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**TEXTILES INDUSTRY ADVISORY COMMITTEE**

**PROPOSAL TO REVOKE THE ANTHRAX PREVENTION ORDER 1971**

**Issue**

1. The Health and Safety Executive (HSE) plans to put a proposal to the Health and Safety Commission in 2003/2004 to ask them to revoke the Anthrax Prevention Order (APO) 1971 and associated legislation. This paper is to allow TEXIAC an opportunity to comment on this proposal and to develop its advice to the Health and Safety Commission on this matter.

**Timing**

2. Immediate

**Recommendation**

3. It is proposed that TEXIAC agrees to support the HSE’s proposal to revoke the Anthrax Prevention Order 1971 and associated legislation on the grounds that the Order is anachronistic and the potential risks from anthrax are already addressed by COSHH 2002.

**Background**

4. The APO operates by prohibiting or placing conditions on the importation of animal hair products declared “likely to be infected with anthrax” (chiefly goat hair, including mohair and cashmere and wool from Egypt and the Sudan). The Anthrax Prevention Order 1971 (Exemptions) (APO(E) Regulations 1982 permit HSE to exempt persons or goods from any requirement or prohibition imposed by the APO, provided that the health and safety of those likely to be affected would not be prejudiced.
5. Under the APO and APO(E) three categories of product are admitted:
  - a. material which has undergone disinfection abroad by a HSE approved method or which is to undergo disinfection in an approved process in the UK. (Only one disinfection station is approved – Traitex in Belgium. There is no disinfection facility in GB operating at the moment.)
  - b. material disinfected by an unapproved method, which has been sampled, tested and shown to be free from anthrax.

- c. low risk materials subject to documentary controls (eg from China and USA).
6. Following the review of regulation, in which the HSC identified the APO as "*legislation that is not relevant or necessary*", a consultative document (CD101) was published in January 1996 proposing revocation of the APO without replacement. The proposals in the CD generated 9 responses: most were in favour of revocation but two responses representing employers and employees (the Wool Sector Health and Safety Committee (WSHSC) and the Confederation of British Wool Textiles (CBWT) Ltd respectively), expressed opposition to the APO's removal, mainly on health grounds. **The Commission agreed in September 1996 to revocation, but, owing to industry opposition, did not set a date.**
7. In January 1997, HSE reported back to the Commission on the progress with the new guidance it was preparing on Anthrax and further consultation with the industry. It was decided that although the case for revocation had been made, the Commission would not pursue revocation in the face of continued industry opposition, but to review when appropriate. HSE were asked to complete work on the new guidance and to take steps to ensure the consistent application of the Control of Substances Hazardous to Health Regulations (COSHH) to control the anthrax infection risk.
8. HSE's Anthrax guidance – "Anthrax: Safe working and the prevention of infection" – was published in 1997.
9. There have been 2 cases of cutaneous anthrax in textile workers since 1975, none involving death. The disease is easy to treat with antibiotics and full recovery is normal.

## Argument

### For revocation

10. The view of the Textiles Sector Group and HSE's Biological Policy Unit is that the APO is no longer credible as a strategy for controlling anthrax:
  - a. The APO was written for the goat hair trade of 30 years ago when high risk, raw or greasy goat hair made up a significant proportion of imports, Great Britain had several disinfection facilities and only a handful of sea ports were used to handle goat hair cargoes.

The trade is now very different. Raw or greasy goat hair has not, to our knowledge, been imported for about 5 years with the result that the only remaining company offering disinfection has recently 'mothballed' its disinfection plant. (Countries such as Iran and Pakistan now add value to their products by carrying out their own scouring and disinfection.) The 5 'designated ports' in the APO (3 of which are only permitted to handle goat hair goods in containers) no

longer meet the trading needs of importers. Goods are now just as likely to arrive at undesignated ports such as Tilbury or as part of a mixed cargo at airports such as Leeds-Bradford or at designated container ports in curtain sided vehicles.

- b. The APO contains anomalies that weaken it as a risk control measure. It applies to imports of wool and animal hair from Egypt and Sudan yet imports of wool and animal hair from countries with regular anthrax outbreaks, such as Afghanistan, are unrestricted. This has led to the mistaken belief that countries and material not covered by the APO are free from risk and no additional control measures to protect employees are necessary.
- c. The APO imposes restrictions and prohibitions that have little to do with health and safety. For example, the ban on the importation of goat hair tops and yarns is little more than a trade protection measure. Tops and yarns are now commonly imported but it is not generally realised by importers that each consignment requires an exemption from the APO.
- d. The application of the APO to any material entering GB from EU Member States has been completely relaxed. This means that material entering GB that has been cleared by Customs in another EU country can avoid the APO's requirement for disinfection. This is particularly relevant in the case of imports from Italy which does not require goat hair to be disinfected.
- e. It is also possible to avoid the requirement for disinfection in other ways. The Schedule to the APO contains a list of goods that are not subject to prohibition or restriction. For example, China cashmere with proof of origin, is exempt. There is recent evidence that goods from countries such as Iran, where anthrax is endemic, are imported into China and then legitimately exported as goods of 'China' origin. Any anthrax risk would not therefore be dealt with by the APO.
- f. The APO creates no offence and HSE has no powers to prosecute for non-compliance. Action could be taken under Customs law, but to our knowledge, this has never been actively pursued. In fact, the importation of goat hair no longer triggers a reference to the APO on HMC&E's computer system so its application generally depends on the knowledge and vigilance of individual customs officers. This is evident from the requests received for exemption certificates; whilst Leeds Bradford airport appears to routinely enforce the APO, other ports, which we know handle significant imports of goat hair, do not appear to have done so.
- g. The APO interferes with employers' duties under COSHH. Despite the publication of the guidance in 1997, recent inspections have found that the industry continues to rely on the APO to protect its workers and has not moved to a COSHH regime. This is of particular concern,

in view of the 'loopholes' through which potentially contaminated material can enter GB.

11. COSHH 2002 already applies to work with material potentially contaminated with anthrax and is sufficient to ensure proper protection of workplace risks. Other equally or more serious infection hazards associated with occupation exposure (such as BSE, rabies, and nipha virus) are controlled by COSHH so there is no reason why anthrax should be singled out for warranting additional legislation.
12. The majority of applications to the Textiles Sector Group under the APO are for 'Certificates of Satisfaction'; these are issued to confirm that the HSE is satisfied that the documentation proves the country of origin to be one to which the restrictions and prohibitions do not apply. This is time consuming, bureaucratic and adds nothing to the control of risk.
13. For imports of goat hair or products containing goat hair, Certificates of Exemption can be issued either with or without conditions depending on the anthrax risk in the country of origin. The issue of unconditional certificates is simply a paperwork exercise.

#### Against revocation

14. In meetings with the 'Hairs Committee' convened by the Confederation of British Wool Textiles as representative of the goat hair industry, various arguments have been put in support of keeping the APO.
  - a. The APO has virtually eliminated the incidence of anthrax infection in those working with goat hair.

*It is difficult to prove that the APO has been solely responsible, but it is more likely that the reduced incidence owes more to better animal husbandry and veterinary controls, including the vaccination of animals, in the main exporting countries. This argument is supported by the virtual elimination of anthrax cases in persons handling hides in tanneries where there are no similar import restrictions.*

- b. The industry and its workers are happy that the APO works so why get rid of it.

*The APO only works because HSE has applied a liberal interpretation and used its powers of exemption to fit with changing circumstances; if it were to be applied as originally intended the industry would be severely disadvantaged. Industry support for the APO is based on maintaining the custom and practice that has developed over the years. However, a piece of legislation that works mostly through exemptions is of questionable value.*

- c. APO creates a perceived barrier that discourages 'rogue' traders from attempting to import undisinfected material into GB. The removal of

the APO would send a signal to exporters that GB no longer required disinfection of goat hair. It would also undermine the bargaining position of British importers.

*There are already legitimate ways in which unscrupulous (and even scrupulous) traders can avoid the requirement for disinfection. The removal of the APO would not mean an end to disinfection; it would transfer the onus to employers to disinfect material on the basis of actual risk rather than on the unreliable basis of narrow prescription as at present.*

- d. Import controls address the risk higher up the supply chain and are therefore more effective than controls in the workplace.

*If the import controls in the APO addressed actual risk this would be a valid argument; unfortunately, potentially contaminated material can by-pass the APO's control because it do not fit the APO's definitions or comes in to GB via the EU.*

- e. Publicity surrounding revocation will generate fears in the general public who associate anthrax with biological warfare. This could undermine confidence in mohair and cashmere products and have a damaging effect on a struggling industry.

*Whilst this is not perhaps the most timely opportunity to return to the issue of revocation, there are sound health and safety reasons for doing so. Revocation of the APO does not mean that controls are being relaxed; merely that the legislation is out of date and COSHH offers a better framework of control. Furthermore, although we are sympathetic to the industry's plight, it is not within HSE's remit to protect its commercial interests*

- f. Small firms do not have the resources to assess the risks and adopt appropriate COSHH controls.

*We are not seeking additional measures to those already required by COSHH and the APO, merely to transfer responsibility to where it should rightly lie, ie with the importers and users, not with HSE. It is also unfair on the rest of British industry for HSE to subsidise the costs of risk control for one industry.*

*The main additional costs on industry would be for sampling and testing, which are about £50 per sample. Only a handful of companies import material that requires sampling and the increased costs are not large when compared with the value of the material concerned.*

*Those companies (currently 4) that have been granted Period Exemption Certificates from the requirements of the APO have not found the cost of sampling unduly burdensome and one uses it to*

*good commercial advantage by having samples sent to Britain for analysis before the consignment leaves the country of origin. Another company is able to hold the material in its own warehouse, rather than in a bonded store at the port of entry, thus avoiding demurrage costs whilst the samples are analysed.*

### **Options on the Way Forward**

15. One option, which HSE has investigated, is the possibility of amending the UK Animal Import Regulations (which implement the Balai Products Directive) to place conditions on the importation of goat hair and wool from high risk areas, similar to those in the APO. Exploratory talks were opened with DEFRA (the sponsoring department for these Regulations) but at a meeting in September 2002, HSE was advised that DEFRA could not support amendment of the Regulations nor the use of Trader Information Documents to take account of any special conditions on the importation of goat hair and wool. Also, DEFRA strongly indicated that any suggestion of using Government vets to take samples of goat hair for analysis would not be supported.

This option therefore, will not be pursued further.

16. There are 2 remaining options on the way forward:
  - a. Option 1 – to leave things as they are. This is least acceptable to HSE because it means we obliged to continue to allocate resources to administer a highly flawed bureaucratic system (which also imposes an unnecessary paperwork burden on importers) and which is getting in the way of employers discharging their responsibilities to their employees under COSHH.
  - b. Option 2 – to revoke the APO and related legislation and work with the industry to help them fully adopt the principles outlined in COSHH. Such an approach will ensure that all the risks to workers and others associated with this process are assessed and controlled. To this end, HSE is prepared to work with the industry to develop model risk assessments for work with potentially contaminated material. These will provide industry with a 'route map' of the risks from different materials and countries of origin, and the level of sampling and control measures needed to be applied to protect their workers.

### **What happens next?**

17. A paper representing the views of HSE's Textiles Sector Group and Biological Policy Unit will be presented to the HSC in September 2003. This will advocate the revocation of the APO but will take account of the views of TEXIAC.

If there is continued industry opposition and the HSC is persuaded not to

revoke the APO, then HSE could recommend that HSC/E take steps to return the APO and related legislation to the sponsoring Government Department. Our argument will be that this legislation no longer complements the principles in health and safety legislation.

The receiving Department will then be responsible for determining if and how they wish to administer the APO.

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