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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

ESTHER KIOBEL, individually and on behalf of her late husband, DR BARINEM KIOBEL, BISHOP AUGUSTINE NUMENE JOHN-MILLER, DORNUBARI ANSLEM JOHN-MILLER, CHARLES BARIDORN WIWA, ISRAEL PYAKENE NWIDOR, KENDRICKS DORLE NWIKPO, ANTHONY B, KOTE-WITAH, VICTOR B WIFA, DUMLE J. KUNENU, BENSON MAGNUS IKARI, LEGBARA TONY IDIGMA, PIUS NWINEE, SIMEON DEDDOA, KPOBARI TUSIMA Individually and on behalf of his Late father CLEMENT TUSIMA, And individually on behalf of all Others similarly situated: Plaintiffs	:	CIVIL ACTION NO. 02CV 7618
vs.	:	
ROYAL DUTCH PETROLEUM COMPANY, SHELL TRANSPORT AND TRADING COMPANY, p.l.c. Defendants	:	
KEN WIWA, individually and as Executor of the Estate of his deceased father KEN SARO-WIWA, and OWENS WIWA, and BLESSING KPUINEN Individually and as the Administratix Of the Estate of her husband, JOHN KPUINEN, and JANE DOE Plaintiffs	:	96 Civ. 8386 (KMW)
vs.	:	
ROYAL DUTCH PETROLEUM COMPANY and SHELL TRANSPORT AND TRADING COMPANY p.l.c. Defendants	:	
KEN WIWA, individually and as Executor of the Estate of his deceased father KEN SARO-WIWA, and OWENS WIWA and BLESSING KPUINEN, individually and as the Administratix of the Estate of her husband, JOHN KPUINEN, and JANE DOE, vs. BRIAN ANDERSON, Defendant	:	01 Civ 1909 (KMW)

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DEPOSITION UPON ORAL EXAMINATION  
OF  
SIR MARK MOODY-STUART, KCMG

On Thursday, April 15, 2004  
Commencing at 9.35 am

Taken at the offices of:  
Leigh Day & Co., Solicitors  
25 St John's Lane  
London EC1M 4LB  
England

Reported by: Thelma Harries, MBIVR, ACR



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A P P E A R A N C E S :

On behalf of the plaintiffs, Ken Saro-Wiwa et al:

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BY : TOM RAFFERTY, ESQ  
GREG LEMBRICH, ESQ



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I N D E X

DEPONENT:

SIR MARK MOODY-STUART, KCMG

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1 9.35 am

2 MS CHOMSKY: (To the court reporter)  
3 Do you want to swear the witness in, please?

4 SIR MARK MOODY-STUART  
5 having been duly sworn  
6 was examined and did testify  
7 as follows:

8 EXAMINATION

9 BY MS CHOMSKY:

10 Q My name is Judith Chomsky. I  
11 represent the Wiwa plaintiffs in claims they have  
12 against Royal Dutch Petroleum and others.

13 I'm going to begin by asking you  
14 questions today and, later, Mr Whinston will ask  
15 you some questions. He represents the Kiobel  
16 plaintiffs.

17 Is it correct you've never been in  
18 an American style deposition before?

19 A That's correct.

20 Q I'll tell you very briefly the  
21 rules.

22 It's best if only one person speaks  
23 at a time so the court reporter can get everything  
24 down.

25 It's also best if you answer

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1 verbally. If you just nod your head, it's also  
2 hard on the court reporter, so you need to practice  
3 waiting until my question is finished before you  
4 start your answer. Do you understand that?

5 A Yes.

6 Q If you don't understand my question,  
7 please tell me and I'll rephrase it.

8 There will, in the course of this  
9 deposition, be several documents I'll ask you to  
10 look at. Any time that I show you a document, feel  
11 free to read the entire thing if you want or, if  
12 you prefer, you can wait until I direct you to  
13 a certain portion of the document and then either  
14 read just that section or the whole document as you  
15 desire.

16 A Thank you.

17 Q By whom are you currently employed?

18 A My main employment is as chairman of  
19 Anglo-American Plc, but I am also a director of  
20 some other companies, including Shell Transport and  
21 Trading.

22 Q Is it correct that you are a  
23 non-executive director of Shell Transport and  
24 Trading?

25 A That is correct.

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1 Q How long have you been a  
2 non-executive director?

3 A Since two thousand -- June/July.  
4 Beginning of July 2001.

5 Q How long have you been employed by  
6 Anglo-American?

7 A July 2002, I think, I became  
8 a director. I'm not sure whether you count being  
9 a director as being employed. A director is not  
10 actually, I think, employed by the company legally  
11 but...

12 Q Do you receive a salary from  
13 Anglo-American?

14 A Yes, I receive a director's fee, as  
15 it were.

16 Q Do you also receive a director's fee  
17 from Shell Transport and Trading?

18 A I do.

19 Q Are you involved, either as an  
20 employee or director, of any other company within  
21 the Shell group?

22 A Yes. I am a director of Shell  
23 Petroleum Company and of Shell Petroleum NV.

24 Q Is your position with Shell  
25 Petroleum Company Limited that of a non-executive

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1 director?

2 A Yes.

3 Q Is it correct that Shell Petroleum  
4 Company Limited has two classes of directors,  
5 executive and non-executive?

6 A I believe that it has -- yes, two  
7 classes of directors, A and B, or some such, but  
8 I don't have the precise details of it.

9 Q Do you hold the same position on  
10 the board of directors of Shell Petroleum Company  
11 Limited that you held when you were still  
12 a full-time employee of the Shell group?

13 A No. I think I became a -- I moved  
14 from being a managing director to being a director  
15 or some such. I couldn't tell you the precise  
16 titles.

17 Q Is the same true for Shell Petroleum  
18 NV?

19 A Effectively I believe it's so, yes.

20 Q In addition to Shell Transport and  
21 Trading, Shell Petroleum Company Limited and Shell  
22 Petroleum NV, are you on the board of any other  
23 Shell group entity?

24 A No.

25 Q What was your last full-time

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1 position with any Shell group entity?

2 A I was chairman of the Committee of  
3 Managing Directors of the Royal Dutch Shell group.

4 Q At that time were you also the chair  
5 of Shell Transport and Trading?

6 A Yes.

7 Q During what period of time did you  
8 hold the position of chair of the Committee of  
9 Managing Directors?

10 A From the 1st July 1998 to 30th June  
11 2001.

12 MR WHINSTON: Can you please keep  
13 your voice up? I'm having a little bit of trouble  
14 hearing you.

15 THE WITNESS: Yes. I'm sorry.

16 MR WHINSTON: Thank you.

17 BY MS CHOMSKY:

18 Q During the period that you were  
19 chair of the Committee of Managing Directors, by  
20 whom were you employed?

21 A I received a fee from Shell  
22 Transport as a director, as chairman. I received  
23 a fee, salary, from Shell Petroleum Company and  
24 Shell Petroleum NV, and I received a salary from  
25 Shell International Petroleum Service Company in

1 London.

2 Q Shell International Service Company  
3 was previously SIPC, is that correct?

4 A Shell International Petroleum, no.  
5 SIPC in Shell parlance is -- no, you're right. It  
6 is, yes. I beg your pardon. You are quite  
7 correct; Shell International Petroleum Company is  
8 the service company, the UK service company.

9 Q Were you also employed or received  
10 any salary from the Dutch service company?

11 A No, only from Shell Petroleum NV,  
12 which is the Dutch holding company.

13 Q When you were chair of the Committee  
14 of Managing Directors, did you have any special  
15 portfolio?

16 A I had particular responsibility for  
17 human resources, legal. That's about it, I think.

18 Q External affairs?

19 A Yes, also -- yes, external affairs  
20 would have reported to me also.

21 Q Did you have special  
22 responsibilities for business principles?

23 A Yes. We had collective  
24 responsibility for business principles but, as  
25 chairman, I certainly would have regarded it as

1 a particular part of my task, to ensure that  
2 business principles were adhered to.

3 Q Was health, safety and the  
4 environment a function that was particularly within  
5 your sphere?

6 A In broad terms, yes, but health,  
7 safety and the environment would be the  
8 responsibility also of each of the chief executives  
9 of the business lines.

10 We have tried to make sure that  
11 health, safety and the environment is a line  
12 responsibility not a responsibility separated off  
13 in some corporate function. But overall  
14 responsibility, certainly.

15 Q Can you explain what you mean by  
16 "business line"?

17 A Yes. The businesses such as  
18 exploration and production, chemicals, what we call  
19 manufacturing in Shell, oil products, renewables.

20 Q These are the different categories  
21 into which the various operating companies fit?

22 A Yes. We changed the structure of  
23 the group in -- it started in '95 and in '97, and  
24 it was a process of evolution.

25 Originally the structure was one of

1 countries and regions with the technical functions,  
2 exploration and production, manufacturing oil  
3 products and so on, acting as advisers to those  
4 regions. But the regions held the shareholding  
5 corporate responsibility.

6 We switched that responsibility so  
7 that in a matrix the stronger part of the matrix  
8 became the businesses and the regions became the  
9 weaker part of the matrix, as it were.

10 Q That's a change that occurred in  
11 around 1995?

12 A We started in '95 and it progressed  
13 and, when I became chairman, we created chief  
14 executives of the businesses such that one had a  
15 chief executive called the chief executive of  
16 exploration and production, oil products, etcetera,  
17 and most of the chief executives were managing  
18 directors.

19 This was an evolution of the  
20 Committee of Managing Directors towards what might  
21 be regarded as a more usual business structure with  
22 something approaching an executive committee with  
23 something approaching a chief executive.

24 Q When you say "a more usual business  
25 structure", are you referring to the fact that the

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1 ultimate parents are two different companies in  
2 this case?

3 A Only partly. The traditional  
4 pre-'95, and certainly pre-'97 -- we started to  
5 change in '95. Quite frankly now I can't remember  
6 exactly when we made the changes, but changes  
7 started under a study with Cor Herkstroeter, and  
8 then I continued. So the changes started when  
9 Cor Herkstroeter was chairman and continued under  
10 my chairmanship.

11 Prior to that, the senior executive  
12 body in Shell, as it were, was the Committee of  
13 Managing Directors. Below the Committee of  
14 Managing Directors you had a layer of coordinators;  
15 regional coordinators and functional coordinators.

16 As we progressed, changed, we  
17 eliminated the regional coordinators and went to  
18 lines where we had business lines, so a chief  
19 executive of chemicals, exploration and production,  
20 oil products, renewables, etcetera, and the  
21 regional responsibility went into something which  
22 we called the international directorate.

23 Q When you were chair of the Committee  
24 of Managing Directors, did you have any specific  
25 regional areas that were in your portfolio?

1           A           No, I did not. Although, because  
2 of my past experience and connections, I dealt  
3 particularly with the Middle East, but the regional  
4 responsibility for the Middle East was held by  
5 somebody else, Jereon van der Veer, if I remember  
6 correctly.

7           Q           Were you on the Committee of  
8 Managing Directors prior to the time that you  
9 became its chair?

10          A           Yes.

11          Q           When did you join the Committee of  
12 Managing Directors?

13          A           In 1991, I think. Not 1990. It  
14 might have been 1990. Either '90 or '91.

15          Q           During the time that you were on the  
16 Committee of Managing Directors, but before you  
17 became its chair, did you have any special  
18 portfolio?

19          A           Yes, I was exploration and  
20 production coordinator, as I described previously,  
21 reporting, in a sense, to myself as managing  
22 director with responsibility for exploration and  
23 production.

24                       I also had a regional  
25 responsibility, which was I think the Middle East.

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1 But the Middle East, I probably only became  
2 regional managing director for the Middle East  
3 somewhat later, either just before Sir Peter Holmes  
4 retired or when he retired, and he retired in '96,  
5 I would guess.

6 Q When you were a chair --

7 A I'm sorry, these dates are all  
8 somewhat -- they've never concerned me,  
9 particularly. I could give you the precise dates  
10 if you need them. I apologise.

11 Q I understand but, in general, we're  
12 asking you and other people to remember details  
13 that sometimes become vague.

14 A These are details which, in the  
15 evolution of one's career, one does not always  
16 remember when one stopped being responsible for one  
17 thing and when one changed position.

18 Q In the period when you were chair of  
19 the Committee of Managing Directors, were you on  
20 the board of directors of any other Shell group?

21 A Company?

22 Q Yes.

23 A Yes. I was on the board of Shell  
24 Oil in the United States. I was on the board of  
25 Shell Research. I was a trustee of the Shell

1 Foundation. And I was on the board of Shell  
2 Canada.

3 Q Were you chair of the board of any  
4 of those entities?

5 A I was chair of the board of Shell  
6 Canada and I was chair of the trustees of the Shell  
7 Foundation. Of Shell Oil? Steve Miller was the  
8 chairman and chief executive of Shell Oil.

9 At some point prior to that, for a  
10 brief period, I was chairman of Shell Oil in the  
11 United States, but I considered it more appropriate  
12 that it be chaired by the chairman and chief  
13 executive, Steve Miller; by Steve Miller who was  
14 chief executive and he became chairman.

15 Q Mr Miller was chief executive of  
16 Shell Oil?

17 A Correct.

18 Q Were you also at this same period on  
19 the board of SPI, Shell Petroleum, Inc.?

20 A I was, yes.

21 Q Were you the chair of that board?

22 A Yes, I think so.

23 Q During this period when you were  
24 chair of the Committee of Managing Directors, were  
25 you also on the board of Shell Petroleum Company

1 Limited?

2 A Yes. Sorry, did you ask me whether  
3 I was the chairman?

4 Q No, whether you were on the board?

5 A Yes, I was on the board.

6 Q Were you the chairman?

7 A I was the chairman of Shell  
8 Petroleum Company.

9 Q Were you also on the board of Shell  
10 Petroleum NV?

11 A Yes.

12 Q Were you the chair of that?

13 A No.

14 Q Do you recall who was the chair?

15 A Marten van den Bergh.

16 Q Were you also on the board of SIPC  
17 during the period that you were chairman of the  
18 Committee of Managing Directors?

19 A The reason I'm thinking is that, at  
20 some point during that period, we changed the  
21 structure. The answer is I think "yes".

22 Q When the structure changed, did you  
23 become a board member of the successor, Shell  
24 International?

25 A No, it was merely a change of the

1 board membership of Shell International Petroleum  
2 Company, the service company.

3 Q Were you also on the board of SIPM?

4 A When I was chairman of --

5 Q Yes, the committee?

6 A -- the Committee of Managing  
7 Directors? Yes, I believe so.

8 Q Were you the chair of the board of  
9 SIPM?

10 A No, I believe not.

11 Q Do you recall who was the chairman?

12 A I would presume it was Marten van  
13 den Bergh, who was the president of Royal Dutch.

14 Q When you were on the Committee of  
15 Managing Directors, before the period that you  
16 became the chair of the Committee of Managing  
17 Directors, that is in the period from 1991 to 2001  
18 --

19 A No.

20 Q I'm sorry --

21 A To '98.

22 Q -- to 1998, were you on the board of  
23 any Shell group entities, in addition to those that  
24 you've named?

25 A Yes. I was on the board of Shell

1 International Chemical Company, I believe, and  
2 I was on the board of Montell NV, which was a joint  
3 venture chemical polyolefin company, a joint  
4 venture with Montedison, a 50 per cent joint  
5 venture.

6 Q You mentioned that you were on the  
7 board of Shell Research?

8 A Correct.

9 Q Was that a service company?

10 A Yes, I suppose you would call it  
11 a service company. It was the company which held  
12 the Shell interests in various research  
13 laboratories and so on.

14 Q So it was, in fact, a holding  
15 company, is that accurate?

16 A No, not a holding company. In  
17 a sense, I suppose you would regard it as an  
18 operating company. It would have been Shell  
19 Research and, like any other Shell company, would  
20 have been owned by Shell Petroleum Company and/or  
21 Shell Petroleum NV. Those two holding companies  
22 ultimately hold any company in the Royal Dutch  
23 Shell group.

24 Q Are there any holding companies  
25 between those two entities and the operating

1 companies?

2 MR RAFFERTY: Any operating company?

3 MS CHOMSKY: Any of the Shell group  
4 operating companies.

5 THE WITNESS: Yes, I would imagine  
6 so, but there are literally hundreds of companies  
7 and, at some point in the chain of companies, there  
8 may be intermediate companies.

9 BY MS CHOMSKY:

10 Q When you were -- strike that.

11 As a board member of Shell Petroleum  
12 Company Limited, did you attend meetings of the  
13 board?

14 A Yes.

15 Q As a board member of Shell  
16 International --

17 A Petroleum.

18 Q Strike that.

19 As a member of the board of SIPC,  
20 did you attend board meetings?

21 A Yes.

22 Q It had face-to-face board meetings,  
23 is that correct?

24 A Yes.

25 Q Would you describe your duties as

1 the coordinator for exploration and production?

2 A In the period that I was coordinator  
3 for exploration and production I had responsibility  
4 for providing, through the branch of the service  
5 company, through the exploration and production  
6 coordination which was a part of Shell  
7 International Petroleum Maatshappij, that company  
8 was responsible for providing technical service and  
9 advice to Shell operating companies around the  
10 world, with the exception of Shell Oil in the  
11 United States. That advice was provided under  
12 service agreements with the various operating  
13 companies.

14 Q Did SIPM have service agreements  
15 with all of the Shell operating companies outside  
16 of the US?

17 A It would not have, not with all of  
18 the operating companies; with the operating  
19 companies where there was an exploration and  
20 production activity.

21 I'm talking about the exploration  
22 and production part of it. There could have been  
23 service agreements between Shell International  
24 Petroleum Maatshappij and other operating companies  
25 which covered the provision of other services, not

1 exploration and production.

2 The service agreements were  
3 sometimes all-encompassing, as it were, and  
4 sometimes, to my memory, split; that there would  
5 be an exploration and production piece and there  
6 would be a marketing piece, and then there would be  
7 other trademark and other agreements, and so on.  
8 It's a somewhat complex system, but necessary to  
9 ensure the independence and to respect the  
10 independence of the operating companies.

11 Q As the coordinator of exploration  
12 and production, did you negotiate service  
13 agreements with the operating companies?

14 A I personally did not, no.

15 Q Whose function was that? Or what  
16 position was responsible for that?

17 A That would have been done by the  
18 legal department of the exploration and production  
19 coordination, who was a legal adviser, counsel, who  
20 reported to the exploration and production  
21 coordinator. He also had a team of lawyers who  
22 would negotiate, not only service agreements but  
23 also concession agreements with governments, and so  
24 on, around the world.

25 Q During this --

1           A           I think, in addition to that, there  
2 would have been input from corporate legal services  
3 to ensure that service agreements were broadly  
4 compatible with each other.

5           Q           Can you explain what you mean by  
6 that?

7           A           Well, the structure of the Royal  
8 Dutch Shell group is one of independent operating  
9 companies operating in different countries around  
10 the world.

11                       The service to these is provided by  
12 service companies, and it's obviously desirable  
13 that there be some degree of commonality between  
14 these service agreements, and that commonality  
15 would be maintained through liaison between the  
16 functional, the technical, the legal departments of  
17 the technical functions, and, overall, corporate  
18 legal function.

19           Q           What are the areas in which there  
20 would be commonality?

21           A           I would say that the broad structure  
22 of the agreement, the method in which the services  
23 were provided for fees, so the broad fee  
24 structure.

25                       A person in one function quite

1 likely costs -- or the overheads will be similar to  
2 those in another function, so that sort of thing  
3 I would imagine.

4 Q When you were EP coordinator, by  
5 whom were you employed?

6 A By Shell International Petroleum  
7 Maatshappij in the Netherlands.

8 Q Is it -- go on.

9 A When I became a managing director --  
10 no, I continued to be. No, that stands.  
11 I continued to be employed by Shell International  
12 Petroleum Maatshappij.

13 Q I believe you testified earlier that  
14 you were employed at some period of time when you  
15 were on the Committee of Managing Directors by  
16 Shell International Petroleum Company, is that  
17 accurate?

18 A Yes, that is accurate. What I was  
19 trying to recall was at what point...

20 When I was not a managing director,  
21 I would have been employed fully by Shell  
22 International Petroleum Maatshappij.

23 When I became a group managing  
24 director and a board member of Shell Transport and  
25 Shell Petroleum Company and Shell Petroleum NV, at

1 some point, which frankly I can't recall, there  
2 would have been a change in my employment structure  
3 from being employed by Shell International  
4 Petroleum Maatshappij in the Netherlands to Shell  
5 International Petroleum Company in London but,  
6 quite frankly, I cannot recall at what point or  
7 precisely why or when that change what have taken  
8 place.

9           During that period I was paid a  
10 salary from various sources and, frankly, I did not  
11 pay a great deal of attention to which particular  
12 source it came from. It was not of huge interest  
13 to me.

14           Q       Did this change involve signing a  
15 new employment contract?

16           A       I would imagine so.

17           Q       Do you have any recollection?

18           A       No. I had no contract as a group  
19 managing director. I certainly had a contract,  
20 what I would call a routine employment contract,  
21 with Shell International Petroleum Maatshappij.  
22 I can't remember signing one with Shell  
23 International Petroleum Company; I may or may not  
24 have done so.

25                   I have never taken these employment

1 contracts particularly seriously. I was always,  
2 and have always said in public, that, like any  
3 other member of the Royal Dutch Shell group,  
4 I consider myself to be on three months' notice.  
5 If someone wanted to get rid of me they could fire  
6 me at three months' notice, and that was the main  
7 concern. And I made pension contributions.

8 Q You made pension contributions to  
9 the same pension fund without regard to which of  
10 the entities you were employed by?

11 A No. It varied. During my career,  
12 while I was moving around the world, there's  
13 something called the Shell Overseas Contributory  
14 Pension Fund, which I would have contributed to,  
15 and to which my employing company would have  
16 contributed to.

17 When I came back to England in 1994  
18 and became resident in England, I would have become  
19 a member of the Shell pension fund, which is, as it  
20 were, the domestic UK Shell pension fund.

21 Q Did you stay a participant in that  
22 fund until your retirement from Shell?

23 MR RAFFERTY: Which fund, Judith?

24 MS CHOMSKY: The Shell UK fund.

25 THE WITNESS: Yes, and it's that

1 fund which pays my pension at the moment.

2 When I say "a participant", at some  
3 point I ceased to contribute. Because I had worked  
4 for Shell so long, I got a sort of pension  
5 contribution holiday; I made sufficient  
6 contribution to it under the rules of the scheme,  
7 which I do not, again, pay a great deal of  
8 attention to.

9 BY MS CHOMSKY:

10 Q You began your employment with some  
11 Shell group company in 1966, is that right?

12 A That is correct.

13 Q Could you briefly describe your  
14 employment history with the Shell group beginning  
15 in 1966?

16 A When I completed post-graduate work  
17 in Cambridge in geology -- where I was,  
18 incidentally, on a Shell studentship -- I was  
19 interviewed by Shell in The Hague.

20 At that time the employing company  
21 was BIPM, Bataafse International Petroleum  
22 Maatshappij. I was interviewed and taken on as  
23 a geologist in The Hague.

24 I underwent induction training,  
25 technical training in The Hague and at the Shell

1 Research Laboratory in Rijswijk.

2 In January 1967, or thereabouts,  
3 I was asked to go to Spain as a field geologist.  
4 This was a temporary assignment, not a permanent  
5 assignment. I was on loan from BIPM, as it was in  
6 those days, to Shell Spanje NV, which was an  
7 exploration company exploring in Spain. And,  
8 because I was on loan, and this was a temporary  
9 assignment, my wife remained either in the  
10 Netherlands or actually went back to England to  
11 work in England with our son; our young son.

12 I worked in Spain as a field  
13 geologist for most of that year. It will about  
14 September. There were two field geologists. I was  
15 the more junior one.

16 Then I went back to The Hague and  
17 I was told that my next job would be with the Shell  
18 Research Laboratory, Ksep1 Koninglijke Shell  
19 Exploratie en Productie Laboratorium -- this was  
20 the Shell exploration and production research  
21 laboratory in Rijswijk -- and that I would be  
22 engaged on a research project in the Omar  
23 mountains.

24 The then head of exploration had an  
25 idea about exploration in the Oman mountains and

1 that was Oman mountains was a particular good  
2 example of a particular geological phenomenon.

3 I was engaged doing field work in  
4 the Sultanate of Oman during 1967, the latter part  
5 of '67, and the early part of 1968. This also was  
6 on a bachelor basis, and my wife continued her  
7 research in Cambridge. And some of that year we  
8 spent in the Netherlands. Yes.

9 In late 1968, I was employed by  
10 Brunei Shell Petroleum in the Sultanate of Brunei  
11 as an exploration geologist and a well-site  
12 geologist. My wife and I and growing family lived  
13 there in Brunei, employed by Brunei Shell, for four  
14 years from 1968 to 1972.

15 During that time I became an  
16 exploration team leader. That was from '68 to '72,  
17 and two more of our children were born in Brunei.

18 In 1972 I went to Australia and was  
19 employed by Shell Australia Limited -- I may not  
20 have the precise name of the employing company --  
21 as chief geologist. I worked in Australia,  
22 employed by Shell Australia, for another four  
23 years, from '72 to -- no, four-and-a-half year --  
24 '77.

25 At that point I returned to Britain

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1 and worked for Shell UK in London, being  
2 responsible for the exploration teams in the North  
3 Sea. That was in 1977 to '78; probably about the  
4 turn of '76 to '77 to '78.

5 We were actually only in London for  
6 barely two years and then I was asked whether  
7 I would go to Brunei again, again to be employed by  
8 Brunei Shell as something called services manager,  
9 which was responsible for transportation,  
10 engineering maintenance and procurement.

11 We worked in Brunei in 1978 and  
12 '79. Again, only for about eighteen months, short  
13 of two years.

14 At that point I became employed by  
15 the Shell Petroleum Development Company of Nigeria,  
16 which, come to think of it, at that point was Shell  
17 BP Petroleum Development Company of Nigeria.

18 I went to Nigeria in, it must have  
19 been about September '79, I think. Only some ten  
20 days or so after I arrived in Nigeria, the Nigerian  
21 government nationalised, extinguished BP.  
22 Actually, the shares of BP in Shell BP were  
23 cancelled by the Nigerian government, and that  
24 company became the Shell Petroleum Development  
25 Company of Nigeria.

1 I worked in Nigeria from '79 until  
2 1982 for Shell Petroleum Development Company of  
3 Nigeria as divisional manager in the western  
4 division based in Warri.

5 In 1982 I went to Turkey and was  
6 employed by Shell Turkey as general manager. We  
7 lived in Turkey from 1982 to '86.

8 In 1986 I went to Malaysia, where  
9 I was chairman and chief executive of the Shell  
10 companies in Malaysia. There were several Shell  
11 companies in Malaysia. That was in 1986.

12 In 1989, late 1989, I returned to  
13 The Hague, I think right at the end of 1989, and  
14 was appointed exploration and production  
15 coordinator employed by Shell International  
16 Petroleum Maatshappij.

17 Thereafter, then I became  
18 subsequently a managing director, and I think you  
19 know that history.

20 Q I'd like to go back to your  
21 testimony about a period of time around '79 or '80  
22 when the government of Nigeria nationalised Shell  
23 BP.

24 A No, they nationalised BP.

25 Q BP. Oh BP being?

1           A           Then it was British Petroleum, now  
2 BP.

3                        They nationalised British  
4 Petroleum's interests in Nigeria. They did this  
5 for various political reasons connected -- well,  
6 I think there's no need probably to go into all the  
7 details unless you wish so. I am not sure that I  
8 am competent. This happened just after I arrived  
9 in Nigeria.

10           Q           When you went to Nigeria you went to  
11 be employed by what entity?

12           A           By the Nigerian operating company,  
13 which was 50 per cent owned by Shell and 50 per  
14 cent owned by BP.

15           Q           When the 50 per cent share of that  
16 operating company was nationalised, did those  
17 shares go to Shell?

18           A           No, what happened was; there was  
19 considerable discussion as to whether the operating  
20 company, which was a Shell BP company, whether the  
21 government would take an interest in that company,  
22 so become a 50 per cent shareholder, and, from  
23 a Shell point of view, and I believe a practical  
24 point of view, this was not particularly desirable  
25 because to work in a part-government-owned company

1 would probably have resulted in more day-to-day  
2 involvement of the government in the running of the  
3 operations.

4 The Nigerian government therefore  
5 decided that, instead of taking an interest in the  
6 operating company, it would extinguish the shares  
7 in the operating company. So they simply cancelled  
8 them, and that operating company became 100 per  
9 cent owned by Shell.

10 However, that operating company had,  
11 from memory, a 40 per cent interest in a joint  
12 venture with the Nigerian National Petroleum  
13 Company, so it was a 60 per cent Nigerian National  
14 Petroleum Company, 40 per cent Shell BP Petroleum  
15 Development of Nigeria.

16 When the government took its action  
17 against BP as a shareholder, at the same time the  
18 shareholding of the interest of Shell BP, the  
19 40 per cent interest of Shell BP Petroleum  
20 Development of Nigeria in the 60/40 joint venture  
21 in Nigeria, unincorporated joint venture in  
22 Nigeria, became a 20 per cent interest.

23 So as far as Shell's financial  
24 interest went, it made no difference. This was not  
25 a matter between Shell and the government or

1 between Shell and BP. It was a matter between BP  
2 and the Nigerian government and the government of  
3 Britain who, at that time, owned a significant  
4 share in BP.

5 So, as far as those of us working  
6 in the company at the time, this made effectively  
7 no difference. BP had been under the arrangements  
8 which prevailed. Shell BP Petroleum Development  
9 essentially, most of the staff, all of the staff,  
10 came from the expatriate staff and were provided  
11 under the service agreement from Shell  
12 International Petroleum Maatshappij and not from  
13 BP. So I think there were no people provided to  
14 that company from BP.

15 This was an arrangement which went  
16 way back in history to before the Second World War,  
17 and in which, as I understand it -- and these are  
18 historical things -- the companies in West Africa,  
19 Shell and BP, were working together in a number of  
20 countries, including this country incidentally, and  
21 the operations in West Africa were staffed and  
22 advised by Shell, and those in East Africa were  
23 staffed and advised by BP under similar service  
24 agreements.

25 So they were independent companies

1 but one or other adviser gave technical advice and,  
2 where necessary, provided staff. That's a sensible  
3 arrangement because otherwise you get too many  
4 cooks in the same kitchen.

5 Q You testified that when you were in  
6 Malaysia you were chair of several companies, Shell  
7 companies in Malaysia, is that correct?

8 A That's correct.

9 Q In that period when you were chair  
10 of the several companies, by which company were you  
11 employed?

12 A I was employed by Shell Malaysia  
13 Limited, which was the marketing company.

14 To my recollection, the companies --  
15 and the situation changed somewhat between 1986 and  
16 1989 -- the Shell marketing interests in Malaysia  
17 were held by Shell Malaysia Limited. That's the  
18 company which employed me and which provided also  
19 finance services and other services to other Shell  
20 interested companies in Malaysia.

21 In addition to that, there were  
22 a refining company, Shell Refining -- I think it's  
23 Shell Refining (FOM) -- for Federation of Malaysia  
24 -- Limited, or actually probably Federation of  
25 Malaya Limited, which was a refining company which

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1 had a public shareholding and was quoted on the  
2 Kuala Lumpur Stock Exchange.

3 Shell also provided technical  
4 services to that company. I was chairman of that  
5 company. And, although I was paid by Shell  
6 Malaysia Limited, there would have been a service  
7 agreement between Shell Refining and Shell Malaysia  
8 for the provision of finance services, legal  
9 services, and so on.

10 In addition to that, there were two  
11 upstream companies, two oil producing companies;  
12 one was Sarawak Shell Berhad and the other was  
13 Sabah Shell Berhad. Those were the companies which  
14 acted as operator and were the holder of the  
15 signatory to the production sharing contract with  
16 Patronas.

17 During the period I was in Malaysia,  
18 whether originally the marketing interests in  
19 Sarawak and Sabah in east Malaysia were in separate  
20 companies or were in a separate company or not,  
21 I don't know, I can't remember, or whether it was  
22 part of Shell Malaysia Limited, but, at any rate,  
23 during my time there, the operations in Sabah and  
24 Sarawak were put into a separate company with a  
25 Malaysian shareholding, and that company was called

1 Shell Timur, Timur being the Malay for "east".

2 This was part of the Malaysian  
3 government's Bumiputra policy; the process of  
4 indigenisation of industry to ensure that Malays,  
5 indigenous Malay nationals -- the indigenous people  
6 of the Malay peninsular and of east Malaysia were  
7 slightly different -- have an interest in  
8 companies. They had a progressive legal process to  
9 increase the share, and we participated in that.

10 Q I'd like to have you look at  
11 exhibit 640.

12 (To Mr Rafferty) I don't have extra  
13 copies because I told Rory we would be using the  
14 same documents again today. I take it he neglected  
15 to pass them on to you?

16 MR RAFFERTY: He didn't tell me that  
17 you wouldn't have extra copies.

18 BY MS CHOMSKY:

19 Q I'd like to draw your attention on  
20 exhibit 640 to -- you'll see at the bottom it says  
21 DEF 14773. Do you see that?

22 A Oh yes, yes.

23 Q To that page.

24 A Yes. I have not seen this page  
25 before, to my recollection, but yes?

1           Q       It says under the first bullet point  
2 that the business principles and health safety and  
3 environment are part of the sphere of  
4 responsibility of Mr Cor Herkstroeter.

5                    It goes on to say that he and the  
6 Committee of Managing Directors have responsibility  
7 to ensure that they are implemented in all the  
8 companies at all levels of the group.

9                    The next sentence talks about you,  
10 Moody-Stuart, taking over those responsibilities.  
11 Do you see that?

12           A        I see that.

13           Q        Is that an accurate description of  
14 what your responsibilities were with regard to the  
15 business principles and health safety and  
16 environment?

17           A        Yes, I think so. The responsibility  
18 to ensure that they are implemented in all  
19 companies at all levels in the group was something  
20 that we set about systematically introducing  
21 through the shareholding structure of the Royal  
22 Dutch Shell group.

23                    So we put in place a process whereby  
24 the boards of each and every independent Shell  
25 company were requested by the Shell holding

1 companies to adopt the Shell business principles  
2 formally at that board meeting. So this is a  
3 process that went on around the group and they were  
4 adopted formally over a period of months, and even  
5 years in the case of some companies.

6 So that's the mechanism by which  
7 this having the responsibility to ensure that they  
8 are implemented was exercised, both through that  
9 and through the service agreement.

10 Q As I understand it, you had the same  
11 principles adopted in each of the operating  
12 companies, is that what you're saying?

13 MR RAFFERTY: Object to the form.  
14 (To the witness) You can answer again, if you'd  
15 like.

16 THE WITNESS: Sorry, could you  
17 repeat the question?

18 BY MS CHOMSKY:

19 Q As I understand your testimony, you  
20 implemented these policies at all levels by having  
21 those policies adopted by the various boards of  
22 directors of the companies?

23 A We used our influence as  
24 shareholders and as those who appointed the  
25 directors of all those companies, which is what

1 shareholders do, to suggest to them that they  
2 adopted the Shell group business principles, and  
3 they did.

4 We went further than that and  
5 suggested that it was a good idea if companies  
6 tried to introduce them into joint venture  
7 companies. And in many cases, because most of  
8 these operating companies could see the benefit of  
9 having sound business principles, went to great  
10 lengths to try and ensure that the principles were  
11 introduced into joint venture operations.

12 Q Other than suggesting that the  
13 individual boards adopt the same principles, did  
14 the Committee of Managing Directors take any steps  
15 to ensure that these principles were implemented?

16 A We had a system of discussions  
17 between the shareholders, as it were, the group  
18 shareholders, and the responsible manager, letters,  
19 back to the letters of representation, similar to  
20 the financial letters which go through the group  
21 audit system, which say that we have not kept two  
22 books of accounts and that there are no major  
23 unreported things. That sort of thing.

24 We introduced a reporting system  
25 whereby the person who was responsible in the

1 company -- because, after all, these were the  
2 responsibilities of independent operating companies  
3 -- could report back to the shareholders in the  
4 form of a letter whether there were any issues with  
5 the business principles, and so on.

6 In addition to that, we introduced  
7 a system whereby there could be a discussion  
8 between the manager of an operating company or the  
9 chairman or chief executive, whatever he or she  
10 was, and one or other of the managing directors,  
11 perhaps a regional managing director, to have what  
12 we call a face-to-face discussion to see whether  
13 there were any issues, was there any problem in any  
14 areas, what the general state of affairs was in the  
15 country.

16 As you can imagine, there are  
17 considerable issues of corruption in many  
18 countries, corruption is endemic in many countries,  
19 and the Shell group have a policy of not bribing  
20 anyone, and there would be a discussion on whether  
21 there were any issues: Was this causing problems?

22 When I conducted these discussions,  
23 I found they were very useful on both sides. They  
24 brought what could otherwise be a quite dry  
25 document to life. But it was a discussion between

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1 somebody representing the shareholders and an  
2 independent operating company.

3 Q Did the Committee of Managing  
4 Directors have any mechanism to audit whether, in  
5 fact, these policies were being implemented?

6 A The process which I've described,  
7 the letters of representation, the letters on the  
8 business principles and the face-to-face meetings,  
9 that's the process that is described in the Shell  
10 report. I think Shell has now produced six;  
11 I think it's on its sixth or seventh Shell report.

12 The first Shell report was something  
13 quite ground-breaking in industry, I think. This  
14 process was described in that report; that was the  
15 process of assurance, as it were, similar to  
16 a financial auditing process. The extent to which  
17 that process was externally assured is described in  
18 those reports.

19 MS CHOMSKY: I think this is a good  
20 time for a break. Why don't we take a 5-minute  
21 break?

22 MR RAFFERTY: Do you want to just  
23 give me an idea of what your schedule is? We're  
24 off the record.

25 (A short recess at 10.54 am)

1 (Resumed 11.16 am)

2 BY MS CHOMSKY:

3 Q When you were the chair of the  
4 Committee of Managing Directors, to whom did you  
5 report?

6 A Ultimately, I suppose, to the  
7 shareholders. I was chairman of Shell Transport  
8 and Trading. We had a board of directors of Shell  
9 Transport and Trading. The Royal Dutch Petroleum  
10 had a supervisory board. The two boards meet, as  
11 you probably know, in something called the  
12 conference, which is a meeting without legal  
13 significance, but it's where the boards of the two  
14 companies have presentations on what's going on in  
15 the different parts of the business.

16 I actually chaired that meeting. So  
17 the chairman of the Committee of Managing Directors  
18 chaired that joint meeting. So I chaired the Shell  
19 Transport board and I chaired the joint meeting of  
20 conference.

21 In a sense, I regarded myself as  
22 reporting to those boards, but, ultimately, my  
23 responsibility was to the shareholders.

24 Q That would include the shareholders  
25 of Royal Dutch Petroleum?

1           A           Well, that's one of the, in a sense,  
2 anomalies; that the interests, in my opinion, of  
3 the shareholders of Shell Transport and the  
4 shareholders of Royal Dutch are identical, although  
5 they have shareholdings in the group through a  
6 different route.

7                        So, yes, I would regard myself as  
8 a servant of the group, as it were. That's why  
9 I was called chairman of the committee of group  
10 managing directors. So I certainly would not have  
11 differentiated between the two shareholders, but my  
12 legal responsibility was to the shareholders of  
13 Shell Transport.

14           Q           Who owns the trademark rights to the  
15 Shell Pecten?

16           A           To my knowledge, and like everything  
17 else of the Royal Dutch Shell group, it would be  
18 owned by one or other or both of the holding  
19 companies. But, frankly, I don't know.

20           Q           Is the right to use it -- strike  
21 that.

22                        Do the operating companies have a  
23 right to use the Pecten?

24           A           Operating companies which have  
25 signed an agreement which gives them the right to

1 use the Pecten, yes, but the use of the Pecten is  
2 covered by agreements with the owners of the  
3 Pecten.

4 Q Do you recall in 1990, in your  
5 position as coordinator for exploration and  
6 production, being involved in issues relating to  
7 negotiations over the MOU between SPDC and the  
8 military government of Nigeria?

9 MR RAFFERTY: Object to the form of  
10 the question. (To the witness) But you can answer  
11 if you...

12 THE WITNESS: Just say the question  
13 again. Do I?

14 BY MS CHOMSKY:

15 Q I'll withdraw the question.

16 Do you recall in 1990 participating  
17 in discussions with employees of SPDC concerning  
18 negotiations involving their holdings in Nigeria?

19 A As part of the provision of service,  
20 the service companies which I was responsible for,  
21 SIPM, exploration and production service, would  
22 certainly have had an interest in the state of  
23 agreements with the Nigerian government, and we  
24 would, on occasion, if requested, offer advice,  
25 legal support, drafting support, whatever might be

1 required, as required by SPDC.

2 Q Do you have a current memory of your  
3 personal involvement in that process?

4 A No. I would have been broadly aware  
5 of what was going on. I have a memory that there  
6 was an issue of the extension of, I think, the  
7 onshore agreements, on which a question of the  
8 extension of those agreements was being discussed,  
9 which at some point was resolved. I certainly have  
10 no detailed memory of the discussion, and I would  
11 not have been directly involved in the  
12 discussions.

13 I would, as someone advising both  
14 the operating companies and representing the  
15 service companies, I would have been interested in  
16 the progress but not in any day-to-day or detailed  
17 fashion.

18 Q Do you recall being directly  
19 involved in any way in discussions concerning the  
20 offshore licenses?

21 A I don't recall it, no.

22 MS CHOMSKY: (To the court reporter)  
23 Would you please mark this as exhibit 648. For the  
24 record, exhibit 648 is Bates stamped A501 to A502.  
25

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1 (Exhibit 648 marked for identification)

2 BY MS CHOMSKY:

3 Q Please take as much time as you need  
4 to review the document.

5 A (Witness reviewed the document)  
6 Yes, okay, I've read it.

7 Q Does this refresh your recollection  
8 about conversations you may have had with regard to  
9 the offshore?

10 A This is not in relation to the  
11 offshore. This is in relation to onshore acreage  
12 in the Benin basin, which is up river in Nigeria.  
13 It's not connected with the main oil-producing  
14 area.

15 I do, now I see this, recall that  
16 there was a proposal to explore in those distant  
17 onshore areas.

18 Q Do you recognise this document?

19 A I recognise the form of it and,  
20 since it has in the address EP, that was my  
21 designation, so I think it's a racing certainty  
22 that I will have seen it.

23 Since it says refer telephone  
24 conversation Lavers/Moody-Stuart, I would have seen  
25 it, I would imagine.

1                   This is a document which relates to  
2 the acquisition of a new exploration area in  
3 Nigeria, and the operating company seeking support  
4 from their technical advisers on the quantum of  
5 expenditure which could, and would eventually, be  
6 supported by the shareholders of whichever company  
7 acquired the acreage. The proposal here would  
8 appear to be that it was acquired by SPDC.

9                   Q       Do you know whether they acquired  
10 the acreage?

11                  A       To my memory, yes, they did.

12                  Q       What was the source of the  
13 15 million dollars that was expected to be the cost  
14 of this license?

15                           MR RAFFERTY: Object to the form.

16 BY MS CHOMSKY:

17                  Q       I'm sorry, I'll rephrase it.

18                           There's a reference on A502, on the  
19 second page, to 15 million dollars. Do you see  
20 that in the second paragraph?

21                  A       I do. The expenditure expected to  
22 be incurred would amount to USD 15 million in the  
23 three exploration licenses and, on conversion, an  
24 additional expenditure of 7 million, yes.

25                  Q       Do you have a recollection of what

1 the source of the expenditure was?

2 A I don't have a recollection, but  
3 I would surmise that the normal process would be  
4 that this expenditure would be covered by funds  
5 generated by SPDC itself.

6 But, in acquiring part of the  
7 service advice that we gave, was technical support  
8 as to the wisdom, technical wisdom or otherwise, of  
9 spending this money on exploration.

10 You can see that there's a  
11 discussion on the first page; the evaluation of  
12 the hydrocarbon basins was presented to SPDC by  
13 Hartsink. This is SPDC saying, "We agree with the  
14 inferred prospectivity of the Benin basin, but feel  
15 that the limited size and likely scarcity of  
16 structuration limit its scope." So they were  
17 pretty sniffy about it; they didn't think that it  
18 was any great shakes.

19 "Therefore we see the large and  
20 unexplored Gongola basin as a more attractive  
21 opportunity which we propose to pursue." The  
22 Gongola basin is in the province of Gongola out  
23 there.

24 What they would be doing was, in  
25 order to acquire the acreage, for SPDC to acquire

1 the acreage, they would require shareholder  
2 approval. The shareholders would require technical  
3 support from the shareholders' technical advisers.

4 Q By shareholders, you're talking  
5 about the shareholders of SPDC?

6 A Correct.

7 Q Who were the shareholders of SPDC?

8 A They would ultimately be the Shell  
9 Petroleum Company or Shell Petroleum NV, so either  
10 of the Shell Petroleum Company -- I think SPDC is  
11 a Shell Petroleum Company subsidiary.

12 Q Do you know whether it's a direct  
13 subsidiary?

14 A No.

15 MS CHOMSKY: (To the court reporter)  
16 Would you mark this, please, as 649? It's Bates  
17 stamped A2352 and A2353.

18 (Exhibit 649 marked for identification)

19 BY MS CHOMSKY:

20 Q Do you recognise this document?

21 A No.

22 Q Are you familiar with the content of  
23 this document?

24 A I have some memory of it but no  
25 detailed memory.

1           Q           Drawing your attention to the second  
2 paragraph that begins, "Effectively the MOU set the  
3 realisable prices." Do you see that?

4           A           Yes.

5           Q           Can you explain what the  
6 relationship of pricing was to the US market?

7                       MR RAFFERTY: Object to the form of  
8 the question.

9                       THE WITNESS: As I understand it,  
10 and I don't recall, the arrangements in Nigeria  
11 provided for the company, SPDC, to earn a fixed  
12 margin between a price of 12 dollars 50 and 23  
13 dollars. So the variation in oil prices between  
14 that should make no difference to the fixed  
15 return.

16                      It is always, of course, a question  
17 of interest to governments what the value of the  
18 oil actually is produced. So it would be quite  
19 common, instead of for each and every cargo  
20 producing figures which might relate to the sale  
21 of a cargo to a particular person, it might be an  
22 affiliate of Shell or it might not be an affiliate  
23 of Shell, that there would be some kind of external  
24 benchmarking of the price.

25                      What the second paragraph suggests

1 here is that there should be a calculated price  
2 based on ex-refinery product prices, which will be  
3 available publicly because that's what people buy  
4 off ranks in refinery, in three distinct markets,  
5 the US Gulf, northwest Europe and the  
6 Mediterranean. These three markets do not always  
7 move. They don't bear a fixed relation to each  
8 other, so it would be quite normal for the  
9 government, or in an agreement, to take pricing  
10 indicators from different parts of the world. In  
11 this case you might have included prices in  
12 Singapore, for example, but that's not the case.

13 Those prices, I believe, would then  
14 have been used to work out what money was due to  
15 the government from the realisation of the sale of  
16 the crude oil, leaving SPDC with the fixed margin  
17 of 2 dollars.

18 That's a simplified version. Of  
19 course it's more complex because you have to  
20 consider the cost of producing the oil, which needs  
21 to be taken into account. And, further on, there's  
22 a reference to attempts to forecast how these costs  
23 might or might not increase in the future.

24 So it's a somewhat complex  
25 arrangement, but the discussion here relates to

1 those arrangements and to the possible impact of  
2 them.

3 BY MS CHOMSKY:

4 Q Is there a particular reason, that  
5 you're aware of, for the choice of US, northwest  
6 Europe and Mediterranean as the benchmarks?

7 A In choosing indicators, whether they  
8 are inflation indicators or whatever index is  
9 chosen, parties to an agreement are always in a bit  
10 of a quandary because they are always nervous that,  
11 if they pick one particular benchmark, that  
12 benchmark might move in an abnormal way in relation  
13 to others.

14 So what people normally try and do  
15 is pick a series of indicators which, kind of,  
16 smooth the effects. So if, for example, the  
17 products in one of these areas became more  
18 expensive or less expensive due to a surplus or  
19 a shortage or may be an incident in a refinery  
20 somewhere, this effect would be smooth.

21 The reason for choosing those three  
22 markets, I would imagine, is because the bulk of  
23 Nigerian crude would serve Atlantic basin of  
24 markets. Not entirely. Some of it might go  
25 eastwards. But the eastern markets tend to be

1 served from the Gulf in the Middle East, that Gulf  
2 eastwards, whereas the western markets are served  
3 by the North Sea, by West Africa, by Venezuela and  
4 by the Gulf of Mexico and the United States.

5 So that would be the reason for  
6 choosing the three indicators. It has nothing to  
7 do with precisely where the oil goes. It's just  
8 a general indicator and people having the feeling  
9 that at some point they might be disadvantaged or  
10 the other side might be advantaged by picking one  
11 particular indicator. So there's safety in  
12 numbers, basically.

13 Q There's an Arabic numeral 2?

14 A Yes.

15 Q That deals with SITCO?

16 A Correct.

17 Q SITCO is a Shell group corporation,  
18 is that right?

19 A Correct, Shell International Trading  
20 Company.

21 Q SITCO was not a party to the MOU  
22 that is being discussed in this memorandum, is that  
23 correct?

24 A So far as I could see, no.

25 Q Can you explain what the reference

1 in that paragraph to SITCO means with regard to the  
2 MOU?

3 A I can explain what I think it means,  
4 and from my memory.

5 The Shell Petroleum Development  
6 Company of Nigeria would have, what would be known  
7 as, its equity crude, so crude from its 20 per cent  
8 at this time -- well, I don't know, maybe it had  
9 gone up; by then it probably may have. I think it  
10 was still 20 per cent at this time but it might  
11 have gone up to 30 per cent -- the 20 per cent from  
12 the joint venture.

13 So the Nigerian government, NNPC,  
14 would lift, as it were, from the oil terminal their  
15 share, their 80 per cent share.

16 Shell Petroleum Development Company  
17 would have equity oil, as it's known; the  
18 20 per cent share. The Shell Petroleum Development  
19 Company does not run a global crude trading  
20 business, so they would have contracted with Shell  
21 International Trading to take this crude.

22 The formula, the pricing formula  
23 under which Shell International Trading took the  
24 crude, would be that provided in the MOU, so an  
25 index based on these different markets -- US, Gulf,

1 northwest Europe and Mediterranean.

2 When SITCO took this crude at that  
3 price then SPDC would be paid this amount of  
4 whatever that index indicated for a price per  
5 barrel, netted back from products allowing for the  
6 cost of refining, etcetera, back to crude oil.

7 Shell International Trading Company  
8 would then take delivery of the cargo of crude and,  
9 for its own account, would attempt to sell it at  
10 the best possible price into whatever market gave  
11 it the best possible price return.

12 What later on in the memorandum it  
13 says is, if it's assumed that SITCO sell the crude  
14 at a price in excess of spot prices. Now, SITCO  
15 might have a longer term contract with a refinery,  
16 a Shell refinery or some other refinery, to provide  
17 crude oil, a reliable supply of crude oil from  
18 Nigeria, because refineries like constant diets of  
19 crude; they can't deal with any old mixture, they  
20 like a steady diet. They might have longer term  
21 contracts based on this.

22 And what the second half of the  
23 paragraph goes to say is that, at times, SITCO has  
24 been unable to recover in the market the price  
25 indicated by the formula. So SITCO was then

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1 trading at a loss. At other times they were  
2 trading at a profit.

3 What it says here is that, apart  
4 from a period in the second and third quarters of  
5 '86, SITCO should have -- whoever is writing this  
6 is assuming -- should have made a margin on it,  
7 which is not unreasonable; if you're handling  
8 crude on behalf of a third party, you hope to make  
9 a small margin per barrel to cover your costs.

10 Q At the bottom of the second page  
11 there's a reference indicator WA/55. Do you see  
12 that?

13 A Yes.

14 Q What does that indicate to you?

15 A That indicates that this document  
16 was written by somebody or is produced by someone  
17 in the western region, so in the region which  
18 covered Africa. I'm not sure at that time, Latin  
19 America; certainly Africa, the western region. So  
20 it's from the regional organisation of the service  
21 companies.

22 Q I was just going to ask you that.  
23 That is it's written by someone in the service  
24 companies?

25 A Somebody in Shell International

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1     Petroleum Company, not Shell International  
2     Petroleum Maatshappij. The regional organisations  
3     were based in London, and this is written by  
4     somebody in one of the London regional  
5     organisations, who at that time held the  
6     shareholding, as it were, in operating companies.

7             You will remember some time ago  
8     I explained that there was a switch in the matrix  
9     from the shareholding being in basically regional  
10    hands to a business line of shareholding, and at  
11    this time the shareholding was in regional hands.

12            The shareholders' advisers were the  
13    regional organisation on matters commercial, as  
14    opposed to technical.

15            Q        When the reorganisation took place,  
16    was there a change in the actual shareholder of the  
17    operating companies?

18            A        No. No, there would only have been  
19    a change in which part of the service companies  
20    advised the shareholder, the holding companies, on  
21    commercial matters.

22            Q        With regard to the license that was  
23    referred to in 648 --

24            A        That was the earlier -- yes.

25            Q        -- would there have been a similar

1 recommendation written up from the regional  
2 coordinating body with regard to that agreement?

3 MR RAFFERTY: Which agreement?

4 MS CHOMSKY: The licensing that's  
5 referred to in 648.

6 MR RAFFERTY: Thank you.

7 THE WITNESS: In 648 the discussion  
8 is largely a technical one as to whether or not it  
9 would be worth spending so many million dollars of  
10 shooting seismic and appraising the acreage,  
11 whether the expected return, given risks, was  
12 likely to be -- that evaluation on behalf of the  
13 shareholders would have been done by the  
14 exploration and production organisation.

15 In fact, the final support to the  
16 shareholder saying "We think that this would be  
17 a good way of investing money" would, in fact, have  
18 come from the regional organisation. So advice on  
19 matters commercial, although they had a technical  
20 origin, would come from the regional organisation,  
21 but the regional organisation would not give that  
22 advice without having received some technical  
23 input.

24 BY MS CHOMSKY:

25 Q When you say advice to the

1 shareholder, you're talking about advice to what  
2 entity?

3 A Well, the independent operating  
4 companies would have an agreement with their  
5 shareholders that, without reference to the  
6 shareholders, they could spend certain amounts of  
7 money. There would be different categories. But,  
8 if there was a major expenditure, a major  
9 investment, there would be an agreement with the  
10 shareholder that, before such a major investment  
11 was made, the shareholders' views on the subject  
12 would be sought, and support from the  
13 shareholders.

14 That would be done formally through  
15 a board memorandum of the shareholders, or, not  
16 necessarily through a board memorandum, through  
17 advice to the shareholders, which would then go  
18 back to the board of the operating company saying  
19 "Yes, the shareholders are supportive of making  
20 this major investment", or not, as the case may  
21 be.

22 Below that ceiling, whatever it  
23 might be, the operating company would be entirely  
24 free to spend its money as it wishes.

25 Q Would it go to the shareholder or

1 would it go to -- strike that.

2                   Would this recommendation to the  
3 shareholder go to the Committee of Managing  
4 Directors?

5                   A           The whole principle of authorities  
6 for expenditure is tiered so that, at a certain  
7 level, an operating company could make a capital  
8 investment of its own accord without any recourse  
9 to the shareholder.

10                   At a certain level it would, in  
11 these days, have gone back to the region, required  
12 support from the shareholder in the form of the  
13 regional coordinator. At a certain level it would  
14 exceed the regional coordinator's authority and  
15 would need to go to the Committee of Managing  
16 Directors. And at a certain level it would exceed  
17 the authority of the Committee of Managing  
18 Directors and need to go to the boards of the  
19 parent companies.

20                   So if, for example, one was planning  
21 to construct a major refinery or a major offshore  
22 platform costing several hundred million dollars,  
23 this intention to invest the money through a  
24 subsidiary company would go to the boards of the  
25 parent company.

1 Q The ultimate parent?

2 A Correct.

3 Q With regard to exhibit 649, the  
4 memorandum concerning the memorandum of  
5 understanding, to whom is this directed, if you  
6 know?

7 A Sorry 6?

8 Q The one you have in front of you,  
9 649.

10 A I don't know. It's a document  
11 produced within the regional organisation.  
12 Frankly, I don't know. I don't know. It's for use  
13 within the region.

14 It might have been as part of a  
15 proposal to the regional coordinator or whatever.  
16 I have no idea. All I can tell you is that it was  
17 produced -- because of the WA/55, it was produced  
18 within the regional organisation.

19 The regional coordinator would be  
20 WA, the area coordinator for Nigeria and may be  
21 another couple of countries would be WA/5, and  
22 WA/55 would be someone reporting to the area  
23 coordinator. Whoever it was, didn't sign it.

24 MS CHOMSKY: (To the court reporter)  
25 Could you please mark as exhibit 650 the document

1 Bates stamped A492 to A494.

2 (Exhibit 650 marked for identification)

3 BY MS CHOMSKY:

4 Q I take it that this document is a  
5 follow up to a discussion you had with Mr Lavers,  
6 who was the managing director of SPDC in 1990, is  
7 that correct?

8 A That's correct, yes.

9 Q Do you now recall that you had  
10 a series of discussions with Mr Lavers about the  
11 negotiations that he was conducting with the  
12 government of Nigeria at the time?

13 A No, I don't. I would not have  
14 had many discussions with Mr Lavers because  
15 communication to Nigeria was not very easy.

16 Much of it would have been done by  
17 telex but, plainly, I did have a telephone  
18 conversation with him on the subject, and the  
19 subject of this telex is technical advice on  
20 mechanisms, either production sharing mechanisms or  
21 an adapted memorandum of understanding, apparently  
22 for deep water, and discussing the merits and  
23 demerits of different fiscal approaches basically,  
24 to giving advice to Lavers on what we thought was  
25 reasonable, and also giving information to the

1 Committee of Managing Directors so that they would  
2 know what was going on.

3 Q Is the subject-matter of this  
4 document dealing with the offshore development that  
5 ultimately -- strike that.

6 Does this document refer to offshore  
7 development?

8 A This document would appear to refer  
9 to deep water offshore, so outside the current  
10 acreage held by SPDC.

11 SPDC had onshore acreage, they had  
12 some offshore acreage, shallow water, as it were,  
13 up to five or 600 feet in depth.

14 This referred to the deep water.  
15 When it says "deep water", it would be beyond 200  
16 meters, something like that, going off the Niger  
17 Delta into very deep water.

18 This was an area which was  
19 considered possibly prospective, and the content of  
20 this is discussing the merits and demerits of  
21 different terms. What one wants, from a government  
22 point of view and from a company point of view, are  
23 terms which allow you, if you only find a small  
24 amount, to produce it. But, if you find a very  
25 large amount and it's highly profitable,

1       understandably the government wishes that profit  
2       not to go to just the company but to go to the  
3       government, and this discusses mechanisms of trying  
4       to ensure that we could have a practical agreement  
5       which would allow the development of small and  
6       relatively marginal fields as well as highly  
7       prolific fields while giving the government  
8       a reasonable share. In this there are a couple of  
9       different mechanisms envisaged.

10                       So this is a discussion of different  
11       approaches which Lavers might take, might wish to  
12       introduce with the government, in his judgment.

13               Q       Do you know whether there was  
14       ultimately an agreement with the government of  
15       Nigeria regarding this deep water development?

16               A       Yes, there was an agreement because  
17       Shell and other companies have deep water acreage.  
18       It's been explored and oil has been discovered  
19       there. I'm not sure that any of it has been  
20       produced yet but it's in preparation for  
21       production.

22                       So agreement was reached and, to my  
23       memory, I believe agreement was reached on some  
24       kind of production-sharing contract.

25               Q       Was the agreement reached an

1 agreement between SPDC and the government or some  
2 other Shell group entity and the government?

3 A I believe, but I'm not absolutely  
4 certain of this, that a new company was set up,  
5 a separate Nigerian company called something like  
6 Shell Deporter or Shell Offshore, or something,  
7 which was separate from the original organisation  
8 of SPDC.

9 The reason why this I think was done  
10 -- I say "I think was done" because I'm dredging  
11 my memory somewhat. I think it's in a separate  
12 company because, as you can see in this discussion,  
13 where it says ring fenced or not ring fenced, it's  
14 always a matter of interest and concern to a  
15 government whether, from your existing operations  
16 which are generating profit, if you make  
17 expenditure in a new operation, whether you can  
18 offset those expenditures against tax which you  
19 would have paid on your existing pension.

20 On the whole governments like to  
21 say, "Oh, you've got a profitable organisation  
22 here. If you're starting again, let's start again  
23 here", so that you put all the capital for it and  
24 do not offset it against tax. That's clearly  
25 advantageous to the government. The problem is

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1 that it may make it uneconomic to do.

2 I think, in this case, that was  
3 a source of concern to the government, so that's  
4 probably why a separate company was set up.

5 Q Set up by the Shell group?

6 A Yes. Whether the company is held by  
7 a direct shareholding from one of the holding  
8 companies or by SPDC, I don't know. I believe it's  
9 a separate company and a separate organisation and  
10 a separate technical organisation.

11 Part of the rationale for that, from  
12 Shell's point of view, I think, was that deep water  
13 requires a different sort of technology, different  
14 approaches, and so on. In order to gain  
15 efficiencies and make use of experience from  
16 elsewhere this may have been done. I don't know.

17 Q Do you know whether that company is  
18 called SNEPCO?

19 A Ah, you're quite right, it is called  
20 Shell Nigeria E&P Company. You're right. Now you  
21 jogged my memory. SNEPCO; it's Shell Nigeria  
22 Exploration and Production Company, I would guess,  
23 from SNEPCO. The name SNEPCO certainly rings a  
24 loud bell now you mention it.

25 MS CHOMSKY: (To the court reporter)

1 I'd like you to mark as exhibit 651 a document  
2 Bates stamped DEF5271 to 5272.

3 (Exhibit 651 marked for identification)

4 BY MS CHOMSKY:

5 Q Do you recognise this document?

6 A No, but I was clearly there.

7 I can't remember the dinner but I had many dinners  
8 with many...

9 Q It says here that the dinner was at  
10 the invitation of Shell in London.

11 A Correct.

12 Q Do you recall what occasioned Shell  
13 in London to invite the Nigerian minister to  
14 dinner?

15 A I would imagine -- I don't recall,  
16 but the normal thing is that a minister of  
17 a country is visiting London for whatever reason --  
18 because he wants to go shopping or to represent the  
19 government in some way -- and we would normally  
20 hear about that and take the opportunity of having  
21 a discussion with the minister.

22 Q What was the purpose of your  
23 discussion with the minister?

24 A As far as I can see from this record  
25 of what was discussed at the dinner, this telex is

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1 going back to Shell Nigeria to make sure that  
2 whoever was responsible for operations in Nigeria  
3 was completely aware of any separate discussions  
4 which might be taking place in a different  
5 context,. The object of it would be to have  
6 a gathering with the minister to try and understand  
7 whether there were particular concerns that the  
8 minister had, what the minister's views were on  
9 different topics of discussion between SPDC and so  
10 on.

11 At the end, the minister is also  
12 concerned about the press reaction to Nigeria and  
13 Shell's investment in Nigeria. So it was a general  
14 tour d'horizon of matters between Shell in general  
15 and Nigeria in general.

16 Several different Shell companies  
17 are involved. There's a discussion of OPEC,  
18 there's a discussion of acreage in relation to  
19 SPDC, and offshore and deep water. There's a  
20 discussion of reserves, there's a discussion of  
21 associated gas, fiscal agreement, which was an  
22 agreement which was -- I don't know whether the  
23 F is fiscal or financial. It was intended to  
24 facilitate the development and collection of gas  
25 for use to prevent it being flared. There is

1 a discussion of the Nigerian liquefied natural gas  
2 project, which is a major project which eventually,  
3 after I think 35 years, was making progress. So  
4 that sort of thing.

5 And this telex is a report back from  
6 the region back to whoever was the general manager  
7 in Lagos at the time. Watts, presumably. Yes, it  
8 refers to Watts from van der veer who, I think,  
9 must have been representing the region at the time.

10 Q Who was Mr Pearce?

11 A That's a very good question.  
12 I can't recall. Either somebody in the region or  
13 it could conceivably have been someone in SITCO.  
14 I don't know. To tell you the truth, I can't  
15 remember.

16 Q What about Mr Skinner?

17 A Mr Skinner, that's Paul Skinner. At  
18 that time I think he would have been president of  
19 SITCO, the oil trading company. He would have been  
20 there because of this discussion on Nigerian quota  
21 and OPEC quotas. The Nigerian quota is the  
22 Nigerian quota within the OPEC quota, and the  
23 concern then is what would happen to OPEC quotas?

24 The minister would have been at the  
25 OPEC meeting so he would say what he thought

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1 Nigeria's share of the OPEC quota would be and so  
2 on. And there is a concern that, of course, if one  
3 invested in capacity in Nigeria in developing  
4 producing capacity, and the other OPEC if Nigeria  
5 was reduced below Nigeria's capacity, then some of  
6 those capacity would not be utilised, which is not  
7 in the government's interest, not in Shell's  
8 interest.

9                   What the minister is saying in the  
10 first paragraph is that Nigeria will only achieve  
11 a larger OPEC quota if they can say that they are  
12 capable of producing more.

13                   Q           Is that --

14                   A           I think somewhere he referred to the  
15 chicken and egg problem. I seem to remember  
16 something some reference to chickens and eggs.  
17 (Witness reviewed the document) Oh, yes, the  
18 chicken and egg dilemma was discussed.

19                   You only get a higher quota if you  
20 have higher production capacity. But if you have a  
21 higher production capacity than your quota, some of  
22 that capacity will not be used. So you have to  
23 invest in the hope that the minister would be able  
24 to persuade his OPEC colleagues to give him a  
25 bigger quota.

1           Q           What is the significance of the  
2 point under reserves? "The minister raised the  
3 point that he had received two outside reports  
4 stating that SPDC had under-estimated their  
5 reserves."

6           A           I don't know. I see that, due to  
7 the discussion on acreage, there was no opportunity  
8 to take him up on this point, so I don't know.  
9 I can't recall it. But I can't recall any of the  
10 discussion, so I am merely basing it on what I see  
11 in this telex.

12           Q           Is the amount of the reserve in  
13 a given country related in some way to its OPEC  
14 quota?

15           A           OPEC have been through various  
16 phases of allocation of quota between the OPEC  
17 countries.

18                       On some occasions this has led  
19 countries to put great emphasis on their reserves.  
20 The middle eastern countries, Saudi Arabia, Kuwait,  
21 Abu Dhabi, Iraq tended to put great emphasis on  
22 their reserves because they have very large  
23 reserves. There's three quarters of the world's  
24 reserve sit in those countries, so they kept saying  
25 reserves are the most important thing.

1 Other countries would say, no, it's  
2 not reserves, it's actually what you are capable of  
3 producing. There's no point in having reserves if  
4 you haven't developed them and are capable of  
5 producing them.

6 So the argument would swing  
7 backwards and forwards and go on for a long time  
8 between OPEC members on what was more important,  
9 capacity to produce, whether you were being  
10 disadvantaged because you had, as a country,  
11 invested in capacity to produce, or whether the  
12 fact that you had enormous undeveloped reserves was  
13 relevant.

14 This is a longstanding, over  
15 a couple of decades, discussion in OPEC, which is  
16 nothing to do with the companies. This is an  
17 Archean discussion between OPEC ministers.  
18 Everyone, naturally, tries to use whatever  
19 advantage they can, whatever system is most  
20 advantageous to them.

21 Also referred to in here is the  
22 question of what happens to condensate. Condensate  
23 is when you produce gas or it's the very light  
24 liquid which, when you separate the gas from the  
25 oil and then you separate it a bit more, you get

1 some light hydrocarbons.

2 In general, condensate has been  
3 regarded by OPEC as not being part of their quota,  
4 but this, too, has varied as to whether condensate,  
5 which is a liquid, should be included as crude oil  
6 or included in a separate category.

7 The discussion here is, if you can  
8 include it in a separate category then it doesn't  
9 count towards your quota, so that in Nigeria the  
10 reference here to mobiles Oso project, which was  
11 a gas project, a gas circulation when they stripped  
12 the condensate out of the gas and reinjected the  
13 gas, I think, this was whether this would or would  
14 not count towards Nigeria's OPEC quota.

15 Q Do you recall whether there was  
16 pressure on SPDC to increase the estimate of their  
17 reserves in Nigeria?

18 A No, I don't recall that. There was  
19 always pressure to try. As you can see, the  
20 emphasis here is on production capacity; what's  
21 known as producibility.

22 Nigeria, in general, tended to put  
23 more emphasis on production capacity, because that  
24 would be where their advantage might be, rather  
25 than to reserves. If you start an argument with

1 Saudi Arabia or Kuwait on the basis of reserves,  
2 you will probably be disadvantaged because their  
3 reserves are bigger than almost anyone else's.

4 Q Were the interests of SITCO, in  
5 terms of negotiations with the Nigerian government,  
6 compatible with the interests of SPDC?

7 MR RAFFERTY: Object to the form.  
8 (To the witness) You can answer it if you  
9 understand.

10 THE WITNESS: I understand could  
11 there be a divergence of interest between SITCO and  
12 SPDC.

13 The relationship of SITCO to the  
14 Nigerian government -- and at this meeting was an  
15 NNPC representative in London and the minister's  
16 assistant -- that SITCO, of course, had, apart from  
17 handling SPDC's crude on behalf of SPDC under the  
18 terms of those indices that I took. So I think  
19 there would have been no difference in interest  
20 there, particularly.

21 Their main interest, and probably  
22 why they were at the meeting, was they would be  
23 major purchasers, lifters of NNPC's share; NNPC's  
24 80 per cent or 70 per cent of this venture, but  
25 also NNPC's share of crude produced by other

1 ventures. Then SPDC would sell this on the open  
2 market and SITCO, being a major trading  
3 organisation, would be buying this crude from NNPC,  
4 probably on term agreements, but also probably on  
5 spot agreements. I don't know.

6 So SITCO would be a major customer  
7 of NNPC. That was of no certain to SPDC.

8 BY MS CHOMSKY:

9 Q But SITCO also lifted SPDC's --

10 A Correct.

11 Q -- oil, is that correct?

12 A Yes.

13 Q In that context, did they have  
14 conflicting interests?

15 A SITCO's concern, of course, would  
16 always be to ensure that they made a commercial  
17 margin on whatever transaction. As a trading  
18 company, you acquire crude under a certain cost and  
19 sell it at another cost. Your margin depends on  
20 the gap between the two; either positive or  
21 negative.

22 In the case of Nigeria, for the bulk  
23 of crude prices, SPDC were not concerned with the  
24 price of crude. The Nigerian government got a fair  
25 price, which also would be in the interests of

1 SITCO because, if you don't give someone a fair  
2 price, you won't do business with them for very  
3 long.

4 Over much of the crude price range,  
5 the oil price was of no financial importance to  
6 SPDC because they were, essentially, on a fixed  
7 margin. So there was, I think, no conflict of  
8 interest.

9 Q Do you know whether SITCO had the  
10 same shareholders as SPDC?

11 A No. The same ultimate shareholders,  
12 yes. They were both 100 per cent Shell company.  
13 So, ultimately, they were the same shareholder.

14 MS CHOMSKY: I think this is a good  
15 time to take a break for lunch.

16 MR RAFFERTY: You're pretty close  
17 for timing.

18 MR WHINSTON: 12.30.

19 MS CHOMSKY: Is that an okay time  
20 for you?

21 MR RAFFERTY: That's fine. We'll  
22 have to wait a few minutes for our lunch, but  
23 that's okay.

24 MS CHOMSKY: I mean, I can keep  
25 going. Is that better for you?

1 THE WITNESS: I'm entirely relaxed.  
2 I'm in your hands.

3 MR RAFFERTY: Why don't we go now?  
4 They'll probably be ready.

5 THE WITNESS: Yes, okay. I'm sure  
6 they can cope. I'm not going to eat very much for  
7 lunch.

8 (A short recess at 12.32 pm)

9 (Resumed at 2.37 pm)

10 MS CHOMSKY: Back on the record.  
11 You're still under oath. Do you understand that?

12 THE WITNESS: Yes.

13 BY MS CHOMSKY:

14 Q Do you recall, during the period  
15 that you were on the Committee of Managing  
16 Directors, that there were discussions, concerning  
17 reconciliation in Ogoni, taking place in London?

18 MR RAFFERTY: I will object to the  
19 form. (To the witness) But you can answer it.

20 THE WITNESS: Let me make certain of  
21 that. Do I recall that during the period I was  
22 managing director?

23 BY MS CHOMSKY:

24 Q I'll rephrase it.

25 A Yes.

1           Q       Do you recall at any time being  
2 aware of whether there were negotiations concerning  
3 reconciliation in Ogoni taking place in London?

4           A       No. I do recall one occasion  
5 hearing that Ledum Mitee was in London. He came to  
6 London on occasions and would talk to Gordon  
7 Roddick. And sometimes, in some contact or other  
8 I had with Gordon Roddick, he would say that Ledum  
9 Mitee was around. But I never met him and I'm not  
10 aware of any discussion going on in London.

11          Q       Are you aware of whether there were  
12 discussions between Shell group employees and  
13 members of the Ogoni community in London?

14          A       I'm not aware of it, but these folk  
15 travel around the world so it's quite...

16                   I have personally met Ken Wiwa on  
17 one occasion, and he's an Ogoni, but apart from  
18 that, no.

19          Q       The topic of your conversation with  
20 Ken Wiwa junior did not include anything with  
21 regard to reconciliation in Ogoni, did it?

22          A       No, not really. This was a mutual  
23 acquaintance. Ken was working in Canada as  
24 a journalist with the Toronto Star, or whatever,  
25 and, in the run up to the world summit on

1 sustainable development, this person said Ken was  
2 doing some interviews on sustainable development  
3 and he thought it might be interesting for Ken to  
4 do an interview with me.

5 He said would I be interested in  
6 this. I said I could fully understand if Ken  
7 didn't want to meet me but, if Ken wanted to meet  
8 me, I was entirely happy to do.

9 We were going to do it in Toronto.  
10 Then I communicated a bit to and from with Ken  
11 making arrangements as to when. In the end, he  
12 came and had dinner with my wife and me, and we  
13 discussed matters of Nigeria and so on. We didn't  
14 discuss reconciliation, other than I think Ken said  
15 may be at some point, you know, all of this could  
16 be wrapped up in some way, or something.

17 Ken was, I think, pondering his own  
18 -- it's my interpretation -- pondering his own  
19 future, his life in Toronto. There was a  
20 possibility of him coming to London to work for  
21 The Financial Times, he told me. He said he had  
22 some reticence of his father's interests in  
23 Nigeria. He was, kind of, kicking around what he  
24 would do with all of this. So it was really a...  
25 But that would certainly not count as...

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1 I mean, the only form of  
2 reconciliation was actually meeting and having  
3 a dinner together.

4 Q Do you know a General Gowon?

5 A I know of him. He's a former  
6 president of Nigeria. He was in Britain a long  
7 time in, kind of, semi-exile, I think, at, I think,  
8 Sussex University.

9 I think I might have met him on one  
10 occasion at some function or other, but I couldn't  
11 say I know him. I mean I know of him, yes.

12 Q Do you know whether he had  
13 discussions with employees of the Shell group in  
14 London about taking part in the reconciliation  
15 efforts in Nigeria?

16 A I have a vague memory that he was  
17 a board member, or some such, of the Shell  
18 marketing of NOLKAM, Nigeria Oil, I think. This is  
19 a complete off the wall thought, but I have a vague  
20 idea that there was some connection between Gowon  
21 and NOLKAM, I think. I don't know. But as far as  
22 discussions in London, I am not aware of any.

23 Q I'd like to show you a document that  
24 was previously marked as exhibit 643.

25 Before you read the whole document,

1 which is quite long, can you just look at it  
2 sufficiently to tell me whether you recognise it or  
3 can identify it by the format?

4 A (Witness reviewed the document)  
5 I can't say I recognise it as I go through it.  
6 I mean, the incidents and the sequence described  
7 I would not be unfamiliar with, but I can't say.  
8 I might or might not have seen it. I've, frankly,  
9 no idea. I mean, no, I don't know is the answer.

10 Q Can you identify it as something  
11 produced by one of the service companies of the  
12 Shell group?

13 A No, I don't think so.

14 Q Are you familiar with --

15 A Well, I'm just looking to see if  
16 there's anything in there which would... (Witness  
17 further reviewed the document)

18 It would appear to be a general  
19 background briefing of all sorts of things that  
20 went on in Nigeria. It's got little scribbles on  
21 it, but I can't identify the scribbles either. So,  
22 no, I couldn't tell you. I would guess that it was  
23 produced by SPDC, I would guess, but that's  
24 a guess.

25 MR RAFFERTY: You don't want him to

1 guess?

2 MS CHOMSKY: No.

3 THE WITNESS: All right, I won't  
4 guess. I don't know is the answer.

5 BY MS CHOMSKY:

6 Q Do you know what a SWOT analysis is?

7 A Yes; strength, weaknesses,  
8 opportunities and threats. It's quite a common  
9 business acronym. I mean, not just a Shell  
10 acronym; it's a general acronym of people doing  
11 analyses of situations strengths, weaknesses,  
12 opportunities and threats.

13 Q Within the Shell group, what  
14 function would have responsibility for developing  
15 a SWOP analysis?

16 A That could be any number of people.  
17 I mean, operating companies might. It's not  
18 something I personally have ever -- you know.  
19 I've never structured my own thinking particularly  
20 that way, but certainly people who've been on  
21 certain business courses. I don't know who  
22 invented the system, but it's a sort of common  
23 business approach.

24 This could be used in an operating  
25 company. It could also be used in a service

1 company. It's just a technique of looking at  
2 a situation. It's origin is certainly not a Shell  
3 origin. It's an outside Shell origin.

4 Q The SWOT acronym?

5 A Yes, SWOT. The acronym SWOT.  
6 I dare say if you went on the google you could find  
7 out who invented it or who claimed to have invented  
8 it.

9 Q Are you aware of something  
10 designated as the Nigerian Crisis Group?

11 A Not specifically, no, but --

12 Q Was there -- go on.

13 A But, I mean, in Shell and in the  
14 service companies occasionally we had groups called  
15 some crisis group or the other crisis group or  
16 something. But, no, I don't know.

17 Q Do you have a recollection of any  
18 group gathered within the service companies to deal  
19 with the problem or the issue of Nigeria?

20 A If by dealing with the issue you  
21 mean accumulating information and responding to  
22 media and so on, yes.

23 Both the regional coordination and  
24 the public affairs section would have exchanged  
25 information on what's happening and responded to

1 queries.

2 We got a lot of letters. So  
3 certainly there would have been coordination  
4 between the regional coordination in London and the  
5 public affairs group in London on information  
6 relating to Nigeria.

7 Q To your knowledge, has any entity in  
8 the Shell group of companies made public statements  
9 attributing to Ken Saro-Wiwa or MOSOP violent  
10 conduct?

11 MR RAFFERTY: Object to the form.  
12 (To the witness) But you can answer.

13 THE WITNESS: To my knowledge, has  
14 any group within Shell made public statements  
15 attributing to Ken Saro-Wiwa a violent expression?  
16 What did you say? Expressions of?

17 MR RAFFERTY: Violent conduct.

18 MS CHOMSKY: Violent conduct.

19 THE WITNESS: Not to my knowledge,  
20 other than that we were aware of the fact that SPDC  
21 operations in Ogoniland were interrupted with  
22 actual violence and threats of violence, but  
23 I don't think we attributed this to any particular  
24 group other than the perpetrators, as it were.

25 BY MS CHOMSKY:

1           Q           So, to your knowledge, no  
2 representative of the Shell group of companies  
3 attributed -- strike that.

4                       To your knowledge, no group --  
5 strike that.

6                       To your knowledge, no representative  
7 of the Shell group of companies made public  
8 statements to the effect that Ken Saro-Wiwa and his  
9 movement were not non-violent?

10                      MR RAFFERTY: Object to the form of  
11 the question. (To the witness) But you can answer  
12 it.

13                      THE WITNESS: As I say, SPDC's  
14 operations in Ogoniland -- and the cessation of  
15 operations in Ogoniland -- were due to violence and  
16 threats, actual violence and threats of violence to  
17 the people running those operations. That's why  
18 the operations were suspended and all staff were  
19 withdrawn.

20                      To my knowledge, I don't think  
21 anyone ever ascribed those events to any particular  
22 named group of people, other than that it was in  
23 Ogoniland and therefore, presumably, they were  
24 Ogonis; that this was an expression of  
25 dissatisfaction sometimes, even violent or

1 threatening violent dissatisfaction with the  
2 presence of Shell in Ogoniland.

3 I don't recall anyone ever ascribing  
4 it either to Ken or to MOSOP.

5 MS CHOMSKY: I'd like to have marked  
6 as plaintiffs exhibit 652 a document Bates stamped  
7 B732 to B738.

8 (Exhibit 652 marked for identification)

9 BY MS CHOMSKY:

10 Q I'd like to draw your attention to  
11 the page on the document that's Bates stamped  
12 B734. You'll see on the next page, B735, that the  
13 author of this document is Mr Brak?

14 A Yes.

15 Q He, according to this, was the group  
16 public affairs coordinator?

17 A Yes.

18 Q This is a letter that he wrote to  
19 Greenpeace?

20 A In reply to 733, part of which is  
21 there.

22 Q Yes.

23 A Yes.

24 Q I'd like to bring your attention to  
25 the fourth paragraph of B734.

1           A           Yes.

2           Q           Do you see where it says, "Although  
3 both Mr Saro-Wiwa and yourself claim that his  
4 campaign is non-violent, this is not borne out by  
5 SPDC's experience."

6           A           Correct.

7           Q           Is this consistent with your  
8 recollection that the Shell group of companies and  
9 its representatives had not taken the public  
10 position that Mr Saro-Wiwa's campaign was not  
11 non-violent?

12                       MR RAFFERTY: Object to the form.

13                       (To the witness) But you can answer.

14                       THE WITNESS: Well, in my reading of  
15 that paragraph, Mr Brak is saying basically what  
16 I said to you just now, which was that "SPDC's  
17 staff has been attacked, intimidated, their  
18 equipment and vehicles stolen and the company's  
19 facilities damaged. The safety of SPDC's staff has  
20 been so threatened that SPDC had to withdraw its  
21 personnel from the Ogoni area in January last  
22 year."

23                       That statement is in line with what  
24 I said to you just now.

25                       If you say, "although both

1 Mr Saro-Wiwa and yourself claim that his campaign  
2 is non-violent, this is not borne out by SPDC's  
3 experience", I wouldn't say this is an accusation.  
4 It's more of a statement that SPDC's staff has been  
5 subject to attack and --

6 BY MS CHOMSKY:

7 Q Related to Saro-Wiwa's campaign?

8 A Well, it says "this is not borne out  
9 by experience". So we were experiencing violence,  
10 and there's certainly an implication that it was  
11 connected. I mean, to say a campaign is  
12 non-violent, it's rather different than they were  
13 not saying that Mr Saro-Wiwa or his campaign was  
14 necessarily directly involved.

15 Q Do you know whether, at the time  
16 this letter was written, Mr Saro-Wiwa had already  
17 been charged in connection with the murder of four  
18 Ogoni leaders?

19 A No, I don't.

20 Q Do you recall that --

21 A Hold on, I'm just reading the --

22 MR RAFFERTY: Why don't you take  
23 your time and read through it?

24 THE WITNESS: Yes, let me just read  
25 them. (Witness further reviewed the document)

1                   The second page would suggest he had  
2                   been detained, because it says it's not for a  
3                   commercial organisation to speculate on the reasons  
4                   of the Nigerian government for detaining  
5                   Mr Saro-Wiwa.

6                   So after expressing support for  
7                   Mr Saro-Wiwa's right to hold and air his views and  
8                   for his correct treatment, if that was not the case  
9                   it does suggest that he had been detained.

10                  BY MS CHOMSKY:

11                  Q           Do you recall whether, after the  
12                  announcement of Ken Saro-Wiwa's conviction and the  
13                  imposition of the death sentence, that is the  
14                  application to him of the death penalty, the Shell  
15                  group companies put out a statement, again saying  
16                  that MOSOP, in Shell's experience, was not  
17                  non-violent?

18                  MR RAFFERTY: Object to the form.  
19                  (To the witness) If you can follow the ins and  
20                  outs, you can try and answer that.

21                  THE WITNESS: No, I was still just  
22                  reading this bit because there's a reference in  
23                  here to the copy enclosed, saying that not everyone  
24                  involved -- the signatories to this other letter,  
25                  whoever, this other statement -- did not

1 necessarily regard MOSOP as a non-violent  
2 organisation.

3 "Gokana people remain committed to  
4 this course but reject the diversion from this  
5 noble ideal." So, clearly, some people thought it  
6 was non-violent.

7 Sorry, going back to the question.

8 BY MS CHOMSKY:

9 Q I'll withdraw the previous question  
10 and ask you whether you recall, on the occasion of  
11 the Shell group receiving information that Ken  
12 Saro-Wiwa had been convicted, they released a  
13 document in which they attributed to MOSOP violent  
14 conduct?

15 MR RAFFERTY: Publicly released or?

16 MS CHOMSKY: Released.

17 THE WITNESS: The question was: Do  
18 I think that, after the conviction of Ken Saro-Wiwa  
19 and before his execution, that Shell released?

20 BY MS CHOMSKY:

21 Q That Shell released a statement  
22 saying that MOSOP, in your experience, was not  
23 non-violent?

24 MR RAFFERTY: Object to the form.

25 (To the witness) But you can answer it.

1 THE WITNESS: I'm still trying to  
2 get my mind round it. So between sentence and  
3 execution, that Shell -- any particular part of  
4 Shell?

5 BY MS CHOMSKY:

6 Q Shell International BV.

7 A Released publicly? Made a public  
8 statement?

9 Q Yes.

10 A No, I cannot recall. I cannot  
11 recall that, no.

12 Unfortunately, the period was not  
13 very long and I think we spent most of our time  
14 worrying about how one could get clemency in one  
15 form or another.

16 Q (To counsel) Would you show the  
17 witness, please, exhibit 642? (Same handed)

18 A (Witness reviewed the document)  
19 Yes.

20 Q Who is C. Tipper?

21 A I don't know. PAMR; she would be  
22 someone in media relations in Shell centre.

23 Q And the recipients -- Adair, Watts  
24 -- they're all employees of different Shell group  
25 companies, is that correct?

1           A           I don't know, is the answer.  
2           I would guess so. Some of them I recognise as  
3           employees. I certainly couldn't swear that every  
4           one of them was an employee, but it looks to me as  
5           though they are.

6                        I mean the telex would appear to be  
7           a media relations production advising media or  
8           other contact points of response to any enquiries.

9           Q           To your knowledge, has the Shell  
10          group of companies taken a public position that  
11          Shell had never requested military protection in  
12          Nigeria?

13          A           Sorry, could you ask the question  
14          again?

15                       MS CHOMSKY: (To the court reporter)  
16          Could you read that back, please?

17                       COURT REPORTER: "Q. To your  
18          knowledge, has the Shell group of companies taken  
19          a public position that Shell had never requested  
20          military protection in Nigeria?"

21                       THE WITNESS: I'm aware of the fact  
22          that Brian Anderson held strong views on the  
23          subject of military or police protection and made  
24          statements to that effect from his experience.

25                       I'm not aware that anyone ever made

1 a categoric statement denying that at any point at  
2 any time in history that had been done.

3 BY MS CHOMSKY:

4 Q Were you aware of whether or not,  
5 during the period that Phil Watts was the managing  
6 director of SPDC, SPDC had requested military  
7 protection for its operation in Nigeria?

8 A By "military protection" you mean  
9 the army?

10 Q Yes.

11 A I would not have thought that that  
12 was the case.

13 It is, of course, always difficult  
14 when in any country you are faced with violent  
15 events and report these to the authorities, who may  
16 react with, one hopes, normal police support.

17 With any other government response,  
18 it's difficult to say whether, if you merely report  
19 an event, what the response of the government would  
20 be. Governments are independent entities and  
21 normally consider that they have a responsibility  
22 for governing in their own society.

23 In answer to your question, no,  
24 I don't think that -- I would imagine that Phil  
25 could quite well have called for the restoration of

1 law and order. That's something that we've often  
2 vainly hoped for in Nigeria. But whether you would  
3 interpret that as requesting assistance, let alone  
4 military assistance, I'm not sure.

5 Q (To counsel) Would you show the  
6 witness, please, exhibit 644? (Same handed)

7 A (Witness reviewed the document)  
8 Yes.

9 Q Do you recognise this to be a public  
10 statement by the Shell group concerning the  
11 situation in Nigeria?

12 A Yes. I don't remember the precise  
13 formulation but I recognise that it looks like an  
14 advertisement, and I think that we made some public  
15 statement for something.

16 Q Do you see the fourth paragraph from  
17 the bottom where it says, "Shell has never  
18 requested military protection in Nigeria and would  
19 not wish to operate under military protection in  
20 Ogoniland."? It's the first sentence in the  
21 fourth from the bottom paragraph.

22 A (Witness reviewed the document)  
23 Sorry, what was the question?

24 Q Do you see--

25 A Do I see it?

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1 Q Yes.

2 A Yes, I do see it.

3 Now, when I read on, I see that it's  
4 estimated that plant and equipment worth over R,  
5 and the fact that there's an R in there would look  
6 as though this is a statement; it must have been  
7 a statement by an operating company. Guessing,  
8 I would guess that it refers to a statement in  
9 South Africa; R being rand I would imagine. But  
10 that's a supposition.

11 Q You testified a moment ago that you  
12 thought that Phil Watts wouldn't have requested the  
13 military?

14 MR RAFFERTY: Object to the form.

15 MS CHOMSKY: I withdraw it.

16 BY MS CHOMSKY:

17 Q Did you -- strike that.

18 Is it your position that it would be  
19 unlikely that Phil Watts would have requested  
20 protection of the army?

21 MR RAFFERTY: Object to the form.

22 (To the witness) But you can answer if you know.

23 THE WITNESS: No. What I said just  
24 now was that I think, in response to violent  
25 events, one would report these to the authorities.

1 That's a responsibility of any corporation. In  
2 that request, there might be a plea for the  
3 restoration of law and order. I would not take  
4 that as a request for military assistance.

5 BY MS CHOMSKY:

6 Q Is there any process within the  
7 Shell group of companies to verify the accuracy of  
8 public statements such as seen in exhibit 644?

9 A Each operating company is an  
10 independent unit. Shell expects those operating  
11 units to ascribe to the business principles, which  
12 include integrity and honesty.

13 There is a process to try and make  
14 sure that operating companies who might receive  
15 requests for information of events in other parts  
16 of the world -- as a global company, you would get  
17 -- any event at any part in the world is subject  
18 to query in any other part of the world, and there  
19 is certainly a mechanism for trying to make sure  
20 that the public relations focal points, and  
21 companies in other parts of the world, and indeed  
22 employees in other parts of the world, are  
23 reasonably informed of the fact.

24 The use which is made of that  
25 information is then up to the local operating

1 company. There is not a, sort of, screening  
2 process. This is an organisation which is run on  
3 a very decentralised basis by independent  
4 companies, and one would hope that the companies  
5 would make intelligent use of the material which is  
6 supplied to them. But, to my knowledge, there is,  
7 and never has been, a formal mechanism of scanning  
8 every public emission from every Shell person every  
9 area in the world.

10 MR RAFFERTY: Excuse me for a  
11 second. Did you mean there is not and never was?

12 THE WITNESS: No. So far as I know,  
13 there is not and never was.

14 MR RAFFERTY: You said "there is and  
15 never was".

16 THE WITNESS: Oh sorry. There is  
17 not and never was -- I beg your pardon --  
18 a mechanism for scanning every statement but, if  
19 there was an incorrect statement, then one would  
20 expect it to be corrected.

21 BY MS CHOMSKY:

22 Q Was it the policy of the Shell group  
23 to provide accurate information to the various  
24 entities within the Shell group of companies with  
25 regard to facts about which public statements were

1 being made?

2 MR RAFFERTY: Object to the form.

3 (To the witness) But you can answer.

4 THE WITNESS: If I could rephrase  
5 the question?

6 BY MS CHOMSKY:

7 Q Yes.

8 A If you're saying, "Was it the  
9 practice of the Shell group to try and ensure that  
10 those around the world, who were contacted for  
11 information, had adequate sources of accurate  
12 information?", that was, indeed, the practice and  
13 intent.

14 It's very important in a global  
15 organisation, both externally and internally, where  
16 there are events -- they may be accidents, they may  
17 be issues relating to products, they may be, as in  
18 this particular case, violent incidents, including  
19 the tragic execution of Ken Saro-Wiwa -- that  
20 events which would be of considerable concern, both  
21 to Shell staff in different countries all around  
22 the world and also to the public in different  
23 countries all around the world, obviously it would  
24 be the intention to make sure that accurate  
25 information is disseminated around the world so

1 that both staff internally and, where necessary,  
2 people externally, in response to queries, that  
3 that information would be available. Accurate  
4 information.

5 It's a difficult process because  
6 it's very often a fast-moving situation. The  
7 interests of both staff and public in different  
8 parts of the world is very different. Media in  
9 different parts of the world and organisations in  
10 different parts of the world take particular  
11 interest in particular elements, and one is trying  
12 to make sure that the information, that the best  
13 and most up-to-date information, is available so  
14 that a Shell person anywhere in the world  
15 responding to media enquiries can do so in  
16 a reasonably informed way, and that they don't  
17 always have to say, "Well, go and ask them in  
18 London or The Hague or in Lagos", because that,  
19 obviously, is not very satisfactory to a journalist  
20 in Tokyo.

21 Q Do you know whether the service  
22 committees --

23 MR WHINSTON: Companies.

24 MS CHOMSKY: -- The service  
25 companies, thank you.

1 BY MS CHOMSKY:

2 Q -- provide the various companies  
3 within the Shell group of companies with  
4 information to the effect that Shell had never  
5 requested military protection in Nigeria?

6 A No, I don't know if that's so or  
7 not.

8 Q Do you know whether prior to --  
9 strike that.

10 Would you expect, according to the  
11 organisation of the Shell group of companies, that,  
12 before providing such information, there would have  
13 been consultation with the persons involved,  
14 namely, the managing director or people from the  
15 eastern division of SPDC?

16 MR RAFFERTY: Object to the form of  
17 the question. (To the witness) But you can answer  
18 it.

19 THE WITNESS: All information which  
20 was distributed through the service company  
21 mechanisms for trying to ensure that Shell people  
22 and Shell companies in different parts of the world  
23 had accurate information, would have its origin in  
24 the operating company concerned. One would expect  
25 it to reflect the situation, to the extent humanly

1 possible, but the current situation in that  
2 operating company.

3 Quite often a statement which was  
4 being prepared might actually have been drafted by  
5 the operating company concerned, because that gets  
6 it straight from the horse's mouth, which is the  
7 best method. After all, the service companies are  
8 merely reflecting events which happened in an  
9 operating company.

10 BY MS CHOMSKY:

11 Q Were you aware of any accusations  
12 that SPDC had requested army protection for its  
13 operations in Ogoni?

14 A I was certainly aware of general  
15 accusations, quite common accusations, in the  
16 press, civil society organisations and so on, that  
17 Shell was somehow in collusion with the military.  
18 That was a relatively common accusation, which  
19 I knew to be untrue.

20 Q Did you know it to be untrue that  
21 Shell requested military protection for its  
22 operation in Ogoni?

23 MR RAFFERTY: When? Ever?

24 BY MS CHOMSKY:

25 Q When you were on the Committee of

1 Managing Directors.

2 A If, by "military protection", you  
3 mean the army as opposed to police, I would say  
4 I was not aware of any such request.

5 To my understanding, there would not  
6 have been a request for military protection at any  
7 time in Ogoniland.

8 Q What is the basis for your  
9 understanding that there would not have been such  
10 a request?

11 A That the normal operating procedures  
12 would be to inform the authorities of violent  
13 events or incidents, and that the normal response  
14 from the authorities would be through police  
15 response of one sort or another, not military.

16 I would have thought that -- well,  
17 that was my understanding.

18 Q Did you ever make enquiries  
19 yourself, or direct anybody to make enquiries, into  
20 whether, in fact, SPDC had requested military  
21 protection for its operation in Ogoni?

22 A Certainly in discussion with  
23 Phil Watts and Brian Anderson, in their description  
24 of events -- and, if they were describing things to  
25 me, I would have made enquiries -- and given their

1 reaction to outside accusations of involvement with  
2 the military, calling on the military, etcetera,  
3 yes, I had no reason to believe them, and I  
4 reasonably ensured that they had not done so.

5 Q That was information that you  
6 obtained from, among other people, Phil Watts, is  
7 that correct?

8 A Well, I couldn't remember. I think  
9 one has communication, intermittent communication,  
10 with Phil Watts or Brian Anderson on, if they were  
11 on a visit to London, describing the situation,  
12 yes. So, through those sort of communications,  
13 that would have been the source of my information.  
14 And the regional organisation, which would also  
15 have supplied information.

16 Q When did you become aware of the  
17 fact that Ken Saro-Wiwa and other Ogonis were  
18 charged with involvement in murder and were to be  
19 tried before a special tribunal?

20 A I couldn't give you a precise date,  
21 but it would have been, I suppose, relatively early  
22 in the process. I think I would probably have read  
23 it, among other things, in the press but I couldn't  
24 tell you exactly when it happened.

25 I don't know at what point that

1 event actually took place, and I certainly couldn't  
2 tell you precisely at what point I became aware of  
3 it happening.

4 Q Do you recall any time prior to  
5 October 31st, 1995 being informed of the likelihood  
6 that Ken Saro-Wiwa, among others, would be found  
7 guilty?

8 A October 31st ninety?

9 Q '95, the date on which it was --

10 A On which the verdict was actually --

11 Q Was announced, yes.

12 A I don't think there was any -- what  
13 was your question? Was I?

14 Q Did you receive information from any  
15 source, prior to October 31st, 1995 when the  
16 verdict was announced, that it was likely that Ken  
17 Saro-Wiwa would be found guilty?

18 A I couldn't recall precise  
19 information to that effect; somebody saying "it is  
20 likely that".

21 However, there was serious concern  
22 about the ongoing trial and, when one has an  
23 ongoing trial, there would be concern that the  
24 outcome might be negative for the person being  
25 tried or the people being tried.

1 I certainly don't remember any  
2 specific information, but the trial, to my memory,  
3 had been going on for quite some time, quite some  
4 months on and off, and with a large amount of  
5 public attention, not only in Nigeria but around  
6 the world, and a lot of speculation on the outcome.  
7 So certainly before October 31st there was concern  
8 that that might be an outcome.

9 Q Do you recall receiving information  
10 from Brian Anderson that, based on his  
11 conversations with General Abacha, he concluded  
12 that Ken Saro-Wiwa would be found guilty?

13 A "No" is the answer, but I do recall  
14 occasions when Abacha expressed to Brian Anderson,  
15 from my memory, extreme irritation with the  
16 international outcry of Saro-Wiwa, etcetera. So  
17 I was certainly aware that General Abacha was aware  
18 of the progress of the trial of Saro-Wiwa, but not  
19 through any indication that he gave to Brian, or  
20 Brian gave to me, that he concluded that he would  
21 be found guilty. Not that I can recall.

22 Q Do you recall any discussion within  
23 the Committee of Managing Directors about concerns  
24 that Ken Saro-Wiwa was not receiving a fair trial?

25 A I recall discussions on the sort of

1 statements that we made publicly on the need for  
2 him to receive proper medical treatment, the fact  
3 that he should receive a fair trial, and the fact  
4 that we supported, although we didn't always agree  
5 with what he said, but we supported his right to  
6 express his views on the subject, including on the  
7 subject of Shell's operations.

8 I do not recall any discussion on  
9 the form of trial or whether it was fair or  
10 otherwise. We are not legal experts and not really  
11 qualified to comment on such matters.

12 Q It's your recollection that, prior  
13 to the conviction announced on 10/31/95, that some  
14 entity or some representative of the Shell group of  
15 companies had publicly stated that Ken Saro-Wiwa,  
16 and the others charged with him, were entitled to  
17 a fair trial?

18 A Yes, I recall statements along the  
19 lines of proper legal processes, medical attention,  
20 and an expression of support for Ken Saro-Wiwa's  
21 right to express his views.

22 Q Do you recall --

23 A No statement -- I think we would not  
24 have made a statement -- criticising the process or  
25 saying that we thought it was inadequate, but we

1 would have said that there should be an adequate  
2 process. That would be quite in line with the sort  
3 of thing; to say people should be subject to fair  
4 trials, due process, to receive proper medical  
5 attention should they need it, proper attention,  
6 and so on, and a strong expression of the right for  
7 people to express their views.

8 Q So is it your testimony that there  
9 was nothing in the policies of the Shell group of  
10 companies that would have prevented representatives  
11 of the Shell group of companies from saying  
12 publicly that Ken Saro-Wiwa had a right to a fair  
13 trial?

14 MR RAFFERTY: Object to the form.  
15 (To the witness) But you can answer it.

16 THE WITNESS: The policies of the  
17 Shell group, the business principles, contained  
18 a very strong -- which had originated some twenty  
19 years' earlier at a time when international  
20 companies -- and that was the origin of the group  
21 business principles -- at a time when international  
22 companies tended to be accused of interfering in  
23 local politics -- were very strongly angled towards  
24 non-interference in matters political.

25 Therefore, any criticism of

1 political processes, I think, or involvement in  
2 politics, would certainly have been very strongly  
3 part of the, sort of, Shell DNA; that one didn't  
4 do it. There were two strong elements of them.  
5 The business principles were complex documents, but  
6 the common bits that people got -- if you said to  
7 them, "What are the Shell business principles?",  
8 people would say, "We don't bribe people and we  
9 don't get involved in politics."

10           Within that framework, there would  
11 be scope for expressing statements, such as  
12 everyone has the right to a fair trial, but that is  
13 not a criticism of the trial that was going on; it  
14 a statement.

15           So, no, I would not have been --  
16 I would not have been surprised if someone said,  
17 "Wiwa has the right to a proper trial, a fair  
18 trial." I can't remember every statement that was  
19 made, but it wouldn't surprise me if that had taken  
20 place.

21           What would surprise me was if there  
22 had been a statement suggesting that the trial was  
23 not fair, because I don't think we were competent  
24 to judge that.

25 BY MR CHOMSKY:

1           Q       Did the Committee of Managing  
2 Directors ever discuss the possibility of making  
3 a -- strike that.

4                   Prior to Ken Saro-Wiwa's conviction,  
5 did the Committee of Managing Directors ever  
6 discuss the possibility of issuing a statement, or  
7 having a statement issued, calling for a fair trial  
8 for Ken Saro-Wiwa?

9           A       No, I don't think so. I think we  
10 concentrated very much on making sure that we made  
11 statements expressing our views on his right to  
12 express his opinions and on the need for him to be  
13 properly treated, I think was the sort of phrase  
14 that we used or that was used in Nigeria.

15                   At the point where a verdict was  
16 actually produced, I think that the situation  
17 changes completely because, without reference to  
18 whether or not that verdict was proper or not, we  
19 were then able to say, as a result of the verdict,  
20 we requested clemency, because that's  
21 a humanitarian rather than a political statement.

22           Q       In what form was that statement  
23 made?

24           A       In the form of a letter from Cor  
25 Herkstroeter. Eventually, I think, from a letter

1 from Cor Herkstroeter to the head of state.

2 Q Do you know whether it was delivered  
3 to the head of state before Ken Saro-Wiwa and his  
4 fellow defendants were executed?

5 A No, I don't know.

6 Q Was it made public before Ken  
7 Saro-Wiwa and his fellow defendants were executed?

8 A To my knowledge, yes. It was made  
9 public as soon as it was made, I think, I believe.  
10 As soon as the letter was submitted it was made  
11 public.

12 Q Is it your recollection that there  
13 was a decision at the Committee of Managing  
14 Directors to make the request for clemency to  
15 General Abacha public before the execution?

16 MR RAFFERTY: Object to the form.  
17 (To the witness) But you can answer.

18 THE WITNESS: I cannot remember  
19 a specific decision to make it public or not, but  
20 I would have imagined that such an act would have  
21 been made public.

22 We were under heavy criticism for  
23 not having, as people perceived it, interfered in  
24 the trial. There appeared to be a concept that we  
25 could, somehow, influence directly the Nigerian

1 government or the Nigerian government's legal  
2 processes, which was simply not true.

3 We were shocked by the verdict, but  
4 the verdict, given the length and nature of the  
5 trial, was not a huge surprise.

6 What was a huge surprise and great  
7 shock was the fact that the Nigerian government  
8 would actually carry the sentence out. I think it  
9 was the impression of ourselves and most observers  
10 in Nigeria that this was something which would go  
11 on a kind of back-burner and eventually be commuted  
12 by the government.

13 That was the general public  
14 impression and it was certainly, given my  
15 experience of Nigeria and the information that we  
16 had, that that was the likely course of events.

17 Brian Anderson was very anxious to  
18 make sure, given a guilty verdict, that there was  
19 clemency, and he was discussing in Nigeria with  
20 contacts in the government as to how best this  
21 could be influenced, I think. Therefore, it was  
22 a great surprise and shock when it turned out that  
23 General Abacha had every intention of carrying out  
24 the execution.

25 BY MS CHOMSKY:

1 Q Were you aware, before Ken  
2 Saro-Wiwa's conviction, that the conviction carried  
3 with it a mandatory death sentence?

4 A I'm not sure that I was aware that  
5 it carried a mandatory death sentence. The fact  
6 that there was a possibility of a capital sentence,  
7 I was certainly aware of.

8 To my memory, there were several  
9 defendants, some of whom were acquitted, some of  
10 whom were sentenced to death, and some of whom were  
11 sentenced to other forms of imprisonment.

12 Q Do you recall ever having  
13 a discussion -- strike that.

14 Do you recall whether at the  
15 Committee of Managing Directors' meeting there ever  
16 being a discussion of whether Brian Anderson should  
17 carry to General Abacha your concerns about the  
18 possible effect of a conviction and death sentence?

19 MR RAFFERTY: Object to the form.

20 (To the witness) But you can answer.

21 THE WITNESS: After the sentence?

22 BY MS CHOMSKY:

23 Q Before the sentence.

24 A Before the sentence? No, I do not  
25 remember any suggestion that Brian Anderson should

1 take from the Committee of Managing Directors --  
2 transmit any message to General Abacha on the  
3 progress of the trial. I think we would have  
4 regarded that as improper interference in  
5 a national legal process by a corporation.

6 There were others expressing views  
7 on the subject; the International Bar Association  
8 or Nigerian associations, whatever, but that's not  
9 the competence of a commercial organisation.

10 I suspect, had we done it, I suspect  
11 that it would have been counter-productive.

12 Governments, on the whole, do not like being told  
13 what to do on subjects which they consider to be  
14 their specific area. It's a very difficult area  
15 for corporations.

16 MS CHOMSKY: Would you mark this as  
17 plaintiffs exhibit 653, a document Bates stamped  
18 DEF14014 to 14023.

19 (Exhibit 653 marked for identification)

20 BY MS CHOMSKY:

21 Q Do you recognise this document?

22 A No.

23 Q I draw your attention to DEF14015.

24 Do you see that you were copied on it?

25 A Yes.

1 Q I'd like to bring your attention to  
2 the letter from Mr Watts to Brian Anderson. It  
3 begins on the page Bates stamped 14016.

4 A Yes.

5 Q Do you see where it says, under a  
6 bolded section, it says "The Message"?

7 A Yes.

8 Q It says, "In the meantime, the  
9 crisis surrounding Nigeria needs to be effectively  
10 managed. To do so will require that throughout the  
11 Group wherever we are approached or taken to task  
12 regarding our actions and intentions in Nigeria, we  
13 convey a single, consistent message..." Then it  
14 goes on.

15 A Yes.

16 Q Was there a decision by the  
17 Committee of Managing Directors that there would be  
18 a single message that would be carried throughout  
19 the Shell group of companies?

20 MR RAFFERTY: Object to the form.

21 THE WITNESS: In the aftermath of  
22 the two major events which struck Shell in 1995 --  
23 one was the Brents fire incident and the other was  
24 the events around the execution of Ken Saro-Wiwa --  
25 particularly the latter event, had a profound

1 effect on all of us.

2 It is something which is not  
3 a normal part of business experience to have  
4 someone, in any way connected with or in any  
5 relation to operations, executed, particularly as  
6 I think all of us on the -- I don't know whether  
7 all of us but I imagine all of us -- on the  
8 Committee of Managing Directors in any case  
9 fundamentally opposed to the death penalty in any  
10 country for whatever crime.

11 This series of events led to deep  
12 heart-searching in the group -- in the Committee of  
13 Managing Directors, the coordinators and so on --  
14 and this resulted in a series of actions; of going  
15 out and holding meetings around the world to try  
16 and see...

17 There was clearly a mismatch between  
18 what many people in the public regarded as the  
19 responsibility of major corporations and what we  
20 regarded as our responsibility.

21 We considered, rightly or wrongly,  
22 that we had behaved throughout both of these events  
23 to the highest standards and that we had acted with  
24 the best of intentions, but the outcome in neither  
25 case had been the sort of outcome that anyone would

1 have required. So we, kind of, went back to square  
2 one and back to the fundamental principles on  
3 business principles.

4 We started a process about this time  
5 of discussing in small groups around the world --  
6 I forget how many there were but sixty or so --  
7 having discussions between a dozen or so Shell  
8 people and a dozen or so outside people; media  
9 people, academics, NGOs and so on. I myself  
10 attended one of these. We tried to rotate the  
11 attendance. The object was to try and find out  
12 what it was society, in different parts of the  
13 world, actually expected of a major corporation.

14 So we set about this process, and  
15 I was quite struck, in fact, by the fact that the  
16 outside participants responded in a way which I had  
17 not expected. I expected them to spend all their  
18 time telling us what we had done wrong and where we  
19 should do better and what we should do. Actually,  
20 they responded by saying that they thought it was  
21 an interesting question what the responsibilities  
22 were; nobody had asked them the question before  
23 and, frankly, they weren't quite sure of the  
24 answer. That process was in planning and  
25 germination while this was going on. So this is

1 set against a background of an organisation doing  
2 some quite serious heart-searching on saying,  
3 "Should we change our business principles?"

4 Our business principles were  
5 subsequently modified. There were three  
6 modifications made. In word terms they were quite  
7 small, but in impact I think they're quite large.

8 So this was part of a process. Phil  
9 Watts was, at that time, I think, head of our  
10 planning, public affairs and environment.

11 Environment in the sense of globally; not the  
12 natural environment but environment generally. He  
13 was very much involved in that process.

14 So what we were trying to do was  
15 marshal thinking and response to the outside world  
16 in a consistent manner around the world. That's  
17 the context of this.

18 What he's saying here, wherever  
19 we're approached or taken to task regarding our  
20 actions, we convey a single consistent message in  
21 as simple a way as the complexities of the issue  
22 allow. That's a bit what I was saying earlier  
23 about trying to make sure that one had common  
24 information everywhere around the world in the  
25 group so that responses were coherent. There's

1 nothing worse than having someone in one part of  
2 the world saying something and someone else saying  
3 another when, plainly, they can't both be correct.

4 BY MS CHOMSKY:

5 Q After reviewing this document, does  
6 it refresh your recollection that Mr Watts was  
7 appointed chairman of the Nigeria Group Crisis  
8 team?

9 A No, not particularly, but, I mean,  
10 there was a great deal happening in Shell. The  
11 fact that we were responding to the issue in a  
12 coordinated global way, yes, I certainly recall  
13 that, but the precise formulation or structure of  
14 the crisis team I don't recall.

15 I should tell you that Phil Watts is  
16 a very systematic person and he thinks in very  
17 systematic ways. This is a classic piece of Phil  
18 Watts and something I respect greatly in him; he's  
19 a very systematic person, much more systematic than  
20 I am, who is much more cavalier about organisations  
21 and structures.

22 Q Turning your attention to the second  
23 page of the letter, which is DEF0417?

24 A Yes.

25 Q It's the second paragraph from the

1 bottom.

2 A Yes.

3 Q The second sentence says, "Firstly,  
4 it is the responsibility of the Group Crisis Team  
5 to manage, rather than simply coordinate, the  
6 Group's response on Nigeria."

7 A Yes.

8 Q Is that statement consistent with  
9 your understanding of the relationship between the  
10 service companies --

11 A Yes.

12 Q -- and their statements about the --

13 A The independent operating companies,  
14 yes.

15 Q -- and the independence of the  
16 operating companies?

17 MR RAFFERTY: Object to the form.

18 (To the witness) But you can answer.

19 THE WITNESS: The critical thing is  
20 to manage rather than simply coordinate the group's  
21 response on Nigeria. This is dealing an the  
22 external response.

23 Phil Watts, during the time of  
24 Brent Spar, he had been European coordinator, and  
25 he suffered inordinately of the different operating

1 companies' public affairs' units, reacting in  
2 different ways. So he was very concerned, without  
3 in any way infringing on the operating companies'  
4 ability to execute their own operations, that the  
5 response round the world on to events, external  
6 events and media, was not just coordinated but that  
7 the message actually was managed centrally.

8 He goes on to say, "Whilst the  
9 importance of two-way dialogue with operating  
10 companies..." In other words, operating companies  
11 not just, in this case SPDC, but operating  
12 companies in Germany or the United States or  
13 Nigeria, while the importance of two-way dialogue  
14 is recognised, that meant that an operating  
15 company, which was not directly concerned, could  
16 say, "Hey, now listen. This needs clarification  
17 for the German market, or the Japanese market, or  
18 the Malaysian or Australian or United States public  
19 so that one had a group of people who could have  
20 input and make suggestions and say, "Look, this  
21 needs clarification", or "We need more emphasis  
22 here." But, within that, there should be a single,  
23 firm message. That's what he's saying. He's  
24 saying the group's response on Nigeria. Then he's  
25 acknowledging in the next sentence the importance

1 of two-way dialogue. So this is not saying, "Okay,  
2 fellas, this is what you're going to say and shut  
3 up and say it." He's saying, "You're welcome to  
4 offer advice and guidance but, in the end, someone  
5 has to be responsible for this public response."

6 He then goes on and say, "It is  
7 equally important, however, that true delegation of  
8 accountability is given to those involved at the  
9 front line." So that means there he is, himself,  
10 in the same paragraph, acknowledging the  
11 independence of the operating unit to operate.

12 So, in answer to your question,  
13 I think the paragraph is entirely consistent, as  
14 I would expect it to be, with the structure of the  
15 group as I understand it, which is complex but  
16 necessary.

17 BY MS CHOMSKY:

18 Q That's what you understand by the  
19 phrase "we must all sing to the same hymn sheet"?

20 A Exactly. That's precisely what  
21 I understand; that there should be a common  
22 message.

23 The previous qualification, the  
24 importance of the 2-way dialogue with operating  
25 companies is well-recognised, that means that

1 anyone in the global choir was welcome to comment  
2 on what would be on the hymn sheet. But, in the  
3 end, we need a common hymn sheet. So we have to  
4 arrive at agreement. And, if you've operated in  
5 groups of people, as I have done all my life, teams  
6 of people, operating on a team basis, this means  
7 that the team has to arrive at a consensus. That  
8 doesn't mean we just sit around and argue until the  
9 consensus happens. At a certain point the person  
10 leading the team has to say, "Okay, folks, we've  
11 all had our say, we've listened to that and we've  
12 listened to that, and this is the direction in  
13 which we're going. This is form which this will  
14 take."

15 I would expect in any team I had  
16 led, at that point to be able to judge that you've  
17 had enough discussion, and also to be able to judge  
18 and look round the team and say, "Okay, everybody  
19 happy with that?" And for them all to say, "Yes,  
20 okay, fine, good. Off we go and do it." That's  
21 what he means by "singing from a common hymn  
22 sheet".

23 A very interesting paragraph on the  
24 operation of a global company with independent  
25 operating units.

1 MS CHOMSKY: I've no further  
2 questions.

3 MR WHINSTON: Let's take five  
4 minutes. We'll switch seats and then it's my  
5 turn.

6 THE WITNESS: Okay. Have coffee?

7 MR LEMBRICH: Absolutely.

8 (A short recess at 3.15 pm)

9 (Resumed at 3.34 pm)

10 EXAMINATION

11 BY MR WHINSTON:

12 Q It's now my turn to ask you some  
13 questions. The same rules apply.

14 Do you know who Barinem Kiobel was?

15 A No.

16 Q How long was it between the  
17 conviction of Ken Saro-Wiwa and others and the  
18 first discussion of that conviction and the death  
19 sentence at a meeting of the Committee of Managing  
20 Directors?

21 A I couldn't say precisely but the  
22 whole period was, I think, relatively short.  
23 I think that the whole period was only ten days or  
24 a couple of weeks, from my recommendation so...

25 Q The period between the conviction

1 and the execution?

2 A Between the conviction and the  
3 execution, yes.

4 Q Was there, to your knowledge --

5 A We have a Committee of Managing  
6 Directors once a week so...

7 Q To your knowledge, was that a right  
8 to appeal a criminal conviction in Nigeria?

9 A I believe that the rules in that  
10 military, because it was a military court of some  
11 sort, that there was no right to appeal. In fact,  
12 somebody said to me that the rules, the closest  
13 modern analogy to the rules, are those that apply  
14 in Guantanamo Bay.

15 Q No-one told you that at the time of  
16 Mr Saro-Wiwa's conviction, did they?

17 A No-one told me what?

18 Q Never mind. That's okay. That was  
19 --

20 MS CHOMSKY: Facetious.

21 BY MR WHINSTON:

22 Q -- a facetious question.

23 Did you understand that Mr Saro-Wiwa  
24 and his co-defendants had no right of appeal? Did  
25 you have that understanding at the time of his

1 conviction?

2 A I believe so, but I can't remember  
3 specifically.

4 Q Where did you get that information  
5 from?

6 A I have no idea.

7 Q Did you have any understanding as to  
8 how long it might be between the time of conviction  
9 and the imposition of the death sentence, the  
10 carrying out of the death sentence?

11 A Yes, as I said earlier, it was what  
12 I would describe as the general opinion. I think  
13 that was the feeling in Nigeria, that this would  
14 not actually happen; that it would be postponed,  
15 reviewed, go off in the way that many things in  
16 Nigeria do, into the long grass and eventually not  
17 emerge, that the sentence would be commuted when  
18 the hub-hub had died down.

19 Q Where did you get that information  
20 from?

21 A From people who knew Nigeria.  
22 I think that was the general feeling in Nigeria.  
23 I don't think --

24 Q But you can't recall any specific  
25 person who provided you that information?

1           A           No, no.

2           Q           Did the Committee of Managing  
3 Directors enquire of Brian Anderson, who was then  
4 the managing director, what his view was on the  
5 likelihood of imposition of the death sentence?

6           A           I think, although I can't remember  
7 precisely, that we discussed it and that, I think,  
8 would have been Brian's view and Brian's advice,  
9 but I may be wrong. You should ask Brian.

10          Q           But you don't recall?

11          A           I don't recall specifically Brian  
12 Anderson saying, "It is my opinion that the death  
13 sentence will not be carried out."

14          Q           Was there any effort by the  
15 Committee of Managing Directors, as far as you  
16 know, to contact the head of state of Nigeria to  
17 take his temperature, if you will, with regard to  
18 the imposition of the death sentence?

19          A           All contacts with the head of state  
20 would have been through Brian Anderson, so it was  
21 Brian continually trying to gain appointments with  
22 the head of state. It was a very difficult thing  
23 to do. I think he normally approached the head of  
24 state through Chief Shonekan. He would have been  
25 trying, and I think I probably had that from him

1 that he was trying to see the head of state.

2 Brian used to get extremely --

3 Q So you have a recollection that --  
4 I'm sorry.

5 A Go on.

6 Q You have a recollection that --

7 MR RAFFERTY: Steve, you've got to  
8 let him finish.

9 MR WHINSTON: Well, he had finished  
10 answering my question.

11 MR RAFFERTY: No, I don't think he  
12 had. If you want to try to cut him off into yes or  
13 no's, that's one thing. But if you provoke a  
14 narrative and then you decide you've heard enough  
15 of that narrative, that's not quite fair.

16 MR WHINSTON: Okay.

17 BY MR WHINSTON:

18 Q Is it your recollection, yes or no,  
19 that Mr Anderson made an effort to contact the head  
20 of state relating to the conviction of Ken  
21 Saro-Wiwa?

22 A It is my recollection that he made  
23 an effort to contact the head of state, yes.

24 Q Was he successful in that effort,  
25 yes or no?

1           A           I think "no".

2           Q           Did there come a point in time, in  
3 when your view, as to both the timing and the  
4 likelihood of the imposition of the death sentence  
5 changed?

6           A           Yes.

7           Q           How did that come about?

8           A           I think it was a message from Brian,  
9 which was something like three or four days, to my  
10 recollection, three or four days before the actual  
11 execution, Brian transmitting, I don't think  
12 necessarily in writing but certainly a message,  
13 saying that, "Look, contrary to what we had  
14 expected, it looks as though these folk are really  
15 getting wound up to carry out the execution."

16          Q           Before that --

17          A           I suspect that that is also in...  
18 I mean, if you went through the Nigerian  
19 newspapers, I suspect you would see a somewhat  
20 similar thing, but I don't know that.

21          Q           I'm interested in your  
22 recollection. I'm sure we can all read the  
23 Nigerian newspapers.

24                       The first meeting the Committee of  
25 Managing Directors had following the conviction of

1 Mr Saro-Wiwa and his co-defendants, was there  
2 a discussion of whether or not the Shell group  
3 should approach the head of state with a  
4 recommendation for clemency or consideration of  
5 clemency?

6 A There was certainly discussion  
7 between managing directors, not necessarily in  
8 a formal Committee of Managing Directors, as to  
9 what the best course of action would be; whether  
10 the best course of action would be to send a  
11 request for clemency and so on. That I remember at  
12 a very early stage commencing immediately after the  
13 imposition of the death penalty.

14 Q Did you have any -- you specifically  
15 -- did you have any conversations outside the  
16 context of a meeting of the Committee of Managing  
17 Directors with other members of the committee about  
18 whether or not to push for clemency for  
19 Mr Saro-Wiwa and his co-defendants?

20 A For me personally, I can remember  
21 thinking about it, and I believe talking to other  
22 members of the committee, probably John Jennings  
23 who would have been just down the passage, on that  
24 subject. The question, as always, is what is the  
25 best route of influencing the judgment of somebody

1 like Abacha.

2 Q What do you recall Mr Jennings  
3 saying on the subject in these private  
4 conversations?

5 A I just remember that we were kicking  
6 the idea around what would be the best...

7 Q Do you recall, in the first meeting  
8 of the Committee of Managing Directors to discuss  
9 the issue of Mr Saro-Wiwa's conviction and the  
10 conviction of his co-defendants, that a decision  
11 was reached not to ask for clemency? Not to  
12 approach the head of state of Nigeria on the issue  
13 of clemency?

14 MR RAFFERTY: Object to the form of  
15 the question.

16 THE WITNESS: If the question is:  
17 Was a decision reached not to send a letter? Yes,  
18 I do recall that there was a decision of that  
19 nature not to send a letter, because it was  
20 considered that this would not be the most  
21 effective method of influencing the head of state;  
22 that the most effective method would be for Brian  
23 to approach the head of state.

24 BY MR WHINSTON:

25 Q Ultimately, a letter suggesting

1 clemency was sent, is that correct?

2 A A letter requesting clemency was  
3 sent, yes.

4 Q What was the reason -- strike that.  
5 Was that letter discussed at a  
6 meeting of the Committee of Managing Directors?

7 A Yes.

8 Q What was the reason for sending that  
9 letter, as best you can recall?

10 A As best as I can recall, Brian was  
11 not making particular progress in approaching the  
12 head of state.

13 From what I remember, Chief  
14 Shonekan, who was a person with considerable  
15 influence on Abacha, was out of the country or  
16 unavailable or not contactable in some way, and  
17 there was an increased feeling of urgency because  
18 of this impression that the Nigerian government,  
19 contrary to previous expectations, was actually  
20 getting ready to carry out the sentence.

21 BY MR WHINSTON:

22 Q Is there a legal staff within the  
23 service companies?

24 A Yes.

25 Q Within which service company is that.

1 legal staff? At this period in time, which is late  
2 1995?

3 A There are both in London and in  
4 The Hague. These are conjoined organisations with  
5 a single head. We spent some time in each. At  
6 that time, I think the head would have been Jack  
7 Schraven, but I'm not absolutely certain of that.  
8 No, no, I think it probably would be.

9 Q Your understanding was that  
10 Mr Schraven, or whoever held that position,  
11 supervised lawyers employed both by SIPC and SIPM,  
12 is that correct?

13 A Whether he, in the legal sense,  
14 supervised lawyers.. I think he probably directly  
15 supervised one group, and the other group there  
16 would have been the head -- if it was Mr Schraven,  
17 there would have been a head of legal in London,  
18 who would then have some kind of reporting  
19 relationship to Schraven as the senior counsel of  
20 the group.

21 Q Was there any consideration given by  
22 the Committee of Managing Directors of asking the  
23 holding company legal staff to analyse the case  
24 against Mr Saro-Wiwa or his co-defendants?

25 A No.

1           Q           Was there any consideration given by  
2 the Committee of Managing Directors of asking the  
3 legal staff of the service companies to analyse the  
4 procedures provided in the trial of Mr Saro-Wiwa  
5 and his co-defendants?

6           A           No.

7           Q           Was there any consideration given by  
8 the Committee of Managing Directors in asking SPDC  
9 to provide a legal analysis of the charges against  
10 Mr Saro-Wiwa and his co-defendants?

11          A           No.

12          Q           Was there any consideration given by  
13 the Committee of Managing Directors in asking SPDC  
14 to provide a legal analysis of the trial procedures  
15 involving the trial against Mr Saro-Wiwa and his  
16 co-defendants?

17          A           No.

18          Q           Were you aware of any independent  
19 legal organisations that evaluated the trial  
20 procedures of the trial involving Mr Saro-Wiwa and  
21 his co-defendants?

22          A           Yes. I believe the Bar Association  
23 in London -- now, whether this is part of the  
24 global Bar Organisation or not -- I believe they  
25 had views on it and expressed views on it, that the

1 trial was not satisfactory, according to legal  
2 standards of this country.

3 Q Were you aware that the British Bar  
4 Association, if I can use that term, colloquiated  
5 -- that may not be its proper name -- had issued a  
6 written report about the trial of Mr Saro-Wiwa and  
7 his co-defendants prior to Mr Saro-Wiwa's sentence?

8 A I remember press reports. I  
9 certainly remember an utterance of some sort from  
10 the Bar Association. There was a particular  
11 individual, whose name I've forgotten, who authored  
12 this report but I --

13 Q Did you -- I'm sorry, were you  
14 finished?

15 A Yes.

16 Q Did you read the report?

17 A I would have read, I think, press  
18 reports of the report. I doubt that I would have  
19 read the report in its entirety.

20 Q Did you ask anyone in the Shell  
21 group to read that report and report back to you on  
22 what it said?

23 A No.

24 Q Do you know whether anyone in the  
25 Shell group actually did read the British Bar

1 Association report and provide a summary of its  
2 contents?

3 MR RAFFERTY: At the time?

4 MR WHINSTON: Yes.

5 THE WITNESS: No. I mean, "I don't  
6 know" is the answer.

7 BY MR WHINSTON:

8 Q Are you aware of whether SPDC had an  
9 attorney who attended some or all of the sessions  
10 of the trial of Mr Saro-Wiwa and his co-defendants?

11 MR RAFFERTY: Object to the form.  
12 (To the witness) But you can answer.

13 THE WITNESS: I remember or believe,  
14 probably having learned after the event, but I'm  
15 not sure when. I have in my memory that SPDC had,  
16 in the early stages of the trial, a legal observer  
17 at the trial and that this was because there was an  
18 understanding or a misunderstanding that SPDC was  
19 in some way named or involved in the trial, which  
20 turned out not to be the case.

21 BY MR WHINSTON:

22 Q Were you aware that people in the  
23 holding company -- I'm sorry, that people in the  
24 service companies received written reports about  
25 the trial of Mr Saro-Wiwa and his co-defendants?

1 A No.

2 Q Were you ever aware that there were  
3 allegations that SPDC was involved in the bribery  
4 of witnesses in the trial of Mr Saro-Wiwa and his  
5 co-defendants?

6 A Yes, I was aware.

7 Q When did you become aware of that?

8 A I couldn't tell you but there were  
9 press reports or accusations from NGOs, one of many  
10 accusations, one of many unfounded accusations.

11 Q To your knowledge, was there any  
12 investigation undertaken of those allegations of  
13 bribery?

14 A By SPDC, yes.

15 Q Who investigated on behalf of SPDC?

16 A Brian was responsible for that.

17 Q Were there any reports of the  
18 Committee of Managing Directors about the  
19 investigation into the allegations of bribery?

20 A Not other than Brian saying that it  
21 was not true.

22 Q That was an oral report to the  
23 Committee of Managing Directors?

24 A I would imagine that it was an oral  
25 report from Brian through the system which reached

1 the Committee of Managing Directors. I was  
2 certainly aware of the fact that Brian thought it  
3 was a completely nonsensical statement.

4 Q How were you aware of that?

5 A Well, from Brian among other things.

6 Q When did he tell you that?

7 A I couldn't tell you when he told me.

8 Q You were the divisional manager for  
9 the western division of SPDC from 1979 to 1982 --

10 A Correct.

11 Q -- approximately. During that  
12 period of time, did SPDC employ members of the  
13 Nigerian police force?

14 A SPDC employed supernumerary police.  
15 There was a contingent of supernumerary police --  
16 I couldn't tell you how many -- that provided  
17 security services to both the western division and  
18 the eastern division and to Lagos.

19 Q What was your understanding of what  
20 was the meaning of being a supernumerary policeman?

21 A It meant that, under the Nigerian  
22 police system, legal system, an organisation such  
23 as a major commercial organisation, whether across  
24 Nigeria as a whole or just in oil companies,  
25 I think across all organisations in Nigeria, could

1 employ detachments of police who were paid for by  
2 the organisation who were under Nigerian police  
3 discipline and rules, but whose pay and rations  
4 came from the organisation; a form of indirect  
5 taxation basically.

6 They were identical to the Nigerian  
7 police except that their pay was regular and their  
8 accommodation was better.

9 Q When you were employed as regional  
10 manager for SPDC, was there a part of the Nigerian  
11 police force called the mobile police?

12 A Yes.

13 Q Were the mobile policemen used in  
14 any way by SPDC at the time?

15 A Not in the western division, to my  
16 recollection.

17 I do recall that at one point where  
18 there was a spate of armed robbery in the town of  
19 Warri, in the general environment of Warri, that at  
20 a certain point the commissioner of police in  
21 Bendel state in Benin city moved a detachment of  
22 mobile police into Warri to address the spate of  
23 armed robberies.

24 There were a series of road blocks  
25 set up and so on. But this was nothing to do with

1 SPDC. It was to do with the civil administration  
2 of Warri. But I do remember the presence of the  
3 mobile police and I also remember our staff being  
4 impacted by this.

5 Q In what way?

6 A Frequent road blocks.

7 Q During your tenure as divisional  
8 manager of the western division of SPDC, did you  
9 meet on a regular basis with the divisional manager  
10 in the eastern division?

11 A I met approximately once a month.  
12 We would go up to Lagos for, I think it was called,  
13 an extended management meeting, which involved not  
14 only the Lagos managers, the managing director, the  
15 deputy manager, and the chief petroleum engineer  
16 and so on, but the divisional manager east and  
17 divisional manager west, and, at that time, Babs  
18 Komolu first and Emeka Achebe second, and I used to  
19 fly up to Lagos together because they would come  
20 from Port Harcourt and stop in Warri and pick me up  
21 and --

22 Q I just asked you whether you had  
23 regular meetings. That's all that I asked.

24 A Okay.

25 MR RAFFERTY: Stephen, you could be

1 polite.

2 MR WHINSTON: I could be, but I have  
3 a limited amount of time, and if I'm rude I  
4 apologise.

5 MR RAFFERTY: You are, but --

6 MR WHINSTON: I'm just trying to get  
7 through my questions.

8 BY MR WHINSTON:

9 Q Were you aware whether, during your  
10 tenure as divisional manager in the western  
11 division, mobile police were stationed at SPDC  
12 facilities in the eastern division for any period  
13 of time?

14 A I am not aware of it.

15 Q Were you aware of SPDC utilisation  
16 of military personnel for security or guard  
17 services in either the eastern or western division  
18 during the time that you worked in Nigeria?

19 A It was certainly not the case that  
20 Nigeria was, except for the beginning of the  
21 period, it was not under military government; it  
22 was a period of civilian government.

23 Q Were there any community  
24 disturbances during your tenure as western  
25 divisional manager in Nigeria?

1           A        Yes.

2           Q        Could you describe those community  
3 disturbances?

4           A        Yes. These were disturbances from  
5 communities who were seeking particular benefits  
6 in terms of utilities, jobs, schools, medical  
7 facilities, which we had a major programme of, but  
8 from time to time there would be a dispute over  
9 perhaps the provision of compensation for one event  
10 or another.

11          Q        Did any of those disturbances take  
12 place near SPDC facilities?

13          A        Yes.

14          Q        Can you recall any specific  
15 facilities where that occurred?

16          A        Yes, I can recall the flowstation at  
17 a place called Benisade. It was occupied by some  
18 several hundred, couple of hundred villagers who  
19 shut down the flowstation. They captured the  
20 helicopter which landed there and insisted on  
21 immediate payment of a sum of money.

22                    I remember quite distinctly the  
23 discussions, the negotiations, and I can remember  
24 the responses of the actually Trinidadian  
25 maintenance supervisor, who was amazed both at the

1 event originally and at the way in which it was  
2 subsequently resolved.

3 Q Are you aware of any civilian  
4 injuries in connection with any of the community  
5 disturbances during your tenure?

6 A I can remember injuries and deaths  
7 in armed robberies, which were quite common in The  
8 Delta, but I --

9 Q I was talking about community  
10 disturbances as opposed to armed robberies?

11 A Well, it's sometimes slightly  
12 difficult to distinguish between the two, but  
13 I would say they were armed robberies not injuries  
14 in community disturbances.

15 I don't think I can recall anyone.  
16 There were certainly threats. When Benisade was  
17 occupied, the crew were taken hostage. The threat  
18 was that they would all be killed. This appeared  
19 to me an unlikely outcome, given the fact that the  
20 people were behaving actually quite rationally at  
21 the time.

22 Q When you were working in Nigeria,  
23 did you ever meet Chief Shonekan?

24 A I think I did, but at that time  
25 I think he was chairman of Unilever, I think.

1 Q Was he a director of SPDC during  
2 your tenure as general manager of the western  
3 division?

4 A I honestly couldn't say that.  
5 I didn't attend board meetings and I paid, frankly,  
6 no attention to them. I had lots to occupy myself  
7 with.

8 Q During your tenure in Nigeria, did  
9 you meet with Rufus Ada George?

10 A Ed O'George?

11 MR RAFFERTY: A-d-a G-e-o-r-g-e.

12 THE WITNESS: No.

13 BY MR WHINSTON:

14 Q That's not a familiar name to you?

15 A It's not a familiar name to me.  
16 It's an easterner of some sort and I was in the  
17 west. I mean, I assume he's an easterner from his  
18 name.

19 Q When you were western divisional  
20 manager of SPDC, did you ever have occasion to seek  
21 advice from any of the Shell group service  
22 companies?

23 A Yes.

24 Q Which ones?

25 A From the E&P organisation in The

1 Hague, from the medical organisation in London,  
2 from the organisation which advises on education,  
3 so medical, education, E and P, finance in  
4 London,. So a SWOT of them. It's quite common, if  
5 you had an issue, to call upon advice.

6 Q Do you know how the arrangement for  
7 fees worked out in connection with requests from  
8 the service companies to provide advice and  
9 assistance?

10 A The advice was -- to my knowledge;  
11 I don't know that I would have paid very much  
12 attention at the time because the west was an  
13 operational division and they concentrated on  
14 operations -- that that would have been broadly  
15 covered by a service fee arrangement, which is in  
16 terms of some kind of all-encompassing service.  
17 So, apart from actual expenses for travel, the  
18 advice would come under the all-embracing service  
19 thing -- I believe.

20 Q Were you ever a board member of  
21 SPDC?

22 A No.

23 Q If you know, how did it come about  
24 -- strike that.

25 The E&P service function was housed

1 within SIPM, is that correct?

2 A Correct.

3 Q Was there also an E&P service  
4 function in SIPC?

5 A No.

6 Q Is it true, with regard to all the  
7 different subject matters of service provided by  
8 the service companies, that it would come from  
9 either SIPC or SIPM and there was no redundancy, if  
10 you will, between the two companies?

11 MR RAFFERTY: Object to the form.

12 (To the witness) But you can try.

13 THE WITNESS: In some functions  
14 there were parts of the function in both The Hague  
15 and in London. This was true of legal, as we've  
16 covered before. It was true of medical. It was  
17 certainly true of educational advice, particularly  
18 with Dutch streams and English streams.

19 In general there wasn't, but  
20 normally it came from one or the other.

21 BY MR WHINSTON:

22 Q When you first became a member of  
23 the Committee of Managing Directors, I understand  
24 that your portfolio was E&P and materials, is that  
25 correct?

1 A To my memory, yes.

2 Q Where was the materials service  
3 function housed in? Which company?

4 A In SIPM.

5 Q At some point later in your tenure  
6 you acquired the procurement and logistics  
7 portfolio, is that correct?

8 A No, that was earlier on. I mean,  
9 a long time before when I was in Brunei I was  
10 responsible for logistics as well.

11 It was while I was in The Hague I  
12 was responsible for procurement basically;  
13 materials, whatever you... Materials in the old  
14 Shell speak; procurement in the more modern Shell  
15 speak.

16 Q I think maybe we're on a disconnect  
17 but, when you were on the Committee of Managing  
18 Directors, for a period of time your portfolio  
19 includes procurement?

20 A Correct.

21 Q Within which service company was  
22 that housed?

23 A SIPM.

24 Q During a period of time while you  
25 were on the Committee of Managing Directors, your

1 portfolio included the geographic area composed of  
2 the Middle East, Francophonic Africa and South  
3 Asia, is that correct? French speaking Africa?

4 A And South Asia, yes.

5 Q Was that area housed in a particular  
6 service company?

7 A It was a original organisation and  
8 all the regional organisation, except for Europe,  
9 were housed in SIPC. Europe was housed in  
10 The Hague.

11 Q Why was the division made along  
12 those lines?

13 A Just that, in those days, The Hague  
14 was more in Europe than London was.

15 Q Before the EU.

16 At a certain point during your  
17 tenure as member of the Committee of Managing  
18 Directors, your portfolio included chemicals, is  
19 that correct?

20 A That is correct.

21 Q Within what service company was that  
22 housed?

23 A It actually was chemicals  
24 manufacturing, so the process organisation of  
25 chemicals was in The Hague attached to the oil

1 manufacturing, or close to the oil manufacturing  
2 organisation. The chemicals marketing organisation  
3 was in London. So I forgot; that was another one  
4 which was actually split.

5 Q Your portfolio included both of  
6 those organisations?

7 A Correct.

8 Q Also during your tenure as a member  
9 of the Committee of Managing Directors, your  
10 portfolio included the research function, is that  
11 correct?

12 A It did, but not for a very long time  
13 because, when Jereon van der Veer became a managing  
14 director, he took that over, I think.

15 Q Within what service company was  
16 research housed?

17 A Actually, it depended a bit on the  
18 actual research coordinator, as such. It was  
19 London, I think at the time. When I was  
20 responsible it was in The Hague. But it was  
21 largely devolved to the research laboratories, to  
22 the functional research, so to the Thornton  
23 laboratory in this country, to Reisveik in  
24 The Hague. There's another KLSA research  
25 laboratory in Amsterdam, which was chemicals and

1 oil products. Those are the three. Plus the  
2 research that was done in the United States, but at  
3 that time the Shell oil organisation and the rest  
4 of the group were very separate. So it was an  
5 indirect connection. It was a question of the  
6 research programmes were coordinated rather than  
7 integrated.

8 Q For a period of time when you were  
9 a member of the Committee of Managing Directors,  
10 your portfolio included a computing function?

11 A I believe so, yes.

12 Q Within what service company was that  
13 housed?

14 A I think it, too, moved at one point  
15 from London to The Hague, but I think at that time  
16 it was in London.

17 Q So for part of the time it was in  
18 SPDC and for part of the time it was in SIPM?

19 A Well, I think the functional head  
20 was in London. Much of the actual processing  
21 centre, the main processing centre, was in or close  
22 to The Hague because, at a certain point, we shut  
23 the processing centre which had been in the UK down  
24 and concentrated it in The Hague. But the person  
25 with overall responsibility for computing, I think

1 at that point probably moved from London to The  
2 Hague but, frankly, I can't remember.

3 Q Were there any occasions where an  
4 employee of SPDC supervised -- let me put it the  
5 other way.

6 Were there any occasions when  
7 employees of SIPM reported to a supervisor in SIPC?

8 A I think the structures were formally  
9 separate. But areas of activity, for example, in  
10 computing and execution in The Hague, that would be  
11 an organisation unto itself; it could be  
12 coordinated by somebody in London, but the actual  
13 employment, the formal relationship, would be  
14 within its own service company.

15 Q When you were the E&P coordinator,  
16 before you became a managing director, where was  
17 your office located?

18 A In The Hague.

19 Q When you became managing director,  
20 did the location of your office change?

21 A No, not initially.

22 Q At some point in time you moved your  
23 office to London?

24 A That's correct.

25 Q When was that?

1           A       '94, I think.

2           Q       Were you still E&P coordinator at  
3 that time?

4           A       No, I ceased to be E&P coordinator  
5 about that time.

6           Q       When you were E&P coordinator,  
7 before you became a member of the committee, was  
8 there anyone in SIPC who reported to you?

9           A       No.

10          Q       You testified earlier today about  
11 a tiered authority for expenditures; for different  
12 levels of expenditures you needed to get different  
13 levels of approval. Do you recall that testimony?

14          A       I do.

15          Q       Were those levels the same for all  
16 operating companies?

17          A       No.

18          Q       How did it differ?

19          A       In larger operating companies, the  
20 levels would be higher.

21                   But one should be clear that these  
22 were levels of authority which it was an  
23 understanding that the general manager, the chief  
24 executive, would check back and process through  
25 that authority system. Had at any point the

1 managing director of that -- for example, when  
2 I was in Malaysia, if at a board meeting of Shell  
3 Malaysia I had decided to leave the board of Shell  
4 Malaysia and decided to do something, there was  
5 nothing that the shareholder could do except call  
6 an extraordinary general meeting and dismiss the  
7 board. But the action would have been taken. So  
8 this is a system which had what were generally  
9 regarded as sensible checks and balances in it, but  
10 they were not always formal legal checks.

11 As you will appreciate, any  
12 corporate entity can -- the influence of that comes  
13 from what the board of management of that company  
14 deems it appropriate to do. In general, a board  
15 would not pass a resolution committing to an  
16 expenditure unless they'd received appropriate  
17 support from the technical functions or whatever  
18 function. That's how it was expressed as support.  
19 "Considered sound" was the phrase.

20 Q When you --

21 A Is the phrase, I think.

22 Q When you were chairman of Shell  
23 Malaysia, did you have a written document that set  
24 forth the different levels of expenditure  
25 approvals?

1           A           Yes, I think there would have been  
2 something which said below five million dollars the  
3 authority is yours. Above five million dollars  
4 you should receive formal advice; approach the  
5 service companies for considered sound support.

6           Q           You were using five million as  
7 a hypothetical number? Or were you specifically  
8 recalling that as the number?

9           A           I recall it was something of that  
10 orders. It might have been three million.

11          Q           During your tenure as a member of  
12 the Committee of Managing Directors, did you ever  
13 have occasion to review and adjust those levels of  
14 approval for any operating company?

15          A           Yes, from time to time, as operating  
16 companies varied in size and scope and due to sheer  
17 practicality of receiving detailed advice,  
18 depending what the normal nature of business would  
19 be, the levels were adjusted.

20          Q           So you would expect there to be  
21 a document relating to SPDC which set forth these  
22 tiered levels of expenditure approvals?

23                   MR RAFFERTY: Object to the form.

24                   THE WITNESS: "I don't know", is the  
25 answer.

1 BY MR WHINSTON:

2 Q But you would expect there to be  
3 such a document?

4 MR RAFFERTY: Object to the form.

5 THE WITNESS: Okay.

6 MR RAFFERTY: You can answer the  
7 question. He's asking what your expectations are.

8 THE WITNESS: My expectation is that  
9 Brian Anderson or his successor would know what  
10 those levels were. Whether it would be in the form  
11 of a document or a letter or something, I don't  
12 know.

13 BY MR WHINSTON:

14 Q When you were a member of the  
15 Committee of Managing Directors, what was your  
16 expectation in terms of being informed about  
17 significant events affecting the operating  
18 companies?

19 A The regional organisations, in their  
20 own tiered structure going down from a coordinator  
21 to an area coordinator to people who had particular  
22 interests in particular countries, would keep a  
23 broad track on what was going on. If there were  
24 significant events, these would be communicated  
25 depending on their significance up the line and

1 then, at the Committee of Managing Directors, the  
2 regional managing director or, in the case of a  
3 technical function, the technical managing  
4 director, would report on a matter considered to be  
5 of sufficient importance.

6 Q During your tenure with the  
7 Committee of Managing Directors, who was the  
8 regional coordinator whose responsibility it was to  
9 report on events relating to Nigeria?

10 A I think it was Dick van den Broek.  
11 I'm trying to think whether at some point Jereon  
12 van der Veer filled that role. I don't think so.  
13 I think it was Dick van den Broek. He reported to  
14 the regional managing director, who was Marten van  
15 den Bergh. Although Marten, when I was first a  
16 managing director, I think Marten van den Bergh  
17 was...

18 No. Initially, Marten van den Bergh  
19 was regional coordinator. He was succeeded by Dick  
20 van den Broek. And, at a certain point, Marten van  
21 den Bergh became managing director with regional  
22 responsibility.

23 To tell you the truth, I can't  
24 remember which managing director, when I was first  
25 on the Committee of Managing Directors, had

1 responsibility for Nigeria.

2 Q Were you ever dissatisfied with the  
3 adequacy of the flow of information to you as a  
4 member of the Committee of Managing Directors about  
5 events in Nigeria?

6 A West Africa can be quite a confusing  
7 place, and getting accurate information is  
8 sometimes not easy. Communication was difficult.  
9 People were working under quite difficult  
10 conditions.

11 I think probably any central  
12 organisation anywhere in the world from time to  
13 time feels that the operating units are not  
14 supplying enough information, and the operating  
15 units always think that the central organisations  
16 either require or are interested in things which  
17 are really no concern of theirs. But specific  
18 dissatisfaction, no, not to any...

19 MR WHINSTON: Let's mark this as the  
20 next exhibit.

21 (Exhibit 654 marked for identification)

22 BY MR WHINSTON:

23 Q Before you get to that exhibit; I'm  
24 not going to ask you about it quite yet.

25 Did there come a time when you

1 learned of a document called the Ogoni bill of  
2 rights?

3 A I do recall the Ogoni bill of  
4 rights.

5 Q How did you first learn about that?

6 A I couldn't tell you that.

7 Q Was there a point in time when you  
8 learned that an organisation by the name of MOSOP,  
9 with the acronym of MOSOP, had declared Shell  
10 "persona non grata" in a particular area of  
11 Nigeria?

12 A I was certainly aware of the fact  
13 that, in a period leading up to the cessation of  
14 operations in Ogoniland, there were a number of  
15 communications from different organisations,  
16 probably MOSOP among them, or different individuals  
17 or groups of people suggesting that Shell's  
18 presence was not welcome; that, if it continued,  
19 there would be action taken or whatever.

20 Sufficiently that we felt, certainly  
21 the managing director at the time felt, that it was  
22 necessary to withdraw the people from our  
23 operations from Ogoniland.

24 Q Was the cessation of operations in  
25 Ogoniland discussed by the Committee of Managing

1 Directors?

2 A Not before it happened. This chat  
3 would have been an entirely local decision. The  
4 person on the ground is responsible; has prime  
5 responsibilities for the safety of people.

6 Q When you were working in Nigeria as  
7 director of the western division, manager of the  
8 western division, were there areas of the country  
9 where SPDC ceased operations for a period of time?

10 A In the east, yes. In the west,  
11 there were periods when a production station would  
12 be shut down for a period, and might even not have  
13 been occupied, but this would have been a  
14 relatively short period.

15 Q What were the occasions when there  
16 was cessation of operations in the eastern division  
17 while you were working in Nigeria?

18 A From --

19 MR RAFFERTY: You're asking about  
20 the east now and not the west?

21 MR WHINSTON: That's right.

22 THE WITNESS: From my memory and  
23 from conversations with my opposite number in the  
24 east, sharing problems and talking to each other,  
25 this was largely due to inter-ethnic strife;