

SAFE AND RESPONSIBLE USE OF CHRYSOTILE ASBESTOS FROM POLICY AND LEGISLATIVE FRAMEWORK THE USA

I. CHRYSOTILE MANAGEMENT AND CONTROL AGENCIES

Governmental agencies

- *Brazilian Mineral Production Department – DNPM* under the *Ministry of Mines and Energy – MME* manages the import of chrysotile and registration of the chrysotile importing companies. DNPM provides the *Foreign Trade Secretariat under the Department of Development, Industry and Foreign Trade MDIC* with the updated reports (6 months/once) on the companies satisfying the requirements of asbestos import.
- *Ministry of Environment – MMA* takes responsibility for policies on natural resources and environment and environmental quality standards. Especially, *Brazilian Environment Council – CONAMA* regulates the standards and specifications on import, production, distribution and use of asbestos.
- *Ministry of Labor and Employment – MTE: Labor Inspection Secretariat –SIT* issues guidelines on labor inspection and standards on safety and health of laborers at work in relation to the production and use/treatment of asbestos.
- *Department of Health and Safety at Work – DSST* regulates the standards on safety and health at work relating the production and use/treatment of asbestos.
- *Ministry of Development, Industry and Foreign Trade (MDIC)* is responsible for developing policies on industry, foreign trade, standards and quality relating the import, export, production and distribution of asbestos and asbestos-containing products.
- *Ministry of Science and Technology – MCT* is responsible for developing and implementing the national scientific and technological policies, including any matters related to the production and treatment of asbestos wastes.
- *Brazilian Occupational Health and Environment Collective (CNSTMA)* with members who are the leaders of trade unions in Brazil, is in charge of providing technical advice in discussion, decision-making and implementing the policies to improve the workplaces, especially in relation to the asbestos.¹

Non-governmental organizations

¹ CONASQ, Brazilian Chemicals Management Profile 2003, p.170

- *Brazilian Association of Asbestos Victims – ABREA*: established in Osasco in 1995 for the purpose of gathering the workers and victims exposed to asbestos, registering the asbestos-exposed victims to carry medical examination, enhancing awareness of the society on the damage of asbestos; representing for associations and victims to execute the proceedings related to the asbestos; combining social movements and NGOs to support the ban of asbestos in Brazil and in the world. ABREA is a member of Ban Asbestos Network.
- *Worker’s Central Trade Union Institute for Workplace Health (INSTCUT)*, established in 1990, is an advisory agency for policies and technical aspects to the Worker’s Central Trade Union –CUT on health, working conditions, environment; supply of documentations, training, publication, research, information and communication. INSTCUCT involves in various research groups, including the Asbestos Working Group at the aim of reaching the ban of asbestos use in Brazil.

II. POLICY FRAMEWORK

In Brazil, there are now about 3,000 producers of the asbestos-containing products, mainly used in cement asbestos, friction materials, textile industry, plastic, chemical industries and interior decorations. Pursuant to the Federal law, use of chrysotile asbestos is allowed².

The Government of Brazil is said to have been delayed in issuing the regulations adjusting the asbestos use. In 1991, the Federal Government of Brazil approved ILO Ceonvention No.162, reducing exposure limit in workplaces to 2.0 fibre/ml. The major Trade unions in Brazil have commenced to mobilize the Government to eliminate the asbestos. In 1994, the workers and automobile accessories industry agreed to eliminate the asbestos in manufacturing brake pads and brake disc since 1998, but the Minister of Labors refused to sign for approval.

While the Federal Government is still not ready for actions agaist the asbestos in Brazil, some states have taken specific actions on ban of the asbestos. Up to date, the use of any types of asbestos, even the chrysotile asbestos, has been banned since 2001 in five states of Brazil, and as of 2014, they are: Sao Paulo; Rio de Janeiro; Minas Gerais; Rio Grande do Sul; Pernambuco and Mato Grosso.

The state of Mato Grosso do Sul also had a legislation forbidding the use of any kind of asbestos, but a [Federal court](#) decree upheld that law, deeming it unconstitutional.

But, despite the ban on asbestos in these states, some companies succeed in using them. In the state of Rio de Janeiro, for example, the asbestos-cement manufacturer Eternit obtained a judicial exemption which enables it to continue production, as it awaits a final decision by the Supreme Court regarding the constitutionality of asbestos ban in the state. In the state of São Paulo, two other companies obtained similar exemptions to continue using asbestos in production³.

To date, some following regulations are being applied in Brazil:

² <http://thebrazilbusiness.com/article/asbestos-regulation-in-brazil> accessed on 6 Sept 2015

³ <http://thebrazilbusiness.com/article/asbestos-regulation-in-brazil> accessed on 6 Sept 2015

- Federal Law No. 9055, dated 01 June 1995 regulates the extraction, processing, utilization, marketing and transportation of the asbestos and asbestos-containing products, as well as natural and artificial fibers of any origins used for the same purposes;
- Decree No. 126, dated 22 May 1991 approving ILO Convention 162 on safe use of the asbestos;
- Decree No. 2350, dated 15 October 1997 revising Law No. 9055/1995 on the asbestos;
- Decree No. 3048, dated 06 May 1999 approving the Regulations on social welfares and especially Annex IV, identifying class and exposure time with the toxic agents including arsenic and its compounds, asbestos, benzene, beryllium, bromine, cadmium, lead, chlorine, chrome, carbon disulfide, phosphor, iodine, manganese, mercury, nickel, silica and other chemicals causing concerns to the worker health;
- Decision No. 1, dated 28 May 1991 of the Committee under Ministry of Labor and Social Welfare on change of Annex 12, NR 15, providing tolerance limits for asbestos dust, applied for any activities that the workers exposes to the asbestos. It bans any asbestos of amphibole group and products containing it. It requires registration with the Ministry of Labor from the companies involved in production, use or marketing of fibers; further sets up the standards for labeling.

III. LEGISLATIVE FRAMWORK ON CHRYSOTILE ASBESTOS IN CERTAIN FIELDS

Import and export

Chrysotile asbestos shall, in any forms, be only imported after the importer obtains a permit from the National Department of Mineral Production – DNPM, the Ministry of Mines and Energy, and meet the following requirements:

- Importer's registration with DNPM, in any forms, depending on the presentations of importers, environmental permit and registering a user account with Ministry of Labor and Employment;
- Presenting on 30 November of the year, forecasts of asbestos import in the next year to DNPM;
- Complying with the conditions set forth by the Federal laws, state laws and regulations on local environment control, safety and public health, proper storages, treatment, use, processing and any waste that may arise therefrom, including the final treatment.⁴

Transport and storage

According to Resolution No. 7, dated 18 September 1987: providing use of asbestos in Brazil, the asbestos transport is considered having a high risk and in the event of an accident, such area must

⁴ Clause 2, Decree No. 2350/1997

be isolated, with all the materials packaged in accordance with the safety standards and the transporter's responsibility.

Regulations on manufacturing of the chrysotile containing products

There is no specific regulation requiring standards on the asbestos production factories, however, they must comply with general requirements of building standards for the purpose of safe production activities. These regulations are specified in NR8 – Brazilian Regulatory Standards on buildings. These are the minimum technical requirements that must be observed in the buildings to ensure safety and comfort to those who work therein.

At the workplaces exposing to the asbestos, the companies must register the gradual asbestos fiber removal system at workplaces.

Regulations on use of chrysotile-containing products

Apart from the Chrysotile and Amosite-containing products, there is no specific regulation banning circulation of asbestos-containing products. All the products containing rich asbestos/chrysotile asbestos, imported or manufactured in the country may be sold in the market only when they are properly sealed by the Brazil's certificate systems.

All the asbestos-containing products must be printed in bold on the packaging of each smallest package with following text line:

Warning! This product contains asbestos fiber.

Advoid creating dust. Breathing asbestos dust is harmful to your health.

It is more harmful to those who smoke.

If the size of product is too small to print the whole text above, it is possible to combine different product units to a block for printing. The manufacturer or distributor may request the competent environmental authority to allow changing such warning text.

For the exported products, the warning text line must be printed in the language of importing country or in a language required by such country⁵.

The manufacturer must inform the end-consumers of the asbestos-containing products of instructions for use, leaf and poster presented in three colors, i.e. red, black and white⁶.

Regulations on environment

Other than the requirements to the consumers and workers, in 2004, Brazil put asbestos into the list of hazardous wastes under Resolution No.348 dated 16 August 2004. The asbestos wastes must be managed and disposed in accordance with the hazardous waste treatment procedures.

⁵ Section 1, Resolution of CONAMA N^o007 dated 16 Sept 1987

⁶ Section 2, Resolution of CONAMA N^o 007 dated 16 Sept 1987

According to the provisions of NR15, Annex 12 Tolerance Limits for Mineral Dusts⁷, the production companies of asbestos-containing products must have asbestos waste treatment system and gas dust treatment system in the production facilities and premises. Every six-month period, these companies must assess the asbestos dust status. These assessment reports shall be kept for 30 years. The workers and employees absolutely reserve their rights to request the production companies or the competent Administrtrtors to carry out additional environment assessment as may be necessary.

Regulations on health and employees

Prohibit children under 18 years working in the production factories.

The employees shall be provided with labor protection clothes, separate change rooms and non-dust emission and the protective clothes must be cleaned. The clothes shall be changed twice per week (Section 3.15 NR15 Annex 12).

With respect to asbestos exposure, the workers in the asbestos environment shall be provided with regular medical examination, namely once in every 3-year period for those who have exposure time from 0 – 12 years; Once in every 2-year period for those whose exposure time is from 12 – 20 years; and annual medical examination shall be conducted for those whose exposure time is from 20 years upwards. These regular examination results must be kept for 30 years.

The asbestos manufacturers shall submit the list of asbestos-exposed workers with regular medical examination to the health agency and the representative of the workers. The workers are permitted to a unified health system with contribution by the manufacturers. If any manufacturer fails to comply with this requiremet, the Government shall, at its own discretion, request the material suppliers to suspend the material supply contracts therewith.

Permissible exposure limit for workers to the asbestos is 2.0 f/ml and it is considered as an asbestos fiber when its diameter is less than 3 micromet and its length is more than 5 micromet and the rate between the length and diameter is more than 3/1. However, the Government also encourages application of lower exposure limits, in accordance with the national or international control standards. These control standards criteria are developed on the basis of consent between the manufacturers and the workers. They are reviewed every year and tend to reduce to the lowest asbestos exposure limits for the workers.

⁷ <http://braziliannr.com/brazilian-regulatory-standards/nr15-unhealthy-activities-operations/annex-12-of-nr15-tolerance-limits-for-mineral-dusts/> truy cập ngày 6/9/2015