

## ICL PUBLIC INQUIRY

before

THE RIGHT HONOURABLE LORD GILL

### Recommendations on behalf of Johnston Oils Ltd (JGas)

1. At the conclusion of Phase 1 of the Inquiry provisional recommendations were made on behalf of Johnston Oils in relation to LPG installations:

#### “New Installations:

Insofar as new installations at commercial premises are concerned it is understood that, whilst in the majority of cases pipework is laid by the supplier of LPG, it is nevertheless open to the customer to make his own arrangements. It is submitted that in order to ensure that pipework is laid to an appropriate standard, it would be desirable if in all cases the supplier was responsible for the laying of the pipework, to certify that the pipework had been laid to an appropriate standard prior to the commissioning of the installation, and to produce as laid drawings identifying accurately the location of pipework. Thereafter, it is submitted that the customer should be responsible for the maintenance of all pipework downstream of the first stage regulator. It is submitted that the mechanics of how such a regime would operate is a matter upon which the Inquiry would require to hear evidence.

Insofar as the maintenance of such pipework is concerned it is submitted that the level of maintenance required is less demanding where the pipework laid is polyethylene. Nevertheless it is submitted that the customer should be required to certify on an annual basis whether the environment in which the pipework was laid has altered in any respect, for example, the laying of tarmac over an area above pipework which had previously been grass, and to provide copies of risk assessments held in relation to the installation including the pipework. It may be that such the record of such certification could be maintained by the supplier. It is

submitted that the mechanics of how such a regime would operate is a matter in respect of which the Inquiry would require to hear evidence.

#### Existing Installations:

The Inquiry heard evidence from a number of witnesses that the condition of buried pipework can only be ascertained accurately by the excavation of that pipework in its entirety. In those cases where it is known that the pipework is polyethylene it is submitted that there would be no necessity to excavate. However, in those cases where LPG was supplied prior to the use of polyethylene it is submitted that the safe oversight of LPG pipework can only be achieved by the introduction of a regime which requires the excavation of, or replacement of that LPG pipework. It is submitted that the mechanics of how such a regime would operate is a matter in respect of which the Inquiry would require to hear evidence.

#### Role of Health and Safety Executive:

The Health and Safety Executive has a crucial role in ensuring compliance with health and safety requirements. The Inquiry heard considerable evidence from employees of the HSE which suggested that in the period with which the Inquiry has been concerned, there were a number of administrative failings together with a lack of resources which rendered the role played by the HSE to be less effective than is desirable for the proper oversight of the commercial use of LPG. It is not known whether those administrative failings and issues of resources have been addressed. However, in order that this aspect of the regulatory regime is effective, it is submitted that it would be appropriate for the Inquiry to hear evidence at Stage 2 of the Inquiry to ascertain what steps have been taken to remedy the deficiencies which were identified in the course of evidence at Stage 1 of the Inquiry”.

2. Since the lodging of those provisional recommendations to which Johnston Oils continues to adhere, Johnston Oils has had the opportunity to consider the most recent

report of Mr Rod Sylvester-Evans, dated 09 September 2008. Johnston Oils does not disagree in principle with any of the detailed recommendations made by Mr Sylvester-Evans and is content to adopt all recommendations made as demonstrated by Mr Alan Elliott on behalf of Johnston Oils in the most recent statement provided to the Inquiry in response to a series of questions relating to issues to be considered in Phase Two of the Inquiry. In particular, it is considered essential that the recommendations made by Mr Sylvester-Evans at paragraphs 3.3.3 and 7.2.4 of his report be adopted to ensure, insofar as is reasonably practicable, compliance with the other measures which he has recommended.

Peter Gray QC

Compass Chambers

Edinburgh

23 September 2008