



THE GREAT TRIAL

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PREFACE

Rosalba Altopiedi and Sara Panelli's work is a detailed analysis of the history of the Italian Eternit Spa based in Casale Monferrato: their work is detailed and accurate and the first of its kind. Stephan T Schmidheiny and the Belgian Baron Louis de Cartier de Marchienne were accused of wilfully exposing workers and the community to asbestos contamination. Legal proceedings started at the Turin Courts in December 2009. It stands out in the history of Italy's legal history because of the very high number of plaintiffs: sic thousand people claimed damages for the death or illness of about 3,000 relatives who had worked in the Eternit plants or lived close by them. After years of investigations, the public prosecutors (Gianfranco Colace, Raffaele Guariniello and Sara Panelli) committed for trial the people in charge of Eternit for wilful negligence of health and safety measures and wilful environmental disaster for the plants in Casale Monferrato (Province of Alessandria), Cavagnolo (Province of Turin), Rubiera (Province of Reggio Emilia and Bagnoli (Naples) . On July the 4th 2011 the Public Prosecution asked for a twenty year sentence for Stephan Schmidheiny and Louis de Cartier de Marchienne. After a five year investigation the prosecution felt it had proved that the two defendants were responsible and liable for what had happened at the Italian Eternit Spa in the time that went from the mid Nineteen Sixties to the bankruptcy of the Italian company in 1986. The defence strongly opposed this interpretation. On February the 13th 2012 both defendants were sentenced to sixteen years imprisonment for permanent wilful environmental disaster and willful negligence of health and safety regulations. Stephan T Schmidheiny refused to attend for the two years of the trial and was not present at the moment of the verdict. He was represented by his lawyers *in absentia*.

On June the 3rd 2013 the Turin Court of Appeal confirmed the verdict and the reconstruction of the events as has been laid down by the Court of first instance and sentenced Stephan T Schmidheiny (the other defendant had died in the intervening time) to eighteen years for willful environmental disaster.

On November the 19th 2014 the Court of Cassation declared the crime of willful environmental disaster lapsed by statute of limitations, thus ending the Eternit trial.

The day after the Court of Cassation issued a press release saying they had 'come to the decision concerning the statute of limitations given that the criminal fact finished with the closure of the Eternit plant in 1986, which is when the statute of limitations should be counted from'. The same press release also stated: the court had been called to determine the existence of an environmental

disaster which the Court recognised. This is why the facts and the wilfulness described in the present essay can be said to have stood up also in the Court of Cassation.

Vladimiro Zagrebelsky, former Judge at the European Court of Human Rights in Strasbourg commented the verdict of the Court of Cassation the day after it was issued wondering how was it possible that two [previous] courts had motivatedly judged it a disaster given its long latency, a disaster which progressively came to light through the deaths of so many people, a disaster whose lethal action went far beyond the moment the asbestos fibres had silently started to work. If it is not possible to say – he continued - that the interpretation adopted by the first courts were ‘right’ and that of the Highest Court [Court of Cassation] ‘wrong’, it is however reasonable to wonder whether the Court of Cassation could have opted for a seriously argued thought out choice, that is an interpretation which saw both law and justice being followed, and another one that said *summum jus, summa injuria*.

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“In the name of the Italian people, the Court of Turin ...finds Louis De Cartier De Marchienne and Stephan Schmidheiny guilty of the charges against them in paragraph a) of the indictment, for the events following 13 August 1999, and guilty of the charges against them listed in paragraph b) of the indictment committed from June 27, 1966 to September 18, 1974 in Cavagnolo and Casale Monferrato, hearing both counts all considered sentencing them the sixteen years imprisonment each, and the payment of court costs ...”

Such were the opening words of the judgment read by the President of the First Chamber of the Turin Court on February 13, 2012. The trial had started on January 25, 2010 and ended after 66 hearings, with 63 witnesses and 42 expert witnesses. The trial’s numbers were impressive: nearly 3,000 lives (2,897) had been directly affected, more than 1,800 had died, and there were 6,392 plaintiffs. In addition to the two defendants [with criminal charges] there were six civil liability defendants, companies that for various reasons had been involvements with the defendants in the context of the case.

It was called a "landmark" judgment, and for a number of reasons. First of all the sheer size of the disaster -the number of deaths and people suffering from asbestos related diseases– and the size of the area affected. There are other aspects which set it apart from other cases: the willfulness, the deliberate intent. The company’s top management acted with total disregard for health and safety regulations aimed at safeguarding workers, in spite of being aware of the effects of exposing them to asbestos. Willfulness clearly had an impact on the verdict, and explains why the verdict was so severe.

The families of the victims, the relatives of former Eternit workers awaited the verdict as did the communities that are still paying a high price in deaths and illness to this day. It also had an international echo as it was followed abroad by France, Switzerland, Belgium, Brazil, the US and others, so much so that a large delegation of foreign journalists and experts attended the reading of the judgement.

The international nature of the case is another key point: the Turin Courts proved that decisions concerning investments in health and safety, updating of the manufacturing process, and informing on health hazards (or concealing such risks) were decisions made by the company top management. This means that the court’s investigation and its verdict can also be used in other countries where the same multinationals were present.

The aim of this paper is to retrace the history of the events and to contextualize the case in an international setting.

1- The international scenario: actors and strategies.

On February the 13th, 2012 the Turin Court issued a judgment sentencing the Belgian Baron Louis de Cartier and the Swiss Stephan T Schmidheiny for willful disaster and negligence in

applying health and safety regulations. These were the men who had prepared and put into practice Eternit Spa's corporate policy; these are men whose choices can be best understood if contextualized in the European and global scenario. In fact the international stage is the key to examining the events that occurred in the company plants, including the Italian ones debated in the trial, and understanding the underlying logic, identifying those responsible. The major asbestos corporations developed international strategies, made agreements and set up companies to increase their profits, acting as one, to suggest a possible safe use of asbestos, concealing any evidence of it as a deadly cancer hazard.

In this section we retrace the most important steps to contextualize the decision made at the Italian plants in an international scenario. In particular, we will focus on:

- the international position of the Italian Eternit;
- the establishment and aims of SAIAC, the first asbestos cartel in continental Europe and its aims;
- the interlocking ownership among asbestos manufacturers and their strategies for the concealment of information on the hazards of asbestos for health;
- the London conference (1971) when manufacturers reacted collectively against the circulation of information on the dangers of asbestos;
- the establishment of Asbestos International Association (AIA) as the main tool to organize the defense of asbestos;
- the private meetings (aptly named Tour d'Horizon) to develop global strategies to defend and promote the processing of asbestos.
- the meetings to decide how best implement those global corporate strategies in the Italian plants. Specifically we will examine the conference held in Neuss in June, 1976, the Ermatingen Seminar (October of the same year) and the course held in December, 1976 again in Neuss, and
- the management of post-bankruptcy in 1986.

The underlying international strategies are key to understanding the events that were debated in the Turin Courts

2- The International Asbestos Cartel

The material known as asbestos cement was invented by the Austrian Ludwig Hatschek who patented it in 1902 under the name of Eternit, from Latin *aeternitas*, to highlight its durability and strength. It is a product obtained by mixing asbestos fibers and cement with water. The compound can be laminated in the form of flat or corrugated sheets or drawn in the form of tubes and various artifacts. In the early days a number of companies exploited the Hatschek patent: the first eternity

manufacturing plant opened in Belgium in 1905. In Italy the production of asbestos cement was initiated by engineer Adolfo Massa who founded the “Società Anonima Eternit Pietra Artificiale” with an initial capital of £1,500,000 financed by Ligurian businessman Figari in Genoa, on January 6th, 1906. Engineer Mazza was not just an entrepreneur but also an inventor and in 1911 he invented and patented machines to produce high-pressure asbestos cement pipes, an innovation that helped spread asbestos cement pipes for drinking water supply on a global scale. The Mazza patent quickly became popular among foreign producers, as the Swiss, the British and the Americans bought his license to produce pipes. In 1928 the Swiss factory had unsuccessfully tried to build a plant for the production of pipes somewhat like the Società anonima Eternit - Pietra artificiale had been doing since 1916. Because of the disappointing results, the Swiss Eternit was forced to buy the license to manufacture pipes with the Massa system from Eternit Pietra Artificiale.

Mazza’s patent was favorably received on the other side of the English Channel: the report of the Government Commission on the British asbestos market noted the agreement signed in November 1929 between the English Turner & Newall and the Eternit Pietra Artificiale. The latter sold the rights of the patent and was paid huge royalties and agreed not to manufacture and sell asbestos-cement products in the United Kingdom until the patent expired. What’s more, the sale of the patent went beyond the boundaries of the Old Continent. During the Second World War Eternit Pietra Artificiale also collected royalties from the American Johns-Manville totaling \$ 940,090.47 (1). On the international scene the dominant companies were Eternit in continental Europe Eternit, Turner & Newall in Britain, and Johns-Manville in the United States. These companies made up the international cartel that would decide the policies of asbestos in years to come.

Turner & Newall was a British company that specialized in asbestos flame retardant fabrics, friction materials (mainly brakes and clutches for cars, it owned the trademark "Ferodo" that became synonymous with brake pads). In 1929, Turner & Newall started investing large sums in asbestos-cement, purchasing Bell's United Asbestos Company. As from the Thirties, the firm purchased asbestos mines in Canada and in Africa (South Africa, Rhodesia, and Swaziland) (2).

Johns-Manville, founded in 1902 from predecessors dating 1858 was one of the first companies to produce asbestos artefacts; the company owned mines in Canada, and represented US interests worldwide (3).

In continental Europe there were four families that were well known in the field of manufacturing asbestos containing products: the Hatschek family whose founder had patented the asbestos-cement mixture, the Swiss Schmidheiny family, the Belgian Emsens - De Cartiers, and the French Cuveliers. These families formed alliances, drafted agreements, and intertwined interests through cross-holdings and seats on their respective boards of directors. The Belgian entrepreneur Alphonse Emsens was the first to get a license to use the patented Hatschek industrial process and

started manufacturing the 'miracle' product in Belgium in 1905 (4). In 1922, the first meeting between the founders of Emsens and Schmidheiny families marked the beginning of a collaboration between the two most important business families in the cement, asbestos and asbestos-cement. This was the beginning of an alliance that has run throughout the twentieth century to the present and that we describe in the rest of this story (5).

The first decades of the Twentieth Century were an important time in the history of asbestos cement in Europe: this was when the largest producers formed alliances between the groups and the families of the European business classes that would be consolidated over the years eventually becoming cartels, relations also intended to influence the choices made by the asbestos-cement industry in Italy.

The association known as SAIAC (Société d'Associé Industries Amianteciment) was established by the Schmidheiny family. In 1929 Ernst Schmidheiny along with the English Turner & Newall formalized the technical cooperation among the various Eternit manufacturers in Europe forming an association. In addition to the Swiss and the British, the asbestos cement manufacturers in Austria, Spain, France, Belgium, Germany, Czechoslovakia, Holland, Hungary and Italy joined the new association. Why create a new association? Eternit was a material that had good properties such as lightness and insulation that made it the ideal product for the rapid urbanization of Europe. The market for asbestos cement was one of the most promising and profitable, the material was protected by patent and also provided very high profit margins for manufacturers.

Soon the scenario became more complicated. The growing use of the product in different markets highlighted a number of critical issues: competition in overseas markets, technological difficulties in manufacturing such a specific product and the need to ensure a steady supply of raw material. Hence the pressing need for formal alliances, considered the most profitable way to manage raw asbestos supplies, know-how and strategies in developing countries. Trial records and exhibits made it possible to reconstruct the overall strategic plan that determined the actions of the asbestos industry. For the sake of simplicity we will point out the different objectives of the cartel participants, with the *caveat*, however, that these are not strictly separate activities but rather activities all geared to reaching a specific aim, that is maximum profit following different paths under the close supervision of one direction.

PRICING POLICY AND CONTROLLING COMPETITION

Several of the trial records and exhibits refer to the agreements between the asbestos cement companies. In 1929 when Bell's United Asbestos Company Ltd was purchased by the Turner & Newall, the company directors informed the shareholders of the role of SAIA. In the report on the financial statements on September the 30th, 1929 they wrote: "*We have become such a large part of*

the nation's (asbestos cement building products industry that we have been able to arrange with the principal manufacturers of ten European countries an International Cartel." In the same report we read:

"The pricing policy of the distribution of raw asbestos of the Turner & Newall Group will be to establish world prices on an economic level, the meaning of this being prices at such a level as will permit the maximum development of the industry throughout the world which will in future be assured of sufficient supplies against the old state of affairs when manufacturers from time to time did not know when or where they might be able to get the raw material."

The first objective of the cartel is therefore clear: to control prices and available stocks of asbestos. However this was not all. Other objectives of the cartel were: the exchange of technical information; the creation of a Swiss research institute available to all manufacturers; the creation of new plants in neutral countries; coordinating exports; standardizing the quality, reducing the range of products, and mutual assistance in getting raw materials at the best conditions.

The cartel was so ambitious it called itself as a miniature League of Nations stating it had a great future ahead, because it is based on the principle of mutual aid ... with a goal to provide consumers with the best service and value because this is the only way they could justify their activities and maintain the trust of the public. Sharing the markets and the existence of agreements among manufacturers was confirmed in an important trial exhibit known as "The Boston Consulting Group." (6). Here is just a mere excerpt:

"Asbestos cement outside US is largely dominated by the Eternit Group. This group consists of companies in each of the continental European countries. The two principal controlling groups are the Swiss Schmidheiny family (...) and the Belgian Esmens family. A French group has a minor position. The German Eternit Company in which J-M has a 10% share and reputedly earned a huge return, is dominated by the Swiss group. The Belgians control Holland and France. Outside Europe the Swiss group controls the Middle East, Central American and the northeast part of South America (Brazil, Colombia, and Ecuador etc.). The Belgian group controls the rest of South America (Argentina, Peru, and Uruguay)".

A stark picture: the market is shared according to mutual agreements and actions. In the same document, it is clear that Max Schmidheiny is deeply disappointed by Johns-Manville's behavior, which he describes as a "sleeping giant", accused of acting on its own, rather than marketing together,, making them all extremely vulnerable to the market fluctuations.

If we analyze the question of the supply of raw material, it should be noted that with the exception of Italy and Corsica, in Western Europe there were no significant mines, the most valuable mineral deposits being in Russia, South Africa and Canada. During the First World War, the Swiss Niederurner plant had to stop its activity due to an asbestos shortage, and this left its mark in the Schmidheiny family's memory. The supply of raw materials became a constant concern of the cartel members.

There are two reports of journeys the secretary of Turner & Newall Board, a Mr. Shepherd, made in the Thirties which shed light on the whole "game" on an international level, the game that Turner & Newall, SAIAC and asbestos cement (A-C) American companies led with Canadian and Soviet asbestos mine owners. In the first trip (1933) Turner & Newall's representative tried to persuade the owners of the Canadian asbestos mines and the American A-C manufacturers to form a cartel with Canadian Rhodesians and Soviet producers, a cartel that Turner & Newall promoted. SAIAC was widely cited as one of the anchors essential for the success of the cartel. In the course of his second journey (1938) Shepherd went back and forth between Switzerland and Canada to "organize" the supply of asbestos and share all Canadian asbestos among cartel members not leaving any to potential competitors. (7). It is clear that we are dealing with industrial groups which, jointly considered the entire planet as a global market to share and dominate.

CONCEALING INFORMATION ON HEALTH RISKS

Companies did not only deal with competition by making sure they monopolized access to raw materials: one of their main concerns was how the control of information on the hazards of asbestos. There are some key moments in their history which spans over several decades of the twentieth century. There is a common thread binding the different episodes which will be discussed in below, a strategy of how to manage the impact of scientific discoveries about the dangers of asbestos, the awareness of the risks which even the company studies highlighted.

Knowledge about asbestosis

We are going to start by examining the first above mentioned episode: on the 14th of February 1950, Dutch Eternit wrote to SAIAC concerned about a bill by the Dutch Government:

"Regarding legislative measures aimed at the prevention and fight against silicosis and other diseases of the lung (caused by dust in the lungs or pneumoconiosis)." At the end of the letter was a request for information: "we would appreciate it if you had the courtesy to tell us what is known about this disease; we would also like to recommend to gather information about asbestosis by the holdings of asbestos or asbestos-cement affiliated with your company."

SAIAC went immediately into action. On March the 13th, 1950, the SAIAC office based at the Swiss Eternit, sent a note to all its members with a request for information about asbestosis. (8) The records of the trial (and exhibits) hold the correspondence with the various subsidiaries: Eternit Kapelle (Belgium), French Eternit, Italian Eternit, the Spanish Uralita, Austrian Eternit, Colombian Eternit, and Argentinian, Peruvian and Venezuelan Eternit and also the South African subsidiary, Everite. In summary this correspondence addresses the risk of asbestosis resulting from the manufacturing with asbestos fibers.

Each subsidiary provided interesting information on their actual available knowledge on the harmfulness of asbestos, and on regulation of the disease –if any - and its consequences. The Spanish subsidiary reported that in Spain had regulation on asbestosis which required any affected worker to be moved to a different job where there is no exposure to asbestos. Argentine Eternit sent a copy of a circular from the public health service highlighting the harmful effects on the lungs of asbestos dust (like silica dust), listing it as a cause of disability at work. Belgian Eternit, that appeared aware of the risks of exposure to asbestos fibers, stressed the need for appropriate organizational and technical measures, indicating the need to improve health and safety protection measures within the factories and to inform product customers/users of the risk to health of asbestos. Colombian Eternit, which had been operating for just seven years, did not record any cases of asbestosis, but, given the characteristics of the fibers themselves, recommended the adoption of appropriate prevention measures as the only means to prevent this risk.

This correspondence was exchanged in the early Fifties and it shows that the information on the dangers of exposure to asbestos fibers was already available. The companies had collected a lot of material, including scientific articles, on top of the information received from affiliated companies. The information received from the subsidiaries was then used to draft and recirculate the final report. Exhibits at the trial include a document drafted by Eternit Netherlands in August 1950 and that can be considered a paradigm of the link we described at the beginning of this section, an account that fits into the broadest strategy of concealing "uncomfortable" information and only disseminating reassuring news. For example, the final report states that there had only been one case of asbestosis in all the subsidiaries and associated companies, that the risk of exposure was limited to the "mixing areas" of factories, and that it was possible to control the asbestos dust that was dispersed inside the factories, etc... Other information, although collected, was omitted, for instance: the need to inform users and workers of the harmfulness of asbestos; the need to move the sick workers to other tasks which do not expose to risk; the need to arrange a closed and wet cycle for the dustier processing; the need for regular medical check-ups (e.g. on an annual basis as in Spain); the need to adopt protection masks (as in the US).

However, as we shall see this was but one side of the global strategy the asbestos companies had it in place.

Concealing the results of medical studies

A significant part of the strategy aimed at concealing information about the harmfulness of asbestos meant censoring the results of studies, sometimes commissioned by the industries themselves, when the results were "inconvenient." We have several such examples of deception. (9) In the exhibits and records of the trial a few of relevant episodes are described. The first episode

is found in the Annex to the minutes of the hearing of the 20th of October 2005 at the French Senate. The paper shows that already in 1943 Turner & Newall, together with eight other asbestos companies, hired an American laboratory to conduct an experimental study on asbestos-related diseases: in one experiment, 80% of the mice tested developed lung cancer in less than three years. The results alarmed the companies concerned about the consequences they might face if the carcinogenicity of asbestos was confirmed by the scientific literature and the fact became known. The companies contractually owned the information and chose not to disclose it. The facts became known in the Eighties and Nineties, some forty years and thousands of deaths and occupational illnesses later, when the Chase Manhattan Bank in New York discovered that its new palatial headquarters (a 60-storey skyscraper in Wall Street) was filled with asbestos supplied by the British company Turner & Newall. The bank sued Turner & Newall, asking for \$ 180 million to pay for removing the asbestos and punitive damages. In 1992, a court order required Turner & Newall to disclose the documents in its possession. The documents produced in court ended up in the hands of the British newspaper "The Scotsman", which covered the story despite the fact that Turner & Newall tried to limit the documents' spread. It is only at this time that the public learned about the documented risks of cancer from asbestos revealed in the early experimental studies.

Another case dated back to 1954 and involved Dr. John Knox, the resident physician at the Turner & Newall Leeds plant, and Dr. Richard Doll. Dr. Knox commissioned Doll an epidemiological study on mortality among T&N asbestos workers. When Dr. Knox became aware of the conclusions of the study (10) he was pressed by Turner & Newall to persuade Doll to not publish the results. Faced with Doll's firm refusal, Turner & Newall pressured Richard Schilling's "British Journal of Industrial Medicine," but Schilling also rejected pressure and published Doll's work in 1955. (11)

There is yet another episode that emerges from the records of the trial. In a letter to the editor of the "American Journal of Industrial Medicine" 1991 (*Corruption in the medical literature of work: the asbestos case*), Dr. Harriet Hardy of the Department of Preventive Medicine at the Harvard Medical School, wrote that in 1946 she had witnessed the work of Dr. Gardner, who had shown, that asbestos caused cancer with animal experiments. The research had been funded by a number of asbestos companies, was never published, as noted above, because of the express prohibition of the companies that had commissioned it.

The same complaint concerned Dr. Shepers's research at the Saranac Laboratory carried out in the Nineteen Fifties on asbestos-related diseases. He reported that in the course of his studies he had seen twelve cases of mesothelioma, but had not been allowed to publish the results.

Such incidents clearly show that the asbestos companies were very interested in medical research. They were aware of the connection between asbestos and cancer even before the fact had

been accepted by the entire scientific community; however, they chose to conceal the news and exerted pressure to leave the connection between asbestos and mesothelioma in doubt as long as possible.

Despite several attempts to conceal the evidence, rumors about the dangers of asbestos would find support at the international conference held in Johannesburg in 1959. It was a symposium on pneumoconiosis, in which Chris Wagner and Ian Webster presented their studies on the effects of asbestos among workers in asbestos mines of South Africa and the communities of the surrounding mining areas. A rare cancer, mesothelioma, was reported to occur in a relatively large number of subjects in the area where crocidolite asbestos was extracted and transported. They recorded thirty three cases and only eight of them clearly showed traceable occupational exposure to asbestos; in most of the remaining cases, exposure could be traced back to the fact that the subjects lived near crocidolite mines or had worked transporting the material. This is of the utmost importance, since for the first time the question of mesothelioma was discussed as a disease caused by asbestos, but it was also noted that the risk of contracting the disease extended to those who lived near polluted industrial sites or mining areas. Soon after, in 1964, the New York Academy of Sciences held a symposium on asbestos where a number of studies described the occurrence of mesotheliomas in all industrialized countries.

"Nineteen-sixty four ... was 'annus mirabilis', infact 'an annus horribilis'; the scientific community gained key information on the wide and serious effects of asbestos... The knowledge available in those years was sanctioned and amplified during the famous meeting held in New York in 1964 and spread with the publication in 1965 of the proceedings, and was such that it clearly and in some way relentlessly described the features of mesothelioma. "(12).

How did the companies react when confronted by scientific evidence and the difficulty of preventing it from leaking to the public? The answer lies in the cartel's third objective.

The defense of asbestos

The knowledge about the dangers of asbestos challenged the companies that had tried to react and protect their business interests strengthening bonds and developing common strategies. What specific tools were used? Analyzing the court records and exhibits, their actions can be classed into two different, but mutually complementary actions: proactive actions, aimed at highlighting the virtues and benefits of asbestos, and defensive actions aimed at "correcting" any public information on the relationship between asbestos and health risks. These were the conclusive recommendations at the International Conference on Asbestos held in London in 1971. As you will see below, these were the international strategies developed at the highest levels of the companies,

using their existing links and ongoing exchanges: they enabled them to organize meetings and conferences, draw up directives and influence the activities of Governments.

London 1971: Let the sleeping dog lie...

One of the most important events in the defense of asbestos to secure profits for the corporations was the International Conference for Asbestos Information held in London in November, 1971 (13) The conference involved eleven national centers of information that had been set up for a single purpose: to defend the asbestos industry through the adoption of common strategies. (14) In the concluding remarks to the report prepared after the meeting, the chairman acknowledged that situations in different countries were quite different.

“A very wide range of situations clearly exists. At one extreme there is a relatively tranquil situation in countries such as Belgium, Italy, Germany and France. At the other end, we have the embattled situations in USA and in Britain. The other countries represented fall somewhere between these two extremes... I believe that sooner or later the tempo will increase in all areas. In my opinion, it will be sooner rather than later. I would earnestly counsel all of you to prepare now for greater Government interest and intervention, and for much stronger publicity attacks. You will find, as we and our American colleagues have found, that time is not on your side.”

This brief excerpt, clearly speaks of the very strong concern at this is a very critical stage in the history of the asbestos industry:

"In North America, United Kingdom and other European countries, press, television and radio continue to launch attacks against asbestos and its uses. In these same countries, as well as in many others, Ministries and Governments show a growing interest in factory regulations and other types of asbestos-related regulations, while perhaps the concern for environmental pollution is now only in its infancy.”

The above were the topics and the discussions among the representatives of different countries, present at the conference. In the early Nineteen Seventies the issue of environmental pollution due to the dispersion of asbestos fibers was a little explored topic, both from a scientific point of view and a legal one. Only few studies, in fact, had investigated the link between fiber dispersion in the environment and occurrence of diseases in the general population, and at the time there were very few attempts of Governmental agencies to regulate the industry. The asbestos companies knew that asbestos might soon be on Governments' agendas, so they must get ready to fight back, or even better, to take measures to prevent external attacks.

Delegates from different countries at the London Convention gave examples of episodes that had attracted the interest and attention of the media, of the scientific community and of Governments on the matter. The representative of the Netherlands pointedly recalled the publication of a thesis in 1968 in which the author described tests demonstrating the presence of asbestos particles in the lung tissue of the residents in a small region of the Netherlands, located near a large

shipyard. Results were truly alarming: the lung tissue of many of those involved in the study there were small particles of asbestos, clear evidence of exposure to asbestos dust. The dissemination of results and subsequent discussion led to the establishment of a publicly funded European research group with the aim of studying the biological effects of asbestos and investigate the epidemiological link between mesothelioma and asbestos exposure. Even in Germany the issue of pollution outside the workplace was a concern, and the report specified:

[From the Italian] *“Gentlemen, in the German asbestos industry we are already aware of the asbestos dust related problems. However, the environmental problem with its partly unknown hazards and diseases which are difficult diagnose. This is our greatest concern because we can’t solve it, given it is a medical problem.”*

Not only were the industries fully aware of the damage associated with exposure to asbestos for directly involved workers, but they also knew that asbestos pollution can extend its effects beyond the factory gates. This awareness, however, did not produce anything other than actions to deny or not mention the acquired knowledge. Equally interesting and instructive is the discussion on the status of legislation in the individual countries. The picture that emerged is mixed. In England and the United States, asbestos was at the center of attention, and the public had become aware of its dangers. In the UK it was plausible to expect crocidolite asbestos (15) and the use of sprayed asbestos would be banned quite soon.

In the United States the Johns-Manville representative described situation as extraordinarily difficult, probably more so than in any other country. He added that it went without saying that the pattern of legislation in the U.S. *‘would certainly have a profound effect throughout the world.’*

The concerns of the US representative resonated in the conclusions of the conference:

“As to future Government regulations, it goes without saying that if you, through your respective asbestos organizations, can participate in the preparation of those Regulations that is highly desirable. If you cannot participate directly, the next best thing would be to ensure the opportunity to comment freely on the draft regulations at an early stage. In the UK, we had the unique fortune of having an active and reputable body as the ARC (Asbestos Research Committee) in existence when the Regulations were in contemplation. Without the ARC, and remember this is an industry-created body, the British regulations would have been far more severe. That is a point which you should all contemplate when deciding the future direction of your various asbestos organizations...”

Their decision was made: new strategies were developed and the existing ones improved in order to defend the interests of the companies; if governments were going to regulate asbestos processing, companies had to influence the adoption of these regulations. The strategy was already being followed: in defense of asbestos, lobbies were created in several countries with the task of monitoring and influencing the regulation at the level of national governments and the then EEC [now European Union]. The minutes of the meetings at AIA and then those of Tour d'Horizon, which we will shortly examine, are clear about that point. As we said above, the companies needed

to develop new strategies to defend the profitability of asbestos and at the same time pursue their old ones. To fully understand the measures that the industry was willing to take, once again you need to refer to the documents. In the words of WP Howard, Secretary of the Asbestos Information Committee:

“We have engaged in two types of activities. First of all, positive work, constructively stressing the virtues and advantages of asbestos, and secondly defensive work which has consisted largely of correcting the false impressions left in people’s minds by misleading accounts of the asbestos/health issue”

Proactive Actions

To highlight the virtues and benefits of asbestos companies had to design advertising campaigns able to intercept identify the (often unspoken) needs and demands by the public. This is why advertising campaigns were designed to illustrate the quality of asbestos products. In England a campaign entitled "Where would we be without asbestos" was launched. The three ads in the series dealt with, respectively, safety at sea, buildings and road safety. The advertisements were published in the most serious and authoritative newspapers, such as the "Financial Times", the "Daily Telegraph", the "Sunday Times", the "Guardian" and the "Scotsman", as well as in some specialized magazines. The same themes are reflected in other campaigns; the goal is to exploit the advantages of and needs for asbestos (protection against fire, insulating material on ships, parts of car brakes, etc.). Media coverage was even being even more specific, here editorials explain how asbestos was used to save lives. *What would we do without asbestos?* was not limited to print media: a documentary entitled *Why asbestos?* was produced and distributed in a limited number of copies; the documentary reached, an interesting number of spectators, that included high school students, University and technical schools, officials, safety reps and professionals such as architects and engineers, as well as, of course, customers of the asbestos industry.

Defensive Actions

In addition to showcasing the extraordinary qualities of asbestos, it was necessary to minimize any information relating to its toxicity. The purpose of a defensive action is to contextualize the information on health, whenever such information is conveyed to the public in a misleading manner. One of the key activities of organization is to set up "*an arsenal of literature*" that addresses the critical and ever more pressing questions that come from the world of science. The literature is valuable because:

“It ensures the consistency of the arguments put forward by various members of the industry ... comprehensively covers the main points of our argument and does not omit anything ... enjoys an authority unmatched by a letter or verbal communication.”

The strategies adopted by the asbestos companies share this idea that their policies must be standardized, the same one for everyone: "*We must project the same positive message in each of our countries. This is because the problem is increasingly becoming an international issue; science and modern media know no borders.*" As a result, it became essential to manage information in a strategic way and be ready to react, if possible, to anticipate possible attacks. Again in the words of the Turner & Newall representative:

"The maxim "let sleeping dogs lie" has a good deal in its favor when the tempo is slow and the public and the press interest is light. But sleeping dogs wake up suddenly and use their voice and their teeth. And when they are awake, they will not sleep again! This is a lesson that we learned in Britain and I assure you the AIA/NA has learned in the U.S.A... We have learned the painful way and perhaps we can save you some pain. You must prepare in advance."

You have to be ready

A first attempt to implement the strategies presented and discussed in London was made in December 1973 when the ILO (International Labour Organization) in Geneva organized a meeting of international experts to discuss some of the burning issues related to asbestos. (16) The first item on the agenda was the issue of the "*pathological effects of exposure to the risks arising from the extraction and use of asbestos (including asbestosis and cancer),*" the second item was the "*prevention of risks related to exposure to asbestos (technical prevention, preventive medicine, administrative measures),*" and the possibility of international regulations being introduced. The meeting was attended by company representatives and some of whom spoke. The conclusions of the meeting in Geneva were reported in an AIA (Asbestos International Association) document and raised great concern among manufacturers. In particular, the document stated that a "*cancer of the surface membrane of the pleural cavity*" was one of the pathological effects of asbestos. They were referring to pleural mesothelioma." With reference to the prevention of risks, the document said that the use of asbestos substitutes had been debated, but in practice it was not possible to find technically and economically feasible suitable alternatives."

All of this was nothing new for the world of industry: what was new, and for that very reason worrying, was the growing interest international organizations showed about the health risks and the resulting questioning of the use of asbestos fibers for industrial purposes.

AIA (The Asbestos International Association)

The call raised in London (*You have to be ready!*) needed to a plan: companies had to react as one and organize an "*arsenal of literature,*" even resorting to co-opting experts, doctors if necessary. At the same time, they put pressure on national governments and the EEC [now European Union] to avoid overly strict prohibitions or limits which would greatly reduce asbestos

manufacturers' profit margins. The creation of the Asbestos International Association meant there was an *ad hoc* organization to pursue strategies to conceal information on the risks and to lobby in defense of asbestos. There are many documents in the court records and exhibits that help us retrace the entire range of operations carried out with the specific intent of preserving the huge profits for the cartel participants. To clarify the role of this organization it is necessary to examine some of the available documents in detail. In the minutes of the meeting of the Executive Committee of October 13th, 1977 Dr. Robock, (17) a man of science working for the companies, explicitly referred to Selikoff (a US physician who had been disseminating knowledge on the dangers of asbestos since 1964). Dr. Robock recognized the value of the opponent, for example when referring to the conference in Johannesburg in August of the same year. He noted:

"Selikoff is a real professional in showing his reasons, while we don't have yet his ability: we should find scientists like Selikoff to present the industry's point of view, and they should speak English. All the German scientists only spoke in German, and they were much less effective, as this was a real handicap."

His position was also very clear in the case of Dr. Murray, a former Manchester Labour Inspector now working for industry. In the meeting of the Governing Council on October 14, 1977 Murray was invited to report about the study sponsored by AIA, and specifically about "Asbestos diseases: Asbestosis, Lung Cancer, Mesothelioma." During his report Dr. Murray suggested including Selikoff in the Medical Panel, in order to ensure that he could not then challenge the results of the study: *"Selikoff must be included in the Panel otherwise he would be able to use it against the industry. After the Panel, he should withdraw in order not to appear as linked to the industry and to avoid criticism. The panel should be signed by a Nobel to buy an absolute scientific value."* The position of the English physician was smart, but not shared by Robock. According to him, the study had to remain an internal document of the industry and nobody must be informed, much less so an intelligent and uncompromising man such as Selikoff. (18) The asbestos industry also hoped to co-opt union leaders. The Levinson affair is a case in point: Levinson was a trade unionist feared by asbestos companies; the October the 13th, 1977 minutes of meeting report: *"Now that he has been called to serve on the Board of Directors of DuPont he will set the example and the industry shall follow DuPont's example not to have trouble!"*

Not only was there co-optation and misrepresentation, but also actual counter-information. Again in the minutes of the October 13th, 1977 meeting,: *"In Germany ... a group of scientists will prepare a publication in the defense of asbestos as soon as they receive the texts of all the interventions in Johannesburg; this publication will be published by an international label and with the signatures of scientists from many countries. "* As the monitoring of the activities of Governments and International Organizations continued unabated, Cross, the AIA Chairman was

almost indignant about what was happening in Norway, where the Government had decided to ban the production of asbestos-cement products. What made Cross so angry was the submissive attitude taken by the Norwegian Eternit which was afraid of losing its market positions, and so decided to produce asbestos-free slabs for exteriors. AIA thought it was a mistake to passively accept the decisions of the Government, given the consequences that can have on other companies that were trying to keep the asbestos cement market going by all means. The defense of company market positions and profits became one of young Stephan Schmidheiny's first concerns: he took it upon himself to champion the fight in favor of asbestos. The story was described by Stephan Schmidheiny himself in the June 1976 Neuss Conference which is described later in the text. Once more you need to carefully read the document:

“In the spring of 1976 the labour protection authority in Sweden banned the use of asbestos-cement products... The ban on the use of asbestos issued in Sweden must be considered in this respect: it is a conflict between the unions and the companies; the asbestos industry should have found an agreement with their workers.”

Vigorous action against the Swedish Government was needed to get it to revise the ban which is exactly what happened: the ban on the use of asbestos in the manufacturing of pipes was revoked. The Swedish example was not the only attempt regain positions through lobbying. Another concern was the defense of crocidolite, considered more dangerous than other types of asbestos, but preferred in combination with chrysotile asbestos to produce pipes for the transport of fluids under pressure. Action was called for in anticipation of a third meeting of the EEC DG 3 (December 1977) to discuss the banning of blue asbestos. Once again it was up to Robock to question the agreement already reached by the scientific community about the greater carcinogenicity of crocidolite. The eventual ban on blue asbestos was a very complex issue and charged with negative consequences for the industry. In a signed letter addressed to the technical committee in Hannover, Robock indicated the need for further use of crocidolite. In a note prepared by Cross on August 2nd, 1977 and addressed to the members of the AIA Executive Committee and other representatives of asbestos at the EEC, he wrote:

“It seems to me that we should insist on two main points. First, we should make clear that the absolute prohibition of crocidolite asbestos would create considerable problems for the manufacturers of pressure pipes in asbestos-cement, for which crocidolite is mainly employed. Secondly, we should point out the impracticality of restricting the use of asbestos of any kind to two special and not typical cases, the ones that are mentioned in the latest draft.”

In a slightly later document (August 1977), Cross again suggested *"to refer to the essential role played by the continued use of crocidolite in the processing of asbestos-cement products, to the economic effects of such a ban, especially on the competitiveness of European manufacturing and construction industry."* These short extracts clearly show the companies were very concerned and

needed to monitor the work of government agencies so much so that a permanent representative in Brussels with the sole task of closely following what was happening at the EEC (now EU) (19). In addition to crocidolite, lobbying activities focused on an attempt to influence the adoption and content of the future ECC Directives on the use of asbestos, but the attempt failed. An article in the British newspaper "The Guardian" on December, 19th, 1977 stated that the European Parliament had called for a regulation of the use of asbestos and had passed a recommendation in 23 points that said asbestos should be banned where safer substitutes existed, recommending that blue asbestos, the most dangerous form of the mineral, should be banned, as well as sprayed asbestos. The report also called for an extensive information campaign on the theme throughout the European Community.

The war was not yet lost and there was no need to get discouraged. As court records report *"The failure to obtain direct support from MEPs should not discourage us from continuing to make every effort to influence the way in which the Commission shall give effect to the resolution of the European Parliament."* One of the areas in which to continue the struggle in defense of asbestos was the labelling of manufactured products with this raw material. The question was delicate, there were countries like the United Kingdom and the United States where the risk of legal action against the companies was already high, so a cautious attitude was called for and products had to be labelled. However, labelling might also disclose the dangers of asbestos to third parties, external to the countries considered - such as port workers who handled foreign material or product users in the countries in which the asbestos risk was not well known.

The asbestos industry was lent a deaf ear: an AIA memorandum of 1978 suggested accepting the idea of labelling to avoid the worst, that is, the risk of the EEC imposing the skull and crossbones labelling the cancer hazard of the product. There was always the possibility of a second solution, to accept the label but not to apply it. The AIA Executive Committee agreed on this plan:

"In those countries where it was felt still too early to start voluntary labelling, in fearing of a negative influence on sales, steps should be taken to prepare commercial people for the idea, making clear that in the absence of an industry's initiative we could run the risk of being imposed the skull and crossbones symbol for our products. It should also be pointed out to them that the fact of agree on a kind of label did not imply the agreement of starting to use it right now."

Manufacturers only agreed in 1980 and it a minimal platform: the label must only state that an incorrect handling of the product can be harmful to health. However, it was a short lived agreement because of a discordant voice: the label on the Turner & Newall bags of asbestos read *"Breathing asbestos dust can cause cancer and other deadly diseases."* (20) The reaction of other companies was immediate. Etienne van der Rest of Belgian Eternit expressed his disappointment in a letter sent to the directors of Turner & Newall:

“No doubt you remember how long it has taken to ensure that all members of the board agreed on the logo and the suitable text to be placed at the bottom of the label. It was allowed some freedom to members, even if they had been urged not to mention the cancer risk on the label, saying only that improper use of the product may be harmful to your health ... You can then understand how I was disappointed to see that on the bags of Turner’s asbestos it is clearly stated that breathing asbestos dust can cause cancer and other deadly diseases. This could result either in the EEC to adopt the label as it is, or to press for a label with the skull and bones, or with some other symbol still associated with the risk of cancer.”

This shows not only that manufacturers were fully aware of the risks associated with breathing asbestos but also that they, although well aware of it, hid it from workers and the public.

Tour d’Horizon

As we have seen AIA was the umbrella organization of all asbestos company trade groups whose goal was to provide the most effective strategies to defend manufacturing and ultimately the profits of an entire industry. A number of “closed” meetings of the dominating asbestos companies, Turner & Newall, the Swiss, French and Belgian Eternit and Johns-Manville. They are the same actors that, at the beginning of the twentieth century, made strong alliances through cross-shareholdings and presence on each other’s corporate boards. Timewise the activity coincides, but their aims were very different and appeared clearly so. The AIA acted as a kind of global *Confindustria* (*The Italian Confederation of Industrials*) which represented the interests of the asbestos companies and met on a frequent basis. Meetings, although not open to the public, there were no secrets. On the contrary, the meetings that went by the name of *Tour d’Horizon* were strictly confidential, including only a limited number of people in the top positions.

There were four court exhibits broadly representing the contents and the purpose of the meetings (21). The topics under discussion included: market analysis of asbestos fibers in the short, medium and long term, dissemination and circulation of information on the dangers of asbestos for health, and development of strategies to earn profits for as long as possible. The tone of the minutes and their logic was purely and exclusively economic, the style, dry, technical, disconnected.

These meetings debated the same themes that had already been addressed by SAIAC, at the London Conference in 1971 and even by AIA, obviously tailored to the changing situations. The records show that priorities changed over the years. For example, the 1977 meeting discussed prevalently marketing and the manufacturing of asbestos and less about the environment; in the years that followed, the topic of "asbestos and environment" was the first item on the agenda, a sign that the companies had to promptly and effectively react to the challenges of the circulation of information about its toxicity. In this section we will focus on asbestos & health and will "listen" to the voices of the participants about what are the companies’ major concerns.

“You get the impression that the “asbestos-health” theme is gaining more weight in the global debate and that it is moving faster and faster toward tighter regulation. However, there are also substantial differences between countries in the extent to which industries have become influenced by this problem ... Norway seems determined to follow Sweden that within three years plans to discontinue its operations related to asbestos cement. In the UK, to publicize the problem has only had secondary effects on the demand for asbestos cement ... The asbestos-related health problem is becoming more and more important in the construction industry of Germany, but in the same sector in Italy and France it was found virtually no effect ... Another legislative pressure directed particularly against the use of crocidolite is unlikely. However, it is necessary to take into account possible EEC regulations on the subject. (22)”

This is when asbestos production peaked reaching its all-time high; it would have been too expensive to stop manufacturing at this time and it would have left room in the market to other manufacturers. In short faced with the possibility of huge economic losses, companies looked for a convenient way out, a solution that would save them from the increasingly frequent attacks. They needed a strategy to hold their market positions and they came up with a new one that went under the name of "controlled use of asbestos". Since it was no longer possible to simply deny or hide the risks, so the strategy needed to be better articulated: *"Recognizing that the use (or rather misuse) of asbestos can be dangerous if proper precautions are not taken, but, at the same time, showing the great steps that have been made and are still made towards its safe use."* This was absolutely necessary as there was no certainty of possible alternative fibers, their long-term availability, performance, and price. Even in relation to the possible replacement of asbestos fibers, the companies' approach was clear: *"It is essential to keep the asbestos-cement market also in order to ensure the smooth transition to substitute products if and when this would become necessary."* The companies that participated in the *Tour d'Horizon* had a difficult balancing act: on one hand, they wanted to profit as long as they could manufacturing asbestos cement products; on the other hand, they did not want lose their position as market leaders, even after the asbestos was exhausted or was banned. The companies wanted to carefully select when to abandon asbestos balancing present and future profits. The difficult balance could be maintained only by constantly monitoring of any risk factor for the companies. It required ongoing effort: *"In Europe, efforts (and costs) were required to support substantial lobbying for asbestos among the trade unions and the associations of employers, customers and the world of politics."* During the meeting in February 1981, they took stock of the situation on the “asbestos-health” debate both in Europe and other countries (United States and developing countries). Even if the situation in developing countries was currently not worrying, the activities of EEC to regulate the use of asbestos were a cause for alarm, including the possible ban of crocidolite.

“The impression we felt ... is that in Europe the industry needs to fight for asbestos, at least against the proposals and threats ... The most extreme actions to be taken should include

research and support from members of the European Parliament, especially among those who have processing facilities in their countries. You also need to undertake actions aimed at strengthening the confidence of users on the products arising from asbestos.”

Ultimately, the "asbestos lobby" discussed alternative materials (the introduction of which was to be brought forward or delayed depending on the remaining availability of asbestos), and also how to procrastinate the dreaded ban of asbestos. (23) Each company implemented the global strategies strictly. The Neuss Conference, June 28th – 30th, 1976 is an example of what happened at Eternit in practice.

The Neuss Conference, June 28th - 30th, 1976

Reading the final report of the Neuss Conference, in evidence at the trial, helps us better understand why the Turin court [and then the Turin Court of Appeal] found Stephan Schmidheiny guilty. Stephan Schmidheiny had called the conference convening the 35 most trusted senior managers of the Swiss Eternit Group: he gave them detailed and comprehensive information on the risks of asbestos. The event was also described as a “information conference”. The information was accurate and comprehensive enough to shock the audience. These are his words, the "boss's" who is speaking: *"Now we must absolutely not allow ourselves to panic in any way. These three days were crucial for the technical managers, who were shocked. The same thing must not happen with workers!"* Schmidheiny dropped his mask of hypocrisy with his trusted men, acting in the exact opposite way when he is addressing the public: in this case he uses all means to conceal information on the carcinogenicity of asbestos, because if the information were in the public domain it would no longer be controlled by companies and would pass into the hands of governments, with the real danger of a total ban of asbestos being implemented soon after.

Stephan Schmidheiny was constantly monitoring the actions of governments and trade unions to defend the company and the industry while allowing a slow transition towards profitable asbestos free products. In so doing that he was also defending his own personal position because if the news of the carcinogenicity of asbestos becomes common knowledge, the risk of legal actions against him would be high.

The aims of the conference were clear: to inform the top management about the “asbestos-health” problem in depth so that it could be presented in an appropriate manner in the plants; to present and discuss the necessary measures to adequately cope with any difficult situations that might arise (24). The underlying logic was also clear, as it was one of the "weapons of the arsenal of defense" mentioned at the London Conference, in 1971 (25), implementing its conclusions. A few months later, in December of the same year, there was another internal seminar in Neuss (26) the aim of which was to train the technical experts involved in monitoring and measurement for

environmental hygiene standardizing sampling methods and test procedures. They covered well known topics: how to ignore the information on the health effects ("*In any discussion distance yourselves from Dr. Selikoff's positions and do not mention him*"), to try and postpone the compulsory labelling (27). They were also told to give standard answers to questions from Government representatives, trade unionists or the press, or the like, following the guidelines handed out during the Neuss Information Congress. To this end, a document called AULS1976 was specifically prepared to be distributed to the several plant managers.

The AULS 1976 Manual

This manual documents the activities performed during the Ermatingen seminar, held in October 1976: it was a kind of action program for managers in more direct contact with the public, unions and institutions. These managers needed to be trained in order to provide consistent and convincing answers in support of asbestos. The manual was "operational" in content and style, that is straightforward and to the point. In the introduction to the document, there are two statements of principle: asbestos can be bad for your health but not the necessary precautions are taken; those who oppose asbestos overstate dangers and asbestos companies have the right to react. Here are the exact words used in the manual as an answer:

"We acknowledge that asbestos can seriously endanger human health if improperly handled. Many use this potential risk to health as the basis to discredit asbestos use in a decidedly exaggerated impractical and biased manner. Since this misconception can endanger the very existence of our company, we must firmly respond and fight with all our means."

The two sentences clearly indicate the intention of the group to have strict and binding policies on what to say about asbestos and its dangers. Such positions statements were listed as seven guidelines, which can be summarized as follows:

"Do not panic; try and find [who or what is] the cause; learn what we've told you; get the help of experts; try and have good contacts with the media; try and reach a friendly agreement; and keep in touch with the "Amiantus Protection of Labour and Environment" (AIU)".

These were mandatory instructions and not mere suggestions. The intent was also to train staff, and to this end the Program of Action developed six likely case histories "*that may occur at any place and at any time,*" examples that leaders should study and apply. As an example, we have included one such case that deals with claims made by workers and trade unions. Here is an example:

"Your plant produces asbestos-cement pipes, flat and corrugated sheets, employs about 300 people. So far you have not had any problems with your workers ... The conference of the International Metalworkers' Trade Union of Oslo suddenly changed this peaceful working relationship. The zero fiber level required by Mr. Levinson and his colleagues has been

adopted by your workers as something that absolutely must be achieved as soon as possible. In an hour you will have a meeting with representatives. They will state that without a full cooperation from you, the workers are going to immediately strike. What do you do?"

The answer, given in the same document, is the "Action Program" for the case. We read:

"Invite an independent medical specialist and expert in the field to the meeting that will take place, as well as representatives of the Public Health and the national unions of workers. At the meeting we will provide information on the consequences that you might have with a zero fiber level... such a request, rather than a requirement of a scientific nature becomes a political issue and the request is neither feasible nor necessary, but may lead to a shutdown of the plant and consequently unemployment in our company and others."

Such precise and unambiguous instructions do not lend themselves to misinterpretation, they simply need to be applied. In a personal and confidential correspondence between Giannitrapani, General Manager of Eternit Italy and Stephan Schmidheiny himself, (28) we find evidence of what was said. Giannitrapani wrote: *"In the light of what we learnt in the seminar at Ermatingen ... I have given the unions quite a positive [not too negative] picture of our company." (...)* *"I'm glad to see that AULS76 is bearing fruit"* is Schmidheiny's pleased answer from Switzerland. That's the full circle: top down and bottom up.

Eternit Italy

Before addressing the complicated events related to the responsibilities of the Italian Eternit Group management, which is part of the full international story which we referred to in previous sections, let us briefly outline the history of Eternit in Italy (29). Thanks to Figari's investments, on January 6, 1906 Mazza founded the Eternit Limited Company - Artificial Stone in Genoa, with an initial capital of £ 1.5 million. (30) Casale Monferrato, in the province of Alessandria, was chosen as the site of the plant for several reasons: it was at the center of the Genoa-Turin-Milan industrial triangle, concrete (made up from the clay marls of the area and worked in several local establishments) was available and, finally, the town was not far from the largest asbestos mine in Western Europe, the Balangero Mine. The factory covered an area of 94,000 square metres, 50,000 indoors, and was built in the Ronzone district, where the majority of the local cement works were located. Overall, the industrial area of the district totaled approximately 200,000 square meters, and Eternit itself accounted for 47%. The plant in Casale Monferrato opened on March 19th, 1907 and the factory did not cease production altogether even during the war years. Immediately after World War 1, the factory was modernized specializing in the manufacturing of building products, such as roofing for industrial and residential buildings, and water pipes. The first big launch of Eternit products followed the devastating 1908 Messina earthquake. The emergency required building materials, shelters for the homeless and the Eternit made the most of it. They bought a patent on the production of high pressure pipe lines which further strengthened the

company's position in 1917. In 1950, Mazza was appointed honorary president of the SAIAC (the European cartel of manufacturers of asbestos), purchased a 50% stake in the Balangero Mine, but was by then an elderly man and problems related to his succession had become urgent. In 1952 he let representatives of the most important European manufacturers of asbestos cement enter the board of directors of Eternit Italy, thus marking the end of "family" years. Mazza, remained as chairman of the board of directors, but was flanked by a CEO. Meanwhile, the Italian Eternit had grown: in 1939 it acquired the plant in Bagnoli, in 1953 the plant in Cavagnolo, near Turin, which it bought from SACA and finally in 1953 the plant in Syracuse was built. In 1956, the old engineer died and the management of the company passed to the Belgian group (Emsens/De Cartier) which remained the case until the beginning of the Nineteen Seventies, when the Swiss group led by the Schmidheiny family took over. The plant in Rubiera, originally ICAR, had been established in 1969, and was purchased directly by the Swiss group in 1974 and sold to the (Italian) Eternit Spa in 1980. The Nineteen Seventies were a very difficult time for the company, which experienced a crisis that had its roots in the general recession, and also to the contraction of the market for asbestos-cement products. On top of it Eternit was experiencing a liquidity crisis due to the tightening of bank lending. In 1972 the heirs of the engineer Mazza sold their shares to the Belgian and the Swiss groups, which ended up owning 46% of the stock, with the French group SAFE (Société Anonyme Financière Eternit) maintaining its 5% share. In fact, 1972 is an important date, as it marks the transition from the Belgian management of the Italian plants to the Swiss one. From 1972 to 1984 the records show further changes, as in 1978 the Swiss group which in the meantime had bought the Balangero mine - the only active asbestos mine in Europe. By 1984 it ended up owning 89% of the Eternit Spa shares. At the end of the Seventies, the company reported a second, more severe crisis. The strong domestic competition, the decline in exports, the crisis in the construction industry and, last but not least, the growing concerns about the dangers of exposure to asbestos, led to a sharp decline in sales, resulting in a drop in revenue by approximately 40%. Drastic actions were taken, such as a significant reduction in the workforce, using accessing the state redundancy fund for in order to rationalize production and dispose of the excess inventory. On December 16th, 1980 Eternit Spa was transformed from an industrial enterprise into a "holding" company a decision which came into effect on December 30th, 1980, reassigning its plants to independent companies, many of which Eternit Spa fully controlled (31) The separation only had tax purposes; in fact, the management of the plants was one and the same as it had been. Despite corporate restructuring, also due to the continuing stagnation of the civil and industrial construction market and the over-capacity of the fiber-cement market, on November 23rd, 1984, the Court of Genova granted the Eternit Group Bankruptcy proceedings as from December 6th, 1984. After two years, on June 4th 1986, the Court of Genoa declared the company bankrupt as a result of the

application made by the company itself. Many of the 350 workers were left jobless with no hope of the plant which SAFE had in the meantime acquired reopening. SAFE was a French company that had indeed expressed willingness to resume activity and use the plants for the production of alternative asbestos fibers, saving 60 jobs. The attempt failed, also thanks to the strong opposition by the CGIL Union, the then Mayor Robert Coppo and of 110 doctors of the Hospital of Casale who signed a document in which they expressed a strong opposition in resuming asbestos manufacturing.

Responsibilities

THE BELGIAN GROUP

This part of the paper considers the determination of the personal liability of Louis de Cartier de Marchienne and Stephan Schmidheiny, the leaders of the multinational group.

As previously pointed out, engineer Mazza, entrepreneur and skillful inventor was so successful that he caught the attention of the international great families that ran the market of asbestos cement at European level. In a fragment of the minutes of the board of directors of Eternit on September 11th 1951 we read:

"The Chairman and CEO spoke to the Board illustrating the ongoing negotiations with foreign groups, which are also interested in cement asbestos. If successful, these negotiations would lead to changes in the current majority of shareholders and would also have a favourable impact on the industrial and commercial activities of the company."

The "foreign groups" they are speaking about in this report are the Belgian group that belongs to the Emsems (later Emsens-De Cartier) family and the group of Swiss Schmidheiny family, and also the French family Cuvelier. They were the main players in the international cartel of asbestos industries that we have seen at work in the development of strategies aimed at fixing prices, limiting competition, and concealing the risks associated with the hazards of asbestos.

As mentioned, alliances among the asbestos giants were not limited to cross-shareholdings on the boards of the respective companies, family members also sat on the Boards and in the management of subsidiaries.

This is what happened in Italy: on January the 21st, 1952, the Board of Directors took a number of milestone decisions. A Belgian, Robert Fourmanoit already employed as consultant since October 1951 was appointed to the board of directors and as the general manager. The new Board of Directors, appointed by the General Meeting of April 18, 1952, saw, among others André Emsens and Guy Cuvelier, in their role of directors and Ernst Schmidheiny as vice president. These changes in the shareholding control of Eternit were the result of an overall agreement between the original owner Mazza, and the Schmidheiny, Emsens and Cuvelier families.

The so-called "Manual Bellodi" (32- Bellodi was the consultant paid by Stephan Schmidheiny to manage the image and interests of the Swiss group after the bankruptcy of Eternit spa. We will see that the work done by the Bellodi consulting firm, was designed to defend the Swiss shareholder against any accusations and/or claims for damages. It was espionage and counter-intelligence, as is clear from the documents, seized by the police during investigations by the Turin prosecutors) clearly shows that the two groups, Belgian and Swiss, succeeded one another in the management of Italian Eternit: the Belgian shareholders from 1952 to 1972, then the Swiss from 1972 to bankruptcy. At the time of the investment of the Belgian Eternit Emsens, their leading company was called Financière Belge de l'Asbeste-Ciment S.A (33). It controlled the operating company Eternit, with a factory in Kapelle-op-den-Bos (Belgium) which had been the largest asbestos-cement manufacturing plant in the world between the two World Wars. They held a number of important shareholdings in Eternit around the world, including, of course, a significant proportion of Eternit Spa. Investments were spread mainly in Africa, Germany, Canada, France, Belgium, Holland, and South America. Historically, the Belgians were more active in markets outside Europe than the Swiss group. World War II, however, hindered the international activities of Financière Belge de l'Asbeste-Ciment (as also happened with Turner & Newall), while allowing Schmidheiny, who took advantage of Swiss neutrality in the conflict, to extend his business outside Europe. As we have already said, the Belgian group was fully part of the international picture. The Belgian leader maintained contact with the Anglo-Saxon world of asbestos-cement. In fact he had a stake in the US company Johns-Manville, with whom he founded the TEAM association based in Luxembourg, along with Turner & Newall, an equivalent of SAIAC, but specifically aimed at the Asian markets.

The "key evidence", as it was called by the prosecution during the indictment, of the direct management by the Belgian Eternit were the minutes of a meeting held in Brussels on October 6th, 1972, a meeting where the fate of Eternit Spa. It was an enlightening report. The meeting was attended among the others, by Max Graf and Karel Vinck Clement. Graf was the man who had been the trusted man of the Swiss group since 1950, the most trusted manager of the Schmidheiny family. Vinck was the man who represented the Belgian group. This was the meeting where the Belgians, who up to then have been the "majority or ultimate shareholder", and appointed the person(s) who operationally implemented the strategic decisions taken at the international level, passed the baton to the Swiss. (34) The decisions taken in the meeting in Brussels, were precisely borne out in the minutes of the board of directors of Eternit Spa on December the 12th, 1972.

The Belgian Baron Louis de Cartier de Marchienne

What personal responsibility and liability did Baron de Cartier charged and convicted with Stephan Schmidheiny in the trial in Turin, have? In the Emsens main company, he held executive positions (35) and in that capacity he also drafted the international strategies with the other asbestos companies and represented their interests in different countries, including Italy. De Cartier, born in Belgium in 1921, became a true member of the Emsens family after his marriage to André Emsens's daughter. In the early years of his administration he shared responsibility with his father-in-law, but starting 1966, when he was appointed CEO of Compagnie Financière Eternit (CFE), he fully assumed the duties of CEO. On June 30th, 1971 De Cartier also was appointed chairman of CFE, and by holding both the company he became the most powerful man in the Belgian group. His influence in Eternit Spa did not only come from being a member of the board of directors of the company, a position he held from April, 1971 to February 5th, 1975, but also and above all from being CFE CEO and Chairman.

As member of the Eternit Spa board he took an active part in meetings, often dispensing advice on how the Italian management should apply techniques used by the Belgian Eternit, such as the adoption of the budget (which had not been used in Genoa), or dismissing employees and offering advice on how to balance costs and revenues. His last decision as a member of the board sheds light on the responsibilities of the Belgian Baron: the minutes of the Eternit Spa Board of Directors dated December 12th 1972 reported that Baron De Cartier, speaking on behalf of Compagnie Financière Eternit Brussels did not consider appropriate, for a number of reasons, to make the financial effort to put the Italian Eternit back on track.

"after consultations and in agreement with Dr. Graf, who is acting on behalf of the Swiss group, it was unanimously agreed that Dr. Graf will closely monitor the progress of our company. A group of Swiss experts, under Dr. Graf, will work with the CEO, Engineer Karel Vinck Clement to study and to implement a financial and investment plan to monitor and reorganize the Company."

And again, *"Dr. Graf then thanks Baron De Cartier for freeing, at least in part, Eng. Vinck and thanks Eng. Vinck himself, who has taken on such an onerous task."* It is a mutually agreed decision between the two groups, represented by De Cartier and Graf, a decision that certainly cannot be considered as purely administrative task. It is the choice for the future of the company. Once again it is De Cartier who also decided what Vinck should be paid and when the secondment from CFE would be over. This appears even clearer in the minutes of the meeting in Brussels; *"Mr. Graf agrees to make the necessary efforts to accelerate Mr. Vinck's secondment, as requested by Mr. de Cartier. The financial settlement for Mr. Vinck's new responsibilities will be defined by Mr. de Cartier and CFE will charge Eternit Italy."*

De Cartier's personal involvement and responsibilities did not end when the management changed into the hands of the Swiss group in 1972 . After the telling minutes of December the 12th, 1972, De Cartier continued to stay on with Eternit and was interested in Eternit Spa, monitoring what was happening in the Italian plants. Initially he remained on the board, then put his trusted men on it; thanks to the participation in the two-headed Belgian/Swiss group he followed the story of the Italian Eternit to its end.

THE SWISS GROUP

As discussed in the previous section, 1972 was the turning point for the Eternit Spa management. Until such time the common decision of the shareholders, the Belgian family Emsens-De Cartier was to run Eternit. In 1972 control passed to the Swiss Schmidheiny family. Why did they switch over? Why did the Swiss group decide to invest in Italy? The Italian asbestos cement company had had a monopoly in the field of asbestos cement in the Nineteen Fifties, and had lost considerable market shares in the Sixties and Seventies which was also when the unions had the first industrial actions directly involving the Company plants. From June 9th to September 9th, 1972 the Bagnoli plant was actually occupied by the workers, with complete shutdown of production. That was when the Mazza family decided to retire and sold their entire remaining stake (6% of Eternit Spa) which was purchased in equal parts by the Swiss and the Belgian groups which increased their respective shares 10% to 23% each.

However, the situation became more complicated: market losses and labor unrest were complemented by budding concerns on the dangers of working with asbestos and calls for substantial investments to improve preventive health and safety in the Italian plants. As mentioned, the Belgian Company decided to withdraw from the direct management of the company leaving it to the Swiss. Pending the decision the Swiss decided to carry out a feasibility study to understand whether it was worth saving the company (36). The answer lies in the minutes of the meeting in Brussels that we have already mentioned: the Swiss Group decided to invest and to replace the Belgians in the management of Eternit Spa.

There were many reasons, all part of an international plan: the Schmidheiny family was interested in the cement business; as for their role in the international Cartel was concerned, they intended to protect the southern borders, thus ensuring the supply of raw material (Eternit Italy owned a significant part of the Balangero mine, the largest in Western Europe) and, finally, they had great liquidity because they had not undergone the ravages of two World Wars, but on the contrary they had benefited from the wars thanks to the neutrality of Switzerland. Let's look in detail.

First, the Schmidheiny's were more involved in the cement business than more than the Emsens. The cement industry is capital-intensive: profits are high when the machines are working at full capacity, but there are losses when the pace slows down. Having an activity that uses cement as raw material (asbestos cement industry), can be useful in the event of the core cement business becoming less profitable. Holchim, the Schmidheiny owned company, supplied -although not exclusively- Eternit with cement.

The second reason was the AIA Cartel. It was essential not to open a breach in the Cartel as this could weaken the cohesive power of the asbestos industry in continental Europe. Italy had easy access to African markets and it was therefore a strategic to control the asbestos-cement companies of this country.

The third reason was the asbestos supply and therefore the importance of the Balangero mine. During the First World War, the Schmidheiny family had to stop asbestos cement production due to the lack of raw materials given the conflict. In the Nineteen Twenties and Thirties they tried to build a coalition and all the asbestos purchasers of asbestos in Europe. Evidently, the Schmidheiny's could not miss this rare opportunity at their "front door". It was a concern that Max Schmidheiny, Stephan's father, made clear during a meeting with the representatives of the American giant of asbestos-cement:

"Before the Second World War, the whole range of fiber in Eternit Switzerland came from Russia and from Turner & Newall; the war disrupted supplies from both vendors. After the war, Eternit has decided to expand the sources of supply by contacting Johns-Manville. It also integrated the offering upstream, buying mines in South Africa and Rhodesia ... Eternit considers the properties of these mines a safe way to secure supply."

The fourth and final reason, the amount of liquidity the Schmidheiny's had lying about. In the mid-Seventies the world of construction peaked due to growth following the post WW2 economic boom. Again it is Max Schmidheiny speaking:

"Over the past forty years, the role and stature of Swiss Eternit have substantially changed ... During the Second World War and the years immediately following, the Swiss participation in Eternit Europe rose from about 3% to roughly 50%".

These companies were now booming, and profits were encouraging new investments, even risky ones. This became the basis for risky business decisions in South Africa, Libya, Egypt, Lebanon, and South America, and it is the landscape Stephan Schmidheiny, was born and lived in as the successor of his father Max, in charge of the asbestos cement industry.

STEPHAN T SCHMIDHEINY

As his father Max before him, who had started leading the group at the age of 23, Stephan Schmidheiny's also joined the company at a very young age, presumably at the time of his father's

decision to save the Italian company. Stephan was fated to receive a part of the family business empire as his inheritance. Soon after completing his studies, he toured a number of plants belonging to the family (South Africa, Brazil) to be trained and learn the business. In 1974, Stephan Schmidheiny entered “the elite” of asbestos industries, and at twenty-seven he was the heir of one of the richest families in the world. On February 4th, 1974 he became deputy managing director of the Eternit AG Company, on September 18th, 1974 he was appointed director with powers in Amiantus AG. On January 6th, 1975, he became director with power of attorney the Eternit AG Company, and after July 1st, 1975 the Chairman of Eternit AG. Stephan Schmidheiny quickly established himself in his own right: he was recognized as the man at the top of the asbestos cement business for the Schmidheiny family.

In the reconstruction given in court by the prosecution there is abundant evidence establishing Stephan Schmidheiny’s responsibility. There were organized under several headings: testimonies, conferences, policy papers, private correspondence, technical reports, and decisions relating to bankruptcy and post-bankruptcy management of the Italian factories.

To anticipate the conclusion, evidence clearly shows that the Swiss group was involved of two main sectors: cement and cement-asbestos; since at least the mid-Seventies, the brothers Thomas and Stephan T Schmidheiny followed different sectors (the former had cement, the latter had asbestos cement). The description of complex corporate structure about who held what shares in the asbestos-cement appears irrelevant as all the management decisions were made, managers were selected, and received directives and responded to one man: Stephan Schmidheiny. He took part in the international strategy drafting; oriented management policy to be adopted; verified the implementation of the guidelines; and decided the bankruptcy of Eternit and organized the post-bankruptcy to conceal its responsibility.

Witnesses’ Testimonies

During the trial hearings several witnesses confirmed Stephan Schmidheiny’s strategic role for in the fate of Eternit Spa, in particular for the Italian plants.

The first court witness was his brother Thomas who was clear about the division of powers in the Swiss group, about Stephan Schmidheiny’s training, their father Max’s decision to retire. He was also clear about them having knowledge of the harmfulness of asbestos fibers which was crucial in terms of the criminal liability of willful disaster. After completing his law studies, Stephan Schmidheiny had several internships abroad in the asbestos-cement sector, which was to fall under his direct control while the cement side went to his brother Thomas. Thomas answered a precise request of the prosecutor (“*Did Stephan deal with the asbestos company in the same way that you dealt with cement one, I mean, in practice, did he run the company?*”), saying: “*I do not*

know the exact breakdown of their organization but as CEO he was at the top". Further evidence was supplied by Mittelholzer (37) in the July 5th, 2010 hearing. His testimony pointed to the irrelevance of the corporate structure and the importance of the "hierarchy". It turns out that there were lots of companies, "a thousand," said the witness, all in the hands of the Schmidheiny family; when pursued by the prosecution in order to clarify the "chain of command" the witness tried to simplify: *"For me it would be easier ... I had a boss, his name was Hans Thoeni and his boss was Mr. Büttiker ... over Mr. Büttiker, there was Stephan Schmidheiny ... That was the hierarchy."*

Mittelholzer reiterated a concept that had been expressed by others before him: the companies of the group that formally had holdings in other companies of the group did not necessarily exert corporate control. The decision-making process depended on the individuals regardless of the ownership and structure: the Group chain of command was outside company organization. Management decisions followed an informal organization, the guidelines issued by the leaders were not questionable, strategic directions and orders had to be followed: *"For me it was clear that these instructions were clear ... No discussion, orders ... it was clear that the company had no freedom to choose whether to follow what the Swiss said"*.

Mittelholzer's words show that Stephan Schmidheiny was the number one in the asbestos-cement company. He was the one who decided strategies and directed policies on asbestos. His statements were confirmed by other evidence: the testimony by Giannitrapani (Managing Director of Eternit Italy from 1975 to 1983), by Wey, (Technical Manager of Eternit Italy and right hand man of the Swiss) and the depositions by Giribaldi and Mondani, the Eternit Spa executive secretaries.

Congresses and strategic guidelines

Stephan Schmidheiny's central role and responsibility in the management of Eternit's Italian plants was obvious at the information conference held in Neuss in June 1976, at the workshop at Ermatigen in October that same year and in the notes taken by Engineer Martini, from the Balangero mine, during the Neuss 1976 Seminar mainly about the technical aspects of dust measurement.

We focused on the June 1976 Information Conference, in December of the same year in the first part of this paper, now we want to examine the document called AULS76 in closer detail: it is a manual by Stephan Schmidheiny handed to each plant manager so that they would be a standard response in all the Group and internationally shared with all major of asbestos cement groups. It is a 29 page document, originally in Italian. AULS is a German acronym that stands for the service of "Labour protection and Environment Amiantus." The document is anonymous, but carries a place and date: Ermatingen (Switzerland), October 1976.

The strategy Stephan Schmidheiny laid out in Neuss in June 1976, is here translated into an operational manual, which tells the leaders in the field what to do in the different situations they might have to face. The examples from the manual of some typical situations which asbestos cement plant managers may encounter are useful to fully understand how precise, detailed and unambiguous Stephan Schmidheiny's orders to his managers were. There were six scenarios: a private individual takes action against asbestos; people living in proximity of the plant; workers at a construction site who refuse to handle asbestos cement; demands of the Eternit plant workers; a company that advertises asbestos-free products, implicitly publicizing the dangers of asbestos; and finally the investigating reporters, For each of these situations there were clear instructions (orders, as we have seen) about what behavior is required. The problem is followed by fifteen possible questions and their answers, all of which were illuminating. As an example, we can recall some of them, such as the question relating to the information given to employees about the dangers of asbestos: the pre-packaged answer is *"Yes the workers were fully informed through the distribution of brochures and we also work closely with the workers' council at the plant."* And again, this time with reference to the protection of family members of workers: *"There is no danger for the families until there is a test which proves it, since these people are not exposed to dust and so long as dirty overalls are not taken home."* The answer provided about danger for people living near factories is once again 'illuminating', *"No, the emission of dust, if there is any, is so low and limited to what gets through the exhaust filters that we can rule out any danger to those living near the plant."* Another pre-packaged reply to silence demands to comply with asbestos dust exposure limits. *"The existing limits have not been established by the industry, but by the authorities and are based on accurate scientific data. Limits must be binding and technically feasible."*

The message was intended to convey the idea that the industry was doing everything it could to limit the risks of exposure to both workers and citizens. They had to convey a reassuring position: asbestos is not particularly dangerous and in any case the situation is managed in the best possible way.

The hidden correspondence

Court evidence included private correspondence between Stephan Schmidheiny and Luigi Giannitrapani, the Eternit Spa Managing Director from 1975 to 1983. The analysis of this correspondence highlights part of Stephan Schmidheiny's strategic plan and is valuable because it reveals how he personally closely followed the implementation of company policies even in the Italian group. The letters show how any information concerning health risks was controlled and managed, which might be called the *mother of all strategies*.

The letters reveal Schmidheiny's deep, capillary and complete interference only possible for those who hold complete power in their hands. The tone is that of a leader who decided and ordered his subordinates, without fear of contradiction, as he was both the owner and the CEO. Many letters were labelled as personal and confidential, which is not surprising, given the topics they treated: the harmful effects of asbestos - not to ensure maximum protection for workers' health, far from it, but expressing concern about the circulation of such information to the public (particularly, to the unions).

Stephan Schmidheiny acted in defense of asbestos, monitored and influenced the circulation of information, as is clear if we refer to the mentioned international strategy in defense of the asbestos companies, and, in particular, to the *Tour d'Horizon*, which viewed the short and long term effects of the market. In the short term their aim was to discredit scientific information, undermine sources, lobby and generate biased information, in order to maintain their market positions as long as possible positions. The companies were aware that in the long run they would have to substitute asbestos to replace asbestos with other materials (at least in Western markets): however, they decided to slow the process down as much as possible delay their inevitable fate, so as to a transition to asbestos free products while maintaining their position as market leaders. Stephan Schmidheiny wanted to be updated and Giannitrapani responded: for example, in his letter dated January 7th, 1977 he wrote:

"Of course there are big doubts about the use of asbestos in future but in the short term we can manage the situation, although this may be at the price of new investments and concessions to the unions. The long term remains an open question: the unions keep circulating information about the harmfulness of asbestos"

The trade unions were subject to continuous monitoring. In a letter dated July, 6th 1976, Giannitrapani and Stephan Schmidheiny discussed a unionist called Levinson (38): in particular Schmidheiny informed Giannitrapani that he had once again been contacted by Mr. Levinson, requesting a meeting to urgently establish a global strategy between unions and corporations; Schmidheiny's request was clear:

"I beg you, therefore, to keep me informed of your relationships with the Italian trade unions. I am afraid we'll have to deal with a coordinated action by trade unions in different countries, we certainly cannot answer Mr. Levinson's requests"

It is not certain what Mr. Levinson's needs were and in any case he was later co-opted and ceased to be a problem for the asbestos industry. The letter dated December, 20th, 1977 again deals with unions.

A statement by Hans Stoffel (a lifelong manager of the Schmidheiny family) was attached: it referred to a clash between unions and the Eternit in Turkey. Stoffel referred to a world conference

of Eternit workers that was expected to take place in Italy in the spring of 1978. *"It would be worth while stopping this plan [the organization of the conference] although I would not know how."*

In a letter dated January 7th, 1977 Giannitrapani reported on a meeting in Rome that he had with the leaders of the construction workers unions:

"Of all the topics, health and safety in the work environment was the priority. Once again, it shows that the unions are well informed and certainly have a network of international contacts which enables them to keep track of how the situation evolves throughout Europe."

The danger they saw was that those who knew, could pass the information to those who did not know, so that the front would become focused and governments would be pressed to ban asbestos.

Technical Assistance

The contracts Eternit Spa concluded with Amiantus AG follow the same approach: reading the documents we learn that already during the Belgian ownership Italian Eternit had asked Amiantus AG Niederurnen to provide technical guidance on manufacturing and use of asbestos fibers, as well as on technological innovations and finding alternative fibers. The consulting agreements were concluded by an exchange of business correspondence. They were 5 year renewable contracts starting in 1952. The number of contracts shows that, even during the period when the Esmens family ran Eternit Spa, the Schmidheiny family was aware and took an active part in Eternit Spa's running. Technical assistance contracts all list Amiantus AG as the company supplying the technical expertise. Amiantus provided these services through various technical research centers on asbestos, [little more than "labels" to be pasted on a letterhead]. Basically, they were a group of specialized technical experts who officially worked for different companies and organizations under different names all traceable back to Stephan T Schmidheiny, the real *dominus* of the group. Health and safety policies also came under the heading of technical expertise.

"It has to be ascertained whether the safety policy was a full decision of the managers of the Italian companies (and therefore the full responsibility for relevant consequences lies upon them) or they formally reported to a Swiss entity (company, shareholder, other) and the final responsibility goes, therefore, back to some Swiss entity."

The sentence quoted does not come from the prosecutor, but it is found in a document seizure at Bellodi's office. Bellodi was Schmidheiny's communication expert. The document was called *A few basic facts about Eternit in Italy*, about the situation of the trials in Italy. One more thing needs to be added to a sentence that otherwise requires no comment: there is an annotation in brackets (only for internal use and not to be used in any communication):

The decisions of Eternit Spa's fate and the bankruptcy proceedings

The decision for Italian Eternit to declare bankruptcy was taken in Zurich in 1983. The document entitled *Mechanism for the processing of asbestos-related claims in Italy*, taken from the Bellodi files, states:

"On December 23, 1983, the Eternit Group on the basis of a decision that was taken in Zurich at the top level, decided to "let" all the companies owned by the so-called "Italian Eternit Group", to go bankrupt or to be sold by the court appointed bankruptcy manager."

The same document says that Stephan Schmidheiny fears a "financial scandal":

"In the first period (since submitting the subsidiary in 1984 to bankruptcy, the closing of procedures in 1986 and the following few years), the main risk to be faced was the break-out of a national (or even international) "financial scandal", which might easily lead to the responsibilities of the ultimate shareholder."

Eternit was in the eye of the financial community and the media, since the company was listed as the asbestos-cement market leader, and had large plants (some in areas of industrial disputes); it was a large employer, as well as a "famous" name, and was also known that it was part of a large Swiss group.

The decision to let the Italian plants fail can be fully understood only if contextualized in time and space. In 1982, Johns-Manville had filed for bankruptcy. At the time this had made the news headlines because it was the bankruptcy ever filed for. Their request said they were filing following the claims for damages asbestos victims: 16,500 lawsuits (39).

After filing bankruptcy, former owners often leave the business to its fate, but not in the case of Eternit Spa. Immediately after they had filed for bankruptcy, the interest of the group was mainly focused on relations with the various court appointed managers (receivers). Their concern was that as well as the revoking decisions and allocating responsibility and liability, the receivers might also raise the issue of asbestos related disease and deaths among with the workers, involving Eternit Spa shareholders and CEOs. Just three months after the bankruptcy in September 1986, the Swiss group offered 9.5 billion lire [roughly 4.750 million euros] to be shared among the bankruptcies of Eternit spa, Industria Eternit in Casale Monferrato Spa, and Industria Eternit Spa Napoli. (40) Of the 9.5 billion lire, 5.5 billion lire [2.750 million euro roughly] were intended for settlements and 4 [roughly 2 million euro] to buy Redi, a company Eternit had owned. A year earlier, the auditors Coopers & Librandts had estimated the value of the shares in the portfolio of Eternit Redi Spa at 2.5 billion lire. So the Swiss offer of 4 billion lire [roughly 2 million euro] for the Redi was an incentive to induce the receivers to agree. Why such apparent generosity? Read carefully what the court appointed bankruptcy manager (or receiver) said to the Court about Industria Eternit Napoli Spa to seek authorization to sell.

"The Niederurner Eternit AG, the majority shareholder of Eternit Spa, has, from the beginning, made it an essential condition in the negotiations, the settlement of all possible claims also that the failures might have against her, all parent companies, subsidiaries or-

with associates, as well as to directors and statutory auditors, with particular reference to possible liability claims and in respect of the management and control of Italian Eternit Group companies, both as to the consequences of the industrial process and materials employed therein, and any action for revocation or invalidity of acts, payments or reports about Niederurner Eternit AG and / or other companies in the same group.”

Therefore to receive 9.5 billion lire [roughly 4.750 million euros] any lawsuits, most notably the request for asbestos related damage would be written off. The settlement would not only save Stephan Schmidheiny from the imminent danger of financial scandal, but also from the long-term risks, first of all the environmental questions, and would lay the foundations for future agreements through bankruptcy. In concluding this section on the bankruptcy of the Eternit Spa it seems important to stress once more that the Swiss were involved in every strategic decision taken in the international arena. That same year, 1986, Stephan Schmidheiny’s men in the United States, stood before the EPA, the Environmental Protection Agency, pleading the exclusion of asbestos-cement pipes from the proposed ban.

“We would like to warmly invite ... the EPA not let the past dictate the future and would ask the EPA to decide on the basis of current scientific evidence... The regulation of the A-C pipe manufacturing EPA intends to follow is not in line with the decisions adopted in the rest of the world. Indeed the SEG (the Swiss group) has partnered with the Swiss and German governments to gradually reduce the use of asbestos, but they have deliberately exempted the A-C pipes from the phasing out.” [re-translated from the Italian]

In Italy, even while Eternit and other asbestos companies were trying to influence government and public regulatory policies, companies were left to file for bankruptcy, not because they accepted the need to ban asbestos, but rather because there no longer were guaranteed profit margins. The production was transferred to places where risk awareness was lower, if not entirely absent, Latin America first and foremost.

The 1984-2005 Bellodi Observatory

Bankruptcy procedures were just the beginning of a complex strategy to conceal the responsibility of the ultimate shareholder, to use Bellodi’s words. The massive amount of documentation seized from Bellodi’s office in December 2005 contained “*smoking guns*” incriminating the accused, capable of upsetting any reader. The task that Stephan Schmidheiny essentially gave Bellodi was to conceal any responsibility of his. The Bellodi Company worked for twenty years starting in 1984 and reasonably cost Stephan Schmidheiny several million euros.

This section describes events in chronological order as tactics adapted to the changing events. The oldest document is dated June 1992 and is entitled *Strategic objectives -Italy*. The strategy is clear: there are three objectives played out on four levels, as described in the document below (figure 1). The document states; "First target: *try to keep the issue at level 1* ", at the lowest level,

which corresponded to the Italian Eternit. This is an area open to access to public opinion: indeed, all the attention should be directed on Eternit Spa, and only on it. "Second target: *“try to keep the issue on Level 2”*. The second level was the Swiss company Nueva. La Nueva AG (nowadays BECON) is the company where all the Eternit Spa shares were pooled in 1984. Shares had previously been scattered among the many different companies of the Swiss group. The plan was to talk about Nueva AG only if one could not avoid it, when, for instance, newspaper articles appeared in Switzerland and Germany, forcing the situation beyond level 1. "Third target: to avoid in any case that the issue extends to Levels 3 and 4." Level 3 was ANOVA (originally Amiantus), Level 4 was STS (i.e., Stephan T Schmidheiny). “When you get to levels 3 or 4, you should not provide any information.

It says; *"Avoid at any rate to allow the issue to spread to levels 3 and 4. The essential precondition is that all inquiries are consistently directed towards the level 1 and 2 and that no comment on the subject ever in any way whatsoever above these levels."* The document concludes with a recommendation; *"Even today (June 1992) it seems quite possible that the question could be confined on Level 1 (Level 2 at the most) if everybody involved strictly sticks to the objective. This is what we should try to achieve."*

All this is summarized in an effective graph of the same document in the next page (figure1)

<u>NO COMMUNICATION AREA</u>	LEVEL 4	STS media or public comments:	<u>NONE</u>
	LEVEL 3	ANOVA AG (Hurden) media or public comments:	<u>NONE</u>
<u>PUBLIC RELATIONS AREA</u>	LEVEL 2	NUEVA AG (Thalwil) (formerly: Swiss Eternit Group SEG) media or public comments:	By FS in collaboration with TH
	LEVEL 1	Eternit (Italy) (in receivership) media or public comments:	By GB in collaboration with MM

Strategic Objectives in Italy

The strategic orientation of our PR-policy has been carefully devised and laid down over the last years.

I think it is valid and should not be altered:

First target:

Try to keep the issue on LEVEL 1 (diagram).

Second target:

Try to keep the issue on LEVEL 2, e.g. when media reports in Switzerland or Germany force us to leave LEVEL 1.

Third target:

Avoid at any rate to allow the issue to spread to LEVELS 3 or 4. The essential precondition is that all inquiries are consistently directed to LEVELS 1 and 2 and that no comment on the subject is made in any way whatsoever above these levels.

Recommendation:

Even today (June 1992) it seems quite possible that the issue can be confined to LEVEL 1 (LEVEL 2 at the most) if everybody involved strictly sticks to the objective.

That is what we should try to achieve.

If this is the declared purpose, how was it achieved in practice? Three areas were subject of constant and meticulous interest: i) monitoring trials, the press, the association of the families and victims of Casale, handling communication and public relations, influencing the press; ii) preparing settlement agreements in the hope of stopping civil claims and following the evolution of the environmental issues, since they feared "mega-figures" as compensation for decontaminating the polluted areas; and iii) closely following the deaths of those who had never worked for Eternit. A few months after this document, the first version of the *Bellodi Manual* that is *the Manual of societal responses to the issues of asbestos in Italy* came out. Bellodi himself defined it "our Bible" (41). The manual was strictly confidential and its objective was described as follows; "*The objective of the manual is to allow the people involved to be fully informed about the past of SEG (Swiss Eternit Group) and EGI (Eternit Group Italy), and to effectively deal with the various issues*".

The minutes of a meeting held in Italy on September 1st, 1994 with Büttiker, number two after Stephan T Schmidheiny, Guido Bellodi and Maurizio Maresca, a lawyer, (*MM in Figure 1*) is an example of the implementation of the strategy.

There were 5 items on the agenda:

Point 1 – discussing the situation regarding pending court trials in Turin (Balangero, Cavagnolo), Casale and the possibility of new criminal cases to follow.

Point 2 was the situation of environmental pollution in Casale and the initiatives of public institutions in relation to the problem.

Point 3 analyzed the positions and behavior of the people involved: it highlighted the concern of some of the managers involved in the trials in Italy.

Point 4 informed that SEG had established a fund with the sole purpose of providing legal assistance to defendants and pointed to "summary of roles" to be made available to the public, that is unions, mayors, and local and national governments). Among the name are those of Bu (Büttiker) "no role. Used to be the head of Eternit which now no longer exists" "and STS (Stephan T Schmidheiny)" no role. In the past, he had some interest in Swiss Eternit Group, but now has absolutely no interest in any Eternit company".

And last, point 5, dealt with the relationship with the Belgian group is treated, someone added the following comment written by hand: "Check if the Belgians have a PR department!"

Six years later, another document dated September 30th 2000 was called *Memo on the Italian Eternit case*. It is the summary of 16 years of activity.

"Since its start in 1984, the main objectives in handling communications for the Eternit case in Italy were the following: a) to keep the case "local", avoiding any possible (and likely to happen) break out at national or international level and as low key as possible; b) to focus on the "Italian" Eternit companies, avoiding therefore any reference to the Swiss Eternit Group and -- mainly -- its shareholder; c) to minimize both the economic and image damage (Eternit might easily become the "sacrificial (sic) veal" of the whole asbestos industry).

Bellodi did not hide his satisfaction with the results achieved:

"So far, after 16 years of very careful and accurate teamwork, the above objectives have been fully reached since, press attention was minimal in proportion with the actual importance and news potential of the issue and its various steps and developments through the years; press coverage was limited to local media even in some very hot moments (e.g., the bankruptcy, the Casale trial) when the risk of becoming a national/international subject was very high; no open reference was ever made to the Swiss group or its shareholder, despite the fact that their existence and names are known to judges, Unions and other key people; the low profile strategy facilitated settlements, and these enabled to reduce to the minimum the huge potential economic impact of both the bankruptcy procedure and the damages to be paid (in other similar trials, involving much smaller companies, administrators were condemned to pay hundreds of million liras for each victim); in terms of image, Eternit was not - as it could easily have been - the "main character" of the battle against asbestos and its history in the last 15 years and did never raise national attention."

Although the strategy had apparently been successful, clouds were hovering on the horizon:

"The above results are certainly encouraging, but should not be taken as a guarantee of future success or a good reason to decrease attention. The Italian situation is far from being resolved and some issues or areas still have a high potential of risk which should not be underestimated. Casale is "the" asbestos and Eternit place in Italy, the town of asbestos and Eternit, and a high level of involvement of the local community has always been –and still is– maintained there: from the ongoing epidemiological studies being done by local teams of

doctors, to asbestos related exercises undertaken by pupils of elementary schools; from the very active Association of Victims to the links established between Casale and Brazil.”

The ghost of asbestos still haunted Stephan T Schmidheiny. His main concern was the number of victims among the exposed workers, but above all the environmental pollution and those dying as a result:

“Apart this “continuous local noise”, there are three high risk issues in Casale.

Former workers. Due to the latency period, other former workers (not included in the trial) might die in the future and – as a consequence -- their families, with the help of Unions, Association of Victims, etc. might start a new trial against past administrators in order to obtain damages.

Non workers. A number of Casale citizens (non-workers and having no link with the factory) died of mesothelioma in the last few years and other similar cases can reasonably be expected in the future. Several signs were received that relevant families are trying to group together with the purpose of starting a new trial against the company and / or its administrators. This did not happen yet, but there is no reason why these people (who have nothing to lose) should not try to get some damages. On top of that,, such a trial would raise the quite dangerous issue of air pollution in the area of Casale, should a relationship between these deaths and the activity of the Eternit factory be proved. Environmental Pollution. The danger of a legal action (against the company, i.e., the, bankruptcy retainer but also the company’s shareholders) for environmental pollution is linked to point 1.2 and to the still-to-be-cleaned area around the factory... However, the tender issued to select the cleaning company was handled in a very "Italian" way, so a supplier still has to be appointed and nobody can predict when this is going to happen. As long as the factory is there (more and more falling into pieces) and the surrounding area (full of asbestos waste making a peninsula into the river) is not cleaned, somebody (the Greens, the Ministry of Environment, the Regional Administration) might claim a responsibility on Eternit side.”

It is apparent that by this date there was full awareness of the deterioration of the environment and of the danger to the whole community, but nevertheless they did nothing as unequivocally stated by the mayors heard as witnesses during the trial with reference to the decontamination of the former plants. Not only Casale was monitored, even Naples. In the same document, in the year 2000, it states:

“The situation in Naples is quiet and silent. This is quite surprising since at least former workers (and their Unions) cannot ignore what happened in Casale and Siracusa and should have an interest in following their example. It is now a long time since the Naples Company went into bankruptcy and there is no sign whatsoever of the intention of starting a legal action, but the risk that this might happen one day or another should still be taken into consideration.”

Knowledge of facts came to Schmidheiny with amazing details: in the document dated September 9th, 2000 called *Quarterly Report about the Italian Eternit case*, you can find reference to the figures gathered by the Institute of Epidemiology of the University of Turin for the Casale area. It states:

"Figures collected by the Institute of Epidemiology of the Torino University show that the trend of asbestos related deaths in Casale is high and stable (15/20 cases per year) and

should remain the same until the year 2030. Fibers were spread both in the urban and suburban area of Casale ". [Please note there are now over 50 deaths a year, more than one a week in Casale, a town with a population of 35,000]

It was not till 2002 that the people of Casale came to learn that Stephan T Schmidheiny was behind Eternit. At the symposium held in Casale on November 23rd, 2002 the Schmidheiny family was described in detail. The Bellodi files give an account of the meeting:

"After this conference, the connection between Casale and Switzerland is much stronger and the exchange of information is in progress. The connection between Stephan and Eternit is now clear to everybody: the Eternit group is considered responsible of the deaths for asbestos in the world. "

In another account of the same meeting a lawyer from the Bellodi team wrote about Basciani, one of three speakers at the conference; *"From the point of view of Stephan Schmidheiny's responsibilities, he has harshly accused the Eternit ultimate shareholder, talking about the official and formal decision of exiting from the business leaving the problems as they were."*

The strategy that had proved winning to that point was starting to show cracks. The level of concern was growing and future dangers are openly outlined; *"It is clear that the attention, in fact, is and will be focused on Stephan Schmidheiny who will be addressed in future claims. So we must be prepared to face the situation."* In a document entitled *Questions & Answers. Can Stephan Schmidheiny be formally accused in Italy?* dated May 20th, 2003, there are questions and answers related to different aspects of Stephan Schmidheiny's involvement. As for the AULS76 document they prepare standard, non-conflicting, pre-packaged answers. The document, like all those that we have examined, is very informative. Among the several questions:

"When and for how long has STS been CEO (Chief Executive Officer) of the Group? STS has never been the CEO of the Eternit Group. He was in the Management of Eternit of AG Niederurnen until February 1990. He was appointed Deputy Managing Director, (Vizedirektor) as of February 1974 and joined the Board of Directors from January 1975 until February 1990".

And later in the document:

"Is STS aware of the damage caused by his factories in Italy? STS was neither a director nor an executive of the Italian plants and, therefore, cannot be held liable for their operations. "Does STS assume some personal responsibility? There is no doubt that STS is pained by these deaths. He is an industrialist with a deep awareness of his commitments towards the social community in general and the employees of Eternit Niederurnen in particular. Because of the industrial history of his family, he inherited the "asbestos legacy" and has done his best, in full compliance with all existing legislation and regulations, (...) STS has no responsibility under criminal law. "STS has no criminal liability. Criminal investigations are not an adequate response of society to the tragedy of deaths caused by asbestos-related diseases."

Now this is a 2003 document, when the risk of having the ultimate shareholder involved in a trial was becoming more real and closer and Stephan Schmidheiny's attention was focused on the risk of a big trial.

A document dated June the 28th, 2004 conforms old tactics; "*keep the profile as low as possible and at local level; it's an Italian trial and concerns the bankruptcy of Italian companies and their managers, avoid any reference to any Swiss Eternit company and its shareholders.*" [Translated from the Italian]

Faced with the news of a big trial that would bring together the deaths and illnesses related to several plants of the group, Niederurnen, Casale Monferrato, Syracuse and Bagnoli, Bellodi suggested two different strategies: a standby one (*deal with the trials as they come, with a strong legal team and a strong support level of communication*"), and a political one aimed:

"at a well-orchestrated deal among parties and a tangible or symbolic compensation to all - for example, unions, families, local authorities, RG [prosecutor Raffaele Guariniello](42) - which provides shareholders with a not too easy but relatively swift, permanent solution to the Italian case".

Despite the low profile strategies, despite the settlement agreements, despite the instructions on the history of Eternit, despite the sophisticated communication strategies, Casale Monferrato become a 'awkward asbestos monument' crushing Stephan Schmidheiny under the weight of his responsibilities.

NOTES

- 1) The story is in the Reports book of Eternit Spa, see in particular the report dated February 22nd, 1949.
- 2) For Turner & Newall' history and role, cfr. G. Tweedale, *Magic mineral to killer dust: Turner & Newall and the asbestos*, Oxford-New York, Oxford University Press, 2000.
- 3) A medical and legal history of asbestos production: B. Castleman, *Asbestos: Medical and Legal Aspects*, New York, Aspen Publishers, Frederick, 2005.
- 4) About the Hatschek,'s patent, a Canadian analyst wrote these words in 1905: "A new invention and one which probably will revolutionize all system of roofing has just been patented in Austria" (op cit . in B. Ruers, *Eternit and SAIAC Cartel* in D.Allen e L. Kazan-Allen (editors), *Eternit and the Great Asbestos Trial*, IBAS, Londra, 2012.
- 5) There are several examples of such connections in the proceedings. In the board of the Belgian Company (first *Financière Belge de l'Asbeste-Ciment SA* then *Compagnie Financiere Eternit*) we find among the directors who signed the financial statements on December 31, 1966 the names of Hatschek, Schmidheiny, Cuvelier, Emsens and De Cartier as Chief Executive Officer. Ten years later, in 1976, in the Board of Directors of *Compagnie Financiere Eternit* there is also Stephan Schmidheiny I. Starting from the Thirties, there are members of the Emsens /Schmidheiny families

in the board of directors of Dutch Eternit. Also on the board of the mining company Asbesco, operating in South Africa, there are members of the Schmidheiny and Emsens families. The German company Eternit AG of Berlin, jointly founded in 1929 by the Schmidheiny and the Emsens, will be the most prominent example of the joint action of the two groups. The same board of directors of Eternit spa is a meeting place between the Emsen and Schmidheiny families till the Nineteen Eighties.

6) These notes refer to a discussion which took place on August 13, 1971 at Max Schmidheiny's mansion in Switzerland, between the same Max and representatives of the Boston Consulting Group (Tilles and Pyles), Kreiss (issue from Max's wife first marriage and CEO for the Eternit in Switzerland), and Dorner (Division Director Asbestos, Amiantus SA, the one who took care of supply of the raw material).

7) Shepherd agrees with the Canadians sellers who undertook with SAIAC selling asbestos to third parties outside the cartel in Europe only at a higher price, between 10 and 12.50%.

8) Communications departing from SAIAC bear the signature of a very young Max Graf. The latter, as we shall see later, is the Schmidheiny family man. He was following the development of Swiss Eternit on behalf of the Schmidheiny and sat on in international cartels when they are no longer in them (*Tour d'Horizon*, Nineteen Seventies and Eighties).

9) The episodes that shed light on this mystifying attitude are also common to other industrial stories, see as an example the events relating to chloride vinyl monomer (cvm) described by Judge Felice Casson in *La fabbrica dei veleni (The factory of poisons)*, Milano, Sperling & Kupfer, 2007.

10) The study shows that the average risk among men with 20 or more service years in tasks considered at highest risk is 10 times higher than the one of the general population; the shorter the duration the smaller the risk.

11) Doll's study is considered particularly important for dating the awareness on the link between asbestos exposure and health risks.

12) Francesco Carnevale, *Relazione di consulenza tecnica agli atti del processo*, pagg. 64-66.

13) The full version of this document was produced by Barry Castleman, technical advisor of the civil parties, during his testimony at the Court of Turin.

14) The participants were representatives from the United Kingdom, the Netherlands, West Germany, France, Italy, Belgium, Finland, Denmark, Norway, Sweden and the United States (about 35 people).

15) The so-called blue asbestos (an amphibole) considered among the most dangerous to health.

16) In this meeting, among others, there were representatives of the Belgian Eternit (the head of medical services Dr. Lepoutre), and the representative of Amiantifera Balangero (Director Mr. Angelotti).

17) During the trial, the name of Robock was often recalled by the defense of the accused as the North Star that guides the actions of protection against dust and monitors the state of the same in the whole Eternit group. In AIA he certainly did not appear as an independent scientist who sought the truth about the dangers of asbestos but as a member of the executive committee of AIA, a point of reference the asbestos industries for processing and implementation of the strategic lines and the political support of asbestos.

18) Selikoff is a researcher recognized as a symbol of the civil battle against the dangers of asbestos. Robock's words reveal two fundamental aspects of his work: the extreme professionalism (what better recognition than that of his opponents, more and better paid, and although unable to combat him on the scientific field); moral rigor that dissuades AIA (although they considered the idea) from trying to "co-opt" him as they did with other professionals. Selikoff's scientific importance lies in not having been "co-opted", in having had the courage to challenge the asbestos industrials, in making aware of the risks of asbestos not only doctors, but also journalists and trade unionists. Just the opposite of what the industry wanted.

19) The need to constantly supervise the EEC work is suggested by Etienne Van der Rest, a member of the Belgian Eternit linked to Emsens-De Cartier by family ties, being the grandson of the founder of the family, Alphonse.

- 20) The British giant was clearly concerned by the risk of possible actions for damages and this risk was far beyond the one of an imposition of EEC
- 21) There are documents reporting meetings on December 1st, 1977; November, 27th, 1978; October, 29th, 1979 and on February, 24th, 1981.
- 22) Report dated December, 1st, 1977.
- 23) About this subject, there are interesting statements made in court by the witness Leo Mittelholzer, CEO of Italian Eternit from 1984 to 1986. The witness, besides confirming that crocidolite was never completely abandoned in Italian plants, explained that the alternative fibers and new technologies were not adopted in Italy as, to remain competitive in the market, all manufacturers should have used alternative materials. In Italy, unlike other countries such as Switzerland and Germany, the replacement was refused by other producers so determining the choice by the Swiss group, which had also offered the technology to competitors, to give up the replacement and only for reasons of cost-effectiveness.
- 24) The goal was to convey guidelines for the top management of the group to be applied in given situations. We are soon going to see these notes becoming part of a real "manual", operating instructions given to the highest executives of the subsidiaries (the so called AULS 76 report).
- 25) In particular, we are referring here to the point 5) of the concluding remarks of the 1971 London Congress: "Examine your defense instruments. Have you the right type of organization to face future attacks? Do you have an action committee, vested with responsibility and financial, technical and medical resources? Will your committee be ready to respond to attacks on all fronts? "
- 26) Handwritten notes (dated December 20th, 1976) prepared by Ing. Martini, Amiantifera Balangero who participated in the works.
- 27) Eng. Martini, representative of a mine considered this a particularly important issue.
"When asked whether it is appropriate for the Amiantifera indicate on the bags that asbestos can be dangerous as it is done in America, he replied that for the moment it is not necessary and that, if this is the case, it will be taken into consideration to anticipate predictable requests to do so by the official authorities. It is considered appropriate however, to send a confidential letter to all buyers following was done in the United States, inviting them to handle asbestos with caution, explaining that inhalation can be dangerous if in large amounts, etc. The purpose of this letter, as well as information, is preventive dissociation from the responsibility of the manufacturer from those of the purchaser. It will be recalled that in America has already started the season for proceedings for compensation for asbestos related diseases."
- 28) We will be able to analyze the correspondence in addressing Stephan Schmidheiny's personal responsibility.
- 29) In the introduction to this paper, we have already given an account about the role of engineer. Adolfo Mazza, founder of the Eternit Artificial Stone Limited Company, a central figure in the international market strategies of acquisition.
- 30) Cfr. M. Volpedo e D. Leporati, *Morire d'amianto. L'Eternit di Casale Monferrato dall'emergenza alla bonifica*, Genova, La Clessidra, 1997; pag. 28.
- 31) The independent companies have the following names: Eternit Casale Monferrato spa (Casale Monferrato and Cavagnolo plants); Eternit Naples spa (Bagnoli plant); Eternit Reggio Emilia spa (Rubiera plant); Eternit Siciliana Spa (plant in Syracuse, in the Targia village).
- 32) Bellodi was the consultant paid by Stephan Schmidheiny to manage the image and interests of the Swiss group after the bankruptcy of Eternit spa. We will see that the work done by the Bellodi consulting firm, is designed to defend against any accusations and / or claims for damages the Swiss shareholder this activity a real espionage and counter-intelligence, as is clear from the analysis of the documents, seized before the trial by the police under the orders of the Turin prosecutors.
- 33) In 1966 the Belgian company changed names, and became CFE, Compagnie Financière Eternit. In 1978, there is a second review of the corporate structure. In the shareholders meeting on May 7th, 1978 the shareholders decided as follows a) the Compagnie Financiere Eternit changed its

name to Compagnie Financiere Ancienne Eternit SA and is being wound up; b) holdings in European societies are transferred to the Nouvelle Compagnie Financiere Eternit SA (founded ex novo on April 11th, 1978), which in that circumstances changed its name in Compagnie Financiere Eternit SA; c) other investments are put into the Société Africaine Eternit (an older company: it was constituted on March 18, 1947), which changed its name in Eteroutremer. After another series of changes, on June 14, 1999 Eteroutremer became Etex Group SA, today's core business company of the Emsens family.

34) At the meeting in Brussels the two groups, in their capacity as shareholders, decided to abolish the Steering Committee, to dismiss the CEO and to replace him with a man of their trust, to approve a capital increase and to make the choice of investments to hold or to resign. In their capacity as directors, they decided on administration and finance, marketing, choice of managers, relations with the trade unions and with the policy, moving the administrative headquarters, production planning and capital expenditure.

35) On June 27th, 1966 he was appointed CEO, in 1971 adds to the that the position of President of CFE (Compagnie Financiere Eternit), on April 25th, 1974 De Cartier was president and CEO of CFE, on April 11th, 1978 De Cartier participated in the constitution of the Nouvelle Compagnie Financiere Eternit Brussels, on December 3rd 1981 is President of the CFE Eteroutremer.

36) It is the study dated October 11th, 1972 prepared by Schmidheiny people and specifically: Bosshart from the Centre Amiantus AD, who will become one of the men of the task force to restore Eternit Spa and is responsible for marketing; Wey from the Centre Amiantus PR, who will also become the technical director of Eternit from 1978 to 1984 and that deals with the production; Muggli from Amindus SA who is in charge of finance and Wicki from Amends SA who oversees the organization.

37) Leogard Mittelholzer is CEO of Eternit spa from May 11th 1984 until the failure on June 4th 1986. He had previously worked in South African companies of the Schmidheiny group.

38) We have already dealt with Levinson in the first part of this paper, where we saw that Robock from AIA informed all the members of the co-option of the same by the DuPont and recommended the asbestos industry to do the same in order to avoid trouble. In the correspondence we examined before the co-optation when Levinson is still an awkward person for asbestos industries, since he wanted a global deal between asbestos companies and unions.

39) Belgian Eternit had an interest in Johns & Manville and Stephan Schmidheiny held a 20% share in the Belgian Eternit, therefore he was very well informed about the situation and was concerned to run the same risk.

40) The 9.5 billion Lire represent about 1/3 of the total financial contribution of the Swiss group in ten years, as declared on November 23rd, 1984 by Hans Thoeni, in the appeal to the Court for the Controlled Administration.

41) Subsequent updates were in 1995, 2003, 2004, 2005. It deals with ten topics identified in the index: SEG (Swiss Eternit Group), IEG (Italian Eternit Group), asbestos, safety, health issues, environment, unions, Italian trials, the main Italian names, questions and answers.

42) This is the Prosecutor of Turin, Raffaele Guariniello, whose investigations will be monitored by the Bellodi Company.