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Dear Meses. Nadarajah, Lozanski and Untershats:

I am pleased to provide Environment and Climate Change Canada's response to your Environmental Petition No. 387 to the Commissioner of the Environment and Sustainable Development, regarding Canada's continued use and imports of asbestos.

Please find enclosed my detailed response, which addresses the issues that fall within the mandate of Environment and Climate Change Canada. I understand that the Minister of Public Services and Procurement and the Minister of Health will be responding separately to questions that fall under their respective mandates.

I appreciate this opportunity to respond to your petition, and I trust that you will find this information helpful.

Sincerely,

The Honourable Catherine McKenna, P.C., M.P.
Minister of Environment and Climate Change

c.c.: The Honourable Judy M. Foote, P.C., M.P.
The Honourable Dr. Jane Philpott, P.C., M.P.
Ms. Julie Gelfand, Commissioner of the Environment
and Sustainable Development

Enclosure

**Environment and Climate Change Canada's Response to
Environmental Petition No. 387 regarding Canada's continued use
and imports of asbestos**

Question 1 (a): Environment Canada's description of Asbestos under the List of Toxic Substances under CEPA still refers to chrysotile as less dangerous than other types of asbestos.¹ The current listing of asbestos under the List of Toxic Substances under CEPA should address all forms of asbestos. Please outline the regulatory and non-regulatory measures undertaken under CEPA and other legislations in Canada for all types of asbestos.

Response: The listing of asbestos as item 6 under Schedule 1 (the List of Toxic Substances) to the *Canadian Environmental Protection Act, 1999* (CEPA) is all encompassing and comprehensive. In accordance with the definition of "substance" in section 3 of the Act, this is the most comprehensive listing possible.

The *Asbestos Mines and Mills Release Regulations*, under CEPA, limit the concentration of asbestos fibres contained in any gases that the owner or operator of an asbestos mine or mill may release into the ambient air from crushing, drying or milling operations; dry rock storage; or primary dry-drilling operations in an open pit, to a maximum of two asbestos fibres per normal cubic centimetre of the gases.

The Regulations also specify the manner in which such releases shall be monitored and reported to Environment and Climate Change Canada, with the reports being submitted at intervals of every 6 months in respect of milling operations, and every 12 months in respect of crushing and drying operations, dry rock storage and primary dry drilling. These regulations remain in force, but have not been actively used since the cessation of asbestos mining and milling activities in Canada almost five years ago.

Crocidolite asbestos is listed in Part 2 of Schedule 3 (the Export Control List) to CEPA. The List and the *Export of Substances on the Export Control List Regulations* were established to enable Canada to adhere to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which was adopted in 1998. Canada is not a producer of crocidolite and, therefore, not an exporter. However, in the unlikely event that an exporter intended to export crocidolite from this country, for any purpose and in any amount, the export would be subject to these

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¹ "Asbestos" (2015), Environment Canada, Online:<<http://www.ec.gc.ca/toxiques-toxics/Default.asp?lang=En&n=98E80CC6-1&xml=A183A275-6D44-4979-8C4F-371E7BF29B9F>>

regulations. Under the Regulations, the exporter would be required to provide a 30-day prior notification of the export. In the event that the export was destined to a country that is also party to the Rotterdam Convention, the exporter would require a permit that would only be granted if the proposed export satisfied the conditions of the Regulations. These conditions implement the prior informed consent procedure of the Rotterdam Convention and also apply any requirements that have been established by the importing party.

Question 1 (b): Was a review conducted on the effectiveness of current management measures to address the concerns associated with asbestos? If so, when was the review conducted and describe the results of the review and how the public was engaged in that process? If not, why not?

Response: No review of the *Asbestos Mines and Mills Release Regulations* has been undertaken.

In addition, no review was conducted on the effectiveness of the *Export of Substances on the Export Control List Regulations* to address concerns associated with crocidolite asbestos. As mentioned above, Canada is not a producer of crocidolite and, therefore, not an exporter. No exports of crocidolite have ever been notified under these regulations. As such, no evaluation has been conducted on the effectiveness of these controls with regard to crocidolite. The Export Control List and its associated regulations were established to enable Canada to adhere to the Rotterdam Convention.

Question 2 (a): Does Canada have a notification/screening process for asbestos imported for use or in products containing asbestos? If so, please provide details. If not, why not?

Response: Canada, as a party to the Rotterdam Convention, has issued import responses under this treaty relating to the following forms of asbestos: crocidolite, tremolite, actinolite, amosite and anthophyllite. These import responses are made available online through the Rotterdam Convention Secretariat at www.pic.int/Procedures/ImportResponses/Database/tabid/1370/language/en-US/Default.aspx. Canada has indicated through this process its "consent under conditions" to the import of these forms of asbestos. The conditions established by Canada reflect the domestic restrictions on the use of these forms of asbestos as established by the *Hazardous Products Act*, as well as the *Asbestos Products Regulations* under the *Canada Consumer Product Safety Act*. Other parties to the Rotterdam Convention are obligated to respect Canada's import responses when exporting substances to this country that are listed under this treaty.

Question 3 (b): In June 1, 2006, the ILO resolved that “the Asbestos Convention, 1986 (No. 162), should not be used to provide a justification for, or endorsement of, the continued use of asbestos.”² Since then, the government of Canada has responded to all three petitions to the Auditor General in relation to asbestos by using the Asbestos Convention, 1986, to justify its previous asbestos exports.³⁴⁵ In considering the new resolution, will the government of Canada consider prohibiting the mining, use, import and sale of asbestos nationwide?

Response: There are no plans to modify or amend the *Asbestos Mines and Mills Release Regulations* as the mining of asbestos in Canada ceased in late 2011.

² Resolution concerning asbestos [2006] adopted at the 95th session of the International Labour Conference. http://www.ilo.org/safework/info/standards-and-instruments/WCMS_108556/lang-en/index.htm

³ *Supra* note 9.

⁴ *Supra* note 26.

⁵ David R Boyle, “Canada’s policies on chrysotile asbestos exports” (30 October 2006), Petition to the Auditor General’s Office, Online: <http://oag-bvg.gc.ca/internet/English/pet_179_e_28915.html>