asbestos Victims. This organization sets up the “Pneumoconiosis and Asbestos-Related Disease Hotline,” a three-day telephone consultation service every July.

In 1998, 12 former U.S. Naval Shipyard Repair Facility’s workers and 4 bereaved families in Yokosuka sued the Japanese government on the basis of a law concerning the U.S.-Japan Security Treaty. The total claimed damages are 325 million yen. The plaintiffs argue that their illnesses and the deaths of their relatives were due to asbestos exposure in the workplace. This case is now in litigation.

## Recognition Standards for Asbestos-related Diseases by the Workers' Accident Compensation Insurance Scheme

### A: Asbestosis

Apply to those who : 1) and 2)-a, or 1) and 2)-b

- 1) have been exposed to asbestos at their workplace present or past
- 2)-a have pneumoconiosis, and the disease degree of advancement diagnosed as Grade 4 (the heaviest pneumoconiosis, and the patient's need to be under treatment)
- 2)-b have pneumoconiosis, the disease degree of advancement diagnosed as Grade 2 or 3 (the patient has clinical findings of pneumoconiosis) and complications due to asbestosis (pulmonary tuberculosis, tuberculous pleurisy, secondary bronchitis, secondary bronchiectasis, secondary pneumothorax)

## B: Lung cancer

Apply to those who have lung cancer, and with : 1) , 2), or 3) (, or 4))

- 1) asbestosis (from chest X-ray films)
- 2) non-asbestosis (from chest X-ray films), with over 10 years period of asbestos exposure and clinical findings such as continuous crepitation at lung bottom in inspiration, pleural plaque or plural calcification shown by chest X-ray films, or asbestos body in sputum
- 3) non-asbestosis (from chest X-ray films), with over 10 years period of asbestos exposure, and with pathological features such as diffuse fibrous proliferation in lung tissue, pleural plaque or pleural calcification, or asbestos fiber and asbestos body in lung tissue
- 4) none of the above, but the patient has a history of relatively short, or intermittent temporary, high concentration exposure to asbestos

-- In case of 4), the Ministry of Labour examines each case, determines whether the disease is occupational in origin or not

## C: Mesothelioma

Apply to those who :1) or 2) (, or 3))

- 1) have pleural or peritoneal mesothelioma with over 5 years asbestos exposure, and with asbestosis
- 2) have pleural or peritoneal mesothelioma with over 5 years asbestos exposure, and with pathological features such as diffuse fibrous proliferation in lung tissue, pleural plaque or pleural calcification, or asbestos fiber and asbestos body in lung tissue
- 3) have none of the above, but the patient has pleural, peritoneal or other mesothelioma, or diagnosis is difficult

-- In case of 3), the Ministry of Labour examines each case, determines whether the disease is occupational in origin or not

### Incidence of Lung Cancer and Mesothelioma due to Occupational Asbestos Exposure

-77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	Total
17	4	5	1	2	7	4	7	11	14	10	10	19	16	18	23	21	21	23	27	22	42	324
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	16	17	7	16	30	86

Resource: the Workers' Accident Compensation Insurance Statistics

\* The lower number shows death cases among upper number (unknown prior to 1994).

## The Workers' Accident Compensation Insurance Benefits

The Workers' Accident Compensation Insurance Scheme is governed by the Workers' Accident Compensation Insurance Law. Under the Workers' Accident Compensation Insurance Scheme, necessary insurance benefits are granted in respect of workers' injury, disease, physical handicap and death “resulting from an employment-related cause or commutation.” The term “resulting from an employment-related cause” means, according to an explanation by the Ministry of Labour, that a job is the primary cause.

There are seven types of the insurance benefits: (1) medical compensation benefit, (2) absence

compensation benefit, (3) physical handicap compensation benefit, (4) bereaved family compensation benefit, (5) burial money, (6) injury and disease compensation pension, and (7) care compensation benefit. The attached Table shows the contents of these insurance benefits.

Paper work relating to the Workers' Accident Compensation Insurance is conducted at the 343 Labour Standards Inspection Offices all over Japan.

## Asbestos Litigation cases in Japan

There have been only 7 personal injury litigation (civil damage compensation claim) cases over asbestos-related diseases in Japan. Among them 6 cases have already reached out-of-court settlements, and defendant companies have paid 5-40 million yen (about 45-350 hundred US \$) per victim. There has been no litigation case with regard to environmental exposure and product liability in Japan.

The earlier cases were brought by former workers with asbestosis who had worked for asbestos products manufacturing plants and bereaved families of victims.

In 1988, 8 former shipyard workers with asbestosis sued Sumitomo Heavy Industries Ltd. In 1995, a bereaved family of a shipyard worker who died from asbestos-related lung cancer (the Labour Standards Inspection Office certified as an occupational disease) sued the same company. All victims had worked in the company's shipyards in Yokosuka city. Both cases settled in 1997.

At the same time, the trade union to which the victims had belonged reached an agreement with the company for compensation applying to retired workers. According to this agreement, the company should pay 10-16 million yen (according to victim's age) to families of retired workers who died due to asbestos-related disease.

In 1993, Shikoku Electric Power Co. Inc. was sued by the family of a former worker. The worker had worked in at the Saijo thermal power plant and died from malignant pleural mesothelioma. This case came to light due to the Asbestos-Occupational Cancer Hotline provided by our group in 1991. This case reached a settlement in 1999.

In 1998, 12 former U.S. Naval Shipyard Repair Facility's workers and 4 bereaved families in Yokosuka sued the Japanese government on the basis of a law concerning the U.S.-Japan Security Treaty. The total claimed damages was 250 million yen. The plaintiffs argue that their illnesses and the deaths of their relatives were due to asbestos exposure in the workplace. This case is now in litigation.