

ICL PUBLIC INQUIRY

before

THE RIGHT HONOURABLE LORD GILL

Statement of Case on behalf of Johnston Oils Ltd(J Gas)

1. Issues which Johnston Oils Ltd would wish the Inquiry to address having regard to the Terms of Reference, namely:

- *To inquire into the circumstances leading up to the incident on 11 May 2004 at the premises occupied by the ICL group of companies, Grovepark Mills, Maryhill, Glasgow.*

There are no particular issues which Johnston Oils Ltd would wish the Inquiry to address in relation to the first Term of Reference.

- *To consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills.*

The Inquiry is invited to address the regulatory background throughout the period in which Johnston Oils Ltd supplied liquefied petroleum gas(LPG) to ICL at its premises at Grovepark Mills, namely from February 1998 to May 2004, in order to establish the respective duties and responsibilities of Johnston Oils Ltd as suppliers of LPG and ICL as commercial users in relation to the maintenance and inspection of pipework used to carry LPG at the premises, and thereafter to consider the extent to which parties fulfilled their respective obligations.

In particular, the Inquiry is requested to consider the statutory obligations of ICL under the Health and Safety at Work Act 1974 and associated Regulations, namely the Management of Health and Safety at Work Regulations (1992) and (1999), the Pressure Systems and Transportable gas Containers Regulations (PSTGCR) (1994), the Pressure Systems Safety Regulations (PSSR)(2000), the Dangerous Substances and Explosive Atmospheres Regulations (DSEAR)(2000) and (2002) together with the Codes of Practice available to dutyholders, namely the Liquefied Petroleum Gas Industrial Technical Association (LPGITA) Code of Practice No.1, Part 3 entitled "Periodic Inspection and Testing"(1986) and (2000), the Institute of Petroleum(IP) Model Code of Safe Practice entitled "Pressure Piping Systems Examination"(1993).

- *To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident.*

In order that appropriate recommendations can be made to seek to prevent any repetition of the Stockline tragedy it is submitted that it would be of assistance to the Inquiry to consider the following issues:

- The extent to which the existing duties and responsibilities of suppliers and commercial users should be revised;
 - The extent to which it would be desirable and/or feasible that respective duties and responsibilities of suppliers and commercial users should be the same as those which apply where the use is domestic only;
 - The statistics relating to the number of reported escapes of LPG, the causes and consequences;
 - The extent to which it would be desirable and/or feasible that there be introduced an obligation to excavate and/or replace all existing pipework, and if so, upon whom such an obligation should rest;
 - The accuracy of records maintained in relation to the location of buried pipework, the extent to which it would be feasible to improve those records, and if so, upon whom such an obligation should rest.
2. The aspects of the circumstances leading up to the explosion which Johnston Oils Ltd would wish the Inquiry to explore:

There are no particular aspects of the circumstances leading up to the explosion which Johnston Oils would wish the Inquiry to explore.

3. The topics in respect of which Johnston Oils Ltd would wish to participate in the Inquiry:

Johnston Oils Ltd would wish to participate in the examination of the topics identified in the responses set out in paragraph 1 above, and where necessary in order to protect its position, in relation to factual matters relating to the conduct of employees of Johnston Oils Ltd when the Inquiry addresses the circumstances leading up to the incident in May 2004.

4. What it is that Johnston Oils Ltd would wish to seek to establish in respect of each of the topics identified under Heading 3 above:

In relation to those topics which are relevant to any examination of the regulatory background, Johnston Oils Ltd would seek to establish that throughout the period from 1998 to 2004 it complied with its obligations, both contractual and statutory, and that any criticism which may be made of the company in those respects would be inappropriate and unsubstantiated.

In relation to those topics which, it is submitted, are relevant to the consideration of any recommendations which may be made at the conclusion of the Inquiry, Johnston Oils Ltd would wish to ensure that the fullest information is available to the Inquiry in order that practical and effective recommendations may be made.

5. How each proposed topic identified under Heading 3 above would assist the Chairman in fulfilling his terms of reference:

The second Term of Reference is “to consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills”. It is submitted that proper consideration of these issues would necessitate examination of the topics identified as being relevant to the regulatory background, and in particular the respective duties and responsibilities of LPG suppliers and commercial users.

The third Term of Reference is “To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident”. It is clearly desirable that any recommendations made be both practical and effective. It is submitted that consideration of the topics identified under this heading will be of particular assistance to the Chairman in identifying measures which may be both practical and effective.

Peter Gray QC
Compass Chambers
Edinburgh

12 May 2008