FILE NAME: Cape Asbestos (CAPE)

DATE: 1978 Mar 8

DOC#: CAPE171

DOCUMENT DESCRIPTION: Telex to Mr. Milwid Re legal wording about non-enforcibility in the UK & South Africa [Legal - Tibbs Case Exhibit 69]

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LORD, BISSELL & BROOK

TELEX TO : MR S A MILWID

RE: CAPE ACCOUNTS
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REF MY TELEX OF 10 JANUARY ON THE FORM OF NOTE TO GO IN THE CAPE INDUSTRIES ACCOUNTS. WE HAVE DECIDED THAT A NOTE COVERING BOTH THE NAAC OUTSTANDING CLAIMS AND THOSE INVOLVING CAPE AND EGNEP WHICH HAVE BEEN IGNORED WILL HAVE TO BE INCLUDED ALTHOUGH WE BELIEVE THAT A STATEMENT CAN PROPERLY BE MADE THAT THE CLAIMS WILL NOT HAVE A MATERIAL EFFECT ON THE GROUP. IN VIEW OF THE U.K. AND SOUTH AFRICAN ADVICE ON NON-ENFORCEABILITY AND PEAT MARWICK'S ADVICE TO US THAT THE LOSS OF NAAC'S OUTSTANDING ASSETS IS NOT MATERIAL IN THE CAPE GROUP CONTEXT.

THE FOLLOWING NOTE HAS BEEN AGREED WITH OUR SOUTH AFRICAN LAWYERS AND PEATS AND UNLESS YOU DISAGREE OVER ANY MAJOR POINTS OF PRINCIPLE, I WOULD HOPE THAT YOU COULD ACCEPT THE WORDING:

''ALTHOUGH THE SETTLEMENT OF THE ACTIONS REFERRED TO IN THE CHAIRMAN'S STATEMENT TERMINATED THE PRIMARY U.S.A. LITIGATION IN WHICH THE GROUP WAS INVOLVED, CERTAIN COMPANIES IN THE GROUP CONTINUE TO BE NAMED, ALONG WITH OTHER ASBESTOS FIBRE AND ASBESTOS PRODUCT SUPPLIERS, AS DEFENDANTS IN OTHER LEGAL ACTIONS IN THE U.S.A. CLAIMING DAMAGES AS A RESULT OF THE USE OF THEIR PRODUCTS. THE DIRECTORS BELIEVE, IN THE LIGHT OF LEGAL ADVICE THEY HAVE RECEIVED, THAT THE OUTCOME OF THESE ACTIONS IS UNLIKELY TO HAVE ANY MATERIAL EFFECT ON THE GROUP'S FINANCIAL POSITION AND ACCORDINGLY NO PROVISION IN RESPECT OF THEM HAS BEEN MADE IN THESE ACCOUNTS.''

PLAINTIFF'S EXHIBIT #208
CAPE0001