

12 January 2017

Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Inquiry Into Non-conforming Building Products – Asbestos Submission

I am the former Chairman of the *Asbestos Management Review* (2010 -12) and the *Asbestos Safety and Eradication Council* (2013 – 16). I have also previously served as a Commissioner on the *Australian Safety and Compensation Commission* and *Safe Work Australia*. A summary of my background and qualifications is attached.

(a) Prevalence and sources of illegally imported products containing asbestos;

Despite Australia's 2003 ban (with some limited exceptions) on the import and export of all asbestos containing materials (ACMs), there have been repeated instances of the importation of products and materials that have been subsequently found to contain one or more *asbestiform* materials, including:

- Motor vehicles containing asbestos gaskets
- Building materials, including wall and roof paneling and “duck-boards” used in public hospitals and other construction sites
- Children's crayons

Most of these asbestos containing products appear to have been sourced from East Asian exporting countries.

(b) Effect of illegally imported products containing asbestos on:

i industry supply chains, including importers, manufacturers and fabricators, and

ii workplace and public safety and any associated risks;

The presence of ACMs in building materials is of a particular workplace and public health concern. They present an insidious hazard to unwitting workers during installation and in any subsequent maintenance or renovations. Such materials had ceased to be used throughout Australia in the late 1980s. This is well known by many associated with the building and construction industries, including building tradespeople, installers and renovators. They assume, and they are entitled to assume, that any structures built since that time will be asbestos-free. Consequently when undertaking fabrication, subsequent renovations and retrofitting etc they are unlikely to take the precautions that they would when working with structures suspected of having ACMs - and thus consequently expose themselves and bystanders to potentially lethal airborne asbestos fibres.

Also of concern are the repeated instances of importation of vehicles with asbestos containing gaskets, such as some ‘monkey bikes’ and other motor vehicles from China. It was most regrettable that such vehicles were permitted to remain in use in this country, rather than being returned to their place of origin. The solution of requiring the asbestos containing gaskets to be replaced by non-asbestos alternatives when they needed to be changed over ignores the fact that many such ageing vehicles will finish up in the hands of often younger DIY backyard repairs where the tool of choice for removal is likely to be an angle-grinder – again with predictable consequences of the generation of respirable airborne fibre exposure for operators and bystanders.

(c) Possible improvements to the current regulatory frameworks for ensuring products containing asbestos are not illegally imported to Australia, with particular reference to the effectiveness of:

- iii policing, enforcement, surveillance and screening of imported products, including restrictions and penalties imposed on importers and end users of products containing asbestos;**
- iv preventing exposure and protecting the health and safety of workers and other people affected by the illegal importation of products containing asbestos,**
- v establishing responsibility for remediation of sites where illegally imported products containing asbestos has been found;**
- vi coordination between Commonwealth, state and territory governments and the role of the Australian Government in coordinating a strategic approach to preventing the importation of products containing asbestos;**

There is now a history of illegal importation of asbestos containing products such that the high-risk countries of origin and the products themselves are both predictable (i.e. East Asia and in building materials, motor vehicles etc). It shouldn't be beyond the resources and wit of the Customs and Border Protection Force to identify appropriate targets for comprehensive inspection, testing and analysis.

Australia having a comprehensive regulatory ban on the importation of asbestos containing products will amount to little if there are no effective consequences in place should the ban be flouted. In that regard, and despite many highly publicised instances of the detection of imported ACMs, I am not aware of instances of any individual or organisation associated with such importation being prosecuted for breach of Australian laws and regulations. The sad and disgraceful history of the asbestos industry is replete with examples of innocent people contracting incurable terminal diseases as a consequence of the greed of others who have taken the chance of flouting the law. Lots of publicity and provision of information has little of the deterrent factor of prosecution and penalisation of those found to be in breach of our laws.

There are adequate federal and state laws and regulations in place to deal with site remediation. As with illegal importation mentioned above, what is required is the political will to prosecute and substantially penalise those parties found to be in breach – including the initial importers.

One of the major achievements of the Commonwealth's *Asbestos Safety and Eradication Agency* (ASEA) in its relatively short life has been to gain the support of every federal, state and territory jurisdiction for the endorsement of the *National Strategic Plan on Asbestos Awareness and Management*. Notwithstanding that achievement, there are still substantial differences amongst jurisdictions in the approaches taken and levels of commitment to genuinely address asbestos management issues. Unfortunately some remain hopelessly inadequately equipped to deal with asbestos contamination – including responding effectively to the challenge of dealing with the consequences of illegal importation. Indeed some recently announced state government initiatives appear to totally ignore the broader issue of asbestos contamination outside of government owned buildings and structures.

(d) Other related matters.

The World Health Organisation has calculated that more than 100,000 people worldwide succumb to occupationally induced asbestos related diseases each year. The only way this pernicious trade will be stopped is by a comprehensive international ban. In this regard, Australia has been one of the nations who have supported the listing of *chrysotile* asbestos on Annexure III of the Rotterdam Convention. Such a listing would create an obligation on exporting countries to inform destinations of the presence of *chrysotile* as a hazardous substance in cargo. All such attempts to list *chrysotile* have been blocked by a small cabal of asbestos exporting countries led by Russia. The matter will again be considered by a *Conference of the Parties (COP)* to the Rotterdam Convention later this year. Australia is now seen as one of the leading countries in combating the effects of asbestos. It would be appropriate for Australia to sponsor or co-sponsor a move to reform the Rotterdam Convention voting processes so that a small unrepresentative group of participating countries no longer have the power of veto over the vast majority of international scientific and medical opinion.

Also, as indicated above the 2013 establishment of ASEA and the progress it has made thus far has been commendable. As was the bipartisan support that was evident in the unanimous support both houses of the federal parliament gave to the passage of the enabling *Asbestos Safety and Eradication Agency Act (2013)*. It would be most unfortunate if that carefully nurtured bipartisanship on the asbestos issue were to be lost. In this regard it is of concern that in appointing the members of the new *Asbestos Safety and Eradication Council* in late 2016, the relevant minister elected not to continue to have a representative of the victims of asbestos diseases or their support groups sit on the Council. As I said in the 2012 report of the *Asbestos Management Review*, "... to experience the quiet dignity and hope of those suffering from asbestos related diseases, to hear the voices and bear witness to the ongoing grief and devastation of those who have lost their loved ones, is to have reinforced the critical importance of the nation getting right our response to this most difficult and complex challenge". For those voices to now be no longer heard on the *Asbestos Safety and Eradication Council* is a retrograde step.

I would be pleased to personally elaborate on the above if it would assist and would welcome an opportunity to present and respond to questions at the Committee's hearings.

Yours sincerely,



GEOFF FARY, FAIM, MAICD