

Press Release

Carter-Ruck

Date: 13 OCTOBER 2009

Carter-Ruck Solicitors

6 St Andrew Street
London EC4A 3AE

T 020 7353 5005
F 020 7353 5553
DX 333 Chancery Lane
www.carter-ruck.com

TRAFIGURA LIMITED AND TRAFIGURA BEHEER BV

This Press Release is issued on behalf of Carter-Ruck and our clients, Trafigura Ltd and Trafigura Beheer BV, following an article which appeared in this morning's edition of The Guardian newspaper entitled "*Guardian gagged from reporting Parliament*".

Both the headline and the contents of this article are highly misleading.

It is the case that, since 11 September 2009 an Order has been in place against The Guardian and Persons Unknown. It should also be stressed that, since 18 September 2009, The Guardian has consented to that Order remaining in place pending resolution of this matter. Until that resolution, it is not appropriate to comment on the substance of the Order, other than to observe that much of the media reporting of this injunction has been wildly inaccurate.

Contrary to the impression given by The Guardian's article, when the Order was made (and endorsed by the Court), none of the parties had in contemplation the possibility of this matter being raised in the UK Parliament.

Indeed, the Order was obtained several weeks before Paul Farrelly MP tabled his Parliamentary Question, and which we learned of for the first time when The Guardian faxed us with it yesterday afternoon.

There has never been any question of Trafigura applying for an injunction that had as its purpose the prevention of publication of any matter arising in Parliament. No such application has ever been made.

Nevertheless, as formulated (and as The Guardian apparently accepts) the Order would indeed have prevented The Guardian from reporting on the Parliamentary Question which had been tabled for later this week.

SRA No. 44769

Following correspondence yesterday, we made clear to The Guardian that we would take further instructions on their request to vary the Order and respond to them as soon as possible today, but despite (or because) of that they chose to publish their article last night and this morning regardless.

There is no question of Trafigura seeking to "gag" the media from reporting Parliamentary proceedings, and the parties have now agreed to an amendment to the existing Order so as to reflect that.

Should you require further information, please contact:
Adam Tudor adam.tudor@carter-ruck.com or
Isabel Hudson isabel.hudson@carter-ruck.com

NOTE TO EDITORS

The Parliamentary Question tabled by Paul Farrelly MP refers to the “*alleged dumping of toxic waste in the Ivory Coast*”. This is a reference to an incident involving a Trafigura-chartered vessel, the *Probo Koala* in August 2006. That incident has also been the subject of considerable media coverage and a substantial personal injury group action in the High Court which was resolved in September 2009.

We refer you to the attached Trafigura press release which was issued on 23 September 2009 and which includes comments made by Mr Justice Macduff. We would also refer you to the terms of the joint statement which was issued by Trafigura and Leigh Day & Co on behalf of the Claimants, and was subsequently endorsed by the Judge.

-ENDS-



23 September 2009

High Court confirms that *Probo Koala* 'slops' cannot have caused deaths, miscarriages, or other serious or long-term injuries

Mr Justice MacDuff today endorsed the Abidjan Personal Injury Group Litigation settlement in London's Royal Courts of Justice.

In doing so, both the Judge and the Claimants' own legal team fully endorsed Trafigura's long-maintained position that the *Probo Koala*'s slops simply could not have caused deaths, miscarriages, stillbirths, birth defects or other serious or long-term injuries. This followed thorough analysis by 20 independent experts in what has been by far the most detailed consideration of these matters anywhere in the world, since the *Probo Koala* incident in August 2006.

Referring to the Joint Statement (attached) which had been agreed by both parties and which was read out in Court, Mr Justice MacDuff confirmed that:

"I know from my own reading of the [court] papers that the experts were quite clear that the slops could not give rise to the sort of symptoms and illness which were being claimed in some of the press. I hope that the media will take account of the Joint Statement and will put it right, and put things in perspective. I need say no more except to underline that from where I sit and from what I have seen of the [court] papers, the Joint Statement is 100% truthful."

The Judge also voiced his concerns as to the widespread press coverage of this matter. He said:

"I have been following what has been happening in the media both in the newspapers and on TV and radio. I have witnessed myself how wildly inaccurate some of the statements have been. It can all be put right with the Final Joint Statement. Speaking for myself, I hope the press that have made statements which have been wrong will take note of the Joint Statement."

The libel proceedings that Trafigura brought against Leigh Day & Co were also resolved today. As a result, Leigh Day & Co has agreed to withdraw the allegations made on their website on 8 November 2006 and subsequently, and to publish the agreed Joint Statement prominently on their website. They have also undertaken not to repeat any of the allegations complained of.

Trafigura Director Eric de Turckheim commented: *"Today's settlement, and the comments made by Mr Justice MacDuff, fully endorse Trafigura's consistent position throughout this process and the entirely proper way we have conducted ourselves at all times."*

"From day one, we maintained that the 'trial by media' initiated against us by Leigh Day & Co, and subsequently taken up by journalists working for the BBC and Guardian, Independent, NRK in Norway, and Volkskrant and Greenpeace in Holland amongst others, was utterly wrong and inappropriate. The English legal system, and not the media, should have been the sole arbiter of this entire process."

If you have any further enquiries please e-mail media@trafigura.com

Agreed Final Joint Statement

- The parties have since August 2006 expended considerable time and money investigating in detail the events in Abidjan in 2006. As part of that process, in excess of 20 independent experts in shipping, chemistry, modelling, toxicology, tropical medicine, veterinary science and psychiatry have been appointed to consider all the issues relating to those events.
- These independent experts are unable to identify a link between exposure to the chemicals released from the slops and deaths, miscarriages, still births, birth defects, loss of visual acuity or other serious and chronic injuries. Leigh Day and Co, in the light of the expert evidence, now acknowledge that the slops could at worst have caused a range of short term low level flu like symptoms and anxiety.
- From these investigations, it is also clear that there are many claims which have been made for symptoms, in some cases perhaps understandably, which are unconnected with any exposure to the slops.
- In the light of the expert evidence, Leigh Day & Co withdraws the comments made on its website on 8 November 2006 and subsequently, which alleged, among other things, that the slops had caused a number of deaths and miscarriages. Trafigura and Leigh Day & Co have accordingly resolved the libel proceedings brought by Trafigura.
- Leigh Day & Co deny that any of their clients have made any deliberately false claims. In the light of assurances given to their senior leading counsel and in view of his advice, Leigh Day withdraw any allegation that there has been impropriety on the part of Trafigura or any of its legal advisors, (including Macfarlanes) in investigating the claims.
- Leigh Day & Co acknowledge the substantial assistance that Trafigura provided to the Government and people of the Cote d'Ivoire, including the provision of medical supplies and payments for de-contamination of dumpsites and the establishment of a compensation fund.
- It remains Trafigura's position that it did not foresee, and could not have foreseen, the reprehensible acts of Compagnie Tommy in dumping the slops in and around Abidjan in August and September 2006, and that Compagnie Tommy acted entirely independently of, and without any authority from, Trafigura. Nevertheless, Trafigura regrets that this incident occurred and is pleased that the matter has now been resolved.