

SAFE AND RESPONSIBLE USE OF CHRYSOTILE ASBESTOS FROM POLICY AND LEGISLATIVE FRAMEWORK OF INDIA

I. CHRYSOTILE MANAGEMENT AND CONTROL AGENCIES

Governmental agencies

India is a federal state, the state management aspects accordingly require proper assignment and close coordination among the state agencies at the central level (federal level) and at local level (state level), including the following:

- *The Ministry of Environment, Forest and Climate Change*, specifically, the Hazard Substance Management Division – HSMD.

HSMD is a major agency of the Ministry of Environment, Forest and Climate Change (MoEFCC) managing the hazardous chemicals. Its main duty is to encourage the safe management and use of hazardous chemical compounds, including the hazardous chemicals and the hazardous chemical wastes to avoid damages to environment and people's health.

HSMD's authority includes issuance of procedures and precautions to prevent accidents from happening, prepares measures to mitigate the impacts of solid wastes, electronic waste, plastic waste, etc. HSMD is also responsible for preparing and informing the rules so as to prevent the chemical accidents and maintain their enforcement at state level. HSMD takes responsibility to support, formulate and maintain the infrastructure system in the states to implement the rules specified in Environment Protection Act 1986 on the hazardous substances. Also, HSMD prepares and implements the rules accessible to the industrial chemicals which are potentially hazardous on five-year period basis. In addition, HSMD is an agency to provide financial assistance packages to set up the equipment and infrastructure for storing, handling and re-using the hazardous wastes in PPP form with appropriate contribution by the state authorities.

In respect of safety assurance of chemicals, MoEFCC is responsible for informing the *Manufacture, Storage and Import of Hazardous Chemicals rules-MSIHC* issued in 1989 and *Chemical Accidents Emergency Planning, Preparedness and Response rules – CAEPPR*. These rules stated the criteria to identify the hazardous substance accidents. In principle, the local authorities are responsible to manage these accidents to handle the listed hazardous substances. Each district sets up 1 MAH unit to mitigate the impacts of the chemical disasters. There are now some 1,862 units as such in 303 districts of India.

A sub-scheme titled *Industrial Pocket wise Hazard Analysis* has been put into operation since the 8th five-year Plan. The Ministry in question will provide financial assistance for

preparing the emergency plans, hazard analysis and inspection reports on safety quickly to determine which agencies shall prepare the plans for emergency circumstances to 41 districts with their MAH. The received reports and the emergency plans including hazard analysis and safety reports will be then re-checked.

In respect of hazardous wastes management, a National Inventory of Hazardous Wastes will be provided by the Central Pollution Control Board (CPCB). The Ministry is also launching a project for setting up a geographic information system (GIS) on hazardous wastes. This website provides information on status of hazardous wastes management in India. The data in the website is required to be timely and frequently updated by the state-level Pollution Control Boards to assure the accurate information at any time. There are now about 33,000 industrial hazardous wastes and the review of management on each has been conducted for 27,500 types of wastes.

- *Ministry of Labor and Employment*, specifically the Industry Safety and Health Division.

This Division has its role to carry out management in accordance with the law regulations on mines and factories in the industries. In addition, it is responsible for every matter relevant to the sample laws under the Factories Act. It analyses the accidents and sets up an independent inspection agency in relation to the accidents or troubles occurred in the mines; issues the legal regulations on health and working safety.

- *Ministry of Mines*, specifically the *Indian Bureau of Mines Geological Survey of India – GSI*: Is an agency having its function of surveying and providing geologic information to the Government.
- *Supreme Court of India*

The Supreme Court of India is not only a judicial agency but also has its certain political position when its decisions are historical judgments in settling the social contradictions between a party of chrysotile industry and a party of movements supporting the ban of chrysotile use in India.

Non-governmental organizations

India Association of chrysotile industry enterprises

In respect of exploitation, India is now exploiting some mines and by 1 April 2010, the estimated volume at these mines is 22.17¹ million tons. Chrysotile exploitation activities in India are mainly conducted by the private enterprises who have their leading positions in the market. Typically, in 2012-2013, all the exploited chrysotile volume is from two big private companies, i.e. Padma Minerals (P) Ltd (86%) and Baba Minerals Corporation (14%).

While in fact the need for using chrysotile in India is very high. The chrysotile is often used as input material for such industries as garment and textile, production of insulating products,

¹ Indian Mineral Yearbook 2013, Indian Bureau of Mines, January 2015, page

hardcover, roofing sheets, artificial joints, low-friction materials, friction roofing sheets, auto-brakes, auto-industrial rolling brakes and cement. Consumed volume of chrysotile in India in 2012-2013 was 104 thousand tones, mainly using for production of cement and chrysotile-containing products.

The chrysotile industry in India includes different associations, e.g. the

*Asbestos Cement Products Manufacturers' Association – ACPM*².

This Association consists of 50 manufacturers located in various states of India. Its main duty is to encourage, promote and give advice on the use of chrysotile such as roofing sheets and conduits in India. It is also responsible to publish the information on the use of chrysotile. However, this Association works for the sakes of manufacturers.

Employees and Representative Organisation of Employees

India is a country with abundant human resources and the employees often work in the hazardous environment. Therefore, the struggles to improve working environment for them operate strongly. The leading one is the India General Confederation of Labor, known as the standing Committee of all the Trade Unions in India.

The Trade Unions have their role to improve awareness of the chrysotile manufacturers, organise the training programs, seminars and workshops and act as representatives for the employees over the state agencies for the purpose of protection of health, working safety, welfare and working environment for employees. The Trade Unions also organise the health campaigns to examine the health of employees working in the chrysotile environment and the health of their families to help the exposed victims receive the necessary treatments. The Trade Unions are also the representatives over the Supreme Court Monitoring Committee to give petitions and solutions for preventing occupational diseases in relation to the chrysotile.

The use of chrysotile in India is now facing with strong objection from the Trade Unions. They believe that the lobby activities of the manufacturers heavily influenced the Government's issuance of policy³. This can be shown as follows: Firstly, no studies have demonstrated or even suggested that high density and non-friable chrysotile-containing products are a real risk to public health. Secondly, almost all cases of asbestosis, lung cancer, or mesothelioma were caused by use of amphiboles and work practices of 20 to 40 years ago, which have long been abandoned; Thirdly, the responsible and controlled use of chrysotile does not entail unacceptable risk. From such views, the role of trade unions becomes stronger and stronger in struggle to force the government to comply with and implement its duties and international commitments on controlled use of chrysotile.

NGOs (anti-asbestos movement) and communication organizations

² http://acpma.in/acp/?page_id=8, on 5 Sept 2015

³ Madhuhar Kashinath Pandhe, President of Centre for Indian Trade Union, "Role of Trade Union in the Campaign for Prohibition of Asbestos", page 1, at www.worldasbestosreport.org/conferences/gac/gac2004/ws_A_02_e.pdf

BANI (Ban Asbestos Network of India) in which Occupational Health India and ToxicWatch Alliance⁴ are member of this network, includes the scientists on occupational diseases, the researchers and volunteers. BANI demands criminal liability for the companies and medico-legal remedy for victims. BANI works with trade unions, human rights, occupational diseases and environmental groups. Information on use of chrysotile is not transparent and adequate⁵. BANI also closely works with International Ban Asbestos.

II. POLICY FRAMEWORK

In India, the chrysotile is not banned but must be strictly managed and controlled. The clear reflection of this policy of Indian Government is the judgement of India Supreme Court on 21 January 2011¹⁷; in relation to the claim of a NGO requesting the ban of using chrysotile, concluding that it is impossible to ban in all forms the use of asbestos, including the chrysotile because of the following reasons:

- The ILO's recommendations on use of chrysotile do not request the countries to ban all the activities relevant to the chrysotile but encourage them to develop and apply the proper control measures to ensure the safe use of the chrysotile.
- The chrysotile industry is now using a big manpower source of India, in which many families are depending on the income therefrom.
- For the developing country like India, the need for infrastructure development is very high and chrysotile is a cheap material and suitable with the needs of the India's infrastructure development at the present time.
- The judgment of India Supreme Court also clearly showed some hidden motives of the NGOs relating to the benefits of some individuals and lawyers other than the public benefits.
- The Supreme Court also judged that the control or absolute elimination of using chrysotile must be executed based on the actually convincing scientific evidences and morality of the executor.
- The Government of India also has its initially positive behaviors. In COP 7, held in May 2015, the Government of India changed its point of view by supporting to include the chrysotile in the CIP list of Rotterdam Convention to eliminate the contradictions between the national law and international law on use of chrysotile in India although they opposed it in COP6 in 2013.

III. LEGISLATIVE FRAMWORK ON CHRYSOTILE ASBESTOS IN CERTAIN FIELDS

⁴ www.toxicwatch.org

⁵ Madhuhar Kashinath Pandhe, President of Centre for Indian Trade Union, "Role of Trade Union in the Campaign for Prohibition of Asbestos", at www.worldasbestosreport.org/conferences/gac/gac2004/ws_A_02_e.pdf, p.2

Import and export

India is also an exporter of chrysotile asbestos, however, with inconsiderable amount. In 2012-2013, the exported volume is 78 tons, considerably reducing against 1,296 tons⁶ in the previous year. In addition, India also exports the asbestos cement with volume of 56,406 tons in 2012-2013, mainly exported to such countries as Arabia, Saudi Arabia, Nepal and Qatar.

According to the Foreign Trade Policy 2015-2020⁷, Foreign Trade (*Development & Regulation*) Act, in principle, the import-export activities are free and only limited for such reasons as protection of public benefits, human, brands and natural resources, etc.⁸. Therefore, in principle, there is no restriction on the export of chrysotile.

Transport and storage

Because the chrysotile is not in the inventory of hazardous substances, the regulations on storage under Manufactures, storages and import of hazardous chemicals Rules 1989 (2000) shall not be applicable to the chrysotile asbestos.

Factories Act 1948 (1987) amends the contents related to the dangerous production process and responsibilities of relevant parties, without any regulations on the storage of hazardous substances or chrysotile.

The transport of hazardous substance shall always comply with the provisions of Motor Vehicles Act 1988 and Central Motor Vehicles Rules 1989⁹.

Under which, the hazardous chemical vehicles shall have warning logos showing the dangerous level and substances being transported and be equipped with the first aid and emergency tools as well as other required safety devices.

The consigner shall assure the permission of the transport of hazardous chemicals. The transporter or owner of transported goods shall have all required information on dangerous level of the chemicals. Drivers shall be trained to handle the dangerous situations that may occur during the transportation.

Drivers shall be responsible to keep the vehicles parking far from fire, explosive risks or other risks. Drivers must be capable of at least reading and writing one language and English. They shall pass a training course on transport of hazardous substances.

Regulations on manufacturing of the chrysotile containing products

Production and manufacturing of chrysotile asbestos-containing products currently comply with Factories Act 1948. In the list of industries involving hazardous processes, the manufacture,

⁶ Indian Mineral Yearbook 2013, Indian Bureau of Mines, January 2015, p. 8

⁷ Notification. 01/2015-2020, 1/4/2015, "Foreign Trade Policy", Ministry of Commerce and Industry

⁸ Point 2.07, Foreign Trade Policy 2015-2020

⁹ 18 (6) Manufactures, storages and import of hazardous chemicals Rules 1989 (2000)

handling and processing of asbestos and its products are at the 24th rank¹⁰. The Act specifies general obligations of the manufacturers, i.e. assuring actual design and construction of factory with safety and without risks to the health of workers. To make sure of it, the manufactures shall carry out the tests and experiments on safety level of factory designs and equipment put into used. The Act aslo provides the inspection regulations, under which the inspectors have specific powers, for example, carrying out inspection, requesting for information supply, etc, especially the inspectors have their right to dismantle the equipment and tools which fails to meet the requirements of safety and health of the workers and may suspend the factory operation for a period of time if the inspection shows the existence of dangers to the working safety and the health of workers¹¹. The Act also provides the standards of health and safety for a factory involving a hazardous process, e.g. cleanliness, ventilation, temperature, disposal of waste and effluents, dust and fume, humidification, lighting, drinking water, etc. In respect of the hazardous processes, the Act provides that the selection of factory location must be engaged in by the Site Appraisal Committees. These Committees shall evaluate and decide whether the factory is developed in the appraised location or not. Concerning the hazardous process, the Act also requires the responsibilities of the parties in disclosure of information on production process and any relevant changes¹².

Regulations on use of chrysotile-containing products

At present, the chrysotile-containing products are widely used in the industries of India, mainly in the building and engineering fields. In principle, there is now no regulation prohibiting use of the chrysotile-containing products in India. In respect of usage, given the asbestos chemical is not a dangerous compound under the Rules on production, storage and import of chemical substances 1989, the existing chrysotile-containing products are mostly not labelled in accordance with the laws, consequently, the workers and relevant ones cannot recognize them and safe level during their working with and exposing to those products. Therefore, the chrysotile-containing products are not labelled a health warning during transportation and the trade unions do not have authority to prevent the development of the chrysotile-related diseases at the workplaces.

Regulations on environment

According to Environmental Impact Assessment Guidance Manual for Asbestos based Industries 2010¹³, annually, the companies operating in the asbestos industry shall review and implement the content in the environmental impact assessment reports, including the assessments on the project, impacts on water, air environment, noise, etc, of the projects using the chrysotile asbestos. This report also states the environmental impacts and mitigating measures. Impact assessment method must include the researches, techniques of surveying, inspection and assessment and states the impacts in form of parameters to accordingly work out an Environmental Monitoring Program, including the technical aspects of effective control process of the impact measures. The report also partially analyses the alternative materials for the chrysotile asbestos.

¹⁰ Schedule I : List of Industries Involving Hazardous Processes, Section 2(cb), Factories Act 1948

¹¹ Section 9. Powers of Inspectors, Factories Act 1948

¹² Clause 41B, Factories Act 1948

¹³ S.O. 3067(E) 01/12/2009 Environment Impact Assesement Notification 2009 of Ministry of Environment and Forest; S.O.1850 (E) 14/8/2012 Environment Impact Assesement Notification 2012 of Ministry of environment and Forest.

Notification of Ministry of Environment and Forests on Hazardous Materials Management, Handling and Transboundary Movement Rules 2008. Schedule 1 on List of processes generating hazardous wastes including production of asbestos and asbestos-containing materials:

(1) Asbestos-containing residues; (2) Discarded asbestos (3) Dust/particulates from exhaust gas treatment.

Schedule 2: List of waste constituents with Concentration Limits: Asbestos is ranked in Class B: Concentration limit is 5000mg/kg

Schedule 8: The hazardous wastes banned for import and export, listing the asbestos wastes (dust and fibre).

Regulations on health and employees

Factories Act 1948 has one chapter on health and safety of employees when working in conditions of hazardous and toxic environment. To regulate this issue, the Act provided certain compulsory standards for factory construction design, for example, for the floor, staircase, equipment and devices accessing to the hazardous processes for the purpose of ensuring safety for the workers.

According to the applicable regulations of India, the limit of asbestos dust exposure by the workers at workplaces is 0.1 f/ml¹⁴.

¹⁴ World Health Organization 2014, Chrysotile Asbestos, WHO Library Cataloguing-in-Publication Data, page 19.