

Asbestos Management Review

Commissioned by Senator Chris Evans,

Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Submission

By

Australian Institute of Marine and Power Engineers



Prepared by

Martin Byrne

Assistant Federal Secretary

9th September 2011.

Introduction

The Australian Institute of Marine and Power Engineers is the registered trade union which represents Marine Engineers in Australia. AIMPE was formed in 1881 by a federation of existing local organisations in several of the colonies of Australasia. AIMPE secured Federal Registration in 1906 and has continuously represented Marine Engineers for over 130 years.

Marine Engineers operate and maintain the propulsion machinery as well as all ancillary mechanical, electrical and hydraulic systems on board ships, offshore vessels, tug boats, dredges, ferries and other vessels.

Asbestos was widely used in the Australian maritime industry during the twentieth century as an insulation material and indeed Australian ships also carried asbestos as cargo around the coast.

AIMPE has unfortunately had many members who have died of mesothelioma. These deaths are a continuing reality for Marine Engineers.

Regulations prohibit the use of asbestos on post 2003 vessels in Australia. Separate regulations have prohibited the importation of vessels containing asbestos since 2005.

Despite these two Federal regulatory regimes, vessels continue to come into Australia [for operation in Australia – not on international trading voyages] with asbestos containing materials. Many of these vessels come into Australia with “Asbestos Free” certificates. There are many examples of these certificates having been proven to be false by subsequent inspection by reputable Australian authorities.

AIMPE has taken industrial action to force companies to remove asbestos from vessels. In one instance the breach was so bad that the Australian Maritime Safety Authority launched a prosecution which resulted in a fine of \$180,000 and the scrapping of the ship concerned.

In addition there is serious doubt about the applicability of Australian laws, including OHS(MI), to foreign flag vessels – despite the fact that they are operating in Australian waters with Australian personnel on board. Under maritime law the flag of a vessel denotes the country of registration of the vessel and prima facie the law of the country of registration continues to apply to the vessel wherever it operates. This is a major problem when it comes to the enforcement of Australian occupational health and safety laws in Australian waters.

In the maritime industry, international convention provisions relating to asbestos management are behind the Australian regulatory regime however in relation to foreign flag vessels the bottom line is that only international convention obligations can be enforced even in Australian waters.

Asbestos management in the Australian Maritime Industry – the regulatory framework

The asbestos issue was one of the reasons that AIMPE lobbied for the enactment of the Occupational Health and Safety (Maritime Industry) Act 1993. Marine Engineers in the twentieth century were often exposed to asbestos from the first days of their apprenticeship right throughout their entire sea-going careers.

Many Marine Engineers were apprenticed in dockyards and shipyards around Australia. Asbestos was the insulation material of choice for a wide variety of applications throughout ships – from the lagging of the boilers and the labyrinthine pipe-work to the heat-shields on main engines and the insulation of many separate spaces including purifier rooms to the general insulation of the accommodation blocks. Marine Engineers had no idea of the lethal properties of the fibrous substance that they were working with day in day out.

In 2003 new regulations were introduced under OHS(MI) which prohibited the use of asbestos on vessels built after 31st December of that year. These regulations are titled the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003*. These regulations came into effect on 31st December 2003 and prohibited the use of asbestos materials on new vessels:

2.08 Prohibition on uses of hazardous substances

An operator must ensure that a hazardous substance mentioned in column 2 of an item in Schedule 2 is not used, at a workplace under the operator's control, in any circumstance other than a circumstance specified in column 3 of the item.

The effect of this provision and the Schedule referred to was to put a ban on the use or handling of asbestos on vessels built or introduced to the Australian maritime industry after 2003 – with limited exceptions. Operators did have the right to apply for an exemption for particular purposes for a limited period after 31st December 2003. The last of these exemption periods ended in 2007.

Vessels operating in the industry prior to 2004 were however allowed to retain asbestos containing materials in applications described as 'in situ' as long as those materials did not represent any exposure risk. The 'in situ' materials on pre-existing vessels were required under the regulations to be recorded in an Asbestos Register to be kept on board the vessel and the materials were to be labelled with warning signs alerting all personnel to the presence of the materials. The materials were not to be disturbed unless that disturbance was for removal.

The second layer of regulatory regime applicable to the maritime industry is found in the *Customs (Prohibited Imports) Regulations 1956*. In particular, Regulation 4C introduced the prohibition on the importation of vessels over 150 tonnes with any asbestos.

4C Importation of asbestos

(1) The importation into Australia of amphibole asbestos, or goods containing amphibole asbestos, is prohibited unless:

(a) the importation is of raw materials that contain naturally occurring traces of amphibole asbestos; or

(b) the Minister administering the *Occupational Health and Safety Act 1991* or a person authorised by that Minister confirms that he or she has granted permission to import the amphibole asbestos or goods, and the confirmation is produced to a Collector; or

(c) the importation is of hazardous waste as defined in section 4 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*; or

(d) all of the following apply:

(i) the importation is of a ship or resources installation of at least 150 gross tonnage, as shown by the International Tonnage Certificate (1969) for the ship or resources installation;

(ii) the amphibole asbestos in the ship or resources installation was fixed or installed before 1 January 2005;

(iii) the amphibole asbestos in the ship or resources installation will not be a risk to any person unless the amphibole asbestos is disturbed.

Note Ship and Resources installation are defined in section 4 of the Act.

(2) For paragraph (1) (b), the Minister or authorised person may grant permission to import the amphibole asbestos or goods.

(3) The importation into Australia of chrysotile, or goods that contain chrysotile, is prohibited unless:

(a) the chrysotile is, or the goods are, hazardous waste as defined in section 4 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*; or

(b) an authority of a State or Territory confirms that the proposed use of the chrysotile or goods is in accordance with the State or Territory law relating to occupational health and safety; or

(c) the Safety, Rehabilitation and Compensation Commission confirms that it has granted an exemption under the *Occupational Health and Safety (Safety Standards) Regulations 1994* for the use of the chrysotile or goods; or

(d) the Seafarers Safety, Rehabilitation and Compensation Authority confirms that it has granted an exemption under the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* for the use of the chrysotile or goods; or

(e) the Minister administering the *Occupational Health and Safety Act 1991* or a person authorised by that Minister confirms that he or she has granted permission to import the chrysotile or goods; or

(f) the chrysotile is, or the goods are, being imported from the Australian Antarctic Territory; or

(g) the goods are raw materials that contain naturally occurring traces of chrysotile; or

(h) all of the following apply:

(i) the importation is of a ship or resources installation

of at least 150 gross tonnage, as shown by the International Tonnage Certificate (1969) for the ship or resources installation;

(ii) the chrysotile in the ship or resources installation was fixed or installed before 1 January 2005;

(iii) the chrysotile in the ship or resources installation will not be a risk to any person unless the chrysotile is disturbed.

Note Ship and Resources installation are defined in section 4 of the Act.

(5) For paragraphs (3) (b), (c) and (d):

(a) both:

(i) the confirmation must state that the chrysotile is, or goods are, for a use mentioned in Schedule 3B; and

(ii) the chrysotile or goods must be imported on or before the date mentioned in Schedule 3B for that use; or

(b) the confirmation must state that the chrysotile is, or goods are for research, analysis or display.

(6) For paragraph (3) (e), the Minister or authorised person may grant permission to import chrysotile or goods only if he or she is satisfied that the chrysotile is, or goods are, for research, analysis or display.

(7) For paragraphs (3) (b), (c), (d) and (e), a copy of the confirmation must be produced to a Collector.

It will be noted that the Customs Regulation took effect in 2005 – twelve months after the OHS(MI)regulations regarding asbestos became effective.

Asbestos management in the International Maritime Industry – the regulatory framework

The global maritime industry is notable for the existence of a range of conventions produced through the processes of the International Maritime Organisation (IMO) – an arm of the United Nations. Australia has ratified many of the IMO Conventions. One of the main pillars of the IMO's suite of Conventions is the International Convention for the Safety of Life at Sea, 1974 known as SOLAS. The relevant regulation in the SOLAS is very brief:

Regulation 3-5

New installation of materials containing asbestos

- 1 This regulation shall apply to materials used for the structure, machinery, electrical installations and equipment covered by the present Convention.
- 2 From 1 January 2011, for all ships, new installation of materials which contain asbestos shall be prohibited

The key element of Regulation II – 1 3-5 of SOLAS is that the prohibition is effective from 2011 – a much later date than the operative date of the OHS(MI) provisions and the Customs (Prohibited Imports) regulation.

There were however provisions in SOLAS which dealt with asbestos prior to the current Reg 3-5 above. The Maritime Safety Committee [MSC] of the IMO has produced a Circular which provides significantly more information about the matter of asbestos management in vessels covered by SOLAS. This is reproduced at Appendix 1 of this submission. What the amendments which took effect on 1st January 2011 did was to remove the exceptions that were permitted under the previous regulation.

The Netherlands report to the MSC in 2010 that a Dutch tanker which had been built in Turkey under specifications which required no asbestos materials to be used was found to have over 5,000 separate occurrences of asbestos containing materials – see Appendix 4. Again the shipyard produced an asbestos free certificate which was absolutely worthless. The shipbuilding yards of Asia are not at the forefront of the movement to eliminate asbestos from the workplace.

Unfortunately, as with many international conventions, it is in the area of enforcement where the good intentions of the IMO can run aground. The enforcement of IMO Conventions can best be described as patchy. The IMO has established a Port State Control [PSC] regime. Under this PSC regime, nations appoint inspectors or surveyors who conduct random inspections of foreign vessels when they visit a port outside their flag state [country of registration]. This PSC system is very rigorous in some countries but very lax in other countries.

The MSC Circular [Appendix 1] provides a warning about reliance on 'asbestos free declarations'. Unfortunately very many such documents have proved to be absolutely worthless.

Asbestos management in the Australian Maritime industry – the current situation

The management of asbestos in the Australian Maritime Industry has had a long history. There was a time in the 1980s and 1990s when it was primarily industrial action by trade unions which forced shipping companies to remove asbestos materials from Australian ships.

Even since the introduction of the prohibition under the OHS(MI) regulations and the introduction of the Customs (Prohibited Imports) regulations there have been instances where union agitation has been required to prompt the enforcement agency into action. The case of the Alcem Calaca is the highest profile example. On 14 July 2006 Queensland Cement Limited was convicted in the Brisbane Magistrate's Court of charges of breaching the OHS(MI) Act . These charges related to the Alcem Calaca, however they dated back to 2003 when the AIMPE discovered that the vessel was riddled with asbestos. AIMPE members took two weeks of industrial action in 2003 before an agreement was reached about a program for the removal of the loose asbestos material, the sealing and labelling of other asbestos material and the establishment of an asbestos register available to crew members.

Subsequently AIMPE also pushed the Australian Maritime Safety Authority to prosecute Queensland Cement over the episode. Eventually this prosecution was initiated. The eventual outcome was that the company was fined \$180,000 for the breaches.

A year after the prosecution, Queensland Cement sold its ships including the Alcem Calaca and the crew were made redundant. The new operator soon afterwards replaced the ship. The replacement vessels have been foreign flag vessels. Foreign flag ships operating under single voyage permits with foreign crews now carry the majority of cement cargoes around the Australian coast. The personnel running these vessels are beyond the reach of the OSH(MI) legislation. These personnel are effectively covered by lesser international standards. This substitution of Australian flag ships and crews with foreign flag ships with foreign crews operating under single voyage permits undermines Australia's efforts to achieve asbestos free workplaces.

Approximately 50% of Australia's coastal shipping task is now carried out by foreign flag vessels which are beyond the scope of the OSH(MI). Unless the general maritime regulatory arrangements are amended to prevent the continuing expansion of permit ships the relevance of the Australian regulations will continue to decline. There is no point strengthening or extending Australia's asbestos management regime for Australian vessels if the general maritime regulations allow foreign flag vessels to be substituted for Australian flag vessel in the coastal trades.

Recently the question of 'asbestos free certificates' has been a live matter in the tugboat sector of the Maritime Industry. Many tugboats built overseas have come into Australia since 2003 and 2004 and have carried with them such certificates. One example is reproduced as Appendix 2 to this submission. In the case of the vessel Svitzer Falcon, the owner advised that the vessel was built in Singapore under a contract which specified that no asbestos was to be used in its construction. Yet some time after arrival in Australia a further inspection aroused suspicions and it was subsequently found that there were asbestos containing materials in many locations on the tug. A very similar

situation existed on the sister vessels Svitzer Eagle. The materials that were identified were mainly found in gaskets in the pipe-work of the tug.

As a result of this episode AIMPE notified both the Seacare Authority and the Australian Maritime Safety Authority of the existence of a problem in the industry – see Appendix 3. AIMPE called for the asbestos on the two tugs concerned to be removed as soon as possible and for an audit to be conducted of all post 2003 vessels operating in Australian waters. At the time of writing the two tugs are still operating and the asbestos has not been removed.

However in another instance of false or fraudulent ‘asbestos free certificates’, tugboat operator PB Towage has disclosed that one of its tugs which was built in China has been discovered to have asbestos containing materials in a number of locations. Once again these were mainly in gaskets in the pipework of the tug. PB Towage has however made arrangements for the tug to go to dry-dock in Kwinana, WA where it will have the asbestos materials removed by a licensed contractor.

Yet another operator of tugboats, Riverwijs, has conducted inspections of its tugs located at King Bay in WA. All six tugs have been found to have asbestos containing materials in various locations – principally in the gaskets in the pipework. At the time of writing the tugs are still operating and no program for removal has been advised to AIMPE.

The sector of the maritime industry which has experienced the greatest expansion of activity and employment in recent years has been the Offshore Oil and Gas sector. There are many different types of vessels used in the course of oil and gas exploration, construction and development. These include sophisticated seismic research vessels, dynamically positioning drill ships, pipe-laying vessels, construction barges, rock-dumping ships, anchor handling supply vessels, support vessels and crew boats. This is not to mention the Floating Storage and Offload ships and the Floating Production, Storage and Offload ships.

The disturbing reality is that the majority of these vessels are foreign registered vessels. This, together with the fact that the coverage of the Navigation Act is predicated on trading vessels voyaging between two inter-State or international ports, means that Part II of the Navigation Act does not apply to most of the vessels operating in the Australian Offshore Oil and Gas sector. The application clause of the OSH(MI) Act also reflects the inter-State trade and commerce power. Except for the largely un-utilised s.8A Navigation Act declaration provisions (the opt in provisions), it is highly doubtful whether foreign flag vessels operating, say, on the north west shelf off Western Australia are in fact covered by OSH(MI).

Asbestos management in the Australian Maritime Industry – future directions

As outlined above, the introduction of new regulatory arrangements for the management of asbestos on Australian registered vessels may have the counter-productive effect of accelerating the decline of Australian flag coastal shipping. This will see even more foreign seafarers operating asbestos containing foreign flag ships in the coastal trade at the expense of Australian seafarers' jobs. These foreign seafarers are and will continue to be beyond the reach of the OSH(MI) – although they will usually be subject to IMO Convention obligations regarding asbestos and health and safety issues generally.

AIMPE has made many submissions to Federal Government which have called for the implementation of a requirement that all vessels operating in Australia's Exclusive Economic Zone should be required to be Australia flag vessels (i.e. registered in Australia) and that the operator be required to be licensed to operate the vessel. These mechanisms would ensure that the vessel and its operate would be subject to Australian jurisdiction – not the jurisdiction of the foreign flag.

If the general maritime regulatory framework is rectified then it may be possible to make some more headway on the asbestos management issue in the Australian maritime industry.

The maritime industry is such a unique sector that AIMPE submits that responsibility for asbestos issues should remain with the maritime health and safety bodies – the Seacare Authority and the Australian Maritime Safety Authority. The Marine Surveyors employed by AMSA are more likely than any other inspectorate to be able to locate asbestos materials on board ships. The bigger question is the most appropriate and effective measures to be taken – particularly in relation to older vessels which were in operation before the ban was introduced and which therefore still contain asbestos materials.

There is a clear and significant gap between vessels which were operating in Australia before the introduction of the asbestos ban and those introduced into operation after the ban commenced. All vessels are subject to significant vibration both from the combined effects of the ships engines and the action of the propeller(s) and the pounding of the hull into the sea swell. One of the consequences of this vibration is that materials that may otherwise be stable for long periods and likely to become less stable more quickly. So materials that have been subject to vibration for many years may be less cohesive than newer materials. The 'in situ' asbestos containing materials on pre-2004 ships could theoretically remain on those ships until the vessel is eventually sold or scrapped.

Ships are required to undergo periodic survey processes which generally include the dry-docking of vessels. The period between dry-dockings can vary but 5 year docking cycles are not uncommon. During dry-docking the vessel is out of service and repairs such as asbestos removal could be undertaken. The introduction of a requirement to remove 'in situ' asbestos containing materials from a ship could be an extremely expensive operation. Again it needs to be stressed that with the ever-present threat of replacement by foreign flag vessels beyond the reach of the OSH(MI) it would be counter-productive to the objective of reduced exposure of seafarers to asbestos materials to implement any such change without having first addressed the general maritime regulatory flaws.

Another issue which is not addressed by the current regulatory regime under OSH(MI) is the matter of the safe disposal of old vessels containing asbestos materials. Australia does not have a recognised industry in the scrapping of ships and other commercial vessels. Worldwide there is an increasing awareness that there must be responsibility for the whole life cycle of a ship. The standing practise in the industry globally however is to send the old ships overseas, typically to an Asian country, where it is cut up and the scrap metal fed into steel recycling mills. In countries like Bangladesh ships are simply run up on a beach at high tide and then winched further up the sand. Then the local workers start to take the ship apart. There are high rates of injury and fatalities. Safety procedures and equipment are minimal. Exposure to hazardous substances is common.

The Customs (Prohibited Exports) Regulations contain a prohibition on the export of vessels with asbestos materials. AIMPE submits that many vessels containing asbestos have left the Australian coast since these regulations were introduced. If a vessel has a cargo and is on an international voyage it would not be in breach of the regulations. If it was then sold when in another jurisdiction then the regulations may have been flouted but there would be no breach.

The responsible course of action would be for the Government to require the industry to scrap its older vessels, which it no longer has a use for, here in Australia. This would allow Australia to be sure that the asbestos materials were disposed of in an appropriate manner and with minimal further exposure to the removal personnel. However this approach would involve substantial expense – expense which has not been factored in by Australian ship operators.

Appendix 1

International Maritime Organisation
MSC.1/Circ.1374
3 December 2010

INFORMATION ON PROHIBITING THE USE OF ASBESTOS ON BOARD SHIPS

1 The Maritime Safety Committee, at its eighty-eighth session (24 November to 3 December 2010), approved information on prohibiting the use of asbestos on board ships, as set out in the annex, with the aim of raising awareness about the dangers involved among parties concerned.

2 Member Governments, in their capacity as flag, port or coastal States, as well as international organizations concerned, are invited to note the information provided herein and bring it to the attention of all parties concerned (including maritime Administrations, recognized organizations, port authorities, shipbuilders and ship repairers, and equipment suppliers), requesting them to make use of it as it may be deemed appropriate.

ANNEX

INFORMATION ON PROHIBITING THE USE OF ASBESTOS ON BOARD SHIPS

Introduction

1 Since 1 July 2002, the installation of materials that contain asbestos has, under SOLAS regulation II-1/3-5, been prohibited for all ships, except for some vanes, joints and insulation. From 1 January 2011, any installation of materials that contain asbestos will, under SOLAS regulation II-1/3-5, be prohibited, for all ships without exceptions.

2 Despite the clear and unambiguous prohibition of asbestos containing materials (ACMs), asbestos is still found on various locations on board ships. During inspections, asbestos has been found in such places as fire blankets, joints and insulation materials, types of sealants, friction material for brakes, wall and ceiling coverings, cords, remnants, electric fuses, etc. Moreover, ships that initially were free of asbestos appear to have asbestos on board as a result of repairs at shipyards and/or of purchasing spare parts at a later stage.

Purpose

3 The purpose of this circular is to:

- .1 raise awareness among maritime Administrations, recognized organizations, shipbuilders and ship repairers, equipment suppliers and all other parties concerned of the fact that asbestos is still being used on ships, notwithstanding its prohibition as stated in paragraph 1 above;
- .2 highlight that the principal means of addressing the issue of asbestos being found on board ships in contravention of the aforementioned provisions of SOLAS rests with shipyards and ship suppliers purchasing and installing asbestos free material;
- .3 underline the importance of proper training of surveyors and inspectors in detecting asbestos and ACMs on board ships;
- .4 prevent any further use of asbestos on board ships; and
- .5 stress the importance of maritime Administrations taking appropriate action in case ACMs are found on board ships, in contravention of the aforementioned provisions of the SOLAS Convention.

Applicability on seagoing ships

4 Ships built before 1 July 2002 are allowed to have ACMs on board. However, the

ACMs are only allowed as long as they do not pose a risk to the crew's health. The crew should

be aware of the dangers of asbestos and should know how to deal with asbestos in case disturbance of the ACMs cannot be avoided¹.

¹ Refer to MSC/Circ.1045, Guidelines for maintenance and monitoring of on-board materials containing asbestos.

5 Since 1 July 2002, new installation of ACMs on board all ships has been allowed only in exceptional cases.

6 From 1 January 2011, new installation of ACMs on board all ships will, without exception, no longer be allowed.

Recognizing asbestos containing materials

7 Asbestos is used for its specific characteristics such as fire resistance, thermal insulation, electrical insulation, strength, flexibility, etc. Therefore, asbestos is used in various locations throughout a ship. Inspectors should be aware of the large number of probable asbestos applications on board.

8 Asbestos is a fibrous material and can often be identified visually on that basis. However, most asbestos is used on board in materials where it cannot easily be identified visually.

9 It is recommended that, whenever an item or material is to be installed, it is ensured that the item or material has a statement of compliance, or similar, with the relevant SOLAS regulation. This may take the form of an "asbestos free declaration". Due diligence should be paid to such statements or declarations and it is recommended that random confirmations are carried out.

10 Although asbestos in most ACMs can only be ascertained by experts in specialized laboratories, it is possible to provide training to crew members, surveyors and inspectors in identifying materials that might be ACMs. As a result of such training, the crew and ship surveyors and inspectors can avoid health risks by having the suspected material sampled and analysed first. In case sampling and analysing by experts is not possible, the crew and ship surveyors and inspectors should treat the material as if it contains asbestos in order to avoid possible health risks.

Training of surveyors and inspectors

11 Surveyors and inspectors that are charged with asbestos investigations on board ships should be trained in recognizing asbestos and ACMs. They should also be trained in taking samples and should be instructed when to call in experts to conduct the investigation.

12 Surveyors and inspectors should be aware of the dangers of exposure to asbestos and should, while performing their corresponding duties, take all necessary precautions.

Action to be taken in case of contraventions of the SOLAS Convention regulation II-1/3-5

13 When asbestos is detected on board, in contravention of SOLAS regulation II-1/3-5, action should be taken to have it removed. The removal – assigned to professional asbestos removal companies – should take place within a time frame of 3 years from the date when the contravention is found and should be conducted in close consultation with and, where applicable, under the supervision of the flag State concerned. In such cases, a suitable exemption certificate should be issued by the flag State.

Appendix 2



ASL Shipyard Pte Ltd

(A subsidiary of ASL Marine Holdings Ltd)

Co. Reg. No. 199203932K

No. 19, Pandan Road, Singapore 609271
Tel: 62643833 Fax: 62661473 E-mail: corporate@aslmarine.com



Date : 05th January 2009

DECLARATON OF THE SHIP BEING ASBESTOS-FREE

IN ACCORDANCE WITH TECHNICAL REGULATION A CHAPTER II REGULATION 8 AND ANNEX 2, AS WELL AS TECHNICAL REGULATION B CHAPTER II-1 PARAGRAPH A-1 REGULATION 3-5

NAME OF SHIP : **SVITZER FALCON**

DISTINCTIVE NUMBER OF LETTERS : **HP 4599**

OFFICIAL NO : **38543-PEXT**

PORT OF REGISTRY : **PANAMA**

GROSS TONNAGE : **439**

IMO NUMBER : **9431082**

BUILDER : **ASL SHIPYARD PTE LTD**
19 Pandan Road
Singapore 609271
Tel: +65-62643833
Fax: +65-62662776

PERSON IN CHARGE : **Mr. Lau Kim Meng**
Project Manager

Mr. Hoe Wei Qj
Project Engineer

WE HEREBY DECLARE THAT THE SHIP DOES NOT CONTAIN ASBESTOS



Lau Kim Meng
Project Manager
ASL Shipyard Pte Ltd
Co. Reg. No. 199203932K
Tel: +65-62643833 Fax: +65-62662776

Appendix 3

Gerard Newman,
Seacare Authority
GPO Box 9905
Canberra 2601

17th May 2011

Graham Peachey
AMSA
GPO Box 2181
Canberra 2601

Dear Gerard & Graham,

Asbestos in post 2003 vessels

Further to AIMPE's email of 9th February 2011 regarding the discovery by Svitzer Australia of a false 'asbestos free' certificate from the ASL shipyard in Singapore (and the presence of asbestos in various locations aboard the Svitzer Eagle and Svitzer Falcon) AIMPE now wishes to raise some consequential issues for the Seacare Authority and for AMSA in its OSH(MI) inspectorate role.

Firstly, there is the question of what action should be taken in relation to the known breach of OSH(MI) regulations involved with the two Svitzer tugboats. AIMPE does not support exemptions or waivers of regulations especially when they are as important as the ban on the importation of asbestos. All of the asbestos that has been revealed by the BV inspection of the two tugs must be removed in order for the two tugs to be compliant with the legislative ban. The questions to be addressed include when it should be removed and by whom it should be removed.

AIMPE urges the Seacare Authority and AMSA to ensure that the removal takes place at the earliest possible opportunity and that it is carried out by experienced, licensed asbestos removal personnel. The only other alternative for Svitzer would be to remove the vessels from operation in Australia. The company should not however be allowed to continue to operate the vessels in Australia unless it undertakes to carry out the full asbestos removal at the earliest opportunity.

Secondly there is the question of the very many other vessels which have entered Australia post 31st December 2003. AIMPE is concerned that some of these vessels which are in operation in Australian waters may also contain asbestos in contravention of the OSH(MI) regulations. It may be that the operators have, like Svitzer, placed reliance on the 'asbestos free' certificates issued by overseas yards. However, in light of the revelations regarding the ASL Shipyard's false certificate, AIMPE calls for the Seacare Authority and AMSA to undertake a thorough audit of all vessels that are operating in Australian waters which have been brought into Australia since the end of 2003. The particular focus of this audit should be to determine whether these vessels have provided the authorities with 'asbestos free' certificates and whether such certificates can be relied upon.

If there is any doubt about the veracity of the 'asbestos free' certificates then a fresh physical inspection should take place. If the inspection reveals the presence of asbestos then a program for removal should be put in place.

The issue of asbestos is not just a blight on our industrial history but a continuing concern for seafarers who live and work 24/7 on board their vessels. AIMPE continues to be confronted all too frequently with the experience of members who are diagnosed with asbestosis or worse still mesothelioma – which is a death sentence.

Your earliest action on these matters is requested.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Martin Byrne', with a long horizontal flourish extending to the right.

Martin Byrne
Assistant Federal Secretary
AIMPE

Appendix 4

Extract from Lloyd's List – www.loydlist.com

Netherlands raises asbestos ship case at IMO

- Monday 19 July 2010, 16:50
- by [David Osler](#)

Dutch delegation has raised issue of hazardous material on newbuilding at the International Maritime Organization

THE Netherlands has raised the issue of asbestos on newbuildings at the International Maritime Organization, after Lloyd's List revealed that a chemtanker delivered by a Turkish yard to a Dutch owner contained substantial quantities of the material.

Impending regulatory changes may mean that asbestos would have to be removed from ships prior to scrapping, which would represent a "real challenge", the delegation warned.

While the draft report of a meeting of the IMO's flag state implementation subcommittee earlier this month does not name the ship involved, the context makes it clear that it is referring to *Caroline Essberger*, the 2009-built, 8,400 dwt vessel operated by John T Essberger of Dordrecht.

The material has been banned on ships constructed since 2002, under the terms of the Safety of Life at Sea convention. But classification societies and specialist asbestos removal concerns have testified that it is still being employed by many shipyards, particularly in China.

The report makes clear for the first time the full extent of the problems with *Caroline Essberger*, revealing that it took as long as six months to remove the huge quantity of asbestos on board the vessel, built by Eregli shipyard in Turkey. It also confirms that the ship was misleadingly declared asbestos free.

According to the IMO draft report: "The [Dutch] delegation reported that they were, recently, confronted with a newbuilding ship, provided with statutory certificates, and with an asbestos free declaration, that appeared to have more than 5,000 gaskets containing asbestos in the piping systems on board.

"They were found all over the ship and it took almost half a year to remove all these gaskets and to replace them with asbestos-free gaskets. From this case, the Netherlands learned that asbestos is still available and used for ships" purposes and that only a few people are aware that asbestos is still applied on ships worldwide, notwithstanding the ban on the use of it."

The Netherlands further indicated that once the Ship Recycling Convention comes into force, there will be an obligation for ships to undertake an „investigation of hazardous materials", known by the acronym IHM.

"Within the scope of this IHM, special attention should, then, be given to asbestos-containing materials and there may be a real challenge when and if, on ships delivered after July 2002, asbestos is found on board, as these ships will not comply with Solas requirements, and, therefore, all asbestos will have to be removed from the ship, which will be an enormous job as already mentioned before."

Meanwhile, Anglo-Dutch seafarer union Nautilus International is to draw the issue to the attention of the UK labour movement, and will table a resolution on the use of asbestos on ships at the annual conference of the Trades Union Congress in Manchester in September.

"We are outraged that the substance is still being found in extensive use, so long after Solas rules were supposed to have curtailed its use," a Nautilus spokesman said.

"We are looking for a new wave of concerted international action to stamp out its use and to target some of the countries that seem to think they are exempt from these regulations.