

<b>Health and Safety Commission Paper</b>		<b>MISC/03/36</b>	
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## **HEALTH AND SAFETY COMMISSION**

### **Update on Able UK importation of ships for recycling**

#### **A Paper by John Thompson**

**Advisor(s): Bill Macdonald and Helen Smart**

#### **Issue**

1. To present the Commission with a chronology of events relating to the decision to grant an exemption to the Asbestos (Prohibitions) Regulations to Able UK to allow the importation of ships from the USA for the purposes of decommissioning, and to update them on the latest developments.

#### **Timing**

2. Routine

#### **Recommendation**

3. The Commission is invited to note the chronology (see annex), and the most recent events set out in this paper.

#### **Background**

4. Able UK Ltd contacted HSE in May 2003 requesting an exemption to the Asbestos (Prohibitions) Regulations to enable the importation of ships for recycling. Following consultation with local MPs, Hartlepool Borough Council, the Government Office for the North East, Environment Agency (EA) and Able UK's own workforce the decision to grant the exemption was made on 25 July 2003. The company were informed that the exemption would be subject to strict conditions.
5. The conditions to the exemption were based on a quantitative risk assessment carried out by HSL. The exemption certificate and conditions were sent to the Company on 5 September 2003.
6. Hartlepool Borough Council dispute Able UK's view that they have permission to build a bund to create a dry dock. The lack of dry dock facilities renders void a modification to the Waste Management Licence issued by the EA to allow the work to take place.

This, in turn invalidates the transfrontier shipment of waste permission, also granted by EA, thus illegitimising the transport of the ships from the US to the UK.

7. Four of the ships set sail from Virginia in early October 2003. They arrived in UK waters in early November. At the same time, Friends of the Earth obtained a High Court injunction to prohibit work on the ships until legal questions were resolved. The court will review the situation at a hearing in early December. EA determined that the ships should return to the US. However, the Maritime and Coastguard Agency said that weather conditions at this time of year and the prevailing winds made this undesirable. Consequently the four ships went to Teesside, where they will remain awaiting the outcome of the court hearing.

## **Argument**

8. There is general agreement between the relevant government departments and agencies (Maritime and Coastguard Agency, Department for Transport, Environment Agency, DEFRA and HSE) on the need for a co-ordinated policy allowing the recycling of ships at the end of their working life. This would make it less likely that ships would be broken up without due regard to health and safety and the environment, possibly in less developed countries, or continue to be sailed beyond assured seaworthiness, a growing international problem.
9. A cross-government approach is being developed by officials.
10. HSE has just reviewed the exemption granted to Able UK. This review considered whether any of the elements which affected the ability of Able UK to meet minimum health standards had changed, or whether the factors which over-rode the presumption against granting an exemption had altered. It took notice of any additional factors that have come to light since the original decision was made. This was not intended to re-evaluate the original decision but to determine whether there were now grounds to consider revocation of the exemption certificate. The review concluded that the basic health and safety position had not altered. At present the certificate stands.
11. HSE will continue to keep the exemption under review in respect of both the four ships currently in UK waters and the remaining nine still in Virginia.
12. There has recently been discussion concerning whether the COMAH regulations (which deal with major hazards) may apply to this project, although they were not designed to deal with asbestos stripping or ship decommissioning.
13. There has been some vociferous local opposition to the Able UK project and Hartlepool Borough Council have voiced their objection. On the other hand, in recent weeks much of the local press and some national media coverage has been positive about the contract, emphasising that these are just quite ordinary ships and do not contain 'toxic cargo' as had been previously implied by pressure groups. In addition, Peter Mandelson, MP for Hartlepool and Ray Mallon, the Mayor of nearby Middlesbrough, have publicly supported the contract.
14. On Wednesday 19 November the Environment, Food and Rural Affairs Parliamentary Committee took evidence about the issues surrounding and decisions made in relation to this project. Witnesses present were Peter Mandelson MP, Elliot Morley MP and the Chairman and senior managers from the Environment Agency. The Committee asked

for additional papers to be submitted for their information. No clear indication of the outcome has yet been published.

15. A letter from the EC Environment Commissioner to Margaret Beckett and an enquiry from the EC was received by DEFRA, unconnected with the planning permission dispute. This enquiry was answered by DEFRA, who continue to keep the EC fully informed. The position is not straightforward because the legal background is complex and, in part, it awaits the outcome of the court case.

### **Consultation**

16. As discussed above, HSE has been in consultation with a number of other government departments and agencies including EA concerning both this case and the wider issues it touches upon.
17. HSE has also kept the Minister and Hartlepool Council informed of its actions throughout the process.

### **Presentation**

18. HSE press office has been kept involved and informed at all stages of the case. There is frequent media contact and lines to take are mutually agreed between policy and press office.

### **Costs and Benefits**

19. Not applicable.

### **Financial/Resource Implications for HSE**

20. Not applicable.

### **Environmental Implications**

21. In this case, this is within the locus of the Environment Agency.

### **Other Implications**

22. Not applicable.

### **Action**

23. Commissioners are asked to note the issues and actions described within this paper.