

Observations on the interpellation of the European Parliament on Asbestos

B.E./5/1/2011

Preface

In July 2010 several Parliamentarians put questions to the European commission concerning asbestos. In October 2010 the commission gave the answers.

It is the aim of the present document to review the commission's answers in the light of the EFBWW demands critically.

The document follows several purposes.

- One purpose is to show, whether the commission didn't answer a question not all not sufficiently-and where therefore is given enough reason for a pursuing in-depth enquiry.
- Another purpose for the review of the answers is to investigate where EFBWW should conclude political demands either to European institutions ought to national responsible authorities.

The review is based on a summary of parliamentary questions and answers given by the commission made in the beginning of May 2011. (The full text of the summary is attached to this document.)

The following table gives an overview on the subjects and questions put by the parliamentarians. The names for the subjects our official league live by the commission. (While the parliamentarians regularly gave other names for the same group of their questions)

Table 1

overview on the subjects and questions.

Subjects	Questions of the parliamentarian	
Use of Asbestos	1	In which EU Member States is asbestos still used, and for what purposes?
	2	From which countries are asbestos or products containing it imported into the EU, and which are the relevant products?
	3	Does this pose a risk to European citizens?
Banning and Removal of Asbestos	4	What steps will the Commission take in order to influence the national implementation of Annex XVII of Regulation (EC) No 1907/2006 in respect of the kind of articles falling under point 2, item 6 of the annex?
	5	Is the Commission intending to establish such a closing list no later than 1 January 2012?
	6	How is the European Commission preparing this list?
Products Containing Asbestos	7	Does the Commission have any information or surveys showing ongoing imports of products containing asbestos? If so, precisely what types of products containing asbestos are being imported?
	8	What is the Commission doing or intending to do in order to build up and maintain comprehensive and effective market surveillance on products that might contain asbestos?
	9	What initiatives has the European Commission taken since 2006 directed at comparing thoroughly the situation concerning recognition and compensation of asbestos-related diseases in all 27 Member States?
Mesothelioma	10	Will the Commission increase funding for medical research into this terrible disease? Is there any support at EU level for victims and their families?
	11	Is the Commission aware that the Canadian and Quebec governments intend to provide a USD 58m loan guarantee and thereby provide a subsidy to resume asbestos production at the Jeffrey mine in Asbestos, Quebec?

- 12 Is the Commission further aware that most if not all of the asbestos produced will be exported to developing world nations?
- 13 Does the Commission agree that such a loan guarantee is contrary to WTO rules? Will the Commission lodge a complaint with the WTO?
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Observations to question 1

The parliamentarian put the following question:

"In which EU Member States is asbestos still used, and for what purposes?"

The commission answer to that question correctly when it pointed out that countries like Germany, Poland, Bulgaria and Sweden head the appropriations for diaphragms containing containing chrysotile.

But nevertheless it remains the feeling that this answer that doesn't reflect the problem that parliamentarians have in their mind.

Observations to question 2

The parliamentarian put the following question:

"From which countries are asbestos or products containing it imported into the EU, and which are the relevant products?"

The "import-question" wasn't answered by the commission.

Observations to question 3

The parliamentarian put the following question:

"Does this pose a risk to European citizens?"

The answer given by the commission to the "import-question" question doesn't really satisfied.

The commission in its answer is only a reflecting the not existing risks while working with diaphragms of chrysotile and it is listing up the EU regulation for protecting workers' health at workplaces. Health risks die illegally imported products therefore are not reflected.

Observations to question 4

The parliamentarian put the following question:

"What steps will the Commission take in order to influence the national implementation of Annex XVII of Regulation (EC) No 1907/2006 in respect of the kind of articles falling under point 2, item 6 of the annex?"

In its answer the commission is pointing out that *"it will remind the member states of their obligations" to communicate National measures which allow the placing on the market of articles containing asbestos fibers installed or in service before 1 January 2005, when it comes to implementing Annex XVII of Regulation (EC) No 1907/2006 and in particular Entry 6, paragraph 2 will be in June 2011."*

It was my recommendation, that EFBWW should follow these procedures.

Observations to question 5 and 6

The parliamentarian put the following question:

"Is the Commission intending to establish such a closing list no later than 1 January 2012?"
"How is the European Commission preparing this list?"

in its answers the commission didn't come back to the list mentioned, so it is recommended that, that EFBWW reminds the parliamentarian and the commission of that question.

Observations to question 7

The parliamentarian put the following question:

"Does the Commission have any information or surveys showing ongoing imports of products containing asbestos? If so, precisely what types of products containing asbestos are being imported?"

The commission's answer to question 7 can simply not be accepted as an answer. Therefore I hold it to be necessary to repeat the question at the next step.

Observations to question 8

The parliamentarian put the following question:

"What is the Commission doing or intending to do in order to build up and maintain comprehensive and effective market surveillance on products that might contain asbestos?"

The Commission makes clear its answer, that for instance China illegally imports asbestos containing products such as Thermos bottles and radiators. It points out that the responsibility of the member states for market surveillance. The Commission is as that the member states will then take "the appropriate measures and notifies the commission under the so-called RAPEX, and at regulation for "rapid alert system", managed by the Commission.

((<http://ec.europa.eu/rapex>)

Recommendation: EFBWW should critically review this alert system.

Observations to question 9

The parliamentarian put the following question:

What initiatives has the European Commission taken since 2006 directed at comparing thoroughly the situation concerning recognition and compensation of asbestos-related diseases in all 27 Member States?

The Commission is answering that question with quite interesting proposals when it speaks of its "*Recommendation concerning the European schedule of occupational diseases*" and mentions Annex I with which member states are "*invited to introduce as soon as possible into all their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases ... and takes steps to introduce into their national laws, regulations or administrative provisions the right of a worker to compensation.*"

Additionally the Commission is aiming at an comparison on asbestos-related diseases recognised and compensated for in all member states. The results of a study analysing the current EU arrangements on occupational diseases are expected by early 2012. Currently it the Advisory Committee on Safety and Health at Work if working on an opinion as to whether any initiatives should be taken to improve the EU arrangements on occupational diseases.

Recommendation: the EFBWW Working Party Asbestos should

a) study

- the Recommendation concerning the European Schedule of Occupational Diseases and
- the results of the analyses report of the current EU arrangements on occupational diseases by early 2012 and

b) with members of the Advisory Committee on Safety and Health at Work discuss the necessity of initiatives taken to improve the EU arrangements on occupational diseases.

Observations to question 10

The parliamentarian put the following question:

"Will the Commission increase funding for medical research into this terrible disease? Is there any support at EU level for victims and their families?"

With reference to the 7th Framework Programme (FP7, 2007-13) the Commission makes clear that it's then this much money for medical research in the field of cancer prevention and facilitating of life conditions of victims and their families.

Recommendation:?

Observation to question 11 to 13

The parliamentarian Put the following question:

- "Is the Commission aware that the Canadian and Quebec governments intend to provide a USD 58m loan guarantee and thereby provide a subsidy to resume asbestos production at the Jeffrey mine in Asbestos, Quebec?"
- "Is the Commission further aware that most if not all of the asbestos produced will be exported to developing world nations?"
- "Does the Commission agree that such a loan guarantee is contrary to WTO rules? Will the Commission lodge a complaint with the WTO?"

The Commission obviously has detailed information is about the Canadian asbestos policy. Seemingly the commission is of deep concern about the huge amount of exported Canadian and Russian asbestos. Also the financial support of the asbestos industry is a matter of the commission's concern. It is unclear whether the Commission is willing to act politically (for instance by taking action against Canada in the WTO).

Recommendation: with the next parliamentarian question we should go deeper into the "Canada-conflict".

Bernd Eisenbach

Attachment 1

To the “Observations”

Summary of an
Interpellation of the
European Parliament on Asbestos
- July 2010 –

B.E./5/1/2011

Content

- 1 Use of Asbestos
- 2 Banning and Removal of Asbestos
- 3 Products Containing Asbestos
- 4 Asbestos-Related Diseases and Compensation
- 5 Mesothelioma
- 6 Asbestos Subsidy

1 Use of Asbestos

Questions of the European Parliament:

(questions: Daniel Caspary, E-4724/2010;
answer: Mr Tajani on behalf of the Commission)

Question 1

In which EU Member States is asbestos still used, and for what purposes?

As to the use of asbestos in Member States, the Commission would like to refer the Honorable Member to its reply to [E-1196/09](#) by Mr. Meyer Pleite¹. To the Commission's information the situation has not changed and only Germany, Poland, Bulgaria and Sweden have granted such derogations for installations present on their territories.

Entry 6 of Annex XVII of REACH provides that by 1 June 2011 Member States making use of the exemption for chrysotile shall provide a report to the Commission on amongst others the source and quantities of diaphragms containing chrysotile.

Question 2

From which countries are asbestos or products containing it imported into the EU, and which are the relevant products?

Question 3

Does this pose a risk to European citizens?

There is no risk of exposure for European citizens as the diaphragms containing chrysotile are only used in the closed environment of electrolysis installations. In addition, the review that had to be performed by the Commission before 1 January 2008 under Commission Directive 1999/77/EC² has shown that potential for worker exposure exists only when diaphragms need replacing (lifetime up to 10 years) because the electrolysis cells are hermetically sealed during operation to contain the chlorine gas. Industry reports and controls by authorities confirm that worker exposure limits for chrysotile are fully respected³.

As far as the protection of workers is concerned, in accordance with Article 5 of Directive 2009/148/EC⁴, without prejudice to the application of other EU provisions on the marketing and use of asbestos, activities which expose workers to asbestos fibers during the extraction of asbestos or the manufacture and processing of asbestos products or the manufacture and processing of products containing intentionally added asbestos shall be prohibited, with the exception of the treatment and disposal of products resulting from demolition and asbestos removal.

Specific prevention and protection measures are foreseen as regards the activities in which workers are or may be exposed in the course of their work to asbestos. Demolition activities and asbestos removal are further conditional upon specific measures, as provided for under Articles 11 to 17 of the directive.

It should be noted that large quantities of asbestos are still present in buildings and other structures erected decades ago when asbestos use, particularly as an insulator material, was common. This poses a potential threat to workers involved in either demolition or maintenance work that such buildings may need.

In this regard, the Commission commissioned a report with a view to develop guidelines aimed at improving the training of workers involved in asbestos removal or related maintenance work. These guidelines will address in particular the situations where workers are not trained or not aware of the risks posed by asbestos at work.

2 Banning and Removal of Asbestos

Questions of the European Parliament:

(questions: Stephen Hughes (S&D) , Jutta Steinruck (S&D) , Richard Howitt (S&D) , Ole Christensen (S&D) , Kinga Göncz (S&D) and Elizabeth Lynne (ALDE), E-8195/2010, E-8195/10 , E-8305/10 , E-8715/10 , E-8206/10 , E-8200/10 , E-8310/10 , E-8300/10 , E-8528/10
answer: Mr. Tajani on behalf of the Commission)

With the amendment of Regulation (EC) No 1907/2006⁵, as regards Annex XVII, some derogations from the general ban on asbestos have been confirmed. Taking into account that comprehensive market surveillance is far from a reality in Europe and also taking into account that building materials, coming from third countries and possibly declared as having been produced before 2005, could contain asbestos, a misuse of the provisions of Annex XVII cannot be ruled out.

The European Parliament, in its resolution of 7 May 2009⁶, regrets that so far it has been impossible to set a European list of articles exempted from the ban.

Question 1

What steps will the Commission take in order to influence the national implementation of Annex XVII of Regulation (EC) No 1907/2006 in respect of the kind of articles falling under point 2, item 6 of the annex?

Question 2

Is the Commission intending to establish such a closing list no later than 1 January 2012?

Question 3

How is the European Commission preparing this list?

The first step in the process of implementing Annex XVII of Regulation (EC) No 1907/2006 and in particular Entry 6, paragraph 2 will be in June 2011 when Member States will communicate National measures which allow the placing on the market of articles containing asbestos fibers installed or in service before 1 January 2005.

Until now, the Commission has not received any communications from Member States, but will remind them of their obligations.

After receipt of the communications, Commission services will extract information about the legal situation in Member States and the different types of articles exempted from the ban in Entry 6, paragraph 2 of Annex XVII. The Commission will make this information publicly available.

3 Products Containing Asbestos

Questions of the European Parliament:

(questions: Stephen Hughes (S&D) , Jutta Steinruck (S&D) , Richard Howitt (S&D) , Ole Christensen (S&D) and Kinga Göncz (S&D), E-8198/10 , E-8308/10 , E-8209/10 , E-8204/10 , E-8312/10 , E-8525/10 , E-8712/10 , E-8303/10
answer: Mr. Tajani on behalf of the Commission)

Question 1

Does the Commission have any information or surveys showing ongoing imports of products containing asbestos? If so, precisely what types of products containing asbestos are being imported?

Placing on the market, including import, of products containing asbestos is prohibited in the EU.

However, Member States may exempt diaphragms containing chrysotile for existing electrolysis installations. Therefore the only imports that are possible in the EU are the chrysotile-containing diaphragms.

The Commission would refer the Honourable Member to its answer to the Written Question [E-4724/10](#)⁷ by Mr Daniel Caspary on Entry 6 of Annex XVII of REACH (Regulation (EC) No 1272/2008⁽²⁾) which provides that by 1 June 2011 Member States making use of the exemption shall provide a report to the Commission on, amongst others, the source and quantities of diaphragms containing chrysotile.

Question 2

What is the Commission doing or intending to do in order to build up and maintain comprehensive and effective market surveillance on products that might contain asbestos?

The Commission is aware of cases of imports of illegal products containing asbestos such as thermos bottles and radiators from China or other countries. When these products are found by a Member State surveillance authority, which is responsible for the enforcement of the prohibition on asbestos, it takes the appropriate measures and notifies the Commission under the RAPEX rapid alert system (<http://ec.europa.eu/rapex>), managed by the Commission. RAPEX then informs the authorities of all other

Member States so that they can take measures in their countries. In this way the Commission is supporting Member States in order to enforce the prohibition on asbestos.

4 Asbestos-Related Diseases and Compensation

Questions of the European Parliament:

(questions: Stephen Hughes (S&D) , Jutta Steinruck (S&D) , Richard Howitt (S&D) , Ole Christensen (S&D) and Kinga Göncz (S&D), E-8199/10 , E-8313/10 , E-8309/10 , E-8205/10 , E-8524/10 , E-8711/10 , E-8210/10 , E-8304/10
answer: Mr. Andor)

Question 1

What initiatives has the European Commission taken since 2006 directed at comparing thoroughly the situation concerning recognition and compensation of asbestos-related diseases in all 27 Member States?

Question 2

Will the European Commission give information about possible differences in practice between the Member States?

The Commission shares the Honourable Members' concern at the unacceptably high incidence of asbestos-related diseases. It draws the Honourable Members' attention to the fact that for many years it has been stressing the need to prevent such diseases. Directive 2009/148/EC⁸ aims to protect workers from risks to their health at work, including by preventing health risks arising or likely to arise from exposure to asbestos.

In addition, for the unfortunate cases where such diseases are already a fact, the Commission Recommendation concerning the European schedule of occupational diseases⁹, Annex I to which includes five asbestos-related diseases, invites inter alia the Member States to:

- *introduce as soon as possible into their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures, the European schedule, and*
- *take steps to introduce into their national laws, regulations or administrative provisions the right of a worker to compensation. The recommendation is not binding, however, and the recognition of occupational diseases, including asbestos-related diseases, and any compensation to be paid are therefore matters for Member States' sole competence. As a result, practice may vary from one Member State to another, in particular because, in accordance with Article 2 of the recommenda-*

tion, the Member States have to determine the criteria for the recognition of each occupational disease according to the national laws or practices in force.

Under Article 4 of the recommendation, the Member States were requested to inform the Commission of the measures taken or envisaged in response to the recommendation. With a view to supplementing that information so a comparison can be made on the asbestos-related diseases recognised and compensated for in all Member States, two steps have been taken:

- *a call for tender was published to carry out a study analysing the current EU arrangements on occupational diseases. The report should be available by early 2012;*
- *a working group was set up within the Advisory Committee on Safety and Health at Work to adopt an opinion as to whether any initiatives should be taken to improve the EU arrangements.*

In addition, with the assistance of an external consultant, the Commission is drafting guidelines to address the situation of workers who are likely to come into contact with asbestos in the construction sector, with the aim of preventing further cases of asbestos contamination and any ensuing asbestos-related diseases. The Commission will decide on any action needed on the basis of the above evidence.

5 Mesothelioma

Questions of the European Parliament:

(questions: Catherine Stihler (S&D), E-5096/2010
answer: Mr. Andor)

Question 1

Will the Commission increase funding for medical research into this terrible disease? Is there any support at EU level for victims and their families?

At European Union level, Commission Recommendation 670/2003/EC of 19 September 2003 concerning the European schedule of occupational diseases¹⁰ recommends that Member States introduce the European schedule in Annex I to that Recommendation (which includes mesothelioma (Item 301.22) as soon as possible into their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures.

The Commission would, however, draw the Honourable Member's attention to the fact that the recommendation is not binding on the Member States, which remain competent for the recognition of, and payment of any compensation for specific cases of disease of an occupational nature.

Under the EU Framework Programmes for Research and Technological Development (FP), research on cancer, including rare cancers and gene-environment interactions, has been covered within the 5th and 6th Framework Programmes (FP5, FP6) and is being supported under the 7th Framework Programme

(FP7, 2007-13)¹¹. However, so far only one project, Fibretox¹², funded under FP5, looked specifically at the toxicity of asbestos fibres to human health.

In the area of gene-environment interactions

ECNIS¹³ <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2010-5096&language=EN-def4> project — a Network of Excellence aimed at developing hazard and risk assessment strategies based on the mechanism of action of environmental carcinogens and to validate novel markers of exposure is also funded.

Cancer research is a priority area in the 7th Framework Programme (FP7, 2007-13) with the aim to pursue the translation of basic discoveries into clinical applications in order to improve cancer care. So far 29 projects are supported in the cancer area for a value of EUR 109 million are currently being funded, and including other areas (biotechnology, systems biology etc), so far EUR 250 million were spent on cancer research. As a result of 2010 call further 19 projects focusing on cancer research are currently under negotiation to be awarded EUR 98 million. The area of gene-environment interactions involved in cancer development has been addressed, no applications relating to asbestos exposure and cancer development were received. In addition, research related to the impact of exposure to environmental factors on health (including cancer) is being funded by the Environment theme. Furthermore a broad range of research areas are being supported that are very relevant to preclinical and clinical aspects of mesothelioma, for example optimising the delivery of (chemo)radiotherapy and/or surgery to cancer patients or research into chemotherapy resistance that could be of great interest to mesothelioma researchers. Moreover clinical research in the field of rare cancers is being continuously supported, for example by funding projects that aim to integrate and formalise translational and clinical research in this field, and by calling for investigator-driven clinical trials in the field of rare cancers. The Commission is also funding research that can improve quality of life of cancer patients, including research on cancer-related pain and on palliative care.

6 Asbestos Subsidy

Questions of the European Parliament:

(questions: Stephen Hughes (S&D) and Alejandro Cercas (S&D) E-4818/2010
answer: Mr. De Gucht)

Question 1

Is the Commission aware that the Canadian and Quebec governments intend to provide a USD 58m loan guarantee and thereby provide a subsidy to resume asbestos production at the Jeffrey mine in Asbestos, Quebec?

Question 2

Is the Commission further aware that most if not all of the asbestos produced will be exported to developing world nations?

Question 3

Does the Commission agree that such a loan guarantee is contrary to WTO rules? Will the Commission lodge a complaint with the WTO?

Whereas the EU has banned all production, Canadian production and export of asbestos is not prohibited and together with Russia, Canada is the world's leading exporter of asbestos. When it became evident that asbestos may also present serious health risks, the Federal Government issued several policies restricting the use of asbestos and now encourages the Provinces, who have jurisdiction in this matter, to adopt stricter rules when it comes to asbestos exposure.

The proposal for the Government of Quebec to provide a loan guarantee of about CUSD 58 million for the reopening and deepening of the Jeffrey chrysolite asbestos mine in Asbestos, Quebec, is controversial in Canada. As far as the Commission is aware, as of the date of this reply, there has not yet been a definitive decision on this matter by the Government of Quebec.

The question as to whether this loan guarantee, if agreed by the Government of Quebec, would be contrary to World Trade Organisation rules, would need to be investigated taking into account all relevant facts. Without having the details of a decision by the Government of Quebec, all predictions of legal action and outcome would be speculative.

Source:

(2) OJ L 353, 31.12.2008.

¹ <http://www.europarl.europa.eu/QP-WEB/>

² OJ L 207, 6.8.1999.

³ http://ec.europa.eu/enterprise/sectors/chemicals/files/markrestr/derogation_chrysotile_asbestos_diaphragms_en.pdf

⁴ OJ L 330, 16.12.2009.

⁵ Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work (codified version), OJ L 330, 16.12.2009. The first Directive addressing asbestos exposure risks at the workplace dates back to 1983.

⁶ Commission Recommendation of 19 September 2003 concerning the European schedule of occupational diseases, OJ L 238, 25.9.2003.

⁷ OJ L 238, 25.9.2003.

⁸ http://cordis.europa.eu/fp7/home_en.html

⁹ Final report: http://ec.europa.eu/research/quality-of-life/ka4/pdf/report_fibretox_en.pdf

¹⁰ Environmental cancer risk, nutrition and individual susceptibility — www.ecnis.org/

¹¹ <http://www.europarl.europa.eu/QP-WEB/home.jsp>

¹² OJ L 353, 31.12.2008.

¹³