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The situation in the European Union after the Total Ban on Asbestos

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Abstract

The trade unions' fight against asbestos has not ended now that the European Union has decided to prohibit any new use of asbestos. Asbestos-related repercussions on health will continue to pose a major problem in years to come.

The revision of the Community Directive concerning the use of asbestos has created a better legal framework in the EU countries. The Directive of 27 March 2003 demonstrates a certain amount of progress. In practice, it forbids manufacture of materials or products containing asbestos which are intended for export. Other positive elements are the decrease in the exposure limit to 0.1 fibres/cm^3 and the extension of the Directive's scope.

However, the Directive does have certain deficiencies, notably:

- *the revised Directive does not cover self-employed workers.*
- *it should be ensured that all demolition work on buildings or installations containing asbestos and all asbestos clean-ups are performed by companies approved on the basis of adequate criteria.*

But, above all, it is effective compliance with the adopted regulations which is problematic.

Among other crucial issues which have still to be addressed, the following will be discussed:

- *the creation of public registers of buildings containing asbestos;*
- *the improvement of the recognition of asbestos-related diseases;*
- *the monitoring of European enterprises' activities in developing countries and the prohibition of exports of waste containing asbestos to developing countries;*
- *the surveillance of the PPE market;*

The asbestos tragedy is unfortunately typical insofar as there are numerous other chemical substances which kill a large number of people every year. The current debate surrounding the Commission's REACH proposals on European policy relating to chemical substances shows that the same mechanisms which contributed to the asbestos disaster are continuing to pose serious threats to workers' health, the population and the environment.

Introduction

I am deeply grateful to the organizers for their invitation. As you know, on the first of January 2005, the asbestos ban in the European Union will be implemented. It is a big victory for the Trade Unions and the Victims Associations. We should never forget that we had already all the necessary information for deciding on a ban at least 40 or 50 years ago. The delay means that hundreds of thousands of workers have died or will die in the next 30 years from an evitable disease. If we want to understand the causes of such a long delay, three elements seem to be crucial:

- The first element is about the way scientific evidence is produced. The production of science is a social process influenced by choices and pressures. There is no neutrality in science. Some researchers are on the side of the workers. Other researchers are linked with the industry. They tend to consider the workers as mice in the laboratory. They are prone to deny any value to the workers' experience, the workers' priorities and the workers' needs. The experience of the ban asbestos movement shows the importance of the workers having a say in the agenda of scientific research.
- The majority of asbestos victims are blue collar workers. Asbestos diseases are an important element in the production of social inequalities in health. Asbestos dangers became front page news only when other people started to die: teachers, academics, students. Asbestos is not an exception. Most public health politics do not consider the fight against social inequalities in health as a priority. Women are suffering a double denial. As workers, they share the same invisibility as their male colleagues. As unpaid workers at home, they tend to be completely ignored. Working for companies without being considered as workers, exposed to asbestos at home, they are generally excluded from any compensation scheme.
- The role of the asbestos lobby can't be ignored. The death of so many people has resulted in profit for the few. Deceit and denial were organised systematically by the industry [1].

The trade unions' fight against asbestos has not ended now that the European Union has decided to prohibit any new use of asbestos. Asbestos repercussions on health will continue to pose a major problem in years to come. As for many other problems in occupational health, asbestos related diseases are a major source of social inequalities in health. They contribute to a large extent to the higher mortality rates of the working class, even in countries where asbestos has been banned since the 1980s.

The main objectives of the European Trade Union Confederation are listed below.

1. Improvement of Occupational Safety and Health (OSH) rules for the protection of workers exposed to asbestos

The revision of the European Union Directive concerning the protection of workers exposed to asbestos has created a better legal framework in the EU countries. The Directive of 27 March 2003 demonstrates a certain amount of progress. The new wording of Article 5 means, in practice, that it is forbidden to continue making materials or products containing asbestos which are intended for export. Other positive elements are the decrease in the exposure limit to 0.1 fibres/cm^3 and the extension of the Directive's scope.

However, the Directive does have certain deficiencies, notably:

- the revised Directive does not cover self-employed workers. This means that employers wishing to bypass the Directive can have work done by a self-employed worker without having to adopt the specified prevention measures;
- it should be ensured that all demolition work on buildings or installations containing asbestos and all asbestos clean-ups are performed by companies approved on the basis of adequate criteria (workers' training, high-quality protection equipment, experience in this type of work, access to health surveillance, etc.). The use of vulnerable workers, such as temporary agency workers, for such activities should be completely banned (now, it is the case only in a few European Union countries). The current provisions in the Directive are too vague (Article 12 b) and lag behind the International Labour Organisation's Convention 162 of 1986, in which Article 17 stipulates that such work may only be carried out by employers or entrepreneurs whom the competent authority has recognised as being qualified and has authorised to perform such work;
- the requirements concerning reporting of work involving asbestos exposure should be reinforced. There should be a list of the exposed workers so as to allow effective monitoring and health surveillance. This is all the more important since, in the majority of European Union states, the registers of workers exposed to asbestos have some serious deficiencies.

But, above all, it is effective compliance with the adopted regulations which is problematic. In the construction sector, one of the main sectors concerned, the efficiency of the occupational-health mechanisms is limited. The sector is scattered with a very large number of small and micro-enterprises and there is also a great deal of subcontracting. It is essential that the Member States bear their responsibilities and improve the structures provided for by the Framework Directive[1] since they are indispensable for any of the regulations regarding specific risks such as that posed by asbestos. At the moment, the number of workers covered by a prevention service in Europe is probably no higher than 50% of all workers [1] and, in many countries, the coverage of workers by safety representatives is limited. It is equally imperative that the labour-inspection capacity be reinforced too.

2. Public registers of buildings containing asbestos

The new Directive has not resolved the problem posed by buildings containing asbestos. We believe it is necessary to create public registers of such buildings for, at least, the two following reasons.

1. The regulations regarding building sites where asbestos exposures occur cannot be applied if there is no list of the buildings concerned to start with. In practice, the most dangerous asbestos exposures seem not to be at asbestos clean-up sites but at sites where other conversion work is done or buildings are demolished. This is because the workers are unaware of the presence of asbestos.
2. Registers provide a better means of organising prevention of hazards posed by asbestos contamination in the environment. Generally speaking, buildings containing asbestos are residential buildings or places of work. Recent data confirms the extent of the hazard posed by asbestos both with regard to occupational exposures to weak doses and environmental or domestic exposures. A multicentric study carried out in six European areas from Italy, Spain and Switzerland indicates that low-dose domestic[2] and environmental exposures carry a risk of pleural mesothelioma [2, 3].

[1] The European Union Framework Directive from June 1989 defines the general rules for health and safety activities in the workplace.

[2] It should be useful to discuss the traditional boundaries of “occupational health” as a discipline which covers only paid work. Non-paid work generally carried out by women is also a cause of ill health and is usually ignored by the prevention systems. In the case of asbestos the cleaning of asbestos contaminated clothes was quite usual for the wives of workers in different sectors.

3. Recognition of asbestos-related occupational diseases

Recognition of asbestos-related occupational diseases is still confronted by numerous obstacles in the European Union. This social injustice is aggravated by the absence of harmonised criteria for recognising occupational diseases. A study based on data from 1995 [4] illustrated that there are still significant differences between recognition of mesothelioma in the different countries of the European Union. There are strong grounds to suppose that non-recognition of asbestos-related lung cancers is even more widespread. The data on asbestosis also indicate considerable disparities. Whereas the EU average for asbestosis cases recognised as occupational diseases is 30 per million workers, the figure is 1 per million in Portugal, 28 in the United Kingdom, 30 in France, 59 in Germany and 96 in Belgium. If it is imperative that recognition of asbestos-related illnesses be improved within the framework of compensation systems for occupational diseases, it might be useful to establish specific funds to allow better compensation for the victims (including self-employed workers, family members who have been subjected to domestic exposure, etc.). France's [5] and the Netherlands' [6] experiences with such funds could serve as a reference model for other countries. Recognition of occupational diseases should be accompanied by an improvement in the therapies available.

4. Legal proceedings against those responsible for this hecatomb

Legal proceedings against those directly responsible for workers' exposure to asbestos are all the more important because the compensation systems for occupational diseases only provide lump-sum payments which are relatively low compared to the total compensation paid where fault can be proven. From the political point of view, it is time to put a stop to the tolerance from which crime in the sphere of occupational health has benefited in the past.

5. Monitoring of European enterprises' activities and prohibition of exports of waste containing asbestos to developing countries

European enterprises' activities in developing countries continue to be based on double standards. The prevention policies implemented in Europe are rejected in other regions of the world. The most worrying aspect of policy on exports of toxic waste is the demolition of vessels in Eastern Asia. Many Europe-based multinational companies try to avoid compensating the victims and funding the reparation of environmental damages. It is part of our responsibility as European Trade Unionists to support campaigns for the compensation of damages caused by asbestos everywhere in the world.

6. Surveillance of the PPE market

Workers exposed to asbestos normally use personal protective equipment (PPE). How effective that equipment is depends on its quality and the practical conditions in which it is used. According to a Finnish survey on high-performance respiratory protection equipment, only 8 of the 21 devices tested would give workers proper protection against asbestos fibres. In the main, equipment quality is still verified by means of laboratory tests which do not take into account the actual conditions of use. A systematic feedback process should be organised with regard to how PPE performs in real working conditions [7, 8]. Furthermore, it is crucial that the surveillance mechanisms for the personal protection equipment market be improved.

7. Necessity to learn lessons concerning asbestos for the debate on European policy relating to chemical substances (REACH)

In numerous industrialised countries today, the number of asbestos-related fatalities exceeds the number of fatal industrial accidents. Prevention policy has fallen behind in this area so much because of various factors. The most important factors are the persistent quest for profit and the fierce opposition to effective prevention on the part of some multinational enterprises. These companies pursue a strategy of exerting pressure on a number of bodies, for example, governments (in the name of competitiveness) and trade-union organisations (in the name of job-safeguarding). They have managed to hamper measures to produce scientific findings in order to promote underestimation of the risks.

The asbestos tragedy is, unfortunately, typical insofar as there are numerous other chemical substances which kill a large number of people every year. Recent Spanish research [9] produced a conservative estimate that work-related diseases were the cause of 15,000 deaths a year in Spain. The main disease involved was cancer, and the main cause was chemical risks. Other national studies of work-related mortality have come to similar conclusions [10].

The current debate surrounding the European Union Commission's proposals for a new regulatory framework relating to chemical substances (the REACH project) shows that the same mechanisms which contributed to the asbestos disaster are continuing to pose serious threats to workers' health, the population and the environment. The Commission’s proposals for reform of the existing system are coming up against systematic lobbying from chemical industry employers, channelled through some governments. While failing to address all the issues the Commission proposals do at least highlight the importance of information feedback and could improve significantly the prevention policies at the workplace.

The systematic disinformation campaign run by the chemicals industry has already had some success [11]. The chemical industry's lobby is supported strongly by the Bush Administration in the United States [12]. The Commission proposal put out in October 2003 falls well short of the initial reform proposals. 2004 will be a turning point. The debates playing out are far and away the most important for workers' health and safety since the 1989 Framework Directive.

References

1. G Markowitz, D Rosner, *Deceit and Denial. The deadly politics of industrial pollution*, University of California Prees, Berley, 2002.
2. L Vogel, Special report on prevention services in the European Union, *TUTB Newsletter*, 21 (June 2003), 19-37.
3. C Magnani et al., Multicentric *study* on malignant pleural mesothelioma and non-occupational exposure to asbestos, *British Journal of Cancer*, 2000, 104-111.
4. GEMEBA, Mortalidad por *mesotelioma* pleural en la provincia de Barcelona, *Medicina Clinica*, 1993, 101, 565-569.
5. A. Karjalainen and S. *Virtanen*, European Statistics on Occupational Diseases. Evaluation of the 1995 Pilot Data, Luxembourg: Eurostat, 1999.
6. A Thébaud Mony, Justice for Asbestos Victims and the Politics of Compensation: The French Experience, *International Journal of Occupational and Environmental Health*, vol. 9, No 3, 2003, 280-286.
7. Y Waterlan, M. *Peeters*, The Dutch Institute for Asbestos Victims, *International Journal of Occupational and Environmental Health*, vol. 10, No 2, 2004, 166-176.
8. RM Howie et al, *Workplace effectiveness of respiratory protective equipment for asbestos removal work*, Londres : HSE, 1996.
9. M Héry et al, *Exposition* professionnelle des travailleurs employés sur les chantiers d'enlèvement d'amiante, *Cahiers de Notes Documentaires - Hygiène et Sécurité du Travail*, 1997, 167, 217-224.
10. AM García, R Gadea, Estimación de la mortalidad y morbilidad por enferm edades laborales en España, *Archivos de Prevención de Riesgos Laborales*, 2004, 7 (1), 3-8.
11. M Nurminen, A Karjalainen, Epidemiologic estimates of the proportion of fatalities related to occupational factors in Finland, *Scandinavian Journal of Work, Environment and Health*, vol. 27, No 3, (2001), 161-213.
12. I Schöling, *REACH: what happened and why?*, Brussels, 2004, Full text on the website: http://tutb.etuc.org/uk/dossiers/rdossier.asp?rd_pk=27&dos_pk=1
13. *Committee* on *Government* Reform Minority Office, *A Special Interest Case Study: The Chemical Industry, the Bush Administration, and European Efforts to regulate Chemicals*, Washington, 2003. Full text on the website: http://tutb.etuc.org/uk/newsevents/newsfiche.asp?pk=66

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