

### **HISTORIC DECISION FROM INDIA'S SUPREME COURT:**

- **NO to the petition for a ban on all uses of asbestos**
- **YES to better regulation**
- **THE COURT CRITICIZED THE ANTI-ASBESTOS NGO BEHIND THE PETITION for the petition's lack of authenticity and the failure to prove its claims**

In a very important decision rendered on January 21, the Supreme Court of India refused to grant the petition to ban asbestos that was filed by an NGO connected to the anti-asbestos movement. Rather, the Court ordered the national and state governments to better regulate the use of asbestos. This historic decision opens the door to the strategy proposed by Quebec chrysotile asbestos producers to export, along with the fibre, its unique expertise on safe and responsible use.

### **Safe and responsible use**

The Court wrote (par. 12) that activities associated with the use of asbestos require better supervision and regulatory control. The Court reiterated that the guidelines of the International Labour Organization (ITO) are safety measures that industry should comply with, and called on the various levels of government to ensure safe and controlled use of asbestos in India. It added that what is required is better supervision and control, and the Court does not see as to why it should ban such an activity on which many families depend.

We support the Court's position. We know from experience, of course, that safe and responsible use is more demanding than a simple ban. Nevertheless, as we have so often repeated, that is the way of the future. The Court called on the various levels of government in India to take responsibility by implementing the required regulatory and administrative framework, and we salute that.

The chrysotile asbestos industry should, of course, always assume its responsibility, and under these conditions, it could continue to flourish, and there are excellent reasons for that. India, like all developing countries, has enormous infrastructure needs. Its immense population requires reliable and low-cost materials for housing. As was the case for developed countries after the Second World War, chrysotile is an affordable material that effectively meets those needs.

### **A petition that “lacks bona fide”**

In the same decision, the Supreme Court of India severely reprimanded the anti-asbestos NGO behind the petition for the lack of authenticity in its request, which from the Court’s standpoint, constituted nothing more nor less than proxy litigation in which private interests were hiding behind an appearance of public interest in order to compete with asbestos products. (par. 24)

In other words, the Supreme Court lifted the veil and ordered the petitioners to “show cause why proceedings under the *Contempt of Courts Act, 1971* be not initiated against them and/or in addition/alternative, why exemplary cost be not imposed upon them.” (par. 29)

This decision brings to mind what the British organization Asbestos Watchdog has been saying over and over: that the anti-asbestos crusade is nothing more than an enormous scam attempting to destroy an industry so others can profit.

Moreover, “Lack of specific data as well as vague arguments in the Writ Petition” (par. 12) were among the reasons that the Supreme Court rejected the petition, bringing to mind similar outcomes in other countries. In the United States, chrysotile opponents have never been able to prove their claims before the courts.

In addition, in recent years, hundreds of thousands of lawsuits have been abandoned, and several reputable publications, such as *Fortune* and the *Wall Street Journal*, have written about the “lawsuit scandal” created by certain specialized law firms for whom the anti-asbestos scandal has become more than a cash cow, and is their *raison d’être*.

### **The anti-asbestos lobby: long on moralizing, short on content**

The militants in the anti-asbestos lobby and their spokespersons love to moralize, accuse and discredit those who believe in the safe and responsible use of chrysotile. Noteworthy since the beginning of their recent offensive is their systematic refusal to engage in a dialogue using the most recent scientific studies. And the reason for that: numerous studies seriously call into question what they are saying.

The militants can be expected to demonstrate a selective perception and the questionable use of facts, but not doctors. Serious questions are being raised with regard to the position of certain physicians who are supporting the current offensive against chrysotile asbestos:

- First, they accuse scientists behind studies that go against their beliefs to be in the pockets of the asbestos industry. However, these are scientists who are world renowned for their expertise, and the articles on which they

base their findings are published in scientific journals after being approved, not by the industry, but by committees of their peers. There is

no valid reason for refusing to hold discussions with them on the basis of scientific data.

- Secondly, they quite simply refuse to recognize some scientific evidence, such as the fundamental difference between chrysotile asbestos and amphiboles. They will not consider the very clear opinion of geologists. They stubbornly, publicly deny studies on the infinitely shorter biopersistence of chrysotile compared with amphibole asbestos. Nor to our knowledge, have they ever questioned the fact that far too many products and fibres considered chrysotile substitutes have not undergone the necessary scientific tests to demonstrate their safety, much less their level of potential risk to human health.

Despite all our research and our many requests, we have still not managed to find or obtain a single scientific study, published following peer review, that would allow for concluding that there is a clinically and epidemiologically detectable risk to health, and that was conducted under the following conditions:

- Respect for the current Quebec standard of 1 fibre/cc (Regulation Respecting Occupational Health and Safety)
- Designed so as to specifically exclude any type of asbestos other than chrysotile and to take into account all other factors.

Given their inability to provide such a study, the chrysotile opponents have little to offer but opinions or comments to oppose the many scientific studies that have led numerous eminent international researchers to conclude that the safe and controlled use of chrysotile, in its modern high-density applications, such as chrysotile cement, brake pads, roof sheets ... is not only a possibility, but a reality.

**Note:** The full text of the decision can be found on the Web site of the Supreme Court of India. The Petitioner's name is "Kalyaneshwari".

<http://judis.nic.in/supremecourt/chejudis.asp>