



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
MARKET REGULATION

June 8, 2006

Ms. Sarah Murphy
Freshfields Bruckhaus Deringer
65 Fleet Street
London EC4Y 1HS
United Kingdom

Re: Possible Offer for Associated British Ports Holdings plc
File No. TP 06-78

Dear Ms. Murphy:

We are responding to your June 5, 2006 letter to James A. Brigagliano. Our response is attached to the enclosed copy of your letter to avoid having to recite or summarize the facts set forth in your letter. Unless otherwise noted, capitalized terms in this letter have the same meaning as in your letter.

On the basis of your representations and the facts presented, but without necessarily concurring in your analysis, the United States Securities and Exchange Commission ("Commission") hereby grants an exemption from Rule 14e-5 under the Securities Exchange Act of 1934 ("Exchange Act") to permit the Prospective Purchasers to purchase or arrange to purchase Associated British Ports Holdings plc ("ABPH") Ordinary Shares pursuant to the possible tender offer ("Offer"), particularly in light of the following facts:

- The Offer is required to be conducted in accordance with the City Code on Takeovers and Mergers ("Code") as well as the rules and regulations of the UK Listing Authority ("Listing Rules");
- ABPH, a public limited company incorporated under the laws of England and Wales, is a "foreign private issuer," as defined in Rule 3b-4(c) under the Exchange Act;
- Any purchases of Ordinary Shares of ABPH by the Prospective Purchasers will be subject to the Code; and
- The existence of the Memorandum of Understanding on Exchange of Information between the Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Securities and the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures dated September 25, 1991.

The Commission grants this exemption from Rule 14e-5 under the Exchange Act to permit the Prospective Purchasers to purchase or arrange to purchase Ordinary Shares otherwise than pursuant to the Offer, subject to the following conditions:

1. No purchases or arrangements to purchase Ordinary Shares, otherwise than pursuant to the Offer, shall be made in the United States;
2. The Tender Offer Documents shall disclose prominently the possibility of, or the intention to make, purchases of Ordinary Shares by the Prospective Purchasers during the Offer;
3. The Prospective Purchasers shall disclose in the United States information regarding purchases of Ordinary Shares to the extent such information is made public in the United Kingdom pursuant to the Code;
4. The Prospective Purchasers shall comply with any applicable rules under United Kingdom law including the Code and Listing Rules;
5. The Prospective Purchasers shall provide to the Division of Market Regulation ("Division"), upon request, a daily time-sequenced schedule of all purchases of Ordinary Shares made by any of them during the Offer, on a transaction-by-transaction basis, including:
 - a. size, broker (if any), time of execution, and price of purchase; and
 - b. if not executed on the London Stock Exchange, the exchange, quotation system, or other facility through which the purchase occurred;
6. Upon the request of the Division, the Prospective Purchasers shall transmit the information as specified in paragraphs 5.a. and 5.b. above to the Division at its offices in Washington, D.C. within 30 days of its request;
7. The Prospective Purchasers shall retain all documents and other information required to be maintained pursuant to this exemption for a period of not less than two years from the date of the termination of the Offer;
8. Representatives of the Prospective Purchasers shall be made available (in person at the offices of the Division in Washington, D.C. or by telephone) to respond to inquiries of the Division relating to their records; and
9. Except as otherwise exempted herein, the Prospective Purchasers shall comply with Rule 14e-5.

The foregoing exemption from Rule 14e-5 under the Exchange Act expressed above is based solely on your representations and the facts presented, and is strictly limited to the application of this rule to the proposed transactions. Such transactions should be discontinued, pending presentation of the facts for our consideration, in the event that any material change occurs with respect to any of those facts or representations.

In addition, we direct your attention to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 10(b) and 14(e) of the Exchange Act and Rule 10b-5 thereunder. The participants in the Offer must comply with these and any other applicable provisions of the federal securities laws. The Division expresses no view with respect to any other questions that the proposed transactions may raise, including, but not limited to, the

Ms. Sarah Murphy
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adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Market
Regulation pursuant to delegated authority,

A handwritten signature in black ink, appearing to read "James A. Brigagliano". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

James A. Brigagliano
Acting Associate Director
Division of Market Regulation

Attachment



James Brigagliano
Division of Market Regulation
Acting Associate Director
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OUR REF SCM
YOUR REF
CLIENT MATTER NO. 101607-1282

June 5, 2006

Ladies and Gentlemen

Re: Possible Cash Bid for ABPH Ordinary Shares

We are writing on a confidential basis on behalf of our client, a consortium comprised of Goldman Sachs Investments Ltd. (*GSIL*), a company organized under the laws of Bermuda, Borealis Infrastructure Management Inc. (*Borealis*), a company organized under the laws of Canada; InfraCapital Partners L.P., a limited partnership organized under the laws of England and Wales, acting through its manager M&G Investment Management Limited (*InfraCapital*); and an affiliate of GIC Special Investments Pte Ltd. (*GIC SI*), a company organized under the laws of Singapore, (together, the *Consortium*), which intends to form a special purpose company (*Bidco*) organized under the laws of England and Wales for the purpose of making a possible bid (the *Possible Bid*) for all of the issued and to be issued ordinary shares (the *Ordinary Shares*) of Associated British Ports Holdings plc (*ABPH*), a public limited company organized under the laws of England and Wales.

The Consortium announced on March 27, 2006 (the *Possible Bid Announcement*) that it was considering a possible offer for all of the issued and to be issued share capital of ABPH. The Possible Bid Announcement was not agreed with or recommended by ABPH. On March 29, 2006, ABPH announced that it had received a non-binding indicative offer from the Consortium. Subsequent to that announcement, the Consortium revised its proposal and ABPH announced, on May 23, 2006, that it had received a non-binding proposal from the Consortium at 810 pence in cash per Ordinary Share and that it had agreed to grant the Consortium a limited period to undertake confirmatory due diligence.

There is currently no certainty as to whether the Possible Bid will be made or the form in which it will be made. The Possible Bid is currently structured as a scheme of arrangement (which is a court based statutory procedure in England and Wales, whereby ABPH would request its shareholders to approve in court-convened and general meetings various resolutions resulting in, amongst other things, the cancellation of the Ordinary Shares, the payment of the cash consideration to holders of the Ordinary Shares and the issue of new ordinary shares of ABPH to Bidco). The Possible Bid may be structured (or restructured) as a tender offer if circumstances warrant. In either case, a loan note alternative to the cash consideration offered may be made available to ABPH shareholders for UK



publicity by their very nature and they are disseminated on dealers' trading screens throughout the London market.

The Commission has granted a number of exemptions from Rule 14e-5 and Rule 10b-13 (the predecessor to Rule 14e-5) to permit such purchases by offerors and persons acting on behalf of offerors. We believe the exemptive relief requested herein under Rule 14e-5 is consistent with that granted by the Commission in similar situations in the past, including the letter regarding the offer by WPD Limited for Hyder plc (available May 31, 2000), the letter regarding the offer by Schlumberger Limited for Sema Group plc (available February 15, 2001), the letter regarding the offer by Vinci for TBI plc (available August 23, 2001) and the letter regarding the offer by Cinven Limited for Fitness First Plc (available April 9, 2003). Further, we believe exemptive relief in the context of a possible offer is consistent with that granted by the Commission in the letter regarding the possible offer by Bank of Ireland for Abby National plc (available October 16, 2002) and the letter regarding the possible offer by Anheuser-Busch Companies, Inc. for Harbin Brewery Group Limited (available May 7, 2004).

In addition, we note the existence of the Memorandum of Understanding on Exchange of Information between the Commission and the United Kingdom Department of Trade and Industry in Matters Relating to securities and the United States Commodity Futures Trading Commission and the United Kingdom Department of Trade and Industry in Matters Relating to Futures dated September 25, 1991.

In our view, there are serious doubts as to whether the jurisdictional predicate for the application of the Exchange Act—namely that there be a purchase of a security “by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange”—would be satisfied if the Prospective Purchasers made purchases of, or arrangements to purchase, Ordinary Shares outside the United States. We nonetheless apply, on behalf of such persons, for exemptive relief for such purchases from the provisions of Rule 14e-5 pursuant to Rule 14e-5, on the conditions set forth below. We have been requested by the Prospective Purchasers to emphasize that this letter does not reflect an admission that Rule 14e-5 would apply to such a purchase of Ordinary Shares outside the United States in the absence of such exemptive relief.

REQUESTED EXEMPTIVE RELIEF

Based on the foregoing, we respectfully request that the Prospective Purchasers be granted exemptive relief from the provisions of Rule 14e-5 in order to permit purchases of Ordinary Shares outside of the possible tender offer by any Prospective Purchaser that would otherwise be prohibited by Rule 14e-5, subject to the following conditions:

- (a) no purchases or arrangements to purchase Ordinary Shares, otherwise than pursuant to the tender offer, will be made in the United States;
- (b) disclosure of the possibility of such purchases by the Prospective Purchasers, otherwise than pursuant to the tender offer, will be included prominently in the Tender Offer Documents (when and if distributed);
- (c) the Prospective Purchasers shall disclose in the United States information regarding such purchases to the extent such information is required to be made public in the United Kingdom pursuant to the City Code;



- (d) the Prospective Purchasers shall disclose to the Division of Market Regulation of the Commission (the *Division of Market Regulation*) upon request, a daily time-sequenced schedule of all purchases of Ordinary Shares made by any of them during the offer, on a transaction-by-transaction basis, including: (1) size, broker (if any), time of execution, and price of purchase and (2) if not executed on the London Stock Exchange, the exchange, quotation system or other facility through which the purchase occurred;
- (e) upon request of the Division of Market Regulation, the Prospective Purchasers shall transmit the information specified in (d)(1) and (d)(2) above to the Division of Market Regulation at its offices in Washington, D.C. within 30 days of its request;
- (f) the Prospective Purchasers shall comply with any applicable rules of UK organizations, including the City Code and the rules of the London Stock Exchange;
- (g) the Prospective Purchasers shall retain all documents and other information required to be maintained pursuant to this exemption for a period of not less than two years from the date of the termination of the tender offer;
- (h) representatives of the Prospective Purchasers shall be made available (in person at the offices of the Division of Market Regulation in Washington, D.C. or by telephone) to respond to inquiries of the Division of Market Regulation relating to such records; and
- (i) except as otherwise exempted herein, the Prospective Purchasers shall comply with Rule 14e-5.

CONCLUSION

Pursuant to Regulation 200.81, we respectfully request on behalf of the Consortium that this exemptive request and the response be accorded confidential treatment until 120 days after the date of the response to such request or such earlier date as the Staff is advised that all of the information in this letter has been made public. This request for confidential treatment is made on behalf of the Consortium for the reason that certain of the facts set forth in this letter have not been made public.

In compliance with Securities Act Release No. 6269 (5 December 1980), seven additional copies of this letter are enclosed.

In view of the short timetable, we respectfully request that the Commission issue the requested exemptive relief as soon as practicable. If you require any further information or have any questions, please contact Sarah Murphy at +44 20 7832 7429 or Doug Smith at +44 20 7716 4752.

Very truly yours

Sarah Murphy