

INQUIRIES ACT 2005

**PUBLIC INQUIRY INTO EXPLOSION AT THE FACTORY OWNED BY THE ICL
GROUP OF COMPANIES AT GROVE PARK MILLS, MARYHILL, GLASGOW ON
11TH MAY 2004**

CLOSING STATEMENT BY COUNSEL TO THE INQUIRY

Roy L Martin QC

**Jillian Glass,
Solicitor to the Inquiry**

Introduction

The purpose of this statement is to identify the principal issues which require to be resolved and upon which Inquiry Counsel consider that it is likely that the Chairman will wish to make findings and upon which he may make recommendations, and to give an indication to Core Participants of these matters now so as to allow any additional oral submissions to be made today and beyond those which are about to be delivered.

The first list of issues comprises those which Inquiry Counsel have identified as relating to the likely findings in fact based upon the evidence which has been led in Phase One and Phase Two. The second list comprises those matters which remain to be resolved in respect of the recommendations made by Mr Sylvester-Evans and following all of his evidence in Phase Two.

The matters to be referred to are not intended to be comprehensive of all of the issues upon which findings may be made, but rather to relate to those which appear to Inquiry Counsel to require to be addressed following the conclusion of the evidence. This is done by identifying the nature of the issue in question and not by making any substantive submission.

Issues to be resolved in respect of findings in fact

- The occurrence of the explosion and the cause of that explosion.
- The effects of the explosion on the building.
- The corporate structure and ownership of the ICL group of companies, in particular, ICL Plastics Limited ("ICL Plastics") and ICL Tech Limited ("ICL Tech") and the respective responsibilities of these companies.
- The respective responsibilities of the directors of ICL Plastics and ICL Tech for issues

relating to health and safety.

- The legal and practical circumstances of the creation of the LPG installation at Grovepark Mills in 1969.
- The installation of the pipework carrying LPG in 1969.
- The raising of the yard in the early 1970's and the effects on the LPG installation.
- The original construction and layout of the pit area located to the west end of the mill building, and the work carried out in or about 1980 to add a new steel floor at ground floor level.
- The effects on the LPG installation of the construction of the steel floor at ground floor level.
- The inspections of the LPG installation by Mr Gunn of the HSE in 1981-82, the recommendations made to ICL Tech as a result and the adequacy of those inspections and recommendations.
- The steps taken by Mr Stott and Mr Downie of ICL Tech and ICL Plastics respectively to comply with the recommendations made by the HSE in 1982 and the adequacy of those steps.
- The steps taken by the HSE to ensure that ICL Tech complied with the HSE's recommendations and the adequacy of those steps.
- The inspections of the LPG installation by Mr Ives and Mr Tyldesley of the HSE in 1988 and the recommendations made to ICL Tech in 1989 as a result.
- The attitude of Mr Stott and Mr Downie of ICL Tech and ICL Plastics respectively to those recommendations.
- The involvement of Calor on behalf of ICL Tech in dealing with the HSE and in making counter-proposals to the HSE's recommendations.
- The proposal by Calor Gas to test the LPG pipework by external examination and

pressure testing.

- The response of Mr Stott of ICL Tech to the discussions between the HSE and Calor and the HSE recommendations.
- The willingness on the part of HSE Inspectors to depart from their recommendation to excavate and examine the buried LPG pipework.
- The steps taken by ICL Tech to comply with the HSE's recommendations and the adequacy of those steps.
- The steps taken by the HSE inspection regime to follow-up the agreement which was reached with Calor to ascertain the condition of the buried LPG pipework.
- The change of LPG supplier by ICL Tech in about 1998, from Calor to Johnston Oils Limited.
- The installation of the new LPG tank by Johnston Oils.
- The further work and inspections carried out by Johnston Oils on the LPG installation in the period from 1998 to 2004.
- The responsibilities of ICL Plastic and ICL Tech with regard to the underground LPG pipework in the period from 1969 to 2004, and the steps, if any, taken by them to comply with those responsibilities.
- The risk assessments carried out by ICL Tech in the period between 1996 and 2002 and the adequacy of them in relation to the underground pipework.
- ICL Tech's choice of the individuals entrusted with carrying out those risk assessments and the experience of those individuals.
- The adequacy of the systems adopted by HSE to ensure that follow-up visits which had been noted were carried out.
- The steps taken by the HSE to ensure that information concerning significant events relevant to the safe storage use and of LPG, in particular information concerning the

explosion at Daventry in 1987, was brought to the attention of HSE Inspectors who ought to have been aware of it.

- The adequacy of the HSE inspection regime with regard to the continuing existence of the buried LPG pipework between 1989 and 2004.
- Whether the HSE have taken adequate steps since 2004 to ensure that inspectors are aware of the dangers surrounding underground metallic LPG pipework.
- Whether the HSE have taken adequate steps since 2004 to ensure that information regarding incidents, in particular, those involving LPG, is disseminated to inspectors.
- The reasons why the HSE departed from the inspection regime described in the guidance FIC 286/43 in 1980 and provided a less specific regime in subsequent guidance documents despite being aware of the fact that the corrosion of buried metallic LPG pipework was potentially more serious with the passage of time.

Matters in respect of recommendations

The Inquiry will require to consider the extent to which the recommendations put forward by Mr Sylvester-Evans should be adopted. It is noted that there appears to be little or no disagreement regarding many of the recommendations, for example, those relating to the introduction of a strategy to replace all buried metallic LPG pipework, safety dossiers, the provision of more detailed guidance on how to fulfil statutory duties, the improvement of communication between LPG suppliers and users and the collation of data regarding LPG incidents. The following is therefore intended to be an indication of those areas in relation to which a difference of view has emerged and where a specific issue may require to be determined.

- Whether there should be a uniform position adopted by the LPG industry as to the point to which an LPG supplier's responsibility for an LPG installation extends.
- If such uniformity is to be recommended, whether there should be a recommendation as to the specific point to which the supplier's responsibility extends (for example, the vapour off-take valve, or the entry to, or exit from, the first stage regulator), or whether the determination of the specific point should be considered further in consultation between the LPG industry and the HSE.
- Whether there should be a recommendation that LPG installations should be marked in such a way (for example, by notice or colour coding) so as to indicate the division of responsibility for the different parts between supplier and user respectively.
- Whether the Gas Safety (Installation and Use) Regulations 1998 should be extended to apply to industrial as well as domestic premises and, if so, whether there ought to be a specific recommendation as to the extent to which they should be so extended or, alternatively, whether that matter ought to be subject to further consideration in consultation between the LPG industry and the HSE.
- Whether there is justification for a verification scheme which requires the users of LPG to have the integrity of installations verified by an independent competent person.
- The appropriate method of accreditation of persons who are required to carry out work on LPG installations, and those who are required to act as an independent competent person for the purposes of a verification scheme.
- Whether legislation ought to be introduced to make it a criminal offence to supply or use a LPG installation which does not have an up-to-date verification certificate.

- Whether further guidance is required to assist dutyholders in considering whether the structural safety of existing buildings is commensurate with the nature and use of the workplace, including foreseeable hazards and risks which arise in the workplace.
- Whether a scheme should be introduced for the registration of LPG suppliers and, if so, whether it should involve some form of accreditation of suppliers.
- The appropriate timescale for the finalisation of a replacement strategy for underground metallic pipework.
- The appropriate timescale for the introduction of other recommendations.
- Whether specific recommendations made by the Inquiry may be brought into force by way of appropriate codes of practice and guidance, or whether primary or secondary legislation is necessary.

13th November 2008

