



OVERVIEW OF THE ASBESTOS RELIEF TRUST & KGALAGADI RELIEF TRUST

OUTCOMES OF THE NATIONAL ASBESTOS CONFERENCE 2008

Presentation to Portfolio Committee on
Mineral Resources

9 May 2012

BACKGROUND

Asbestos Relief Trust (ART)

- Formed in March 2003 - out of court settlement with SA mining companies Gefco, Msauli & Gencor.
- Main aim: to compensate qualifying claimants who have been exposed to asbestos from operations owned by or associated with the mines and who have developed a compensable asbestos related disease.
- The lifetime of the ART is 25 years and its activities are governed by a Deed of Trust

Kgalagadi Relief Trust (KRT)

- Formed in February 2006 following a voluntary agreement between Swiss-based Becon and South African attorney, Richard Spoor.
- Main aim: to compensate qualifying claimants who have been exposed to asbestos from operations owned by or associated with Kuruman Cape Blue Asbestos and Danielskuil Cape Blue Asbestos and who have developed a compensable asbestos related disease.
- The lifetime of the KRT is 20 years and its activities are governed by a Deed of Trust

MAIN AREAS OF OPERATION

- Northern Cape
- Limpopo
- Mpumalanga
- Eastern Cape
- Free State
- Lesotho
- Swaziland
- Botswana

ATTRACTING CLAIMS

- 2003 - 2010
 - Representative offices in N Cape, Limpopo and Mpumalanga
 - employed Claims Handlers
 - Appointed Asbestos Interest Group (AIG) in Kuruman to trace claimants
 - Set up Asbestos Coordinating Committee of Kgalagadi (ACCK) to facilitate contact between civil society groups, public sector and trusts
- 2010 – Present
 - Due to sharp reduction in claims, trusts manage claims directly (supported by AIG)

COMPENSABLE ASBESTOS RELATED DISEASES

- ARD 1: Asbestos related pleural thickening and/or asbestosis, with mild to moderate lung function impairment
- ARD 2: Asbestos related pleural thickening and/or asbestosis, with severe lung function impairment
- ARD 3: Asbestos related lung cancer
- ARD 4: Mesothelioma

TYPES OF CLAIM AND BENEFITS

Types of Claims: Living or Deceased and Occupational or Environmental

Benefits: Set by the trustees from time to time on the advice of actuarial specialists based on the claims history, anticipated future claims and available funds

In 2004, R35million was paid to Government for rehabilitation initiatives

TYPES OF CLAIM AND BENEFITS

Occupational Claims

We pay higher than the state compensation scheme for miners

Environmental Claims

The state does not compensate for environmental asbestos related diseases

CLAIM PROVISIONS IN THE TRUST DEEDS

1. The potential claimant:
 - approaches the ART/KRT
 - provides proof of employment at a qualifying operation (ART/KRT will assist to obtain proof)
 - Is issued with a medical letter and sent for a medical at the trusts' expense.
2. The medical file is checked by a Specialist Occupational Medical Panel, an independent panel of experts consisting of radiologists and occupational health specialists, to determine if there is a compensable asbestos related disease (ARD)
3. The potential claimant receives his/her medical results
4. If there is a compensable ARD the ART/KRT processes the claim form and calculates the award
5. A consultation about the award calculation takes place and the claimant signs the Release and Discharge form.
6. The ART/KRT pays the claimant (delays can occur due to contradictory information or lack of supporting documents)
7. Claimant receives once off lump sum payments (if the ARD progresses, a further claim may be lodged)

CLAIMS TO DATE (AS AT END FEBRUARY 2012) & SOCIAL PROJECTS

Claims

- 15,900 applications combined
- 70% do not meet the medical criteria
- 30% have a compensable ARD, of which
 - 89% have been compensated
 - 3% have had their claims approved for payment
 - 8% are being investigated

Social Projects

- Kuruman Palliative Care Nurse Programme
- Cancer Charity Workers
- Donation of medical equipment to various Government hospitals and clinics
- Neil White Bursary (for a 2 year part time Diploma in Occupational Health) and Neil White Memorial Grant (programme for up-skilling of rural doctors in pneumoconiosis)
- Research into predicting mesothelioma
- Research into the spending patterns of successful claimants
- Research into suitability of Penge town for human settlement
- Supedi Maths Project

PAYMENTS TO DATE

(AS AT END FEBRUARY 2012)

- Asbestos Relief Trust: R 241,338,086
 - ARD1: 2920 claimants paid a total of R 114,922,102
 - ARD 2: 338 claimants paid a total of R 27,117,437
 - ARD 3: 52 claimants paid a total of R 8,924,645
 - ARD4: 237 claimants paid a total of R 83,697,488

Total Paid: 3547 claimants paid a total of R 234,661,673

Approved for Payment: 86 claims totalling R 6,676,412

- Kgalagadi Relief Trust: R 77,623,137
 - ARD1: 933 claimants paid a total of R 30,035,133
 - ARD2: 124 claimants paid a total of R 8,125,520
 - ARD3: 32 claimants paid a total of R 4,628,691
 - ARD4: 112 claimants paid a total of R 32,140,848

Total Paid: 1,200 claimants paid a total of R 74,930,193

Approved for Payment: 56 claims totalling R 2,692,944

NATIONAL ASBESTOS SUMMIT 1998

- Convened by the Parliamentary Portfolio Committee on Environment and Tourism.
- Process started in 1996 with Parliamentary visit to affected areas.
- Organizing Committee was convened following Parliamentary hearings, Chaired by Jerry Ndou, under the direction of Portfolio Chair, Gwen Mahlangu.

THE SUMMIT

- 800 delegates at Esselen Park, Kempton Park (24-26 November 1998)
- Opening Address: Late Peter Mokaba, Deputy Minister, DEAT
- Presentations by four stakeholder groups
- Asbestos Booklet distributed
- Four Commissions deliberated:
 - Community Development and Rehabilitation
 - Health remediation and Compensation
 - Regulatory System
 - Industry – Future applications of asbestos.

DECLARATION OF THE NATIONAL ASBESTOS SUMMIT 1998

- In a National Asbestos Summit, attended by various stakeholders including government, affected communities, labour, industry, NGO's and the international delegation, we acknowledge:
 - That asbestos is a hazardous substance and has caused diseases to people exposed;
 - The legacy of human suffering and environmental damage that we inherit from a century of mining and irresponsible use of asbestos; and
 - The efforts of affected communities and workers to bring these to the attention of government.

DECLARATION (CONTINUED)

- We the delegates to the National Asbestos Summit hereby **note**:
 - That this summit has been an important step in the process of addressing and redressing the issues relating to asbestos.
 - That the summit has drawn together a wide spectrum of stakeholders who have discussed the issues constructively and seeking a common way forward.
 - That within the summit we have addressed the full complexity of the asbestos problem in South Africa.

DECLARATION (CONTINUED)

- We **declare** our commitment to ensure that the conclusions of the four commissions are transparently implemented within a reasonable time. These include :
 - Review of the compensation and other remedial systems.
 - Strengthen the establishment of a comprehensive health care system including a Presidential Asbestos Fund and Parliamentary Commission of Inquiry.
 - Intensify the inclusive processes of rehabilitation and sustainable development.
 - Establish research towards phasing out Chrysotile and replacing it with alternatives.
 - In the interim strengthen the regulatory system of the controlled use of all Chrysotile asbestos-containing materials.
 - Ensure an enabling integrated legislative framework, including a ban on non-chrysotile asbestos-containing materials.

DECLARATION (CONTINUED)

- We call on the National Parliamentary Portfolio Committee of Environmental Affairs and Tourism to continue to provide political leadership necessary to successfully carry forward the process.
- We commit ourselves to a follow up summit in the year 2000.
- A National Structure should be established to coordinate all agreed actions.

2008 SCORECARD

- The NAS Declaration and Recommendations were approved by the Portfolio Committee and endorsed by the Cabinet
- Declaration
 - Achieved: 3
 - Not Achieved: 5
- Recommendations
 - Achieved: 9
 - Not achieved: 50
 - Not sure: 7

MAJOR ACHIEVEMENTS 1998-2008

- Rehabilitation of many of the biggest former asbestos mines by DMR
- Tightening up Asbestos Regulations 2001 - reduced exposure limit from 1,0 f/ml to 0,2 f/ml and introduced a range of other new control measures, including protection of the public.
- Most manufacturers stopped using asbestos by 2001
- DEAT Report - "Assessment of Environmental Contamination from Asbestos – Findings for the Former Asbestos Mining Regions of South Africa, 28 February 2006".
- DEAT introduced asbestos banning legislation in 2008

NATIONAL ASBESTOS CONFERENCE

2008

- The Goals of the National Asbestos Conference convened by the ART & KRT in 2008 were :
 - To review South Africa's compliance with the recommendations of the 1998 National Asbestos Summit.
 - To conduct a fresh assessment of the current challenges associated with South Africa's asbestos legacy.
 - To develop proposals for the revival and enhancement of South Africa's response to its asbestos legacy.

NAC 2008 - THEMES

- The Perspective of Communities Living with Asbestos
- Asbestos Health Impacts
- Assessment of South African Compensation Regime:
 - occupational and environmental,
 - Statutory and voluntary trusts
 - administrative processes and benefits payable,
 - civil claims.
- Legal and Regulatory: local and international developments.
- Environmental Exposure and Rehabilitation in South Africa
- Asbestos Containing Materials

NAC 2008 – PRIMARY FINDINGS

- All parties remain alarmed regarding the residual impact of asbestos mining and use, on former workers and communities exposed to asbestos.
- Main issues of concern:
 - Equalisation of statutory compensation funds for miners and industrial workers
 - Inclusion of statutory compensation for environmental exposure
 - High levels of environmental exposure for mining communities (resulting in ARDs for generations to come)
 - Improved health services for affected communities

NAC 2008 - RECOMMENDATIONS

- Establish a National Asbestos Commission to co-ordinate responses
- Recommendations of the National Summit (1998) should be revisited and vigorously pursued
- Recognise that communities still co-exist with lethal levels of environmental asbestos pollution
- Make mesothelioma a reportable disease and gear up State health facilities to provide the necessary diagnostic, treatment and hospice services.
- Create a national fund to rehabilitate affected communities including removal of contaminated soil, construction of concrete slabs and aprons in houses and schools, installation of new services in asbestos-free soils, plaster and paint buildings made of asbestos bricks and tailings, installation of new asbestos-free ceilings and roofs and removal/replacement and roads made of asbestos containing material.

NAC 2008 - RECOMMENDATIONS

- Introduce a National Asbestos Compensation Scheme in which statutory and private schemes can co-exist and ensure that both occupational and environmentally exposed persons who have asbestos related diseases are properly compensated as soon as they are diagnosed and certainly during their lifetimes.
- Create a national database on asbestos.
- Urgent need for standardisation in fibre counting of asbestos for air and soil.
- Education and training of all service providers, the public at large and unions.
- Synchronise existing asbestos legislation.
- Monitor effects of replacements products.
- Transit concession applied to SADC for a specified time only.

CONTACT

Tina da Cruz

Tel: (011) 482 1000

Fax: (011) 726 3880

artinfo@asbestostrust.co.za

enquiries@kgalagadirelieftrust.co.za

www.asbestostrust.co.za

Please contact us with your questions