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Environment, Food and Rural
Affairs Committee

**Dismantling Defunct
Ships in the UK**

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2003–2004**

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Environment, Food and Rural Affairs Committee

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Committee staff

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Contacts

All correspondence should be addressed to the Clerk of the Environment, Food and Rural Affairs Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 5774; the Committee's e-mail address is: efracom@parliament.uk.

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Summary

Ships have a finite working life, at the end of which they need to be dismantled. Much of the material, such as the steel, that makes up a ship can be recycled. Indeed, the scrap value of the metal means that, whilst the ship owner can sell on defunct vessels, the owner loses direct control over how the vessels are dismantled. However, the ships that are now reaching the end of their lives now also contain hazardous materials such as asbestos, PCBs and waste oils which need to be disposed of safely.

Most large ships are currently dismantled in Asia, but health and safety protection for workers and environmental protection standards there are, by the standards of the developed world, often unacceptable. However, there are few, if any, facilities in the developed world that are capable of dismantling the largest ships. Recent experience in Hartlepool, England showed that strong objections might be raised to the development of such facilities.

The regulatory framework that applies to ships as waste, advocated principally by the International Maritime Organisation, is complex and difficult to apply and enforce. Although some welcome first steps have been taken, including the development of voluntary guidelines and the establishment of an international working group, much still needs to be done to create a coherent and effective international regime.

The Government has an important role to play in ensuring this issue receives the necessary international attention and priority, particularly during the United Kingdom's forthcoming EU Presidency and chairmanship of the G8. At that time, the Government will have a significant opportunity to ensure that greater priority is given to this issue and to help to determine a workable set of rules governing the safe dismantling of ships.

At home, the Government must also do everything it can to persuade UK-based ship owners to arrange for their vessels to be disposed of responsibly. It is imperative that, as a first step, it ensures that all naval and other publicly-owned vessels are dismantled to the highest health, safety and environmental standards.

1 Introduction

1. Ships have a finite, albeit long, working life, at the end of which they need to be dismantled. Much of the material they are made from, such as the steel, can be recycled, but many of the ships that are reaching the end of their lives now also contain hazardous materials, such as asbestos, PCBs and waste oils, which need to be disposed of safely.

2. It is estimated that, world-wide, about 700 large commercial vessels are scrapped every year.¹ In addition, a number of naval vessels and smaller coastal transport and fishing vessels are also scrapped. In this inquiry we focussed on the disposal of larger vessels capable of international voyages. The recent decision by the International Maritime Organisation to phase out all single-hulled tankers by 2015 at the latest will increase the number of vessels which will need to be dealt with over the next few years.²

3. There has been growing concern about the health and environmental impacts of ship dismantling: Greenpeace, for example, has been campaigning against the dismantling of ships in poor conditions in Asia.³ There have also been concerns about ship dismantling in England. In 2003, the Committee examined the case of a British company, Able UK Ltd, which had intended to dismantle and recycle redundant ships from the US auxiliary fleet.⁴ The company had entered into an agreement with the ships' owner, the United States Maritime Administration (MARAD) and was granted a trans-frontier shipment permit to import the ships by the Environment Agency. A number of the ships were brought across the Atlantic to Able UK's facility in Hartlepool, County Durham.

4. Objections from the public and environmental groups led to two judicial reviews of the decisions to permit Able UK to take the ships. The reviews ruled that Able UK did not have the necessary permits to carry out the work. Able UK must now conduct further environmental assessments and seek planning permission before it can go ahead. Both the Environment Agency and Defra have conducted reviews of the lessons learned from the Hartlepool situation. It is clear that, although it remains the company's responsibility to ensure that it has all the relevant permits to carry out the work, the regulatory structure governing ship dismantling is highly complex and perhaps little understood.

5. The evidence we heard about Able UK's proposal to dismantle the US ships suggested that a more detailed examination of the wider issues of ship dismantling was necessary. So, on 25 March 2004 we announced a new inquiry with the following terms of reference:

In light of the issues surrounding the dismantling of US Navy vessels on Teesside, the phasing out of single-hulled tankers, and the need to dispose of defunct UK naval vessels, the Committee is undertaking an inquiry into the environmental impacts of dismantling defunct ships in the United Kingdom, and the methods of disposal to be used. In particular the Committee will consider:

¹ Q9

² Ev 69 [International Maritime Organisation], para 4. Most have to be scrapped by 2010 and some—the oldest—by 2005.

³ http://www.greenpeace.org/international_en/campaigns/intro?campaign_id=3990

⁴ Environment, Food and Rural Affairs Committee, *US 'Ghost Ships'*, Minutes of Evidence and Memoranda, HC 1336 Session 2002–03, Ev 39

- what facilities and expertise are already in place in England and Wales to dismantle defunct ships safely
- what is the likely demand for such facilities and what would be the likely economic and environmental impacts of meeting such a demand
- what is the legal status of importing such vessels for dismantling (the Committee will particularly seek to clarify what are the implications for the industry of the Stockholm Convention on Persistent Organic Pollutants), and
- how defunct United Kingdom vessels are currently dealt with, and what plans have been made to cope with their disposal.⁵

6. In response to our call for written evidence, we received 15 memoranda. We took oral evidence in June and July 2004 from: the Chamber of Shipping; Friends of the Earth; Greenpeace; Able UK Ltd; the Environment Agency, and Elliot Morley MP, Minister for Environment and Agri-Environment, Department for Environment, Food and Rural Affairs. We also discussed the matter informally with European Commission officials during a Committee visit to Brussels in July 2004. We are most grateful to all those who submitted evidence or otherwise helped us during the inquiry.

2 How are defunct ships currently dealt with?

7. Most ships from developed countries are sold on before they need scrapping.⁶ Defra told us that:

vessels often change flag and ownership over their lifetime. As a result of UK flag pressure many companies are investing in new tonnage and environmentally friendly/benign technology, whilst selling on older vessels as trading entities. Thus, in practice there are very few vessels going direct from the UK register to dismantling facilities.⁷

8. A similar situation applies to vessels owned by the Ministry of Defence (MOD). Defra told us that the MOD estimated that over the next decade 44 vessels will come out of operation, but said:

once vessels are declared as surplus, MOD policy is to sell ships for continued operation to a new owner, (either to a foreign government or a commercial

⁵ Environment, Food and Rural Affairs Committee, Press Notice 41, Session 2003–04, 25 March 2004

⁶ Ev 1 [Chamber of Shipping], para 3

⁷ Ev 59 [Defra], para 7

customer) wherever this is possible. Thus, only a few vessels are dismantled immediately, with a majority being sold on as operational vessels.⁸

The MOD does intend to dismantle one ship, HMS Intrepid, and has sought bids from UK yards but has had little interest.⁹

9. Most of those ships owned by UK companies that are scrapped are sold for breaking outside Europe, mainly in India, Pakistan, Bangladesh and China.¹⁰ Ship owners often sell vessels to a broker who then arranges the dismantling, usually by selling the vessel on to a dismantling company.¹¹

Concerns about the way ships are dismantled at present

10. The International Maritime Organisation (IMO) note that there had been “growing concerns about environmental safety, health and welfare matters in the ship recycling industry”.¹² These concerns had arisen, in large part, from investigations into conditions at ship breaking yards in Asia.

11. Greenpeace has conducted a number of such investigations in India and China.¹³ It told us that disposal in poorly regulated facilities in Asia, which lack dry dock facilities and other environmental protection measures and have inadequate health and safety procedures, results in “serious damage to the environment and human health”.¹⁴ It described workers removing material, including asbestos, by hand with no protective clothing, using gas torches for cutting metal even where fuel is present, burning cables in the open air with no breathing apparatus and oils and liquid wastes draining directly into the sea.¹⁵

12. Concern about conditions is not confined to environmental organisations. BP Shipping sent one of its very large crew carriers to Pakistan for dismantling but “were so disturbed by what [they] saw there that [they] were determined that [they] would not do it that way in future”.¹⁶ As a result, the company now uses sites in China, where it believes the health, safety and environmental conditions are acceptable. It sends members of its own staff to supervise the dismantling and says it is able to audit the way the hazardous waste that arises during the dismantling is dealt with. P&O Nedlloyd also uses yards in China for the same reasons.¹⁷ Greenpeace told us that conditions in China were better than those in many other countries, but still “nowhere near” state of the art.¹⁸

13. Nor is concern confined to ship dismantling which takes place in Asia. Environmental organisations and local residents’ groups have also raised concerns about

⁸ Ev 60 [Defra], para 8

⁹ Q272

¹⁰ Ev 27 [Greenpeace], paras 21–22, Ev 1 [Chamber of Shipping]

¹¹ Ev 27 [Greenpeace], para 21

¹² Ev 69 [International Maritime Organisation], para 2

¹³ Ev 27 [Greenpeace], para 23

¹⁴ Ev 27 [Greenpeace], para 31

¹⁵ Ev 27 [Greenpeace], paras 25–28

¹⁶ Q3

¹⁷ Qq3 and 5

¹⁸ Q108

the environmental impact of ship dismantling in the United Kingdom. Hartlepool Friends of the Earth media group did not feel that “such large scale, waste generating and potentially hazardous ventures [as ship dismantling] should be located in areas already blighted by the negative effects of industrial pollution”.¹⁹

Why are ships recycled in developing countries?

14. There are two main reasons why most ships are dismantled in Asia rather than in the west. First, it is much cheaper to do so.²⁰ Indeed, in Asia, the value of the scrap is such that dismantling yards pay to take the ships, whereas yards in developed countries require payment to do so.²¹ The Maritime and Coastal Agency told us that:

the ships imported for recycling in England (specifically the MARAD vessels) are special cases where the owners have decided on more stringent conditions for the recycling of their vessels whilst not capitalising fully on the scrap value ... there is a financial disincentive for ships to be recycled in Western Europe as the steel in the vessel is worth \$10 a ton to the owner in North West Europe, and has peaked at \$390–410 a ton in India and Bangladesh.²²

15. The second reason, which may in part arise from the first, is that there are few facilities in OECD countries that can handle the largest ships.²³ In particular, the evidence we received indicates that there are no facilities in England and Wales which have both the capacity to dismantle large ships and the licence to do so.²⁴ Able UK has experience in dismantling oil rigs, and its Hartlepool yard may be the closest to having the facilities and expertise. However, even if Able UK were to receive all the necessary permits to allow it to dismantle the US vessels, there is still doubt over whether it could take the largest tankers.²⁵

16. Greenpeace was of the view that “there are currently no facilities in the UK that would meet all legal requirements and satisfactory health, safety and environmental standards” although there are some sites where such facilities could be developed.²⁶ And Defra told us that:

there appears to be a gap in UK expertise in the dismantling of large vessels once they reach the end of their life. As far as the Government is aware, there are currently no facilities in England and Wales with the capacity and expertise to dismantle large defunct ships safely.²⁷

17. The Maritime and Coastguard Agency pointed out that the lack of facilities in the United Kingdom and other developed countries presented difficulties for ship owners who wished to dismantle their defunct vessels responsibly:

¹⁹ Ev 87 [Hartlepool Friends of the Earth Media Group], para 6

²⁰ Q24

²¹ Q149

²² Ev 82 [Maritime and Coastal Agency], paras 8 and 12

²³ Qq49–53

²⁴ Q7

²⁵ Qq42–43

²⁶ Ev 25 [Greenpeace], para 1

²⁷ Ev 59 [Defra], para 4

the lack of ship-recycling facilities that can handle hazardous wastes or ship-decontamination facilities in OECD countries is a major problem for shipping and can cause significant delay for owners who wish to recycle in the developed world, resulting in significant associated financial costs (port dues, maintenance and crewing costs).²⁸

18. The lack of suitable dismantling facilities in developed countries is a significant barrier to responsible ship dismantling. At present, even if a ship owner based in the United Kingdom wished, or was required, to dismantle a ship here, appropriate facilities for larger vessels do not exist. Given the economic advantages of dismantling facilities in Asia, and the difficulties faced by companies such as Able UK, there is little incentive for companies here to develop ship dismantling facilities.

3 Existing legislation and guidelines regulating ship dismantling

Legislation

19. Another important barrier to safe and responsible ship dismantling is the difficulties faced by national regulators in applying waste law to ships and the problem of enforcing the law.

The Basel Convention

20. The Chamber of Shipping told us that there is very little legislation that directly addresses ship dismantling.²⁹ There is, though, an international framework for dealing with waste and hazardous wastes in particular: the United Nations Environment Programme Basel Convention on the control of trans-boundary movements of hazardous wastes and their disposal was adopted in 1989 in response to concerns about hazardous wastes from developed countries being dumped in developing countries. The Convention imposes certain controls on the international movement of hazardous wastes and provides criteria for the environmentally sound management of such wastes.³⁰

21. There is disagreement about whether the Basel Convention applies to ships at all. The Chamber of Shipping argued that it was never intended to do so and is inappropriate for application to the shipping industry, saying that the presence of some hazardous materials on board ships that are intended for recycling should not mean that the entire vessel is regarded as hazardous waste.³¹ The Environment Agency agreed that the Convention was probably not drawn up with ships in mind:

²⁸ Ev 82 [Maritime and Coastal agency], para 10

²⁹ Q13

³⁰ 162 states have agreed to be bound by the Convention: www.basel.int.

³¹ Ev 2 [Chamber of Shipping], Q31

it is very clear that the original basis of the Basel Convention was to deal with the issues of the transboundary movements of waste that came from a land-based arising and were ending up at some other land-based point of destination.³²

The Agency told us that applying the Convention's controls to ship recycling was "extremely problematic".³³

22. Greenpeace accepted that the legal framework for ship recycling is complex and that there are practical difficulties in applying some aspects of waste law to ships. However, it argued that the Basel Convention ought to apply to ships:

of all of the instruments currently in place that impact this issue, the Basel Convention is the only one that is a) legally binding, and b) is in a clear position to actually minimise the export of ships containing hazardous materials to developing countries, and thus is the only instrument well placed to quickly prevent more impoverished workers from being poisoned or otherwise killed from risks associated with hazardous wastes.³⁴

23. In 1995 an amendment to the Convention was proposed which would ban hazardous wastes exports for final disposal and recycling from what are known as Annex VII countries (Basel Convention parties that are members of the EU, OECD, Liechtenstein) to non-Annex VII countries (all other parties to the Convention). The amendment has not entered into force: it has to be ratified by three quarters of the parties who accepted it in order to do so. At the time of writing, 49 of 82 parties had ratified the amendment.

The European Community Waste Shipments Regulation

24. The requirements of the Basel Convention are transposed into European law by the European Community Waste Shipments Regulation; in the UK the Transfrontier Shipment of Waste Regulations 1994 give full effect to the Waste Shipments Regulation in the UK. The Regulation also takes account of OECD decisions on wastes destined for recovery (that is, for some sort of re-use or recycling rather than for disposal). The Environment Agency explained that the regulation:

provides for a system of 'prior informed consent' whereby transboundary movements of hazardous waste must be prenotified to, and consented by, the relevant competent authorities. Contracts also have to be in place between the notifier and the consignee with a financial guarantee and insurance to cover foreseeable eventualities, including repatriation of the waste.³⁵

25. The European regulation also transposes the as yet unratified amendment to the Basel Convention which forbids the movement of hazardous waste from developed to developing countries.³⁶

³² Q208

³³ Ev 57 [Environment Agency supplementary evidence]

³⁴ <http://greenpeaceweb.org/shipbreak/analysisinconsistencies.pdf>

³⁵ Ev 47 [Environment Agency], para 5.3

³⁶ Ev 46 [Environment Agency], para 5.3

26. In informal discussions, European Commission officials were clear that the Commission considered that the Basel Convention and the European waste shipment Community Waste Shipments Regulation did apply to ships that the owners intended to dismantle. **Since the European Community Waste Shipments Regulation includes a ban on export of hazardous wastes to developing countries, the regulation forbids the export of ships that are classified as hazardous waste to developing countries. We welcome this development.**

Enforcing legislation

27. Aside from arguments about the applicability of waste legislation to ships there are clear problems, acknowledged by all our witnesses, in enforcing that legislation. First, there is the vexed question of when a ship becomes waste. The European waste framework directive defines waste as anything that the holder discards or intends to discard.³⁷ As long as a ship is still seaworthy and the owner has not declared his or her intention to dispose of it, it is very difficult to determine when it could be regarded as waste.³⁸ It is vital to be able to do this because it is only when a ship is waste that the various national and international waste regulations apply.

28. A second, related, issue is that of which states or bodies have jurisdiction over the ship in order to enforce waste regulations once a ship is deemed to be waste. The Maritime and Coastguard Agency commented on difficulties raised by discrepancies between the ways in which national and international legislation are applied:

a major difficulty lies with the difference in the perceived roles and responsibilities of the state, with ... all shipping related legislation being applied through the state only to the state's flagged ships, whilst the Basel Convention would apply to the exporting state—in this case to vessels leaving UK ports regardless of flag or state of ownership ... there has been the threat of abandonment of ships following potential detentions under trans-frontier shipment of waste controls in UK ports.³⁹

29. National and European law does not apply on the high seas, so there is the possibility that a ship's owner could circumvent waste legislation by delaying the declaration of its intention to dispose of the ship until the vessel had left national waters. The IMO, as a United Nations body, is the only body with the power to regulate ships regardless of where they are registered, docked and dismantled.

30. The Government, as a member of the International Maritime Organisation and in its role as upcoming president of the G8 and the European Union, should work to ensure that the International Maritime Organisation gives priority to producing an internationally binding agreement which sets out how ships should be dismantled. Such an approach must avoid the difficulties associated with the current tortuous arguments which try to determine when a ship becomes waste. We urge the Government to encourage the International Maritime Organisation to concentrate its work on a best practice agreement which applies at the point of dismantling. The Government should seek to ensure that the International Maritime Organisation does

³⁷ Council Directive 75/442/EEC on waste, as amended by Council Directive 91/156/EEC

³⁸ Qq206, 213, 257

³⁹ Ev 84 [Maritime and Coastguard Agency], paras 25, 29 and see Ev 61 [Defra], para 16

not allow itself to be side-tracked into the difficulties of agreements which try to adjudicate on how international waste transfer arrangements affect the way in which ship dismantling is conducted.

Voluntary guidelines

31 In response to the growing concerns about the environmental and health and safety impacts of ship recycling, the IMO adopted guidelines on ship recycling in December 2003.⁴⁰ These drew on an earlier industry code of practice produced by the International Chamber of Shipping in conjunction with a number of other shipping organisations.⁴¹

32. The IMO guidelines set out the roles of the state where the ship is flagged, where it is docked and where it is intended to be recycled as well as those of the commercial bodies involved—the ship owners and dismantling companies.⁴² They recommend that each ship should have a ‘green passport’, which sets out what hazardous materials are on board and where they are. For new ships, this passport should be prepared by the shipbuilder and kept up to date by its owners. For existing ships, ship owners should prepare a passport to the best of their knowledge.

33. The guidelines recommend that, when choosing where to send a ship for recycling, the ship owner should take account of the facility’s ability to handle and dispose of hazardous wastes safely and should:

make every effort to minimize the amount of potentially hazardous materials on board the ship [and] continuously seek to minimize hazardous waste generation and retention during the operating life of a ship and at the end of a ship’s life.⁴³

34. The guidelines also recommend that the ship owner should remove hazardous materials from the ship before sending it for recycling, where this is consistent with the safe operation of the ship.

35. There is some difference of opinion over whether the IMO guidelines should be converted into a binding regulation. The Chamber of Shipping opposed such a conversion, at least for the moment, arguing that, since the guidelines were adopted only recently, it is too early to say how effective a voluntary regime will be and whether it needs the force of law.⁴⁴ Both Friends of the Earth and Greenpeace argued that an international regulatory framework for ship dismantling was necessary.⁴⁵ The Environment Agency and Defra said that, at least, a clearer international agreement about the definition of ships as waste was necessary and that tighter international regulation may also be desirable.⁴⁶

36. Whatever the merits of voluntary or regulatory regimes, there does appear to be an international consensus that the way in which the international waste regime applies to

⁴⁰ Ev 69 [International Maritime Organisation], paras 2–3

⁴¹ Ev 1 [Chamber of Shipping], Q17

⁴² IMO Assembly Resolution A.962(23), *IMO Guidelines on Ship Recycling*

⁴³ IMO Assembly Resolution A.962(23), *IMO Guidelines on Ship Recycling*

⁴⁴ Qq16 and 30

⁴⁵ Qq102 and 106

⁴⁶ Qq209 and 253

ships needs to be reviewed. To this end, the IMO, the International Labour Organisation (ILO) and the parties to the Basel Convention have agreed to form a joint working group which will:

act as a platform for consultation, co-ordination and co-operation in relation to the work programme and activities of ILO, IMO and the Conference of Parties to the Basel Convention with regard to issues related to ship recycling.⁴⁷

37. The Minister for Environment and Agri-Environment told us that the working group was a technical, rather than ministerial, group and was not likely to start work until February 2005. He hoped that the United Kingdom would be appointed to the group.⁴⁸

38. Given the international nature of the shipping industry, any action or regulation to address ship dismantling will be effective only if it is agreed at an international level. Furthermore, if an initiative is really to work, it would have to be taken under the aegis of the International Maritime Organisation in order to circumvent the problems associated with ships changing flag and owners declaring their intention to dismantle a vessel only once it is on the high seas.

39. We therefore warmly welcome the decision to form a joint working group of the Conference of the Parties to the Basel Convention, the International Maritime Organisation and the International Labour Organisation. We urge the Government to ensure that it has meaningful input into the deliberations of the working group. We hope that the working group will clarify when a ship is to be regarded as waste and how best to apply the principles of international waste legislation to those parts of a defunct vessel that cannot be re-used or recycled.

40. We note the Minister's hope that the United Kingdom will be included in the working group and urge the Government to seek to play as active a role as possible in it.

⁴⁷ Ev 1 [International Maritime Organisation], para 6

⁴⁸ Qq264-5

4 Principles of responsible ship recycling

Who should be responsible for the way a ship is recycled?

41. The IMO guidelines make a number of recommendations to ship owners and acknowledge that they have a responsibility to address the issues involved. However, they also:

accept that the obligation for environmental and worker protection in ship recycling facilities must rest with the recycling facility itself and with the regulatory authorities of the country in which the recycling facility operates.⁴⁹

42. The Chamber of Shipping accepted that a company that was disposing of a ship at the end of its working life, whether by sending it directly to a dismantler or going through a third party, had a responsibility to sell the ship to a yard that could dismantle it safely. However, it took the view that it remained the responsibility of the yard to ensure that the dismantling was done properly. Moreover, if a ship was sold on with a significant number of years' working life left, then the original owner could not be expected to follow its fate until disposal.⁵⁰

43. The Chamber also told us that it was difficult for ship owners to assess which dismantling facilities were able to handle potentially hazardous wastes safely, although government certification schemes, such as one recently launched by the Chinese Government, could make it easier.⁵¹

44. Environmental organisations, on the other hand, argued that the 'polluter pays' principle should apply and the owner of the ship should ensure that the ship's dismantling did not harm people or the environment.⁵² Greenpeace believes that the IMO guidelines represent:

an effort to deflect responsibility away from the shipping industry (the polluter in this case) to its victims (developing countries and communities).⁵³

Greenpeace argued that the Government should be responsible for naval ships and that for commercial vessels, responsibility should lie with:

the country receiving the lion's share of the economic benefit during the life of that ship.⁵⁴

45. We take the view that it would be extremely difficult to assign responsibility for the way in which a ship is dismantled to any but the current owner. However, the current owner, regardless of how long they have owned the ship and regardless of whether they bought the ship as a going concern or with the intention of selling it for

⁴⁹ IMO Assembly Resolution A.962(23), *IMO Guidelines on Ship Recycling*

⁵⁰ Qq26–27, 65

⁵¹ Qq17 and 57

⁵² Qq81–83, 86, 111, 137

⁵³ <http://greenpeaceweb.org/shipbreak/analysisinconsistencies.pdf>

⁵⁴ Q137

scrap, should be responsible for ensuring that the ship is dismantled to internationally acceptable standards of health, safety and environmental protection.

46. We accept that it may be difficult for smaller ship owning companies to assess the quality of dismantling facilities and we therefore recommend that the Government consider how an international standard could be developed, which could be used to certify qualifying dismantling yards.

Where should ships be dismantled?

47. Our witnesses all agreed that ships should be dismantled to high standards of workforce health and safety and environmental protection. However, they disagreed over whether, in order to meet these standards, ships should be dismantled only in developed countries. Friends of the Earth and Greenpeace argued that the proximity principle should apply and that, as far as possible, developed countries should dismantle their own ships. Where this was not possible, dismantling should be done in the same region.⁵⁵ Friends of the Earth said:

it is a matter of principle and it is about countries taking responsibility for the waste that they generate. [The proximity principle] should incentivise countries to minimise the waste they generate and to put in place facilities to look after [it] ... If you are having to deal with you own mess at home you will take it more seriously than if it is sailing over the horizon to be disposed of where nobody can see it.⁵⁶

48. The Chamber of Shipping argued that the most important factor in choosing where to send a ship for dismantling was whether the dismantling facility could meet the required health, safety and environmental standards; after that the decision was an economic one.⁵⁷ It also emphasised the global nature of the shipping industry, saying that it was very difficult to say which country should be regarded as 'home' for any particular ship. BP Shipping, a Chamber member, said:

we are a UK-based shipping organisation of the [international] BP group. We have ships that we were recycling that were built in Japan, they spent their entire lives trading around the world. If they had ever come to this country, they would only have come on a few occasions and were then finally dismantled in China. Where is 'home' for that ship?⁵⁸

49. It may also be the case that a greater proportion of the ship can be re-used if it is dismantled in Asia: scrap metal prices are higher there and items such as computers and even light bulbs can be re-used whereas in Europe they would be more likely to be disposed of.⁵⁹

50. Greenpeace argued that, although facilities in Asia varied in their standards of health, safety and environmental protection, none were satisfactory:

⁵⁵ Qq 81–83, 111, 129

⁵⁶ Q86

⁵⁷ Q4

⁵⁸ Q6

⁵⁹ Qq21–22

China, I would say, is improving and at least the dismantling is done on the quayside rather than simply on a beach ... [but] it is by no means approaching what we would call high environmental or health and safety standards ... what happens to [the] hazardous wastes is far from certain.⁶⁰

51. The Chamber of Shipping told us that facilities in China were investing in raising environmental standards in order to attract socially responsible ship owners and that the Chinese government was in the process of certifying yards and only allowing those that met a certain standard to import vessels for dismantling.⁶¹ It said that suitable facilities for the larger ships do not exist in developed countries and that the companies in China that its members dealt with not only met the required environmental standards but also treated their staff properly and paid them properly “in relation to their own economy”.⁶²

52. Greenpeace has called for the development of ship scrapping facilities in the UK and Europe, partly in order to apply the proximity and polluter pays principles to ship dismantling and partly because:

the UK has the regulatory infrastructure, the health and safety infrastructure and the medical infrastructure to be best placed, or one of the best placed, countries to make sure that environmental impacts are minimised. We have the technology and we have the know-how.⁶³

53. For us, the most important consideration in deciding where a ship should be dismantled is that the level of health and safety protection for the workers and the environmental protection at ship dismantling facilities meet the highest standards; as stated above, we believe that such standards should be stated in an internationally binding agreement which sets out a clear statement of minimum standards of ship dismantling, regardless of where the dismantling takes place. The Government should work to ensure that the International Maritime Organisation gives priority to producing such an agreement. It is clear that the majority of large vessels are dismantled under wholly inadequate conditions on beaches in Pakistan, India and Bangladesh; it is unacceptable that OECD-based companies, who are also members of the International Maritime Organisation, should continue to permit their vessels to be dismantled in this way.

54. As regards ship dismantling in the United Kingdom, the decision to grant or deny permission for ship dismantling facilities is clearly for the planning authority concerned and the environmental and health and safety regulators. However, it seems to us that the UK has the potential to establish an industry in ship dismantling which can be done safely and offer economic benefits to the communities in which it is carried out.

⁶⁰ Q108

⁶¹ Q57

⁶² Q53

⁶³ Q111

5 Action at the United Kingdom level

The Government's ship recycling strategy

55. The Government announced in response to our request for evidence that it will produce a ship recycling strategy:

[the strategy] will consider, in detail, the economic and environmental impacts of establishing high quality facilities in the UK and look at potential means (economic and/or regulatory) to encourage the establishment of such facilities in the UK. It will also set out the Government's policy on the dismantling of UK government vessels.⁶⁴

56. We welcome the Government's decision to produce a ship recycling strategy. The strategy's scope, as outlined by Defra, is commendable. We recommend that it also set out how UK Government policy will interact with and push forward the international agenda.

57. The need to eradicate irresponsible ship dismantling is urgent, all the more so because all remaining single-hulled tankers must be dismantled before 2015, many before 2010 and the oldest by the end of 2005. In this context, the Government should tell us how it will use its forthcoming presidency of the European Union and chairmanship of the G8 to encourage rapid international action to ensure these tankers are dismantled in a responsible way.

A United Kingdom ship recycling industry

58. Government has most direct control over the ships it owns, namely naval vessels. These should be dismantled in a way that does not harm the environment or people. We would welcome the development of a thriving ship dismantling industry in the United Kingdom, which dismantled all defunct state-owned vessels to the highest standards of health, safety and environmental protection.

59. We expect that the presence of such facilities would act as a catalyst to enable UK-based ship owners to have their commercial vessels dismantled here. However, we recognise that responsible recycling will impose a cost on ship owners and recommend that the Government explore ways of mitigating that cost.

60. We recommend that, pending greater international regulation of ship recycling, the Government consider how best to persuade UK-based ship owners to adhere to the IMO guidelines and ensure that their vessels are dismantled, and seen to be dismantled, with the minimum impact on human health and the environment.

⁶⁴ Ev 62 [Defra], para 27

Conclusions and recommendations

How are defunct ships currently dealt with?

1. The lack of suitable dismantling facilities in developed countries is a significant barrier to responsible ship dismantling. At present, even if a ship owner based in the United Kingdom wished, or was required, to dismantle a ship here, appropriate facilities for larger vessels do not exist. Given the economic advantages of dismantling facilities in Asia, and the difficulties faced by companies such as Able UK, there is little incentive for companies here to develop ship dismantling facilities. (Paragraph 18)

Existing legislation and guidelines regulating ship dismantling

2. Since the European Community Waste Shipments Regulation includes a ban on export of hazardous wastes to developing countries, the regulation forbids the export of ships that are classified as hazardous waste to developing countries. We welcome this development. (Paragraph 26)
3. The Government, as a member of the International Maritime Organisation and in its role as upcoming president of the G8 and the European Union, should work to ensure that the International Maritime Organisation gives priority to producing an internationally binding agreement which sets out how ships should be dismantled. Such an approach must avoid the difficulties associated with the current tortuous arguments which try to determine when a ship becomes waste. We urge the Government to encourage the International Maritime Organisation to concentrate its work on a best practice agreement which applies at the point of dismantling. The Government should seek to ensure that the International Maritime Organisation does not allow itself to be side-tracked into the difficulties of agreements which try to adjudicate on how international waste transfer arrangements affect the way in which ship dismantling is conducted. (Paragraph 30)
4. Given the international nature of the shipping industry, any action or regulation to address ship dismantling will be effective only if it is agreed at an international level. Furthermore, if an initiative is really to work, it would have to be taken under the aegis of the International Maritime Organisation in order to circumvent the problems associated with ships changing flag and owners declaring their intention to dismantle a vessel only once it is on the high seas. (Paragraph 38)
5. We therefore warmly welcome the decision to form a joint working group of the Conference of the Parties to the Basel Convention, the International Maritime Organisation and the International Labour Organisation. We urge the Government to ensure that it has meaningful input into the deliberations of the working group. We hope that the working group will clarify when a ship is to be regarded as waste and how best to apply the principles of international waste legislation to those parts of a defunct vessel that cannot be re-used or recycled. (Paragraph 39)

6. We note the Minister's hope that the United Kingdom will be included in the working group and urge the Government to seek to play as active a role as possible in it. (Paragraph 40)

Principles of responsible ship recycling

7. We take the view that it would be extremely difficult to assign responsibility for the way in which a ship is dismantled to any but the current owner. However, the current owner, regardless of how long they have owned the ship and regardless of whether they bought the ship as a going concern or with the intention of selling it for scrap, should be responsible for ensuring that the ship is dismantled to internationally acceptable standards of health, safety and environmental protection. (Paragraph 45)
8. We accept that it may be difficult for smaller ship owning companies to assess the quality of dismantling facilities and we therefore recommend that the Government consider how an international standard could be developed, which could be used to certify qualifying dismantling yards. (Paragraph 46)
9. For us, the most important consideration in deciding where a ship should be dismantled is that the level of health and safety protection for the workers and the environmental protection at ship dismantling facilities meet the highest standards; as stated above, we believe that such standards should be stated in an internationally binding agreement which sets out a clear statement of minimum standards of ship dismantling, regardless of where the dismantling takes place. The Government should work to ensure that the International Maritime Organisation gives priority to producing such an agreement. It is clear that the majority of large vessels are dismantled under wholly inadequate conditions on beaches in Pakistan, India and Bangladesh; it is unacceptable that OECD-based companies, who are also members of the International Maritime Organisation, should continue to permit their vessels to be dismantled in this way. (Paragraph 53)
10. As regards ship dismantling in the United Kingdom, the decision to grant or deny permission for ship dismantling facilities is clearly for the planning authority concerned and the environmental and health and safety regulators. However, it seems to us that the UK has the potential to establish an industry in ship dismantling which can be done safely and offer economic benefits to the communities in which it is carried out.. (Paragraph 54)

Action at the United Kingdom level

11. We welcome the Government's decision to produce a ship recycling strategy. The strategy's scope, as outlined by Defra, is commendable. We recommend that it also set out how UK Government policy will interact with and push forward the international agenda. (Paragraph 56)

12. The need to eradicate irresponsible ship dismantling is urgent, all the more so because all remaining single-hulled tankers must be dismantled before 2015, many before 2010 and the oldest by the end of 2005. In this context, the Government should tell us how it will use its forthcoming presidency of the European Union and chairmanship of the G8 to encourage rapid international action to ensure these tankers are dismantled in a responsible way. (Paragraph 57)
13. Government has most direct control over the ships it owns, namely naval vessels. These should be dismantled in a way that does not harm the environment or people. We would welcome the development of a thriving ship dismantling industry in the United Kingdom, which dismantled all defunct state-owned vessels to the highest standards of health, safety and environmental protection. (Paragraph 58)
14. We expect that the presence of such facilities would act as a catalyst to enable UK-based ship owners to have their commercial vessels dismantled here. However, we recognise that responsible recycling will impose a cost on ship owners and recommend that the Government explore ways of mitigating that cost. (Paragraph 59)
15. We recommend that, pending greater international regulation of ship recycling, the Government consider how best to persuade UK-based ship owners to adhere to the IMO guidelines and ensure that their vessels are dismantled, and seen to be dismantled, with the minimum impact on human health and the environment. (Paragraph 60)

Formal minutes

Wednesday 3 November 2004

Members present:

Mr Michael Jack, in the Chair

Mr David Burnside	Austin Mitchell
Mr Colin Breed	Joan Ruddock
David Drew	Diana Organ
Mr Mark Lazarowicz	Alan Simpson
Mr David Lepper	Paddy Tipping

The Committee deliberated.

Draft Report [*Dismantling Defunct Ships in the UK*], proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 60 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Eighteenth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select committees (reports)) be applied to the Report.

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.—(*The Chairman*).

Several memoranda were ordered to be reported to the House.

[Adjourned till Wednesday 10 November at half past Two o'clock.]

Witnesses

Wednesday 30 June 2004

Mark Browning, Edmund Brookes, Captain Nigel Palmer and Tom Peter
Blankestijn, **Chamber of Shipping** Ev 2

Wednesday 14 July 2004

Tony Juniper, Mike Childs and Phil Michaels, **Friends of the Earth** Ev 17

Mark Strutt and Simon Ready , **Greenpeace UK** Ev 28

Peter Stephenson, **Able UK Ltd** Ev 36

Wednesday 21 July 2004

Baroness Young of Old Scone, David Jordan and Roy Watkinson,
Environment Agency Ev 49

Elliot Morley MP and Sue Ellis, **Department for Environment, Food
and Rural Affairs** Ev 62

List of written evidence

Chamber of Shipping	Ev 1, 13
Friends of the Earth	Ev 14
Greenpeace UK	Ev 25
Able UK Ltd	Ev 34, 43
Environment Agency	Ev 46, 57
Department for Environment, Food and Rural Affairs	Ev 59
International Maritime Organization	Ev 69
Plymouth Marine Laboratory	Ev 70
English Nature	Ev 71
Hartlepool Borough Council	Ev 73
Tees Valley Regeneration	Ev 78
Frank Cook MP	Ev 79
START (State-of-the-Art Ship Recycling in Britain Campaign)	Ev 80
Marine and Coastguard Agency	Ev 81
Hartlepool Friends of the Earth Media Group	Ev 86
Ministry of Defence	Ev 87

Reports from the Committee since 2001

Session 2003–04

Seventeenth Report	Agriculture and EU Enlargement	HC 421
Sixteenth Report	Climate Change, Water Security and Flooding	HC 558
Fifteenth Report	The Departmental Annual Report 2004	HC 707
Fourteenth Report	Sites of Special Scientific Interest	HC 475
Thirteenth Report	Bovine TB (<i>Reply, HC 1130</i>)	HC 638
Twelfth Report	Reform of the Sugar Regime (<i>Reply, HC 1129</i>)	HC 550-I
Eleventh Report	GM Planting Regime (<i>Reply, HC 1128</i>)	HC 607
Tenth Report	Marine Environment: Government reply to the Committee's Report	HC 706
Ninth Report	Milk Pricing in the United Kingdom (<i>Reply HC 1036</i>)	HC 335
Eighth Report	Gangmasters (follow up) (<i>Reply, HC 1035</i>)	HC 455
Seventh Report	Implementation of CAP Reform in the UK (<i>Reply, HC 916</i>)	HC 226-I
Sixth Report	Marine Environment (<i>Reply, HC 706</i>)	HC 76
Fifth Report	The Food Standards Agency and Shellfish (<i>Reply, HC 601</i>)	HC 248
Fourth Report	Environmental Directives (<i>Reply, HC 557</i>)	HC 103
Third Report	Caught in the net: Cetacean by-catch of dolphins and porpoises off the UK coast (<i>Reply, HC 540</i>)	HC 88
Second Report	Annual Report of the Committee 2003	HC 225
First Report	Water Pricing (<i>Reply, HC 420</i>)	HC 121

Session 2002–03

Eighteenth Report	Conduct of the GM Public Debate (<i>Reply HC 443 Session 2003-04</i>)	HC 220
Seventeenth Report	Biofuels (<i>Reply, HC 88 Session 2003-04</i>)	
	HC 929-I Sixteenth Report Vets and Veterinary Services	HC 703
Fifteenth Report	New Covent Garden Market: a follow-up (<i>Reply, HC 123 Session 2003-04</i>)	HC 901
Fourteenth Report	Gangmasters (<i>Reply, HC 122 Session 2003-04</i>)	HC 691
Thirteenth Report	Poultry Farming in the United Kingdom (<i>Reply, HC 1219</i>)	HC 79-I
Twelfth Report	The Departmental Annual Report 2003 (<i>Reply, HC 1175</i>)	HC 832
Eleventh Report	Rural Broadband (<i>Reply, HC 1174</i>)	HC 587
Tenth Report	Horticulture Research International (<i>Reply, HC 1086</i>)	HC 873
Ninth Report	The Delivery of Education in Rural Areas (<i>Reply, HC 1085</i>)	HC 467
Eighth Report	The Future of Waste Management (<i>Reply, HC 1084</i>)	HC 385
Seventh Report	Badgers and Bovine TB (<i>Reply, HC 831</i>)	HC 432
Sixth Report	Rural Payments Agency (<i>Reply, HC 830</i>)	HC 382
Fifth Report	The Countryside and Rights of Way Act 2000 (<i>Reply, HC 748</i>)	HC 394
Fourth Report	Water Framework Directive (<i>Reply, HC 749</i>)	HC 130
Third Report	The Mid-term Review of the Common Agricultural Policy (<i>Reply, HC 615</i>)	HC 151
Second Report	Annual Report of the Committee 2002	HC 269
First Report	Reform of the Common Fisheries Policy (<i>Reply, HC 478</i>)	HC 110

Session 2001–02

Tenth Report	The Role of Defra (<i>Reply, HC 340, Session 2002-03</i>)	HC 991
Ninth Report	The Future of UK Agriculture in a Changing World (<i>Reply, HC 384, Session 2002-03</i>)	HC 550
Eighth Report	Hazardous Waste (<i>Reply, HC 1225</i>)	HC 919
Seventh Report	Illegal Meat Imports (<i>Reply, HC 1224</i>)	HC 968
Sixth Report	Departmental Annual Report 2002 (<i>Reply, HC 1223</i>)	HC 969
Fifth Report	Genetically Modified Organisms (<i>Reply, HC 1222</i>)	HC 767
Fourth Report	Disposal of Refrigerators (<i>Reply, HC 1226</i>)	HC 673
Third Report	Radioactive Waste: The Government's Consultation Process (<i>Reply, HC 1221</i>)	HC 407
Second Report	The Countryside Agency (<i>Reply, HC 829</i>)	HC 386
First Report	The Impact of Food and Mouth Disease (<i>Reply, HC 856</i>)	HC 323

Oral evidence

Taken before the Environment, Food and Rural Affairs Committee

on Wednesday 30 June 2004

Members present:

Mr Michael Jack, in the Chair

Ms Candy Atherton	Mr Austin Mitchell
Mr Colin Breed	Diana Organ
Mr Mark Lazarowicz	Joan Ruddock
Mr David Lepper	Alan Simpson
Mr Ian Liddell-Grainger	

Memorandum submitted by the Chamber of Shipping

DISMANTLING DEFUNCT SHIPS

1. The Chamber is the trade Association for shipowner and shipmanager companies based in the United Kingdom. Its 125 members and associate members represent over 730 merchant ships of about 18 million gross tonnes.

2. This memorandum confines its comments to the UK shipping industry's basic approach to the "scrapping" or "recycling" of merchant ships and to those bulleted questions which are most relevant to the industry—on overall demand for facilities in England and Wales and on how UK vessels are dealt with.

GENERAL

3. Ships have a long operational life (which can be over 30 years). Most ships from developed maritime countries are sold on for further trading long before they reach the end of their commercial working lives or become "defunct". However, many are not and ships built for specialised or particular uses or routes may well be traded by a company right through to the end of their lives.

4. It is quite possible that, when ships are recycled, materials may have to be disposed of which were considered anodyne when the ships were constructed. Equally by virtue of their need to operate totally independently and safely away from land, ships include components and substances that are harmful if not disposed of correctly. Substances such as asbestos come in the former category, fuel and lubricating oils come into the latter.

5. Within the Chamber, we encourage members to work to high standards when having their ships dismantled, with a view to recovering as much valuable recyclable material as possible (eg aluminium, copper and steels, as well as oils and fuels).

6. In March 2000, the International Maritime Organisation (IMO) started to discuss the issue of ship recycling/scrapping. The International Chamber of Shipping (ICS), which represents the shipping industries of some 35 countries world-wide, took the initiative with other international shipping associations of producing an "Industry Code of Practice on Ship Recycling".¹ Chamber members such as BP Shipping and P&O Nedlloyd were very active in the Code's development.

7. The ICS Code was widely disseminated and has been accepted as a benchmark standard for good practice. The IMO adopted a series of guidelines on ship recycling in December 2003, which rely heavily on the Code. It sets out general good practice and includes a very useful "Inventory of Potentially Hazardous Materials which may be on Board".² This check-list is intended to be kept up to date and presented to the recycling yard to enable them to plan safe removal and disposal of the materials.

(Some Non Governmental Organisations contend that the Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal is applicable to ships, although general opinion is that it was never intended to do so and is inappropriate for application to the shipping industry where ships are built, operated, and eventually recycled, in different parts of a global industry.)

¹ <http://www.marisec.org/resources/shiprecyclingcode.pdf>.

² <http://www.marisec.org/resources/shiprecycling-inv-hazardous.pdf>.

THE DEMAND FOR RECYCLING FACILITIES IN THE UK

8. While the Chamber is not able to estimate the real demand for ship recycling facilities in the UK or globally, it is clear that there will be a continued flow of ships, large and small, to be recycled—whether as a result of old age or from technological or regulatory obsolescence. With the Government’s positive shipping policies encouraging both investment in younger vessels and overall growth in the UK-owned fleet, it can be expected that vessels will continue to come into the market for recycling, as well as being sold for further trading elsewhere.

9. Shipping however is fundamentally a global business and we believe that ship recycling should be seen on that basis. Thus demand for ship recycling facilities cannot, subject to the standards considered above, be viewed from a national or regional perspective.

10. Shipping companies will always seek to realise the highest price for their ship/asset within an acceptable environmental and reputation management framework, and the demand for suitable recycling facilities fluctuates considerably. Any UK facility would need to provide a competitive and environmentally acceptable offer to the international shipping industry.

HOW UK VESSELS ARE DISPOSED OF

11. Almost all ships scrapped by UK-based companies are sold for recycling at facilities outside Europe. The main centres for scrapping and recycling in the world are in the Indian sub-continent and China, where there is a massive demand for recycled steel to feed their expanding economies.

12. Chamber members have gone a stage further than the ICS and IMO recommendations by developing their own “Standard Operating Procedures” manual. This lays down all the procedures to be followed as a ship is scrapped, it provides for the removal of all hazardous materials not required for safe operation of the ship before demolition, with the waste being processed in strict compliance with the IMO and ICS guidance. As an example, P&O Nedlloyd has successfully recycled 19 ships through yards in China using this procedure.

13. It is possible that, in processing a ship in this way, companies will not realise as high a price for the vessel as if it were scrapped in its entirety in Bangladesh or India (although the differential, if any, will vary depending on market demand). However, they consider that they taking a responsible business and environmental approach to the disposal of ships at the end of their lives outweighs any commercial disadvantage.

Chamber of Shipping

May 2004

Witnesses: Mr Mark Brownrigg, Director General, Mr Edmund Brookes, Deputy Director General, Chamber of Shipping, Captain Nigel Palmer, Director, Government Affairs, BP Shipping, and Mr Tom Peter Blankestijn, Manager, Maritime Policies and Regulatory Affairs, P&O Nedlloyd, examined.

Q1 Chairman: Good afternoon. Could I apologise to our witnesses for keeping you waiting. Unfortunately, the Committee has a number of forthcoming attractions and Reports on a wide range of subjects and I am sure you are very interested to read what we have been up to, but we have to go through the process of approving them before we can publish them and it took a little longer than we had anticipated. Our apologies for keeping you waiting, but nonetheless you are very welcome. For the record, we have before us from the Chamber of Shipping Mr Mark Brownrigg, the Director General of the Chamber, Mr Edmund Brookes, the Deputy Director General, Captain Nigel Palmer, the Director of Government Affairs of BP Shipping and Mr Tom Blankestijn, the Manager of Maritime Policies and Regulatory Affairs for P&O Nedlloyd. Gentlemen, you are very welcome indeed. Looking at your submission to the Committee,¹ I was struck by the fact that you are almost saying that those shipping companies who appear to be the initial owners of the vessel might not have as much direct

interest in seeing through to the end the way that the ship might ultimately be broken up once it is declared as defunct because of the very nature of the dismantling operation and the way that those commercial transactions transpire. Yet you go on in your submission to make it very clear that as an industry you take your responsibilities very seriously indeed. Now, the reason this Committee has got involved in this is following up the short, sharp inquiry we did into the problems that Able UK had in terms of their arrangement initially to deal with American military vessels which (if I do not use the wrong phrase) ran aground because of all kinds of regulatory problems.² In the course of that inquiry we learned that some 2,000 single hull tankers within the foreseeable future are going to have to be taken out of service and replaced and we decided that because of the environmental consequences of that we should hold this inquiry. Given my opening remarks and the slightly sort of arm’s length position that you have about this, could I just ask how

¹ Ev 1

² Environment, Food and Rural Affairs Committee, Minutes of Evidence and Memoranda, Session 2002–03, US “Ghost Ships”, HC 1336

30 June 2004 Mr Mark Brownrigg, Mr Edmund Brookes, Captain Nigel Palmer and Mr Tom Peter Blankestijn

seriously you and your members do take the need to influence the way at the end of the day ships are broken up. Do you feel that you have a continuing responsibility for these matters even though the ownership of the vessel might have passed to a third party on its way to the breakers' yard?

Mr Brownrigg: Perhaps I could start and then others could chip in, Chairman. Firstly, if I could say that we welcome the opportunity to come and answer your questions and are delighted to do so. I think the starting point is that a ship is not like another piece of industrial equipment or what have you, it is a unit which underpins and facilitates the carriage of international trade. By definition it does not stay in one country, it moves around the globe and it may well move through different ownerships over its life cycle. So you are not talking about someone who is building something to stay with it or keep with it, or operate it from beginning to end. That said, there are international and a huge range of detailed international regulations which deal with the structure of ships, with their operation, their maintenance and the whole process. There is a concern with quality right from the start. The fact is that if a ship moves from one owner to another during its lifetime it may well not be the original owner who is scrapping or recycling that ship. It is the case that the shipping industry is a global industry in this respect, and indeed so is the recycling industry, so perhaps it is not quite the same as buying a piece of factory equipment.

Q2 Chairman: Just for the benefit of the Committee, and perhaps I will look to our colleague from BP to help us through this, what actually is the decision-making process, for example, when BP says, "Right, one of our tankers has come to the end of its life and we think it should be scrapped," what do you do? Just take us through the process that determines how it is going to be broken up.

Captain Palmer: I can answer that fairly well. The simple answer is that sometimes we dispose of ships before the end of their economic life because they no longer fit our own requirements, in which case we will sell them to somebody else to continue using them. If a ship has reached the end of its economic life and so we are actually looking then to send it on to be dismantled, then although we may well use brokers as part of the process of disposing of the vessel we take our responsibilities on that very seriously and the history of that—and I was involved with the project of disposing of some of our single hull tankers a few years ago—in, I think, 1994 we put one of our VLCCs to Pakistan for breaking and we were—

Q3 Chairman: Could I just stop you. You used shorthand, VLCC?

Captain Palmer: Very Large Crude Carrier. I will try not to do the jargon. Okay, a very large crude carrier to Pakistan and we were so disturbed by what we saw there that we were determined that we would not do it that way in the future. So in 1997, when we had some more coming up over the next couple of years, we started a process to actually go around the world

looking at all the recycling facilities to find out which ones actually met our own standards for health, safety and the environment. We determined there were a number and then it became an economic decision which one we went to. In fact we actually went to China as a result of that, into a facility there which could meet our own standards on being able to demonstrate—and for us to be able to audit throughout the process—that they were dealing properly with all the hazardous material, that their staff were being properly protected and that all of the materials were either disposed of in a responsible manner or resold as appropriate, depending on whether they could be reused. So the process for us is fairly simple in that we do take the final resolution of what happens to the unit at the end of its life, if we are the end user, very seriously. So we do not just pass it to somebody else and then forget all about it.

Q4 Diana Organ: You have made it quite clear that you have seen a system of breaking up in Pakistan and you said that you were not happy with it. I wonder if you could tell me what it was about what was happening in Pakistan that made you unhappy and choose not to use that facility again, and the other is that when you are making a decision about where you go for the disposal or recycling of your ships you led us to believe from what you have just said in reply to the Chairman that environmental issues were top of your agenda. Are you saying that the economics never comes into it? Surely as a business you are looking at that first?

Captain Palmer: Two questions. First of all, what disturbed us in Pakistan was the manner in which the breaking took place, the safety standards of the staff who were working there, the people who were working there and the environmental issues as a result of that. To take the second part of your question, the first requirement for us is that it meets our HSE objective, our health, safety and environmental standards, for any facility. If they meet that, then it becomes an economic decision of which one is the best solution for us. So if you have got two yards, both of which meet our standards and can conduct the operation properly, then clearly we will go for the one that is economically the best result.

Q5 Diana Organ: But the facility in Pakistan that you looked at and thought, "No, this is not good enough for health and safety reasons", had you used that previously?

Captain Palmer: Not in living memory, no. I think if I go back far enough, I think the last time we went through large demolition processes would have been in the early 1970s when I think Taiwan was the world leading ship breaker in those days. They are no longer in the business at all.

Mr Blankestijn: What I would like to add is that it is not only Pakistan, it is India, Pakistan, Bangladesh, the Philippines, where the vessels are actually beached and where there is the unsafe situation for people and for the environment. In our search, when we looked at our ship recycling project, we had a couple of other aspects as well because we wanted a

30 June 2004 Mr Mark Brownrigg, Mr Edmund Brookes, Captain Nigel Palmer and Mr Tom Peter Blankestijn

good relationship with the national government to also ensure that there are proper waste management structures in place, that as soon as you offload hazardous material it is treated in the proper way and also there needed to be further investment at the yard facility in order to cope with our requirements. So there were various reasons also for us to choose China because there all these elements were in place: we could train the staff ourselves; we could have our own supervisors at the facility; we could deal with the state environmental protection agency within China; and it safeguarded us also that what we wanted to do is outside of the standard of the beaches in India, Pakistan and Bangladesh, that what we paid for was indeed done in the proper way and safely.

Q6 Mr Mitchell: You say that given the environmental considerations, which you are satisfied on, it is basically a question of price. That must surely load preferences to the Far East, to China you have said, because if you had them dismantled at home you have got what Charles de Gaulle would call the Chen Yi here in this country, all the environmental protests and presumably a lower price for the scrap because there you have got an expanding steel industry in China, or indeed India, whereas it is less necessary here?

Captain Palmer: It is a question of what you mean by "home", I guess. We are a UK-based shipping organisation of the BP group. We have ships that we were recycling that were built in Japan, that spent their entire lives trading around the world. If they had ever come to this country, they would only have come on a few occasions and were then finally dismantled in China. Where is "home" for that ship?

Q7 Mr Mitchell: So there is no preference for British knackers yards?

Captain Palmer: Well, there are no British facilities that could take a ship of that size anyway.

Q8 Chairman: The message that is very clear from what you have both said is that in the case of a company that owns the ship and makes the final deal you can exercise the responsibility that you have indicated, but if you dispose of it using third parties can you have influence over how they then subsequently dispose of the vessels?

Mr Blankestijn: They will come under the international legislation or guidelines that have been produced within International Maritime Organisation (IMO), and in which the International Chamber of Shipping (ICS) has been also very instrumental on behalf of the industry. The guidelines were put together in such a way that anyone who would buy a ship even for twenty-four hours is identified as a shipowner. So he should take the same responsibilities under those guidelines. Another part is that we propose a green passport during the lifetime of the ship, so that from the new building up until the final moment, details of all the hazardous materials (they make an inventory of these materials, of where they are and their quantities) can be passed on more easily from one

owner to the other. Now, that is not perfect yet, but it is in the process of being further developed within IMO.

Q9 Chairman: We are going to come on to talk about that and Ms Ruddock is going to ask you some more detailed questions on that, but just before that what statistics are there available to give us some idea of the number, scope, scale and the size of the ships which are disposed of?

Captain Palmer: The industry disposes of somewhere between 500 and 1,000 ships a year. It will vary. The average number is about 700 ocean-going vessels are dismantled every year globally. The number will vary between 500 and 1,000 because when ships go will depend on economic circumstances at that time, and that is roughly equal to the number of ships that are built every year, so it is not a surprise. Ships have a life. So many are built every year. The number grows slightly as well with world trade growth, but it is almost static, so effectively the same number drop off the back end as come in at the front end.

Q10 Chairman: As far as the single hull tankers are concerned, has anybody made a projection as to the volume year by year as we go forward as to how many will have to be dealt with?

Captain Palmer: Yes, there is, but the vast bulk of those have already gone. I think we have some numbers. Over the next few years the ones that have to be phased out (this is legally when they have to go): in 2004 there are fourteen, in 2005 twenty-nine, none in 2006, five in 2007 and two in 2008–09. So it is not an enormous number. That is the smaller sizes.

Q11 Chairman: That is the small size. On that basis that is just over forty. How come we think there are two thousand to go?

Captain Palmer: Because a lot of those are not due to be phased out by 2008–09. Those are the years I have got up to.

Q12 Chairman: So whilst there is a larger quantity, it is at some point in the future?

Captain Palmer: Correct, but those are mostly in the smaller sectors and the smaller tonnage ranges, many of which are in Europe because they are the small coastal tankers.

Q13 Chairman: A final question before we pass on to Ms Ruddock. Are there any specific legal requirements as far as the UK or the European Union are concerned which you have to adhere to when you are starting the process of disposal of the ships?

Captain Palmer: There is very little legal regulation around this area. Most of the stuff that is in place has been voluntary codes generated by the industry, such as the Ship Recycling Code, which started off as a voluntary process put together by the International Chamber of Shipping by a number of shipowners.

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Q14 Chairman: That is the one you have put with the evidence?³

Captain Palmer: Correct, and that then was adopted by IMO, not as legislation but as recommended good practice.

Q15 Joan Ruddock: I think you have just answered my first question, which was going to be that there is no regulatory process here, we are just dealing with voluntary agreements? Both the IMO and the ICS guidelines are entirely voluntary agreements?

Captain Palmer: Yes.

Q16 Joan Ruddock: So the first interesting question will be what proportion of ships that are being dismantled and recycled are actually following these guidelines? Have you any idea on that?

Mr Brownrigg: It is too soon to say. The guidelines were only adopted last December, following the sequence that has been described. What one can say is that guidelines are available. They are available for the shipping industry, they are available for the recycling countries and it will be monitored within the International Maritime Organisation process over the coming years.

Q17 Joan Ruddock: But can you make a guess? What is the kind of cooperation that occurred during the development of these guidelines? Is it thought that the majority are going to follow them or not?

Mr Brownrigg: Before I hand over to others, perhaps I could just say that normally things do not go through the IMO if there is no intention to pay good attention to them.

Mr Blankestijn: One thing I would like to add is that for shipowners it is very difficult also to know which facilities can cope with these requirements because most of the facilities are still on the beaches. So there is no other alternative available in capacity to handle this as per the guidelines, so it is almost the chicken and the egg situation of where are the investments for the new facilities versus the shipowners, and then it becomes also much clearer what the commercial elements are of the pricing effects of the labour cost, of the waste management handling, etcetera. As soon as that is more settled then the voluntary option is followed more easily.

Mr Brookes: Could I add to the comments that were made and come back to the way the process has been developed because this may help you. There are something like thirty-five or thirty-six members of the International Chamber of Shipping and we in the UK are proud to be the founding member. They all contributed to the development of the guidelines (of which we have given a copy to the Committee), which led to the International Maritime Organisation's guidelines. All the individual members of those thirty-five organisations take the work of the International Chamber of Shipping and put it out and spread the message. As has been said to you, it is voluntary but you have heard from my colleagues the way they have picked up even before this and developed it. So we are doing our bit in

trying to move the whole process forward, I am not saying to take the moral high ground but to try to put forward a process which is sustainable in all contexts.

Mr Brownrigg: Could I add to that, if I may, that it was not just one international association of the size you have heard, but in fact a number of sectoral shipowner organisations came together with us too and they are listed in the industry code, which really does mean that the vast majority of the world shipping industry is covered. The Baltic and International Maritime Council, the International Association of Dry Cargo Owners, the independent tanker owners, and the Oil Companies' International Marine Forum. They are representative of sizeable shipping interests and really do cover pretty much the world fleet except for those who never join these sorts of things.

Q18 Joan Ruddock: Okay, so you are obviously hopeful of a positive outcome, but in terms of getting to the point where you can break up safely and recycle we had evidence from you about the green passport. Now, that presumably is something that is already under way. Again, have you any idea how many ships would have green passports and how many ships belonging to UK companies, for example, might have green passports?

Mr Blankestijn: It is still future work for IMO because there is no standard yet and preferably if you take something from new build up until, say, the phasing out of the ship it is more easy to administer a standard document and ensure that it is adhered to. So that is definitely something which needs to be developed and it is being developed at the moment.

Captain Palmer: The only thing I would add is that as things move on things change. The issue of hazardous materials. Materials are not hazardous when they are on board the ship. They are there for a reason. Asbestos was used as a fire precaution on ships in the past. It is no longer fitted to ships, and you are coming towards the end of that being an issue with ships because the majority of ships that were constructed with asbestos in place have already reached the end of their lives or are in the process of doing so now. So as time has gone on you have probably less hazardous materials in ships than existed twenty, thirty years ago. Now, that is not to say that in twenty or thirty years' time something that is being used today will not be determined to be hazardous. Asbestos was regarded as perfectly safe in the days when it was put in; it would not have been used had it not been. So the logic of the green passport is to ensure that there is a record with the ship of what is actually contained in it and where it is, which is rather more important perhaps than what it is or indeed the quantity. It is where it is and then ensuring that when you take it to somebody part of your process is to determine that they can actually manage, handle and dispose of that or reuse it in an appropriate manner, protecting their people. The answer to your earlier question is responsible shipowners will follow these guidelines and people who value their reputations will follow these

³ www.marisec.org/resources/shiprecyclingcode.pdf

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guidelines. Will everybody follow it? Does everybody dispose of their car in this country in a responsible manner? Most do.

Joan Ruddock: No, they dump in on my streets in my constituency!

Mr Mitchell: There is no international fly-tipping?

Q19 Joan Ruddock: One might argue there is.

Captain Palmer: That is a question. The ships are valuable assets. They are not fly-tipped to the extent that the materials they contain are actually quite valuable. You are not talking about things that are sold for pennies. There is a lot of steel in a ship and the majority of it is steel, copper and things like that. It is quite right that that should be reused. It feeds the electric arc mills of a lot of the world.

Q20 Joan Ruddock: But even though you have not got green passports yet on such a scale you cannot monitor them, nonetheless ships do have hazardous materials taken out of them prior to recycling?

Captain Palmer: Yes.

Q21 Joan Ruddock: Have you any idea what proportion of ships actually have that removal of hazardous materials before the recycling process?

Captain Palmer: I cannot answer for the whole industry, I can only answer for what we did. We took off the ships before they went to China the items that we could take off leaving the ship still in a safe condition to undergo the passage, because you cannot remove everything, and then what was left on board (part of this whole process that we developed with the yard was to know exactly what had happened to everything) had to be fully auditable. We have photographs of the bricks that were made out of the scale that came out of the bottom of the cargo tanks, for example, and things like that. So we did take it to quite a reasonable extent to determine that it was being done properly. I guess in the context of what you are talking about in this Committee the question really is, is this an industry that can be done properly. I think the answer is, yes, it can be. Does it perform a necessary service? Yes, it does. Seven hundred ships on average a year have to be recycled and reusing those materials is actually the best thing to do with them, not to actually dump them somewhere and hope the problem will go away.

Mr Brookes: I would like to add one aspect, to come back to the heart of your question, which was, are the hazardous materials removed. Even in ships which are not processed and recycled in a way in which we would particularly recommend, the hazardous materials are still taken off. The asbestos, the lube oils, the lamp bulbs, the computers, those sorts of things, they are all taken off and recycled, even in India and Pakistan, but they would not be done in the way which we are putting forward to you now. So these materials are taken off even on those ships.

Q22 Joan Ruddock: Sure. The clear implication in my question is that these things are taken off in a proper manner?

Mr Brookes: In a proper manner, yes.

Q23 Joan Ruddock: Otherwise, essentially you are just in break up, are you not, and things come off as they come off, but there are ways of taking things off in a contained way quite separate from the break up?

Mr Brookes: Even in Pakistan and India they will deliberately try to take those off to get value from them, to recycle them. They have value to them. Even light bulbs will be reused in India and Pakistan and they will find a use for the asbestos.

Mr Brownrigg: Almost the entire ship is recyclable, so there is an economic interest, if you like, in those countries to do so.

Captain Palmer: I think the big issue with India, Pakistan and Bangladesh is the safety of the people rather than necessarily what happens to the end materials. Clearly there is environmental damage goes on there as well as part of the process, which does not happen in China, but the big issue for us was what happened with the people. This is a personal thing, but I do not believe you should hurt people when you are doing your normal business.

Q24 Joan Ruddock: Exactly, and clearly there is both a human cost and an economic cost where things are not done correctly, but what is the cost of doing things properly and following these guidelines and is it acceptable to people in shipping that the shipowners should bear that cost?

Mr Blankestijn: What our experience was of course was a one to one relationship and it was not a market mechanism, so therefore it was very difficult to see. It was an investment from both sides. If I were to calculate the process of what I call the pre-cleaning, so taking off and stripping the ship of all its hazardous materials, that would cost you about US\$30 maximum in Asia. That is per tonne. That is a very minor cost element. If you compare that with a Western factory where labour is much more expensive, you would be doubling, tripling the cost, probably. But the most important thing is to make the process before you reach the yard as smooth as possible: so, the identification of the hazardous materials, locating them, marking them so that also the people who have to work with the dismantling of the vessel and the taking off of the hazardous material can recognise where they are. If you go on the street and you ask people what is asbestos, everybody is talking about asbestos but nobody can recognise it. So it is important for people to be trained in a proper way and guided on these processes and that is already half of the cost elements involved.

Captain Palmer: I do not have much understanding of the way the steel industry works, but effectively scrapyards pay you on a lightweight tonne of the ship, so it is the weight of the ship effectively. It is not the gross tonnage, it is the actual steel weight and so on of the ship. A ship will vary in weight between sizes, for example a ship of 20,000 deadweight tonnes will be about 7,000 tonnes of lightweight, up to about 50 to 60,000 lightweight tonnes for a very big one. The market prices will vary quite enormously depending on the economic demand for

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steel and they will go from a low of round about \$100 a tonne that they will pay you for the ship up to \$400, I think, today. So it is an enormous variation. So what you get by going to a facility that does it properly are two things. First of all, if they know that you will not go anywhere else then they have a slightly better bargaining position where you will probably agree a lower price and you do not have the opportunity, perhaps, to have as wide a set of people bidding for your ship as might otherwise be the case. So it does cost you because you will not get paid as much as you would have been. Is the cost acceptable? Yes. Well, it certainly is to us. Does every owner take the same attitude? We cannot answer that, you would have to ask them directly, but the actual cost to us was somewhere round about \$500,000 per ship.

Q25 Joan Ruddock: My final question is about your own body's standard operating procedure. Could you just give us a little idea about what does that cover and what your experience is of actually operating that procedure?

Mr Blankestijn: We documented it fairly clearly and it starts off the moment you take the executive decision that you are going to phase out the ship, up until the preparation of the headquarters, making the contact with the yard, the facility, then making the inventory by head office clearly marking the hazardous materials and doing radiation surveys and all kinds of things. Then we hand over all that information to the ship's crew and the ship's crew will then follow that same list and will complement it or add to that because they have more knowledge about the ship than maybe the drawings at head office. Once that is done, the ship is handed over to the yard, but at the same time at the yard are two supervisors of our company guiding the process of the pre-demolition cleaning. Once that is done, we say for us here it finishes, of the hazardous materials. Then you have the final demolition of the ship, which is then also identified, which is actually cutting the steel. In the meantime, they also talk to the national government in order for the waste management. That is the whole process which covers our operational procedures and if you bear in mind that if you normally sell a ship as a shipowner you do not have any legal obligation whatsoever to further watch it, it goes rather deep into the whole matter.

Joan Ruddock: Thank you.

Q26 Chairman: Could I just follow up for the sake of clarification because all your remarks so far have been predicated on the fact that you, as the responsible shipowners seeing the process through, go beyond, if you like, what your statutory requirements are in the way you have described. But looking at the document you have provided to the Committee, the Code of Practice, for example you said in paragraph 2.6: "In such circumstances, the decision on which recycling yard to select rests with the middle buyer rather than the shipowner."⁴ What I am not clear about is what influence you may have

on third parties who may buy your ships because you know what your policies are but do you actually have any leverage over the disposal methods of third parties?

Captain Palmer: I think it depends on the circumstances in which you were selling the ship. If you are talking about a ship that has still got 10 years of its life left, then it is a bit like selling a car after you have owned it for three years. You probably do not know what happened to it. But if we are talking about something that is at the end of its life, if we are using a third party to act as an intermediary, which we do because it is easier in some ways, then we will limit the number of yards that they can approach, so they will have to be ones that we have approved and we will have a final right of veto over which yard it is sold so. So those guidelines are general guidelines but not the ones that are in practice to be followed.

Q27 Chairman: You talked about the yards, but Mr Blankestijn has just detailed a very specific methodology which has to be followed. Would you also require your third party to adhere to the same rules that you as companies would follow?

Captain Palmer: Absolutely, but despite the fact that we might have used a third party to act as an intermediary we would still follow it right through and we would have our own people in there as well. So the use of intermediaries is a mechanism for accessing the trade market rather than the actual final responsibility for it.

Q28 Chairman: You represent two known major important companies. Would it be fair to say that there may be some who would not be as rigorous as you?

Captain Palmer: That is quite possible.

Mr Brownrigg: I am sure that is the case, but then you have to recall that the code was developed with these other international groupings. BIMCO alone, the first one I read out, I think has 70% of the world's fleet in membership. So the breadth of support for these practices, albeit of a voluntary and recommendatory nature, I think sends that message. Now, of course it does not necessarily compel at the end of the day, but it sends the message.

Q29 Mr Lepper: Are there countries or companies which are not signed up to the International Chamber of Shipping?

Mr Brownrigg: Oh, yes. Thirty-five or thirty-six countries are signed up to it, but if you take the list that is in 1.2 of the industry code that was sent to you, these really do cover a huge proportion of the world fleet, whether it be in the tanker sector, the dry bulk carrier sector, across the board in the case of BIMCO, etcetera.

Captain Palmer: It raises an issue, which is why IMO has been so important in getting those guidelines through because it is the only body which acts globally and there are one hundred and sixty odd members of IMO, which represents virtually every country that is involved in maritime activities. The necessity to get those codes adopted by IMO was

⁴ www.marisec.org/resources/shiprecyclingcode.pdf

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precisely that reason, to try to get a wider cross-section than just those who were members of the ICS.

Q30 Diana Organ: Could you see a time when under the guidelines for the IMO there might be a penalty against a shipowner, a fine if they are not seen to be keeping to the guidelines, because at the moment it is only voluntary?

Mr Brookes: Could I take that from a regulatory perspective. The IMO produces guidelines, statutes, regulations governing the operation of a ship. Those guidelines only have the force of law when they are implemented by the member states of IMO, such as the United Kingdom is. So it would be the United Kingdom which might choose to have its own legislation in that respect, having implemented an IMO statute.

Mr Brownrigg: I think this is fairly early stages in the legislative process. I am not just thinking of this one but any maritime legislation. Sometimes they begin as guidelines and move on into stronger instruments and sometimes they stay as guidelines because that is a more practical expression of the need in that context and it may be a little too early, I think. What one wants to do is look ahead to the implementation of those guidelines and the IMO monitoring of that process.

Q31 Mr Lazarowicz: As we know, the movement of hazardous waste between countries is controlled by the Basel Convention. I understand there is some disagreement or argument as to whether or not it was meant to apply to shipping at all. Can you tell us why this confusion over the status of the Basel Convention in regard to ships destined for dismantling has arisen?

Mr Blankestijn: The Basel Convention was of the opinion that the hazardous materials—some of these materials are on the red list of Basel—made the whole ship hazardous and that is the way of thinking of Basel, where they say if you then send the ship for its last voyage for recycling then it becomes export. With that we disagree because we do not think that a piece of hazardous material on board the ship makes all the ship hazardous. A ship is not hazardous waste, the ship generates waste, and that is a crucial point. Now, of course there is some pressure from environmentalists who want to prove the point that the whole industry of ship recycling has to change. That is why the issue is pushed so much on Basel at this stage. That is no complaint, it is a given fact at this moment. But what will that do to shipowners? It is easily to be circumvented because you can not declare your ship for the last voyage. You sail into international waters and then the Basel Convention does not apply any more. So what presently is then available? From our perspective, Basel does not make it practical for what you want to achieve. That is why it is so important, and it is what is being promoted, that Basel, IMO and ILO should sit together and look at their individual guidelines and make them complementary to each other. As this is a global

issue, you have to look at it as a global issue and not look at it singly, the word “export”, but look at it from a practical point of view.

Mr Brookes: Could I add one point to this, please. A ship cannot sail unless it has all its relevant certificates in place. That means all the hazardous materials that we are concerned with have to be on that ship to enable the ship to be in full working order until it arrives at where it is going to be recycled. The alternative is to remove all those materials somewhere else and tow the ship as an empty hulk around the world, which is (a) impractical, and (b) probably very dangerous. So the ship is still a living object with all its certificates in place; it is not a scrap item until it arrives at the final point of destination, and that is one of the issues which the Basel Convention does not apply, which is why there is this current misunderstanding.

Captain Palmer: We would argue that a ship is not *per se* a hazardous item, it is a large unit which contains some materials that when they are taken out are potentially hazardous if they are not managed properly. It is not quite the same thing as having, I don't know, a container full of asbestos and shunting it around the place trying to get rid of it in the least acceptable place.

Q32 Mr Lazarowicz: I think, Mr Blankestijn, you were talking about discussions taking place. Is that the joint working group of the IMO?

Mr Blankestijn: The joint working group, which is planned for the end of October or November this year.

Q33 Mr Lazarowicz: I do not know a great deal of how the international maritime legal process works. Are these working parties bodies that report within a reasonable period of time? When do we expect to have some outcome from these discussions?

Mr Brookes: Provided it comes to some conclusions, that will report to the Basel Convention and the International Maritime Organisation, hopefully in early 2005, and that can then be incorporated into revised IMO legislation and that will go through the system at IMO to effectively give it the force of law. We are talking about discussion of that and then it will be subsequently implemented into national legislation in the countries of the IMO.

Captain Palmer: The speed that legislation moves through the IMO is not in the hands of the shipping industry, it is in the hands of the nation states that are members of the IMO and some of them can be done very quickly, as has recently been seen with the international security (ISPS) code, which has gone through in a remarkably short space of time, as against the HNS (Hazardous and Noxious Substances) Convention, which has been sitting there for 10 years unratified.

Q34 Mr Lazarowicz: At this stage, what do you assess are the prospects of getting any successful resolution of the disagreement?

Mr Brookes: I think there is a good prospect because I think, as a result of the discussions, the publicity, a real issue has been identified. We have explained to

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you the misunderstandings of those who are not as well briefed as, say, everybody in this room and therefore there is a determination in IMO and the other bodies to come to a conclusion swiftly, and it can do so, as the previous Secretary General of the IMO has proved recently.

Q35 Mr Lazarowicz: Notwithstanding the fact that there is this discussion under way or about to begin in concrete terms, we do of course have the EU Waste Shipment Regulation in force, I understand, at the moment?

Mr Brookes: Yes.

Q36 Mr Lazarowicz: What impact has this had on the recycling of vessels in the EU and what impact in particular has it had on EU-flagged ships being dismantled in developed countries?

Mr Brookes: None that I am aware of.

Q37 Mr Lazarowicz: Has it had an effect on recycling of ships in the EU to any significant degree in terms of the present practice?

Mr Brookes: No.

Q38 Mr Lazarowicz: Finally, if the working group were to come up with an outcome which reflected your views on the status of the Basel Convention, would that not have an impact on the status of the EU regulation?

Mr Brookes: I would have to read the EU regulation again. I do not know every line, I am afraid.

Mr Blankestijn: That is a very difficult question to answer. What is actually missing is the legal framework in all three guidelines presently, ILO, IMO and Basel. There is a possibility and the Dutch and the Canadians are working out a proposal to IMO and Basel at this moment where the reporting system of hazardous material of Basel is kept as a whole because there is importance in that, where say the IMO structure is also taken in place and try to bring that together. Now, if that proposal comes then that could be the legal framework for IMO and Basel to proceed in a quicker way.

Q39 Mr Lazarowicz: I suppose what I am getting at is if the EU regulation is based upon one interpretation of the Basel Convention requirements and that is not what eventually becomes agreed amongst the parties then we could have a situation, perhaps, in which there is no EU regulation in place until such time as the EU changes its legislation in line with the outcomes of the working group?

Mr Blankestijn: All I would like to add is that this is, in our opinion, a global issue and we should try to solve it globally, otherwise we get competition between EU and other states where there easily could be a threat of, say, trying to circumvent the EU regulation again. So we have to come to this as a global solution.

Mr Lazarowicz: Thank you.

Q40 Mr Mitchell: Did I hear you say that there are no dismantling facilities in the UK?

Captain Palmer: No, there are none that could take ships of that size. We were talking about dismantling a Very Large Crude Carrier.

Q41 Mr Mitchell: That is just the VLCCs?

Captain Palmer: Yes. I am not quite sure what the biggest ship they can take in the UK is, but it is not very big in comparison if you are talking about oil tankers, no.

Q42 Mr Mitchell: This issue which we discussed earlier, which is the American Navy vessels going to Hartlepool, could that be the basis of a beginning of a British dismantling industry?

Captain Palmer: I think the sizes of ships they are talking about taking there, once again are at the smaller end of the range, but nonetheless they are a reasonable size and certainly there are plenty of ships that will be coming up for recycling in the next few years in Europe. I think one of the things you need to look at as to whether that industry would be viable would be whether it can be done at a cost which is reasonable and whether it can be done safely and properly. I think the issue of the safely and properly one is one that clearly is not one that I can answer but I would see no reason why it could not be done safely and properly here. The cost one is an interesting question. There are other facilities in Europe. There are facilities in Holland, I think, there are facilities in Turkey and there are facilities in Spain that dismantle vessels. A lot of it comes down to whether it would be economically acceptable, firstly as to what price they can do it at, but secondly you look at the voyage length that the ship would have to travel. Are people going to send small coastal vessels out to the Far East for dismantling? The answer is probably, no, if there are available facilities closer to home because it is not an economic thing to do. In the case of large international trading ships, that is rather different. They are probably out that way anyway when they reach the end of their lives; they are their normal trade routes. So the question of could there be a viable industry, well, I guess that will depend on the cost structure that it can produce but there is logically no reason why there could not be.

Q43 Mr Mitchell: But it would not be of great interest to you?

Captain Palmer: It might be for some of our smaller coastal tonnage, yes.

Q44 Mr Mitchell: Only the smaller vessels. At the moment you do not send those smaller vessels to what facilities exist in Holland or Spain?

Captain Palmer: Correct. Well, we have got some coming up later this year and we will be looking at where they are going fairly shortly.

Q45 Mr Mitchell: Okay. So is the argument between dismantling ships in developed countries compared with dismantling them in less developed countries like India, Bangladesh or China primarily one of the capacity that they can take?

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Mr Blankestijn: The way I see it, it is what is the market, how is the market divided, and I think Captain Palmer already said the smaller vessels—the economical turning point—which will not all the way sail to Asia, while the bigger commercial ships will, but that is the commercial ships. On the other side there is still the segment of ships that are a problem, which no longer sail because they do not get the certificates, and that is of course a category. Another category is governmental ships, which in the case of Hartlepool is a matter and they have another economical value. So you look at the market segmentation in relation to the facilities at hand and those should find their market mechanism.

Q46 Mr Mitchell: Right. There is no virtue for the bigger ones in being dismantled close to home, as it were? There is less of a voyage.

Mr Blankestijn: If I mention to you the cost element, say triple the cost factor probably here versus Asia, then for the bigger tonnage economy scale—

Q47 Mr Mitchell: Okay. So the two arguments are the size of vessels they can take and secondly uncompetitiveness?

Captain Palmer: Yes, assuming there was the same health and safety framework in both cases. So you have eliminated one area of contention, which is that we would require wherever it was done that it can be done properly. The next question then is an economic decision of which is the right place to go, and capacity.

Q48 Ms Atherton: But you would not be eliminating that there is the same level of environmental issues or that the corporate social responsibility, say, of the wages that are paid to the people who are doing the work would be the same, so you are not likening like with like, are you?

Captain Palmer: No. That is the same with a number of issues. There is a number of industries which move to different parts of the world depending on the cost of the labour market. It is a labour intensive industry dismantling ships. That does not mean to say that facilities cannot and do not exist commercially viably in Europe; there is a number of them there at the moment.

Q49 Ms Atherton: But not for the very, very big ships. Is there anything in the developed world that could actually take these very big ships? Could one of the P&O ferries be dealt with in a developed country?

Captain Palmer: Oh, yes.

Q50 Ms Atherton: And the bigger tankers, could they be dealt with?

Mr Blankestijn: If the facility is there then it can, yes, but as I said, it is a matter of price and this is in a global situation.

Q51 Ms Atherton: I am sorry, I am not following. Are you saying to me that if I had a multi 10s of thousands of tonnes, big tanker type of ship that I could opt to go to an environmentally and socially

responsible company, in terms of its employee relationships in a developed country; I could do that tomorrow?

Mr Brownrigg: If the facilities exist.

Q52 Ms Atherton: That is what I am asking you, are those facilities there?

Mr Brownrigg: No, they do not tend to exist—

Captain Palmer: There are two parts to your question. The first one is, they do not exist.

Q53 Ms Atherton: They do not exist?

Captain Palmer: There are none that can take ships of that size, that I am aware of. But the second part, which I would take issue with you on, would be to say that those countries that we do deal with, in China, are not doing exactly those things you are talking about, which is treating their staff properly, paying them properly in relation to their own economy, looking after their welfare and doing all those other things. I think that is a very incorrect perception of how it is done in those places.

Q54 Ms Atherton: I am trying to find out the answers. I am trying to stimulate you to come back—

Captain Palmer: That is fine. Well, I did.

Q55 Ms Atherton: You are prepared to say that you are satisfied with the standards despite criticisms that have been made by organisations?

Captain Palmer: Correct. The criticisms that have been made of Bangladesh, Pakistan and India I would have some sympathy with. If those same criticisms were extended to all of the facilities in China, I would not have the same degree of sympathy with it because I do not believe that is correct.

Q56 Ms Atherton: One last question. If I was thinking of setting myself up as a company dismantling these multi-thousand tonne tankers that we have talked about, what would be the competitive elements they would need to actually encourage you? What would be the differentiation between China and Bangladesh that you might find attractive as a company?

Captain Palmer: Well, a lot of it would be on their ability first of all to be able to do it in the timeframe required, to be able to demonstrate all those things to a company like ours that we have discussed, to be able to do it competitively. A lot of it is to do with scale. It rather depends what scale you are operating on. Most things are more effective if they are done on a large scale. That is certainly true in ship building and it ought to be true at the other end of it as well. So I think it is not impossible and, as I say, there are European yards that do that today. So the question is whether the UK could be competitive in comparison with people operating clearly in very similar legislative frameworks in Holland and Spain, for example, two fairly close EU countries.

Mr Blankestijn: And the facility here could use more modern techniques, in which they would not even think of investing because the labour costs are much

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cheaper. So there are elements which are even more environmentally friendly if you do them in a very hi-tech way. We are talking about percentages differences probably.

Captain Palmer: It is quite interesting comparing China with India and Pakistan because labour costs are much higher in China than in Pakistan for the work that they are doing. They use a lot more mechanisation in China to do the work, which is actually one of the attractions of it to us, than in the other cases where they use a far higher human element, which clearly involves more risk.

Q57 Alan Simpson: Just sticking with Candy's question, when you say there are no dismantling facilities in the UK, if you take the other countries and the divisions you have identified between China, Pakistan and Bangladesh, where does the investment money come from to raise the environmental standards?

Captain Palmer: In China I can give a good example. There were existing facilities. Some of them were originally shipbuilding yards which actually converted themselves into dismantling facilities. They saw it as actually being something in which they could differentiate themselves in the market to actually attract customers like us and they actually see the investment that they have made in their facilities as being one that gives them a market advantage when they are looking to socially responsible shipowners for facilities to go to. So they are commercial ventures. They are doing it on a private investment basis.

Mr Blankestijn: But also supported by the government because the Chinese government is now in the process of certifying yards and giving them green lights for import licences for certain vessels, or not letting them, or completely closing down those facilities within a period of time. So what the industry started the government is now taking over by more or less safeguarding the guys who were taking their responsibility in their facilities to make sure that they stay in business and not being competed out of it by the ones that do not do those things.

Q58 Alan Simpson: Presumably you would welcome that rating?

Mr Blankestijn: Very much, yes.

Q59 Alan Simpson: Does that get followed by you as an industry on the basis of saying, "These are the standards that we will only approve for dismantling and recycling," because it seems to me that you have a choice in fact? Since you are paying, there is a choice to be made about where you would direct your purchasing choices to.

Captain Palmer: It would obviously be in our interest for every yard in the world to be operating to exactly the same standards, the highest possible standards, so that we could then simply make an economic decision on where to do it and not have to actually look at some of those other issues. So clearly there is a benefit in that process. Is it a particular issue for us? Well, actually, no. The average age of

our fleet now is two and a half years, so it is not something we are going to have to worry about for a few years.

Q60 Alan Simpson: Okay. Can I just come at it from a different angle. You have talked a lot about the Basel Convention. What impact do you see the Stockholm Convention having on the industry because in a sense that was one of the points that we had started from, the implications that that Convention will have, particularly in relation to the disposal of hazardous substances that you will find on ships, including PCBs?

Captain Palmer: I cannot give you an answer to that.
Mr Brownrigg: Do you want us to consider it and come back?

Q61 Alan Simpson: Yes. It would be really helpful since the Convention will apply from this year. It would be helpful if we could get clarification. Just coming through to the question of where the responsibility should lie with the dismantling of ships at the end of their lives. You took us through a picture which I just want to be clear I have got right. The IMO set the guidelines in terms of the standards and responsibilities that you have. Those guidelines only become legally enforceable when they are adopted by governments, but in terms of the changing of the guidelines you were saying that that is also open to governments to change because governments are the driving forces in doing so?

Mr Blankestijn: Yes.

Q62 Alan Simpson: So would you be in a position to come back to us as a Committee and say what exactly would be the guidelines that you would want a UK Government to be advocating to be adopted, incorporated or changed in relation to that IMO framework?

Mr Brookes: We were very much party to the development of the International Chamber of Shipping's guidelines which have been taken through to IMO and are now in place there. There are only a few tweaks and whistles and bells, there is no fundamental difference. So that is what we would be happy to see go forward in the way you have said.

Captain Palmer: Just to clarify the process that the IMO works under and how these guidelines came about, the guidelines originated back in the mid-90s by us and a number of other companies getting together who were concerned about the issue and clearly the pressure that then came on the industry from about 1997 onwards with the NGOs getting interested in the issue resulted in those guidelines being finally produced in the form they are in. They were then lodged with IMO, who have adopted them as guidelines. Now, if they were to become international legislation they would have to go through the IMO process of a proposal being put forward at one of the committees of IMO by one or a number of nation states, who are the only people who can actually put forward proposals. If IMO as a whole chose to go forward with it—and that is on a one country, one vote system—then it would go ultimately to a diplomatic convention, a diplomatic

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convention would argue over it and they would produce a piece of international legislation with certain requirements around it of how it should be ratified and it would then go through that process, at which point it becomes international law and then the member states of IMO are obliged then to enact it in their own legislation. So that is the full international legislative process.

Mr Brownrigg: I think I would put a slight gloss on that. That was referring to the development of conventions. This is already an IMO instrument. It is already an international legislative instrument but it is in the form of guidance and the guidelines are issued in a recommendatory fashion very often because that is the nature of the substance they are dealing with. But this has within it, as we have said before, a direct request to the IMO committees in question to keep this under review, with a view to further developing the guidelines in the future: to consider the appropriate means to promote the implementation of the guidelines including a review of the progress made in achieving their intended purpose; and to continue cooperating with the International Labour Organisation and the appropriate bodies of the Basel Convention in this field and to encourage the involvement of other stakeholders. So what is in process here is a system of taking what has been adopted in guidance form at this stage and looking forward in the light of practical experience, and that is a positive way of looking at it.

Q63 Alan Simpson: Let me just get you to run that through again against one of the comments that Joan Ruddock made earlier. You threw in an answer that a vessel is not like a car and where did old cars go, and Joan said, "They get dumped at the end of my street." If you can picture a scenario of a vessel abandoned at the end of her street and you ran that checklist past her or any other resident, "This is being kept under review. We urge people to come out with appropriate guidelines," they would tell you to bugger off. They would say, "Get this bloody thing off my street, find out who's responsible and charge them." In a way, I think what as a Committee we have a right to ask of you is, if we are to address the problems globally presented by those who would dump end of life vessels on beaches in poor and powerless countries or pull the plug on them in deep waters, how does the responsible part of the shipping industry want governments like our own to take effective action now that is interventionist?

Mr Brownrigg: Just to take a second take on the comparison you have just made, this is not a fly-tip that is under a single council's or a single county's jurisdiction. This is a piece of legislation in guidance form which is adopted for 160 countries. It is at a different level than your comparison, if I may say, and I think you have to be guided by practical experience on this. The fact is, there was nothing in place four years ago. There is now guidance that was developed by the international industry, with the breadth that I have mentioned beforehand. The international industry took that to the international maritime legislative authority and said, "Please do

something with this," and that has happened. So I think we are in a process and there is a process of review into the future to learn from experience and I do not think that should be downplayed.

Q64 Alan Simpson: No, I am not downplaying it. I understand that. As a Committee, we are having this inquiry partly because all of a sudden we have been presented with the reality of the recycling issue in relation to the ghost ships. We then realised that in fact the numbers in the pipeline are far greater than any of us had been aware of and that we need to have guidelines in place that essentially are able to take action against not the most responsible part of the industry but against the irresponsible part of the industry. My question to you is still the same, what action would you be asking this Committee to recommend to the UK Government that it takes forward again into the IMO guideline or legislative process?

Mr Brownrigg: I will give a one sentence answer and then others can jump in because they clearly want to. I think we would want strong support by the UK Government for the international guidance that has been adopted. Now, that may sound trite but for 160 countries to be looking at this with a view to implementation is something that will take time. So I think what we want is essentially a strong line from the UK Government in support of what has been achieved to date.

Mr Brookes: Could I add, Mr Simpson, you mentioned about pulling the plug, obviously to sink it at sea. That is not in the commercial interests of anyone because, as Captain Palmer has said, ships have value, tens of millions of pounds, even as scrap steel. If they go to a land beach. We have talked about land beaching in India now. So the answer is, we then want this guidance to ensure that we maintain the high standards we have outlined to you and persuade people to raise their standards to those of China, to which both P&O Nedlloyd and BP Shipping send their ships.

Q65 Alan Simpson: Okay. My final question on that then is, recognising that even at that end point there is economic value of the material that can be salvaged, we are left with questions about the liability for hazardous waste that is contained in abandoned ships and I think given that we can very easily identify a situation where a ship was built in the UK for a US company that is operating from the Philippines and registered in Liberia, who should have the liability for the hazardous wastes that are illegitimately recycled in an abandoned vessel?

Captain Palmer: I will just reinforce the point that Edmund made, that I do not think anybody abandons ships. Ships are sold to recycling facilities. They are not abandoned. When people refer to them going on the beach in India, they are not just dumped on the beach, these are actual yards. They just use the beach as their bit of land that they dismantle on. So they are not abandoned. Who is responsible? At the end of the day, if you are operating a recycling facility which is going to do that job properly then if there is a process of

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licensing recycling facilities as exists, as Tom has described, in China then clearly it is the responsibility of the regulatory authorities in the country where that is taking place. As a shipowner, it is my responsibility to make sure that I actually give it to a place that actually does manage it properly and that I am satisfied that I go through a due process of audit to ensure that they have done their job in the way that they professed they were going to at the time we agreed they could have it. So I believe that the simple answer to your question is that it is a joint responsibility. I think it is the responsibility of whichever is the country that has that recycling facility to ensure that it is done properly, safely and in an environmentally sound

manner and it is the responsibility of owners, certainly it is my view, to make sure that they only sell it to places that can do it properly and that they do do it properly. Does that answer your question?

Alan Simpson: Yes.

Chairman: Gentlemen, thank you very much indeed. You have given us a comprehensive overview and a good formal start to our inquiry in this area. We thank you very much indeed. If there are any subsequent points which occur to you that you would like to respond to—I think the one on the Stockholm Convention was the key point and we would be grateful for a further response from you in due course. Thank you very much indeed for coming before the Committee.

Supplementary memorandum submitted by the Chamber of Shipping

THE STOCKHOLM CONVENTION, 2001

The Stockholm Convention deals with the treatment of Persistent Organic Pollutants (POPs). The Convention came into force earlier this year. The EU is currently developing a set of regulations transposing the convention which will be binding upon the UK; the timescale for implementation is expected to be early 2005.

Of the chemicals covered by the Stockholm Convention, the most significant for ships are Polychlorinated Biphenyls (PCBs). The convention strictly controls the disposal of such substances, which are to be disposed of in such a way that the POPs are destroyed or irreversibly transformed into a substance no longer possessing the characteristics of a POP. There are currently very few shipyards worldwide with these capabilities. It also states that toxic wastes are not to be transported across international boundaries without taking into account relevant international rules, standards and guidelines.

It is likely that many older ships will contain PCBs as part of their fabric. They were extensively used as insulators in electrical equipment and as plasticizers in PVC products and waterproofing agents, as well as a wide range of other uses including paint and lubricants. It should be assumed that PCBs are present in transformers and capacitors manufactured before 1976 unless there is information to the contrary. It is also possible that PCBs may be present in items manufactured between 1976 and 1986.

As a result of regional and national legislation, for example in the EU and USA, in particular relating to disposal, strong disincentives have existed against the use of PCBs in manufacturing processes since the mid-1990s.

In terms of its relevance to ships, the position for the Stockholm Convention is exactly the same as for the Basel Convention. As stated in the Chamber's earlier written and oral evidence, a ship is not a hazardous item *per se*. It is a large unit which contains some materials that—when they are taken out—are potentially hazardous if they are not managed properly. For future new ship construction, provided regulations are observed, the issue should not arise. For the recycling of existing ships, particularly older ships, clearly it will be for the owners and recycling yards to take proper account of the standards laid out in the Stockholm Convention when considering how the resulting waste should be handled.

The Chamber of Shipping

August 2004

Wednesday 14 July 2004

Members present:

Mr Michael Jack, in the Chair

Mr Mark Lazarowicz
Mr David Lepper
Mr Austin Mitchell

Joan Ruddock
Alan Simpson
Mr Bill Wiggin

Memorandum submitted by Friends of the Earth

DISMANTLING OF DEFUNCT SHIPS IN THE UK

Friends of the Earth is pleased to present written evidence to this inquiry.

1. Friends of the Earth in England, Wales and Northern Ireland (Friends of the Earth EWNI) is a member of Friends of the Earth International, which is the largest grassroots federation of environmental groups in the World. Friends of the Earth International has member groups in 68 countries most of which are in the developing World.
2. Friends of the Earth EWNI has 200 voluntary local groups and we work with a number of other community groups.
3. Our policy work is therefore informed by an international and a local perspective. This enables us to fully understand the disproportionate environmental damage caused in developing countries and within some communities within our own countries. It is this that leads us to fight for environmental justice.
4. Our evidence will first consider developments since the last EFRA Committee inquiry into this issue and then go on to address the questions raised within the press notice for this inquiry.

DEVELOPMENTS SINCE THE LAST EFRA INQUIRY INTO THE "GHOST FLEET ISSUE"

5. Since November (when Friends of the Earth last gave written evidence to the Committee), Friends of the Earth has won its High Court Case against the Environment Agency and Able UK. Our contention that the Environment Agency had acted unlawfully in varying Able UK's Waste Management Licence was accepted by the Court. The Court, like Friends of the Earth, expressed concern at the absence of environmental impact assessments in relation to the proposed project.
6. In another related case, taken by local residents, the High Court ruled that Able UK's planning permission did not allow it to scrap ships. This has resulted in Able UK preparing a new application for planning permission for its dry dock. Irrespective of the result of this High Court case Hartlepool Borough Council were of the view that Able UK's other planning permission (for constructing the dry dock) was no longer extant and that Able UK would have had to apply for new permissions requiring environmental impact assessment.
7. Friends of the Earth wishes to highlight the fact that had it not taken the actions it did to bring these matters to the attention of the Courts and to the attention of the public (who were then sufficiently informed to take matters to the Courts themselves) then the project of scrapping the US ghost ships would have proceeded on an entirely unlawful basis and without consideration of the environmental impacts of doing so.
8. Able UK are also part way through applying for the licences they need for their landfill site and the licences they need under the Food and Environment Protection Act 1985.
9. Following these cases we understand that Able UK are now carrying out thorough investigations into the possible impacts of constructing and operating its dry dock facility on the internationally important wildlife sites adjacent to the site as part of its work to secure various permissions. Friends of the Earth welcomes these investigations. Since the outset of this issue we have stressed the need to carry out such investigations if the integrity of Europe's wildlife sites it to be maintained and EU Habitats legislation complied with. We have also said on numerous occasions that should Able UK successfully demonstrate that it can build and operate a dry dock scrapping facility without damaging the protected wildlife sites or the wider environment then Friends of the Earth could not reasonably object to the development. We are pleased to know that the Environment Agency and the Council will consult widely on the applications as they arise.

10. Friends of the Earth, together with colleagues in other environmental organisations, has also met with Elliot Morley, Minister for the Environment, to press the need for a UK Strategy on ship recycling. We have followed this up by meeting with his officials and have also discussed the issue of ship scrapping at length with European Commission officials. Friends of the Earth and other environmental groups have a goal of ensuring self-sufficiency in ship-scrapping within developed countries and the end to the appalling practice of exporting ships for breaking up on the beaches in developing countries.

11. We understand that Able UK's permissions, if obtained, are unlikely to be granted until September at the earliest, largely as a result of needing to carry out proper investigations. It strikes us that had Able UK begun the process of carrying out investigations and seeking appropriate permissions before they signed their contract with the US Marine Administration and before they imported the US vessels they may now be in a position to import the ships and begin dismantling. Instead they chose to ignore warnings last July that their planning permission may not be extant and that further environmental investigations would be needed. The fact that the planning permission was considered to be lapsed was brought to the attention of the company and the regulators in meetings as early as July 2003.

12. We have welcomed the DEFRA review and Environment Agency review which has indicated a number of lessons need to be learnt. We have expressed a willingness to work with the Environment Agency on this.

13. To conclude this section, we are now in a situation where proper environmental investigations are being carried out into the development of Able UK's facility, the local community will be involved in decision-making, the Government is beginning the process of developing a strategy for ship recycling and DEFRA and the regulators are learning lessons to prevent future incidents of this nature. These are significant improvements that have resulted from the campaigns and legal work on the ghost fleet issue. As Mr Justice Sullivan said in his third ruling on the ghost fleet cases:

“It is a matter of concern that it took the intervention of third parties, these Claimants [local residents] and FOE, to expose serious deficiencies in the decision making processes of the public authorities (including the Agency) that were responsible for environmental protection . . . They have in effect discharged an environmental protection function which the Agency failed to discharge.”

SHIP RECYCLING

14. Through conversations with European Commission officials we were made aware of a recent comprehensive report on this issue [Commission of the European Communities, Technological and Economic Feasibility Study of Ship Scrapping in Europe, Report No 2000-3527, December 2001]. It found that:

- The majority of vessel scrapping activity relates to merchant vessels (conventional ship scrapping) and that currently this is undertaken almost exclusively outside of Europe in India, Bangladesh, and Pakistan and increasingly in China. That much of this scrapping is non-compliant with EU health, safety and environmental legislation and objectives.
- An increase in no./tonnage of vessels requiring scrapping is predicted over a 15 year timescale from 2001–15 and that the dominant component of this comes from the merchant ship fleet in which the predicted average annual volumes for Europe are:
 - 107–247 ships.
 - 4.3–11.1 million dry weight tonnes.
 - 2.9–7.4 million GT.
 - 0.86–1.48 million tonnes steel.
- That is not considered practicable to upgrade the existing facilities outside Europe to achieve compliance and the concept of pre-processing within Europe (or within other OECD member states) to achieve a sterile (or neutral) ship prior to dismantling is not considered to be either economically or technically viable.
- It suggested that based on projected volumes, a single, high volume, fast turnaround facility is proposed, comprising a dock large enough to serve vessels up to 400,000 dry weight tonnes.
- That an economic analysis has demonstrated that the end-of-life value of the vessels will be heavily dependent upon the costs of separation and dismantling, such costs being in turn primarily influenced by the prime employment cost of labour. It suggests that a “break-even” point falls somewhere in the range of US\$10–15/hr. That employment costs in most Eastern European and FSU countries fall in the range US\$1–5/hr whereas in Western European countries employment costs fall in \$15–30/hr range and that therefore economic viability will therefore be greatest in the lower cost economy countries of Eastern Europe and the FSU and it is likely that the labour costs applicable within Western European countries would result in a negative ship end-of-life value.

- That at present only Poland and Ukraine have significant sized docks that could accommodate the majority of cargo carrying ships in the world fleet but the dock in Poland is in current shipbuilding use [at the time of writing the report] and whilst shipyard activity in the Ukraine is generally fairly low [at the time of writing the report] the situation regarding social and environmental compliance is uncertain.

15. These findings pose significant questions:

- If ship-owners are paid by ship-scrappers in developing countries what incentive is there to encourage them to pay for scrapping their ships in more socially and environmentally acceptable ways?
- What controls could the EU or UK Government put in place to prevent UK or EU vessels being exported to developing countries for scrapping?

16. Friends of the Earth suggests that legislation requiring companies to report on social and environmental impacts would be one useful incentive—as proposed in the recent Performance of Companies and Government Departments (Reporting) Bill. A further and more powerful incentive would be making companies liable for social and environmental activities overseas and providing affected communities with rights of redress in the UK courts. This is a proposal of the Corporate Responsibility Coalition, of which Friends of the Earth is a part. The Coalition is calling for:

- **Mandatory Reporting:** Companies shall report against a comprehensive set of key social, environmental and economic performance indicators with which they can benchmark (and ultimately better manage) their operations and performance—here in the UK and abroad.
- **Directors' Duties:** Expanding current directors' duties to include a specific duty of care for both society and the environment, in addition to their current financial duty to shareholders.
- **Foreign Direct Liability:** To enable affected communities abroad to seek damages in the UK for human rights and environmental abuses committed by UK companies or their overseas subsidiaries.

17. Currently negotiations are underway on amending the Waste Shipment Regulations. The Commission proposed that the regulations make it illegal to import or export wastes containing certain levels (to be determined) of PCBs (or other Stockholm Convention chemicals). They would do this by treating wastes containing these chemicals in the same way regardless of whether the wastes were intended for recycling or recovery. In practice this would prevent the import or export of vessels such as the US Naval vessels (assuming that the threshold adopted for the PCB limit were 50 ppm, which is the norm for controlling PCB contaminated wastes). The exception to the import ban would be from countries with no facilities to treat or destroy PCBs safely (in reality only some developing countries). The Irish Presidency of the EU is hoping to get political agreement on these regulations at the end of June Council of Ministers. However the regulations are not expected to enter force until mid-2005. These regulations, if agreed as proposed by the Commission, will provide some incentive but companies will still easily be able to sell their boats to third parties to avoid these controls. There is no easy answer in identifying a clear legal sanction to prevent companies avoiding their environmental and social obligations in this area. International action on corporate accountability is needed and indeed was promised at the World Summit in Johannesburg.

18. The European Commission report strongly suggest that large-scale ship-scraping facilities in Western Europe will not be economically viable because the bulk of the ships, which are corporate owned not Government owned, will go to developing countries or at best Eastern European countries or countries of the former Soviet Union. The UK Government can assist the viability of UK facilities through ensuring that Government owned ships are scrapped in the UK. However whether this is likely to make scrapping facilities financially viable is open to question.

CONCLUSIONS

19. The US naval ghost fleet issue has driven up the political agenda an important social and environmental issue that had hitherto being largely ignored. The development of environmentally sound scraping facilities in the EU is required. They should be developed following appropriate environmental investigations. The development of EU legislation on PCBs is to be welcomed, however if the UK Government want to prevent the export of ships to scrapping on beaches in developing countries they will also need to introduce corporate accountability legislation in the UK, the EU and work to its introduction at a United Nations level.

Friends of the Earth

May 2004

Witnesses: Mr Tony Juniper, Executive Director, Friends of the Earth, *Mr Mike Childs*, Political Co-ordinator, Friends of the Earth and *Mr Phil Michaels*, Friends of the Earth lawyer, examined.

Q66 Chairman: Good afternoon, ladies and gentlemen. We are sorry to have kept you waiting a few moments; we had some housekeeping to sort out. May I welcome our first group of witnesses, from Friends of the Earth, Mr Tony Juniper, Executive Director, Mr Mike Childs, the Political Co-ordinator and Mr Phil Michaels, a Friends of the Earth's lawyer. It is always worrying when people bring their lawyer with them; we had better be careful what we say, otherwise we might be in some trouble! As you know, we began this inquiry following our short, sharp look at the difficulties that arose when Able UK entered into an arrangement, seemingly to be able to dismantle American naval vessels in Hartlepool but with the results that you know only too well following from it. I think it might be useful, given your particular interest and knowledge of these matters, if you would update the Committee on how you see the current situation in Hartlepool in the light of events?

Mr Childs: I can answer that. Chairman, if we look back to where we started our work, it was very much instigated by calls from people in Hartlepool for us to intervene and to look at it; also, calls from fellow NGOs in America who were concerned about the export of ships, and who were saying to us, "We need your help here." We set off with four objectives in mind, and I think in terms of reflecting where we are at now we can look at those. One of the objectives was to make sure that there were proper investigations in terms of what the environmental impact may be on the special protection area, the very key wildlife site adjacent to the planned Able scrapping facility, and we are very pleased now that the investigations have been carried out. So that seems to us a very good step forward in terms of protecting one of our key wildlife sites and indeed one of the key wildlife sites in Europe. The second objective was about public participation in decision-making. The local community, up to our involvement and indeed up to the court cases at the end of the year, did not have any great opportunities to participate in decision-making, to look at the proposals, look at the assessments in terms of what the impact might be, and to comment. Now, because those assessments are being carried out and planning permissions are being applied for, they have their democratic opportunity to participate in that decision-making process. That, again, is a good step forward, we think. In terms of our third objective, which I think is a principle where we come from, but recognising that not everybody shares that, it is that countries should deal with their own waste. Clearly four ships are over in the UK at the moment and the other nine that are intended to come over to the UK are in the US. They are held there awaiting court hearings; environmental groups within the US are taking those court hearings to try to prevent those ships being exported and, indeed, trying to prevent the USA exporting ships anywhere across the globe because that is an important point. They do not want those ships to come across to the UK because they see that as, if you like, breaching a barrier on export of these ships, which would then allow the American

administration to send them to developing countries which, of course, we are firmly against, as I am sure is everybody. So we are waiting for that court hearing as to what will happen in terms of the US vessels. We also know, with interest, that some of the vessels which were intended to come over and get scrapped in the UK are now being scrapped in America where they have the facilities to deal with them, and I think it was in the last few weeks that the Head of the Marine Administration held a press conference on one of those ships and said, "These are the most parlous ships we have in the fleet. These are ships that we need to get rid of because the environmental damage that can be caused by these is very serious. So we are getting rid of these now." I think that is a good sign in terms of America finally taking some responsibility in scrapping those ships in the US. Very briefly, Chairman, the fourth point in terms of where we are coming from, is that we have worked for a long time with the community in Teesside; we have employed a community development worker up there, working around the chemical works in Teesside and trying to engage with the chemical industry up there. It is very much the view of the people that we speak to in the area—and recognising of course that there will be different voices—that they are feeling as though they are getting wave after wave of polluting processes in their neighbourhood and feeling as though that is not just, that is against environmental justice, and I know that they have submitted evidence saying, "We think we have enough here; we have the nuclear works, we have the chemical works, the steel works, why should we take any more waste? Surely these polluting processes should be more fairly shared around in the UK?" So our fourth point is around environmental justice, and I think that there has been more thinking and discussion about that which, again, is a positive outcome.

Q67 Chairman: There are a couple of points that you mentioned. First of all, that the area is overdone with its burden of environmentally challenging activities, and the view that was put forward by your local branch, Hartlepool Friends of the Earth Media Group, said in evidence to the Committee, "We do not feel that such large scale waste generating and potentially hazardous ventures should be located in areas already blighted by the negative effects of industrial pollution,"¹ which I think accords with what you have just said, yet in paragraph 9 of your evidence to the Committee you said, "We have also said on numerous occasions that should Able UK successfully demonstrate that it can build and operate a dry dock scrapping facility without damaging the protected wildlife sites or the wider environment then Friends of the Earth could not reasonably object to the development."² So in paragraph 9 you seem to be saying that if the facility can be environmentally acceptable, best practice, et cetera, you are happy to add ship breaking to the

¹ Ev 87

² Ev 14

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activities in that part of the northeast. But the evidence you have just given and the view of your Media Group seem to conflict with that somewhat.

Mr Childs: Chairman, I think the difference is the way that Friends of the Earth structure themselves. Our local groups are largely autonomous as long as they work within the law and peacefully, and are pushing forwards in the right direction. We think it is right and proper that we give them the facility and the space to air their own views, and we are not the ones from our position to easily say that that area is over pressured. We want the local people to be involved in decision-making there. They have made their views clear and I think that means that they will be objecting to any applications. What we were trying to say is that we have to look at the evidence in terms of what is coming forward, in terms of the application from a national perspective, recognising that we ought to be scrapping ships somewhere in the UK. The only reasons we would see where we could easily object to the location of facilities is if they are going to be environmentally damaging. So I can see why there is a difference of tenor there. I think it is an area that is worth exploring.

Q68 Chairman: I wanted to take your mind to how did we get here, because Able UK in their evidence to the Committee have presented—and we will be talking to them later this afternoon—the picture of a company who are certainly aware of the environmental impact of their proposals.³ I am assuming that they set off in good faith to bring these ships to the United Kingdom, believing that they were going to deal with them in a responsible way. You had the opportunity to look at their original proposals; did you think that they were approaching it in a responsible way? Do you think that they are a good company or do you find areas of what they propose to cause you concern?

Mr Juniper: When we approached this, as Mike suggested, we came from the perspective of concerns being raised by the local community about yet more pollution potentially coming to their doorstep, and to that extent we did not have a prior view one way or the other about whether this was a good proposal or not. But once we began to look at this we discovered that there questions that had not been adequately dealt with as far as we understood the law in terms of what was required, for example, to implement effectively in this country the European Union Habitats Directive that does require proper environmental impact assessments to be carried out before an operation potentially damaging to a site is granted consent and, for example, there was a question there that ultimately we took further and it did, it was shown, have a point in terms of raising a very valid question. There were other issues too about, for example, the disposal of the PCBs, one of the very toxic materials that would be brought in in the fabric of the ships that would need to be disposed of, which would be put into a landfill site. The fact that these kinds of issues have not been properly explored led us to believe that this was not yet an

operation that would meet best standards or, indeed, the requirements of British environmental law. So we took the view that we needed to raise the issues that we discovered in a way where there would be an effective remedy, which is what we have now done. I do not think we would want to say one way or the other whether Able UK is a good company or not; what we want to do is to ensure that the environmental controls that we have in this country are properly implemented to the benefit of the environment and in ways that reflect the wishes and needs of local communities. To that extent, Chairman, I do not think that there is a conflict with what our local chapter is saying compared to what we are saying. They are concerned about the protection of their local environment; we are similarly concerned about the protection of the local environment, and what we all want is for high environmental standards to be adopted by industry.

Q69 Chairman: If I distil from that what you are saying, it is that as long as things are done “properly” in accordance with directives on national law then you would be content to see a properly operated dismantling operation—in this case it just happens to be Hartlepool, but that could apply wherever and by whomever?

Mr Juniper: That would be a good way of framing our approach but we would also wish to make sure that there would be adequate representation of local community concerns and any proposal that would be advanced in ways that would affect local communities’ interests, whether it be noise, pollution, exposure to toxic chemicals or whatever. So it is an important part of the democratic process, which goes beyond the technical legal compliance.

Q70 Mr Lepper: Both Mike Childs and Tony Juniper have laid great stress on democratic participation and involvement of the local community in decision-making. Do you have any gauge of the extent to which that has now taken place since the involvement of Friends of the Earth in this particular case? Either as crude a measure as responses to planning consultation or anything else, that can point to the involvement of the local community rather than of a small group of activists generating concern?

Mr Childs: I can do. At the height of the concern around this issue, at the end of last year the local council held a number of hearings, which were very well attended by local people—not just the activists but the generally concerned individuals. So there was a degree of participation there. The important thing is now that planning applications need to be made, applications for waste management licences, legally there is a duty to involve people in making those decisions so that will happen, but, as I understand, Able UK have yet to make their planning permission applications, so that will come later on in the year. I am very pleased to say also that the Environment Agency has already begun engaging with local communities. I met some of the Environment Agency recently and they are now thinking about how they can best involve local

³ Ev 34

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communities, for example having a series of surgeries around the area, which would not have happened previously. So it is certainly true to say that there is more opportunity for engagement than there would have been otherwise.

Q71 Mr Mitchell: In the “lessons to be learned” review, which the Department proposed and you supported, what do you think the most important lessons are to be learnt from this fiasco?

Mr Michaels: I can start off on that. There have been two reports produced now looking at the lessons to be learned, the one by Defra, by Mr Ballard, and the other one by the Environment Agency. We think the one by Defra is a pretty thorough and robust analysis.

Q72 Mr Mitchell: That means to say you agree with it, does it?

Mr Michaels: We do not necessarily agree with everything in it, but it is quite impressive in its thoroughness. We would agree with a lot of the conclusions it reaches, and it is a shame that some of those conclusions are not reflected in the Environment Agency’s own internal report. To highlight a few of the key areas, key lessons to be learnt, the first has already been touched on, which is public participation. The Habitats Regulations allow the Agency to involvement members of the public and specifically to provide a mechanism for doing that. However, in this case that opportunity was not taken up, which is surprising considering the novelty of the application and of course the public interest in what was going on, and participation in this type of decision is, we think, absolutely crucial to good environmental decision-making, and it goes beyond a mere process point and actually contributes to better environmental decisions being made. I think that is the first important lesson that does not seem to have been picked up very clearly by the Agency. Another important lesson is joined-up thinking. That has been touched on both in the Defra Report and in the Agency Report, but it has been dealt with in terms of joined-up thinking between the various regulators. I think there is also a case for the Agency to look at joined-up thinking internally. For instance, there were discussions involving the Agency at the start of July, in which it was made quite clear that there were real problems with the planning permissions, and if that point had been picked up higher up within the Agency at an earlier stage then none of this would have ended up in court and a lot of subsequent problems could have been avoided; indeed, the TFS, the Transfrontier Shipment, might not have been issued. A third, broad point again relates to the speed with which decisions are made or issues looked at in a situation like this. What I say might be contradictory but in some sense the regulators move too fast and in other cases they move too slowly. In cases where they moved too slowly, which again led to these court proceedings reaching the stage they did, is when the Agency obtained legal advice but then did not actually act on that legal advice nearly as quickly as they should have. Furthermore, the Agency did not

take the steps of advising the US authorities not to send the ships over at nearly as early a stage as we think they should have done. Friends of the Earth wrote to the US authorities on a number of occasions saying, “You should not send the ships over, there are very serious legal holes in the permitting structure over here.” Of course, perhaps unsurprisingly, the US authorities did not take notice. I think had the UK regulators sent that sort of letter at the time when we asked that they should then the ships probably would not have set sail, with the avoidance of much cost in court proceedings. By contrast, there is an argument for saying that decisions were made too quickly to authorise, to grant the permits when they were granted without sufficient consideration being given to the environmental problems.

Q73 Chairman: Can I pick you up on a point of detail which has come up in some of the discussions that we have had with others on this about when is a ship waste and when is it a ship? What seems to emerge is that if a vessel can move under its own steam to a point at which then the owner decides that it is going to be dismantled, it is not waste. What, in your judgement, therefore, was the status of these American vessels because, as I understand it, they made their way here under their own steam? Therefore they seem to be a vessel and not waste.

Mr Michaels: I am certainly not an expert on international waste law, but they did not make their way here under their own steam, they were towed across. I do not think there was any argument at all by anybody involved that they were not waste. Certainly they were classified as waste by the US authorities and by the Environment Agency here.

Chairman: That answers my question, thank you.

Q74 Mr Mitchell: The chief lesson you seem to have learnt, from what you said before that, is that everybody else was wrong and Friends of the Earth were right.

Mr Michaels: That is a happy situation for us to be in in one sense. We were vindicated in this, particularly in law. Perhaps if I can quote from a final decision—and there were of course four court judgments in this case—the Judge said, “It is a matter of concern that it took the intervention of third parties to expose serious deficiencies in the decision-making processes of the public authorities that were responsible for environmental protection. They [Friends of the Earth and the local groups] have in effect discharged an environmental protection function which the Agency failed to discharge.” I say that, not in any sense to put the boot in, as it were, to the Agency, but to highlight the important role that NGOs and members of the public can have in environmental decision-making and can have in holding environmental regulators to account. I think that is an important lesson.

Q75 Mr Mitchell: That is effectively game, set and match to Friends of the Earth, but let me put another point of view, as a political scientist. It was a marvellous pressure group campaign because by

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manipulating possibly unrealistic fears and a public panic you are able in fact to terrorise public bodies, like the Environment Agency, like Defra and like Hartlepool into a total reversal of policy.

Mr Juniper: I think the review that we “manipulated” or “scare mongered” needs to be challenged because we based all of the public statements we made on official materials provided by American public bodies, notably the Marine Administration, which had its own data about the stage of the ships and the materials that they had embedded in their structure, and these materials, including asbestos and PCBs are hazardous and they do need to be dealt with properly.

Q76 Mr Mitchell: They can be dealt with.

Mr Juniper: The landfill site where the PCBs were going to be put did not have permission for PCBs to be put in that landfill site. We were listening with interest when we heard the Minister address this Committee last November, when he was talking about the high quality treatment of the PCBs in incinerators, I think, and it subsequently proved the case that they were going to be land filled. So it was not an academic point that we were raising, we were raising real questions about real toxic materials being disposed of in this country in real landfill sites near to real people’s houses, and it was a matter of public concern and public interest that this was happening without proper assessment of the kind that Phil has just described. The reason these ships were so urgently departing the United States was because of very serious concerns being raised by local communities in Virginia, adjacent to where these ships were being moored on the James River, and there was furious political pressure on decision makers there to remove this environmental hazard from those local communities, and the political choice taken was to remove the hazard to that community to Hartlepool, to be disposed of. Under some circumstances that may have been a good choice, but maybe we will come to some of the discussions later on about what this actually meant in terms of the situation in the USA, because it was very far from straightforward in terms of what this meant there. This was not a routine shipment, this marked a major change of policy by the United States’ administration, and set a precedent which could have, may still have quite grave ramifications for developing countries which, of course, was the other aspect that came into this debate and is still there.

Q77 Mr Mitchell: There still is an argument about the scale of the fears created and whether they were in proportion to a realistic assessment of the problem, or the techniques of disposal.

Mr Juniper: The Seal Sands Site of Special Scientific Interest is designated under European and International law as being—

Q78 Mr Mitchell: That is another matter. These were fears of damage to the public, of PCBs next to your house that you are just talking about, not the Site of Scientific Interest.

Mr Juniper: There were a range of environmental questions that were there; partly they were to do with the integrity of the protected areas, partly they were to do with the shipment and disposal of the toxic materials. We placed in good faith into the public domain the best information that we had available.

Mr Childs: In addition to that, we of course talked to householders who live near that landfill site because it is not that far away from houses, and we looked on the Environment Agency’s public register in terms of how well that landfill was being controlled and there were scores of breaches of licence conditions. So when the local people came to us and said, “You should be aware that this landfill is not squeaky clean, it is not state of the art,” then of course that is something that we needed to take account of. The other aspect of course is that one of the reasons why it got widespread media coverage is because it is a great story in many ways; you have great photographs in there.

Q79 Mr Mitchell: They became “toxic ships” as if they were nuclear radiating ships that were being chugged into Hartlepool Harbour and all the inhabitants would die. It was the scale of the thing that was quite disproportionate.

Mr Childs: If you look to the words that we were using, the quotes that we made and all the press releases we made, we based those on the facts and the evidence that was coming from the States. Of course the media can sometimes run away with itself and exaggerate issues, but the words that we used, the press releases that we used, every single interview we used was based on the evidence that we were getting from the United States, either the official regulators or the evidence we were gathering ourselves together with the local people.

Q80 Mr Mitchell: I had better change the tack of the questioning, I see I have driven the entire audience away in protest about being naughty to the Friends of the Earth! You have called for a UK strategy for ship recycling which, given your concerns about the environment, seems somewhat contradictory—you do not want to do it but, on the other hand, you want a strategy for doing it.

Mr Childs: No, we have always said we want to do it; we have always said that we want to see ships—

Q81 Mr Mitchell: But you do not want them to be sent to third world countries to be dumped there, do you?

Mr Childs: No, absolutely, and this is where we have been clear all along, when we have been saying in numerous media interviews around this, and spoken to numerous people, that we think each country should deal with their own waste, which means that the UK should deal with its own waste and we need to develop ship scrapping facilities in the UK.

Q82 Mr Mitchell: And when they do we make it impossible for them to do so.

Mr Childs: No, not at all. We would support a good application coming forward for ship scrapping in the UK. I think this is exactly where we are working, in

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terms of saying that the rich countries should deal with their own waste, America should deal with its own waste, and we will proactively go out and help a good facility come forward in the UK that would not damage the wildlife site, where we can be sure that the waste disposal facilities were of a high enough standard, and to involve the public in the discussions. We absolutely want it and we were happy to go to a meeting together with other NGOs, with Greenpeace, with RSPB, to meet the Minister, Elliot Morley, and very much press the point that we should have a UK ship recycling strategy.

Q83 Mr Mitchell: So your aim would be that country recycles its own ships?

Mr Juniper: Developed countries.

Q84 Mr Mitchell: We have a big mercantile fleet, have we not, so we have a big job?

Mr Juniper: Indeed, and the job will get bigger as time goes by, which is why it is very timely that this Committee and others are now looking at this issue because it is a neglected piece of public policy in respect of environmental questions and it is something that needs to be resolved in a strategic way. Evidently the case of the "ghost ships" has raised all sorts of issues that have revealed the fact that there is no Government strategy, so this is a good starting point now in which to develop one. As Mike said, we have spoken to the Minister about this already, and our point essentially is that the Government can make some steps now in respect of ships that it owns, Royal Navy vessels being the obvious ones, and the same in the United States. In fact the fact that we were receiving these Government owned vessels from the USA shows that there evidently is not a policy there yet reflecting the kind of points that Mike has made about rich countries accepting responsibility for their own waste disposal.

Q85 Mr Mitchell: That still leaves the big PLCs.

Mr Juniper: Absolutely. You are right. The vast majority of vessels that will need to be disposed of in the coming years are owned by private corporations and one area where we think the British Government should be taking a lead, both domestically and inside the United Nations, is in respect of corporate accountability and establishing legal frameworks that will require companies to take effective responsibility for disposal, in this case of ships, other environmental liabilities and responsibilities too. In fact there was a Private Members Bill promoted in Parliament at the end of last year and early this year, backed by CORE, Corporate Responsibility Coalition, of which Friends of the Earth is a member, calling for three measures to be put into UK law. One is to require companies to report on their environmental impacts and responsibilities, and that would include ships for those relevant companies; it would require company directors to have legal duties in respect of taking reasonable steps to minimise the environmental impact of their operations and would grant access in the British courts to people affected by British companies

overseas. So, for example, Bangladeshi communities that are polluted by the disposal of a British ship would have the right to come and bring an action in the British court. We think that is a necessary piece of legislation; it is in the Johannesburg Declaration of Action that came from the Earth Summit in 2002. There is every reason to do this and the ghost ships case is another reason why we think it should be pursued vigorously by the British Government, both domestically and internationally.

Q86 Mr Lazarowicz: If ship dismantling facilities in a developing country could be upgraded to an environmentally acceptable standard in terms of the dismantling exercise, why are you, as you appear to be in principle, opposed to the export of ships for dismantling in that way? If the yard can do it in an acceptable way why should it not?

Mr Juniper: You are right, it is a matter of principle and it is about countries taking responsibility for the waste that they generate, and ships are obviously a complex subject in this regard as they are, by definition, things that move around, and the question the Chairman raised about when do they become waste or not? There are quite a lot of technicalities in there that need to be pursued to some kind of conclusion and some kind of agreement. The starting point is a principle which should incentivise countries to minimise the waste they generate and to put in place facilities to look after the waste that they do generate. That is the point. If you are having to deal with your own mess at home you will take it more seriously than if it is sailing over the horizon to be disposed of somewhere where nobody can see it. That is the matter of principle. Then of course there are questions about what are the exceptions? There will be many of them. At that point it then becomes a question of what confidence do we have that these facilities are as good as we are told they are, which is then about accountability and having decent information, which takes us back to the last point on corporate accountability, and having confidence that claims made, for example, by BP about its shipping scrapping facilities on the other side of the world, that we can have decent information to know that what they are saying is truthful, and if it is not truthful that there is some means of pursuing a claim against the company. Right now we do not have that.

Q87 Mr Lazarowicz: So it is an absolute principle, but let us look at one factor which should allow for an exception. It has been suggested that in a developing country it might well be that the recycling enterprise would be more comprehensive because there would be waste material which would be more likely to be used in that developing country because of market prices or whatever for that particular material than it would if it was recycled in a developed country. So overall there would be more effective recycling in a developing country; how do you respond to that?

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Mr Juniper: That is a fair point, but there is a difference between exporting something that can be recycled in the form of scrap steel than exporting something that is highly toxic.

Q88 Mr Lazarowicz: It depends upon the constituent elements effectively and how they are assessed, is that more the case?

Mr Juniper: That would be part of the answer and, as I understand it, some developing countries would be willing to accept ships if they were stripped of the toxic materials that they contained, but this is a very different job practically when you have PCBs and asbestos embedded in the fabric of vessels.

Q89 Mr Lazarowicz: What we were told by BP Shipping was that they can meet their health, safety and environmental standards, so we are told, by using yards in China under the supervision of their own staff. What is developing here? Some developing countries are obviously in a different economic stage than other developing countries; how do we define this?

Mr Childs: I think it is partly about confidence, about regulatory oversight as well. I do not think in the UK we would accept BP to have a ship-scraping yard, that it monitored itself, that it had regulatory oversight of itself without the Environment Agency. If BP come to us and say, "We have developed this site in China, it is fantastic and we are monitoring it well and we have oversight of it, you should trust and believe in us that that is right," we find that very difficult to believe, especially when the evidence we get generally in Asia is that ship scrapping is carried out in an appalling way. I think our principle would be that the economic gains from BP's activities have come to the UK and the UK should therefore accept the responsibility of the waste that is generated through those activities in terms of its shipping, for example. So I think there is a real sense that it is easy to say that we will develop a facility in Asia or China and we will do it there to high standards, but how can you have the confidence that the public are involved in the decision-making around a Chinese shipyard, or that you have a regulatory oversight to a high enough standard that will give you absolute confidence that the shipyard is of equal standard that you would expect to be operating within the European Union. So it is a matter of principles and practicality.

Q90 Mr Lazarowicz: What is the basis for your opposition, as I understand it, to exports for dismantling, even between developed countries? If we are talking about a high quality dismantling facility, not every country is going to be able to provide that, so is it not better to have a ship exported to be dismantled in a high quality facility than to be dismantled within a developed country but not within a very good facility?

Mr Juniper: This of course brings us back to the question of the ghost ships and the developed country to developed country transfer, and one of the questions we have talked a little about already is the local community's concerns in terms of impact

on the local environment inside Hartlepool. Another set of concerns, which were located very much inside the United States, probably bear a little explanation because there were two things going on there, at least, which are very important in understanding the background to your question. One is the extent to which this represented a change in policy by the American Government. President Clinton had ruled that there would be no ship exports from the United States' naval vessels because of the appalling health and environmental impacts that had occurred and been documented in countries like India and Bangladesh. So there was a ruling that none of these ships would be taken out of the United States for breaking. At the same time huge pressure inside the USA for these vessels to be broken up; as ever cost concerns about the public finances and the money needed to dispose of them. The Bush Administration chose to reverse the Clinton policy and to say that there would no longer be a moratorium on ship exports. It would perhaps look difficult presentationally if the first batch of ships went to Bangladesh. If the first batch of 12 ships goes to England, then it looks rather different. But then where are the next several hundred going to go? This was the point being raised by the American groups. This is a precedent, they said, and it needs to be seen in the wider context of discussions being pursued by MARAD and the Chinese and Mexican Governments, which were going on in parallel. So Britain was not the only destination for vessels that needed breaking up in the United States; it was the first destination, and it needs to be seen in the context of a dramatic change in policy, which is why the American NGOs in part were so concerned to highlight this issue. The other point that was being pursued and is still being pursued by the American NGOs was the effective overriding of Environmental Protection Agency laws in the United States, which effectively banned the export of PCBs. This was ultimately pursued to the point where MARAD sought assurances from the Environmental Protection Agency in the United States that they would not prosecute or bring an action against MARAD for exporting these PCBs. Again, the American NGOs saw this as quite a dramatic shift in policy. It is okay to shift out these PCBs so where the end of this particular policy change? What PCBs will be going where? So there were some bigger issues embedded in what looked like quite a respectable developed country to developed country transfer, and the United States groups and we believed that there was a bigger picture to be explored here, which is one of the reasons why we became so concerned about this issue, and those questions remain in the legal process now, do they not, Phil?

Mr Michaels: Absolutely, they are still going through the court process at the moment.

Mr Juniper: Of course, the developed country to developed country transfer of ships, we would all agree, should be done to the highest possible standards and should at least comply with the law of the countries receiving the ships as well as the countries exporting the ships.

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Q91 Joan Ruddock: You have made a lot of the fact that developed countries should deal with their own ships and their own mess at home should be cleaned up, but is it not a fact that many UK-owned ships—and this was evidence given to us by the Chamber of Shipping—actually spend their lives in other parts of the world altogether and may in fact never, ever come to the UK? So you could have a situation where defunct ships in a poor state could be towed back to the UK under the scenario that you propose, just because the company that owns them happens to be a UK-based company, albeit that the ships have essentially never been UK-based?

Mr Childs: It is a tricky one, is it not, and it is clearly very complex? It is very different from, for example, a computer made in China that comes over here and we have concerns when computers go back to China for scrapping in appalling facilities. I think in terms of this those communities are essentially facing a double-whammy; they are facing a double-whammy in producing the ship in the first place and disposing it, but the economic gain from that ship has all come to the UK.

Q92 Joan Ruddock: I suspect the companies would probably argue that case and would say that much of the economic benefit does come to the countries in which they are working as well.

Mr Childs: Yes, but they are housed here.

Mr Juniper: And pay tax here, and pay dividends to their shareholders. Enormous amounts of financial flow are coming to this country because of economic activities being carried out by British companies elsewhere. So the point is a valid one, but it could be argued—and argued fairly—that there is also an economic benefit in countries where these firms are operating, and that is something that varies between the operation and the company. The fact that BP has its shareholders here and pays British corporation tax cannot be avoided.

Mr Childs: The bottom line is really about the environmental and worker safety standards where things are getting scrapped, and from the evidence that we have seen—and we have yet to see any other evidence—the environmental standards and the worker safety in ship scrapping operations throughout Asia is extremely low. If we were then to say that it is absolutely fine, you build your ships in Japan and you scrap them in India, and it is nothing to do with us, even though you are a British corporation that is bringing profits back to this country and paying shareholders back in this country, I think we would find it very difficult to say that. What we would say is that you have to have responsibilities and that is where the corporate responsibility legislation is so powerful.

Q93 Joan Ruddock: What can the UK Government as such do to promote the scenario that you have advocated, bringing back our own ships?

Mr Childs: I am sure there are measures in terms of the International Maritime Organisation where they can be very active in terms of trying to raise the standard of ship scrapping across the world, but ultimately for us the corporate responsibility

legislation will be very powerful, and could be very powerful in terms of making it difficult for companies to act environmentally irresponsibly by dumping these ships in Bangladeshi companies, and making the directors responsible. I think that is a very powerful mechanism. Also, I think the UK Government does need to come forward with a ship recycling strategy; it does need to step back and look around the UK, probably together with the European Union, and say, “Where do we need facilities? What size facilities? How do we help those facilities off the ground and how do we make sure that at least the ships that we own are going to these facilities?” As well as trying to incentivise through legislation the corporations’ ships.

Q94 Joan Ruddock: If that happened is it not likely that companies would just flag out their ships so that they no longer appeared to be British-owned ships?

Mr Childs: That is why I think it is about the company that owns the ship and the corporate responsibility legislation.

Q95 Chairman: Just to add to that point, one of the things that slightly concerns me about the line that you put forward is that these international shipping companies could set up ownership companies outside the United Kingdom, and if you ask the blunt question, “Who owns this ship?” it could be the Panamanian ABC shipping company.

Mr Juniper: We already have this problem, which is why often it is difficult to pursue liability claims in respect of oil spills, for example. There are some wider issues here that evidently Governments need to explore. I think in the short-term, and to show some commitment to this issue, perhaps it would be encouraging to hear a statement from the British Government to the effect that no Royal Navy Ships will be exported for disposal overseas from henceforth, and that we will be looking to build an industry in this country that is capable of breaking up British company ships as well as we go forward, and there will be incentives for doing that, corporate accountability being one route that we have explored already. But some leadership and some commitment backed by some action would be a good way to begin.

Q96 Mr Lazarowicz: Why should it just be with Britain? You quote in your evidence from an EU study which suggests that a single, high volume, fast turnaround facility is proposed just for the EU. Your position would presumably imply that every EU country with a sizeable fleet would have to construct its own facility, and there is a suggestion here that you could have a facility in—I think one suggestion was Poland, or the Ukraine, which is not in the EU but in Europe. What would be wrong with that? If the facility was in another EU country why should it be in the UK particularly?

Mr Juniper: There is nothing wrong with that but one of the things we think Governments should do is to try and identify synergies between industrial policy and environmental policy, such that we can capture jobs and economic benefits in this country at

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the same time as doing some good for the environment. That does not mean that an EU facility would be a bad thing, it just strikes us as being politically and economically more sensible to look for benefits that we can develop at home at the same time. That is part of the sustainable development equation, is it not, looking for synergies between environmental-social and environmental goals at the same time, rather than trading them off against each other? For other countries, there are environmental groups making this very same point in the United States; there are other groups making the same point across the EU. We are not against an EU-wide facility but we would encourage the British Government to look at British facilities as a means of developing expertise in this important field in this country and, at the same time, showing leadership and willingness to be proactive.

Q97 Mr Lazarowicz: So we could have an EU facility based in the UK, which could be taking ships from Greece, Finland, Latvia, Poland, Italy, presumably coming in to be dismantled, under your scenario?

Mr Juniper: That could be one possibility under the scenario we have just explored.

Q98 Mr Lepper: I was interested in Tony Juniper setting this in the context of the change in US policy that you outlined. It is interesting to think of this as another option to the Ralph Nader effect in the presidential elections—I wonder if Mr Nader anticipated anything like this happening. Nevertheless, one of the things that you talk about in terms of corporate responsibility is providing effective communities overseas in developing countries, with rights of redress in UK courts. Is there any precedent for this happening in any other field that you are aware of?

Mr Juniper: Phil may know more details, but there is one case I know of, the Cape Asbestos case, where there was an action brought by people who were living in South Africa, who were affected by this company's operations—very severe health impacts. There was no effective route to justice in the country concerned so ultimately the case was heard here. We have recently been in contact with colleagues from Friends of the Earth Nigeria; they were in London a couple of weeks ago highlighting how the failure of justice for them is leading to some very grave environmental and human rights abuses in their country, and towards their communities, and there is nowhere where they can bring an action with confidence inside Nigeria. So we have been suggesting that it might be logical for this British company to be able to be challenged by communities who were affected by its operations elsewhere in this country. So there are examples of where it needs to happen. There is one example of where it has happened and clearly it would be better to pursue this at an international level, but we see no reason why it cannot be pursued firstly at the UK level, again as an act of leadership if nothing else.

Mr Michaels: As Tony said, it is possible to bring cases in some very, very limited situations by overseas directly affected communities against a

British registered company, but those circumstances are extremely proscribed and do not provide the sort of remedies or the opportunities for justice that Tony was talking about.

Q99 Mr Lepper: So it does need something brought into legislation to make this possible?

Mr Juniper: Absolutely.

Q100 Mr Lepper: It is not already a right that is necessarily available?

Mr Juniper: That is right and this is why the corporate responsibility coalition, which is a very broad coalition, including not only environmental groups but church groups, unions, human rights groups and development organisations have been working together to press this point because this is something that goes way beyond the environmental sphere, obviously.

Q101 Mr Lepper: I do understand the point that you made earlier about the scepticism that you had about, for instance, BP overseeing dismantling in other countries, and I take the general point that you are making there, without commenting on the expertise of BP as a company. Are you aware of any international body which one could see as overseeing these kinds of activities in other countries in a way that would be internationally acceptable?

Mr Juniper: I do not know of any. Our colleagues from Greenpeace might have some reflections on this because they have followed this also.

Q102 Alan Simpson: Tony, I wanted to follow David's line and to ask does the IMO figure in this? Because in a lot of the discussions that we have been having many of the discussions pass beyond the remit of national governments into a framework that says the IMO has to be a really serious and central player in this, just because of the ease of shipping companies to play pass the parcel with the ownership of vessels. The other part of that is to ask is it helpful for us to try to structure some of those discussions at an international level in ways that separate off the recycling of ships? We are constantly told that it is not like dumping a car, that an end of life ship has considerable recycling value, particularly in the developing world where the recycled parts will virtually all go into other uses, and treating that quite separate from what remains as toxic waste to those ships?

Mr Childs: I think in the first part of the question you are absolutely right, of course, we do need to have some international agreement around this area and we do need to have some international regulatory framework. I note that the Committee was questioning BP and P&O recently, where there was a voluntary agreement, but a seeming reluctance for seeing a voluntary agreement becoming a regulatory agreement, and clearly there is ship scrapping happening in appalling conditions at the moment, so voluntary agreement does not seem to be the most effective remedy. So I do think we need a regulatory regime. Whether that is within the International Maritime Organisation or whether it is under the

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agies of the United Nations in a new treaty or agreement under the United Nations, and I think the latter for us brings some democratic credibility there. We do definitely need that. In terms of treating waste differently, whether it is for recycling or for disposal, of course that is where we are at now. The UK would not have accepted these ships if they were just for disposal, if there was not going to be recycling involved in it; it would have been against EU law. A difficulty we have of course is that ships do have lots of hazardous components on them and the evidence that we have seen is that it is very difficult if not impossible to strip all of those hazardous components out because they are built into the ship. So in many ways they are hazardous materials and we would like to see those kinds of materials dealt with in a more regulatory regime that says countries have to deal with their own waste. An example would be that computers of course are exported for recycling overseas, and there was some recent research done by the Environmental News Digest Journal, which found that much of the computers being exported out of the UK for recycling were not really being recycled and it was in extremely poor conditions. So we need to have a tougher regulatory oversight about waste going for recycling, which we are not dealing with properly yet at the moment.

Mr Juniper: One thing that it might be worth adding—and I know Mike knows something about this—is the European Union’s implementation of the Stockholm Convention—this is the one for Persistent Organic Pollutants (POPs)—which, as I understand it, will mean that if this legislation goes through at the European Union level it will soon mean that it will be illegal to import and export PCBs.

Mr Childs: Sort of, in that we see that the spirit of the Stockholm Convention says that waste that contains PCBs should not be transferred between countries unless it is exported or imported, unless it is being imported from a developing country where they do not have the facilities to deal with those PCBs.

Mr Juniper: So that is a separate international framework outside the Maritime unit.

Q103 Alan Simpson: Can I just come back on this because that sounds all very neat if you are talking about trade and dismantling between or by

countries, but the point that has consistently been made to us is that you do not have an end of life vessel until it enters the mind of the last owner that that is its last journey. So you do not have nation states having that responsibility, and it is very easy to do what is the *de facto* last journey; it then gets sold on to another owner, it is not a nation state that owns it, and it then becomes illegal for that third country—thirteenth country, it does not matter what it is—to have then the residual responsibility. So the dumping process gets palmed off anyway, and the issue that we are struggling with is how do you hold people accountable when there is not a nation state hold over the ownership of those vessels?

Mr Juniper: Which then brings us back to the international frameworks and the role, for example, of the IMO, and the difficulty we have right now in pursuing any multilateral environmental discussions. Johannesburg, Kyoto are kind of stalled and, because of the way in which international politics is working right now—not even in just the environmental world, WTO too—there are such difficult politics now operating in the international institutions that it would be undoubtedly years before any kind of agreement could be reached. To that extent we would advocate that, yes, let us certainly pursue the international routes, let us find some way of reaching international political agreement, but, in the meantime, let us also look for the wins we can make at home in terms of corporate accountability and a policy framework that takes account of our own control over our own ships, Royal Navy ones in the first instance.

Chairman: Thank you very much indeed, gentlemen. I think you have encapsulated well some of the dilemmas that we are currently grappling with and you have brought some very interesting perspectives to our consideration, particularly your commentary on some of the American background to this, which we found very interesting. I think we are already forming the view that this is an immensely complex area, but we are grateful to you for your contribution, both in terms of your oral evidence and the very helpful paper you sent us and thank you very much for coming before us.

Mr Juniper: Thank you very much, Chairman, it is a great pleasure.

Memorandum submitted by Greenpeace

DISMANTLING DEFUNCT SHIPS

What facilities and expertise are already in place in England and Wales to dismantle defunct ships safely?

1. It is Greenpeace’s view that there are currently no facilities in the UK that would meet all legal requirements and satisfactory health, safety and environmental standards. However there are some potential sites where such facilities could be developed.

2. Any such site would require facilities for docking large vessels, a significant amount of open space and the presence of, or potential to construct, one or more dry docks. The local availability of engineering expertise would clearly be advantageous and areas with a tradition of shipbuilding may be well placed in terms of both potential sites and available skills. Greenpeace understands that such facilities could be

available in the Northeast, Merseyside, the South coast, Scotland and perhaps other regions. Proximity of steel recycling facilities may be advantageous and nearby disposal facilities for materials which cannot be re-used or recycled is an important consideration in minimising environmental impact.

3. Ship dismantling facilities themselves would need to incorporate a dry dock with an appropriate means of capturing and treating waste water and oils. Such a dock should preferably be fully enclosed so that the escape of asbestos, PCBs, oils and other hazardous materials can be prevented.

4. Cold cutting should be used to avoid the risk of explosions.

5. Old ships contain hazardous substances that are now banned. Careful handling and disposal of all hazardous materials is essential to minimise environmental damage. PCB's, asbestos and paints containing lead are examples. PCB's will be present in virtually all old ships in electronic equipment and sheathing of electrical cables. Asbestos was often used for structural insulation underneath decks, on the ships sides, in funnel casings, ventilation systems etc. These materials are currently normally disposed of in the UK by incineration (PCB's) or landfill.

6. Greenpeace opposes the incineration of PCB's and other Persistent Organic Pollutants on the basis that it results in the incomplete destruction of these materials and further widespread dispersion of hazardous materials in stack gasses and ash.

7. PCB's and other hazardous organic wastes should be dealt with by non-thermal destruction technologies. We recommend that technologies such as gas phase chemical reduction, sodium reduction, base catalysed dechlorination or solvated electron processes be investigated and reviewed to determine their suitability for PCB's in cabling and other ship derived organic hazardous wastes.

8. Asbestos should be disposed of in accordance with the best practical environmental option.

9. Greenpeace would emphasise that disposal technologies for hazardous wastes are an option of last resort. Neither incineration nor landfill of hazardous wastes are risk-free or pollution-free. Disposal of hazardous waste is also expensive (though probably not expensive enough, as companies continue to produce it). Any new policy on waste materials should as a priority discourage the use of hazardous materials. Greenpeace believes that to discourage the use of hazardous materials the producer or owner of a product or process containing or generating the waste should be economically and physically responsible for its disposal. A strong producer responsibility element, incorporating both the proximity principle and the producer pays principle, should therefore both be central to any policy on the disposal of end of life ships.

10. Greenpeace recognises that in the case of shipping it is often difficult to legally place ownership in a particular country. Greenpeace recommends that investigations are undertaken into ways of ensuring producer responsibility for end of life ships. The Basel Convention Intergovernmental Legal Working Group on the Full and Partial Dismantling of Ships is currently working to determine when a ship becomes a waste, and this work should be supported. Similar work should be considered to determine which state is ultimately responsible for the end-of-life of a ship. Lloyds Register of Ships notes the "country of economic benefit" of registered vessels. It should be possible to use this or a similar category to determine where responsibility lies. Appropriate sanctions to ensure compliance could then be developed.

11. Greenpeace cannot point to individual sites or facilities that would be suitable for ship dismantling as a full Environmental Impact Assessment, along with other considerations, would be needed to determine this.

What is the likely demand for facilities and what would be the likely economic and environmental impacts of meeting such a demand?

12. It is possible for the UK government to insist all government owned vessels are dismantled in the UK. This would be a laudable policy and would send the right signals both to other governments and to owners of commercial vessels. However it is doubtful that UK Military ships alone would provide enough work to make the capital investment in a state of the art ship recycling facility worthwhile.

13. According to a Royal Navy publication (A Guide to the Fleet 2002), the Government owns 107 large ships. This consists of three aircraft carriers, one amphibious ship, 11 destroyers, 21 frigates, 22 mine counter measure vehicles, 23 patrol vessels, one ice patrol vessel, three hydrographic vessels and 22 auxiliaries. Perhaps one of these will require dismantling every two years. Vessels from other EU countries would considerably increase the number of ships requiring disposal. The European Commission estimate the scrapping rate of European frigates and destroyers to be approximately six vessels per year.¹

¹ European Commission (2001). Technological and Economic Feasibility Study of Ship Scrapping in Europe. Report No 2000 3527, Revision no 01.

14. If the merchant fleet is included there is the potential for a significant industry. There are approximately 1,700 ships over 100 tonnes registered under a UK flag. Of these 800 are over 500 Gross tonnes. In addition there are 1,300 single hulled tankers globally, many of which will require decommissioning in the near future. The European Commission predicts that up to 250 European ships will require scrapping every year.²

15. Producer responsibility demands that the Government should take measures to encourage commercial owners to break ships at home. If such measures were even partially effective, a domestic ship recycling industry would be viable. The Anglo Dutch Company P&O Nedlloyd are involved in setting up a ship scrapping company that is proposing facilities in the Netherlands. They aim to handle redundant single hulled tankers and other vessels. The company, "Ecodock", expects to provide around 190 jobs by handling just 1% of the single-hulled tankers set to be phased out by 2007.³

What is the legal status of importing such vessels for dismantling? (the Committee will particularly seek to clarify what are the implications for the industry of the Stockholm Convention on Persistent Organic Pollutants)

16. Greenpeace is opposed to importing hazardous materials (in ships or otherwise) into the UK from countries which are technologically capable of dealing with those wastes themselves, or which are economically advanced enough to develop ship dismantling and safe waste treatment facilities. However, we recognise restrictions placed on national regulations by requirements of for example the EU regulations on the internal market. We therefore envisage ships being dealt with on a regional, rather than national basis and a situation in which one or more regional facilities serve the whole of Europe. However it is unacceptable to import ships from OECD countries outside Europe. Producer responsibility and risk minimisation demands that these ships are dismantled in the country or region of origin.

17. Greenpeace would not oppose the import of ships from countries which do not have suitable facilities for dealing with hazardous wastes and which cannot be reasonably expected to develop such facilities as long as all precautions are taken to ensure safe transport.

18. The Stockholm Convention on Persistent Organic Pollutants (The POPs Convention) prohibits the manufacture of certain chemicals, including PCBs. It also prohibits wastes, "including products and articles upon becoming wastes" containing Persistent Organic Pollutants (POPs) from being subject to disposal operations that may lead to recovery, recycling, reclamation, direct use or alternative uses for POPs. Further, wastes must be disposed of so that the POPs are destroyed or irreversibly transformed into non-POPs, unless destruction or irreversible transformation are not considered the environmentally preferable option, or when the POPs content is low.

19. The Stockholm Convention will therefore impact on treatment of PCB wastes and of materials containing PCBs, though it will not necessarily outlaw import or export of end of life ships even though they are likely to contain PCBs or other POPs.

20. An amendment to the Basel Convention (The 1989 Convention on Transboundary Movements of Hazardous Wastes and their Disposal) seeks to prevent hazardous wastes being exported from OECD to non-OECD countries. This amendment has not yet been fully ratified. However, even when it enters fully into force the likelihood is that ship owners will be able to avoid its implications using flags of convenience, off-shore registered companies or the lack of definition of when a ship actually becomes a waste. It is therefore clear that regulations are needed to prevent UK ships being sent to third-world countries for scrapping. Greenpeace believes that the UK Government should play a full role in initiating such regulations, firstly by setting an example with its own military vessels and secondly via encouraging and supporting new European Union legislation.

How defunct UK vessels are currently dealt with, and what plans have been made to cop with their disposal?

21. Disposal of end-of-life UK ships beyond the UK's borders is largely unregulated. Vessels considered no longer fit for purpose by UK owners are often sold to third parties, in some cases for a period of further use in developing countries, in other cases to dealers who will organise scrapping. In the latter case the third party may be paid for disposal services, rather than themselves buying the ship (as the vessel can have a negative value).

22. In India, Pakistan, Bangladesh, China and sometimes Turkey (depending partly on the price of steel) vessels due for scrapping can have a positive value. This value, combined with low labour costs and the externalisation of other costs (waste disposal, environmental damage, health and safety) means that there are strong economic incentives for ships to be scrapped in these countries. Virtually all UK vessels, merchant and military, end up in one or other of these places, with the majority going to India.

23. Greenpeace has made extensive studies of ship scrapping in Alang, India, and to a lesser extent in China. China now has some dock facilities, but in India breaking invariably takes place on a beach.

² European Commission (2001). Ibid.

³ "Trade Winds" shipping newspaper, 14 November 2003. Ecodock is an initiative of Stichting Tanker Onmanteling Platform.

24. In India Greenpeace has found the following conditions:

25. Ships are stripped of machinery and much of this is sold for reuse. Materials are removed by hand and workers generally have no protective clothing. Gas torches are used for cutting metal, even where oil or fuel is present. As a result explosions resulting in serious injuries and deaths are quite common.

26. Asbestos is stripped and carried away by unprotected and untrained workers and can sometimes be found for resale in local markets. Wiring is commonly burned from cables in the open air and paints which may contain lead are stripped using blow torches by workers wearing no breathing apparatus or protective clothing. Oils and liquid wastes drain from the ship onto the sand and directly into the sea.

27. Greenpeace emphasises that this sort of breaking is not confined to isolated breakers “yards”. It is the norm in India.

28. Greenpeace have found conditions in China and Turkey to be marginally better but still far from satisfactory.

29. It should be noted that Greenpeace’s concerns are with hazardous materials contained on virtually all large end-of-life vessels, and the environmental and human health impacts of these, rather than with the vessels themselves. We have no objection to ship breaking as long as it is performed to rigorous standards. However issues surrounding working conditions and environmental protection go beyond the technology available in developing countries. Social, economic and political issues, such as the lack of ability to maintain technology, lack of occupational health infrastructure, lack of training, lack of downstream waste management infrastructure, lack of trade unions, absence of legal protection etc. also have negative impacts on the occupational and environmental impacts of ship recycling. Export of hazardous wastes to developing countries simply because of their weaker economies is unacceptable from a human rights perspective. It also undermines incentives for upstream prevention and producer responsibility.

CONCLUSION

30. Greenpeace is opposed to the export/import of hazardous materials for disposal. We believe that hazardous materials should be dealt with in the country or region of origin, as long as suitable facilities can be provided to ensure safe disposal.

31. International trade in end-of-life ships amounts to a global trade in hazardous wastes. Most UK ships are sent for disposal in poorly regulated facilities in Asia, where a lack of dry dock facilities and other environmental protection measures, inadequate health and safety procedures and low pay for workers result in serious damage to the environment and human health. This practice is unacceptable and Greenpeace campaigns actively against it.

32. Most ships currently in operation contain significant amounts of hazardous materials. Shipyards that dismantle end-of-life vessels to the highest standards are therefore clearly needed to ensure the best possible protection of human health and the environment. Greenpeace is not in any way opposed to shipbreaking, but we insist that it is done to the highest standards and that it does not result in the export or import of hazardous substances.

Greenpeace

May 2004

Witnesses: Mr Mark Strutt, Senior Campaigner, Greenpeace and Mr Simon Reddy, Policy and Solutions Director, Greenpeace, examined.

Q104 Chairman: Gentlemen, welcome to our proceedings. Apologies that we are a little behind schedule. We have before us on behalf of Greenpeace Mr Mark Strutt, who is a Senior Campaigner, and Mr Simon Reddy, Policy and Solutions Director. Gentlemen, can I thank you for the written evidence that you sent.⁴ I thought it was quite significant in the written evidence that the Committee have received from Able UK, they offered and prayed in aid of some of the arguments that they put your quite disturbing paper entitled Steel and Toxic Wastes for Asia.⁵ Can you tell us when that was written?

Mr Strutt: I have it here; it was June 2001.

Q105 Chairman: You have a pretty picture on the front page of yours, ours lacks the visuals, at least on the outside, but it does have some graphic pictures on the inside. Have you done a parallel exercise in China?

Mr Strutt: Yes, we have. In fact the volume I have here is for China, so the June 2001 was for China.

Q106 Chairman: There was some mention, but not in the same degree of detail as India and Bangladesh and, as you will have gathered from some of the other evidence we have received, so far China has been prayed in aid as “good” as opposed to India and Bangladesh, which is deemed to be “bad”. Before I

⁴ Ev 25

⁵ <http://www.greenpeaceweb.org/shipbreak/shipsforscrap3.pdf>

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ask you some specific questions about Asia in general and the environmental conditions under which ships are dismantled, can I seek your overall views of the effectiveness of the International Marine Organisation because, from the evidence that we have had, work between the IMO and the International Labour Organisation appears to be the only way that you can get some kind of binding agreement amongst big international shipping companies and amongst nations who are the maritime nations of the world, to follow what they might collectively agree as best practice for ship dismantling. I think one of the things that we are grappling with is, how do you get the right balance between what an individual country can do or a collective like the European Union, in legislative terms, to make good practice and policy stick as opposed to the alternative view that the only way you are going to get solutions is internationally via IMO, ILO agreements. What is your own take on that?

Mr Reddy: Globally we need the support of the IMO in terms of a global solution to the issue of ship scrapping. However, the IMO is a very slow process and sometimes I think it needs a country or a number of countries maybe to take the initiative in order to drive this process forward. This is one of the reasons why Greenpeace got together with Peter Mandelson and the GMB earlier this year, to announce this state of the art ship breaking idea that we had, about creating a state of the art facility in the UK and also calling for state of the art facilities to be set up around the world in order to address the issue of ship breaking. We see an opportunity for the UK to be able to take a lead on this issue and an opportunity for the UK to work within Europe, to encourage the European Commission also to introduce policies so that Europe can take the lead. Once you have a bloc such as the European Union basically taking forward an initiative to address the global issue of ship scrapping, then I think that would encourage the IMO as much as possible to move fast on this issue.

Q107 Chairman: The IMO seem to have certainly formed the view that they ought to be the only show in town, yet we have had discussions about the Stockholm Convention and, as I understand it, the IMO, ILO, Basel Convention, Stockholm Convention, they are all supposed to be trying to work together to try to find a way forward. If you then introduce national governments, the European Union, are we not in danger of having too many players who might individually be developing approaches which are ever so slightly different but which do not actually encapsulate what colleagues have described as this mobile problem because ships move from nation to nation?

Mr Reddy: I think the global solution and so many players involved in the discussion towards that global solution, you are always in danger of the lowest common denominator basically leading the debate and leading the solution. I think there is always room within the negotiations of international organisations for individual states or groups of individual states to take a lead and try to drive the process forward in order to work towards a more

holistic and encompassing solution, that something like the IMO could then learn from or maybe be able to share in its development.

Q108 Chairman: Let us turn to Asia and perhaps have your observations about the facilities in places like Bangladesh—India versus China, because as you will again have gathered from the evidence that we heard, companies like BP have made a clear move to go to China because they think China is “better”, more responsible in dismantling and disposal particularly of PCBs, asbestos and other materials, than the very crude beaching conditions which they found in India and Bangladesh. In fact your own report in those parts which do touch on China give the impression that it is a bit better but it still is not as good as it should be. So your thoughts on that would be appreciated.

Mr Reddy: We actually have offices in India and China and we have researched the ship scrapping facilities in those areas, and you will probably be aware of some of the reports, or you have seen copies of some of the reports that we have put out. Also, I would like to submit some additional information regarding the sort of conditions that we have in Alang, in terms of ship scrapping where British ships and also British military ships are currently on the beach. Mark can probably follow up more on the issues in relation to China in more detail.

Mr Strutt: I think China is a bit better but it is nowhere near what we would call state of the art, although there have been some improvements over the past few years, the Chinese Government has intervened and it is trying to bring up standards. However, generally ships are not dismantled in dry docks, they are still generally dismantled in the water. Worker protection in terms of equipment and in terms of working procedures are still not all that they should be. There is some variation between yards, but it is still very common to find workers wearing only straw hats, for example. Greenpeace has visited four yards in China and we have seen open burning of cables that will contain PCBs; we have seen hot torch cutting of metals where there will potentially be a danger of explosion from the fuels, et cetera. So while China, I would say, is improving and at least the dismantling is done on the quayside rather than simply on a beach where the ship has been beached up, it is by no means approaching what we would call high environmental or health and safety standards. However, I think the underlying point here is that China is still receiving hazardous wastes from other countries and what actually happens to those hazardous wastes is far from certain. They tend to disappear from view once the ship has been dismantled; the official policy is that they should be land filled and they are probably land filled but why are these materials from UK ships ending up in Chinese landfills rather than UK landfills?

Q109 Chairman: Is there any danger that as you (for understandable reasons) argue for improved circumstances somebody else next down the dismantling chain will say, “We will open up a yard

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and we will do the job cheaper now that the Chinese are having to increase the costs to respond to the line that you have taken?" It could be a sort of a forever chasing your tail situation?

Mr Strutt: I think that is what has happened historically.

Mr Reddy: That is the situation that we have now, in that countries, developed countries, introduced health and safety regulations, the costs went up and, lo and behold, the ship scrapping has ended up in Alang and in Bangladesh, and this is exactly the situation that we have to deal with. We need an international standard, we need global network of state of the art facilities that meet the right environmental and the right human health and safety criteria so that we can deal with this issue properly.

Q110 Chairman: You make it very clear in the document to which I referred in my introductory remarks, you said ship-breaking should be subject to a global regulatory regime rather than a matter of unilateral measures. Do I conclude from that that inevitably you put as the number one objective getting the IMO, ILO, Stockholm Convention, Basel Convention all working together try and provide that regime?

Mr Reddy: Internationally, yes, that is what our number one objective is, but I still think that the actions of a single government or group of governments could initiate that happening. I do think that there is a possibility here that a group of countries pushing the agenda on this, and I would hope to see the UK do that and Europe do that, could force this issue into getting us an international agreement and a global solution.

Q111 Chairman: You mentioned in your comments about a Centre of Excellence in the United Kingdom. Have you done any preliminary work to calculate what the environmental impact would be on the United Kingdom of having such a facility?

Mr Strutt: Any industrial activity has an environmental impact, but what we are calling for is . . . Some impact is inevitable, because we have these ships and these materials on them. We are looking long-term, if you like. One of the reasons we are calling for ship scrapping facilities in the UK and in Europe is because we strongly believe that in the "proximity principle" for hazardous waste and in the "producer pays principle" of hazardous waste and because we believe that those measures will drive, if you like, or discourage the use of hazardous materials, in the long-term you are reducing the whole range of environmental impacts that comes with using those materials in the first place. We also believe that the UK has the regulatory infrastructure, the health and safety infrastructure and the medical infrastructure to be best placed, or one of the best placed countries, to make sure that environmental impacts are minimised. We have the technology and we have the know-how. So as long as this industry is properly regulated using state of the art technologies, we believe that environmental impacts should be minimal. The environmental

impacts such as there are, the potentially most serious ones, come from the hazardous materials, like PCBs and asbestos, and they need to be dealt with in special circumstances. As we have laws now for dealing with PCBs, they should be subjected to those laws, and, as long as you export to places that do not have those laws and regulations, you are going to have more severe environmental impact.

Q112 Chairman: Let me ask you the key question. Where would you put them in the UK?

Mr Strutt: The PCBs?

Q113 Chairman: No, the dismantling facilities?

Mr Strutt: I cannot answer that question, because I think there are a number of potential sites, and the obvious ones are places that have the facilities through having a history of ship-building, but you would need to do a full Environmental Impact Assessment at each site to decide whether that was going to be a suitable place.

Chairman: What you have actually put before us is a theoretical construct, an ideal state, but you have not actually evaluated locations, because clearly there are limitations on the number of ports, sea-based locations, that can, for example, handle a 250,000 tonne dead-weight tanker, but I presume we are talking about Tyneside, Clydeside, Teesside?

Mr Mitchell: Humberside too.

Q114 Chairman: And Humberside. Those are the kinds of places that you would want to see evaluated?

Mr Strutt: I think they are the places you look at first, yes.

Q115 Chairman: What about the economics of the operation: because clearly there is a trade-off between the costs of dismantling and how much the vessel is worth or how much, if you like, the owner gets back from the dismantling exercise. Inevitably, it would be cost-plus in the UK verses Bangladesh, India or China. What inducement would there be to the ship owner to use this state of the art facility?

Mr Reddy: Initially we wanted to lead with the UK Government ships, insisting that all UK Government ships are decommissioned in the UK.

Q116 Chairman: Can I stop you there? I tried to find out the answer to how many of these UK Government ships there are. So far the only intelligence I can glean is that there is one that might be the subject of being broken up in the near future; the rest appear to be flogged off to somebody else?

Mr Reddy: This is something that needs to be addressed as well. There are 107 large ships currently owned by the Government. We have had a meeting with Adam Ingram on this issue, a very positive meeting, I may add, and there also is the issue of . . . For instance, the Olwen and the Olna—they have reached the end of their useful life. These were two British military ships. They were then sold to a third-party in Germany which sold them to another company in Greece which then sold them to India, basically. Obviously you cannot have a situation—

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this comes back to points made earlier about the country of origin of a ship, where it is used, where the money is raised. Obviously with military ships it is different, but these were military vessels that served in our military fleet.

Q117 Chairman: The reason I am asking that is we have to work in the real world, and you made a very clear statement: 107 ships?

Mr Reddy: Yes.

Q118 Chairman: If you are going to have critical mass of vessels, the Government of the day is going to have a policy about scrapping and the way it is going to do it. As I say, so far I can only find evidence that there is one ship that they are currently considering dismantling?

Mr Reddy: Yes.

Q119 Chairman: Did your discussions with Mr Ingram reveal more? Are these part of the defence cuts that we keep hearing talked about?

Mr Reddy: There were four type 22 frigates, I believe, that are due to be decommissioned in the near future.

Q120 Chairman: But not necessarily scrapped. Could they be sold to somebody else?

Mr Reddy: They may well be scrapped. I had understood that they were looking . . . I am sorry, they could be sold. I had understood they were looking at being scrapped. I guess the point we are trying to make here it is about putting your best foot forward. It is about the UK Government making a commitment to say, "We are not going to have a situation whereby British war ships are scrapped under these conditions in India." We cannot have a situation where British war ships are sent to India, run up on the beach and scrapped under these conditions. We need to take responsibility for our ships and for our waste, and if the UK Government could seize that initiative and take that forward we could have a situation where other European countries also make similar commitments. The French Government got themselves into all sorts of trouble before Christmas 2003 because they had a similar situation with one of their war ships. They had sold it to a Spanish company—this was the aircraft carrier *Clemenceau*—they sold it to a Spanish company which had pocketed the £2 million, or £3 million—well, they sold it to them for £3 million—they put £2 million in their pocket and sold it on to a yard in Turkey to do the job for £1 million because Turkey does not employ the same health and safety standards so the asbestos could be removed more cheaply. Then they ended up realising this was happening, I think, at some stage when the ship was halfway through the Mediterranean cancelling the contract and calling it back. So I think there is an opportunity here for European countries to start with their military vessels because they are the ones they have complete control over, the governments can decide what happens to those vessels and then we can look at ways that the European Union as a block can address the issue of,

say, commercial shipping vessels, which is a more difficult situation to address and far more complex, but it is one that I think can be addressed.

Q121 Mr Mitchell: There is going to have to be a new form of protection. We are going to try and reverse the normal flow. We get jobs migrating to Eastern Europe or low-cost countries, China or wherever, the manufacturers say, "We cannot argue with costs. We need to go there and outsource from there to cut down costs." You have got Patricia Hewitt saying sending jobs from Grimsby to call-centres in Bangladesh is good economics and good for the economy, besides she cannot stop it, and yet we have got you saying we should not export dirty jobs, we should keep them in this country?

Mr Strutt: We have already—

Q122 Mr Mitchell: I think people more people are sitting in call-centres than chop up ships?

Mr Strutt: We have already the Basel Convention, which is designed to prevent hazardous wastes being exported to developing countries. That could be considered as protectionism for jobs. There are no doubt jobs in hazardous waste, but there is a principle here of jobs at what price? I do not think "jobs at any price" is a valid principle. Ships clearly contain hazardous waste, and there is wide agreement now among signatories to the Basel Convention, of which the UK is one, that ships would fall under the Basel Convention and do fall under the Basel Convention. The problems lie more with a question of practice and how you implement this issue, the practicalities around flags of convenience, etcetera. I think the principle of not exporting hazardous wastes is one that holds, that we have signed up to and is not about protectionism in the way that you suggest.

Q123 Mr Mitchell: It seems paradoxical to keep the mucky jobs or try and get them back and let the clean jobs go?

Mr Reddy: I do not think we can get into an argument over what the Government does with its jobs in call-centres and whether people support that or not, but in this instance of ships for me it is a question of responsibility. We have a responsibility to deal with the waste that we have created and not export it somewhere else, and we should live up to that responsibility.

Q124 Mr Mitchell: Why do you say it is unacceptable to import for demolition/destruction ships from non-EU OECD countries? Why is that unacceptable?

Mr Reddy: I am sorry, from other OECD countries.

Q125 Mr Mitchell: Yes; that are not in the EU. You say it unacceptable to import ships from OECD countries outside Europe. Why?

Mr Reddy: Because we also support the proximity principle that countries or regions should be responsible for their waste.

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Q126 Mr Mitchell: So it would be okay for EU countries?

Mr Reddy: We have a trade agreement with the EU. We would not have any option. We could not legally with commercial vessels, we could with military vessels, but with commercial vessels we could not have a protectionist approach regarding UK vessels. The way we envisage it—

Q127 Mr Mitchell: So the principle of “each destroys their own ships” would not apply within the EU?

Mr Reddy: It would not apply within where we signed the trading agreement, and also it would not be practical. You have to remember that a lot of flag states—for instance, Mongolia is a flag state despite the fact it is 2,000 miles from the sea; Mongolia, therefore, would not be in a position to scrap its own vessels. There are going to be situations where you have to take a practical approach to this, but what we do recognise is that there are instances where regions could develop state of the art ship-breaking facilities, and we would see a region being North America, a region being South America, a region being Europe, etcetera, etcetera, and so that regions should take responsibility collectively for the waste that they produce.

Q128 Mr Mitchell: So you would not object to Britain being Europe’s knackers’ yard?

Mr Reddy: Well, the Netherlands is already forging ahead with Start. What is theirs called?

Mr Strutt: Theirs is called Stop actually.

Mr Reddy: Theirs is called Stop actually and ours is called Start. They are already looking at doing a deal with P&O Nedlloyd, I believe, for a state of the art ship-breaking facility in the Netherlands; so I do not think we would be the only one in Europe. The reality is that there are an awful lot of ships within Europe, both registered and as military vessels, that will need to be decommissioned, and this is especially so given the single hull tanker ruling and the massive increase in ships that need to be decommissioned.

Q129 Mr Mitchell: Is this principle exclusive—that every country should deal with its own waste? If safety and environmental standards in third-world countries, third-world ship-building/breaking yards, if they can be brought up to acceptable standards, would you still object to UK ships going there?

Mr Strutt: Yes, we would. The point of the “proximity principle” and “polluter pays principle” is to discourage the use of hazardous materials. We do not object to ships going from the UK to developing countries, we object to ships that contain hazardous wastes; and it is very difficult, as a point was made earlier, to remove those hazardous wastes and very expensive to remove them, before the ship goes. So we do not have a problem with ship-breaking itself, it is the export of the hazardous waste problem from one country, the producer, to another country. So in actual fact what you are doing is externalising the costs involving in that hazardous waste to somewhere where it is cheaper, and that is really why we want that to stop. I think

the regional thing is a pragmatic thing. In an ideal world every individual company that produced hazardous waste would be responsible for doing it. That is not workable. The next best thing may be for every country to deal with it, but in today’s world that probably not workable also, but it certainly is workable on a regional level; and we need the regulations to ensure—we have the Basel Convention—we need regions like the European Union to enforce the letter and the spirit of the Basel Convention and not allow ships to be a disguise, if you like, for these hazardous wastes.

Q130 Mr Mitchell: What proportion of ships do contain hazardous waste?

Mr Strutt: Virtually all ships that are reaching their breaking age now contain hazardous waste.

Q131 Mr Mitchell: The next generation will not?

Mr Strutt: The next generation will not contain PCBs and asbestos, but there are other hazards that will be in them. Tributal tin is something that is only slowly being phased out, and there are others, like brominated flame retardants, for example, that are being introduced, and there is no reason to not to introduce them because at the moment there is no disincentive not to use hazardous materials.

Q132 Mr Mitchell: The great majority of ships now for demolition should not be sent to developing countries?

Mr Strutt: Yes, virtually.

Q133 Mr Mitchell: Finally, it is going to be pretty difficult to enforce this “treat your own waste policy” given the fact that UK owners can re-flag and can transfer to flags of convenience, re-register vessels anywhere and can do it at any stage in the ship’s life, so there is an incentive to do it as it comes to retirement?

Mr Reddy: This is why we want to start with the military vessels. We want to get countries to set the agenda, to show the initiative, and then we need to look at ways within initially the European community then wider on a global scale as to how can address what is an age-old question regarding flags of convenience. There is no immediate answer to the problem of flags of convenience, but we do feel that if countries were to take an initiative with their own Government-owned vessels then we can push this forward. Also in terms of the larger companies that do have a very identifiable public name, etcetera, such as P&O Nedlloyd, I mean you are saying that they do not want to be associated with the types of activities that are going on in Alang, which is why they are also in discussions in the Netherlands with creating a ship-breaking facility there. I think that once you start that process and you get that interest moving, you actually will find we do get some movement with a lot of companies there and hopefully then, instead of being the majority situation now where the majority end up on the beaches inland of Alang and Bangladesh,

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etcetera, etcetera, we can work towards it being a minority and being very much looked upon as not the right thing to do.

Q134 Alan Simpson: I do not have a problem at all about idea that we should be responsible for clearing up our own mess and responsible for our own waste. I am just puzzled on a couple of things. First, can you tell me what is it in law that defines when a ship becomes a UK ship and when it ceases to be a UK ship?

Mr Reddy: It is not easy.

Mr Strutt: The problem is the law does not define that adequately or transparently at the moment.

Alan Simpson: Because this has to be the issue. Your example about military vessels—that works tolerably well if the UK Government holds the ownership of that vessel for the entirety of its life, but, if there is another purchaser for use of that vessel, at what point do we be held responsible, when do we cease to be responsible? That is the difficult area, I think, for us as a committee to try to identify how you can effectively impose a UK line?

Q135 Chairman: Going back to this point: when does a ship become waste?

Mr Reddy: On the latter point, I think there is a situation now with an aircraft carrier that we sold to Chile, and I think that is heading for the beaches in Alang, but this came up again in conversation with Adam Ingram when myself and Peter Mandelson and the GMB went to discuss this issue; and we would say that a British war ship where the majority of its working life has been served in the British Navy, then we should take responsibility for that; and the contract basis by which we sell it to another country should include, in some way, what we would say a “cradle to the grave costing” for it then to be decommissioned back in the UK, and at the end of its working life, whichever country we sold it to, then they have to understand it then has to be brought back to the UK and scrapped in the UK.

Q136 Alan Simpson: Okay, that leads into the next question?

Mr Reddy: When is a ship a ship and when is it waste?

Q137 Alan Simpson: Let me roll this one in as well. When we were in Brussels⁶ one of the things that came out to us about the difference between the UK’s position and that of our European partners in terms of the disposal of cars is that almost everywhere else has accepted a remit that says that at the end of line for a vehicle’s life it has to be returned to the manufacturer. Would that be the sort of equivalence that you would welcome in terms of an approach to international responsibility for disposal?

Mr Reddy: Yes, we would say probably, if it was not the manufacturer certainly returned to the—well, in the case of war ships, yes, it would be the manufacturer, the UK, the people that ordered it, in relation to commercial ships maybe you would have to look at the country receiving the lion’s share of the economic benefit during the life of that ship. The problem you have is that there is a situation whereby companies will buy a ship, they will operate it for 30 years, it will then reach the end of its life on their flag simply because it would be so decrepit that they could not keep it on the flag that they wanted to keep it on, they would then sell it off to a flag of convenience, or another company that would then flag it with a flag of convenience state who would run it under completely illegal conditions with crews that did not have certain certificates or qualifications and zero health and safety, and then, when it was literally almost at sinking point, they would send it off to India; and that is something we have to address. You will always have a situation where you can sell a ship on. There has to be a mechanism where, and I do not have all the answers but for me it seems to make sense that the company or the organisation or the country that derived the most benefit from that vessel should take a share, or a sizeable share in ensuring that that vessel is disposed of correctly.

Q138 Joan Ruddock: I believe the US ships that were brought to the UK to the shipyard were actually towed. What are the economics of saying that hazardous materials should be taken out of ships, say in the UK, and then the ship could be taken to a third country for breaking up and recycling? Is that a feasible option? I appreciate some things could come out; some things might be so fundamental to the ability of the ship to make its own passage that they could not come out?

Mr Reddy: One argument there is if you took out all the PCB wiring and you took out all of the asbestos before you delivered it somewhere, it then becomes a fire risk, it then becomes an issue as to whether it is actually safe to have it at sea.

Mr Strutt: Technically you could remove everything, but then you would have to tow the ships over perhaps on a platform for support. It is also a question of economics. Is it economically feasible to do that? It seems to me that it is not a pragmatic solution to the problem.

Chairman: Gentlemen, thank you very much indeed. I think we are all getting very good at analysing the problem; I think we are still grappling with what might end up as solutions to it. Nevertheless, I am grateful to you for your contributions today, for your written evidence and for the other material that you very kindly provided. You said you wanted to put in some additional information. We will be delighted to circulate that, together with an appropriate commentary, to members of the Committee. Thank you very much indeed for coming.

⁶ The Committee visited the European Commission in Brussels July 2004.

Memorandum submitted by Able UK Ltd

DISMANTLING OF DEFUNCT SHIPS

On 25 March 2004 the Environment, Food & Rural Affairs Committee issued Press Notice No 41 giving notification on the decision to set up a sub-committee to undertake an inquiry into the environmental impacts of the dismantling of defunct ships in the United Kingdom.

As an interested party, we (Able UK Ltd—"ABLE") were invited to submit written evidence addressing the terms of reference of the inquiry.

1. EFRAC INTRODUCTION

"In light of the issues surrounding the dismantling of US Navy vessels on Teesside, the phasing out of single-hulled tankers, and the need to dispose of defunct UK naval vessels, the Committee is undertaking an inquiry into the environmental impacts of dismantling defunct ships in the United Kingdom, and the methods of disposal to be used".

The Committee are considering the points numbered below and ABLE's written evidence is noted below each point raised.

2. WHAT FACILITIES AND EXPERTISE ARE ALREADY IN PLACE IN ENGLAND AND WALES TO DISMANTLE DEFUNCT SHIPS SAFELY?

ABLE response:

The only facilities and expertise that are in place in England and Wales to dismantle defunct ships in a manner that will provide the Best Practicable Environmental Option ("BPEO") and meet the European Environmental legislative requirements is Teesside Environmental Reclamation and Recycling Centre ("TERRC") based on the River Tees, Hartlepool, England, UK.

The only Company that has the experience and proven track record in England and Wales for decommissioning marine structures in a manner that provides the BPEO and meets the European Environmental legislative requirements is Able UK Ltd based at Able House, Billingham Reach Industrial Estate, Billingham, Teesside, England, UK.

3. WHAT IS THE LIKELY DEMAND FOR SUCH FACILITIES AND WHAT WOULD BE THE LIKELY ECONOMIC AND ENVIRONMENTAL IMPACTS OF MEETING SUCH A DEMAND?

ABLE response:

There is large demand for ship recycling in the world. The majority of ships are demolished in Asia because it is more economic for the ship-owners to do so for the following reasons:

Demand

3.1 TERRC is the only facility in Europe than can receive the larger ships for recycling.

3.2 There is no facility, other than the TERRC facility in Hartlepool within in the UK that can recycle ships in the correct manner with regards to health and safety and protection of the environment.

3.3 The ship recycling market is a certain growth market. At the end of the decade (2010) some 4,000 ships with an aggregate gross tonnage of 24 million should be recycled every year.

3.4 In 1999, 93% of ship breaking tonnage was carried out in non-OECD countries. An increase in the number and tonnage of vessels requiring scrapping is predicted over a 15-year timescale from 2001–15 (CEC 2001). The predicted average annual scrap volumes for the European merchant ship fleet are:

- 107–247 ships.
- 4.3–11.1 million DWT.
- 2.9–7.4 million GT.
- 0.86–1.48 million tonnes steel.

Economic impacts UK

3.5 ABLE could have produced circa £35 million per year to the Teesside economy if the works had not been stopped.

3.6 ABLE could have produced circa £70 million per year to the UK economy if the works had not been stopped.

3.7 Potential of around 1,000 direct new permanent jobs for at least the next 10 years.

3.8 Potential for a large number of other indirect new permanent jobs for at least the next 20 years.

3.9 Major source of raw materials—ABLE would have provided around 300,000 tonnes of recycled raw material (scrap) if the works had not been stopped.

3.10 It is forecast that by 2010 the value of ship recycling will be in the region of £3.5 billion per year.

Environmental impacts

3.11 One ship breaking company in Asia advertised the benefits of the tide cleaning their facility on a daily basis (by washing all wastes to sea).

Asian Competition

3.12 In Asia there are taxes that assist the industry.

3.13 Asian Local Regional Government Departments encourage the ship disposal operations.

3.14 The majority of the worlds ship breaking is undertaken by ramming the ships up beaches (no costs for facility development).

3.15 The Asian ship breaking companies sell the Asbestos on the street markets or strip it and dispose of it whilst the ship is in transit to the beach, Asbestos and other wastes therefore a credit to the works. We dispose of such hazardous materials under UK Legislation at a significant cost to a licensed facility. Greenpeace have monitored the Asbestos contamination of ship breaking workers, workers houses, ship breaking local community markets and mosques and found extremely high levels of blue, brown and white Asbestos present and presents risks.

3.16 The Asian requirements for health and safety of the public and the workforce together with their requirements for environmental protection are of a very poor standard.

3.17 The Asian ship breaking companies sell the materials contaminated with PCBs for reuse. We dispose of such hazardous materials at a significant cost to a licensed facility.

3.18 The works are undertaken with virtually no protection to the workers (no costs for personnel protection equipment).

3.19 We understand that processed scrap imported into Asia is taxed but ships for breaking are not.

4. WHAT IS THE LEGAL STATUS OF IMPORTING SUCH VESSELS FOR DISMANTLING (THE COMMITTEE WILL PARTICULARLY SEEK TO CLARIFY WHAT ARE THE IMPLICATIONS FOR THE INDUSTRY OF THE STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS?)

ABLE response:

4.1 The Stockholm Convention states in Article 3 para 1(a)(ii) that “each party shall prohibit and/or take the legal and administrative measures necessary to eliminate its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2”.

4.2 Para 2(a)(i) states that “each party shall take measures to ensure for the purpose of environmentally sound disposal as set forth in paragraph 1(d) of Article 6”.

4.3 The Stockholm Convention states in Article 6 para 1(d)(iv) that we must “take appropriate measures so that such wastes, including products and articles upon becoming waste are: Not transported across international boundaries without taking into account relevant international rules, standards and guideline”.

4.4 The UK Government needs to clarify how they intend to transpose the articles within the convention, after taking fully into account the implications for future business.

4.5 It would be assistance to ABLE if the Government would confirm what the measures (referred to above) will be and that under the Convention the import of the vessels and marine structures will meet para 2(a)(i) of Article 3 and therefore be permitted for importation into the UK. The Government should also clarify to what degree the importing company needs to take into account the relevant rules, standards and guidelines and what impact, if any, do these standards have on the importation of vessels and marine structures for recovery.

4.6 A problem which we would appreciate if the Committee could consider is that when such new EC legislation has to be transposed to UK Legislation, there does not appear to be sufficient research in the relevant industries to understand the potential consequences. As an example, it is quite possible that when Legislation comes into force for the POPs, that the personnel concerned in considering it will have meetings and discussions with companies that may be involved in the manufacturing and use of this product, however, these persons are not aware of the consequences it may have on, say for instance, importing marine structures and ships for decommissioning.

4.7 We therefore suggest that there should be improvement in the consultation period at this stage.

4.8 An example of this is on the ban of the importation of Asbestos. This was obviously decided with the objective of Asbestos materials being brought into the country either to be used to produce new construction materials or to be part of construction materials imported (ie Asbestos cement sheets etc). However, at the time it is our opinion that nobody considered the potential of, for instance, importing marine structures or ships for decommissioning. The current situation, as in the case with the MARAD Contract, is that we have had to apply to the Government to obtain an Exemption Certificate to import the Asbestos on these ships.

4.9 However, other ships can come into the UK, go into Port, have repairs carried out and the Asbestos can be removed and disposed of into licensed facilities in the UK but outwith these Regulations.

5. HOW DEFUNCT UNITED KINGDOM VESSELS ARE CURRENTLY DEALT WITH AND WHAT PLANS HAVE BEEN MADE TO COPE WITH THEIR DISPOSAL?

ABLE response:

Occasionally small defunct UK vessels are demolished in the UK at facilities, which, we understand, do not have Waste Management Licences or planning permission to carry out the works. The work is undertaken in ways that do not provide the BPEO. In particular, existing practices appear to be mainly using river banks or slipways with protective barriers.

To our knowledge there have been no plans made by the authorities to cope with the disposal of any redundant vessels.

6. OTHER RELEVANT INFORMATION

6.1 The methods used by ABLE for recycling ships at TERRC provide a positive benefit to the environment.

6.2 The only other method of ship disposal is to sink them, however, this provides a negative balance to the environment.

6.3 The BPEO is achieved if the remediation and decommissioning are completed at the same location.

6.4 It is not possible to remove all hazardous waste materials from the ships and then deliver them to a different recycling facility.

6.5 It is safer to undertake the remediation and decommissioning works at the same location.

6.6 Attached is a document with extracts from web sites with information.⁴

6.7 Attached is a copy of a study carried out in Asia by Greenpeace.⁵

6.8 Please note that I am willing to appear at the inquiry if required.

Able UK Ltd

May 2004

⁴ Not printed.

⁵ <http://www.greenpeaceweb.org/shipbreak/shipsforscrap3.pdf>.

Witness: Mr Peter Stephenson, Chief Executive, Able UK, examined.

Chairman: Let us move on then. This is our first solo performance this afternoon. Mr Peter Stephenson, the Chief Executive of Able UK. Mr Stephenson, you are every welcome, and thank you for the written material you were able to send.⁷ As you can see, we have also had a look at your appendix, which was the Greenpeace document.⁸ I am sure they are flattered by the fact that you included that as support material to your own evidence, which clearly acknowledges many of the environmental and personal impacts of ship dismantling in the areas that we have discussed to date. I am going to ask Joan Ruddock if she would be kind enough to start our questioning.

Q139 Joan Ruddock: I have the simplest of questions. I just wonder if you would update us with the condition of those US naval vessels that you are concerned with and any other aspects of the story so far.

Mr Stephenson: First, can I thank the Committee for allowing me to come to answer the questions and also for the rescheduling—that was appreciated. The current situation is that the Environmental Impact Assessment will not be completed until September of this year. This is primarily due to the amount of detail that we are having to go into. Everybody involved, really from the authorities to the consultants, are terrified there is going to be another judicial review and they are going to be scrutinised. So to get answers back when we have questions which are taking a long time, I think people getting legal opinions, and then a lot of consultants did not want to get involved, I think they were concerned

⁷ Ev 34

⁸ <http://www.greenpeaceweb.org/shipbreak/shipsforscrap3.pdf>

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what the outcome might be if they made a mistake, so we have ended up with a combination of consultants in the UK and consultants from Norway to carry out this Environmental Impact Assessment. The Hartlepool Borough Council cannot accept the planning application until the borough have a completed Environmental Impact Assessment, so therefore we cannot submit that until we have got that, which will be the end of September early October. The local authority then have 16 weeks to consider it, which takes them to January, and the Environment Agency cannot issue the waste management licence until we have the planning permission, so that follows on from that, but they have got the same consultation period. So at the moment we are hopeful to get the permissions approved by December this year. It might take a bit longer than that, so we are hopeful of that, and we are gearing up to commence the works in February 2005, subject to getting the approvals.

Q140 Joan Ruddock: What about the vessels themselves? What kind of state are they in?

Mr Stephenson: The vessels are in exactly the same condition as when they arrived. We have got an obligation on us, served on us by the temporary licence from the Environment Agency, because we have got to keep them in a condition that they can be towed back at any time, so we are doing daily monitoring procedures to keep them in exactly the same condition so they could be towed back at any time should the Government of this country decide that has to be the outcome.

Q141 Joan Ruddock: Does that mean you have had to do some work on them? If you are just looking at them, I would have thought they would be deteriorating?

Mr Stephenson: No, no, constantly we have got a crew that is monitoring them and doing whatever work is necessary. There is very little work to be done; it is a monitoring regime mainly.

Q142 Alan Simpson: Mr Stephenson, when you have done all this do you get the feeling that you are just a stalking horse really, that all you will have established is a principle that another country can export its ships for dismantling and disposal of toxic waste, because after that principle is established in this global market is it not going to be much cheaper for countries and other companies to take ships in areas where they will not go through any of these processes; they will do it for a fraction of the cost that you are having to incur but we will just end up with a free-for-all in dumping?

Mr Stephenson: I think, firstly, any country can do that now. This is the point. The American Government, to my knowledge, is the only Government that has got a policy that they do not do that. I understand every other country in the world can do it and do do it. The American Government have got this policy and now they have the problem, because I can only assume that the way it happened is that when I think it was Bill Clinton made the decision that they would stop exporting

them for environmental reasons, perhaps the Government in being at the time did not realise the economic consequences. So where they were selling the ships and getting millions of dollars in, they suddenly have got to pay millions of dollars out. I think the first problem is possibly they did not have the budget to spend for that—and this is why when we got involved, first of all, in January 2003 there were 132 ships—they make redundant something like 25 to 35 a year and there is currently 165, and this is the problem they have. We got involved with this, not expecting the outcome. We developed this facility with the intention of ship-breaking when we purchased the site in 1996. That was all in our original planning application. So we have tried to get involved in the ship recycling ever since; we have only been successful in acquiring two British ships in all that time. We have bid for ships every month of every year since then. We have been very successful in bringing in the off-shore module structures which are the same. Once again, less than 2% of them are waste, the same as a ship, so to us there is no difference in the performance than the actual works.

Q143 Alan Simpson: I am not having a go at all at the quality of the work that you do in that respect, but my study prompts me to say, are you not being used effectively just to break that policy that you have described in the US: because they have had to get exemptions under their current rules in order to do this, but, once that is established, are not the global economics such that others who had—they are not going to be sending them to you, are they? They are going to be sending them wherever it is cheapest round the planet to dump, and once the policy is broken, we are all on a slippery and losing slide?

Mr Stephenson: I do not think that is the case from my knowledge of all the dealings we have had from MARAD. I mean, we never heard of MARAD until we were approached in January 2003 regarding these ships. We have been discussing all of the ships with them of which there were possibly 65 coming into the UK because the remainder were on the other side of America in Suisan Bay and it was going to cost us \$1.5 million for us to tow a ship through the Panama Canal, so it would not be economic. So the only way they can economically do them outside of the US is to take them to such as China and Korea, we have been looking at development facilities in China and Korea to the same standards as we provide in the UK. Before we were awarded the contract the American Government with the Environmental Protection Agency of America were very thorough. They spent some five months auditing ourselves, our facilities, our procedures and liaison with the authorities before we were approved; and we understand they had spent over a year going round the world and various facilities before they found someone that met the standards they required. The discussions we had were not just to do these first 13 ships, the discussions we had were to bring in about half of the ships and we believe those options are still open to us.

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Q144 Alan Simpson: How do you respond then to the Chamber of Shipping's view that demand for the sort of services that you offer cannot really be assessed on a national basis, it has to be done on a global basis; and on that basis just how are you going to compare, in cost terms, with similar facilities that might be offered in China or actually set up and developed in China, in India, wherever?

Mr Stephenson: It is totally impossible to compete with that. It cannot be done.

Q145 Alan Simpson: So once you break that link and allow for an international trade in the disposal services that you are currently offering, you will not be able to compete?

Mr Stephenson: You are talking about economics here. The objective should be to obtain the BPEO (the best practical environmental option), and if one takes that into account there is nowhere in the world, including China and India, that can compete with our facility because of the environment and energy balances. We have employed DNV currently to undertake an energy balance, and we are comparing the procedure of collecting these ships from America, bringing them to our facility and recycling them, the same ships being recycled in America and the same ships being recycled in Asia. We have already undertaken this study internally and we are confident that the outcome of this will be that we can do this more energy efficient and therefore provide more benefit to the environment when it is completed, and that is what should be considered. The large companies, such as BP that have been referred to and the oil companies, are very aware of public acceptability, how the public perceive the works. So they are very aware of that, and they do not go for the cheapest price is our experience.

Q146 Alan Simpson: So globally who could impose and enforce a regime in which environmental standards overrode economic cheapness? Who could enforce that?

Mr Stephenson: I think one of the biggest enforcement bodies is public opinion, and we have seen in this case here how strong public opinion can be. I think that is one, and I think that is one that the large multi-national companies are aware of. We saw it happen with the Shell shareholders. The devalue of their shares with the Brent Spa situation, and everybody is aware of that, so that the larger companies are very aware of public acceptability, but on the legislation front, in this country, when one licenses a platform for the North Sea, the Government puts on it conditions for the abandonment of it so the companies accept that responsibility at that time, but that is, I understand, because the Government is concerned these structures may be left in the North Sea. With ships it is different. There are a number of matters which have not even been approached here. What we can do, we can go and get any of these ships, tow them or let them come in at their own power, and I can go and buy a ship anywhere in the world for a pound, bring it here as my ship, store it for four weeks, then decide to scrap it and none of this comes into force—

these applications and regulations do not apply. We and the American Government are trying to do it properly, and to my mind the US Government should be applauded for spending the money to have it done correctly.

Alan Simpson: How do we get out of that trap? That is exactly what we have been looking at everywhere we have been, and we do not know how to get out of it?

Q147 Joan Ruddock: From what you have said can I assume that the UK Government has not given you any ships to break up?

Mr Stephenson: We have tendered in the past to the UK Government, but we have not been successful.

Q148 Joan Ruddock: You have tendered but you have not been successful?

Mr Stephenson: Yes.

Q149 Joan Ruddock: Why do you think that is?

Mr Stephenson: My own assumption is that it is economics because they have to pay us. We are asking to be paid and our competitors abroad are paying them for it. It is merely down to the economics.

Q150 Joan Ruddock: Obviously public pressure has not come to bear because this has not been a matter of public notice?

Mr Stephenson: No, but I think this is brought in and we are seeing signs of that at the moment where we are discussing two vessels with the British Government at the moment.

Q151 Joan Ruddock: With the MOD?

Mr Stephenson: Yes.

Q152 Mr Lazarowicz: In your written evidence, Mr Stephenson, you said that if you get approval to dismantle these vessels you could produce around £35 million per year to the Teesside economy and £70 million to the UK economy?

Mr Stephenson: Correct.

Q153 Mr Lazarowicz: Can you tell us a bit more how you have arrived at these figures?

Mr Stephenson: The £35 million is the output that we can do in our facility, and that is the target figure on maximum utilisation of the facility.

Q154 Mr Lazarowicz: So that is not just based upon the ships at the moment, that is based upon—

Mr Stephenson: That is on a maximum capacity of the facility, that we can undertake. For a number of years there would be enough work for us just from the American ships alone.

Q155 Mr Lazarowicz: You said, I think, you had hoped to get, if you were successful, half of the US ships that would be scrapped?

Mr Stephenson: Which would be about 700,000 tonnes, currently.

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Q156 Mr Lazarowicz: For how many years would you reckon this working at full capacity would have to last?

Mr Stephenson: That would last about three years at full capacity in our one facility.

Q157 Mr Lazarowicz: And for the vessels which you have currently got the contract, what would your calculation of the benefit to both Teesside and the UK be?

Mr Stephenson: I am sorry, which benefit?

Q158 Mr Lazarowicz: For the vessels which you have currently got, that you currently have an agreement for, what is the value of the economic benefit to Teesside and to the UK for those vessels?

Mr Stephenson: Let me refer to my notes on that one. The current value of this contract alone is about £30 million. This varies a lot with the scrap prices, because the scrap price has varied £11 million since we got the contract.

Q159 Chairman: Up or down?

Mr Stephenson: Up. It went up to a peak in February, but it has now come back down £6 million, but offset that the exchange rate has affected us by about 20%.

Q160 Mr Lazarowicz: The delay has not done you any harm, has it, in that respect?

Mr Stephenson: Overall it has done significant harm.

Q161 Mr Lazarowicz: Once the current contract and the potential contract with the US was completed, would it be your intention to continue seeking other vessels to dismantle at this facility?

Mr Stephenson: We have never stopped since 1985 trying to get vessels here, and particularly since we got the permissions in October 1997. As I say, we must have tendered for over 200 vessels in that time, but unsatisfactorily. We have pricked the bubble and the bubble has burst here, so there is a lot of public interest; everyone is inquiring into this now, so things are changing. We are currently involved in discussions with lots of companies, British companies particularly, to look at bringing vessels to TERRC, but we are also getting inquiries from companies, major international clients abroad, they are very concerned of the concern getting their ships done in other countries and they want to bring their ships here.

Q162 Joan Ruddock: You spoke, obviously, of the delay and you have said a little about the Environmental Impact Assessment that has had to be undertaken. Is there anything more you can tell us about that and how that process is going? You have given us a timetable, but what is being discovered in that process?

Mr Stephenson: I would like, if I may, just for two minutes to go back to the beginning, because when we developed this facility it was developed correctly to start with. In 1996 we had a full Environmental Impact Assessment undertaken and various other contaminated ground investigations carried out. So

before we got the approval at that time from the local authority we had already been through this system, this process. We also did at that time in May 1997 a public presentation in the Town Hall of Hartlepool. We were looking to bring in the Brent Spa at that time, which bearing in mind is a larger structure and had more contaminated materials on it than all these ships put together. We did a public presentation to the people of Hartlepool and the authorities and got full approval and support for what we were doing, and that was before we got the planning permission. So the authorities gave us permission at that time with the benefit of that and since then every year we have brought structures in, off-shore, oil-rig, oil and gas structures, with very similar type of waste on, very similar percentages, all less than two per cent waste; we have carried that work out every year since then without one single complaint from anywhere, and in addition we have formed this TEAG (Teesside Ecological Advisory Group) which there are members of the regulatory authorities on, and we have met every three months and we have recorded every one of them, and there has been no significant detrimental effect on the local ecology. So when we got involved in this contract it was just another off-shore structure as far as we were concerned, a marine structure, and there was no difference. So we were very surprised at the problem when it hit. What is happening now, we are going through exactly the same process we went through in those days, the main difference being the extra detail required, because when I put the application in in 1996 to the local authority, we actually named ships on it, not only structures, but then were recommended to call it a marine structure to simplify it, which we did do, and the judge in December determined that a ship was not a marine structure. So what we are doing now is naming every single type of vessel, so there is a massive list, it covers everything that we might potentially want to bring in, but the procedure has not changed, the regulation requirement has not changed, so we are going through exactly same process but what is happening is it is much more detailed now. To give you an indication, the Environmental Impact Assessment at that time was less than £30,000, currently it is going to be over £300,000; and the time it took then was nine weeks, it is now taking about a year.

Q163 Joan Ruddock: It is a much more thorough process, is that what you are indicating?

Mr Stephenson: Yes, that is correct. All the councils we have discussed have never seen one as detailed, have never come across anything as detailed as this.

Q164 Joan Ruddock: Are you regarding this then as a waste of time?

Mr Stephenson: From our point of view it is very much. We have lost the full use of the facility for a year.

Q165 Joan Ruddock: Are you not seeing anything come out of it that you have not seen before?

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Mr Stephenson: No, and I am confident we will not. We are very confident that it will be positive when the work is undertaken. It was bureaucracy that stopped us undertaking the work. There was never any suggestion by the regulatory authorities that there was any potential risk to the environment from what we are doing. We had already proved that with our seven years work there. Actually we go back to 1985 doing structures on this site, but in all of this time bringing in over 55 structures, and a lot of them much larger and more complex than this and much more potential for causing disturbance to the environment because these off-shore structures are above ground, so they are not hid behind the gates, they were done on the dock side, so there was more risk of them harming or disturbing the local bird population on the seas, and they have not done. We have proved this. There has been monitoring undertaken which has proved it has never caused any problems to the local ecology from this. So we are very confident that the environmental impact assessment will be supportive, but, of course, the commission at the time will depend on the recommendation of the local officers and then the planning committee, which could still overrule it even though it has got the ecological support.

Q166 Joan Ruddock: Where was the hazardous waste going from the off-shore structures that you did?

Mr Stephenson: All the hazardous waste that we disposed of has gone to the Seaton Meadow landfill, which is adjacent to the site.

Q167 Joan Ruddock: In the future, after this environmental assessment has been made and all the commissions that you have are able to go ahead, where will the hazardous waste go?

Mr Stephenson: In our documentation we state it would go to a licensed facility, that is a facility that has been licensed by the Environment Agency. It need not go to that one in that locality, there is others available. I was shown a television programme from Sweden last week and it showed the Mayor of Hartlepool saying he is in support of this with the exception of bringing the waste into Hartlepool. What is an interesting thing is I made a phone call on the train coming down and three people alone have taken 130,000 tons per year of waste out of Hartlepool and we are looking to bring in around 2,000 tons a year. That is a comparison. So one should really look at the full picture. There are some very awkward issues there for people to make decisions on. A lot of counties here take waste from other counties and there has been lots of discussion for years where different counties do not like the waste coming through, but it is the determination of waste. The licence had to be modified purely because we were bringing the ships in to recycle them, so they are classed as waste even though less than two per cent was. The amount of actual waste on them we would not have needed to modify our licence, but it was just the terminology. So, because the ship is classed as a waste, we have to class and get our

license increased to more than 24,000 tonnes, but the original Environmental Impact Assessment was for 830,000 tonnes per year.

Q168 Joan Ruddock: I think this Committee is very much aware of the difficulties now with finding appropriate facilities for the disposal of hazardous waste. Have you identified where your hazardous waste is going to go?

Mr Stephenson: The hazardous waste will all be able to go to the same place that was identified originally in our presentations to the Government, and nothing is going to be changed on that, but we have still got numerous facilities in the area where it can go to. There is no liquid PCBs on the vessels anyhow, that has already been taken off, and liquid PCBs always get incinerated, and there are only two incinerators in the country but there is only one really available at most times, but we do not have any liquid. The fixed PCBs referred to, which is very misleading the way it has been mentioned, but this is potentially fixed. We have had samples done on all the ships and out of all the samples done only two samples showed any signs of any PCBs and they were less than 50 per million, so they just go to landfill.

Q169 Joan Ruddock: What do you think of the environmental impacts of disposable hazardous waste from your operation?

Mr Stephenson: I do not think you can select just one part of that. If you want to look at the environmental impact of just disposing of waste, you have got to look at the full environmental impact. By recycling the ships it is a positive benefit to the environment. With ships, you either sink them under the sea or you recycle them. If you sink them you lose a very important asset: there is a lot of raw material there, and all of the documents produced by our bodies, including the IMO's latest document from last year, their latest document for recycling very clearly said there is a better benefit to the environment by recycling, and our facility, our methods, comply even though this is a new document. I was just looking at a paper last night I sent to the off-shore industry in 1999, and in that paper every single thing that is in this recycling document we cover. Even in 1999 we met all of the requirements, so it is positive benefit.

Q170 Chairman: Can I for clarification's sake, when you talk about "the facility", when the Committee did its very short inquiry into the problems when the so-called "ghost ships" first became an issue, we saw a photograph of an area and a plan which you put forward to equip that area with, I think it was booms, or whatever it was, to enable you to take ships in there. Is that the same place that you have been dismantling the off-shore structures in or is it a new place?

Mr Stephenson: No, it is exactly the same place.

Q171 Chairman: So if you were denied the use of the facility for a year whilst all this *argy bargy* is going on about the ships, how are you staying in business?

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Mr Stephenson: Well, this is one part of our business. It has had a terrible effect on the financial assets of the company, but we are quite a strong asset-rich company, so we have been able to sustain it, but it has obviously—

Q172 Chairman: So you have got a bob or two in the back pocket and you are surviving on that?

Mr Stephenson: Had.

Q173 Chairman: You had?

Mr Stephenson: Yes.

Q174 Chairman: One of the things that does come out is that there are a lot of international players in the shape of conventions or organisations who deal, one way or another, either with good practice in dismantling ships, which you have talked about, or the trans-boundary movement of contaminated and dangerous materials. Do you think that these various bodies are well coordinated enough to try and sort out the type of regulatory framework that is required so that good practice becomes the order of the day internationally for the dismantling of ships, thus benefiting your proposal?

Mr Stephenson: Are you referring to the UK authorities?

Q175 Chairman: We have encountered, for example, the IMO. The IMO talk about the Basel Convention, people in that Convention talk about the Stockholm Convention, and so on and so forth, and it is actually quite difficult, as newcomers to the scene, to piece this together when on the one hand you are looking for internationally agreed arrangements which would encourage the development of the best of practices, which ought to facilitate what you are putting forward, as against others who look to a more localised either national or, for example, European Union based regime, again to encourage good practice. Our task is to try and find what is achievable, what is the best way forward, and I just wondered, as somebody who has studied all of this, what your own recommendation would be: because the alternative, as you make very clear, is that you are an expensive solution but you are wanting to put the best of practice in place. Other people are much cheaper because they will be a long way down on the recommended list of best practice?

Mr Stephenson: I think, firstly, the expense can be reduced by getting the mass through. One reason we were successful with these is because of the size of the contract. It was 130,000 tonnes, or thereabouts, in phase one. So the size of that allowed us to invest the first £3 million, that allowed us to create a large dry dock. The problems with the single inquiries we have had for ships one at a time, they have not been large enough to justify the expense of putting the dry dock in. So we did apply, quite a while back, to get European Union Development Funding for this, but one of the conditions of the EUDF is that we could not use it for ships. So we got funding for help with the dry dock but we could not do it for ship-breaking, but we have got the self-regulating bodies

such as the IMO and such involved. I can not help with an answer on how to afford to ensure best practices apply.

Chairman: Have a think about it on the train going back and Mr Mitchell will draw our questioning to its conclusion?

Q176 Mr Mitchell: Slowly! Just to recap, you are telling us that you have been bidding for contracts for demolition of ships for a long time, well over a decade, you began to bid more frequently after that in 1997. That was presumably generally known to be going on. You wanted ships to dismantle to create jobs and give work in the area. In all this long bidding process, you said, I think, 200 bids you have put in for various ships, were none of the things that have now been raised about consent, about the environmental agencies view, about the local authorities' view, were none of those problems raised until, all of a sudden, you get the contract you have been working for a long time and the Independent headline is, "Toxic ships bringing bubonic plague to Hartlepool". Is that the correct survey—slightly exaggerated?

Mr Stephenson: I think very slightly! The authorities, and ourselves included, were confident that all permissions were in place, and, when we bid for this contract, we got the inquiry, we approached the local authorities in February 2003 and got confirmation that they were satisfactory. So we only entered into the contracts having got the confirmation that everything was in order, and we have been doing it, as I say, since 1985 we did the first structure, and it was all satisfactory, so we did not see any different and we did not expect this.

Q177 Mr Mitchell: Nobody else told to you any different?

Mr Stephenson: No, we never heard any different problems anywhere, it was never mentioned, and, as I say, all these ships had been going elsewhere so it was a big surprise to us. We had worked very hard to obtain this contract; we got it in July; we sort of cracked open the bottle of Champagne on the Friday night and by the following Sunday we had this phone call, it was the Sunday paper in Glasgow, headlines on the front: "Bush has toxic ships coming". It is like everything, I think, if we had known there was a problem like this before, as we had with the Brent Spa, we would have done a presentation to people then and handled it differently, but the problem was the public had the fear, what they read in the press, that these ships were full of this and everything else and then we had to try and do a u-turn, and, as I have said a number of times, if I was a person in Hartlepool and I saw the press where Friends of the Earth, a body, one understands, is supportive of looking after the environment, turns round and says these ships have all these oils and PCBs on and then a local company says it is has not, well, I am going to believe Friends of the Earth; and that is what happens. It is very hard to turn it round and this is where I think the main lessons need to be learned. What we needed desperately at that time was the Government, or

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somebody independent just to get the facts and give the facts so people could make the right decision based on the true facts.

Q178 Mr Mitchell: How do you feel? Do you feel slightly aggrieved now that considerable financial damage, I think you said, financial damage has been inflicted, even if the price of the scrap rises, on your company as a kind of test-case for development of what needs to be a national policy on scrapping ships?

Mr Stephenson: Yes, it is a hard pill to swallow, but the other thing to take into account with all this—

Q179 Mr Mitchell: How substantial has the damage been?

Mr Stephenson: It is very significant.

Q180 Mr Mitchell: It is not endangering the existence of the company?

Mr Stephenson: It is not, no, not at this moment in time. It depends when it ends. We have had to . . . We have been in business for 38 years, and this year is the first time we have made men redundant. We had no alternative. We kept the people on because initially we expected to get the permissions in April, then it was going to be June and when it went back to October we could not keep paying the people. We had them all just sat there doing nothing. We still have a number there. So we had no alternative.

Q181 Mr Mitchell: What happens now? You have got a long delay, a prolonged Environmental Impact Assessment, and you have got to sit that out?

Mr Stephenson: Yes.

Q182 Mr Mitchell: Presumably the financial drain is still going on?

Mr Stephenson: Yes, that is there. The hard bit is over now in one way, because initially what we had was a very big important contract—it was more important, not just for one reason, the size of it, but it was allowing us to develop the dry dock which has been an objective since we purchased the site in 1996. A lot of clients were interested with us refurbishing the dry dock so that we can bring new structures, etc, there, which could provide 500 to 1,000 construction jobs. So we have been trying to achieve this, and this is the first contract we have got to allow us to do that. So that was our main objective, and what we did do is we stopped looking for other work because we wanted to really pursue this very hard and complete it in as short a period of time as possible, so we did not get much other work, then when this got delayed, we had virtually no work. So it is through that process, then when re-application of permissions seemed that it was going to go on and for ever, so it has been very hard. Fortunately we have just been awarded another demolition of a power station in Lincolnshire, which we started this month, so we have now got some more work for our employees, and that will keep the existing employees in business now until we start the ships hopefully next year.

Q183 Mr Mitchell: What do you feel about the supportive behaviour or unsupportive behaviour of various local authorities, like the Environment Agency, like the local council, like Defra? Are they showing a concerted desire to encourage the British demolition industry or are they just covering their own backsides?

Mr Stephenson: They are saying a number of things. There have been other bodies. The one that has not been mentioned is the Health and Safety Executive—they were very involved—because, just like the American Environment Protection Agency had to issue an exemption for the ships to be exported, our own Health and Safety Executive had to issue an exemption for us to import them, but they were being very correct and very robust, and because they stood up for where they were right, I think, they did not get as pressurised as maybe other people that did not stand up for what was right perhaps. Hartlepool Council, unfortunately at the time, did not have a chief executive, so it was a bit like a dog running about without a head, if you might say. They were struggling for that reason, I think, so maybe there was lack of leadership at the time, and it was annoying for us. We knew we had done everything right in the past, we had put the effort in, so we knew there was not an issue and it was very concerning. The other thing was that we hear that the Environment Agency knew before they told us of the problems. When we were informed we asked for the details of it and we were only asked to turn the ships round when they were halfway here, but we were not given the reasons why until some two or three months later. So everybody is learning from this, and I think there are better ways of improving the communication system between different people.

Q184 Mr Mitchell: But at your expense! I just want to sum-up. Would you tell us what in your view, in the light of this experience, the UK should do to encourage a responsible ship recycling programme in this country?

Mr Stephenson: I find it hard to answer that, because you appreciate that everyone except the Government has got the ships and potential clients for us, so it could be very awkward for me, because we are still hoping to get these ships off these clients to recycle for them.

Q185 Chairman: I think what Mr Mitchell is driving at is that we recognise, and I think you said it yourself when you were talking about the dismantling of the military vessel, that you were up against the fact that you needed some money from the person, in this case the Government, who wanted to scrap the vessel, as opposed to other people who were busy offering money to somebody to take the vessel to be scrapped, and it is the juxtaposition between centres of excellence. How do you encourage a flow of business? You have addressed that issue by virtue of the contract that you thought you had won in such a way as to get you going forward. What you actually found is that the United Kingdom regulatory mechanisms are now working against you in the sense that you are not able to use

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the facility to dismantle the ships, and you must feel very frustrated about that. I think what we were looking for was any thoughts you might have that if excellence centres, bearing in mind our other witnesses have talked about possible centres of excellence in other European countries that would work to the highest standards, how do you engage the world of shipping in a situation where, instead of being a net earner for dismantling a ship, they might have to be a net contributor?

Mr Stephenson: There are two ways. First of all, it is the size of the business. The shipping business in Europe, we are of the opinion at the moment, is very much like the dismantling off-shore structures that we could cope with at all. We do some 85 percent of that, of course, we are going in first and we are managing that. On the shipping side the same. The EEC commissioned a report which was issued in 2003, and that is very clear. It recommended, first of all, one facility in Europe and that the benefits by doing that is you get all your expertise in there and then, if you get an amount of work coming through, you can invest. As I say, we were going to invest £14.8 million here, because of the size of this work coming through. We had started to develop last year, with two foreign companies, a saw to cut the ships, which takes away a tremendous amount of risk and improves the BPEO. We had developed new

methods a long way on. We were involved with the method for the Kursk submarine and then the ship that sank in the North Sea was cut with similar technology. Unfortunately, during this time gap one of our competitors in America is now trying a saw out, but we have looked at taking shares in a company to try and develop it here. But there are ways if one has the amount of work coming through to improve on existing methods. Firstly one needs a good order book. If you have got the order book, you can invest, assess your development and improve on various things. The problem is now that we have lost a year here, Denmark, and Holland particularly, are now jumping forward and they are going to be in front of us, and then you have got the competition for the yard so you then bring the prices down again and so the yards cannot reinvest in the technology to improve the safety standards and improve environmental systems—reduce the cost of it—and that is the ongoing problem that we have got.

Q186 Chairman: Can I thank you very much indeed for your contribution and your evidence. It has been extremely valuable and you have given us again a lot of food for thought in our inquiries. Thank you very much for coming to talk to us.

Mr Stephenson: Thank you for the opportunity.

Supplementary memorandum submitted by Able UK Ltd

INTRODUCTION

Whilst reviewing the uncorrected transcripts and questions raised at the Inquiry to date, I thought it may be helpful if I provided a Questions and Answer sheet (as below) with facts that may be helpful for the Inquiry.

QUESTIONS AND ANSWERS

Q1. *What is the maximum size vessel that can be received at ABLE's TERRC facility?*

A1. TERRC has no restrictions with regard to height or width, the only restriction is on the depth for access up Seaton Channel. This has previously been dredged to –5.8 metres LAT. Mean High Water Springs (MHWS) is 5.5 metres LAT giving an access depth of 11.3 metres.

An Environmental Impact Assessment (EIA) is currently being undertaken and suggests that we will be able to dredge the Channel without causing any significant detrimental effect on the local ecology to a depth of –8.5 metres LAT, this would provide 14 metres of water at MHWS.

We know that we can receive the majority of ships and are of the opinion that we can also bring in the VLCCs (Very Large Crude Carrier) and ULCCs (Ultra Large Crude Carrier), but will need to complete a Feasibility Study to confirm this.

Q2. *Can the facilities in Asia be developed so that works can be undertaken in a safe manner both for workers and the environment so that wastes can be removed and disposed of whilst undertaking the ship dismantling process?*

A2. It appears to be accepted in the industry, and is stated so in the report for the EEC on Ship Recycling, that it is not a practicable option to be able to upgrade the Asian yards to undertake these works.

Q3. *Can all of the wastes be removed from the ships prior to delivering them to Asia ship breaking facilities?*

A3. No, it is not practical to be able to do so as a significant amount of the waste materials can only be removed during the dismantling process.

Q4. *What is the overall effect of ship recycling on the environment?*

A4. Ship recycling provides a positive benefit to the environment. This is because the amount of energy used to recover the recyclable materials is less than the energy that is recovered and therefore this provides a positive balance. The only known alternative for disposing of ships is by deep-sea sinking which, in addition to losing the benefit of the energy, also has obvious potential contamination of the local environment.

Q5. *Can the cost of ship recycling in Europe be reduced?*

A5. Yes, like most businesses there are economies with scale and if we could obtain orders for sufficient tonnage we could then invest more and increase the production rate of our operation's thus decreasing the costs and becoming more competitive with the Asian ship breakers.

Q6. *Is ABLE/TERRC facility just a stepping-stone for the US Government to send their ships to Third World Countries?*

A6. I can confirm that in my own opinion, this is not the case.

When MARAD first contacted ABLE in January 2003, they were very interested in our facilities and procedures and spent a significant amount of time going through a prequalification process, which included MARAD and the US Environmental Protection Agency visiting and auditing the Company and their facilities. Following this audit, they spent a period of time (circa six weeks) asking many questions and requesting information/documentation from us (ie copies of planning permissions, waste management licences etc). We are also aware that they spoke to Regulatory Authorities in the UK.

We understand that prior to ourselves being approved in May 2003 as the only Company and the only facility outside the US approved to receive and recycle redundant vessels from the US Government that MARAD had spent about a year previously visiting various other facilities throughout the World which did not meet their requirements.

I can confirm that from all discussions we have held with MARAD with regard to potential future work, I am of the opinion that they have been sincere when informing us that they will only look at any other facilities that comply with the same high standards they have found with ourselves. They have confirmed that they are not using this contract and the UK as a stepping stone to Asia.

Q7. *Why hasn't the Planning Application to recycle ships at TERRC been submitted as yet?*

A7. Hartlepool Borough Council will not accept the Planning Application without an Environmental Impact Assessment. This EIA will not be completed until the end of September 2004, therefore, the Planning Application should be ready submit with the EIA in October 2004.

Q8. *Why has the Environmental Impact Assessment taken so long?*

A8. Following legal decisions made in December 2003, it was not until 28 January 2004 that ABLE received the first Scope of Work from Hartlepool Borough Council stating what they thought was required. The reason it took HBC some 6 weeks to produce the Scope of Work was because they went through a very thorough consultation process with Authorities and other parties including Friends of the Earth. ABLE then had to obtain prices from Consultants to undertake the EIA and ABLE found that, firstly, major consultant companies appeared to not want to be involved in the Study due to the extremely high scrutiny that the document would receive from Friends of the Earth and also when any queries were raised with regard to the Scope of Work it took a long time to obtain decisions from the Authorities who, in the majority of cases, appeared to be getting legal opinion before they gave answers due to their concern at additional Judicial Hearings.

The majority of the EIA work was completed in the second quarter of 2004, however, ABLE encountered serious problems with regard to obtaining detailed hydrodynamic modelling, this has a delivery date of September 2004.

ADDITIONAL INFORMATION

The main problem with the ship recycling industry and the reason why ships are being dismantled in Asia is because of the Asian company's costs are very low due to using beaches as the place of work, very cheap labour and not following recommended practices. These are such that the Asian countries can actually pay and buy the ships for dismantling whereas in Europe, to dismantle the ships correctly, ship recyclers need to be paid. Having said this, one of the main elements of the finances regarding ship recycling is the price that the scrap metal can be sold for and if prices can sustain the high levels seen in early 2003 then European ship recycling facilities should also be able to pay the ship owners.

Able UK Ltd

July 2004

Wednesday 21 July 2004

Members present:

Mr Michael Jack, in the Chair

Mr Mark Lazarowicz
Mr David Lepper
Mr Austin Mitchell

Diana Organ
Alan Simpson

Memorandum submitted by the Environment Agency

DISMANTLING OF DEFUNCT SHIPS

1. SUMMARY

1.1 The Environment Agency (“the Agency”) welcomes this opportunity to submit evidence to the Inquiry into the dismantling of ships and to contribute to the debate on the future of ship dismantling in the UK. The Agency has a keen interest in this topic as the regulator for waste management in England and Wales and for the transboundary movements of wastes.

1.2 The Agency’s comments are confined to the key environmental and regulatory issues concerning the movement and dismantling of ships that are waste. The Agency considers that:

- there are weaknesses in the control of international movements of ships as waste;
- at an international level there is a need for greater clarity on the status of ships as waste and, therefore, the application of regulatory controls to their movement and dismantling;
- robust regulatory mechanisms should be established at a UK and European level;
- ship dismantling activities, if not appropriately regulated, have the potential to cause harmful environmental and health impacts;
- there should be a presumption that ships are hazardous waste unless and until it can be demonstrated that the hazardous components have been removed;
- given the ban on the export of hazardous waste to developing countries, OECD ships that become waste and contain hazardous substances should only be dismantled within the OECD area;
- the UK should adopt national policy that promotes environmentally sound ship dismantling;
- an adequate network of authorised recovery facilities is necessary to ensure the environmentally sound recovery of ships.

2. INTRODUCTION

2.1 Ship dismantling is an international business that, where properly carried out and regulated, contributes to sustainable resource management through the recovery of materials from waste. However, international environmental regulatory frameworks do not make express provision for and do not readily lend themselves to the Regulation of ships as waste.

2.2 There has been a tendency for ship dismantling activities to be concentrated in low cost, poorly managed facilities in developing countries, often with significant environmental and health and safety impacts.

2.3 Ship dismantling is set to increase as a result of a number of factors, including the requirement to phase out single hulled tankers and because many ships built in the 1970s are now reaching the end of their useful lives.

2.4 The European Union is a significant shipping region, now being one of the largest flag States (a State which registers a ship for the purposes of maritime law) areas following EU enlargement. Future demand for dismantling and recovery facilities needs to be determined and Member States need to ensure that an adequate network of authorised facilities is put in place.

2.5 The Agency supports the strengthening and clarification of the framework of international environmental law to ensure it can be enforced in respect of the movement of ships. A system is required that ensures that owners take responsibility for the safe management and recovery of ships, akin to the UK “duty of care” provisions for waste.

3. STATUS OF SHIPS AS WASTE

3.1 Ships can freely navigate the high seas and controls on the movement of ships as waste only apply from the point at which they become waste. Under the EU Waste Framework Directive “waste” is any substance or object that the holder discards, or intends or is required to discard. Where waste is moved across international boundaries, the holder of the waste is under an obligation to ensure compliance with national and international controls on the movement of that waste.

3.2 In practice it can be difficult to determine the point at which a ship becomes waste and subject therefore to waste controls. The holder may intend or be required to discard a ship and hence it becomes waste, albeit it is still viable as a floating structure. In practice, however, holders may seek to defer the decision to discard until the ship has reached its final destination, thereby avoiding regulatory controls on waste movements.

4. STATUS OF SHIPS AS HAZARDOUS WASTE

4.1 A similar definition of waste applies under the Basel Convention. This Convention provides the framework for the international movement of hazardous wastes and all EU Member States (including those that have recently joined the EU) have ratified it.

4.2 Hazardous wastes are identified by reference to the European Waste Catalogue (EWC). The EWC does not expressly include ships. However ships commonly contain a range of hazardous substances including asbestos, oils, heavy metals and PCBs, arising from their construction and use. At the end of the ship’s life some of these can be removed prior to dismantling. Some of these hazardous substances, such as asbestos, are often integral to the ship’s structure and are only removed as part of the dismantling activity.

4.3 The Agency considers that there should be a presumption that ships are hazardous waste (as with end-of-life vehicles) unless and until it can be demonstrated that the hazardous components have been removed.

5. REGULATORY CONTROLS ON DISMANTLING AND MOVEMENTS

Permitting controls on waste recovery and disposal facilities

5.1 The Agency’s view is that dismantling of waste ships is a waste recovery or disposal activity and must take place at an appropriately authorised facility. The Agency is the competent authority for issuing waste management licences (WML) and permits under the Pollution Prevention and Control (PPC) regime in England and Wales. A waste permit can only be issued if appropriate planning permission is in place from the local planning authority. Applicants must also demonstrate to the Agency and the planning authority that their activities will not have a significant impact on European sites designated under the Habitats Directive. Depending on the activities being undertaken, other permissions may need to be obtained from other regulators, such as the Health and Safety Executive and Defra (under the Food and Environmental Protection Act).

5.2 The interfaces between these regimes are complicated and can be confusing for operators wishing to dismantle a ship. Practical application of the regimes can also be challenging for regulators. Clear guidance should be made available that explains the regimes and provides guidance on the interface.

Controls on transboundary movements of waste

5.3 The EU Waste Shipments Regulation (WSR) gives effect to the Basel Convention on the transboundary movement of hazardous and other wastes. The Regulation is consistent with rules on international trade, and with OECD Decisions on wastes destined for recovery. It provides for a system of “prior informed consent” whereby transboundary movements of hazardous waste must be prenotified to, and consented by, the relevant competent authorities. Contracts also have to be in place between the notifier and consignee with a financial guarantee and insurance to cover foreseeable eventualities, including repatriation of the waste. An amendment to the Basel Convention provides for a ban on the movement of hazardous waste from developed to developing countries. This is currently in force for waste arising within the EU. The WSR is currently being reviewed to bring it up to date with recent OECD and Basel Convention decisions.

5.4 The Agency is a competent authority under the WSR. It has to have regard to the statutory United Kingdom Management Plan for the Exports and Imports of Waste. The Plan recognises the value of international trade in waste as a means of providing valuable substitutes for raw materials provided they are consigned to genuine and environmentally sound recovery operations. It also confirms that the proximity principle (ie the requirement for waste to be dealt with close to source) only applies to waste for destined disposal and not to waste for recovery.

Practical application of the control regime

5.5 In circumstances where waste is moved in contravention of the WSR or where the disposal or recovery operation cannot be completed, there are provisions for the waste to be repatriated to the country of origin. Enforcing such an agreement can be challenging, particularly for waste ships that originated outside the EU. Repatriation provisions are underpinned by the Articles of the Basel Convention, but it is the responsibility of the export State to honour its obligations under international law. Where the State does not honour the agreement there is little sanction other than diplomatic pressure. Such a case could be submitted to the Basel Convention's newly established Compliance Committee. This route has yet to be tested, however, and to be effective would require both exporting and receiving States to have ratified the Convention. Where the activity has taken place within the EU the Commission could intervene and take action.

5.6 It is possible to avoid these control mechanisms for shipments of waste ships for recovery. Firstly if a holder of the ship decides it should not be classified as hazardous waste but as Green List (ie non hazardous waste). In such cases the prior informed consent provisions do not apply. Once a ship leaves the country of dispatch the opportunity for the regulator to establish its correct classification is lost and potential enforcement compromised.

5.7 Secondly a decision that a ship is waste and will be dismantled may be taken while it is at sea. In these circumstances there would be no Competent Authority of Dispatch to apply the provision of the Basel Convention. There is a risk that OECD originating ships could easily be declared waste at sea and routed to dismantling facilities with lower environmental standards. There is a lack of clarity in the application and interpretation of these regulatory regimes in different countries and no international agreements have yet provided certainty.

5.8 In the Agency's view these loopholes compromise the international control regime. The review of the WSR needs to specifically consider how it is applied to ships and whether further guidance is needed in this respect.

Progress in international agreements on ship dismantling

5.9 The International Maritime Organisation (IMO) and the Basel Convention have both developed and adopted guidelines in relation to ship dismantling. These complementary guidelines are a good first step. They place responsibility on the final owner of a vessel to ensure that the ship has an inventory of hazardous substances and that a facility is identified to dismantle a ship (or parts of a ship) which is capable of dealing with the waste which arises. They require all relevant environmental permits for recovery or disposal facilities to be in place prior to the movement of waste between countries.

5.10 A considerable amount of work has been undertaken at international level between bodies such as the Basel Convention and the IMO to clarify these issues. The Agency welcomes the initiative being taken at international level to establish a Joint Working Group (JWG) between representatives of the IMO, International Labour Organisation (ILO) and Basel Convention parties, with the objective of strengthening the implementation of the current guidelines on ship scrapping. The Agency believes that the outcome of these JWG discussions should lead to the creation of a binding legal agreement, which can be enforced by the relevant competent authorities. Such an agreement could look to encompass the relevant provisions of the WSR for ships and apply them internationally in a legally binding manner.

5.11 This international process is likely to take some time. In advance of the outcome of that process the Agency believes that similar measures should be adopted, applicable as a minimum to the UK and EU during the interim. This would at least assist in ensuring that European derived ship dismantling is carried out in an environmentally sound manner and would provide leadership to the international debate. Clarification at an EU level as to the point at which ships for dismantling are subject to the provisions of the Waste Framework Directive and the WSR, or an equivalent regime would be welcome.

6. CONCLUSIONS

6.1 Law and policy relating to the dismantling of ships, including the regulation of their movement, is complex. Clarification on the application of these measures to ships would help to ensure that the impacts of ship dismantling on the environment and human health are minimal.

Environment Agency

May 2004

Witnesses: **Baroness Young of Old Scone**, a Member of the House of Lords, Chief Executive, **Mr David Jordan**, Deputy Director of Operations and **Mr Roy Watkinson**, Hazardous Waste Policy Manager, Environment Agency, examined.

Q187 Chairman: Good afternoon, ladies and gentlemen. My apologies that we are a little late on parade. It was entirely my fault, due to the fact that I was in the Defence statement with strong constituency interest. My apologies for keeping you waiting. We are doing our inquiry into defunct ships. Baroness Young, you are well-known to us in terms of the Environment Agency, welcome again. You have brought Mr Jordan, your Director of operations, with you and Mr Watkinson, whose face is familiar, but what title do you presently have, Mr Watkinson?

Mr Watkinson: I am called the Hazardous Waste Policy Manager.

Q188 Chairman: I want to start off with one short simple question to you. I am sure you will have read the report dated 30th April by Mr John Ballard, formerly of Defra.¹ I wanted you to (a) confirm that you have read it and (b) do you agree with its contents, findings and recommendations?

Baroness Young of Old Scone: First of all, just for the record, could I say that David Jordan is the Deputy Director of Operations. I would hate to promote him, though he deserves it.

Q189 Chairman: You are on lower pay grades since you got here!

Baroness Young of Old Scone: We do broadly support the John Ballard review. It was very much done in full discussion with all of the interests that he investigated. We have, I think, two areas where we are in further discussion with government. One is some of the issues about the period before we receive a transfrontier ship notification and trying to get pre-work done. We have had to make the point that we will try to do that wherever possible, but if the first thing we know about a transfrontier shipment being notified is the notification arriving on our desk, there is no legal requirement for a pre-notification period; so that is something that we raised with him. The second area we raised was the issue of how quickly we kept ministers informed, because we certainly had from the middle of the summer discussed the issue with Defra officials and assumed that Defra officials were in the process of keeping ministers informed. We know that they raised it during the early part of the summer with ministers. We assumed that that further information would continue. Those are, I think, the two main issues where we have had further discussions with government.

Chairman: That is helpful.

Q190 Diana Organ: Obviously you are aware of the fact that there has been quite a lot of discussion and argument about where ships for dismantling should

be sent. Part of this hinges on where they come from in the first place. It may be, as you know, with ships having flags that are nothing to do with where they operate, it might be a UK based company that owns them but the ship has never been anywhere near UK waters, it may derive economic benefit in the Pacific, or whatever. The whole issue I would like to look at is how do we decide on what basis and where ships should be sent? Is it right morally, environmentally and from a health and safety point of view that the developed world should be sending ships to be dismantled to the less developed world? Should there be an onus that nations or regions should become self-sufficient? If we are going to say that we are going to make regions or the developed world self-sufficient in its dismantling, how are we going to put that into place and ban ships being dumped in Bangladesh or taken to China for dismantling?

Baroness Young of Old Scone: Perhaps I could start and then pass over to Roy Watkinson. Certainly our worry about trying to get regional agreements is that the whole system, as you say, is very complex. Ships are flagged in one country; they may come to port in a whole range of countries; they may be re-flagged; they may change flags virtually as they travel round the world; and therefore understanding where the home country or the home region of a ship is is almost impossible. I do not think there is such a concept. Our concern is that if this is going to work it is going to have to work on a global basis: there needs to be an international agreement that is binding on ship owners and dismantlers and there needs to be an international system and network of ship dismantling facilities that do provide the proper standards rather than, either on a UK basis or a Europe basis or on another regional basis, trying to corral these ships, which are actually global players; they are stateless to some extent because they change flags fairly frequently. That is the primary thing we would like to see. The discussions that are currently about to begin between the International Labour Organisation and the International Maritime Organisation and the Basel Convention working group, we believe, is the key to getting a global system.

Q191 Diana Organ: So have you had any discussions with, say within the EU, similar agencies in nation states, similar sorts of environmental agencies? Have you been talking to them, saying, "Actually the EU could take a stand. We could make a policy on this and work together and we might pick out certain factors that would be acceptable or not acceptable to us"? Have you done any work on this?

Mr Watkinson: Of course, we are the agency and we are not responsible for making the Government policy in this area, but we do, of course, talk to our brother and sister regulators across Europe, and we know that it is of interest, particularly in view of the fact that there has been the recent enlargement of the EU which has meant that there are now more ships, if you like, flagged to the new EU states. So that is something that, for instance, when it comes to the

¹ Full report: <http://www.defra.gov.uk/environment/waste/topics/hazwaste/usnavalships-reviews/pdf/ballard-review.pdf> and covering letter: <http://www.defra.gov.uk/environment/waste/topics/hazwaste/usnavalships-reviews/pdf/ballard-letter.pdf>

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point of acting as a competent authority and where we are working as a competent authority—that is in connection with our transboundary shipments responsibilities—we do, for example, talk quite frequently with them about what kind of wastes are being accepted, the notification process, and so on; but the issue of how it is going to be developed, as I think you rightly said at the outset, into a solution that is going to work probably cannot even work within the EU itself. The EU could provide a bit of leadership in that area if it chose to work as a group on that particular issue and, I believe, through meetings of the working groups of the subsidiary bodies of the Basel Convention, for example, and the IMO, those sorts of discussions are already underway. I think the difficulty is that the outcome is liable to take time because it involves the international negotiation process, there is not a quick fix; but it is clear also from the discussions that have already been held, for example, a few years ago there were no guidelines in place by the IMO on Green Passports, and so on, there were no guidelines in place for the Basel Convention, there were no guidelines in place in relation to labour issues, and all of these have an impact on them. Of course, we are mostly concerned with the Basel Convention. So those things have now happened. It is moving forward with those and turning them into something concrete as an actual, if you like, binding instrument that will be the important thing to achieve. The EU, I think, can help in that if it chose to tackle it.

Q192 Diana Organ: Lastly, we came to this inquiry because we started off looking at the situation with ghost ships (which now seem to be called defunct ships) that were going to Hartlepool for dismantling. As the Environment Agency of the United Kingdom, do you have any problems with a company setting up and saying on an environmental basis, “We would like to look at a certain government facility for dismantling large ships”?

Baroness Young of Old Scone: We certainly believe that there needs to be a network of facilities available, both in the UK and elsewhere, for the environmentally safe dismantling of ships. There is clearly a business there and we are interested in seeing the recycling of a maximum amount of material from these ships for a useful future purpose and the safe scrapping of the residual amounts that cannot be used as new materials. So that is a really important issue for us. Providing we can have well-conducted sites that are properly licensed and they conduct their business in accord with the domestic waste management licensing provisions and the other provisions that surrounded their business and the transfrontier shipment provisions, which are the arrangements for bringing ships from elsewhere, we believe that is something we want to see. There is substantial business to be had, I believe, in the future, even with UK based ships, for example ships either owned by government, for example Ministry of Defence ships, or ships in which government plays a role, the trawler decommissioning programme, for example. So even if you took all the commercially available business out of the way, there is still a

modest business from government-owned or influenced ships, if I can use that term. So we would like to see a network of facilities, but we would like to see it world-wide, because we believe that wherever a ship goes we would want to see a similar standard of breaking happening.

Q193 Chairman: You are clearly being what I might call very correct in your aspirations, but it is not quite clear to me how you are trying to make those things happen. You referred earlier in your remarks to the joint efforts on the ILO, the IMO and the Basel Convention. Do you actually have any input to their deliberations on trying to move the world agenda forward on the dismantling of ships?

Baroness Young of Old Scone: This is a subject where Defra will take the lead and, in fact, Defra will be involved, but my memory is that the Department of Transport are actually the lead in IMO.

Mr Watkinson: The Maritime Coastguard Agency, but we support Defra, for example, in relation to the Basel Convention work.

Q194 Chairman: Can we dwell on that for a minute, because this adds a new dimension to our considerations? You are saying that part of the Department of Transport is the lead organisation for representing our interests on this through the meeting of those three bodies. Am I right or wrong?

Baroness Young of Old Scone: Certainly Defra will be involved with the Basel Convention, but if we do have this joint working group between the ILO, IMO and the Basel Convention, there will be MCA involvement, or Department of Transport involvement on behalf of the marine interests.

Q195 Chairman: Can you tell us then if there is any coordinatory body that is currently existing within the United Kingdom Government to pull together the sum total of knowledge on these matters so that all of your expertise is pooled in a single stream of consciousness?

Baroness Young of Old Scone: I think probably that is one you should ask the Minister about.

Q196 Chairman: I am asking you. If there was a problem, you, I am sure, would be part of it?

Baroness Young of Old Scone: I do not think there is a single body, I think this is an example—

Q197 Chairman: So the answer is no?

Baroness Young of Old Scone: I think this is an example of an issue which, in common with many issues, are dealt with via a number of government departments and agencies shaking hands.

Q198 Chairman: I am trying to establish where you fit into the architecture of this, and the message I am getting is that you think something is happening but you are not directly plugged in either to the Department of Transport, you are, I presume, giving support to Defra?

Baroness Young of Old Scone: We will be advising Defra as their agency, but I think the thing that we have to be clear about is what our role is. Our role is

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not to make policy, our role is as the regulator of the facility and the regimes, the transfrontier shipment regime and the waste management licence regime.

Q199 Chairman: You described to Mrs Organ in terms of responding to her questions, very correctly, a number of the key ingredients that make for good dismantling practice and policy. You have said that on the record to us. I was interested to know, as the aware agency, the aware body, on what were the good requirements for ship dismantling, how you were trying to input that to the discussions to which the United Kingdom is a party to the three organisations, Basel, IMO, ILO, which you also mentioned in your evidence.² The impression I am getting is that you are not actually plugged into any of that?

Baroness Young of Old Scone: We are plugged into the Basel Convention discussions, but Roy will be able to describe in what way.

Q200 Chairman: Please do.

Mr Watkinson: The way in which we operate, in terms of normal negotiation process, the Basel Convention is that the Agency is asked to give advice and often attends. In fact, I am the person who attends with Defra officials at the official level meetings, and therefore the debate and discussions which go on in relation to ships and all the other matters in relation to the Basel Convention are matters on which we advise the progress of those discussions and therefore become involved in them. Ships is just but one. Of course, there are a number—

Q201 Chairman: Let me just interrupt, because my colleague, Mr Simpson, is going to inquire into the vexed question, “When does a ship become waste?”, but Basel deals with waste. Yes?

Mr Watkinson: Hazardous and other wastes.

Q202 Chairman: So you are not plugged into IMO, which deals with ships. That is the Department of Transport?

Mr Watkinson: Yes, that will be a matter for the discussions that are at official level, if you like, and so on, within government. We know that there are discussions, and there have been a number of coordinating meetings, I believe, over the past year or so. Those we are aware of have happened because, of course, they input collectively into the discussions that are held at the working group meetings.

Q203 Chairman: So there is collective discussion-making that you are not involved in, but you know it is happening?

Mr Watkinson: Sometimes we are involved.

Q204 Chairman: Sometimes you are involved. Tell us about this sometimes. You seem a bit reluctant to tell us how you are involved with the Department of Transport. I just want to know who is putting in ideas to develop our position on it.

Mr Watkinson: I think the way it works is that we have a strong line, clearly, into Defra; so when we are working, principally we are working with Defra. When there are other discussions in relation to the Department of Transport, and so on, of course we could become part of that as part of our advisory role to Defra; and so when there are meetings I cannot tell you precisely when those meetings have happened.

Q205 Chairman: In other words you are not on the invite list. You are not being asked to contribute positively to the Department of Transport, but you are obviously positively contributing to Defra?

Baroness Young of Old Scone: I am not sure I would feel slighted by the Department of Transport. We are the adviser to Defra; Defra liaises with the Department of Transport. If there is a requirement for Defra that they need our advice, they will ask us for it. They are the policy body as part of government; we are the regulator. There are many occasions when we are not intimately involved in policy formation if that is not a subject that needs our specialist advice.

Chairman: We will ask the Minister about that, as it clearly causes a little friction. Mr Simpson.

Q206 Alan Simpson: I do not know whether your father ever grilled your early boyfriends about whether their intentions were honourable. It always seems a very difficult process to inquire about people’s intentions. Some of my friends argue that their intentions were always honourable at the start of the evening, they just changed during the course of it. The European waste disposal framework defines a ship no longer a ship when there is an intention that it becomes waste. I am really puzzled about how we know when that point of intention has been reached, and it seems to me quite important that we have a common take on that, because, without it, I just do not understand when a ship becomes waste and when it is a ship, and clearly the discussions that take place between ministers in terms of transport, environments are faced with the same dilemma. What is your view on when a ship becomes waste?

Baroness Young of Old Scone: We share your belief that it is quite difficult. Clearly there are times when intention is in no doubt. For example when the ships came over from America, there was no doubt that they were intended for recovery operations and therefore waste. If the ship had been stripped down to a point where all that remained was a towable hulk, it would be clear that that was waste. If you are ship operator, if you really would much prefer to sail your ship as a going concern to a country and then declare it as waste once you get there, that means that we will not necessarily know at what point, either before or during the journey, you hatched up that intention in your mind. So I think the intention issue is a very difficult one, unless people declare that intention.

² Ev 46

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Q207 Alan Simpson: Internationally, which is the competent body that would clarify and define that changed position from it being a ship to becoming waste?

Baroness Young of Old Scone: Roy, do you want to pontificate about the complexities of international law?

Mr Watkinson: It is the Basel Convention which deals with the issues of waste and the transboundary movement of waste, and, in fact, their overall definition, their base definition, similar to that from the Waste Framework Directive in the European Union, is broadly similar. It talks about “intention to dispose”, perhaps, rather than “to discard”, but the idea is the same. “Required to dispose”, “intended to dispose”—they are all similar language, but because, of course, it is an international instrument, it also defers to the waste definitions that are given within the particular Parties to the Convention. So if any particular country says, “This is waste as far as we are concerned”, of course that has to take priority for that particular country and be respected by the Basel Convention.

Q208 Alan Simpson: May I probe you a bit further on that, because I am fairly clear that the Basel Convention applies to the transport of hazardous waste; it is whether it applies to ships that are themselves hazardous waste at the point at which they become waste rather than ships. We have had some people arguing to us that it is not at all clear that the Basel Convention applies to ships themselves?

Mr Watkinson: That is a good point, because I think it is very clear that the original basis of the Basel Convention was to deal with the issues of the transboundary movements of waste that came from a land-based arising and were ending up at some other land based point of destination where they are going to be dealt with in an environmentally sound manner; and that was the whole basis on which the Convention was set up. Perhaps over time, in the 15 years since it has been put together, it is starting to show some areas of difficulty where the clarity to determine what is waste is, in fact, quite hard to get. There has been a legal working group of the Basel Convention that itself has made the point that a ship (as it has discussed these issues) can be both a waste and a ship at the same time. That does not actually get to the point about being able to use the Basel Convention properly and enforceably for the purposes of transboundary movements, for the reasons, I think, that have already become clear from discussions you have already had, that a ship may arise as waste with that intention to discard, somewhere on the high seas. Therefore we do not have the certainty of having the land-based competent authority (if it were to be, for example, a UK ship, the Environment Agency) perhaps having an interest in that. There is no way in which we could start the process and the paperwork, notifications, guarantees, and so on, that are required to make all that happen. We are simply not in that position.

Q209 Alan Simpson: We have been trying to look at parallels in other aspects of waste that could be applied here, and, even given the complexities about change of decision on the high seas and change of flagging and everything, is there anything akin to—I know this is a different approach taken by the rest of our EU partners—the final disposal of cars where basically the end of life disposal is the responsibility of the manufacturer? Do you feel that there are points towards which governments can gravitate in terms of saying, not only, “When does this become waste”, but, “Who is responsible for that”?

Baroness Young of Old Scone: Certainly at the moment I think it would be quite difficult to make the primary producer of the ship responsible, because they are very long-lived—some of the American vessels are extremely long-lived—and so the chain from primary producer to the point of disposal would be a very tenuous one to keep going over a very long number of years; so I am not sure that the parallel with cars is a good one. At the moment the end owner is responsible for disposal, but, of course, there may well be a number of transactions late on in the life of a ship as it moves through various processes and eventually goes for scrapping. Each of these cases has really got to be assessed on its own merits, because it depends on the country that it is in, what the definition of hazardous waste or waste will be and taken within the Basel definition of waste and the domestic definition of waste. So it is going to be a case by case decision in each case, and that is why I think that we are very keen to see this international agreement that would ensure that we perhaps could get some common definitions that would allow those decisions to be more standard across the world; but I think domestic legislation in each country will always have to be built into the international agreements because that is the way in which the domestic regulator, like ourselves, can actually manage and implement the waste management requirements of that particular country.

Q210 Chairman: Can I ask a technical question before I bring David in? In paragraph 3.1 in your evidence you mentioned the EU Waste Framework Directive. Does that only apply to vessels that are going to be dismantled within the European Union or vessels that are flagged within the European Union?

Baroness Young of Old Scone: Paragraph?

Q211 Chairman: 3.1 on page two: “Status of ships as waste”?

Baroness Young of Old Scone: I think the difficulty that there is about saying whether a ship is a UK ship or a European Union ship or an anywhere else ship is the point that Roy outlined, and that is, though it may be flagged in a particular country, it may then be consigned as waste in a different country, or it may be re-flagged.

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Q212 Chairman: Just focus on the detail of the framework directive. What is it supposed to do? In other words, it translates, as I understand it, the terms of the Basel Convention into European law. Is that correct?

Baroness Young of Old Scone: The EU Waste Framework Directive does not transfer the requirements of the Basel Convention into European law, the Waste Shipments Regulations transfer the Basel Convention, or at least the OECD decision, I think, rather than the Basel Convention.

Mr Watkinson: If I may, you are dealing with more than one thing. You have got the Waste Framework Directive, which provides, if you like, the European implementation of the part of the Basel Convention that looks at what is the definition of “waste” and says whatever your definition of waste is, but it is, broadly speaking, similar to this intention to discard issue that we have just discussed. Then, once you have got, if you like, your local definition, you have identified what it is that is subject to control as waste, then you have the Shipments Regulation, the EU regulation, which says “this is how you control the movements of wastes as they move between countries”, depending on whether they are hazardous or not, because you have hazardous waste and you have non-hazardous waste which obviously have different control systems when they are moving transboundary.

Q213 Chairman: I think I derive from that that the central question is, “When does a ship become waste?” In other words, we come back to where we started. Once you have identified the waste, then we have got plenty of rules to deal with how you move it around, where you put it, how you take it to pieces and what you do with it afterwards, but we are still struggling to find anything that enables us quite to define the difference between ships and waste, unless it is obviously a hulk?

Baroness Young of Old Scone: It depends entirely on the definition in European law, in the transposition in European law, on the definition of discarding, and it is a vexed definition right across the waste range.

Chairman: Let me just ask you, from your experience of dealing with global environmental issues is there some other parallel activity where an international agreement has been concluded that works where everybody says, “We recognise the problem and we all agree to play by the rules”? If you cannot answer that now, do let me know because it is quite central to our inquiries, and I do not want to keep David out.

Mr Lepper: I think, on reflection, what I was going to ask follows on from Austin’s line of questioning.

Chairman: Mr Mitchell, would you like to take up the line of questioning?

Q214 Mr Mitchell: It was put to us earlier at the initial inquiry that here could be a profitable line of business for UK plc to provide jobs. I think Mr Mandelson said it; so it must be true. I just wondered if it is possible to develop a scrapping business like

this, a British knackers’ yard, which will provide jobs and employment? Would you really want to put your hand on your heart and say you would want it?

Baroness Young of Old Scone: I certainly think we would want it for UK and European business where we are not anticipating long distance transport of ships, providing there is a proper process for the transfrontier shipment provisions to be adhered to and proper facilities well run within the UK: because for the most part, if we go back to the particular circumstances of Hartlepool, the point we made throughout was that these ships really posed very little risk to the environment throughout their transport and subsequent storage at Hartlepool, and so for a process that was petty low-risk environmentally and offered economic benefit locally, it seemed to me and it seemed to us that that was not something that we should object to. It had value to it for local people in Hartlepool; and we still believe that. Clearly, if the UK was going to become the ship-breaking capital of the world, one would have to ask whether that was a sensible proposition, and that is why we are looking for a network of similar facilities globally, so that as far as possible there are local yards for scrapping operations that should not undertake long journeys, for example if they are old and past it and not likely to be able to take to the high seas for any length of time, but equally well, that is why I think the requirements of global trade have to be taken into account. For some of these operations the next use of the material is going to be located, for example, in the developing world, where much of our white goods are currently manufactured; so there is a need for secondary materials, for recycled materials, to be used in those manufacturing processes and we would not want to see some sort of artificial constraint, I think, put on where breaking is best carried out, because it may well be that breaking is best carried out globally in proximity to the next use of the feed stock. So those were the arguments we would use. The important thing for us is to make sure that, wherever the facilities are, they are well environmentally managed and that in the transfrontier shipment process there is not a risk to the environment. Those have got to be the two requirements for us.

Q215 Mr Mitchell: It was also put to us that while we were making a mess of this particular instance, the Dutch were developing such a business. I do not know whether it was true, but that was put to us. Are our environmental restraints and controls more restricted than theirs or are they par for the European course?

Baroness Young of Old Scone: Obviously European legislation is standard and, indeed, in the case of the TFS requirements, we are looking at international instruments like OECD and Basel, so there is a broad commonality, though obviously individual Member States interpret it in different ways. I would say in this circumstance that the problem that meant that it could not go through smoothly was that there were a whole variety of small difficulties and errors on the part of pretty well all of the organisations involved which, in combination and put under a very

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strong spotlight by the process that Friends of the Earth adopted and other public interest groups in order to highlight the global issue, meant that any wart at all in the process was put under heavy scrutiny; and the net result of a number of small warts was that the whole thing had to go back to the drawing board.

Q216 Mr Mitchell: That is a Butler report kind of verdict, is it not? But, it was a mess, and you must have made a contribution, as the Environment Agency, to that mess. The ships were allowed over, then they were told they could not be scrapped, then we were told they were going back and they did not go back. Who was largely responsible? What responsibility do you accept for that mess?

Baroness Young of Old Scone: I think we were very clear and open in our "Lessons Learnt" report as to where we felt the process had not gone well, but it was very much a combination of small administrative errors by a whole range of organisations that produced the ultimate outcome; and the point that we made also in our report was that at no stage was the environment at risk. So the case that was very much put in the public domain, which was that this was a huge risk to the British public and was a big environmental threat, was not the case. This was a series of administrative difficulties that resulted in the case having to go back to the first stage, including, may I say, the fact that the prime responsibility lies with the operator, the receiver of the waste, to get his permissions in place, and the permissions were not in place. We tried hard to be helpful to the process because we had assessed that the environmental risk was not a huge one, and in the process of being helpful, because of the scrutiny that whole process was put under by the Friend of the Earth spotlight, we had to withdraw our helpfulness, as it were, at a later stage because we had not behaved entirely absolutely rigidly to the letter of every single stage of the TFS and waste management licensing requirement.

Q217 Mr Mitchell: How would you do it differently if the problems were to come up tomorrow?

Baroness Young of Old Scone: We have in our report indicated how we would do it differently, and to some extent you have got to raise just the question, in terms of how we are going to do it differently, about whether that is a good thing or a bad thing. We are certainly going to have to be absolutely rigorous about Transfrontier Shipment and particularly where ships are concerned in the future. Whereas in the past if there was a small administrative change to be made in a waste management licence we would grant the transfrontier shipment at the end of the 30-day period which we are allowed for assessment, on the basis that a small administrative change in the waste management licence is capable of happening post that. Now we will be absolutely clear that we will require the operator to demonstrate to us that his permissions are all in place, and particularly we will make an absolute requirement that the waste management licence is absolutely fit for purpose

under the TFS proposition before we will grant the TFS authorisation. So that could result in us having to turn down a number of TFS applications because we simply cannot get to that point within the 30-day period.

Q218 Mr Mitchell: Just to round it off, that is for new applications, but what happens to the vessels currently at Hartlepool?

Baroness Young of Old Scone: Clearly they are there, so there is not necessarily a transportation issue, but obviously Able UK is seeking a new waste management licence, a new planning application, new FEPA licenses (Food and Environmental Protection Act licences), and I am sure there are others, new agreements with the Health and Safety Executive and a new appropriate assessment under the Habitats Regulations. Once all of those are in place, we believe that the ships can then go ahead to be safely dismantled.

Q219 Mr Mitchell: It is a pretty high mountain climb, is it not?

Baroness Young of Old Scone: I do not think it is a high mountain to climb. It is complicated, but many of those activities that take place, particularly on coastal areas, are subject to quite a wide variety of legal requirements and therefore they are quite complicated.

Q220 Mr Mitchell: What happens to the other vessels currently in the US that we were hoping to get?

Baroness Young of Old Scone: At the moment the vessels in the US are currently subject to a legal process and therefore they are not able to be released by the American authorities, and that legal hearing has now been deferred until August.

Mr Jordan: I think from August.

Baroness Young of Old Scone: Thereafter the American authorities have assured us that there would be no intention to send further ships until such time as there was a proper licensed facility in the UK, and at that stage there would have to be a reapplication for a transfrontier shipment provision because the timescale for which the transfrontier shipment authorisation exists has expired.

Q221 Alan Simpson: Is it your understanding that such shipments will or will not be legal under the Stockholm Convention, because in respect of shipments of PCBs I had thought that the Stockholm Convention was going to make such transfrontier shipments illegal?

Mr Watkinson: The Stockholm Convention is about dealing mainly with pesticides and PCBs and removal and destruction of stock piles. There is a part that deals with POPs (Persistent Organic Pollutants) as waste and their destruction, irreversible transformation, but in relation to how they may be moved transboundary, it is still envisaged that because Stockholm and other UN conventions like the Basel Convention recognise that the Basel Convention is there to deal with transboundary issues, so the implementation of that

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still recognises the fact that PCBs, for example, can move transboundary where it is associated, as would be the case with these ships, as part of the shipment that is for recovery. We know that there are other issues in relation to movements of waste for recovery, for disposal, sorry, in relation to the UK Plan for the management of wastes. We do not normally accept wastes for disposal or export waste for disposal, but as this is a movement, if it is subject to the TFS, for recovery, contamination like that will be covered through the normal process, the movement of POPs and the implementation of the Stockholm Convention does not have a significant bearing on it.

Q222 Alan Simpson: You used the word “recovery”, and that has also been used to us by the dismantlers. They say that the vast majority of vessels are not hazardous waste and they contain items that will be recycled. Would the Agency take a different view just in respect of what remains, not in non-recycle terms, of the hazardous waste and whether that should be returned to the country of origin in the way that Stockholm would appear to suggest, that they need to be managed within the home country?

Mr Watkinson: The Basel Convention, for example, envisages the minimisation of waste and dealing with wastes for disposal as close as possible to the point of arising, and that is a general principle that flows through into other environmental legislation. The idea of returning it back to another place could also bring in issues of whether or not that was an environmentally sensible thing, to send waste on double journeys. It would perhaps seem more practical to recognise that there is contamination of wastes for recovery and you really need to have the facilities for dealing with the products that are separated from the recoverable waste in an environmentally sound way as well; and that is already envisaged and incorporated in the Waste Shipments Regulation. You have to take account of that. There is a special case of something that is called “sham recovery”, where you are looking at an issue where you are trying to, or somebody is trying to actually get away, if you like, with disposal under the guise of recovery. That is something that we can object to and we can prevent through the shipments regulation process, when we are able to apply it.

Q223 Mr Lepper: Everybody at the time seems to have been a bit taken by surprise by what happened last year with the ships coming over from the States, but something that Tony Juniper of Friends of the Earth suggested to us last week was that there had been a very distinctive change in policy on the part of the US Government. Whereas the previous administration under President Clinton had a policy of disposal of ships within the US itself, there was a change of policy on the part of the Bush Government which made it likely that they would be sending ships elsewhere for disposal. Was that something that had been flagged up by you to the UK Government or had the UK Government asked you for any advice on that policy change on the part of the United States?

Baroness Young of Old Scone: I am afraid US policy is not really an issue that we would normally expect to be involved in.

Q224 Mr Lepper: No, I can understand that, but the context in which it was put to us was that the Government of the US had instigated a change of policy. One would have thought that maybe there might have been some request for advice from our Government to you or to some other agency of what the implications of that might be?

Baroness Young of Old Scone: It is not an issue that, as far as I am aware, we had raised.

Mr Watkinson: My recollection, and it has to be just a recollection, of that process was that during the previous administration there was an embargo that was in place at one time for the export of ships for scrapping, but that embargo was time-limited, it had simply lapsed, and that gave them the further opportunity to consider what they might wish to do with the ageing fleet that they wished to get rid of, and that led to the process which ended up with the ships coming here.

Q225 Mr Lepper: It is only a tiny point, but have you any idea when that embargo lapsed?

Mr Watkinson: I am afraid I cannot remember.

Q226 Mr Lepper: It is not within your remit to have that information. I thought you might know. Thank you. In all of this complicated process what has become clear, I think, and you have said it in your memorandum to us, is that the interaction between waste management regimes, pollution prevention and control regimes are very complicated. I think that was in your written memorandum to us: “. . . complicated, can be confusing for operators wishing to dismantle a ship. The practical implications of the regimes can also be challenging for regulators. Clear guidance should be made available that explains the regimes and provides guidance on the interface”. Commonsense would say there ought to be a smooth inter-relationship between issues of waste management and pollution prevention and control, but that is not so?

Baroness Young of Old Scone: Have you got a reference that we can see perhaps the context.

Q227 Mr Lepper: Yes, paragraph 5.1, 5.2.

Baroness Young of Old Scone: I think the point we were making there was not necessarily just the relationship between waste management licensing and PPC but also the other regulations that surrounded this activity, including the planning permissions, the Habitats Directive requirements and the licences that need to be got from other regulators, particularly the Health and Safety Executive and Defra. It is quite a complicated regime, as the Chairman said, and one of the propositions that we made in our report that was also in the John Ballard report was that there needed to be information provided that would help operators through that rather complicated regime in a simple way. My understanding is that that is something Defra are going to coordinate and we will

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be happy to play our part in, but it will involve all of the regulators, all of the regimes, that they may be subject to. We should say, however, that, even with that help and guidance, we will need to make sure that operators understand that we cannot, none of the regulators can, reassure them that they have covered all the angles. They still have the prime responsibility of ensuring that all the permissions that they require are in place, because it is not possible for any regulator to anticipate, in the local circumstances that an individual operator is operating, whether there may be some other piece of legislation that his process would require to be covered by. It is complicated, but these are big businesses involved in substantial financial transactions and therefore we believe that they need proper legal support and advice to take them through that.

Q228 Mr Lepper: So guidance should be provided and, from what you say, Defra is in the process of doing something about providing that guidance?

Baroness Young of Old Scone: They certainly have made that commitment, or at least the Ballard report proposed that. We have not yet seen the Defra response to the Ballard report other than the very initial response, and I would assume that in the Minister's response to the Ballard report we will see what Defra are planning to do.

Q229 Mr Lepper: Even with that, have I got it right, the companies involved are still going to need the lawyers?

Baroness Young of Old Scone: I am afraid so. At the end of the day the buck stops with the company, as, indeed, it would do for any operator.

Q230 Mr Lepper: Is that an unsatisfactory situation as far as the general public is concerned?

Baroness Young of Old Scone: I think the regulators are there to assure the general public that the interests of that particular regulator, the responsibilities of that particular regulator, are being carried out. We are able to assure the public, for example, that the environmental conditions are being met, but there is no single regulator able to say every single position that you might require has been met, because no regulator covers the whole panoply. So, in common with any business in conducting its operations, they need to be sure that they have got the best legal advice to make sure they are doing the right thing by all possible regulatory requirements.

Q231 Mr Lepper: So even with the guidance, when it emerges eventually, we could still look forward to further Hartlepoons, unforeseen challenges to particular enterprises could well arise?

Baroness Young of Old Scone: I hope that if Defra does decide it is going to coordinate the guidance, because I think it was a good recommendation, that we can all provide good information that will help companies coordinate and find their way through the different requirements, but I do not think we could ever rule out that there may be some particular

circumstance in some particular location that a company simply does not have on its radar or does not properly move forward fast enough.

Q232 Chairman: One final question. Have you upgraded the way in which you conduct Defra on these issues. I was intrigued by the Delphic phrase in Mr Ballard's report in paragraph 27, page nine, where he says, "There was a recognition with the Agency that this application was novel; and that in consequence the Department should be kept informed of progress." He goes on to say, "But the level at which contact was maintained reduced the opportunity to consider the potential political resonances that might arise". Have you reduced the potential for this resonance and made certain that Defra are better connected to you on these matters?

Baroness Young of Old Scone: Defra were connected to us in that our transfrontier policy people had alerted Defra to this and, indeed, Defra had briefed the Minister, I think, in June.

Q233 Chairman: It says here, "It is perhaps not surprising that the subsequent note put forward by Defra officials in July was low-key for information only." I presume that everything has gone up a notch after all this in your Agency, has it?

Baroness Young of Old Scone: We have a process whereby if local staff, policy staff or process staff are concerned about the political ramifications, novelty or uniqueness of a particular situation that they will raise that up their managerial line.

Q234 Chairman: What, because Mr Ballard says it was not seen within the Agency as having the potential it had to attract attention?

Baroness Young of Old Scone: To be frank, I do not think it did. We assessed the environmental impact and environmental risk and came to the conclusion that this was not going to be a huge environmental risk. I personally looked at the case in June, asked a number of questions about it and reassured myself that the environmental risks had been covered off by the process, and we did inform Defra and Defra ministers were informed. So I think the fact that we continued to move them through the process only really started to—the degree of public concern and anxiety about it only then arose at a later stage when it became clear that Friends of the Earth were using this particular instance as an example of a global issue that they believe needs to be addressed, and that is what NGOs do and it is a global issue that needs to be addressed. So the spotlight very much came on this particular case at a time subsequent to that. I think one of the other issues in John Ballard's report that we have debated further with him and have written to the Minister is the question of at what point subsequent to that we alerted Defra and the Minister about our concerns about the Waste Management Licence, and there is a point in the Ballard report that indicates that they feel we should have done that at the beginning of October. If my memory is correct, the process that we went through at that stage was that we examined all of our

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processes and our documentation and our licenses, anticipating the Friends of the Earth legal challenge which they had indicated they were going to undertake. So, inevitably, as soon as we realised there might be a legal challenge, we went back and looked right across all the documentation, and it was only after, I think, two or three weeks of lawyers crawling all over the documentation that we came to the conclusion that the Waste Management Licence, in fact, was technically flawed and that we would therefore have to go back and ask the operator to seek a new Waste Management License, and as soon

as we realised that and as soon as we had talked to lawyers about that, we then informed Defra. So it is one of the areas, as I indicated earlier, that we are perhaps less content with, the Ballard report, the issue of keeping Defra ministers informed. We believe that we informed Defra ministers at each stage when we really had concerns. Where there were no concerns, we did not inform Defra ministers because it did not seem appropriate.

Chairman: Thank you very much indeed. That has been extremely helpful and again our apologies, and mine specifically, for the lateness of our start.

Supplementary memorandum submitted by the Environment Agency

Letter to the Committee Specialist from the Chief Executive, Environment Agency, 19 August 2004

Following the Committee's oral evidence session on 21 July 2004, the Agency was asked to respond to the following question from the chairman:

“Chairman: Let me just ask you, from your experience of dealing with global environmental issues is there some other parallel activity where an international agreement has been concluded that works where everybody says, ‘We recognise the problem and we all agree to play by the rules?’”

We understood we agreed to consider this point and provide a supplementary note to the Committee. We are grateful for the opportunity to do so.

The attached note deals with the issues as requested (Annex A). We have identified the Montreal Protocol as one of the global Multilateral Environmental Agreements (MEAs) that provides some of the elements of a useful model and we have suggested some criteria for a successful agreement. The Committee could also examine the role and strength of the various Compliance Committees (such as for Montreal Protocol) that have been developed to deal with the issues of complying with the requirements of these Conventions.

In addition the Agency wishes to emphasise that the international system of waste control, the Basel Convention, is by itself unlikely ever to be able to resolve the issue of ensuring environmentally sound ship recycling at a global level. Hence neither can the legislation we use to implement it—the EU Waste Shipments Regulation.

However we do recognise there is a demonstrable need to develop a global network of facilities able to handle ship dismantling in an appropriate way in accordance with the concept of environmentally sound management.

As a regulator, we encourage the Committee to consider the way forward, internationally must be found through the combination of the relevant UN bodies (IMO, ILO, Basel) acting together and for the UK to take an active role in that process.

Baroness Young
Chief Executive, Environment Agency

August 2004

Annex A

SHIP RECYCLING AND EFFECTIVE INTERNATIONAL AGREEMENTS

BASEL CONVENTION IS “FIT FOR PURPOSE”

1. The UNEP Basel Convention itself is effective, in that it is capable of being implemented by Parties to the Convention to deliver the objectives of the Convention, for its intended purpose. The Convention does provide an international framework for the control of hazardous and other wastes where they are moving transboundary from a state of origin to a state of destination. The principles of prior informed consent, self-sufficiency, priority for recovery and proximity (where applicable) are given force in the EU by the Waste Framework Directive and the EU Waste Shipments Regulation. These in combination provide for the system of documentary control that the Basel Convention requires. They provide for Member States of the EU to put in place plans and policies for the management of waste according to national priorities; for example the UK Management Plan for Exports and Imports of Waste.

BARRIERS TO EFFECTIVE CONTROL OF SHIP RECYCLING

2. It may be argued however, that the Basel Convention was not originally intended to cover ship recycling and experience has shown it to be extremely problematic to apply such controls effectively and enforceably.

3. The Basel Convention is less able to deal with ships as waste for the reasons outlined in the Agency's written and oral evidence to the Committee. European case law and discussions within the international bodies, the Basel Convention and the IMO, help us to define the circumstances and the point in time at which a ship becomes waste in law (even though it may still be a functioning ship).

4. The main weakness of the control system for a waste ship is the absence of an established, definitive enforceable location for the point of arising for the ship as waste within a state. This is needed so that the state may be readily identified as the state of dispatch for the purpose of the Waste Shipments Regulation and to initiate the supervisory aspects of the control system. For a (waste) ship sailing in international waters no competent authority of "dispatch" can yet be defined, with the appropriate powers of regulation and enforcement and the means to carry them out.

5. A key issue is the conditions under which a (waste) ship is dismantled to ensure protection of the environment and human health. The Basel Convention has produced a guideline on the Environmentally Sound Management of waste, the Technical Guideline for the Environmentally Sound Management of the Full and Partial Dismantling of Ships. Implementation of such guidelines (together with those of the IMO and ILO) by enforceable authorisations or permits at dismantling sites would provide a means of ensuring protection of the environment and, to some extent, human health during the dismantling activity.

6. An issue for many countries is of capacity building. Developing capacity requires considerable resources to implement where the infrastructure is lacking. This is taken to include development of the legislation, regulatory field officers with appropriate training and competence as well as investment by the commercial sector in environmental protection technologies.

OVERCOMING THE BARRIERS

7. Other international agreements have addressed these barriers, as described above, by establishing powerful financial supporting mechanisms to promote capacity building and compliance. The Montreal Protocol is one example. This makes funds available for Parties to develop compliance by ceasing the production of the banned CFCs. The Montreal Protocol and other similar global Multilateral Environmental Agreements (MEAs) should be compared with the Basel Convention in the context of international discussions on environmentally sound ship dismantling.

8. The Agency's view therefore is that a successful mechanism for promoting global environmentally sound ship recycling should comprise the following features:

- An international agreement that establishes when a ship is to be subject to control for recycling (as waste);
- A control system that ensures a ship for recycling is being dispatched to a suitably authorised facility;
- Identification of a competent authority to provide regulatory oversight of the movement;
- Enforceable powers and provision for inspection and supervision to provide protection of the environment in the case of breaches of the system;
- An adequately funded mechanism to support the development of regulatory capacity in states where this needs to be enhanced;
- All of the above to promote the establishment of a global network of facilities able to handle ship dismantling in an appropriate way in accordance with the concept of environmentally sound management and health and safety standards.

9. Many of the elements of the above are already contained in the Basel Convention/WSR and IMO systems. A combination of the two with enforceable powers is needed.

Environment Agency

August 2004

Memorandum submitted by the Department for Environment, Food and Rural Affairs

DISMANTLING OF DEFUNCT SHIPS

INTRODUCTION

1. The dismantling of ships, both those belonging to the UK Government and those brought to the UK from other countries for dismantling, has received much attention over the past six months.

2. A distinction needs to be made between different types of vessels as the facilities and expertise required for dismantling a large naval vessels differ from those required for the dismantling of smaller vessels. For the purposes of this memorandum the focus will generally be on larger vessels such as decommissioned naval vessels.

3. Information, in this memorandum, on commercial vessels refers to those that are flagged on the UK register. Reflecting its global nature, the shipping industry's controls are carried out through the flag State system. Under this, vessels come under the jurisdiction, and must meet the requirements of, the flag State to which they are registered. Shipping companies are not necessarily based in the country to which their vessels are flagged, and may not even operate their vessels to, from and through the ports of the flag State. Vessels which are flagged to the UK are known to UK Government (all MoD vessels are flagged to the UK register), and for this reason data provided on commercial vessels in this evidence is based on vessels currently on the UK register.

FACILITIES AND EXPERTISE

Larger vessels

4. Despite a historical wealth of expertise in the construction and re-fitting of ships there appears to be a gap in UK expertise in the dismantling of large vessels once they reach the end of their life. As far as the Government is aware, there are currently no facilities in England and Wales with the capacity and expertise to dismantle defunct large ships safely. One company, Able UK, has plans to establish such a facility at its waste management site at Graythorp, Hartlepool. It is expected that the company will submit new applications for a new waste management licence and for planning permission for the dismantling of end-of-life ships at the site, shortly.

Smaller vessels

5. Over the past decade the Government has run a number of schemes to decommission fishing vessels, as part of its obligations to reduce fishing capacity and species-specific effort under the Common Fisheries Policy. Under these schemes vessels from the UK fleet have been decommissioned at sites within the UK and Denmark.

ARISINGS

Commercial vessels

6. Following the sinking of the Erika (and the Prestige), the International Maritime Organisation (IMO) agreed, through the MARPOL Convention,¹ to require the phase-out of single-hull tankers between 2003 and 2015 (subsequently reduced to 2010 with derogation through to 2015 for countries outside the EU not wishing to apply the 2010 deadline). Total number of single-hull oil tankers worldwide, above 5,000 tons deadweight, was estimated at 1,859 in 2003. It is estimated that, between now and 2010, nearly 400 EU-flagged single-hull tankers (including the new accession countries of Cyprus and Malta) will need to be recycled, although it is probable that some will change flag to make use of the derogation through to 2015. Single-hull tankers are being phased out progressively between now and 2015 by reference to age and design. Newer tankers with semi-protection—ie double bottoms or double sides—might be able to continue until 2015 at the latest, subject to a rigorous structural survey at specified intervals, whereas, older tankers with no additional protection will all have been phased out by the end of 2005.

7. It is difficult to estimate the number of UK-flagged vessels that will require dismantling in the future. Given the global nature of the shipping industry vessels often change flag and ownership over their lifetime. As a result of UK flag pressure many companies are investing in new tonnage and environmentally friendly/benign technology, whilst selling on older vessels as trading entities. meet the high standards of the UK flag. Thus, in practice there are very few vessels going direct from the UK register to dismantling facilities.

¹ The International Convention for the Prevention of Pollution of Ships 73/78.

UK Naval vessels

8. There are a number of UK naval ships programmed to come out of operational service within the next decade. Based on current planning cycles, it is estimated, by the Ministry of Defence (MoD) that over the next decade 44 vessels² will come out of operation, a breakdown of these predicted arisings is outlined in Annex A. However, once vessels are declared as surplus, MoD policy is to sell ships for continued operation to a new owner, (either to a foreign government or a commercial customer) wherever this is possible. Thus, only a few vessels are dismantled immediately, with the majority being sold on as operational vessels. A small number may also be maintained within the Ministry of Defence for training purposes, with dismantling or re-sale occurring at a later date.

CURRENT PRACTICE

UK Commercial vessels

9. Any decisions regarding the decommissioning and dismantling of such vessels are commercial matters. However, commercial operators need to liaise with the relevant regulatory authorities regarding obligations under maritime and environmental law. Exports of any end-of-life ship from the UK for dismantling are likely to be considered a transfrontier shipment (TFS) of waste, subject to TFS rules, and notified accordingly to the relevant competent authority (the Environment Agency for England and Wales). Further information on these rules is set out in paragraphs 13 to 17.

UK Naval vessels

10. As outlined in paragraph 8 Royal Naval vessels are not necessarily run on until the end of their life. Scrapping will only occur when the ship is in such a state that this is the only feasible route, because of age or condition, or the state of the market is such that MoD have been unsuccessful in finding a buyer. The disposal strategy for each surplus ship is decided by the MoD's Surplus Ships Disposal Committee. Cost Benefit Analyses are conducted which cover financial, diplomatic and political aspects.

11. For those vessels that are sold on, once the ship is sold and the title has passed to a new owner the MoD does not have an interest in the ship itself. Depending on the wording of the contract/agreement, the MoD may have contractual rights against the new owner, for example that the ship should only be used for certain purposes. If it was stated that the ship was to be sold on the basis that it would continue to be used as a ship for X years and then the new owner decided to scrap it, the MoD could not prevent the new owner from scrapping the ship, but it could claim breach of contract for doing so. Similarly, if the ship was sold on to another party, either as an operational ship or for scrap, MoD could claim breach of contract. Government to Government sales agreements include a condition requesting that MoD be informed of the transfer of ownership of ex-UK Royal Naval ships (including where they are going to be scrapped).

12. Whilst current new-build ships will have "Green Passports",³ older vessels do not have such a document. This is mainly due to the lack of definitive lists of the materials used when these older vessels were constructed. However, for the older ships which are declared as surplus, MoD have begun to compile "Green Passports" based on the best information currently available.

LEGAL STATUS

13. The control system for exports and imports of waste are set out through the UN Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the relevant OECD Decision. These obligations are transposed in the EU through the Waste Shipment Regulation. The Regulation transposes the "Basel ban" (which is not yet in force in its own right) whereby hazardous waste must not be sent from OECD countries to non-OECD countries under any circumstances.

14. The system is based on a prior-informed consent system whereby a shipment of waste is pre-notified by the notifier to the competent authority of dispatch to the competent authority of destination. The actual procedures depend upon the classification of the waste (ie its degree of hazardousness), the destination of the waste, and whether it is destined for disposal or recovery. However, once notified, the competent authorities (of dispatch, destination and transit) have a set period of time (depending on the countries involved) to object to the shipment or to issue written consent. The Environment Agency are the competent authority for transfrontier shipments of waste for England and Wales.

15. The UK Management Plan for Exports and Imports of Waste 1996 sets out the UK's policy on waste shipments. Imports of waste into the UK for disposal are generally prohibited, however imports for recovery are permitted provided they are carried out in an environmentally sound and economically efficient manner.

² Following publication of the Defence White Paper changes to the UK defence programme are being considered. No decisions have yet been taken about forces structure adjustments but the figures may change as a result.

³ "Green Passports" are an inventory of Potentially Hazardous Materials on Board a ship, as set out in the IMO Guidelines on Ship Recycling, adopted by resolution A.962(23).

16. However, while the control system works effectively for shipments of waste arising from fixed locations its application to movements of end-of-life ships (as waste) destined for recycling facilities present a new level of legal complexities. Under the transfrontier shipment system the state that should act as the state of dispatch, with the obligation to refuse a shipment where prior informed consent from a State of destination has not been received, often has little, or no, connection with the waste ship, or the person who has control over it. The ship owner may have no physical manifestation within the state of dispatch and only becomes involved because the ship happens to become waste within its jurisdiction. If those with control over the ship decide to ignore the requirements of the relevant legislation in these circumstances then effective enforcement by the state of dispatch is likely to be very problematic. For example there are provisions under UNCLOS which might apply, that may prevent the detention of a vessel, that is not in an unseaworthy condition.

17. The difficulties and uncertainties arising from the present position can be demonstrated by the perceived need at international level to assess the existing regimes and propose solutions. In this regard the relevant bodies of the Basel Convention, the International Maritime Organisation and the International Labour Organisation are all considering the issue from their individual perspectives and are preparing to establish a joint working group to provide a more strategic approach. This exercise is likely to take some time and is indicative of the unsatisfactory nature of the existing rules, which, at the time of their adoption, did not specifically address the issue of ships as waste. The UK hopes to be actively involved in the work of this group.

Persistent Organic Pollutants (POPs)

18. The Stockholm Convention on POPs, a global treaty sets out actions to reduce and eliminate production, use and releases of POPs. The Convention covers twelve POPs the most relevant to ships being polychlorinated biphenyls (PCBs) which are often found in older (pre-1970s) vessels. While the Convention, and the transposing European Regulation, set out provisions for the management of wastes consisting of, containing or contaminated with POPs they do not include any controls on the imports or exports of such wastes.

19. Additional controls were proposed by the Commission in their proposal for a revised Waste Shipment Regulation,⁴ which would affect imports of such wastes both into, and within, the Community. Under their proposal shipments of such wastes destined for recovery operations would be subject to the control procedures for shipments destined for disposal. One of the key effects would be that Member States would be able to object to proposed shipments on the basis of the proximity principle.

Asbestos waste

20. There is a general prohibition on the import of asbestos (as a product or a waste) into the UK. Any one proposing to import waste containing or contaminated with asbestos must apply to the Health and Safety Executive, who regulate the import of certain hazardous substances, for the issue of a certificate of exemption from the Asbestos (Prohibitions) Regulations 1992 (as amended 1999). The majority of larger vessels built up until the 1970s will contain asbestos, for fire-proofing purposes.

FUTURE UK CAPACITY

21. The economics of global ship dismantling are currently such that the majority of end-of-life ships end up being dismantled in Asia, where the labour costs are significantly cheaper than those elsewhere, and in particular in comparison to those in the OECD. The environmental and worker health controls employed in such activities in that region have been criticised, although it is recognised that efforts are being made to improve controls.

22. A study for the Commission,⁵ on the technological and economic feasibility of ship dismantling in Europe, concluded that the economical feasibility of ship dismantling in Europe was most likely to occur in eastern Europe, where labour costs were likely to be lowest. A more recent study by the Danish EPA⁶ confirmed a lack of environmentally acceptable ship dismantling facilities within OECD-Europe in comparison to predicted arisings. However, until there is international agreement on the relevant controls for dismantling end-of-life vessels the economics are not likely to be in favour of the establishment and use of European based facilities.

23. As regards environmental impacts, the Basel Convention Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships address the environmental factors that should be considered when establishing and operating ship dismantling facilities.

⁴ COM(2003) 379 final.

⁵ Technological and Economic Feasibility Study of Ship Scrapping in Europe, a report by Det Norske Veritas/Appledore International for the European Commission, 2000.

⁶ Ship breaking in OECD, Danish Environment Protection Agency, Working Report No 18, 2003.

24. In the UK environmental impacts of such activities are assessed and controlled through a number of regulatory regimes including, waste management licensing and the planning system. Such assessments will be made on a case by case basis and will involve an Environmental Impact Assessment when planning permission is sought. Where such activities are proposed in areas of Special Conservation specific consideration of impacts will be necessary under the Habitat Regulations.

25. The economic and environmental impacts of meeting such demand will be considered in more detail in a UK ship recycling strategy which is being developed by Defra, in consultation with other Government departments.

CONCLUSIONS

26. During the next decade there will be a considerable increase in the number of vessels reaching their end-of-life coupled with a greater awareness of ship-owner responsibility in ensuring the environmentally sound management of the dismantling operation and the waste arising. Work in the international arena will hopefully provide clarification of the controls that apply to end-of-life ships, thus changes encouraging the required market response in terms of provision of these facilities.

27. The Government's planned ship recycling strategy will provide more detailed information and data on current practices and predicted arisings. It will consider, in detail, the economic and environmental impacts of establishing high quality facilities in the UK and look at the potential means (economic and/or regulatory) to encourage the establishment of such facilities in the UK. It will also set out the Government's policy on the dismantling of UK government vessels.

Department for Environment, Food and Rural Affairs

May 2004

Annex A

MoD CURRENT ESTIMATES FOR SURPLUS VESSELS (2004-14)

Size (tonnes)	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
20,000 and over					2	1	1		1	2
10,000-20,000				1	1	1	1			
2,000-10,000	2	1		1	1	2	3	1	2	2
Under 2,000				1		5		6	6	

Department for Environment, Food and Rural Affairs

May 2004

Witnesses: **Mr Elliot Morley**, a Member of the House, Minister for Environment and Agri-Environment, and **Ms Sue Ellis**, Head of Waste Management Division, Department for the Environment, Food and Rural Affairs, examined.

Q235 Chairman: Minister, you are most welcome. Again, one of our most regular attendees; indeed some people think you are a member of the Committee, but we are having to disabuse them of that particular fact. Nevertheless you are extremely welcome. You have brought Sue Ellis, I know, with you. Perhaps Miss Ellis would identify what she does?

Ms Ellis: Yes, I am Head of the Waste Management Division in Defra.

Q236 Chairman: Obviously we have the two key players as far as this is concerned. Can I ask you at the outset, Minister, who is in charge in the United Kingdom Government of determining and enacting policy as far as the dismantling of ships is concerned?

Mr Morley: May I say, it is always nice to attend the Committee, Chairman, and it is nice to follow up on this because it has been a very useful exercise, I think, the way the Committee is structured in terms of looking at the key issues surrounding this and the

wider ones; indeed I can see where your question is leading on this. In terms of dismantling ships, it is primarily a market-led situation in relation to the development of the facilities within the UK. That, of course, is subject to the regulations which are laid down domestically in relation to our own regulations, most particularly the waste licence, of course, having that, and, of course, the ships themselves are subject to a range of international treaties, the OECD rules, which I know that you are familiar with, which follow on from the Basel agreement. So there is a range of particular issues. There is no kind of government department in charge of the scrapping of ships, if that is what you are hinting at. You will be aware that—

Q237 Chairman: Shall I rephrase my question?

Mr Morley: Yes; okay.

Q238 Chairman: It is quite clear that in terms of the candidate before us, he understands the issues, he ticks the boxes in knowing what the policy areas are

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that we are going to question you on, but my simple question was: who is in charge in the UK Government of policy on the dismantling of ships? In other words, you have quite rightly identified many of the areas which policy is required for, but who is in charge? Who is the dismantler, or dismantlers, as the case may be?

Mr Morley: I think, because there are a number of key issues and conventions here, the responsibility in terms of policy is probably shared between ourselves and the Department of Transport. I was going to go on to say—

Q239 Chairman: Probably. Probably or it is?

Mr Morley: It is shared between ourselves.

Q240 Chairman: It is. Good.

Mr Morley: Between ourselves and the Department of transport. It is one of the issues that we are, of course, dealing with in this strategy paper that we are producing in relation to the recycling of ships in the UK.

Q241 Chairman: Before we get on to the strategy paper, because that sounds very interesting, in fact I want to come on to deal with some of those issues, you have identified that Defra and the Department of Transport have policy input, but is there therefore some mechanism for interlinking you and the Department of Transport on this, because our previous witnesses indicated that the Department of Transport made input to the International Marine Organisation's deliberations in which, in terms of trying to find global solutions, they are a key player?

Mr Morley: Yes.

Q242 Chairman: You, on the other hand, have a finger in all the other pies?

Mr Morley: We do.

Q243 Chairman: But, given the interaction, as again your opening remarks indicated, between the domestic situation, the European situation and the international situation, there does seem to be a need for some coordinatory mechanism. If so, what is it?

Mr Morley: We do, of course, talk to the Department of Transport on this. There is a joint working group which is in the process of being set up with the IMO and also involves the International Labour Organisation, I think.

Ms Ellis: The ILO?

Mr Morley: The IMO and the ILO, and that will be the Department of Transport lead. Because it is an international body, we have to be nominated as a country onto the working group, although we are very optimistic there is a very good chance that the UK will be nominated onto the working group.

Q244 Chairman: Coming back to the fact that all of the key environmental issues which are raised by this subject come within the purview and expertise of your department and, indeed, the Environment Agency, which is the creature of your department—

Mr Morley: It is.

Q245 Chairman:—where does the Department of Transport then draw its expertise in terms of input to these international discussions and also in the determination of the policy which you wish to follow: because, almost in a circular way, what happens with IMO, ILO, Basel discussions feeds back, from what we can see, to the European Union to the national situation?

Mr Morley: Sure.

Q246 Chairman: So how do you interact with the Department of Transport?

Mr Morley: We obviously have regular contact with the Department of Transport in relation to the formulation of these policies.

Ms Ellis: The Department of Transport is the government's representative at IMO. They draw on the expertise of the Maritime and Coastguard Agency in much the same way as we provide the representative for the Basel Convention. We draw on the technical expertise and guidance of the Environment Agency. We do work very closely with the Department of Transport and also the MCA. We are in frequent informal and informal contact.

Q247 Chairman: If I were to turn up on the doorstep of the Maritime and Coastguard Agency and say to them, "Please tell me what your policy is about the disposal of ships and the substances that are in them and their handling at an international level", would I get from them the same statement as if I had come along to you and asked the same question? For example, we talked about PCBs. Would I get the same message from MCA as I would from you if I were to come and ask the question?

Ms Ellis: In so far as it is governed by other international conventions, the UK Government has a consistent line that it is developed between departments.

Q248 Chairman: What I am getting at is that at this international level, in the discussions we have had, it is clear that for example at the moment there is guidance issued by the IMO about good practice in ship dismantling. From what you have just told me, the input for determining that good practice guidance must have come from information flowing up the transport route.

Mr Morley: Yes.

Q249 Chairman: What I am interested to know, given that part of that good practice relates to the sound environmental disposal of dangerous substances commensurate with the various conventions that have been agreed to, given that the content of those conventions is of a strongly environmental nature in terms of implications, is do you have any input as the key environment part of government to shaping MCA policy before they troop off to wherever to discuss these international matters?

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Ms Ellis: Yes, we certainly discussed with the Department of Transport and the MCA the environmental aspects before they went off and represented the UK Government view.

Mr Morley: As indeed we are now as part of the formulation of the strategy on ship recycling.

Q250 Chairman: I come back to the question: Who is in charge of determining the policy or do we still have two distinct parts of government with different responsibilities? Is anybody in charge?

Mr Morley: There are distinct responsibilities with different departments but we are taking the lead on pulling this together through the Strategy Paper which is underway at the present time.

Q251 Chairman: Mr Ballard, I gather, has retired from your Department now but he wrote a very helpful report on many matters.³ In paragraph eight, page 13, he says, "An early statement by government of its policy for recycling ships will provide a valuable backdrop against which regional and local plans can be developed and individual regulators can consider specific proposals." Would you like to make a statement on that?

Mr Morley: Yes. The situation is that the last time I came before the Committee I did announce that we were going to start a process of developing a strategy in relation to recycling ships. That is underway at the present time and the terms of reference will be published in September. Those terms of reference are being drawn up between ourselves and the Department of Transport so there is inter-government consultation at the moment. Before we start the process, we will be clear amongst ourselves about what the terms of reference will be in relation to a government strategy.

Q252 Chairman: Mr Ballard in his summary document of his report on page four, paragraph four, lists a whole series of questions that should be addressed. Will they be addressed by your strategy?

Mr Morley: They will be part of it. I cannot remember every single question at the moment but if I recall I think nearly all of those will be part of the strategy.

Q253 Chairman: One of the concerns we have had before us in terms of where do ships end up is the appalling conditions that some of them are dismantled in in places like Bangladesh and India. Do you condone this kind of trans-frontier movement of ships to be dismantled in wholly inadequate circumstances and do you think there should be international action to prevent that, possibly going as far as a ban if it were to be deemed that people are at risk and environmental damage could be done because of substandard dismantling procedures?

Mr Morley: I do not think that anyone should have to work in substandard working conditions and I do not think that any country should allow activities which damage and pollute the environment. I do think that companies have a responsibility generally in relation to where they place contracts and what actions they take in terms of taking those particular issues into consideration. One way of tackling this is to have tighter international regulations. The body for that is the IMO, though the EU may have a role in relation to the attitude of Member States. I also think that we should be working with developing countries, helping them in terms of the process of governance in dealing with some of these environmental, social and economic problems.

Q254 Chairman: Is the United Kingdom involved in any bilateral discussions with either Bangladesh, India or even possibly China on these matters outwith the international bodies to which you have just referred?

Mr Morley: Most of the discussions that we have are through the international organisations and bodies, including the UN. There are regular bilateral discussions with these countries but of course they are led by the Foreign Office.

Q255 Chairman: Do you ever ask the Foreign Office to put on the agenda concerns about the dismantling of ships? Do you feel Britain should be taking a lead in trying to move this agenda forward because these international meetings seem to go on for ever and ever.

Mr Morley: Sadly, it is a slow process. However, it is worth what can be a frustrating process in terms of time because in the end you get an international agreement and that can be very effective. The UK is taking the lead in the sense that we have put ourselves forward as a member of the IMO, the joint working group, so that we can be part of shaping and reforming the international rules in relation to recycling ships. We are very keen to play our role internationally in this.

Q256 Chairman: Do you think that there ought to be an international agreement that flag states effectively should be self-sufficient in terms of ship dismantling capacity? In other words, instead of the pass the parcel game around the world according to where you can get the best price for the scrapped vessel, there should be something which enables people to say, "It is one of our ships; we have a responsibility. Therefore, yes, we will have a dismantling operation in our country" or, in the context of the European Union, within the Union's boundaries?

Mr Morley: In an ideal world, the answer to that would be yes but we do not live in an ideal world. One of the biggest merchant fleets is Liberian and I do not think Liberia has very good facilities in relation to recycling ships.

Q257 Chairman: You put your finger on it: the ability of people to hop over almost any national boundary restriction by virtue of the fact that a ship is a highly mobile and valuable object whilst it is

³ Full report:
<http://www.defra.gov.uk/environment/waste/topics/hazwaste/usnavalships-reviews/pdf/ballard-review.pdf>
 and covering letter:
<http://www.defra.gov.uk/environment/waste/topics/hazwaste/usnavalships-reviews/pdf/ballard-letter.pdf>

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trading and indeed at the point when it becomes scrap. What one thing would you like to put your finger on to say, given your understanding and recognition of this problem, what Britain is doing to try and move forward a meaningful international conclusion to discussions to improve the way in which ship dismantling is carried out?

Mr Morley: There is more than one thing. There is a number of fronts that you have to advance this on. We have mentioned the IMO and the joint working group which we are very actively engaged in. As a Member State, as part of our analysis of what we are working on in relation to ship recycling, what is quite interesting is that the number of ships which reach the end of their life under the UK flag are quite limited because the tendency of the UK and a number of other G8 countries is that ships tend to be sold on to other countries before they reach the end of their working life. The number of ships which remain under the UK flag to the very end of their working life is quite surprisingly limited. They tend to be state owned, such as naval vessels or a range of research vessels or fishing vessels. We do have to approach this on the basis of international agreements and there are arguments about when a ship is waste and when it is not. I fear we are only going to resolve that in the international forum.

Chairman: We will come on to some of those points, particularly in the light of the Secretary of State for Defence's statement which might have created a rather bigger market.

Q258 Alan Simpson: Both the Environment Agency and Greenpeace have called for an international agreement on dismantling of ships. Do you want to give us your reaction to that?

Mr Morley: I think that would be very desirable. We do have the OECD agreements. The OECD agreements, which most industrial countries including the US are party to, do lay down certain standards in relation to the disposal of ships under the flag control of the parties. Of course, not all countries are members of the OECD so an international agreement would clearly be an advantage.

Q259 Alan Simpson: Through which body would you expect such an agreement to be formulated and made to stick?

Mr Morley: It would have to be a UN body because it is the only body that covers internationally the widest range of countries. The IMO itself is a UN body so I think the UN would have to pursue this.

Q260 Alan Simpson: In so far as (a) you welcome it and (b) you would support it, since we have a voice on the IMO, can you give the Committee an indication of whether that is a proposition that the UK Government are likely to be piloting in the IMO? Someone has to start the process.

Mr Morley: You are absolutely right. We are trying to lead by example in terms of the disposal of ships under our direct control. We would certainly only want those ships to be recycled in facilities that have the proper standards. It is important but it is more

important I think to use our influence and resources working through the IMO and the joint working group in terms of getting an international agreement. We have a lot of experience of this. We have a lot of influence in relation to these bodies. That is why we are keen to be members of this working group and we are keen to do whatever we can to play a leading role in this.

Q261 Alan Simpson: Is it workable, if it comes through?

Mr Morley: I think it is workable because UN agreements by and large do work. By and large, people do abide by them. Of course, you can get countries which can refuse to ratify or can ignore them, although it does tend to be the exception rather than the rule.

Q262 Diana Organ: We have talked with the Environment Agency and a little earlier on you talked about the difficulties and confusion about the international laws that apply to ships. There is the fact that they move around and they do not necessarily go anywhere near the countries that they are flagged under. On the basis of that, when do you think a ship stops becoming a ship and starts to become waste?

Mr Morley: That has been the source of some very long arguments already. I would have thought a ship stops becoming a ship when it reaches the end of its working life, where it is no longer functioning as a ship, and that its final voyage is to be recycled, not as part of its working life. I can see right away there are people who would quibble with some of those definitions but I am sure it gives an indication of how potentially difficult it is. There are some countries that would argue that ships are not waste and do not become waste.

Q263 Diana Organ: Given that you have said there will be some countries that will argue about at which point it is, the intention of the owner about the journey, whether it is a real journey or a journey to go as waste, and you have talked about the only way to do it being through the joint working group and to have a global United Nations approach, how much consensus is there so far about that very point?

Mr Morley: I cannot comment internationally because the contact I have had with other countries is relatively limited. I have a good idea of the view of the EU because there have been initial discussions in the EU and it was discussed very briefly at the last Environment Council when I was there. There is certainly strong support in the EU for this approach. There is no doubt about that. Given that the EU supports it and that the US and the OECD are already signatories to a convention, that includes a very large part of the world that owns large scale shipping fleets, but we will have to pursue this through the international conventions. The Basel Convention itself was a UN convention and we are parties to that. The Basel Convention will be part of the joint working group with the IMO and the ILO.

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We think that is the most effective way forward and I repeat that we are very keen to play an active role in this. We are already engaged in the process.

Q264 Diana Organ: When you say you are keen to play an active role and you are already engaged in the process, how many meetings or how much time has Defra had, either yourself as the Minister or Defra officials, with the working group?

Mr Morley: The working group is not actually set up yet and it is not likely to be set up until February. The members of the working group have not even been appointed yet. We do not know for certain whether we will be one of the countries who will be appointed to the working group, although we hope that we will be. That will be decided in September and the working group will start work in February.

Q265 Diana Organ: If UK Defra is appointed into the working group, would you expect as a Minister to take an active role in that?

Mr Morley: I would certainly take an active involvement in terms of following the progress but it is not a ministerial group. It is a technical working group.

Q266 Diana Organ: Lastly, I wonder if you could say a word or two about waste regulations in ships. Should they apply to the whole vessels or do you think that just those materials that should be disposed of should be covered rather than those that should be recycled?

Mr Morley: It can be argued that there are regulations now which apply to some components in ships in relation to asbestos, for example. Turkey, until recently, had very strict regulations on the importation of asbestos and we have very strict regulations in relation to the control of asbestos. There is also the Stockholm Agreement, although it is not really in relation to the movement of components of ships but it certainly applies to the disposal of components and of PCBs within them. There already are a number of regulations which apply to hazardous waste within ships but you are into quite a complex argument again: when is a ship a ship and when is it waste? What is clear is that once you start to dismantle it there are regulations on how you deal with the different components.

Q267 Chairman: You have answered a question that arose in paragraph 17 of your evidence where you said, "The UK hopes to be actively involved in the work of this group."⁴ It is to have another meeting and you do not know whether you are on the group. I understand the words you have used there but the analysis that we have received about what is going on in places like Bangladesh and India and possibly to a lesser extent in China does suggest an element of urgency here about sorting these matters out. The normal timescale for international agreements, as your evidence has indicated, is quite long. If one took, for example, the agenda of the G8 key players in the world, has any effort been made at least in

principle to get a fast tracking of this agreed amongst the key maritime nations and particularly the members of the G8 where more intimate discussions can take place to try and say we have to sort this thing out now rather than just let it role on, because all the problems in Bangladesh, India and China remain untouched.

Mr Morley: The answer is I am not sure what has been discussed within the G8. It is something that I can certainly try to find out for you. What I do know is that there are a number of British based companies who take the issue of dismantling ships very seriously even if they are not in the UK and, in some cases, allocate staff to oversee the process to ensure standards are being maintained. BP is one, I think, and they deserve great credit for that. I also know that there are British based companies who are working in partnership with yards in countries like Turkey, which is an OECD country, and they are seeking contracts within the UK. Presumably, they know the kind of standards that we apply here and the kind of standards that we want to see applied. I am not sure at the moment that there exist connections with the more notorious areas such as Bangladesh. I know that there has been this connection with China and I am not quite sure whether China's standards are quite in the same category. I also know that there has been some discussion by other EU companies about working with developing countries in terms of raising standards there so that they have proper standards but still have the income in relation to the industry. I think that is very much in its early days.

Q268 Mr Mitchell: Would you prefer it to be handled on a European basis? Is it conceivable to handle this on a European basis?

Mr Morley: Yes, I would prefer that. There are European yards that can recycle ships, although they are very limited, as I am sure you are aware as a Committee from your discussions. You will also know that I feel the proposed facility at Hartlepool by Able UK, if they meet the required standards of planning, of environmental impact assessment and permitting, would be of great benefit both to that local community in terms of jobs and long term investment as well as the UK, as well as giving us a good facility within this country.

Q269 Mr Mitchell: Are we not in a sense competitors? I understood from some of your earlier evidence that the Dutch have taken a lead in developing this and because of the stalemate at Able UK were now going to capture the business. Is this a crude, nationalistic view?

Mr Morley: It is a fair point. It is a competitive business. It is true that the Dutch are proposing to build a facility almost identical to what is being proposed at Hartlepool. Of course, they will be aiming for a very similar market, including I understand the James Rivers Fleet.

⁴ Ev 59

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Q270 Mr Mitchell: They will not have to put up with all the nervous nannying that came from Defra and from the Environment Agency and almost everybody involved in the fiasco.

Mr Morley: To be fair to the Environment Agency, they followed the process as they saw it. There were unknowns. You know the history to all this. As far as we in Defra are concerned, what we are concerned to see is the best environmental outcome to all this. There is also the wider issue in relation to the international strategy, in relation to dealing with ships properly and safely and facilities within our own country which this incident has highlighted and we are trying to address.

Q271 Mr Mitchell: Would you like to see UK ships scrapped in the UK?

Mr Morley: Yes, I would, as a first choice. Absolutely.

Q272 Mr Mitchell: That would start presumably with ships where the government has control or influence?

Mr Morley: Certainly I have been in correspondence with the MoD following my appearance with the Committee. I have received letters from the MoD explaining what they are doing with ships which have reached the ends of their lives. They have said that they have made a specific point of going out to UK seeking interests. It makes it very clear that: "ADM has confirmed that our intention has been to stimulate interest in breaking ships in the UK by seeking bids for Intrepid from UK yards and recyclers. Over 30 UK companies are invited to tender but so far only two have viewed the ship at Portsmouth." You can take the horse to water but you cannot make it drink. We have to do our best to encourage UK involvement and UK tendering but in the end if you cannot get an adequate tender you have to look at other tenderers who can do the work properly and safely and they may not be UK based.

Q273 Alan Simpson: I am intrigued because when we had evidence from Able UK they were saying to the Committee how difficult they had found it getting access to tenders for disposal of UK ships. There may in the first instance be a communications problem that we need to address. You mentioned the Stockholm Convention and it seems to me that one of the implications of that for our own ships is that we have to do more than seek to encourage an expression of interest. We will have a direct responsibility under that Convention to ensure that we take responsibility for the dismantling of our own vessels and the non-exporting of PCBs that are on those vessels. Is it worth going back to the MoD and exploring with them the obligations that will come with the Stockholm Convention?

Mr Morley: I am not sure that the obligations as you put them are the ones which apply to ships in the Stockholm Convention. The Stockholm Convention is primarily aimed at the movement of PCBs internationally which are liquid PCBs, pesticides, a range of chemicals. The PCBs in ships tend to be in things like cabling. My understanding,

because I have been discussing this, is that the Stockholm Convention does not apply to the movement of ships for recycling.

Q274 Alan Simpson: I accept the broad brush nature of that point but in respect of the PCBs in vessels I thought Stockholm was quite clear. The idea of saying, "We are just exporting the vessel but not the PCBs in it" just does not sound particularly convincing.

Mr Morley: It is because the Convention is aimed more at the chemical side, when PCBs are trace elements within components, within ships.

Ms Ellis: Some of the misunderstanding around this is because there was a Commission proposal during discussions and negotiations on the Shipment Regulation which did provide for some additional controls on waste covered by the POPs regulation which would have affected waste coming into and leaving the Community. During negotiations in Council Member States agreed to delete that particular provision so there was a proposal on the table at one stage during the negotiations but Member States did not sign up to that in Council and I think that is where some of the confusion is arising.

Q275 Chairman: You mentioned "in September". You would not like to tempt us somewhere between the first and the end of the month as to when this strategy is going to appear, apart from giving us the Delphic, ministerial reply?

Mr Morley: That is when we will publish the terms of reference as part of the consultation.

Ms Ellis: I would not like to put my money on it. Early or late September at the moment, but it will be September.

Q276 Chairman: You are going to miss out the two weeks when Parliament is back?

Ms Ellis: That would be very unparliamentary.

Mr Morley: We will not be slipping it out, Chairman. We will make sure people are well aware of it.

Q277 Chairman: The reason I ask is: is it going to be one of those documents where there are, like Heinz Variety, 57 different questions that you think ought to be asked answered and you invite views; or are you going to lay down a definitive, clear policy? For example, going back to Mr Ballard's report in paragraph 34 on page 11, he makes some interesting observations about the role of planning policy and a specific comment on PPG10. He concludes his observations by saying, "Planning policy is not however the right place to set out government policy on whether there is a need in the first place and on the network of facilities it thinks will be required to satisfy that need." Are you going to include in this strategy some definitive statement so that people know where the government stands on these key issues and then, with the plethora of expertise out there, invite people to comment and add to it; or is it going to be one of these endless documents with

21 July 2004 Mr Elliot Morley and Ms Sue Ellis

umpteen questions where we are still no wiser as to where the government is but people will be happy to send you even more views for you to digest?

Mr Morley: It has not been published yet. It is still under development and in a sense I am just giving you an opinion, but I would not object to making it clear what the government's preferences are, what we would like to see in terms of our own country and internationally. I have no objection to laying that out clearly within the document. There are questions though that we want to consult people on. Planning is a very good example and I think John Ballard is probably right in what he says. There is PPG10; there is also PPG1 at the present time. There are real issues in relation to the planning process of large scale installations, not just ship recycling, but there is a read across on this.

Q278 Chairman: You would like it to be specific. Are you going to get your way or is that down to the Secretary of State?

Mr Morley: The Secretary of State takes the final accountability but perhaps you should wait and see for the shape and the format. I always, as you know, listen very carefully to the views of this Committee and I do try to respond to them.

Q279 Chairman: If this is about the equivalent of being at the forthcoming attractions section of the cinema, we have reached that at the end of the inquiry rather than the beginning but if it means we are going to get some definitive answers to questions I think that would be good. I think it will be incumbent on the Committee to try and complete its report before you write your strategy document.

Mr Morley: That would be helpful, yes.

Q280 Chairman: May I thank you both for your answers and for the candour particularly of your last comments? I wish you well for a rest during August so your batteries can be recharged for when next you come to see us.

Mr Morley: And you, Chairman.

Written evidence

Memorandum submitted by the International Maritime Organization

DISMANTLING OF DEFUNCT SHIPS IN THE UK

In response to your request for written evidence, the following is a brief account of the development of the ship recycling issue in this Organization.

1. The issue of ship recycling was first brought to the attention of the IMO's Marine Environment Protection Committee at its forty-second session in 1998 and at the following sessions of the Committee it was generally agreed that IMO has an important role to play in ship recycling, including preparation of a ship before recycling commences, and a co-ordinating role towards the ILO and the Basel Convention in ship recycling matters.

2. The Organization noting the growing concerns about environmental safety, health and welfare matters in the ship recycling industry, and the need to reduce the environmental, occupational health and safety risks related to ship recycling and, at the same time, securing the smooth withdrawal of ships that have reached the end of their operating lives, has taken swift action in the development of a realistic, pragmatic, well-balanced, workable and effective solution to the problem of ship recycling which will take into account the particular characteristics of the world of maritime transport.

3. By Assembly resolution A.962(23)¹ IMO adopted the Guidelines on Ship Recycling and invited Governments to take urgent action to apply these Guidelines, including the dissemination thereof to the shipping and ship recycling industries, and to report to the Marine Environment Protection Committee on any experience gained in their implementation.

4. It should also be noted that the Marine Environment Protection Committee, at its 50th session, having realized that the amendments to MARPOL Annex I in the wake of the Prestige would increase the number of the vessels to be recycled within a specific period of time, which implies an increased need for ship recycling facilities and capabilities, adopted resolution MEPC.113(50) recommending that initiatives should be taken to maintain adequate ship recycling facilities at world-wide level and to promote research and development programmes to improve environment and safety levels in ship recycling operations [see Annex A].

5. Ship recycling remains a high priority on the IMO's Marine Environment Protection Committee work programme and intensive work is currently under way with the objective to promote the implementation of the Guidelines, assess their effectiveness and review them, if necessary.

6. IMO is also committed to continue and strengthen co-operation with ILO and the appropriate bodies of the Basel Convention, pursuing a co-ordinated approach to the relevant aspects of ship recycling with the aim of avoiding duplication of work and overlapping of responsibilities and competencies between the three Organizations. The approval by MEPC at its last session in March 2004 of the establishment of a Joint ILO/IMO/Basel Convention Working Group which should act as a platform for consultation, co-ordination and co-operation in relation to the work programme and activities of ILO, IMO and the Conference of Parties to the Basel Convention with regard to issues related to ship recycling is a good example and evidence of this enhanced co-operation at the international level.

International Maritime Organization

May 2004

Annex A

RESOLUTION MEPC.113(50)
Adopted on 4 December 2003

SHIP RECYCLING FOR THE SMOOTH IMPLEMENTATION OF THE AMENDMENTS TO ANNEX I OF MARPOL 73/78

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38 of the Convention of the International Maritime Organization concerning the function of the MEPC,

HAVING adopted the amendments to Annex I of MARPOL 73/78 which would accelerate the phase-out of single-hull oil tankers, prohibit the carriage of heavy grade oil in single-hull oil tankers, and extend the Condition Assessment Scheme,

REALIZING that these new requirements would increase the number of the vessels to be recycled within a specific period of time, which implies an increased need for ship recycling facilities and capabilities,

¹ http://www.imo.org/includes/blastDataOnly.asp/data_id%3D8948/962.pdf

NOTING the growing concerns about environment, safety, health, and welfare matters in ship recycling industry, and the need to reduce the environmental, occupational health and safety risks related to ship recycling at the same time securing the smooth withdrawal of ships that have reached the end of their operating lives,

NOTING ALSO the role of the International Labour Organisation (ILO), the Basel Convention and other stakeholders in ship recycling and on-going co-operation by these organizations and the IMO,

RECOGNIZING that in order to contribute towards improvements in ship recycling, it is necessary to consider the full life cycle of the ship, and that the adoption of the IMO Guidelines on Ship Recycling by the twenty-third Assembly makes a first step for the IMO to this direction,

1. RECOMMENDS that Member Governments, especially the Governments of countries with shipbuilding, ship recycling and other shipping interests:

(a) take initiatives to maintain adequate ship recycling facilities at world-wide level, based on the evaluation of the impact of the amendments to Annex I of MARPOL 73/78 on the demand for ships to be recycled; and

(b) endeavour to promote research and development programmes to improve environment and safety level in ship recycling operation,

2. REQUESTS the Secretary-General:

(a) to consider any further action which may be taken to assist Member Governments and particularly developing countries in facilitating ship recycling and reducing environmental and safety risks involved in recycling operations; and

(b) to continue and strengthen co-operation with ILO and the appropriate bodies of the Basel Convention, and take initiatives as a co-ordinating body among related agencies in addressing problems within the respective competence of these organizations, bearing in mind the potential impact which various guidelines and regulations would have on ship recycling.

International Maritime Organization

May 2004

Memorandum submitted by the Plymouth Marine Laboratory

DISMANTLING OF DEFUNCT SHIPS IN THE UK

1. Many of the considerations associated with this topic have been previously discussed in:

- Second Report of Scientific Group on “Decommissioning Offshore Structures” May 1998. A report by NERC for DTI following the controversy surrounding the attempt to dispose of Brent Spar in the deep Atlantic in 1995.
- UNEP Basel Convention Guidelines for the “Transboundary Movement of Hazardous Wastes and Their Disposal”, 2001. This was developed in cooperation with International Maritime Organisation, International Chamber of Shipping, International Labour Organisation and environmental NGOs.

2. Whilst the NERC report to DTI dealt with offshore structures (eg redundant oil platforms), many of the issues discussed are fully applicable to ships. The report covers areas including engineering requirements, environmental impact and monitoring, inventory, safe removal and disposal of wastes, and summarises the best practicable environmental options (BPEO). In the case of defunct ships this would also need to consider the potential contamination from historic cargoes and anti-fouling treatments to the vessel.

3. Attention is drawn to the UNEP Basel Convention on the “Trans-boundary movement of hazardous wastes and their disposal”, which provides international guidelines for the environmentally safe dismantling of obsolete ships. These guidelines will provide a basis for the enquiry which will then need to consider appropriate measures relating specifically to the UK.

Plymouth Marine Laboratory

May 2004

Memorandum submitted by English Nature

DISMANTLING OF DEFUNCT SHIPS IN THE UK

1.1 English Nature is the statutory body that champions the conservation and enhancement of the wildlife and natural features of England. We do this by:

- advising—Government, other agencies, local authorities, interest groups, business, communities, individuals;
- regulating—activities affecting the special nature conservation sites in England;
- enabling—others to manage land for nature conservation, through grants, projects and information; and
- advocating—nature conservation for all and biodiversity as a key test of sustainable development.

1.2 In fulfilling our statutory duties we:

- establish and manage National Nature Reserves;
- notify and safeguard Sites of Special Scientific Interest;
- advocate to Government departments and others effective policies for nature conservation;
- disseminate guidance and advice about nature conservation; and
- promote research relevant to nature conservation.

1.3 Through the Joint Nature Conservation Committee, English Nature works with sister organisations in Scotland, Wales and Northern Ireland to advise Government on United Kingdom and international conservation issues.

1.4 The scope of English Nature's evidence is limited to potential effects upon nature conservation interests.

GENERAL COMMENTS

2.1 Given the increasing average age of the world shipping fleet and the planned phasing out of single hull tankers, there will be an increasing demand for ship recycling facilities on an international basis. Part of this demand will result from the decommissioning of ships flying the United Kingdom (UK) flag or owned by the UK Government or private companies.

2.2 English Nature takes a neutral stance on the desirability of establishing ship recycling capacity within the UK. However we believe that Government should ensure that defunct UK flagged or owned ships should be recycled within environmentally sustainable facilities, ie facilities which can be operated without causing degradation to the environment irrespective of where they might be. We are not convinced that such a capacity currently exists in the UK or abroad.

2.3 In the UK, facilities to recycle ships would most likely be located in estuaries, many of which contain sites designated under UK or European legislation for their nature conservation interest. These same estuaries also support the UK ports industry, with which we have considerable experience. The characteristics and requirements of a ship recycling facility are similar to those of a port and may indeed be a part of existing port facilities. It is therefore likely that much of our experience gained in work on consent for new port developments is directly relevant to the development of new ship-breaking capacity.

2.4 A key issue that has emerged in the consents process for new port capacity in the vicinity of, or directly affecting sites designated as Special Protection Areas (SPA) and candidate Special Areas of Conservation (cSAC) (under the Habitats and Birds Directive respectively), is the need for a strategic framework to help the decision-makers.

STREAMLINING THE CONSENTING PROCESS FOR ESTABLISHING SHIP RECYCLING FACILITIES

3.1 Comments within this section have largely been drawn from English Nature's experiences during the on-going consenting process for the Able UK facilities on Teesside during 2003 and 2004, but also draw upon wider experience of consents regimes. Corresponding views, in relation to port and other marine consents issues were also articulated in our evidence to the recently published Transport sub-Committee Inquiry into the ports industry, as well as in submissions to DfT's Review of Regulatory Consents.

3.2 The establishment of a ship recycling facility requires a number of different consents to be issued before works can commence. For example in the Able UK case, the following consents were required:

- Trans-frontier Shipping Licence from the Environment Agency;
- Planning consent from Hartlepool Borough Council;
- Waste Management Licence from the Environment Agency; and
- Food and Environment Protection Act (FEPA) licence from Defra.

It is unlikely that each individual assessment will be able to examine the range of possible decommissioning issues.

3.3 Future development of recycling facilities could also require consent under the Coast Protection Act 1949 and permission from the Crown Estate Commissioners. The complexity of consents would increase where new facilities are required.

3.4 English Nature's role as a statutory consultee, is to advise upon any likely significant effects upon the interest features and adverse effects on the integrity of a designated site by a proposed development under the Conservation (Natural Habitats &c.) Regulations 1994 (The Habitats Regulations) and the Wildlife and Countryside Act 1981 as amended by the Countryside Rights of Way Act 2000. English Nature is usually consulted separately on each application. In such cases we seek to assist the Competent Authority following the staged process as set out in the Habitats Regulations.

3.5 Where a plan or project affects a site designated as a SPA or cSAC, the competent authority must assess whether the plan or project, alone or in combination with other plans or projects, is likely to have a significant effect on a European site. There is no guarantee that each competent authority will come to the same conclusion, although the majority seek a view from English Nature at this stage.

3.6 English Nature argues that the current consents processes are inefficient and liable to lead to delay, confusion and inconsistencies. Where Competent Authorities have taken a more joined-up approach the process is more efficient and consistent, especially where one authority leads on Habitats Regulations assessment. This has been the approach taken by the competent authorities in considering the recent series of applications from Able UK on Teesside.

3.7 Regulation 52 of the Habitats Regulations makes provisions for such an arrangement. A competent authority may, and in some cases should, adopt the reasoning or conclusions of another as to the likelihood of significant effects on a European site or any adverse effects on integrity that may be foreseen. Applying this approach may lead to appropriate assessments being conducted jointly with a lead competent authority.

3.8 We believe this principle can be effectively transferred to all stages of the planning permissions process. It must be emphasised that the identification of a lead agency in relation to determination of adverse effects under Regulation 48 of the Habitats Regulations does not dilute the responsibilities of individual agencies in considering consents for which they are responsible (this is explained in Regulation 52(2)) and their particular legislation is intended to address.

3.9 Where residual impacts are recognised in the environmental statement, compensatory measures will be required if the tests of Regulation 49 of the Habitats Regulations are to be satisfied (ie there are no alternatives and the project is of imperative reasons of over-riding public interest). Providing the developer recognises the adverse affects we will work with them to ensure that the Secretary of State can be assured that compensation is available if consent is granted for reasons of over-riding public interest. This is an approach we have adopted in a variety of recent port development cases such as Immingham Outer Harbour (Humber), Bathside Bay (Stour/Orwell Estuary) and London Gateway (Thames Estuary).

CONDITIONS OF CONSENTS

4.1 Ship recycling encompasses a wide range of materials, both toxic and non-toxic, which may need to be handled by any given facility. It can be expected that materials such as oil and asbestos will be common place on all older ships, however specialised vessels designed for the carriage of chemical or nuclear materials will also require recycling at some point. A single environmental assessment or consenting process is unlikely, no matter how comprehensive, to adequately predict the entire range of ship types or materials which may require processing within any given facility.

4.2 A standard condition of any consent should require the applicant to conduct a risk assessment for the recycling of any marine structures or vessels which fall outside the scope of the original application. This assessment should then be submitted to the relevant competent authority for consideration. A significant change to the nature of the recycling operations would likely require modification of the existing consents, which would be subject to normal environmental impact assessment processes.

INTERNATIONAL VERSUS UNITED KINGDOM SHIPPING

5.1 Whilst the importation of foreign flagged shipping for recycling may be a cause for greater controversy, it is not an issue of direct relevance to English Nature. We will maintain a consistent approach whereby those development proposals that have the potential to adversely affect designated sites or part thereof, will attract an objection. Our objection is on the basis that we seek to ensure that the impacts are properly identified and quantified, and that all measures appropriate to mitigate the impacts have been considered and incorporated.

5.2 English Nature believes that a viable long term recycling industry could be reliant on the winning of contracts to recycle foreign flagged shipping. Much of the structure of these vessels can be re-used. Government will need to ensure that procedures are robust enough to ensure that toxic waste generated by

such vessels can be safely handled in the UK or indeed returned to the country of origin for safe disposal. Future restrictions upon the use of landfill sites under the forthcoming Landfill Directive for example should be a central consideration in formulating policy on this issue.

English Nature

May 2004

Memorandum submitted by Hartlepool Borough Council

DISMANTLING OF DEFUNCT SHIPS

Executive Summary

This submission relates only to the first two aspects of the Sub-Committee's inquiry, as follows:

- (a) facilities: subject to planning and the other necessary statutory consents being obtained, the Council would recognise the substantial potential of the Able UK Ltd. site at Graythorp, in Hartlepool Borough, to serve as a major facility on the national scale for the dismantling of defunct ships.
- (b) economic and environmental impact: again subject to all necessary statutory consents being obtained, the Council's relevant Cabinet member has welcomed the significant job creation potential related to ships dismantling operations at the Graythorp site.

With respect to environmental impact, the Council has recognised a wide range of impacts which require formal environmental assessment within the planning process; details are appended to the submission.

Based on the local public debate on the proposals for the dismantling of vessels from the US "Ghost Fleet" within the Borough, the Council recognises that the most contentious elements of such projects are the importation and disposal of toxic waste, particularly via landfill. The Council would urge that wherever practicable hazardous materials should be dealt with and disposed within that country of origin. Where this option is not practicable, the Council would prefer to see such materials returned to the country of origin for disposal, wherever their "repatriation" can be achieved in a safe and environmentally sound manner. Where hazardous waste must be disposed of in this country, the Council would wish to see rigorous controls and monitoring within the waste management regulatory regime, applied in a clear, publicly accountable manner.

1. The basis for this submission is the Borough Council's experiences in the consideration of the proposed dismantling of ships from the U.S. "Ghost Fleet" by Able UK Ltd. at the firm's Graythorp site within the Borough. The Council has fulfilled two roles in this context: firstly as the local planning authority, with statutory responsibility to consider the needs for planning permission and to determine any necessary planning applications, having regard to material planning considerations, and secondly, as "community leader", pursuing the objectives arising from Hartlepool's Community Strategy. Given this background, the Council is able to comment on the first two bullet points of the inquiry's terms of reference.

2. Facilities and expertise: the Council acknowledges that Able UK Ltd was successful in winning the "Ghost Fleet" contract from the US Department of Transportation's Maritime Administration (MARAD) for its Graythorp site within what is understood to have been a worldwide competitive procurement process (although on the assumed understanding that all appropriate statutory consents were in place or could be secured in the short term). The Council has still to consider planning applications and a comprehensive Environmental Statement relating to the proposed use of the site for ship dismantling and the necessary physical development to create a dry dock. As such it would clearly be premature to express a full view on the suitability, in planning and environmental terms, of the Graythorp facilities for the purposes of ship dismantling. Subject, however, to planning and the other necessary statutory comments being obtained, the Council would recognise the substantial potential of the Graythorp site to serve as a major facility on the national scale for the dismantling of defunct ships. The scale of the potential dry dock and associated quays and the range of land-based facilities within the site would appear to make the site well-suited to this function. In planning policy terms, both the adopted Hartlepool Local Plan, and the emerging new Local Plan (which is subject to Inquiry in June, 2004) recognise the site as being suitable for a range of business, general industrial and warehousing uses.

3. Demand, economic and environmental impact: the Council is not in a position to offer any specific evidence on the likely demand for any such facilities, but is mindful of the reported requirements for the decommissioning of single skin tankers as a substantial demand generator over a lengthy time period, providing potential continuity of contract work and employment opportunities. In early discussions in relation to the "Ghost Fleet" project, Able UK Ltd. indicated the prospect of the creation of up to 200 jobs at management, technical and administrative levels. In a Borough still facing persistent economic and social deprivation, such prospects are significant: the Council's Regeneration and Economy Portfolio Holder, in

August, 2003, welcomed the significant job creation associated with the project and endorsed a proposed local recruitment service to be developed by Able UK Ltd., the Council and partner agencies (on the understanding that all necessary statutory consents for the project would be obtained).

4. With respect to the environmental impact of such activity, the specific proposals for the Graythorp site have given rise to a number of issues requiring to be addressed via the planning and other regulatory regimes. The location of this particular site in relation to a Site of Special Scientific Interest, a Special Protection Area and a RAMSAR site raises particular sensitivities. The Council has liaised closely with other regulatory bodies and interested parties to produce a scoping opinion for the necessary Environmental Statement which will accompany the anticipated planning applications. A copy of the scoping opinion, is attached as Annex 1: it will be noted that it identifies a number of potential impacts including in relation to human health, ecology, water and ground condition, noise and vibration, odour, traffic, visual impact and economic regeneration. Able UK Ltd. is currently preparing the Environmental Statement in response to this scoping opinion.

5. Based on the local public debate on the Able UK Ltd. proposals and their potential impacts, it appears clear that the most contentious elements of such projects are the importation and disposal of toxic waste particularly via landfill. Indeed, such concerns prompted the Council, in November, 2003, (whilst four US ships were being towed across the Atlantic), to agree unanimously a motion calling for the Secretary of State for Transport to use the powers available to him to turn back the ships. Whilst the Council must accept that those ships are now berthed at Hartlepool, these aspects of the overall proposals continue to be of concern. The Council recognises that toxic components will form only a small fraction of the total material involved and that disposal will be subject to the appropriate regulatory regime, but, as a matter of principle, the Council would urge that hazardous materials should, wherever practicable, be dealt with and disposed within their country of origin. It is recognised that there are likely to be particular difficulties with materials such as asbestos and solid p.c.b's which may form part of the fabric of ships, making separation and disposal before trans-shipment impracticable; in those circumstances, the Council would prefer to see such materials returned to the country of origin for disposal, wherever their "repatriation" can be achieved in a safe and environmentally sound manner. In dealing with U.K generated waste materials, or others where repatriation is not practicable, the Council would wish to see rigorous controls and monitoring, in a clear, publicly accountable manner, applied within the waste management regulatory regime.

Hartlepool Borough Council

May 2004

Annex 1

SCOPING OPINION IN RELATION TO PROPOSED PROJECT FOR:

1. *Application No 1* for change of use to include all types of structures that may be delivered to TERRC either on a floating vessel such as a barge or delivered under its own power or delivered by being towed including ships, Salm's (a large steel cylinder either floating vertically or moored to the sea being used mostly in the oil & gas industry offshore normally for mooring ships), Buoys, submarines, aircraft carriers, tankers, crane ships, cargo ships, Tension leg platforms, jackets, topsides, Mobile production Units, Navy Ships, Ro-Ro Ships, Barges, Drilling Rigs, Gravity Base structures, Jack Ups (a type of platform that jacks itself up from the sea bed) etc. This permission is to allow construction, repairs, refurbishment and decommissioning.

2. *Application No 2* for a bund in the same location as per Laing application which was approved Oct 1997 (plan ref: TDC/95/010)

3. *Application No 3* for a bund in the same location as per our last application (received 20 August 2003) which was withdrawn (17 September 2003), this is in front of the existing gate location.

Issues that are required to be encompassed within Environmental Statement for the proposed developments.

A. Actions related to the extended usage of the site (application 1) considered to give rise to impacts requiring assessment:

- (i) Transportation of the various structures to the site (Transfrontier impacts are required to be assessed).
- (ii) Storage of the structures at the site and potentially outside the bund area eg in Tees Bay or within the Tees Estuary. The maximum dimensions of the various structures specified need to be stated.
- (iii) Dismantling, refurbishment, repair and construction of structures in both wet and dry dock conditions or on land (this should include description of the different processes involved in relation to each type of structure where relevant). Wet dock working is a key risk area.
- (iv) Processing of materials including breaking, salvage, storage and removal of recyclable materials and the temporary presence, handling, extraction and removal of waste materials (in both wet and dry dock conditions or on land). Such materials include Bilge water; Ballast water; Ballast sediments; Invasive plant / animal material; Sewage and domestic waste; Hydrocarbon oils; Oily

sludges; Oil and fuel; Chemicals and gases; Asbestos; Non ferrous metals; Paints, including TBT and other organotin compounds; Materials containing PCBs; Refrigerants; Acids; Solvents; Antifreeze; Dust; Radioactive substances; and Other liquids.

- (v) Land reclamation/changes to land surface required to accommodate processes listed at (iv).
- (vi) Transportation of waste and recyclable materials from and within the site.
- (vii) Disposal of all waste materials (including any nuclear related materials) whether by landfill, chemical treatment or incineration.
- (viii) Recycling of recyclable materials both at and beyond the site.

B. Bund (application 2)/cofferdam (application 3) related actions considered to give rise to impacts requiring assessment:

- (i) Construction and removal of proposed bund/cofferdam including transportation of constituent materials to and from the site, preliminary dredging work and steel piling operations. Assessment should also consider the necessary upkeep and maintenance of the bund/cofferdam. Assessment of the combined implications of carrying out construction work on and removal of both the bund and cofferdam should be covered if both structures could be installed. The repeated impacts of constructing and deconstructing the bund/cofferdam should also be considered.
- (ii) Erection of new dock gates (if proposed).
- (iii) Dredging operations in order to “finish” the dry dock and to allow for the berthing of vessels.
- (iv) The use(s) to which the dry dock created by the bund/cofferdam and/or dock gates will be put.
- (v) Repeated dewatering and re-flooding of the dock basin.

Each of the aforementioned actions in sections A and B will need to be assessed in terms of their impacts in combination with one another and with existing, approved and proposed uses and activities eg the nearby power station and any proposed nearby windfarm construction.

POTENTIAL IMPACTS

(Actions likely to cause the following impacts are denoted in brackets. Many of the following overlap and interrelate)

1. Human Health

(a) During all operations and processes, including ancillary operations such as post operation cleansing units and due to inadvertent transfer of contaminated material for example on footwear and clothes. The assessment should cover the quality or toxicity of air, water, foodstuffs and other products consumed by humans. (Ai-viii) (Bi-v)

(b) Vulnerability of communities in the short, medium and longer term to disease and any abnormal mortality rate as a result of exposure to pollution with particular regard to the proximity between the waste disposal sites and residential areas should be assessed. (Ai-viii) (Bi-v)

2. Ecology

(a) *General impacts on marine, estuarine and terrestrial life*

During all stages of a project from importation of structures to recycling and disposal of the associated waste. Particular focus is required on release of toxic, persistent or endocrine disrupting substances such as anti-foulants during dismantling operations or re-flooding of the basin. The assessment should cover the presence of toxic heavy metals within flaking paints including indicative quantities of such substances. (Ai-viii) (Bi-v)

(b) *Waterbird populations*

The extent and magnitude of any adverse effects including potential contamination of the food chain, noise and visual disturbance impacts and how such effects might vary throughout the year should be examined in relation to the Seal Sands Site of Special Scientific Interest (S.S.S.I.), The Teesmouth and Cleveland Coast Special Protection Area (S.P.A.) and Ramsar site. (Ai-viii) (Bi-v)

(c) *Seal populations*

The extent and magnitude of any adverse effects including potential contamination of the food chain, noise and visual disturbance impacts and how such effects might vary throughout the year should be examined in relation to the Seal Sands Site of Special Scientific Interest (S.S.S.I.), The Teesmouth and Cleveland Coast Special Protection Area (S.P.A.) and Ramsar site. (Ai-viii) (Bi-v)

(d) *Introduction of alien species and pathogens*

For example from fauna encrusted on ships and present within ballast water. The potential for importing non-native species is a risk, from within ballast/bilge/waste waters, ballast sediment and on the hull (especially significant if vessels are in a poor state of repair and are untreated with anti-fouling substances). Assessment must be made of the provisions in place for dealing with ballast water in particular. (Ai-viii) (Bi-v)

(e) *Hydrological and Hydrodynamic effects*

The effect of the developments in terms of changes in tidal currents, local wave climate, sediment transport potential, patterns of sediment erosion and accretion and contaminant transport particularly that brought about by the exclusion of tidal waters from Graythorp dock. These effects all need to be considered in combination with existing discharge consents. The assessment should include the current proposal to remove 616,000 cubic metres of sediment from in front of adjacent Quays 10 and 11 and the effects of any proposal to deepen Seaton Channel. This is relevant as the current channel depth is not deep enough to permit passage of large vessels such as aircraft carriers, therefore a capital dredge is implied by this application. A properly modelled assessment of the likely hydrological and hydrodynamic effects of a capital dredge capable of allowing their safe passage and the consequential impacts on the subtidal and intertidal habitats should be provided. This would then have to be related to any consequential impacts on the qualifying interests of the Seal Sands SSSI and the SPA/Ramsar site. (Bi-v).

(f) *Re-suspension of contaminated sediment*

Its transport to intertidal areas during dredging operations. (Ai-vi) (Bi-v).

3. Water and ground condition

(a) *Construction/fill material of bund/cofferdam*

The source of the material should be identified and any impacts associated with its procurement investigated. The potential for fill material to contain contaminants and for those contaminants to be leached away should be scrutinised. Measures to ensure contamination of Seaton Channel is avoided on removal of the bund/cofferdam should be set out. (Bi)

(b) *Dewatering and reflooding of the dock basin*

Potential contamination to tidal waters in general and those overlying statutory nature conservation sites (Seal Sands SSSI and the SPA/Ramsar site) in particular resulting both from the controlled dewatering and reflooding processes and also through escaping via any weaknesses in the dock gates (if proposed) and/or bund/cofferdam should be investigated. The potential conflict with estuarine birds (especially ground nesting terns) from any scavenging animals drawn as a result of the dewatering process should be assessed. Further advice should be sought from English Nature. (Ai-vi)(Bi, iv and v)

(c) *Airborne matter*

Including any impacts on air, land, water and local ecology and human health from the transfer of any airborne matter arising as a result of the transportation, storage of structures, any of the processes taking place within the dock whether in wet or dry conditions, during the breaking of dismantled material, during the period of transfer of the material from the site to its place of disposal or following disposal and arising from the construction presence and removal of the bund / cofferdam. (Ai-viii) (Bi-v).

(d) *Surface water drainage run off*

Any impacts on land, water, local ecology and human health. Assessment must be made for the potential for seepage from the yard, from surface water run-off and contaminants. Safety measures in place to deal with this should also be detailed. An assessment of the robustness of existing and proposed flood defence measures in relation to both water ingress and subsequent water run-off should be made. (Aii-viii) (Bi-v).

(e) *Site flooding*

Any impacts on land, water, local ecology and human health due to flooding of the application site and waste disposal site taking account of the predicted rises in sea level. (Aii-viii) (Bi-v).

(f) *Disposal of waste material*

Potential contamination of groundwater and migration of gas and any other leachate resulting from the disposal of wastes including hazardous wastes. (Avii)

4. Condition of dock basin and entrance sill

(a) *Dredging*

The disposal of potentially contaminated dredged sediments overlying both the footprint of the bund/cofferdam, the dock basin and to enable access to any of the berths prior to any operations being undertaken in the dock whether in wet or dry conditions will need to be addressed. Dredging will need careful planning and monitoring to avoid problems with the intakes by the Power Station and the contamination of the Seal Sands SSSI and the SPA/Ramsar site. Any capital and maintenance dredging required should be assessed for its impact on water turbidity (see below), local ecology including increased disturbance to seals and birds, and contaminated sediment re-suspension.

From a marine perspective, this represents the most significant risk to the environment. Thorough assessment needs to be made of the degree of historical contaminants (heavy metals, pesticides, PCBs, TBT, PAHs) present in the sediment within and outside the dock area. This must include assessment of both contaminant levels and potential impacts of any such contaminants. Re-suspension of contaminants caused

by dredging could affect interest features in the area such as estuarine birds and marine mammals via bioaccumulation through the food web. It is essential that any sediment sampling examines deep, underlying sediment (deep coring required).

As mentioned above dredging will also increase water turbidity and the effects of this (such as reduced primary productivity) need to be assessed. Increased turbidity will cause the smothering of benthic infauna, leading to a reduction in food availability to estuarine birds. Loss of invertebrates is also undesirable as they play a role in burying contaminated sediment and reducing its bioavailability.

Dredging activities in the area are regulated in conjunction with English Nature so as to disturb birds as little as possible. Further advice on suitable dredging times should be sought from English Nature.

The assessment of methods to reduce the impact of dredging is essential, eg silt screens. A realistic dredging volume should be sought from PD Teesport.

(Ai-vi)(Bi-v)

(b) *Impacts on sediments within dock*

This should be examined both within the context of exclusion of tidal waters in itself and taking account of the impact of any operations within or affecting the dry dock. The disposal of potentially contaminated sediments will need to be addressed. (Ai-vi) (Bi-v)

(c) *Leachate from contaminated sediments*

The potential for any sediment pollutants in the dock basin emanating from any operations in the dock whether in wet or dry conditions to be conveyed to the Seaton Channel via weaknesses in any dock gates and/or the bund/cofferdam. (Ai-vi) (Bi-v)

5. Noise and vibration impacts

(a) Impact of noise and vibration on human health and on environmentally sensitive sites (Seal Sands SSSI and the SPA/Ramsar site) having particular regard to sensitive periods. (Ai-Aviii) (Bi-v)

6. Odour impacts

(a) Impact of odour on human health and on environmentally sensitive sites (Seal Sands SSSI and the SPA/Ramsar site). (Ai-Aviii) (Bi-v)

7. Traffic Impacts including (road, rail and sea)

(a) Impacts in terms of noise and other forms of pollution (Ai-Aviii) (Bi-v)

8. Risk of accidents occurring

(a) From explosions, spillages eg oil and ballast discharge, fires or from the failure of pollution control systems both within and outside the bund areas. The impact of oil spillage near Hartlepool power station (particularly its relationship with cooling water) must be assessed in liaison with British Energy. (Ai-Aviii) (Bi-v)

9. Visual impacts

(a) Visual impact of proposed development on the surrounding area. (Ai-Aviii) (Bi-ii)

10. Waste Management Capacity

(a) What impact will proposal have on long-term waste disposal requirements? Would the project bring forward the need for additional landfill site provision? (Avii).

11. Cradle to Grave

(a) Assessment should be made of the life span of the dock and the ecological implications for its removal. Assessment should look at levels of contaminants predicted to be present within the dock at the end of its working life. Assessment should also look at the necessary upkeep and maintenance of the bund / cofferdam. (Ai-Aviii) (Bi-v)

12. Economic Regeneration

(a) Direct and indirect employment creation and safeguarding associated with construction operations and later processes. (Ai-Aviii) (Bi-v)

(b) Any detrimental economic impact relating to the visitor economy (Ai-Aviii) (Bi-v)

13. Archaeology

(a) An assessment should be made of the impact on undisturbed prehistoric peat deposits which may lie beneath the existing dock. (Ai-Aviii) (Bi-v)

Informatives

(i) All of the above need to be assessed in relation to baseline data which should be clearly identified within the Environmental Statement.

(ii) The Environmental Statement will be expected to indicate the extent and content of monitoring programmes necessary to facilitate ongoing assessment of the impacts referred to.

(iii) The preparation of the Environmental Statement should have full regard to the requirements of both Parts I and II of Schedule 4 of the Town and Country Planning (Environmental Impact Etc.) Regs. 1999.

Hartlepool Borough Council

May 2004

Memorandum submitted by Tees Valley Regeneration

DISMANTLING OF DEFUNCT SHIPS

1. INTRODUCTION

1.1 Tees Valley Regeneration is the Urban Regeneration Company established by the Government with the prime task of co-ordinating the successful delivery of key “flagship” development projects within the Tees Valley sub-region.

1.2 In addition it has recently completed an effective merger with the Tees Valley Development Company, the organisation established some years ago by the sub-region’s five unitary local authorities to both encourage the successful growth of existing companies in the area and attract inward investment in key business sectors.

2. THE RECYCLING OPPORTUNITIES

2.1 The then Tees Valley Development Company (TVDC) was closely involved with Able UK in the development of its TERRC (Teesside Environmental Reclamation and Recycling Centre) facility because we recognised that it offered a significant opportunity for the area to become established as a key player in the growing industry of marine structure recovery and recycling.

2.2 Tees Valley was felt to be particularly well placed to develop such facilities for a number of reasons including:

- The area’s long standing experience in the shipbuilding, oil industry construction and heavy engineering industries.
- The availability at Able UK’s Graythorp facility of what is believed to be the largest dry dock/wet basin facility in Europe (it is worth noting that many of the largest North Sea oil structures were in fact constructed on the site).
- The presence with Able of an organisation with a long and extensive track record in the demolition and recycling business.

2.3 Since coming into operation, a large number of structures, many of them from the North Sea oil and gas fields, have been successfully recycled at the TERRC facility. It would appear that it has gained an international reputation as one of the most suitable centres for this kind of work, both in terms of the facilities available and the high health and environmental standards under which work is undertaken. Clients have included many international companies and, at the time of the controversy over the disposal of the Brent Spar oilrig, the facility was amongst the leading contenders to undertake the dismantling process.

2.4 In recent years there has been a growing recognition within the Tees Valley of the need to encourage the growth of activity in the recycling and renewable energy sectors and indeed a company, Renew Tees Valley, has been established, with support from local and regional agencies, to develop new opportunities in these fields. Latest statistics show that currently within the Tees Valley there are over 200 firms working in the “environmental” industries, employing over 6,000 people and with an annual turnover in excess of £230 million.

3. MEETING THE DEMAND

3.1 Whilst estimates of current and future numbers of vessels needing to be decommissioned vary significantly, there is no doubt that currently within the developed world-including Europe and the United States-there is a severe shortage of suitable high quality facilities.

3.2 According to a recent Paper presented to the Board of the Environment Agency, reviewing “lessons learned” from the so-called “ghost ships” affair, the Maritime Coast Agency has estimated that currently around 750 vessels of over 500 tonnes are decommissioned every year-and it also points out that this figure is bound to rise as a result of legislative pressures which will force the withdrawal from service over the next few years of some 2,000 single hulled tankers.

3.3 Other estimates suggest that by 2010 the market could expand to an annual figure as high as 4,000 ships and a 24 million total tonnage.

3.4 Whichever estimate once chooses to rely on, the need for the UK and the rest of Europe to develop suitable facilities is emphasised by the fact that at present the vast majority of our vessels are dismantled outside the EU and US-notably in the Asian sub-continent and China.

3.5 There is overwhelming evidence to demonstrate that the health and environmental standards in many of those facilities is well below standards, which would be regarded as acceptable in this country.

4. THE WAY FORWARD

4.1 Given that there is without doubt an urgent need for high-quality facilities within the UK and Europe as a whole and the fact that with the Able facility our area has clearly taken a significant lead in the field, the recognition within the recent Environment Agency review of the need for the Government to establish a national policy on ship recycling, covering imports, exports and minimum standards for facilities recovering UK flagged vessels, is to be welcomed.

4.2 Such a policy would be of real benefit to the Tees Valley area in that it would assist in enabling companies such as Able UK to maximise the opportunities to attract further contracts, in turn generating significant investment and jobs to our area. It is worth pointing out that Able itself has estimated that there is the potential for the creation of 1,000 direct jobs over the next ten years and clearly the growth of our area as a centre for this type of activity would have significant spin-offs in terms of indirect jobs and creation of further businesses.

4.3 We hope that Committee will recognise the benefits to the Tees Valley in particular and the national economy as a whole-and the maintenance of proper environmental standards-for the Government to actively encourage the development within the UK of a high-quality and successful ship recycling sector.

Tees Valley Regeneration

May 2004

Memorandum submitted by Frank Cook, MP for Stockton North

DISMANTLING OF DEFUNCT SHIPS

1. I very much welcome the decision by the Committee to undertake this inquiry because I believe it can provide an opportunity to bring some sense and logic to an issue which, as a result of the antics of irresponsible elements of the “environmental” lobby, has so far been dominated by misinformation and scaremongering.

2. I have both a direct interest in this matter, since Able UK has its headquarters within my constituency, and a significant level of professional knowledge, having worked for many years within local industry, including the management of activities involving the handling of hazardous materials.

3. I believe that since the Committee first addressed this matter, whilst the so-called “ghost ships” furore was at its height, there has been a growing recognition within Government and other agencies-and indeed within the more responsible environmental organisations-of the fact that the development of high quality ship recycling facilities of the kind operated by Able UK offer the best possible approach to dealing with what is now one of the most significant environmental challenges facing the UK, Europe and the wider world.

4. I would in particular point to the welcome initiative involving my Parliamentary “neighbour” Peter Mandelson, together with Greenpeace and the GMB union, calling for Government action at a European level to ensure that all EU vessels are only decommissioned and recycled at specialist European facilities.

5. This is exactly the correct approach and highlights the hypocrisy of those who were so prepared to lead and join the protests over redundant US vessels being dismantled by Able, but had little or nothing to say over the fact that UK ships, including Royal Navy vessels, have been ending their days on the beaches of the Indian sub-continent being torn apart-and that is the right description-under the most appalling conditions, leading to horrific working conditions and severe damage to the environment.

6. I am somewhat reassured that various agencies whose role in “ghost ships” issue gave rise to serious concern, now appear to be recognising the need to take a co-ordinated and positive approach to the development of a successful UK ship recycling industry. This is in sharp contrast to the approach taken with Able UK in relation to the contract for the US vessels where it seems there was a determination to frustrate them at every turn.

7. In particular the Environment Agency is adopting a more sensible approach, or so it would seem from the contents of their recent “review” of lessons learned from the “ghost ships” affair. The need for them to work in a much more co-ordinated fashion with other agencies is most important as is the conclusion that there is a need for a national policy covering all issues of ship recycling-including the question on the importation of vessels.

8. I accept that the environmental “ideal” would be for any country to have the facilities to accept responsibility for the recycling of all its own vessels, but in reality I suspect it may be many years-if ever-before we reach that position.

9. In the meantime the choice may well be between continuing the current situation where the UK and other developed countries effectively turn a blind eye to the kind of appalling practices, highlighted by organisations such as Greenpeace, in the scrapyards of the developing world or we recognise that the far more preferable option is to encourage the use of the high quality techniques such as those developed by Able UK.

10. Our own Government could give a very clear lead by stating that in future all redundant Navy vessels will be disposed of under the best possible environmental conditions, preferably using facilities within the UK, and that it will seek to introduce legislation at European level to end the “out of sight-out of mind” approach which has led to the kind of horrific conditions where people from some of the poorest nations in the world suffer death and injury ripping apart vessels from some of the richest nations in the world.

Frank Cook,
MP for Stockton North

May 2004

Memorandum submitted by START (State-of-the-Art Ship Recycling in Britain Campaign)

DISMANTLING OF DEFUNCT SHIPS

1. Supported by the Rt Hon Peter Mandelson MP, Greenpeace and the GMB, the three principle elements of the START Ship Recycling initiative are:

- UK Government to support the development of purpose-designed and built, state of the art ship recycling facilities in Britain.
- An immediate public commitment that British Government owned vessels will be entirely recycled within the UK at state of the art facilities. This commitment could be made immediately and should include HMS Intrepid.
- The Government should seek to persuade British ship owners to recycle their vessels at state of the art facilities within the EU and must urgently explore ways of compelling all EU ship owners to dispose of their ships at such facilities.

2. The START campaign was conceived as a way of correcting current practices which have had an extremely harmful effect on humans and the environment around the world.

3. Its supporters believe that this country can take a lead in developing best practices in response to the challenges of decommissioning the waste of maritime vessels and that there is clear evidence that a state of the art ship recycling industry can be developed in the United Kingdom.

4. Between now and 2015, the European Commission estimates that up to 250 ships need to be recycled every year.² By 2007 new laws after the Erika oil spill mean at least 1,300 single-hulled tankers will need to be phased out and scrapped.

5. These vessels are mainly made up of recyclable steel but they also contain a range of toxic materials including asbestos, PCBs, fuel oil and lead which need to be removed under well-regulated conditions to protect workers and the environment. This represents a major opportunity for developing a state of the art British ship recycling industry.

² European Commission 2001. Technological and Economic Feasibility Study of Ship Scrapping in Europe.

6. The alternative is unacceptable in human and environmental terms. British naval ships and commercial vessels have been broken on the beaches of Bangladesh, India and Pakistan under horrific conditions with few or no health and safety or environmental controls. Asbestos is often removed by hand with no protective equipment, and fire and explosions are commonplace.

7. In the 1970s, ship breaking was concentrated in Europe but the costs of upholding environmental and health and safety standards increased and the shipping industry moved to poorer Asian states. Ship owners sending their vessels to Asia for decommissioning can extract an average of US \$1.9 million profit per vessel because the steel is taken for recycling and the dismantling and disposal costs are very small.

8. The UK Government currently owns 107 large vessels and these can be kept within the EU for recycling.³ Even where military vessels are sold to foreign navies it is possible for the Ministry of Defence to place conditions on the fate of such vessels and it could insist on recycling within the UK at state of the art facilities.

9. In 2000, two Royal Navy ships—the *Olwen* and the *Olna*—were decommissioned at the Indian ship-breaking yard at Alang where they were broken on an open beach under appalling conditions. Currently HMS *Intrepid*, a landing vessel which saw service during the Falklands, is berthed in Portsmouth naval base awaiting disposal.

START (State-of-the-Art Ship Recycling in Britain Campaign)

May 2004

Memorandum submitted by the Maritime and Coastguard Agency

DISMANTLING OF DEFUNCT SHIPS

EXECUTIVE SUMMARY

1. The Maritime and Coastguard Agency (MCA) have been involved in the issue of ship-recycling through the discussions at the International Maritime Organisation (IMO). The purposes of the Organisation, as summarised by Article 1(a) of the Convention on the International Maritime Organisation (1958), are:

“to provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships”.

2. The MCA have the policy lead for the UK on Ship-recycling at IMO. Ship recycling has, over the last few years, become a major issue within the IMO’s Marine Environment Protection Committee. This work has led to the development of the IMO’s voluntary Guidelines on Ship-recycling, these were adopted by the IMO Assembly in November 2003.⁴ These Guidelines were developed after close consultation with the international shipping industry, major flag states and ship recycling countries and will be outlined in this submission.

3. The MCA fully recognises the need for environmentally sound management of ship recycling and that recycling yards across the globe should conform to internationally acceptable health, safety and environmental standards. However, there is currently significant confusion in the international system controlling ships intended for recycling. There are ongoing discussions at the international level as to whether the controls of the Basel Convention can be applied to ships that have specific rights as laid down in the United Nations Convention on the Law of the Sea (UNCLOS).

4. In contributing to this international debate, the MCA have additionally recognised the need for a pragmatic and workable solution for the recycling of UK Flagged Ships (which include UK Government owned ships) within the international control mechanism of shipping.

5. The MCA have also sought to highlight further questions that need to be addressed when considering the issue of ship recycling in the wider international context and have made some concluding points intended to stimulate debate on the issue of ship recycling.

³ The Government owns 107 large ships, the vast majority of which are naval. This consists of three aircraft carriers, one amphibious ship, 11 destroyers, 21 frigates, 22 mine counter measure vehicles, 23 patrol vessels, one ice patrol vessel, three hydrographic vessels and 22 auxiliaries. There are approximately 1,700 ships over 100 tonnes registered under a UK flag. Of these 800 are over 500 Gross tonnes. In addition there are 1,300 single hulled tankers globally, many of which will require decommissioning in the near future. The European Commission predicts that up to 250 European ships will require scrapping every year. (Including accession countries).

⁴ Assembly decision A.962(23) November 2003.

EFRA COMMITTEE QUESTIONS

6. In light of the issues surrounding the dismantling of US Navy vessels on Teesside, the phasing out of single-hulled tankers, and the need to dispose of defunct UK naval vessels, the Committee is undertaking an inquiry into the environmental impacts of dismantling defunct ships in the United Kingdom, and the methods of disposal to be used. In particular the Committee will consider.

1. *What facilities and expertise are already in place in England and Wales to dismantle defunct ships safely?*

7. The MCA are not aware of any facilities in England and Wales with the full complement of licences required to recycle defunct vessels. The MCA has received indications that there may be limited capacity in Barrow, Merseyside, Humberside, Plymouth and South Wales. At present, we understand that—irrespective of its technical capabilities—AbleUK does not have the necessary licences or planning permission for its Hartlepool facility.

2. *What is the likely demand for such facilities and what would be the likely economic and environmental impacts of meeting such a demand?*

8. Presently, the ships imported for recycling in England (specifically the MARAD vessels) are special cases where the owners have decided on more stringent conditions for the recycling of their vessels, whilst not capitalising fully on the scrap value.

9. Following both the Erika and Prestige incidents, the IMO, through the MARPOL Convention, agreed to require the phase-out of single-hull tankers between 2003 and 2015 (subsequently reduced to 2010 with derogation through to 2015 for countries outside the EU not wishing to apply the 2010 deadline). The total number of single hull oil tankers worldwide, above 5,000 tons deadweight, was estimated at 1,859 in 2003, with a total volume of 126.3 million tons deadweight. It is estimated that, between now and 2010, nearly 400 EU-flagged single-hull tankers (including the new accession countries of Cyprus and Malta) will need to address the EU drop dead date and whilst a significant number will need to be recycled, it is probable that some will change flag to make use of the derogation through to 2015. Single-hull tankers are being phased out progressively between now and 2015 by reference to age and design. Newer tankers with semi-protection—ie double bottoms or double sides—might be able to continue until 2015 at the latest, subject to a rigorous structural survey (Condition Assessment) at specified intervals, whereas, older tankers with no additional protection will all have been phased out by the end of 2005.

10. Lack of ship-recycling facilities that can handle hazardous wastes or ship-decontamination facilities) in OECD countries is a major problem for shipping and can cause significant delay for owners wishing to recycle in the developed world, resulting in significant associated financial costs (port dues, maintenance and crewing costs).

11. This financial burden is increased if the vessel is declared as “waste” because the ship cannot carry on trading internationally once it has been classified as such, it would need a valid transfrontier shipment of waste notification to move across international borders. Therefore costs increase whilst the owner waits for the last journey to be approved by the export and import countries. Costs of up to £150,000 have been incurred by ships owners affected by such a scenario in the UK. This could be a particular problem if a vessel was detained on suspicion of going for recycling with owners accruing costs whilst not being able to operate commercially and it was subsequently demonstrated that the vessel was not for disposal.

12. Additionally there is a financial disincentive for ships to be recycled in Western Europe as the steel in the vessel is worth \$10 a ton to the owner in North West Europe, and has peaked at \$390–410⁵ a ton in India and Bangladesh.

13. All of these economic pressures presently provide a disincentive for ships to be recycled in the UK and economically developed world.

3. *What is the legal status of importing such vessels for dismantling (the Committee will particularly seek to clarify what are the implications for the industry of the Stockholm Convention on Persistent Organic Pollutants)?*

14. The legal status of an end of life ship is very complicated due to the international nature of shipping and disparity between conventions and guidelines forming the international regulatory regime controlling ship-recycling. As such the MCA and Defra are working together to implement the IMO Guidelines and the EU Waste Shipment Regulation (which transposes the “Basel Ban”⁶) as applicable. MCA and Defra are

⁵ Reported market rates May 2004.

⁶ The “Basel Ban” amendment calls upon OECD countries and other developed states to prohibit the export of hazardous waste to non-OECD countries regardless of whether they are destined for disposal or recycling/recovery. The “ban” is not yet effect in its own right but is implemented in the EU through the Waste Shipment Regulation. In the context of ships the presence of non-recoverable hazardous wastes such as PCB’s would prohibit the “export” of end-of-life ships to such countries despite the vast majority of a vessel being recyclable.

also working closely to find a solution within the IMO and Basel Convention discussions. However, each ship-recycling case in the UK raises its own problems due to these conflicting and confusing requirements in the application of the international control mechanisms and disjunctions in the approaches taken globally.

UNCLOS, THE INTERNATIONAL MARITIME ORGANISATION AND GUIDELINES ON SHIP-RECYCLING

15. Due to the global nature of the shipping industry, ships often change flag and ownership over their lifetime. As a result of UK Flag pressure to improve the ships on its Flag, many companies are investing in new tonnage and environmentally friendly technology and will sell on older ships as trading entities. This sale can result in the vessel being re-flagged to another flag state.

16. The Flag State concept is defined in Article 91 of (UNCLOS):

“Every State shall fix the conditions for the grant of its nationality to ships, for the registration of its ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.”

17. UNCLOS then goes on to explain the duties of the flag state (Article 94), which include “. . . jurisdiction and control in administrative, technical and social matters over ships flying its flag.”, and that “Every state shall take such measures for ships flying its flag as are necessary to ensure safety at sea”. It also states that “Such measures shall include those necessary to ensure . . . that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention of marine pollution, and the maintenance of communication by radio”.

18. Therefore the Flag state has the responsibility to ensure that a ship is trading safely and is not in contravention of international regulations on safety and marine pollution, providing a comprehensive and coherent legal regime and controls for that ship, no matter where it is in the world. The Flag State concept also reduces the possibility of different terrestrial legal regimes being implemented for each State’s waters and also covers the ships on the high seas which are outside the jurisdiction of any state.

19. Additionally UNCLOS sets down and gives all ships specific rights, such as the right of innocent passage through the territorial sea and freedom of navigation on the high seas.

20. The IMO Guidelines on ship recycling have been developed to give advice to all stakeholders in the recycling process, including administrations of ship building and maritime equipment supplying countries, flag, port and recycling States, as well as intergovernmental organisations and commercial bodies such as ship owners, ship builders, repairers and recycling yards. The IMO Guidelines on recycling of ships focus on numerous issues and provides guidance on:

- the identification of hazardous substances in a ship—based on the inventory and lists found in the Industry Code of Practise and the annexes of the Basel Convention;
- the introduction of the concept of a Green Passport for both new ships and existing ships—which contains an inventory of materials hazardous to human health or the environment that would accompany a ship throughout its working life;
- the minimisation of hazardous substances used in the construction of new ships, or maintenance of existing ships, and their equipment;
- the design of ships equipment to facilitate recycling and the removal of hazardous materials during, or at the end of a ships lifecycle;
- the establishment and maintenance of an Inventory of Hazardous Materials and other materials that are of concern for recycling operations;
- the preparation of ships for recycling and the establishment of “ready for recycling” conditions; and
- clarification of ownership issues and the roles and responsibilities of Flag States, Transit States, Recycling States, the Shipping Industry, Ship brokers, intermediate buyers and the ship recycling industry.

21. In this guidance the main roles and responsibilities of the Flag States⁷ are to:

- encourage the widespread use of the IMO Guidelines;
- to establish criteria to declare a ship “ready for recycling”. The basic criteria would be the completion of the work to prepare a ship for recycling, set out in section 8 of the Guidelines;
- urge the use of a ship recycling sales contract (such as the BIMCO—Baltic and International Marine Council—Demolition Contract) to take account of all relevant environmental, health and safety considerations; and
- co-operate with recycling states to facilitate the implementation of the guidelines.

⁷ Section 9.2 of the IMO Guidelines.

22. The guidelines also focus on the roles and responsibilities of the port state and the recycling state:

Main roles of the port State:⁸

- the port State assumes a role in verifying compliance with international maritime conventions by the inspection of foreign ships in national ports to check that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules;
- co-ordination between the port State and the flag State is encouraged to ensure the ship meets all relevant IMO requirements, and any other applicable requirements, at all times;
- promotion of the widespread use of IMO guidelines within the industry; and
- co-operate with flag States and recycling States to facilitate implementation of the guidelines.

Main roles of the recycling State:⁹

- to enforce international obligations and national legislation in respect of worker safety, health and welfare and the protection of the environment in the ship recycling industry, in particular, with respect to hazardous and other wastes handled at a recycling site;
- to introduce national regulations in relation to the condition of ships purchased for recycling both at the time of purchase and at the time of delivery. In effect, the recycling State should lay down any conditions it considers necessary before a ship is accepted for recycling;
- to establish/maintain adequate reception facilities for ship-generated waste from ship recycling operations;
- to introduce and enforce legislation which requires that all ships being recycled have a gas-free certificate or hot work safe certification as applicable, issued by a relevant and appropriate body, for enclosed spaces onboard ship;
- to introduce, implement and enforce sound legislation and other requirements concerning the recycling of ships, including measures to authorising or licensing recycling facilities. To this end, recycling states should examine, and where necessary adopt national legislation or requirements, any applicable internationally developed conventions, recommendations and guidelines relevant to the ship recycling industry such as those Guidelines and those produced by the International Labour Organisation (ILO) and the Basel Convention;
- to establish routines for the control of ships delivered for recycling; and
- to introduce, implement and enforce sound legislation concerning the recycling of ships.

23. Guidance is also given to the Shipping Industry, brokers and intermediate buyers and the ship recycling industry. The voluntary nature of these guidelines may be reviewed in the future, depending on the international experience and adherence to them by the industry.

BASEL CONVENTION

24. Under the Basel Convention, the State of Export is required to notify any proposed transboundary shipment of waste, or to require the generator or exporter to notify it. The EU Waste Shipment Regulation places this responsibility on the waste producer who would generally be expected to notify the shipment (in this case the movement of the ship itself). This has led to confusion within the shipping industry and in individual governments on how the international system controlling ships being recycled should be applied. There is an ongoing international debate as to whether the controls of the Basel Convention can be applied to ships and how they interact with the specific rights laid down in UNCLOS.

25. A major difficulty lies with the difference in the perceived roles and responsibilities of the state, with the IMO Guidelines (as in all shipping related legislation) being applied through the state only to the state's flagged ships,¹⁰ whilst the Basel Convention would apply to the exporting state—in this case to vessels leaving UK ports regardless of flag or state of ownership. This raises potential conflicts with commitments under UNCLOS and the rights of shipping—the right of innocent passage through the territorial seas and freedom of navigation on the high seas.

26. In order to identify and overcome the overlaps between the IMO, the Basel Convention and the International Labour Organisation (which has focused on the Health and Safety Standards in Ship-recycling yards), a Joint Working Group is being set up. The UK hopes to be actively involved in the work of this group. The Terms of Reference for this Joint Working Group can be found in Annex 1.

27. The Basel Convention has circulated a paper to stimulate analysis of some of the legal uncertainties related to ship recycling. The UK intends to submit its position in the coming weeks. A copy will be forwarded to the Committee.

⁸ Section 9.3 of the IMO Guidelines.

⁹ Section 9.4 of the IMO Guidelines.

¹⁰ Historically, due to the international nature of the shipping industry, ships have been controlled through the Flag State and not the Terrestrial state. In that way no matter where the vessel is in the world they are still controlled by one international legal regime and the guidelines as stipulated and formulated at the IMO.

28. The present control complexities and confusions, combined with the commercial disincentives could also affect the numbers of ships brought to the UK for recycling should there be an appropriate facility. The MCA are very concerned that the terrestrial application of the Basel Convention, “Ban” amendment and the EU Shipment of Waste Regulations (WSR) which transpose the Basel Ban could:

- be an incentive to reflag older ships away from the UK flag in order to facilitate scrapping. As the UK is trying to maintain and improve safety and environmental standards and promote sustainable development within the industry, such an incentive needs to be addressed;
- be a disincentive to scrap ships in an environmentally sound and sustainable manner in the developed world due to the economic consequences for the owner from delays due to the Basel Controls, Basel Ban amendment and WSR controls on a ship as waste (as highlighted above) and the lack of a strong market for scrap steel in much of the developed world;
- increase the threat of possible litigation and damage claims for undue delay or illegal detention under UNCLOS;
- be a significant disincentive for the industry to recycle older ships and invest in new tonnage (as the financial returns for scrapping old vessels will be negligible);
- cause significant costs for vessel owners when ships are laid up awaiting the necessary transfrontier shipment of waste permissions to fulfil the European transposition of the Basel Convention; and,
- result in UK flagged and owned ships being turned away from environmentally sound recycling yards due to the different interpretations of the international legislation and guidance.

29. Additionally there has been the threat of abandonment of ships following potential detentions under transfrontier shipment of waste controls in UK ports. This a serious concern as already seen in the cases in Belgium (the SILVER RAY) and the Netherlands (the SANDRIEN) and could lead to significant court and crew repatriation costs for the UK Government, as well as substantial disposal costs if the UK is forced to recycle the vessel itself as the “export state” under the Basel Convention. There is a related concern with the Basel requirements for incomplete or unlicensed shipments to be repatriated to the export state. If this was applied a vessel leaving from a UK port and then proceeding directly for recycling could, if rejected by the recycling state, be seen as an unlicensed UK export that would have to be returned to the UK for disposal regardless of flag or ownership.

4. *How defunct United Kingdom vessels are currently dealt with, and what plans have been made to cope with their disposal?*

30. Here, the term “United Kingdom vessels” needs to be clarified. Does this mean UK Government owned vessels, UK Flagged ships or UK owned (but not necessarily UK flagged) ships? This clarification is needed as each is controlled in different ways.

31. At the present moment the UK has a policy in which the MCA and Defra are promoting both the IMO Guidelines and the Basel Convention conditions, however each case brings its own problems, due to the confusion in the international control mechanism, conflicting international conventions and global disincentives. The MCA and Defra are liaising closely to work towards ensuring that all ships permanently in UK waters, being imported to the UK or being exported from the UK, are recycled in a sustainable manner with appropriate environmental, health and safety controls.

CONCLUSIONS

32. The UK is working within the international community to clarify the international control mechanisms for end of life vessels. However, at the present time, if a ship-recycling industry is developed then its viability will be affected by developing international controls and economic complexities. Therefore before a decision can be made to develop an industry in the UK, the findings of the Joint Working Group on Ship-recycling should be known. In addition, the following questions may need to be considered:

How can the international regime for controlling ship-recycling be developed to reflect sustainable development? As ship recycling is a major source of steel for parts of the developing world is it sustainable for the developed world to use restrictive environmental legislation to affect a component of the developing world’s economic and industrial capacity? Should a strategy be considered internationally that provides for robust environmental and health and safety standards but allows those yards who fulfill these requirements to compete in an open, global market?

33. One option which could be considered would be to provide investment to bring developing world recycling yards and disposal standards up to acceptable environmental and health/safety standards. Capacity building and technology transfer are recognised principles within the international sphere and there is a need to improve standards within the non-OECD states in view of the increasing fleets on their registers. Acting to restrict the scrapping of OECD or European ships, or detaining foreign-flagged ships in port will only address a section of the ships going for scrap and is likely to have significant negative implications.

Maritime and Coastguard Agency

June 2004

DRAFT TERMS OF REFERENCE OF THE JOINT ILO/IMO/BASEL
CONVENTION WORKING GROUP

The Joint ILO/IMO/Basel Convention Working Group should:

.1 consider the respective work programmes of the pertinent bodies of ILO, IMO and the Conference of Parties to the Basel Convention on the issue of ship scrapping* in order to avoid duplication of work and overlapping of roles, responsibilities and competencies between the three Organisations, and identify further needs;

.2 facilitate the exchange of views between the three Organisations in order to ensure a co-ordinated approach to all the relevant aspects of ship scrapping;

.3 undertake a comprehensive initial examination of the:

- (1) *Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships*, adopted by the Sixth Meeting of the Conference of Parties to the Basel Convention;
- (2) *IMO Guidelines on Ship Recycling*, adopted by resolution A.962(23); and
- (3) *Safety and Health in Shipbreaking: Guidelines for Asian countries and Turkey*, developed by ILO, with a view to identifying any possible gap, overlap, or ambiguities;

.4 consider mechanisms to jointly promote the implementation of the relevant Guidelines on Ship Scrapping;

.5 monitor progress of any jointly organised technical co-operation activities; and

.6 submit its reports, recommendations and any other relevant information on the above or other pertinent matters to bodies of IMO, ILO and the Basel Convention, as appropriate.

Maritime and Coastguard Agency

June 2004

Memorandum submitted by the Hartlepool Friends of the Earth Media Group

DISMANTLING OF DEFUNCT SHIPS

1. As residents of Hartlepool we feel that we are in something of a privileged position from which to advise you of the environmental impact of establishing a major ship breaking facility in our town. This opinion is informed not by any special expertise, though such is present amongst our number, but by the simple fact that we live here—this is, by definition, our immediate environment of residence, of which we, the residents, are an integral part. Furthermore, we note it is not your immediate environment and would like to query your moral right to despoil it by imposing any further unwelcome industrial developments. An environment is not merely a natural habitat; it is also an abstract social entity in which the welfare of human residents is at least as important as those of non-human life forms. The primary difference in the magnitude of the threat to which both are exposed is that the former has the cognitive capacity to form a perception of existing and future potential risk, of which this region suffers a disproportionate burden.

2. There is a theory that: “Where poverty is most concentrated, so are the poisons”.¹¹ The area in which Able UK’s facilities are located, “Seal Sands on Teesside contains 17 of Britain’s most polluting factories, and has an average income of just £6,200 [1999 figure]”¹²—64% less than the national average.¹³ Such levels of industrial air pollution have been linked to Teesside’s relatively poor state of public health. A longitudinal study conducted by Peter Phillimore and colleagues from Newcastle University, published in 1995,¹⁴ found that rates of lung cancer from 1981 to 1991 among women under 65 living closest to Teesside’s major industries stood at “virtually four times the national level”.¹⁵

¹¹ “Poisoning the poor” by George Monbiot, Guardian, 20 June 1999 <http://www.monbiot.com/archives/1999/06/20/poisoning-the-poor/>

¹² *Ibid.*

¹³ Friends of the Earth figure.

¹⁴ Teesside Environmental Epidemiology Study (TEES) (1995) *Health, Illness and the Environment in Teesside and Sunderland: A Report*, Newcastle upon Tyne: University of Newcastle.

¹⁵ “If we have wrong perceptions of our area, we cannot be surprised if others do as well”. Representing risk in Teesside’s environmental politics by Peter Phillimore and Suzanne Moffatt published in *Journal of Risk Research* 7 (2), March 2004.

3. The national media gave the story no coverage; but locally ICI, Her Majesty's Inspectorate of Pollution, and even the sponsors of the research—Tees Health, and Middlesbrough and Langbaugh Borough Councils—wasted no time in publicly discrediting the report's findings. And "a senior local government official" went so far as to say:

"Our views as officers are that the research findings need to be minimised. So we were pleased with the low key media response. The fact that people don't know much is good news, we're pumping millions into the area, we don't need more bad news about Grangetown . . . We need to breathe confidence into the area and attract industry, we need jobs."¹⁶

4. Ashok Kumar, MP for Middlesbrough South and East Cleveland, has described those who have protested against the presence on Teesside of the US Ghost Ships as a "rag bag of mad men and women who obviously don't appreciate what this work means to our area".¹⁷

5. Of course the politicians are right to identify unemployment as a major social ill, but surely we have to consider the long-term costs of such employment, in terms of damage to public health and the environment, when we prioritise the types of industry that will be welcomed into our region in the future.

6. We understand that the UK and all other responsible democratic industrial nations must establish domestic ship breaking facilities in order to honour their obligations to preserve the international maritime eco-system and to protect exploited workers in poor regions elsewhere in the world. (And therefore that the four US Navy ships currently moored in the Able UK tidal basin in Graythorp must be repatriated to the US in order to avoid a legal precedence to the contrary being set). However, we do not feel that such large scale, waste generating and potentially hazardous ventures should be located in areas already blighted by the negative effects of industrial pollution, and we call on you to adopt the principle of the equitable distribution of risk as your prime directive when considering such matters.

Hartlepool Friends of the Earth Media Group

July 2004

Memorandum submitted by Ministry of Defence

Letter to the Committee Specialist from Lord Bach, Minister for Defence Procurement, Ministry of Defence, 6 July 2004

Thank you for your letter dated 7 June, with regard to the Committee's request for a statement on the MoD's policy on the disposal of vessels no longer required by the armed forces. The MoD's policy governing the disposal of surplus ships, as with all other items of surplus equipment, is to achieve the maximum gross revenue for the taxpayer but always in accordance with all relevant environmental and other legislation. The MoD's Disposal Services Agency (DSA) has sole responsibility for the disposal of all MoD surplus equipment and excess stock and the policy is in accordance with its Key Targets that are agreed with Ministers each year. The MoD is currently reviewing its policy in consultation and discussion with other Government Departments including DEFRA.

Lord Bach

Under Secretary of State and Minister for Defence
Procurement Ministry of Defence

July 2004

¹⁶ *Ibid* p 179.

¹⁷ *Evening Gazette* 16 December 2003.