

London hearing in Ivory Coast toxic dumping lawsuit

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The preliminary hearing for a class action lawsuit by 30,000 people living in the Ivory Coast capital of Abidjan against Trafigura, an independent oil trading company, whose turnover is larger than the Ivory Coast's GDP, took place in London last week.

In September 2006 a ship chartered by Trafigura, the Probo Koala, off-loaded waste from the ship's hold. The 500 metric tonnes of waste was taken from the ship by a local company called Tommy and dumped on various tips around Abidjan and outlying villages. Around 18 different sites were used to dispose of the waste.

The effects of the waste were that around 100,000 people became ill and up to 17 are thought to have died as a result its exposure. The symptoms suffered included vomiting, diarrhoea and breathing problems.

A BBC Newsnight programme broadcast 13 May visited Abidjan and spoke to people who had been affected by the waste. The reporter spoke to one young couple. Jean Francois Kouadio said that his wife Fidel was 8 months pregnant at the time the waste was dumped. Doctors say the effects of the waste meant she went into labour early and lost the baby. The following year the couple had a girl, but she died last December, according to doctors from a condition related to the effects of the toxic waste.

The Environmental group Greenpeace Nederlands has done an exhaustive investigation into the events that led to the dumping of the waste in the Ivory Coast in 2006. The Newsnight programme interviewed Marietta Harjono of the group.

She explained that Trafigura had bought an assignment of low grade coker naphtha oil in Texas. (A safety data sheet describes, untreated coker naphtha thus: "Aspiration can lead to pulmonary oedema and

death. May affect the central nervous system, liver, lungs, heart, blood and kidneys. Severe stench.")

Because of its high sulphur content the oil needed to be treated before it would be possible to sell on. It was initially taken to Tunisia, to be treated, but was turned away. Instead the ship Probo Koala was anchored off Gibraltar for around 3 months so that the oil could be treated by adding tons of caustic soda and a catalyst to the oil.

The result of this unsophisticated method was that eventually half of the sulphur settled out at the bottom of the ship's holds and the resultant oil floating above it was then saleable.

This left the toxic sludge in the bottom of the hold to be disposed of. The ship headed for Amsterdam and tried to get the waste discharged and treated at a facility there, stating it was ordinary waste, known as slops.

As the waste began to be pumped ashore, the fumes from the waste triggered an emergency and the process stopped. An analysis of the waste showed it was not ordinary slops and that it would cost the company 500,000 Euros (\$676,000, £446,000) to treat it.

Rather than foot the bill the company pumped the waste back on the ship, which eventually arrived in the port of Abidjan, where a deal was made with the local company Tommy to dispose of the waste at a cost of 15,000 Euros (\$20,250, £13,400). This local company had no experience and no facilities to deal with the waste, which ended up dumped on the various public waste tips around Abidjan, poured into water courses and marshland.

Last year the courts in Ivory Coast jailed Salomon Ugborugbo, owner of Tommy, for 20 years and shipping agent, Essouin Koua Desire, was jailed for 5 years for his complicity.

Three Trafigura officials were initially arrested by the

Ivorian government. The three were released following a payment in 2007 of nearly \$200 million (£132 million) by the company. Trafigura has said the payment was not an admission of guilt, that the three men would have been released under Ivorian law after having been held for six months without charges being brought. They added the payment was an expression of the company's commitment to social responsibility.

Trafigura is now facing prosecution in Amsterdam. According to Harjono of Greenpeace, the charges include falsification of papers relating to the toxic nature of the waste, illegal import and export of toxic waste, and the illegal export from Europe to an African country. The European Union countries signed up to an agreement in 1995 prohibiting the export of dangerous waste to developing countries.

Newsnight obtained results of an analysis of the waste carried out by the Dutch authorities. The waste included 40 tons of corrosive caustic soda and chemicals that can kill on contact. It also included 25 tons of sulphur, of which 2 tons was hydrogen sulphide, which is lethal in high concentrations. There was also 12 tons of mercaptans, sulphur containing chemicals that are the most odorous chemicals known.

John Hoskins, Fellow of the Royal Society of Chemistry told the BBC that the effects of such chemicals dumped in a city such as Abidjan would spread out for several miles. He added the poisonous effects on the bodies of pregnant women could lead to abortions, and that its long term effects on people would be to damage organs such as the liver, lungs and kidneys.

Hoskins explained that subsequent rain falling on the waste would lead to fresh releases of hydrogen sulphide being emitted adding to the long-term effects of the waste.

Trafigura has always maintained the position that the waste was ordinary ship slops and could not have been responsible for the illnesses. The results of the analysis by the Dutch authorities and the expert opinion of John Hoskins would appear to contradict their position.

When approached by the London-based *Guardian*, lawyers for Trafigura issued a statement denying any responsibility. "We have no intention of descending into a detailed debate as to the chemical composition of the 'slops'...the slops did not and cannot have caused the deaths and widespread illnesses which have been

alleged."

There have been allegations that Macfarlanes, the lawyers employed by Trafigura to contest the class action, have engaged in a campaign of dirty tricks. Key witnesses claim that they were offered inducements to change their statements.

According to the *Guardian*, one witness claims to have been flown to Morocco and stayed in a hotel there at the expense of Macfarlanes. The law firm does not deny this but claims, "Macfarlanes has valid and exceptional legal reasons for agreeing to meet the individual referred to by the *Guardian*."

Trafigura has gone to great lengths to limit the damage caused by the allegations. The *Guardian* article noted, "whenever journalists tried to write critically about Trafigura, they receive pressure from Carter-Ruck, which trades on its reputation as London's most aggressive libel lawyers. The £500 an hour firm bombarded the *Times* and the BBC with complaints, sources there say."

Meanwhile the legacy of the dumping of the waste remains. The Newsnight report ended by showing the waste at Djibi a village near Abidjan, which, although it had been bagged up it was still there stacked on the edges of the village and had not been taken away. Prior to the dumping the village had a fish pond that supplied the villagers. The pond remains closed, the fish dead and the area still contaminated.



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