

Former President and CEO Mr R Neill (now Vice Chairman)

Oral evidence on 14 Nov 2007 during cross-exam by my counsel Mr Stafford QC

- Mr Stafford Vol.6 doc.2115 – will see dated 7 Sept. 2006 – **An Airbus document** – move forward to 6/2117. 3rd box down – A340–500, A340-600
(BL note- MAC also provided both E&Y and PwC with Feb 2007 version-document 3600)
- Mr Neill Assuming also 7th September
- Mr Stafford These are the projections?
- Mr Neill **Plan for production.**
- Mr Stafford **It does not look healthy for 2006 – and appears to be diminishing from 2006 – 2008**
- Mr Neill Yes
- Mr Stafford Aware of this at the time
- Mr Neill Yes *(BL note – MAC staff meeting minutes on 12 Sept.2006 at doc 2179 pt.35 a)*
- Mr Stafford **There was pessimism from Airbus at the time?**
- Mr Neill **Yes**
- Mr Stafford The only trade estimates referred to by PwC – are Forecast international. Did you provide Teal?
- Mr Neill We gave everything we had to hand – *included the plan for production*. Did not include the {Forecast} International – I think it included Teal – but cannot recall.
- Judge** Did you provide data from other publications?
- Mr Neill Yes
(BL note – continued re Data from other Publications on P3. Mr Neill briefed stock market analysts - Q2.2006 - on 15 Aug. 2006 on Wide Body aircraft sales and the A350XWB after Airbus recorded NO A340 SALES at the Farnborough Air Show in late July 2006 and which was followed by Airbus UK's Senior Procurement Manager Mr Vandersteen's "A340 600 – "TRASHED"as noted briefing/conclusion by my former MALUK colleague Mr Phillip Underwood at their meeting on Friday 15 September 2006)
- Judge** **Airbus now more confident?** *(In A340 -500/600 – Feb2007.153 sales orders)*
- Mr Neill It's very technical – aircraft can fly anywhere.
- Mr Stafford When did you have that discussion?
- Mr Neill Q1.2006 and Q3 and another one just a month ago.
(BL which was at:Airbus.30Sept2007:138 orders) and (BL. Airbus latest Orders & D)
- Mr Neill One of many
- Mr Stafford **Said it was pessimistic and as events turned out proved to be pessimistic?**
- Mr Neill **Yes**
- Mr Stafford Document 2998/9 **Dead Plane flying** – April 2007 – over page .
They have said that the forecast now 139 not 163
(BL Note: confirmed typo by Mr Aboulafia: in fact April 2006 = 135 – see doc 2981)
- Mr Neill Yes

Mr Stafford
Mr Neill
Mr Stafford
Mr Neill

Still predicting low forecast?

Yes

Belies the optimism you just stated

Moved the number up by 3 – **Phased out by 2010 – do not hear Airbus saying that.**

<Factually Magellan Aerospace have delivered 121 units (30.25 aircraft sets from January 2007 to 31 December 2010 which completes Airbus Toulouse aircraft production (at a total build of 131 A/C) as per the Airbus schedule below and which produced only 11 units for Spares in the 4 years:2007-2010.

I also draw your attention to my PwC.A340.Forensic.deceit report paragraph 9. 2 (pages 17+18) and paragraph 9.9 (pages 30 - 40) which is supported by the factual analysis in paragraphs 9.3 – 9.8 (pages 18 – 30).>

Airbus 2010 – 2014 Schedule

Station 40/ 41 per type
issue No 73 dated 30 June 2010

ST40 - Programme detail	2010		2011		2012		2013		2014	
	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.
A320 Family	●	●	●	●	●	●	●	●	●	●
A318	●	●	●	●	●	●	●	●		
A319 incl. FAL-C	●	●	●	●	●	●	●	●	Not available	Not available
A320 incl. FAL-C	●	●	●	●	●	●	●	●		
A321	●	●	●	●	●	●	●	●		
TOTAL A320 Family	●	●	●	●	●	●	●	●		
LR	●	●	●	●	●	●	●	●	●	●
A330-200	●	●	●	●	●	●	●	●	Not available	Not available
A330-200F	●	●	●	●	●	●	●	●		
A330-300	●	●	●	●	●	●	●	●		
TOTAL Basic	●	●	●	●	●	●	●	●		
A340-500	1	1	0	0	0	0	0	0		
A340-600 HGW	1	1	0	0	0	0	0	0		
TOTAL Stretch	2	2	0	0	0	0	0	0		
TOTAL LR	●	●	●	●	●	●	●	●		
A380		●		●		●		●		●
A380-800		●		●		●		●		●
A380-800F										
TOTAL DD		●		●		●		●		●
A400M	●	●	●	●	●	●	●	●	●	●
TOTAL A400M	●	●	●	●	●	●	●	●	●	●
TOTAL ALL PROGR.	●	●	●	●	●	●	●	●	●	●

STATE OF KUWAIT MSN 1120 delivered December 2010

IBERIA MSN 1122 delivered 16 July 2010

- changes in blue font. (No changes - A340-500/600) 4304A - A340-500/600 only

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Mr Stafford Accounts are based on pessimistic
Mr Neill No – realistic
Mr Stafford Where are accounts placed
Mr Neill Between the two
Mr Stafford Where is it now
Mr Neill Lower than 300 - probably between 250 and 300 aircraft
(document subsequently disclosed on 8 June 2009 as MAC
representation shows total production build of 291 a/c on 1 March
2007- 3605C/D - to PwC & E&Y)

*(BL – Airbus assembled their planned 32 aircraft from 2007-2009 .With the final
A340-500/600 series deliveries in 2010 the total aircraft projected will be 131 a/c.)*

and in 27 July 2009 UK hearing when Mr Neill has been recalled - the Judge is
accessing his notes from the evidence at P72-74 by Mr Neill on 14 November 2007-
(following Mr Lynch QC's second challenge to our junior counsel's record of that UK
court evidence during 27 July 2009)

"Did you provide Data from other Publications?" – Mr Neill - Yes

Judge My notes say that he was aware of a production plan, and the pessimism
was shared and reflected in Teal Group forecasts. And he mentions that
Forecast International is referred to in PwC, we provided all the
information to PwC which included all the plans from Airbus, and we
didn't give them Forecast International. They had to obtain them. **We
also provided data from other publications.**

Judge From my note it looks as though it was the evidence that further
documentation was provided. (Pause)

Mr Little Okay, so on that basis, sir –

Mr Neill Do you want me to add, sir?

Judge Yes, please.

Mr Neill Judge?

Judge Yes.

Mr Neill Yes, it's now two years since this happened but I **recall quite clearly,**
and Mr Little knows this, that it was my practice to keep copies of all
trade publication articles, documents, **as well as any forecast that we
would make,** this would be, the trade publications would be **Flight
International and Aviation Week primarily, but other things, such
as Air Transport World** and the likes. What I did was I handed the file,
with as much of that data in it that I had, I gave it to Pricewaterhouse.
And I do not recall if the Teal presentations that I referred to earlier
were in that file or not.

*(None of these documents are referenced or provided as Exhibits in the PwC report
despite the Tribunal Order for Request 21 in December 2008 and the subsequent
multiple requests PwC have been unable to provide Mr Neill's data/publications file.)*

Former President and CEO Mr R Neill (now Vice Chairman) - his oral evidence on 14 Nov.2007 - quarterly certs and Protected Disclosures (PDs)

Mr Stafford There was a meeting in Toronto on 8th August 2006 – which was attended by Mr Little and you. Whilst there he discussed with you his concerns of the balance sheet treatment of the A340 NRCs

Mr Neill **Correct**

Mr Stafford He said to you – there was an arbitration going on regarding the way the price increase worked. He said even if arbitration goes in our favour – still have to write down some of our profits

Mr Neill **Agree that he discussed the write down of profitsI said that the anticipated sales – there is absolutely no question we would cover all of the costs. PwC go into this. We looked at this very seriously – before we came to that conclusion**

Mr Stafford [Volume 5/2006 – the sub certification for Q2.2006 – see 2 items here – “A340 – Aeronca to discuss”](#). On an important document – the issue of NRC – clearly formal concerns expressed by him.

Mr Neill **Yes**

Mr Stafford [You would have been clear that it was NRCs that he was referring to](#)

Mr Neill **Yes**

Mr Stafford [Given that you had a discussion on the 8th – and he signs certificate with qualification – must have been clear that BL not entirely comfortable?](#)

Mr Neill **Correct.** But his experience with airframe – more with engine and spares – **parts wear out and are replaced** more frequently than wings- so a difference in our experiences

(See Brian Little CV – Shorts/Bombardier had a nacelles business employing 800 people with some 100+ engineers. In the 1990’s they were in the Joint Venture International Nacelle Systems with what is now part of Aircelle - Magellan’s customer for the A340. Additionally I have experience of the “complete aircraft marketing/sales – delivery – support cycle with Shorts and Bombardier aircraft products. Furthermore I spent several weeks within Boeing on the Boeing 7J7 and “Boeing 777” market research / sales processes whilst on a secondment from Shorts in 1989)

Vice President Finance (CFO) and Corporate Secretary - Mr Dekker - His oral evidence at Report in April 2008 : P79 including

Mr Little A340-500/600 aircraft programme was the largest product except the super jumbo Airbus A380 ?

Mr Dekker It is one of the largest

Mr Little In terms of the MAC Balance Sheet, C\$40+?

Mr Dekker Approx that yes

Mr Little **This is probably the biggest single item to be a management issue from the inventory?**

Mr Dekker **I don’t think I can dispute this** *and shortly thereafter*

Mr Dekker **I'd go through with Mr Neill the certificates and identify remarks of that nature. We need to be sure we're fully versed.** I saw this (referring to document 2006) and Mr Neill said he'd talked to Mr Little already. Issue re enough product from Aeronca. **It was not my expertise. I'd just leave that to him.**

Judge What he wants to know is did you have a discussion with Mr Little?
Mr Dekker It was noted

Mr Little **Would you expect Mr Little to be obliged to look at the accounts, Aeronca EAC (BL referring to document EAC.Q2.2006.1830 etc) to satisfy himself?**

Mr Dekker **The self-certification process is laid out fairly clearly**
Mr Little **Can you specifically say you'd be expecting me to satisfy myself?**
Mr Dekker **I'd be disappointed if you didn't**
Mr Little Can we look now specifically at **document 1830 for Q2.2006**

Judge Have we left PD22? We know what and why, what's 1830 got to do with it?
Mr Little It would have been one of the documents I would have looked at
Judge You don't need to justify.... *Mr Lynch QC interrupts*
Mr Lynch And Mr Neill has been fully cross examined regarding this

Mr Little On 14th the conversation Mr Dekker and me had re arbitration might not have been connecting. I was getting increasingly anxious.
Judge Did you have that impression re Aeronca
Mr Dekker It was of concern to him yes. As it was to all of us
Judge PD24 then
Mr Little This is the telephone conversation between JD/BL on 14th September. In it BL is saying this really is getting much worse. Very concerned re financial statements. What does Mr Dekker recall? We talked for 29 minutes and you were *Judge interrupts*

Judge **Sorry to cut across you again. It looks like it's admitted so you don't need to go there. It's also accepted it tends to show breach**

Mr Lynch QC NO, No!!
Judge **You've admitted it in your schedule**
Mr Lynch QC **Oh, I see, of reasonable belief**
Judge It's a continuation of your allegations on 11th August. As a finding of fact, I can't conceive we wouldn't find on that. **The only issue is whether you had reasonable belief.**

Mr Lynch QC If everything alleged is established, the real reason is reasonable belief, and we dealt with Mr Neill with..... *Judge interrupts (see also Part K 1B - Mr Lynch QC)*


Judge It's the same issue. It comes back to March re MAC financial statements.
Mr Little **I was specifically concerned because I saw at least C\$10m, and probably more....**

Judge Mr Stafford QC cross-examined Mr Neill. Do you want to focus on a question to Mr Dekker? Any question you can ask Mr Dekker to establish or show us your reasonable belief. You should also bear in mind they all had concerns

Mr Little I had a real concern that Arbitration was not just the solution that we had to address. The magnitude and impact were not being recognized.

Judge You've heard the Claimant's motivation. What can you tell us? It was a valid concern. How did you regard it at that time?

Mr Dekker We were aware of this programme and the risk. **It was not being disregarded by anyone.** As a management team it's important to have different points of view. **Mr Little's view is important in this assessment but his is not the only one.** His point of view was valuable.
The auditors were comfortable with the outcome.

<Readers may now view this [Original at a Glance](#) document (at page 2 doc.3605/3605A and below) produced by  Mr Dekker, the MAC CFO, and view the production and spares forecast estimates for each year produced by MAC as their original A340-500/600 estimates for submission to their auditors (E&Y) for the MAC financial statements for FY2006 and to PwC for their "Independent forensic investigation" during January – August 2007. **Please note the MAC forecast of increased production levels for 2010, 2011, 2012 etc to unprecedented Airbus Toulouse aircraft production rates (divide by 4 engine nacelles per a/c) with production cessation in FY2016 and specifically also note, as at 31 December 2006, a Magellan Spares and Repairs forecast of 166 units from FY2008 to FY2021.>**

**Aeronca, Inc.
A340 Summary of Best Information Available
at December 31, 2006**

year	# of units justification			initial cost to complete basis		
	production	spares/repairs	total	units	unit price	total revenue
2008	69	7	76	156	201,396	31,417,776
2009	53	7	60	162	210,828	34,154,136
2010	127	8	135	162	221,170	35,829,540
2011	117	9	126	162	232,501	37,665,162
2012	103	11	114	151	244,970	36,990,470
2013	85	12	97			
2014	63	14	77			
2015	37	14	51			
2016	7	14	21			
2017		14	14			
2018		14	14			
2019		14	14			
2020		14	14			
2021		14	14			
	661	166	827	793		176,057,084

As you know, both Ernst & Young and PricewaterhouseCoopers were comfortable with the manner in which the Respondent justified the quantity of units expected to be delivered. For the sake of clarity, we also attach (at page 2) a document that our client has recently prepared, which shows at a glance the assessment that would be carried out by the Auditors in order to satisfy themselves that the accounting on this matter was appropriate. We trust it is of assistance.

August 2007

MAC: Aeronca - Airbus A340 non-recurring costs

- 8.61 Management indicated to us that while it produces multiple EACs on an on-going basis for reviewing estimates and performing sensitivity analysis, it undertakes a more rigorous preparation and review process at year end. In this respect, an EAC dated from any given quarter may not have been prepared or reviewed to the same degree of rigor, as is performed as part of the year-end process. Thus while we compare the Q2 FY2006 and Q4 2006 EAC's at a high level in paragraph 8.62 below, the analysis of the EAC which follows is on the Q4 FY2006 EAC, as this EAC incorporates management's latest assumptions and best estimates based on the most recently available information. The Q4 FY2006 EAC was also used by EY for year-end audit testing purposes.

ADDED
IN
FINAL
REPORT
re EY

[Airbus A340-500 "Kuwait Government / State of Kuwait" F-WWTZ / 9K-GBB MSN 1102 Guillaume Besnard-GBPhotoworks](#)



Final A340 - 600 was delivered by Airbus to Iberia on 16th July 2010



A340-500 :Photographer comments : Last A340 ever – 7 December 2010.

You may now listen to the audio tapes of the interview in Belfast with PwC on 29 January 2007 where I have provided the relevant evidence/information about

(a) External third party Market forecasts. My recommended Teal report by Richard Aboulafia was available in PwC London but ignored by PwC reports.

(b) 18 aircraft A340 -600 Order cancellation in Oct.2006 for Emirates Airlines. PwC audit [their financial statements, including April 2007.](#)

(c) Airbus A340 series production in Toulouse is complete.

Brian Little 2007 witness statement extracts

224.2 Multiple external market references

“Therefore the production run to 130 aircraft is generally regarded as secure (another 26 aircraft) with only speculation on the Virgin Atlantic orders. Few, if any other airline orders /additional inventory are now expected – indeed there is some speculation that some leased aircraft already in service might be handed back by their current operators. Meantime Boeing has over 350 aircraft back orders for the Boeing 777 family (see vol. 8, pages 3080).”

226.2 Reduction in volumes

“, I have reduced the total number of aircraft expected to be built under the current programme to 135 – when adjusted for aircraft built to date, this implies future production of 31 aircraft. Private customer aircraft sales seem to be the final opportunity for perhaps a few aircraft before the **expected close of series production in 2010.**”

Airbus website A340 - 500 Order Book - 34 Orders

Airbus website A340 - 600 Order Book - 97 Orders

Total A340-500/600 Aircraft Built = 131 (Production plan 2011+ = 0)

Station 40/ 41 per type
issue No 77 dated Feb 2011

ST40 Programme detail	2011		2012		2013		2014		2015	
	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.	last Progr. issued	current Progr.
A320 Family	█	█	█	█	█	█	█	█	█	█
A318	█	█	█	█	█	█				
A319 incl FAL-C	█	█	█	█	█	█	Not available	Not available	Not available	Not available
A320 incl FAL-C	█	█	█	█	█	█				
A321	█	█	█	█	█	█				
TOTAL A320 Family	█	█	█	█	█	█				
LR	█	█	█	█	█	█	█	█	█	█
A330-200	█	█	█	█	█	█	█	█		
A330-200F	█	█	█	█	█	█	█	█	Not available	Not available
A330-300	█	█	█	█	█	█	█	█		
TOTAL Bss c	█	█	█	█	█	█	█	█		
A340-500	0	0	0	0	0	0	0	0		N/C - AS50 1000x23
A340-600 HGIV	0	0	0	0	0	0	0	0		
TOTAL S:etch	0	0	0	0	0	0	0	0		
TOTAL LR	█	█	█	█	█	█	█	█	█	█
A330		█		█		█		█		█
A330-800		█		█		█		█		Not available
A330-800F										
TOTAL CD		█		█		█		38		0
A400M	L	L		L	█	█	L	L	L	L
TOTAL A400M	█	█	█	█	█	█	17	17	25	25
TOTAL ALL PROGR.	█	█	█	█	█	█	█	█	█	█

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