Introduction to Asbestos Situation in Japan and Amagasaki

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Asbestos use and epidemic in Japan

Almost of all asbestos used in Japan was imported and the total import amount in the past was 10 million tones. (Fig.2) Japan has introduced a “total ban on asbestos in principle” in 2004 with a negative list, strengthened in 2006 with a positive list and achieved a “literally total ban on asbestos” with no exemption in 2012.

Japan is one of the latest countries in ceasing to use asbestos among industrialized countries. It was a quarter of a century behind Northern European countries and 10-15 years later than other western countries. (Fig.3)

Asbestos-related diseases have long latency periods and Japan’s full-fledged industrial use of asbestos lagged behind western countries, so it is no wonder that there is a time lag of epidemics of asbestos-related diseases between Japan and those countries. Japanese asbestos epidemic is starting. (Fig.4, 5 & 6)

We have to say Japan failed to prevent workers and the public from asbestos hazards properly.

BANJAN and asbestos victims group

The Ban Asbestos Network Japan (BANJAN) was established in 1987 following the adoption of ILO Asbestos Convention No.162 in previous year. BANJAN is a coalition of trade unions (of construction, local government, shipyard workers etc.), consumer/environment/OSH groups, researchers, etc. (Fig.7)

Examples of BANJAN’s activities are: (Fig.8)
- Raising awareness on asbestos hazards
- Banning asbestos as early as possible
- Detection and empowerment of asbestos victims and their families
- Support for/coordination of victims/workers/citizens /others’ initiatives
- Negotiation with the government/relevant parties
- Solidarity with global asbestos campaign

As the number of asbestos-related disease cases increased BANJAN supported their networking and the Japan Association of asbestos-Related Disease Victims and Their Families was established on February 7, 2004 after two years preparations. (Fig.9)

This national network of asbestos victims and their families started from 3 branches with 60 members and now has 14 branches with more than 650 members. In addition we have groups of affected residents of environmentally contaminated areas, (former) construction workers groups, plaintiffs of asbestos litigation cases, etc too in Japan. BANJAN and its members, Japan Occupational Safety and Health Resource Center (JOSHRC) and its affiliate Local COSHs (Centers for Occupational Safety and Health) are assisting/working with those groups. (Fig.10)
The year of 2004 was a landmark/turning point for our asbestos campaign in Japan as symbolized by the bellow events.

- **February 7** - the national network of asbestos victims and their families was established.
- **October 1** - a “total ban on asbestos in principle” was taken into force.
- **November 19-21** – the Global Asbestos Congress 2004 (GAC2004) was held.
- Indeed during the above processes we have detected/met environment asbestos victims in Amagasaki city.

**Kubota Shock – a big asbestos scandal in the summer 2005**

When an article of a newspaper disclosed on 29 June, 2005, that many workers had died of asbestos-related diseases at the former Kanzaki plant (Amagasaki City, Hyogo Prefecture) of the Kubota Corp, a major machinery maker, the public felt that important need-to-know information on asbestos impact had been concealed from them for long years.

This plant had manufactured asbestos cement pipes from 1954 to 1975, and asbestos cement housing materials (mainly roofing and outer wall) from 1960 to 2001.

Also the article conveyed an additional fact – further more five residents living or had lived within 1km from the factory suffered from mesothelioma and two of them had died. All of them had no occupational asbestos exposure history and their diseases were assumed due to environmental (neighborhood) exposure to asbestos leaked from the factory in the past. Company official said that the company was considering to paying some consolation money to the victims.

This raised the public concern on possible asbestos impact upon not only workers but also communities as a whole. (Fig.11-15)

(Fig.16) The front line is – from left side Mrs. Masako DOI, Mrs. Keiko MAEDA and Mr. Yoshikazu HAYAKAWA - environment mesothelioma victims in Amagasaki who spoke out for the first time and unfortunately all of them have died. The rear line is their supporters – from left side Mr. Hiroshi IIDA from Amagasaki Occupational Safety and Health Center, Dr. Yoshiomi TEMMYO, former chairperson of JOSHRC, Mr. Akihiko KATAOKA from Kansai Workers Safety Center and Mrs. Kazuko FURUKAWA, a founder and now president of the national network of asbestos victims and their families.

Those victims had fought against the deadly disease alone having a question where and how they were exposed to asbestos. When they knew each other they were convinced that Kubota was guilty of their diseases. Three mesothelioma victims and supporters asked Kubota to have meetings and Kubota accepted to do so. The above scoop article appeared at a timing Kubota decided to pay some consolation money provisionally. It should be noted trigger of the “Kubota Shock” was put by heroism of those victims and the role of Mrs. Kazuko FURUKAWA was also important.

Japanese society was made to look squarely the real impact of asbestos by this scoop at the first time – so it is called “Kubota shock”. All media followed this story and has been intensively covering asbestos issues every day. (example - Fig.17) In a twinkling, “mesothelioma” - a very rare cancer inseparably linked to asbestos exposure became one of most well-known disease to the public. Everybody argued that the real extent of asbestos hazards should be revealed.

A succession of disclosures by companies started from asbestos products manufacturers to the wide range of other industries such as shipbuilding, automobile and railroad vehicle manufacturer, power and chemical plants, etc. The Government asked all industry organizations to report the past use of asbestos and asbestos victims at their member companies and opened those reports. Finally the Ministry of Health, Labour and Welfare (MHLW) disclosed the names of all companies which had asbestos-related disease victims compensated by the workers compensation insurance in the
past and the numbers of compensated cases, etc. (We have succeeded to make MHLW to continue this disclosure annually.)

Calls poured in on NPOs, trade unions, relevant companies and governmental offices from victims, their families, workers and others having anxieties on asbestos diseases, future health effects, etc through this scandal. There was no compensation scheme for non-employee victims and their families. In several cases bereaved families couldn’t apply workers compensation insurance benefits because of the statute of limitations (5 year after victim’s death) has expired. Also there were cases for which when and where victims were exposed to asbestos could not be determined.

The number of mesothelioma cases suspected due to neighborhood exposure to asbestos used at the Kubota former Kanzaki plant was increasing day by day. Kubota paid 2 million JPY (17,000 US$) per case to those cases as a consolation money. Some other suspected neighborhood asbestos victims cases were reported for different asbestos plants and mines and some more companies paid a like amount of consolation money. Of course 2 million JPY is extremely low in comparison with workers compensation insurance benefits to be paid for an occupational victim’s case. (Generally medical expense and loss of income are covered for all medical treatment periods and bereaved family can receive pension.)

“Compensation equivalent to workers compensation for all asbestos victims and their families” became a major subject.

The public concern on why was this problem allowed to become so serious and how to / whether can we prevent the spread of asbestos hazards have been rising day by day. Companies’ officials said in chorus that they had considered asbestos issues as the matters only for workers and that couldn’t forecast a possibility of the occurrence of neighborhood health effects. All ministries have spoken of the same words that asbestos issues were the subjects only for workers and labor administrations repeatedly.

However people considers that this is yet another case in which the government and companies failed to act properly to save lives, comparable to the Minamata disease caused by methyl mercury poisoning and the spread of AIDS caused by HIV-contaminated blood products.

Establishing comprehensive countermeasures against asbestos for preventing further health effects of all people was desired.

**Responses by the Government**

Inter-ministries task team started on July 1 at section chief level, then upgraded at department director level on July 21 and at minister level on July 28. The meetings of relevant ministers were held five times until the end of 2005. All political parties set up the special asbestos task teams and pledged to tackle asbestos issues as top priorities.

The ministers meeting drew up “Immediate Measures to Tackle Asbestos Issues” at its first meeting and revised twice at the following meetings. Then they adopted “Comprehensive Measures to Tackle Asbestos Issues” at the last – 5th meeting on December 27, 2005. Outline of the measures consist is the below. (Fig.18)

- Relief for all asbestos victims without omission
  - Establishment of new law for relief of victims
  - Publicity to make people informed about workers’ compensation scheme
  - Promotion of studies that contribute to relief of victims
- Proactive measures for prevention of further sufferings
  - Removal of asbestos from existing facilities
  - Prevention of emission and exposure during demolition of buildings
  - Appropriate disposal of asbestos waste
Immediate total ban on asbestos
- Relieving anxieties of the public including measures for the persons exposed to asbestos in the past
- Identification of the real situation and active information service for the public
- Health consultation, etc.

Also ministers verified each ministry’s measures and policies to dealt with asbestos issues in the past. Its result was reported at the second meeting on August 26 and supplemented at the third meeting on September 20. They pointed out the below weaknesses:
- Precautional approach - measures should not be delayed when serious damage may be occurred even if scientific evidence is not enough – hasn’t infiltrated into ministries sufficiently, and
- Cooperation between concerned-ministries hasn’t necessarily been sufficient in individual measurements.

Governmental nonfeasance and corporate responsibilities in the past should be examined by disinterested party and is now being examined/judged at the courts.

Following the “Comprehensive Measures to Tackle Asbestos Issues” by the ministers’ meeting, the government submitted bills to enact a new “Asbestos Victims Relief Law” and to amend Air Pollution Control Law, Local Government Finance Law, Building Standards Law and Waste Disposal Law for preventing further health effects at the front of 2006 New Year session on the National Diet. Despite the voices to improve them and to call for more comprehensive measures from opposition parties, the public and media, all bills were passed with no amendment by the majority ruling parties.

“Asbestos Victims Relief Law” was issued on February 10, 2006 and into took effect on March 27.

BANJAN’s activities after Kubota Shock

Since “Kubota Shock”, affiliate organizations of BANJAN and JOSHRC had thousands of calls really without pause from victims, their families, workers, residents and others. Leading members have been asked comments and advices from the media, political parties and others every night and day.

BANJAN has posed requests and recommendations in every important time points, which lead conformation of the public opinion and served as the basis for common position and joint action of wider range of social parties.

BANJAN launched a signature campaign making the below six requests on October 22, 2005.
- Immediate total ban on import, manufacture, marketing and new use of asbestos and asbestos containing materials
- Enactment of a “Basic Law on Asbestos” to promote unitarily comprehensive measures including identification, management, removal and disposal of asbestos and asbestos containing materials
- Establishment of health monitoring systems for all persons exposed to asbestos
- Abolishment of “statute of limitation” for workers compensation to asbestos-related disease cases
- Compensation pursuant to workers compensation insurance benefits (including medical treatment, income indemnity and compensation for bereaved families) for asbestos victims and their families who are not covered by workers compensation scheme
Making all mesothelioma being compensable and securing that other asbestos-related diseases such as lung cancer, which is presumed twice as much as mesothelioma, can be eligible for compensation

This was calling for more equitable and more comprehensive solutions upon all aspects of asbestos legacy than bills proposed by the government. So many groups and individuals from wide range of social sectors all over the country assented to the petition and worked together for the sign-in campaign. We could collect 1,871,473 signatures supporting our requests in a shorter period of only a little over three months. Also BANJAN hold a mass meeting and rally with 2,500 asbestos victims and their families, workers and citizens. (Fig.19)

Progresses for Kubota environment victims

On the other hand, Kubota accepted to meet neighborhood victims and disclosed substantial information (incidence of asbestos-related diseases among its workers, flow sheets of manufacturing products, historical records on asbestos usage and measurements of airborne asbestos fiber concentrations, measures for prevention of environment pollution, health monitoring of exposed workers and additional compensation scheme for occupational victims on top of workers compensation insurance benefits, aerial photos of the plant, etc.). Then Kubota offered to pay 2 million JPY (17,000 US$) of consolation money without any quid-pro-quo condition such as renunciation of compensation claim. They didn’t accept causal relationship between victims’ diseases and the past asbestos release from its plant and said the money was “for demonstrating company’s sympathy to the victims and sentiment of they were blessing of neighborhood people of the plant that the company could have operated its business here for long years”.

Disclosure of relevant information and consolation money without any quid-pro-quo condition were very different from other offending enterprises in the past pollution cases. Kubota official said to a researcher that they learnt from lessons from Minamata disease. It is considered Kubota’s decision was to minimize damages from this scandal and would be a wise way.

Following the number of suspected neighborhood asbestos victims cases reached us increased we asked two researchers, Norio KURUMATANI, professor of the Nara Medical University and Shinji KUMAGAI, chief researcher of the Osaka Prefectural Institute of Public Health (now professor of the University of Occupational and Environmental Health), to conduct an epidemiological study directed to those cases. Interim findings were reported at several meetings of relevant academic societies and covered by the media, which endorsed the public presumption on causal relationship between Kubota’s asbestos and neighborhood victims.

Neighborhood victims and their families established/united themselves into the Amagasaki branch of the national network of asbestos victims and their families on October 8, 2005. After several times of direct negotiations, on December 25, the president of Kubota attended a meeting of Amagasaki branch and officially apologized to them. He pledged to set up a new “relief” scheme instead of the previous consolation money in the light of corporate social responsibility. He acknowledged at press conference after the meeting that it was unprecedented to take such actions without recognizing a causal relationship and that however it couldn’t deny that asbestos fibers might have leaked from its former Kanzaki plant. (Fig.20)

On April 13, 2006, the report of Drs. Kurumatani and Kumagai entitled “epidemiological assessment of mesothelioma occurred among neighborhoods of Kubota’s former Kanzaki Plant in Amagasaki City” was released at a press conference. They confirmed 99 mesothelioma cases considered due to neighborhood exposure based on interviews to victims and their families and
other evidences including medical records. Standardized Mortality Ratios (SMRs) of mesothelioma for female and male who lived within 1.5km or more from the plant was significantly high. They also conducted simulation study to estimate airborne concentrations of asbestos fibers based on observed (confirmed) excess mesothelioma mortality, data on wind velocity and direction, and others. It was estimated that asbestos concentration within a few kilometers of the plant exceeded the level of 10 fibers per liter of air in around 1975. Of the 540,000 residents in the city, 120,000 lived in the affected area ranging about 1.5km north-northeast to more than 4km south-southwest. They concluded that asbestos used at the plant played a vital role in accumulating mesothelioma in this area. An English version was published as “Mapping the Risk of Mesothelioma Due to Neighborhood Asbestos Exposure” (American Journal of Respiratory and Critical Care Medicine, Vol.178) in 2008. (Fig.21)

On April 17, Kubota Corp. and victims, families and supporters had press conferences respectively to announce that they reached an agreement on the “relief” scheme for asbestos victims near Kanzaki plant and their families. Kubota pay “relief” money ranging 25 million yen to 46 million yen (200,000 – 400,000 US$) (depending on the age of victim, number of family member, etc) to environment victims and their families according to the scheme. General requirements are:

- The victim or his/her family was recognized as eligible for the benefits from new relief scheme for non-employee cases by the Environmental Restoration and Conservation Agency (ERCA) under the Ministry of the Environment (MOE) and
- The victim has no occupational asbestos exposure history, and
- The victim had lived or had daily life base like school/workplace within 1km (now expanded to 1.5km) radius of the former Kanzaki plant more than 1 year.

A panel composed by the same number of representatives from Kubota and victims/supporters was set up to dealt with the details on how to apply this scheme to an individual case. (Fig.22)

Kubota already has had another scheme for their workers victim cases to pay 10-32 million yen (85,000 – 270,000 US$) in addition to the workers compensation insurance benefits for long years. Occupational asbestos diseases cases among Kubota’s (former) workers had been dealt within the company and unknown/invisible for outsiders/public until Kubota Shock occurred.

Asbestos-related diseases among Kubota workers/residents in Amagasaki

Fig.23 shows asbestos consumption at the former Kanzaki plant of Kubota. This plant had manufactured asbestos cement pipes by using crocidolite and chrysotile from 1954 to 1975, and asbestos cement housing materials (mainly roofing and outer wall) by using only chrysotile from 1960 to 2001. The first asbestosis death among workers was in 1979 and mesothelioma death was in 1996.

Fig.24 (&26, 27) shows asbestos-related disease (ARDs) deaths among Kubota workers recognized/compensated as occupational diseases by the workers compensation insurance scheme. As of March 31, 2015 total number was 172, of which mesotheliomas were 74 and other ARDs were 98. In addition there were 21 survival ARDs victims (including 2 mesothelioma case) at the time point of March 31, 2015. So total number of ARDs among workers is 193, of which 76 cases are mesothelioma). Please note in strictly these numbers include cases from Kubota plants other than Kanzaki plant but such cases are very few – 14 deaths and 6 survival cases. Strict number for the former Kanzaki plant are 158 deaths and 15 survival, total 173 ARDs victims. According to the company, at the time point of April 26, 2005 total number of (active and former) workers who have/had worked at the former Kanzaki plant for 1 year or more was 1,015. So 173 ARDs victims mean more than 10% of them.
Fig. 25 (&26, 27) shows ARDs death cases among residents near the former Kanzaki plant that filed to Kubota’s “relief” scheme. As of June 15, 2015 total number was 271. Great majority of them (266) were mesothelioma cases with 4 lung cancer and 1 asbestosis cases. In addition to them there were more 27 survival cases (12 males and 15 females, 24 mesothelioma and 3 lung cancer) at the time point of June 15, 2015. At the time point 21 cases have not been received compensation (“relief” money) but total amount of Kubota’s compensation exceeded 10 billion JPY for 277 cases.

Fig.28 shows mesothelioma mortality in Amagasaki city and compensated mesothelioma deaths cases among Kubota workers and residents near its former Kanzaki plant by year of death. Here compensated cases don’t include ARDs other than mesothelioma. Also “mesothelioma mortality in Amagasaki” doesn’t include cases victims died in other place than Amagasaki although such cases are included in compensated cases. It is assumed a substantial part of the population who had been exposed to asbestos from Kubota plant in the past has migrated from Amagasaki city to other places. The current population of Amagasaki city is 447,000.

New Asbestos Victims Relief Law for victims not covered by workers compensation schemes was taken into force on March 27, 2005 and the Environmental Restoration and Conservation Agency (ERCA) responsible for administrating the relief scheme for non-employee cases has conducted questionnaire survey to its beneficiaries. According to ERCA, the number of ARDs cases compensated by new relief law for which the victim had the longest residence history in Amagasaki city was 316 (among them cases died before March 27, 2004 were 120 and cases after that time or survival were 196) as of March 31, 2013. (Fig.29)

On the other hand Amagasaki city government in cooperation with the central Ministry of the Environment (MOE) has been offering health checkups for its (former) residents (who had lived in this city between 1955 and 1980). Pleural plaques have been found among many residents.

We are worried about until when such asbestos disaster continue for (former) residents of this city.

Amagasaki branch of the national network asbestos victims and their families became a symbol of struggle against environmental asbestos disaster in Japan.

In Amagasaki city they are:

- Supporting asbestos victims and their families in Amagasaki to get “relief” from Kubota
- Learning/disseminating knowledge/information/advice on better treatment of ARDs and well-being of victims and their families
- Encouraging mutual cooperation and friendships between its members
- Calling for/working with Amagasaki city government to tackle various aspects of asbestos legacy
- Publishing newsletter and organizing various events including Kubota Shock anniversary event in the end of June (Fig.30 & 31)

Also they are:

- Working together with other branches of national network as one core branches
- Working with groups of other environmentally contaminated areas to improve/establish measures for environment victims and their families, residents possibly exposed to environment asbestos and contaminated communities
- Working with BANJAN and its affiliate organizations at national level
- Joining/contributing for international efforts

**Compensation schemes for asbestos victims and their families in Japan**

New Asbestos Victims Relief Law was taken into force on March 27, 2006. Then we have succeeded to amend this law twice (in 2008 and 2010) to expand the limitations for application etc
and to add asbestosis and diffuse pleural thickening to covered diseases for the relief for non-employee cases etc.

**Workers Compensation Insurance (Fig.32 & 36-39)**
- Even if a worker suffers from an occupational disease after separation or retirement from the job in which he/she had been exposed to a hazard, he/she can receive compensation benefits.
- Set by Workers Compensation Insurance Law
- Administered by Ministry of Health, Labour and Welfare (MHLW) and its Labour Standard Offices
- Financed by National Special Account for Workers Compensation Insurance (premiums from all employers)
- Objected person are victims AND bereaved families
- Covered diseases are mesothelioma, lung cancer, asbestosis, diffuse pleural thickening, benign asbestos pleural effusion and other diseases which were apparently caused by the work (if proved by an applicant)
- Benefits are Medical Compensation Benefit, Absence Compensation Benefit (80% of wage), Survivors Compensation Benefit (pension and/or lump-sum allowance) and Funeral Expenses.
- Limitations for the application are within 2 years for Medical/Absence Compensation Benefit and 5 years after the victim’s death for Survivors Compensation Benefit and Funeral Expenditure

**Relief for “statute of limitation expired” cases (Fig.33 & 36-39)**
- Workers Compensation Insurance Law prescribes that the entitlement to survivors’ compensation benefit shall be extinguished by the statute of limitation when 5 years have passed (from the victim died of occupational disease). There were many such cases when survivors became aware after the Kubota Shock.
- Set by Asbestos Victims Relief Law (taken into force on March 27, 2006)
- Administered by Ministry of Health, Labour and Welfare (MHLW) and its Labour Standard Offices
- Financed by National Special Account for Workers Compensation Insurance (premiums from all employers)
- Objected person are ONLY bereaved families (the victim died/will die before March 27, 2016 and his/her family didn’t apply for workers compensation scheme within 5years after the victim’s death)
- Covered diseases are mesothelioma, lung cancer, asbestosis, diffuse pleural thickening and benign asbestos pleural effusion
- Benefits are Special Survivors Pension or Special Survivors Lump-sum Allowance
- Limitation for the application is March 27, 2022

**Relief for non-employee cases (Fig.34, 35 & 36-39)**
- There were many cases not covered by the Workers Compensation schemes.
- Set by Asbestos Victims Relief Law (taken into force on March 27, 2006)
- Administered by Environmental Restoration and Conservation Agency (ERCA) under Ministry of the Environment (MOE)
- Financed by newly established Asbestos Victims Relief Fund (all employers and ship owners, local and central governments)
- This scheme covers cases not covered by workers compensation schemes including the relief scheme for “statute of limitation expired” cases. This includes cases potentially eligible for workers compensation schemes but the applicants don’t apply for them.
• “Relief in lifetime” - A victim receives Medical Expense for individually paid medical expense (not covered by healthcare insurance) and 103,870 JPY (875 US$) per month of Medical Treatment Benefit. If the victim died his/her bereaved family can receive 199,000 JPY (1,680 US$) of Funeral Expenditure. Also if total amount of Medical Expense and Medical Treatment Benefit paid to the victim was less than 2,800,000 JPY (23,600 US$) bereaved family can receive the amount of difference as Relief Benefit Adjustment Allowance.

• “Relief after death” – If a victim died without applying for the above benefits his/her bereaved family can receive 2,800,000 JPY (23,600 US$) of Special Survivors Condolence Allowance and 199,000 JPY (1,680 US$) of Special Funeral Expenditure.

• Benefits from this scheme are extremely low in comparison to those from workers compensation schemes.

• Covered diseases are mesothelioma, lung cancer, asbestosis with extreme disability of respiratory function and diffuse pleural thickening with extreme disability of respiratory function. For a mesothelioma case if its diagnosis is probable the case is eligible for this scheme.

• Limitations for the application:
  Mesothelioma and lung cancer:
  Died before 2006.3.27 -> until 2022.3.27
  Died before 2008.12.1 -> until 2023.3.27
  Died after 2008.12.1 -> within 15 years
  Asbestosis and diffuse pleural thickening:
  Died before 2010.7.1 -> until 2026.71
  Died after 2010.7.1 -> within 15 years

Problems of compensation/relief schemes (Fig.40)

Situation of Asbestos Compensation in Japan (Fig.41-44)

Please note: in Fig.44 we estimate the mortality of asbestos-related lung cancer as two times of mesothelioma mortality.

Asbestos Litigation in Japan

All above mentioned compensation/relief schemes don’t offer full compensation for asbestos victims and their families and even if they receive those benefits they can seek additional compensation through direct negotiation with responsible persons or asbestos litigation.

Additional compensation/relief schemes for asbestos victims and their families among (former) workers/residents near the Kanzaki plant by Kubota are examples of the former approach (through direct negotiation with responsible persons). Also it is important that the Supreme Court has accepted the right of collecting bargaining of retired workers to former employers on their asbestos issues.

The bellow is a summary on asbestos litigation in Japan:
- There had been less than 20 cases of asbestos litigation before the Kubota Shock in Japan. But it is now increasing more and more. All are civil cases with no criminal case yet.
- Subjected disease in the past litigation was mainly asbestosis as a type of pneumoconiosis (first case was settled in 1980). Major defendants were asbestos manufacturers, shipbuilding industry and US navy (Japanese government).
- As far pneumoconiosis cases, major points in controversy such as “predictable time” (1947-) and “compensation level” (10-30 million JPY (84,000-250,000 US$) as consolation money) are almost being confirmed.

- First asbestos-related lung cancer case was settled in 1997. Supreme Court ruling for the first mesothelioma case was in 2006. However all discussion points for asbestos-related cancer may be not resolved yet.

- Majority was workers cases with few environmental cases and only one domestic exposure case was lost at the Supreme Court in 2005.

- For a case where children were exposed to asbestos at a public nursery school by illegal repair work, local government and contractors paid total 3 million JPY (25,000 US$) as consolation money to 2 children (not suffered from any disease) and their families following recommendation by court in 2005.

- We have attorneys’ groups for asbestos litigation in Japan.

- One of the recent topics is the below supreme court ruling on the government liability on October 9, 2014 and more cases by asbestos victims among (former) construction workers and their families are pending at district/high courts.

The Supreme Court ruled that the government illegally failed to protect workers from asbestos exposure in the past. For a certain regulatory measure, the ruling said the actual timing of its introduction by the government was too late in the light of purpose and nature of deputed authority, then judged it as illegal under the State Redress Act and ordered the government to pay compensation for asbestos victims and their families.

This judgment is for a case of asbestos textile plants and a measure of local exhaust ventilation system. The acknowledged liable period and compensation fraction are limited.

But also there has been three district courts decisions holding the government liability for cases of construction workers and another measure such as protective mask. (Fig.45)
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Japanese Asbestos Import and Domestic Production

Japanese Mesothelioma Mortality

The number of male deaths due to malignant pleural mesothelioma in Japan could reach 58,800 during the next 30 years, and 103,000 during the next 40 years.

After 1986 ILO Asbestos Convention No.162 BANJAN was Established in 1987 as a coalition of trade unions, environment/OSH groups, etc.

BANJAN: Ban Asbestos Network Japan
(http://park3.wakwak.com/~banjan)

Examples of BANJAN’s Activities

- Raising awareness on asbestos hazards
- Banning asbestos as early as possible
- Detection and empowerment of asbestos victims
- Support for/coordination of victims/workers/citizens/others’ initiatives
- Negotiation with the government/relevant parties
- Solidarity with global asbestos campaign
National Network of Victims/Families

- BANJAN Meeting, April 2002
- First Meeting with Ministry of Labour, May 2002
- Establishment of the Association, February 2004
- First National Meeting of Victims and Families, February 2003
- Survivors Spoke Out

Asbestos Victims Groups and Local COSHs in Japan

- Blanch of National Victims Association
- Group of Affected Residents
- Local COSH

In addition groups of former construction workers, plaintiffs of asbestos litigation, etc.
A Japanese Big Asbestos Scandal “Kubota Shock”

79 workers died of asbestos-related diseases for the past 26 years (51 for 10 years). 5 residents near the plant developed mesothelioma, 2 of them have died. The company considers to pay 2 million yen (2,000 US$) to the neighborhood victims or their families although causal relationship between the factory and the disease is still unclear.

June 29, 2005, Mainichi Newspaper
Three meso victims in Amagasaki who spoke up for the first time and their supporters

Dr TEMMYO JOSHRC
Hiroshi IIDA
Amagasaki COSH

Akihiko KATAOKA
Kansai COSH

Kazuko FURUKAWA
National Victims Net

Masako DOI
Keiko MAEDA
Yoshikazu HAYAKAWA
Fig. 17

Comprehensive Measures on Asbestos
Ministers Meeting on Asbestos, December 27, 2005

- Relief for all asbestos victims without omission
  - “Asbestos Health Damage Relief Law”
- Proactive measures to prevent further health effects
  - Removal of asbestos from existing facilities
  - Prevention of emission and exposure during demolitions of buildings
  - Appropriate disposal of asbestos wastes
  - Immediate total ban on asbestos
- Relieving anxieties of the public
  including measures for the persons exposed to asbestos
  - Identification of the real situation and active information service for the public
  - Health consultation, etc.
**2005-2006 BANJAN’s Actions**

BANJAN launched One Million Signature Campaign

**Mass Meeting**
31 January, 2006

**Press Conference in the National Diet**
23 January, 2006

Rally to the National diet
31 January, 2006

BANJAN launched One Million Signature Campaign

KUBOTA president met neighborhood victims and their families and officially apologized on December 25, 2005.
Epidemiological Study

N Kurumatani and S Kumagai,

Epidemiological study on Mesotheliomas occurred among residents living/had lived in the vicinity of former KUBOTA Kanzaki plant in Amagasaki City (Japanese), April 13, 2006.

Mapping the Risk of Mesothelioma due to Neighborhood Asbestos Exposure (English), American Journal of Respiratory and Critical Care Medicine, Vol.178, 2008

Environment Asbestos Victims and Their Families in Amagasaki

united themselves into a branch of the national victims network and started direct negotiation with KUBOTA
KUBOTA finally agreed to set up “relief” scheme (ranging 25-46 million JPY per victim)
A press meeting on April 17, 2006
Asbestos Consumption at the Kubota former Kanzaki Plant

- Chrysotile
- Crocidolite

1954-1975 Cement Pipes
1971-1997 Housing Materials

1979 1st Asbestosis Death
1986 1st Mesothelioma Death

Compensated ARDs deaths among Kubota Workers as of March 31, 2015

- Other Asbestos Diseases 117 (death 98, survivor 19)
- Mesothelioma 76 (death 74, survivor 2)
- Total 193 (death 193, survivor 21)

1975 Stop to use Crocidolite
1995 Stop to use Chrysotile

Including 20 cases (death 14, survivor 6) from other than Amagasaki plant

Survivors
Fig. 25
Compensated ARDs deaths among Residents near Kubota’s Amagasaki plant as of June 15, 2015

Survivors

- Female 160 (death 148, survivor 12) (Meso 157, LC 2, Asbestosis 1)
- Male 138 (death 123, survivor 15) (Meso 133, LC 5)
- Total 298 (death 271, survivor 27) (Meso 290, LC 7, Asbestosis 1)

Including 21 cases (death 17, survivor 4) for which negotiation is still continuing

1975 Stop to use Crocidolite
1995 Stop to use Chrysotile

Fig. 26
Asbestos Consumption and Compensated ARDs Deaths

- Total Asbestos Consumption
- Compensated ARDs deaths among workers
- Compensated ARDs deaths among residents
### Compensated ARDs Deaths

<table>
<thead>
<tr>
<th>Age</th>
<th>ARDs deaths among workers (as of March 31, 2015)</th>
<th>ARDs deaths among residents (as of June 15, 2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Male</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>40-49</td>
<td></td>
<td>16</td>
</tr>
<tr>
<td>50-54</td>
<td></td>
<td>16</td>
</tr>
<tr>
<td>55-59</td>
<td></td>
<td>22</td>
</tr>
<tr>
<td>60-64</td>
<td></td>
<td>22</td>
</tr>
<tr>
<td>65-69</td>
<td></td>
<td>25</td>
</tr>
<tr>
<td>70-74</td>
<td></td>
<td>42</td>
</tr>
<tr>
<td>75-79</td>
<td></td>
<td></td>
</tr>
<tr>
<td>80+</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>172</td>
</tr>
</tbody>
</table>

### Meso Mortality In Amagasaki

<table>
<thead>
<tr>
<th>Year of Death</th>
<th>Meso Mortality in Amagasaki</th>
<th>Compensated Meso Deaths</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M</td>
<td>F</td>
</tr>
<tr>
<td>2002</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>2003</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>2004</td>
<td>13</td>
<td>7</td>
</tr>
<tr>
<td>2005</td>
<td>17</td>
<td>5</td>
</tr>
<tr>
<td>2006</td>
<td>14</td>
<td>9</td>
</tr>
<tr>
<td>2007</td>
<td>23</td>
<td>6</td>
</tr>
<tr>
<td>2008</td>
<td>17</td>
<td>11</td>
</tr>
<tr>
<td>2009</td>
<td>16</td>
<td>5</td>
</tr>
<tr>
<td>2010</td>
<td>18</td>
<td>8</td>
</tr>
<tr>
<td>2011</td>
<td>25</td>
<td>18</td>
</tr>
<tr>
<td>2012</td>
<td>20</td>
<td>11</td>
</tr>
<tr>
<td>2013</td>
<td>20</td>
<td>13</td>
</tr>
<tr>
<td>2014</td>
<td>0</td>
<td>8</td>
</tr>
<tr>
<td>Total</td>
<td>202</td>
<td>104</td>
</tr>
</tbody>
</table>
Residence Places of ARDs victims in Amagasaki covered by New Relief Scheme for Non-Employee Cases from March 27, 2006 to March 31, 2013

Cases died before March 27, 2006 = 120

Cases died after March 26, 2006 or survival = 196

9th Anniversary of Kubota Shock
June 28, 2014
Workers Compensation Insurance

● Even if a worker suffers from an occupational disease after separation or retirement from the job in which he/she had been exposed to a hazard, he/she can receive compensation benefits.

● **Covered diseases:** mesothelioma, lung cancer, asbestosis, diffuse pleural thickening, benign asbestos pleural effusion and other disease which were apparently caused by the works

● **Benefits:**
  - Medical Compensation Benefit
  - Absence Compensation Benefit (80% of wage)
  - Survivors Compensation Benefit (pension)
  - Funeral Expenditure
Relief for “Statute of Limitation Expired” Cases

- Workers Accident Compensation Insurance Law prescribes that the entitlement to survivors’ compensation benefit shall be extinguished by the statute of limitation when 5 years have passed (from the victim died of occupational disease).
- There were many such cases when survivors became aware after the Kubota Shock.
- **Covered diseases:** mesothelioma, lung cancer, asbestosis, diffuse pleural thickening and benign asbestos pleural effusion
- **Benefits:** almost equivalent to workers’ compensation insurance benefits

Relief for Non-Employee Cases

- There were many cases not covered by the workers compensation schemes.
- **Covered diseases:** mesothelioma, lung cancer, asbestosis (since March 2006) and diffuse pleural thickening with extreme disability of respiratory function (since July 2010)
- **Benefits:** extremely low benefits compared to workers’ compensation insurance benefits
  - A victim can receive 103,870 JP Yen (875 US $) per month + 199,000 JP Yen (1,680 US $) of funeral expenditure when the victim died (Relief in Lifetime)
  - If a victim died without applying for benefits survivors of the victim can get approx. 3 million JP Yen (24,600 US $) (Relief after Death)
Asbestos was used over a long period, widely and in great quantities, in economic activities in Japan. Asbestos-related diseases have a long latency period, which makes it difficult to identify causal relationship. So far, victims have difficulties in getting compensation.

But.

Health damage by asbestos is existing and increasing, and It (especially mesothelioma) is difficult to cure, if no action is taken, the victim is going to die without any relief.

So new relief law was enacted.

This is not a compensation based on liability for damage, but a relief like consolation payment from a viewpoint of social security.

– explanation by the government.

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Asbestos Compensation / Framework

<table>
<thead>
<tr>
<th>Non-Employee Case</th>
<th>Employee Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relief in Lifetime</td>
<td>Relief after Death</td>
</tr>
<tr>
<td>Relief for “Statute of Limitation expired” Case</td>
<td>Workers Compensation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Law</th>
<th>Asbestos Victims Relief Law</th>
<th>Workers Compensation Insurance Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Resource</td>
<td>Asbestos Victims Relief Fund (All employers and ship owners, local and central governments)</td>
<td>National Special Account for Workers Compensation Insurance (Premiums from all employers)</td>
</tr>
<tr>
<td>Object Person</td>
<td>Victim (for bereaved family, funeral expenditure only)</td>
<td>Bereaved Family</td>
</tr>
<tr>
<td></td>
<td>Bereaved Family</td>
<td>Victim AND Bereaved Family</td>
</tr>
</tbody>
</table>
# Asbestos Compensation / Benefits

<table>
<thead>
<tr>
<th>Covered Diseases</th>
<th>Non-Employee Case</th>
<th>Employee Case</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Relief in Lifetime</td>
<td>Relief after Death</td>
</tr>
<tr>
<td>Mesothelioma</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lung cancer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asbestosis</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diffuse pleural thickening</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other diseases</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Covered Diseases

<table>
<thead>
<tr>
<th>for Victim</th>
<th>Non-Employee Case</th>
<th>Employee Case</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Relief in Lifetime</td>
<td>Relief after Death</td>
</tr>
<tr>
<td>Medical expense + 103,870 JPY per month</td>
<td>—</td>
<td>—</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>for Bereaved Family</th>
<th>Non-Employee Case</th>
<th>Employee Case</th>
</tr>
</thead>
<tbody>
<tr>
<td>199,000 JPY of funeral expenditure</td>
<td>2,800,000 JPY of condolence money + 199,000 JPY of funeral expenditure</td>
<td>According to the number of eligible dependents and other factors, 2,400,000 JPY (1 dependant) to 3,300,000 JPY Yen (4 dependants or more) of pension OR 12,000,000 JPY of lump sum (0 dependent)</td>
</tr>
<tr>
<td>199,000 JPY of funeral expenditure</td>
<td>153 days (1 dependant) to 245 days (4 dependants or more) of the victim's average daily wage + 3,000,000 JPY OR 12,000,000 JPY of lump sum (0 dependent)</td>
<td></td>
</tr>
</tbody>
</table>

---
Time Limitation for the Application

<table>
<thead>
<tr>
<th>Time Limitation</th>
<th>Medical Expense</th>
<th>Relief for &quot;Statute of Limitation expired&quot;</th>
<th>Workers Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Employee Case</td>
<td>Relief in Lifetime</td>
<td>Relief after Death</td>
<td></td>
</tr>
<tr>
<td>Medical expense -&gt; within 3 years</td>
<td>—</td>
<td>—</td>
<td>Medical expense etc. -&gt; within 2 years</td>
</tr>
<tr>
<td>Employee Case</td>
<td>Relief after Death</td>
<td>Relif for &quot;Statute of Limitation expired&quot;</td>
<td>Workers Compensation</td>
</tr>
<tr>
<td>Medical expense etc. -&gt; within 2 years</td>
<td>—</td>
<td>—</td>
<td>Survivors benefits -&gt; within 5 years</td>
</tr>
</tbody>
</table>

Problems of Compensation/Relief Schemes

- Level of relief for non employee cases is extremely low in comparison to workers compensation schemes
- Coverage of compensable diseases is insufficient
- "Statute of limitation" problem is still not wholly resolved (elimination of the deadline for application is needed)
- Too late decision for payment often after victim died
- Lack of mesothelioma register and long term health monitoring system for ALL exposed
- Too much burden of proof for victims and their families
- Often too strict pathological “probability” of diagnosis is required for mesothelioma case
- Too strict "medical criteria" for lung cancer especially in non employee case
- Disregard of the importance of information on (presumed) exposure history especially in non employee case
- Representative of victims and families is not involved in administration of relief/compensation scheme
AR Lung Cancer: Compensated Number by compensated year

AR Lung Cancer: Compensated Number by year of death

As of the time point of March 31, 2013
Supreme Court ruling on the Gov Liability  
October 9, 2014

The Supreme Court ruled that the government illegally failed to protect workers from asbestos exposure in the past. For a certain regulatory measure, the ruling said the actual timing of its introduction by the government was too late in the light of purpose and nature of deputed authority, then judged it as illegal under the State Redress Act and ordered the government to pay compensation for asbestos victims and their families.

This judgment is for a case of asbestos textile plants and a measure of local exhaust ventilation system. The acknowledged liable period and compensation fraction are limited.

But also there has been three district courts decisions holding the government liability for cases of construction workers and another measure such as protective mask.

- Fair and equal compensation for all asbestos victims and their families
- Asbestos free society/environment for achieving the elimination of ARDs (goal setting with road map and implementation structure)
- Global ban on asbestos and elimination of ARDs

10th Anniversary of National Network of Victims/Families  
October 4, 2014
### Compensation for Non-Employee Case -1

<table>
<thead>
<tr>
<th>France</th>
<th>Japan</th>
<th>Belgium</th>
<th>Netherlands</th>
<th>UK</th>
<th>Korea</th>
</tr>
</thead>
<tbody>
<tr>
<td>FIVA (le Fond d'indemnisati on des Victimes de l'amiante)</td>
<td>Asbestos victims relief fund</td>
<td>AFA (Fonds d'indemnisation des victimes de l'amiante)</td>
<td>TNS (Tegemoetkaming Niet-loonidien stgerelateerde Slachtoffers van mesothelioom)</td>
<td>Diffuse Mesothelioma Payment scheme</td>
<td>Asbestos victims relief fund</td>
</tr>
<tr>
<td>FIVA</td>
<td>ERCA</td>
<td>AFA</td>
<td>IAS (Institute for Asbestos Victims)</td>
<td>Jobcentreplus Barrow IIDB</td>
<td>KECO</td>
</tr>
</tbody>
</table>

### Compensation for Non-Employee Case -2

<table>
<thead>
<tr>
<th>France</th>
<th>Japan</th>
<th>Belgium</th>
<th>Netherlands</th>
<th>UK</th>
<th>Korea</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special organization for all asbestos victims</td>
<td>New relief scheme operated by compensation for public pollution victims</td>
<td>New compensati on scheme operated by workers compensatio n</td>
<td>New compensatio n scheme operated by specific organization</td>
<td>Expansion of workers compensation scheme</td>
<td>New relief scheme operated by specific organization</td>
</tr>
<tr>
<td>All including Pleural Plaque</td>
<td>Meso, Lung Cancer, Asbestos and Diffuse Pleural Thickening</td>
<td>Meso and Asbestos</td>
<td>Meso only</td>
<td>Meso only</td>
<td>Meso, Lung Cancer and Asbestos</td>
</tr>
</tbody>
</table>