

Margaret Beckett
Secretary of State for the Environment, Food and Rural Affairs
DEFRA
Nobel House
17 Smith Square
London SW1P 3JR

9 October 2003

Dear Madam,

In line with Point 2 of the Annex of the Commission Communication on relations with the complainant in respect of infringements of Community law (COM (2002) 141 final), I have filed a complaint against the UK for breach of EC environment legislation.

As you are aware the UK company Able UK intends to import and to recover/dispose of 13 old and contaminated US Navy ships from the US James River Reserve Fleet.

It is ludicrous that the UK government has allowed these ships to depart for the United Kingdom given that the company is yet to receive the planning permission necessary as required by EU law. Given that two of the ships in question departed from the United States on Tuesday 7th October and a further two were due to depart on 8th October (but were delayed in the United States) I urge you to immediately require that these ships are returned to the United States until the Commission is satisfied that EU legislation has, and will, be complied with. Furthermore, no further ships should depart until this matter is resolved. I would be grateful for your immediate response on this point.

I am concerned that the shipment would be in breach of EC legislation in the following areas:

Waste shipment regulation

If the import of the ships were considered waste destined for disposal, pursuant to Article 19 (3) of Council Regulation (EEC) No 259/93, the exporting country would have to "present a duly motivated request beforehand to the competent authority of the Member State of destination on the basis that they do not have and cannot reasonably acquire the technical capacity and the necessary facilities in order to dispose of the waste in an environmentally sound manner". As the United States has the technical capacity and the necessary facilities, such a shipment would seem to be in breach of Article 19(3) of the waste shipment regulation.

If the import of the ships were considered waste destined for recovery, pursuant to Article 21 (1) (b) first indent of Council Regulation (EEC) No 259/93, it would have to be guaranteed "that the recovery operation is carried out in an authorised centre and complies with the requirements for environmentally sound management". Given however the announcement of Hartlepool Council of 7 October 2003 that "there is no valid planning permission to allow for the construction of the proposed dam and the reinstatement of the dock gates, to provide a dry dock" (see attachment 2), and given that a dry dock has to be seen as a necessary condition to treat the ships in an environmentally sound way, the shipment would seem to be in violation of Article 21 (1) (b) first indent of the waste shipment regulation. For more information on the contractual situation, see the correspondence attached (attachment 3).

I have asked the Commission to investigate how this shipment would have to be classified and whether it would comply with the waste shipment regulation or not.

Waste Framework Directive

Article 4 of Council Directive 75/442/EEC on waste requires that "Member States shall take the necessary measures to ensure that waste is disposed of without endangering human health and without harming the environment". Given the lack of appropriate facilities as indicated above, it would seem that the treatment of these ships which contain inter alia large amounts of PCBs, asbestos and heavy fuels could not be done in accordance with the Article 4 of Council Directive 75/442/EEC on waste as amended.

I have therefore asked the Commission to investigate whether the Waste Framework Directive will be breached when dismantling the ships and their contents, both in case of a dry or a wet dock.

NATURA 2000

Article 6 (3) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, states that "any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public."

Given that the "Teesmouth and Cleveland Coast" has been classified as a Special Protection Area under the NATURA 2000 programme, I have asked the Commission to investigate whether the transportation and treatment of these ships is in breach of the above mentioned legislation.

I have asked the Commission to examine all of the above with a view to opening an infringement procedure against the UK pursuant to Article 226 of the EC Treaty.

Yours sincerely,

Dr. Caroline Lucas
Green Party MEP for South East England