

Part 2

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2 receive a copy of it?

3 A. Clearly, that's up to the group
4 CFO to do that.

5 Q. Do you have an understanding as to
6 why the document was titled "script"?

7 A. No. I guess script may be
8 briefing note, whatever choice of words.

9 Q. Do you know if Mr. Coopman
10 prepared this document in preparation for a
11 meeting that was upcoming in the CMD?

12 A. Yes. I mean relative to the
13 original schedule we talked about it was the 2nd
14 of December was CMD meeting and 3rd of December
15 was a regular Conference meeting.

16 Now, unfortunately because of my
17 issues with this Russian transaction I did not
18 make it to the CMD meeting on the 2nd of
19 December that was in The Hague. I was in
20 London, obviously, advised my colleagues I
21 couldn't attend, but that was the context.

22 Q. Were you planning on attending the
23 Conference?

24 A. Yes.

25 Q. Had you asked -- in Exhibit 32, if

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2 you look at the first sentence of your e-mail to
3 Mr. Pay you say, "I want to have a proper EP
4 view before Conference."

5 Is your understanding in looking
6 at Exhibit 32 that this document was prepared in
7 connection with the meeting on December 3, 2003?

8 A. Yes.

9 Q. Now, in your answer you said when
10 you looked at the document you were shocked.

11 I think you said you were
12 surprised at how conclusive it was.

13 Why were you surprised?

14 A. Well, in the sense that the
15 numbers were still being worked. I mean we
16 still at that time didn't have the numbers and
17 the whole idea was also to look at all the other
18 exposures, not just linking it to Nigeria and
19 Oman and LKH, but also whatever else now with
20 the new understanding we had about
21 interpretation of the SEC rules would become
22 noncompliant.

23 Q. Is it fair to say that the script
24 is advocating a restatement or debooking?

25 A. The script advocates a debooking.

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2 I would have to read it where it says revision
3 or restatement.

4 Q. I see the document on the first
5 page refers to debooking or restatement?

6 A. Okay.

7 Q. Now you also mentioned that you
8 had spoken with Ms. Boynton about the script.
9 Other than what you testified to do you recall
10 anything else that the two of you had discussed?

11 A. On that particular day?

12 Q. Yes.

13 A. No.

14 Q. Did you discuss the fact that the
15 reserves were exposed to such an extent that a
16 debooking appeared to be necessary?

17 MR. MORSE: Object to the form.

18 BY MR. HABER:

19 Q. You can answer.

20 A. I think the note speaks for
21 itself.

22 Q. Now, in your answer you also said
23 that the decision to debook or restate was one
24 that you needed Group Finance and Group Audit.
25 Why is that?

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2 MR. TUTTLE: Objection to the
3 characterization of the testimony.

4 THE WITNESS: I think anything
5 that is to do with external disclosure and is a
6 material event for the group, in my
7 understanding had to go to the fora.

8 I cannot, in my role cannot make
9 any decision on external disclosures.

10 BY MR. HABER:

11 Q. Now, is there a distinction
12 between a decision to debook reserves and a
13 decision to debook reserves that requires
14 external announcement?

15 A. Anything that has to do with an
16 impact on the reputation of the group or is a
17 clear material event is something that needs to
18 go through the bodies we just talked about.

19 Q. When Shell had debooked the
20 reserves at the end of 2002 in Bonga did that
21 debooking receive the approval of the Group
22 Audit Committee?

23 MR. TUTTLE: Objection.

24 THE WITNESS: I cannot answer that
25 question as I'm not involved in the process.

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2 The only thing I know is that for
3 the -- before the group reserves auditor issues
4 his final report it involves not only people
5 from EP, but it involves the external auditors
6 and it involves the central controller function
7 on the finance in London.

8 BY MR. HABER:

9 Q. Do you know if the central
10 controller function was involved with the
11 decision to debook the reserves in Bonga at the
12 end of 2002?

13 MR. WARE: Object to form and
14 foundation.

15 THE WITNESS: The only thing I
16 know, they approved Anton Barendregt's notes
17 that incorporated that change. I don't know
18 what discussions or challenge TOOK place at that
19 point in time.

20 BY MR. HABER:

21 Q. When you say "they," who are you
22 referring to?

23 A. The people I just mentioned. The
24 EP people, external auditors, and the rep's from
25 the controller function in London, the deputy

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2 group controller I know was involved in it, I
3 don't know who else.

4 Q. Does the size of a debooking
5 matter with regard to external communication?

6 MR. TUTTLE: Objection to the
7 extent it calls for a legal conclusion.

8 BY MR. HABER:

9 Q. You can answer.

10 A. I think generally just as it is
11 with financial results there is a level of
12 materiality.

13 I'm not a finance person, but I
14 think finance has rules around materiality and
15 that must apply to reserves as well.

16 Q. When Shell made external
17 communications, say its quarterly reports, did
18 Shell seek legal counsel?

19 A. I don't know.

20 Q. Were you ever involved in meetings
21 concerning quarterly announcements where legal
22 counsel had to pass on the propriety of the
23 announcement?

24 A. No. Only in Project Rockford,
25 later, I was aware that legal counsel was

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2 involved, but before that, no.

3 Q. I'm talking about before?

4 A. Yeah. Just to clarify.

5 Q. When you spoke with Ms. Boynton
6 what did you say to her?

7 A. That I would go to the office and
8 look at the memo because, clearly, I hadn't seen
9 it.

10 (Van der Vijver Exhibit Number 37
11 was marked for identification.)

12 BY MR. HABER:

13 Q. I'm handing you, Mr. Van de
14 Vijver, what we've just marked as van de Vijver
15 Exhibit 37. It's a one-page document with two
16 e-mails. The last e-mail is from you to
17 Ms. Boynton, it's dated December 2, 2003, with a
18 copy to your secretary, Marian van der Laan.
19 The subject line reads reserves. The Bates
20 number is V00010837.

21 Have you seen this document before
22 today?

23 A. Yes.

24 Q. Did you write this e-mail?

25 A. Yes. This is one of the two rush

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2 e-mails I wrote before disappearing out of the
3 office.

4 Q. Did you write this e-mail after
5 you spoke with Ms. Boynton or before?

6 A. After.

7 Q. Now, I just want you to look at
8 the sentence that begins, "Indeed, the full
9 consultation needs to happen with all key
10 stakeholders." Do you see that?

11 A. Yes.

12 Q. And it continues. "And I was
13 assured by Frank that he knew what was expected
14 from him."

15 Who are all the key stakeholders
16 you're referring to?

17 A. That's particularly Group Finance.
18 It's external auditors. It's group legal.

19 Don't forget that I based that
20 understanding on the fact that Frank had been
21 group controller himself.

22 Q. Now, the beginning of your e-mail
23 says that you had numerous discussions with
24 Mr. Coopman. And the sentence that we just read
25 into the record you say, "I was assured by Frank

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2 that he knew what was expected from him."

3 What did you mean by that?

4 A. That he knew who he needed to get
5 involved and what the scope was of what he was
6 working.

7 Q. And he knew it because of, as this
8 document says, numerous discussions you had had
9 with him?

10 A. He knew that I expected to get a
11 proper write-up of the whole issue and I also
12 knew from him that he was going to talk to Judy
13 Boynton. So from that I assumed that the right
14 people were talking to each other.

15 Q. And at this point in time when you
16 wrote this e-mail to Ms. Boynton had you spoken
17 with Mr. Coopman about the script?

18 A. No, but I arranged thereafter, I
19 fired off two e-mails and then I arranged with
20 talking to -- when I then went in the car to
21 Weybridge I arranged with my secretary to get
22 all people in the office early morning, next
23 morning at 7:30, all the people in E&P that had
24 anything to do with it to get properly prepared
25 for the next possible opportunity and getting a

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2 full picture.

3 Q. Was that the first time you had
4 spoken with Mr. Coopman following the
5 distribution of the script?

6 A. As I recollect, yes.

7 Q. If you look at Ms. Boynton's
8 e-mail to you, the third sentence of her e-mail,
9 which is also dated December 2, 2003, she says,
10 "neither the group controller nor I were
11 consulted about the script before it was written
12 or sent."

13 Did you have an understanding that
14 the group controller and Ms. Boynton needed to
15 be consulted on the work that Mr. Coopman was
16 instructed to do by you?

17 MR. TUTTLE: Objection to form.

18 THE WITNESS: Yes.

19 BY MR. HABER:

20 Q. And why is that?

21 A. Because, as I mentioned earlier,
22 anything to do with an issue like that that
23 involves reserves, the group reserves auditor is
24 all part of that same fora that ultimately needs
25 to make the decisions and the recommendations.

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2 Q. She goes on to say, "Frank was out
3 of bounds in documenting views without full
4 consultation."

5 Did you agree with her in that
6 assessment?

7 A. Well, I was not sure because I did
8 not know what had happened from her relaying her
9 message to me. It was clear that she felt that
10 it hadn't been done. And when I looked at the
11 script from Coopman it was a script that to me
12 read we had to go out to the market tomorrow.
13 So there was somewhere a disconnect.

14 (Van de Vijver Exhibit Number 38
15 was marked for identification.)

16 BY MR. HABER:

17 Q. Mr. Van de Vijver, I just handed
18 you what's been marked as van de Vijver
19 Exhibit 38. It's a one-page document with two
20 e-mails. The last e-mail is from you to
21 Mr. Coopman, it's dated December 2, 2003. The
22 Bates number is V00010836.

23 Have you seen these e-mails before
24 today?

25 A. Yes.

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2 Q. If you look at the second e-mail,
3 which is the bottom e-mail, is this your
4 recollection of how Mr. Coopman sent you these
5 script, by e-mail?

6 A. Yes.

7 Q. And that was also on December 2,
8 2003? That's what it says here; correct?

9 A. Yes.

10 Q. Now, the e-mail that you sent to
11 Mr. Coopman of December 2nd, was this the second
12 e-mail that you said you sent that day?

13 A. Yes. There was one to Judy
14 Boynton and one to Frank.

15 Q. Okay. Now, the second paragraph,
16 the first sentence you say, "We are only at this
17 stage flagging issues and creating options, not
18 making a firm recommendation."

19 Did you write this in response to
20 what you had said a few moments ago, that Frank
21 seemed to be making a conclusion about whether
22 to debook or restate?

23 A. Yeah. Well, based other than the
24 feedback I was getting from Judy Boynton, who
25 was the group CFO. I felt that Frank had gone

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2 outside his authority, which also meant I would
3 have gone outside my authority.

4 And, clearly, having seen the note
5 that was very conclusive, I wanted to make sure
6 that the proper process was being -- was being
7 followed.

8 Q. Now, when you said you would be
9 going outside your authority, is there a
10 structure within Shell that senior executives
11 are required to follow?

12 A. Yes. There are obviously manuals
13 of authorities, but there are also -- there are,
14 of course, rules when it comes to external
15 disclosure. External disclosure decisions
16 cannot be made by me. Ultimately external
17 disclosure decisions are in the combination of
18 the chairman, the vice chairman and the group
19 CFO.

20 Q. Could you go outside your
21 authority or outside the protocol to advise
22 someone of a problem, for instance?

23 MR. TUTTLE: Objection to form,
24 vague.

25 THE WITNESS: Yes, but I --

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2 probably I could, but I felt that I should just
3 be working the normal structure, the normal
4 process. I think that was the perfect logical
5 way of doing it and that is what I had been
6 doing the last couple of years and that's what I
7 was still doing, bringing up the issues and
8 working them as hard as I could to get the
9 reality of the business up in the organization.

10 BY MR. HABER:

11 Q. Now, in the second sentence you
12 say, "You well know that I have not accepted the
13 latest audit reports."

14 What did you mean by that?

15 A. That I hadn't accepted the Oman
16 report, which recommended that it was okay to
17 keep it another year on the books.

18 And that on Nigeria I was still
19 uncertain about what the final number should be
20 because also the Nigeria audit report did not
21 make a clear recommendation for debooking.

22 Q. When you say you well know that,
23 is that as a consequence of discussions that you
24 had with him?

25 A. Yes. That's what I referred to

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2 earlier when I received those audit reports on
3 the 17th of November. I immediately walked into
4 the office of Frank Coopman and expressed my
5 discomfort with those audit reports.

6 Q. When you walked into Mr. Coopman's
7 office was anyone else present?

8 A. Not that I recollect.

9 Q. What did Mr. Coopman say in
10 response when you expressed your discomfort with
11 those audit reports?

12 A. That he was going to work it
13 himself.

14 Q. What did you understand him to
15 mean by that?

16 A. That as part of the reserves --
17 let's sort of back step. At that time of course
18 there was a Reserves Committee, there was an
19 infrastructure in place that he was leading and
20 Frank, the way he was, he wanted to take
21 ownership himself to further work it in his
22 organization.

23 Q. And was that satisfactory to you?

24 A. Yes. I had confidence in Frank
25 Coopman.

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2 Q. Now, the Reserves Committee, I
3 know you mentioned that it was created under
4 your tenure?

5 A. Yeah.

6 Q. Who was on this Reserves
7 Committee?

8 A. I cannot be totally sure anymore,
9 but I think it was John Darley was a member,
10 Frank Coopman was a member. The group deputy
11 controller in Judy Boynton's organization was a
12 member and maybe a few others, but we would have
13 to look at the documentation.

14 Q. Do you recall if any technical
15 people were members of this committee?

16 A. Well, John Darley was my technical
17 director, so he was one of the members for sure.

18 Q. Is John Darley a reservoir
19 engineer?

20 A. Yes.

21 Q. Was there a chair of the Reserves
22 Committee?

23 A. That was Frank Coopman.

24 Q. Do you know how it was decided
25 that Mr. Coopman would be the Chair of the

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2 Reserves Committee?

3 A. No, not in detail, but knowing
4 Frank he felt that he was the right man to do
5 that.

6 Q. Now, in your prior answer you said
7 when you received the audit reports, referring
8 to PDO and SPDC, on November 17th you said I
9 immediately walked into the office of Frank
10 Coopman.

11 Where in relation to your office
12 was Mr. Coopman's office?

13 A. This was in a new office that we
14 were just moved into a new office in Rijswijk
15 and there Frank Coopman's office, for all the
16 right reasons, was just next to my office.

17 Q. Were your offices separated by a
18 Conference room?

19 A. No.

20 Q. Did you often have discussions
21 with Mr. Coopman that were unscheduled?

22 A. Yes.

23 Q. And during these unscheduled
24 discussions did any of these discussions include
25 the reserves exposures issues that we've been

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2 talking about over the last two days?

3 MR. TUTTLE: Objection to form.

4 THE WITNESS: I cannot recollect
5 the details.

6 BY MR. HABER:

7 Q. When you walked into Mr. Coopman's
8 office to discuss the audit reports how long did
9 the two of you discuss it?

10 A. Oh, very briefly. I think I
11 mentioned before that's the time when I made the
12 comment about to Frank that I really doubted the
13 judgment of Anton Barendregt with his conclusion
14 on the Oman audit. And I had just found this
15 because I had just come back from Oman.

16 Q. Did Mr. Coopman have any response
17 when you commented about your lack of confidence
18 in Mr. Barendregt's judgment?

19 MR. TUTTLE: Objection to the
20 characterization of the testimony.

21 THE WITNESS: No. As I mentioned
22 earlier, he was going to investigate himself.

23 BY MR. HABER:

24 Q. Do you know if he did investigate?

25 A. Well, that's all the things that

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2 happened in the following weeks or months.

3 Q. Following that conversation did
4 Mr. Coopman ever come back with a response about
5 your opinion of Mr. Barendregt?

6 A. No, but he did agree with bringing
7 in Rod Sidle from the United States to help the
8 whole process of establishing what the real
9 compliance numbers were.

10 Q. Who is Rod Sidle?

11 A. Rod Sidle was a senior reservoir
12 engineer in the United States who was the
13 reserves coordinator for SEPCO for the US
14 organization.

15 Q. Did you know Mr. Sidle while you
16 were in the United States?

17 A. Yes. I actually had met him for
18 the very first time when I was based in
19 Bakersfield.

20 Q. Do you recall what Mr. Sidle was
21 doing while you were in Bakersfield?

22 A. Yeah. At that time he had a
23 general management job. It was an interesting
24 phenomena in Shell oil where people could decide
25 themselves to do a ladder system where they

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2 could decide to either go up a technical ladder
3 or to go up a general ladder. And he was at
4 that stage in Bakersfield he had a general
5 manager's job and then he later moved back to
6 technical discipline again. He was a very good
7 reservoir engineer.

8 Q. Now, in your answer, prior answer,
9 you say that you said that Mr. Coopman did agree
10 with bringing in Rod Sidle from the United
11 States to help. Whose idea was it to bring in
12 Mr. Sidle?

13 A. My idea.

14 Q. And what was the reason that you
15 gave to Mr. Coopman for wanting to bring
16 Mr. Sidle into the process?

17 A. Because he had a very high
18 reputation in the technical community and I knew
19 him from being deeply involved in the reserves
20 in the United States and therefore being
21 familiar with SEC rules.

22 Q. Were you ever advised that people
23 within EP had consulted with him from time to
24 time over the years?

25 MR. TUTTLE: Objection,