

Appendix 4

List of recommendations from the *Interim report: protecting Australians from the threat of asbestos*

Recommendation 1

2.49 The committee recommends that through the Council of Australian Governments, the Australian Government pursue a coordinated and consistent whole of government approach to strengthen federal and state legislation and regulations to address the illegal importation of asbestos.

Recommendation 2

2.50 The committee recommends that the Australian Government adequately fund the Asbestos Safety and Eradication Agency so it is able to deliver the next National Strategic Plan for Asbestos Management and Awareness and to carry out its other functions, both current functions and new functions set out in recommendations in this report.

Recommendation 3

2.62 The committee recommends that the Department of Immigration and Border Protection and Australian Border Force undertake an external review of their industry consultation arrangements with a view to strengthen and formalise the contribution from stakeholders. Ideally, these should be through formal meetings on a regular basis with those who are on the front line who are adversely impacted by illegal asbestos importation.

Recommendation 4

2.87 The committee recommends that the Australian Government continue to strongly advocate for the listing of chrysotile asbestos in Annex III of the Rotterdam Convention and support a change in the voting rules if required for this to be achieved.

Recommendation 5

2.88 The committee recommends that in the event that the Australian Government is unsuccessful in listing of chrysotile asbestos in Annex III at the 2019 Rotterdam Convention, the Australian Government should consider pursuing bilateral or multilateral asbestos treaties with importation disclosure requirements equivalent to an Annex III listing.

Recommendation 6

2.89 The committee recommends that the Australian Government in its course of the regular review of free trade agreements with other countries, include in the review provisions regarding asbestos containing materials.

Recommendation 7

2.90 The committee recommends that the Australian Government continue its support for asbestos bans internationally and promotes awareness of the risks of asbestos in the Asia-Pacific region.

Recommendation 8

3.26 The committee recommends that the Australian Government require mandatory Asbestos Awareness Training for a wide range of occupations in the construction industry and provide adequate funding for nationally accredited training for this purpose.

Recommendation 9

3.37 The committee recommends that the Department of Immigration and Border Protection and Australian Border Force consider the merits of developing and implementing a comprehensive education campaign for all importers of the risk and responsibilities regarding asbestos containing materials and the definition of asbestos containing materials used in other countries.

Recommendation 10

3.38 The committee recommends that the Asbestos Safety and Eradication Agency develop a one-stop-shop website to provide single point for participants across the supply chain to access information regarding the illegal importation of asbestos.

Recommendation 11

3.64 The committee recommends that the Australian Government review the Australian Border Force staff resourcing required to effectively monitor and prevent the illegal importation of asbestos.

Recommendation 12

3.65 The committee recommends that the Australian Government consider the merits of having a specialist unit within Australian Border Force to manage illegal asbestos importation.

Recommendation 13

3.87 The committee recommends that the Australian Government review the *Customs Act 1901* (and other relevant legislation) to address the challenges of enforcing the existing importation of asbestos offence, with the aim to close loopholes and improve the capacity of prosecutors to obtain convictions against entities and individuals importing asbestos. This review should include consideration of increasing the threshold required to use 'mistake of fact' as a legal defence.

Recommendation 14

3.88 The committee recommends that the Australian Government prioritise prosecution of illegal asbestos importation cases.

Recommendation 15

3.89 The committee recommends that the Australian Government review the quantum of penalties for breaches of Australia's importation ban with a view to increasing them.

Recommendation 16

4.19 The committee recommends that where an importer intends to import goods that have been deemed high risk of containing asbestos, the Australian Government require the importer, prior to the importation of the goods, to conduct sampling and testing by a NATA accredited authority (or a NATA equivalent testing authority in another country that is a signatory to a Mutual Recognition Arrangement).

Recommendation 17

4.20 The committee recommends that the Government examine the European Union's regulations and processes for testing of products for asbestos prior to import and determine if it is suitable to adapt them to benefit and enhance Australian requirements.

Recommendation 18

4.36 The committee recommends that the Australian Government consider placing additional mandatory requirements on procurers of high-risk products to have a due diligence system in place for the prevention of the import and use of asbestos containing materials.

Recommendation 19

4.40 The committee recommends that other states and territories pass similar legislation to Queensland's *Building and Construction Legislation (Non-conforming Building Products—Chain of Responsibility and Other Matters) Amendment Act 2017*.

Recommendation 20

4.60 The committee recommends that Commonwealth, state and territory governments work together to develop nationally consistent legal obligations to require the removal and/or disposal of illegally imported asbestos (if it is safe to do so following consideration of the hazards likely to be faced by the workers undertaking the work) and to make importers responsible for the cost of such removal and/or disposal of asbestos.

Recommendation 21

4.64 The committee recommends that the Australian Government review and clarify the role of the Federal Safety Commissioner with regards to asbestos containing materials in building products in line with the Commissioner's responsibilities.

Recommendation 22

4.73 The committee recommends that the Australian Competition and Consumer Commission conducts compulsory recalls where asbestos is found in consumer products, unless there are significant issues and risks associated with a compulsory recall, noting that legislative change may be required.

Recommendation 23

4.74 In circumstances where the Australian Competition and Consumer Commission becomes aware of a product containing asbestos and subsequently determines not to issue a compulsory recall of that product, the committee recommends that the Australian Competition and Consumer Commission shall within thirty days of that decision publish a statement of reasons.

Recommendation 24

4.75 The committee recommends that the Australian Government review the Australian Competition and Consumer Commission's public reporting of asbestos containing materials in consumer products, both in relation to informing the public where there are risks to safety, and also monitoring and aggregating reporting of incidents over time.

Recommendation 25

4.83 The committee recommends that the Australian Government establish a national public asbestos register.

Recommendation 26

4.84 The committee recommends that the Australian Government consider the merits of requiring importers and suppliers to hold mandatory recall insurance for potential asbestos containing materials.

