

Magellan “Management asserts” A340 quantities – PwC para 8.72/8.76 – **untruthful/ industry PwC logic+maths wrong etc**

Added 31 January 2011: **When people in the “accounting profession” are asked to talk about their independence, objectivity and professional scepticism they tend to comment as follows.....**

Auditor Scepticism : September 2010 Extract from PwC written evidence to the House of Lords Economic Affairs Committee – at para 24 **“Professional scepticism is fundamental to what auditors do. It is defined in auditing standards as “an attitude that includes a questioning mind, being alert to conditions which may indicate possible misstatement due to error or fraud, and a critical assessment of audit evidence.”** and at para 25 **“It is the job of the auditor, as established by internationally agreed auditing standards, to challenge management’s assertions and ensure that they are backed with evidence that is appropriate, supportable and capable of independent verification. It is not the auditor’s job to develop alternative views and then try to persuade management to adopt them in preference to theirs.”**

That has not been my experience with PwC as you will read here. PwC para 8.72 “ It is of note that the internal report also makes reference to the requirement for repairs in its conclusion and not explicitly to the need for spares or replacement units. Management acknowledges the unpredictability of repair work and has appropriately chosen not to consider repairs in its EAC analysis. Management believes that given the estimated life of the exhaust system there will be a combination of spare units and repair work. Further management asserts that the requirement for spare units will support and exceed the total number of units projected in the EAC.” ...<which was 1285 engine units with 833 deliveries remaining for a MAC NRC asset value of circa C\$44+m > ... PwC para 8.78 **“ PwC Observation: Based on third party information presented above and on management information obtained the delivery of a combination of production units and spare units totalling at least 1285 units over the life of the programme ending FY21 is not unreasonable”** . . full PwC text reproduced below.

MAC President and CEO Mr Neill management assertion to PwC in 2007 and his oral evidence on 27 July 2009 at page 8

Final Draft Investigation Report into Areas of Concern Raised
by Mr Brian Little
MAC: Aeronca – Airbus A340 non-recurring costs

May 2007

- 8.73 While the MAC’s EAC projects production and deliveries to FY2012, other MAC-prepared volume projections show continued deliveries through until FY2021, which would provide MAC with a more realistic 20-year period over which to amortise the NRC for the A340 programme, given that deliveries commenced in FY2001.
- 8.74 Assuming a maximum 20-year amortisation period for the A340 programme and the 8-year average useful life of exhaust system units would imply the following:
- (a) Production units delivered between FY2001 and FY2012 would need to be replaced or repaired twice by FY2021.
 - (b) Production units delivered in FY2013 would need to be replaced or repaired once prior to FY2021.
 - (c) Production units delivered in FY2014 and thereafter would not need to be replaced or repaired prior to FY2021.
- 8.75 The table below summarises the implication of the above assumptions and indicates that 1,572 exhaust system units would need to be replaced or repaired by FY2021.

Time Period	Production Units (Source Data)	Units to Replace or Repair by FY2021
FY2001 - FY2006	414 (Aeronca)	828
FY2007 - FY2012	348 (FI April 2007 Report)	696
FY2013	48 (FI April 2007 Report)	48
FY2014 - FY2016	72 (FI April 2007 Report)	-
Total	882	1,572

Note: Table prepared by PwC based on the Q4 FY2006 EAC provided by Aeronca and information obtained from Forecast International

- 8.76 In order to achieve MAC’s EAC projections, only 365 replacement (i.e., spare) exhaust system units would need to be delivered. This is far below the expected demand of 1,572 spare and repair units, as set out in paragraph 1.63 above.
- 8.77 MAC’s practice of including spare units in the total volume estimation within an EAC calculation is evident in its accounting treatment applied on other programmes.
- 8.78 PwC Observation: Based on third party information presented above and on management information obtained, the delivery of a combination of production units and spare units totalling at least 1,285 units over the life of the programme ending FY21 is not unreasonable.

Privileged and Confidential

92

Added 31 January 2011 quote - UK Financial Reporting Council /FRC/Audit Practices Board – “Audit is essential to public and investor confidence in companies... The application of an appropriate degree of **professional scepticism** is a crucial skill for auditors. **Unless auditors are prepared to challenge management’s assertions** they will not act as a deterrent to fraud **nor be able to confirm, with confidence, that a company’s financial statements give a true and fair view.”**

[PwC para 8.72/8.76 – untruthful/ industry PwC logic+maths wrong see below](#)

Now consider these cumulative five points / evidence -

Point 1 : [PwC basic mathematics errors](#) :

Firstly, using an erroneous 8 year product life (see Points 3-5 below), you can read that PwC in para 8.74 (a) state that **“Production units delivered between FY2001 and FY2012 would need to be replaced or repaired twice by FY2021”**. Then in the table at 8.75 they multiply x 2 those units between FY2006 and FY2012 on that basis. What is self evident, if one accepts an 8 year cycle prior to repair/replacement then the original installation of A340 exhaust system units will only require **a single repair** <and if the unit is beyond Economic Repair (BER) a spare replacement> by FY2021.

Secondly, based on the MAC/PwC assumptions the first period should have been for FY2001 – **FY2005** (not FY2006) during which time 74 A340-500/600 (or 296 units x 2) entered flying service [as per internet etc.](#), whilst succeeding years from FY2006 to FY2013 ought to have shown only one repair/replacement by FY2021 (not the PwC multiplication X 2). *{Three out of four 15 year-old students in my wife’s maths class in a local school also identified these basic mistakes after reading that page of the PwC report in a few minutes, as we had also noted on 24 June 2007 on receipt of the final draft report and I addressed through Mr Neill’s oral evidence on 27 July 2009 at p62-64. As one teenager, to paraphrase, said “surely a new plane delivered in 2012 would use the original unit and not require its first new exhaust to be replaced or repaired until 2020 and then its second in 2028? That should have been 2021 minus 8 years for 1 repair/replacement (2006 – 2013) and minus 16 years for 2 replacements (up to 2005). That 8.74 (a) statement is wrong. And that table at para 8.75 is wrong too, as it multiplies both of the first two lines by two. Mrs Little – that sentence, those years and multiplication are all wrong”}*

The result --- a totally erroneous calculated demand of 1572 units and on which PwC would in part base their conclusion in PwC para 8.78 that the “units” inputs “is not unreasonable”. Any rudimentary investigation by any professional person (never mind the “quality process” applied by others in the firm) would know that this was simply false. Mr Neill [p62-64.](#), Mr Dekker, Mr Dimma and the MAC Audit Committee or E&Y failed to bring this to PwC’s attention.

Point 2: [PwC logic – failed to use aircraft in service dates](#) <used the supplier Tier 2 actual deliveries from Magellan>

PwC have based their calculations of 1572 units based on actual exhaust deliveries from Aeronca to Aircelle and Airbus which inflates their calculation of 1572 by the number of units in stock and the assembly line i.e they failed to use the number of aircraft in service with airline operators ([RAN:p.64](#)) (e.g. [internet](#) or [F.Intl –p11- 96 a/c:384units](#)) – elementary logic – e.g. for example in the table at PwC para 8.75 a total of 414 production units are used in the calculation. Actually a total of 30 units were in Aircelle or Airbus stock/inventory or installed in aircraft in assembly.

Point 3: [PwC use wrong average annual flying hours](#) < relying instead on Magellan management “hearsay”>

PwC have based their calculation on a theoretical 5000 flying hours per year for ALL aircraft in service. Firstly they have included those aircraft which are utilised for VVIP etc. purposes, and therefore have very low annual flying hours, and secondly did they not use [the actual flying hour in service experiences](#) from, as examples [the Ascend](#) or [Flight International](#) databases. Had PwC done so they would have found that the airline flying experience for the A340-500/600 aircraft in service would have equated to almost a 10 year cycle ([as per my witness statement at para 224.3 p74 – rather than 8 years as per the MAC/PWC assumption](#)) before repair (and possibly replacement if beyond economic repair (BER) ; even if the erroneous assumption of 40k flying hours at MAC was valid).

In effect those few A340 -600 aircraft which came into service in late 2002 would not accumulate 40000 flying hours until FY2012 etc. The result of which would be that those A340-500/600 aircraft which came into airline service between FY2003 and FY2012 would require ONLY ONE repair or replacement by FY2021 and that the table at PwC para 8.75 was completely wrong in doubling the quantity of any exhaust units in service – and paragraph 8.74 (a) is false. **When points 1, 2 and 3 are calculated properly** (whilst continuing to assume the erroneous 40000 flying hours by MAC before repairs (& BER spares) together with the absurd PwC/FI total production unit build forecast equivalent to 221 A340-500/600 aircraft -882 -before production cessation in FY2015) **[the table prepared by PwC at Para 8.75 should NOT have been for 1572 units but instead should have read about 650 units or MORE THAN 50% LESS](#)**(than the 1572 PwC had calculated).

[📄](#) [I warned PwC about Spares & full replacements at the outset of their investigation - click here](#)

Point 4: PwC used only ONE production build forecast <consciously ignoring 6 others, customer prodn plan, and press.>

Mr Neill told the TSE/Toronto Stock market analysts on 15 August 2006 at the Q2.2006 Earnings call that “In fact, **Boeing won the bulk of the orders for twin-aisle airplanes** and had, for the first time, some success that they could boast about. **We saw that at the Farnborough Air Show.**”

Furthermore, PwC, E&Y and each of the MAC Directors with my 4 Dec. 2006 letter received a dossier which contained DIR44–UK Times–Oct. 2006 “**End Looms for Airbus A340 as Emirates cancels \$4bn orders**” which affirmed a Flight article which CEO, Mr Neill and I discussed on 8 August 2006.

 I told – click- PwC that they should obtain 2/3 external market forecasts (*at least 7 available*) inc. Teal in PwC London

: At the outset I told PwC about the Emirates cancellation of 18 A340 600 in late 2006 – click – PwC audit Emirates.

Crucially I would also ask you to note that the MAC Annual Report for FY2006 at page 14 (MD&A/AIF.p12) states “The Corporation relies on customers' delivery projections as well as external market forecasts to determine the number of units over which to amortize non-recurring costs. Should deliveries not reach the number projected, any unamortized balance that remains would then need to be charged to cost of revenues which could have a material adverse impact on the Corporation.” - approved / minuted at the MAC Board on 30 March 2007 and concurrently approved by Ernst & Young.

The PwC table at para.8.75 of their C\$3m+ forensic investigation report uses ONLY the Forecast International A340 report for FY2007 – FY2021 deliveries which records further aircraft engine deliveries from FY2007 – FY2016 equal to 468 units (348 +48+ 72) which is equivalent to Airbus delivering a further 117 aircraft to a total aircraft build total of 213 aircraft / 852 (and not the 882 which PwC used inclusive of the Point 2 error).

As I stated in my witness statement at para 224.2 that if one looks at the six other third party forecasters ... “While they use different methodologies, none of them forecast a build of more than 150 production aircraft and I assess the consensus view is 135 aircraft in total.” and that “.. “Therefore the production run to 130 aircraft is generally regarded as secure (another 26 aircraft) with only speculation on the Virgin Atlantic orders.” At the outset of the PwC investigation

 I told ([click here](#)) PwC that they should obtain 2/3 external market forecasts (*7 available*) – including Teal Group.

PwC failed to question the glaringly conflicting data available against that FI forecast. That included the Teal “**Dead Plane Flying**” total build forecast of 139 aircraft available in its PwC London offices (Mr Hoon Lee), whilst MAC had represented on 1 March 2007 production volumes for 2007 – 2009 that were **DOUBLE** those planned and published by Airbus recently. Whilst this **was clearly misleading PwC consciously elected** (RAN.p48-50) instead to use as the **SOLITARY** basis for their Report (*see para 8.78.p.63*) the FI March/April 2007 market forecast for 2007–2009/2015, which, not only did it NOT reflect the “market consensus -135aircraft /540 exhaust units” amongst the professional providers but also, unprecedentedly for the industry, and improbably, FI had also positioned its forecast by **almost 30% above the definitive Airbus production plans of 32 aircraft for the next three years**. I have never in thirty years witnessed this before in any external market forecasts in the aerospace industry, nor have any of the many others with whom I have spoken. (RAN:p85,p123). That Airbus production plan was excluded from the PwC report.

The implications of this are that the Production units' column should have read the equivalent of 135 aircraft or 540 units, and NOT the false 882 in the table created by PwC at para 8.75 at p.1. Crucially PwC / E&Y? asked **MAC to produce a forecast (prodn=542) in March 2007** (p7) and then proceeded to exclude it's results from the PwC Report.

Furthermore, the consequences of the inclusion of that consensus production forecast (540 units) here at point 4, when combined with points 1, 2 and 3, would mean that the Spares and Repairs calculation would drop from in excess of 700 units to 540 units, and require an ongoing repair and replacement programme for every exhaust unit in service – i.e 540 production units (135 a/c) , **of which 125 aircraft would be the maximum A340-500/600 in daily airline service equating to approximately 500 units for Repair and if necessary – i.e Beyond Economic Repair (BER) - a spare replacement.**

Those 500 units **for Repair etc.** is based on the unlikely assumption that all the aircraft delivered by Airbus, before the cessation of series production in 2010 remain in daily airline service in FY2021; which is unlikely as they will be economically unviable to operate. Typical aircraft depreciation rates are between 12 and 15 years, for example Lufthansa, with the largest A340-600 fleet (24 aircraft) use 12 years life. Lease period are usually 10 -15 years.

A340-500/600 series production will complete next year, 2010, at slightly fewer than the consensus forecast in 2007 of 135 aircraft – it will be **131 total A340-500/600** once the two ex Kingfisher MSN886/MSN894 are finally delivered.

Furthermore, the airline industry expects the A350 XWB/Boeing to begin to replace these A340 aircraft in service from FY2015. With four engines and rising fuel costs we will see an acceleration in the rate of removal of the A340 – 500/600 from operational service, reinforced by their high concentration in few fleets in leading airlines e.g Lufthansa, Emirates, etc, as finance and leasing periods end in the period FY2015 – FY2021etc.

Point 5 Detail technical data for BETA21S materials:

Having been provided by Magellan with a 100000 flying hour design life and 5000 flying hours per year [Dr Thamburaj used certain numbers for BETA21S materials performance in his technical assessment in calculating a life reduction factor \(MAC used 3 and 2.66\) before repair](#) which when combined with the assumed design life and annual flying hours estimate guided him to a conclusion that parts would return for repair between 33,333 flying hours/6.6 years and 37,593 flying hours/7.5 years.

In turn Mr Neill directed Mr Furbay that 40,000 flying hours be used in the Accounting A340 EAC while, arguably the global expert on BETA21S materials, Professor Hamouda Ghonem told me

From: Hamouda Ghonem [mailto:ghonem@egr.uri.edu]

Sent: 15 October 2009 01:46

To: Brian Little

Subject: RE: FW: FW: BETA 21

Brian, All data available to me show that elongation of Timetal 21S at RT exceeds 8% while at 650C in vacuum, elongation reaches 11.5 %. (Timet data: 8-10% (aged 538C)). Since elongation depends, in addition to thickness, on temperature and length of exposure, it is important in calculating the reduction in elongation, to correlate with a reference condition that accounts for temperature but excludes effects of thermal exposure. For the condition we discussed this morning during our telephone conversation, the reference elongation should have been taken at 450C with zero time exposure. [This may explain the overestimation in the reduction of elongation in their calculation.](#)
Hamouda

This would mean the **potential demand of 500 units for Spares/BER replacements and Factory Repairs calculated at Point 4 above would fall further by FY2021;** before any adjustment for A340-500/600 aircraft which may no longer be economically viable to remain in operational service as above e.g. Emirates -500 fleet renewal plans.

[As per my w/s para 226.3](#) my view was a further **132 Spares/BER replacements** by FY2021: [Mr Bobbi \(aerospace consultant\) estimated 82-112 Spares](#) after his detailed analysis

Note:

Later, strangely, as you can read in Mr Neill's evidence on 27 July 2011 although the Dr Thamburaj technical calculation range was in a range of 33K- 37K flying hours, based on his MAC-instructed 100,000 flying hours design certification life, Mr Neill states that the inspection checks on the exhaust systems would begin in parallel with the removals for Trent 500 engine overhauls at 40K flying hours – identical to the “conservative” assumption for accounting and the PwC report.


<Brian Little Observation :

One is forced to the conclusion that all these coincidences can only be explained by PwC setting out to selectively misuse the material available to it and perpetrate an act of forensic deceit. Individually, a defence could be made for any of pieces of misinformation – they are surely too blatant and serious to be termed mere mistakes – but collectively they cannot do other than represent a step-by-step strategy to reach a set objective – to absolve MAC in its cover up of a huge loss/mistake from its investors and the public record. It is hard to imagine any other series of steps that could be taken to achieve this particular ‘truth’ and the answer they first thought of, because each step is required to stretch that ‘truth’, it is impossible to believe this could occur without a plan. This was managed and contrived.

Any deconstruction of its report demonstrates professional failure on a level beyond belief and unrecognisable in the Number 1 global auditing company. Extraordinarily, every single piece of misinformation must have passed PwC’s internal third party quality testing. Standard operating procedures would demand this include peer reviews within PwC. Therefore, collectively, their approval and publication by PwC demonstrates an orchestrated corruption of the truth – **a forensic deceit**.

Given the reliance by MAC on the [Final draft PwC report](#) in their public financial statements on 11 May 2007 [Employment Judge Christensen Ordered the disclosure of this “draft” report in June 2007](#). The first Exhibit in the PwC report - Exhibit 3.1 – was my Grounds of Complaint to the Employment Tribunal. Despite the fact that the Final PwC investigation and report was not completed for a further three months (until late August 2007) we were never invited - though on commonsense and advice from Deloitte LLP and Mr McCreery- [we offered on multiple occasions, to comment on the factual accuracy of that Final Draft PwC report before they completed their Final Report. Those requests were all denied](#). I was advised that PwC was of the view that this was unnecessary and that Mr Dimma and **“the Audit Committee is confident that PwC’s investigation was thorough and competent, and is prepared to rely on PwC’s conclusions.”** PwC failed to record in their Final Report that they had not invited me to make any comments, despite my offer to do so. In contrast [PwC provided that opportunity to Magellan in May and June 2007](#).

When the PwC/MAC cover-up/smokescreen disintegrates over time, due to the lack of commonsense and reasonableness checks , the “Truth will Out”? By **“Forensic Deceit”** I mean that it is **NOT TRUSTWORTHY**, because the intention of PwC, and the effect of their **less than rigorous investigation or audit standards, was to mislead the reader in their “findings of fact” and conclusions from its “forensic investigation”**Beyond Belief.

As you can hear in my interview / tape with PwC on 29 January 2007 (not the A340 detail report authors) click  [I warned PwC about Spares & full replacements](#). However, those PwC authors were also provided with **MAC- prepared volume projections for Spares and Repairs** over a twenty year period to FY 2021 on both [16 February 2007](#) and [1 March 2007](#) which as you can read showed a total of **190** units which was identical to the number used in prior years; or at least FY2005 and FY2006.

Although PwC state at Para 8.66 that “..... *The EAC does not explicitly show further spare unit deliveries.....*” they did have both of these “190” documents. (RAN:p.86-88) Notably neither of these two documents were [included in the 5 Exhibits for A340 in this C\\$3m+ PwC “independent forensic report”](#).

Furthermore, PinsentMasons LLP, on behalf of Mr Dekker, the MAC Chief Financial Officer described this 16 Feb 2007 information in a document /schedule for production and spares (190 units= 166+24) on 5 May 2009 as **“At a glance the assessment that would have been carried out by the auditors in order to satisfy themselves that the accounting on this matter was appropriate.”>**

[and in Mr Neill’s oral evidence on 27 July 2009 to the UK Employment Tribunal \(p.66\)](#)

Mr Neill Going back to the reports I referred to earlier, we had a damage tolerance report that said a hundred thousand hours is the design life, when they did the damage tolerance report they built into it a scatter range of 5, because the engine time between overhauls was 20 thousand hours and therefore **the belief is that nozzles and plugs could start returning or needing repair from service** from 20 thousand hours on, we thought 20 thousand hours was much too low a number to use for this calculation, and at the same time, given the amount of wear and tear that we knew that would occur, based on our experience, a hundred thousand hours was too great a number. So we had as it were a floor and a ceiling.

We made the decision to base it on 40 thousand hours, based on the work that Dr Thamburaj did, that said that if any units are exposed to heavy use in a number of hot and high airports and marine environments, corrosive elements in the air, et cetera, et cetera, there’s every likelihood that we’ll start seeing **heavy repairs from about 35 thousand hours on, and we chose the 40 thousand hours based on that fact, there was no other science behind the 40 thousand hours.”**

Mr Little Okay, can I try and go back to the mathematically and logically, if we go back to the 8.75. **This calculation here is predicated on a replacement at 40 thousand hours, is it or is it not? That's the logic of PwC?**

Mr Neill **I would assume so but it doesn't actually say this --**

Mr Little **Just up to 8.74 --**

Mr Neill **I would assume so.**

This reference in evidence was that PwC had calculated, independently of MAC, an expected demand of **1572 spare and repair units**, as set out in paragraph 8.75. The number was based on some basic logic and maths errors – inflating potential revenues by perhaps \$100m. As I stated in my witness statement as part of para 224.4 “... **I considered the mathematical spares calculation included in the report to be at best, misguided.**” **It was also not consistent** with the much “lower spares numbers – “886” ” in a schedule provided by MAC on 14 March 2007 to PwC (doc 3605H) at page 7. This MAC schedule representation / scenario was NOT mentioned or included amongst the 5 Exhibits (8.1-8.5) in either of the PwC reports although identical to my assessment.

whilst Mr Lynch QC (barrister for Magellan Aerospace after reading Mr Neill’s email and assertion to PwC in doc 3597) states in UK Court - Transcript of court hearing on 8 June 2009 at pages 62-72 Mr Lynch QC to Mr Bobbi X –exam

Information item 1 : sets out the frequency/consistency of Mr Lynch’s mindset/line of questioning on Spares

Page 63 states

Line 3 – 7 Mr Lynch QC “Exactly, good, and **that relates to replacement, doesn’t it, spares rather than repairs. If that’s the lifespan of the unit, then once the lifespan is over it’s a question of a replacement, other than repairs, that’s right, isn’t it?**”

Line 9 – 15 Mr Lynch QC “Well, but that would be the obvious inference to draw, wouldn’t it, from what Dr Thamburaj is saying. The obvious inference to draw is that that is the service limit, that’s the lifespan of the unit, and obviously, if the lifespan is that, **then one needs a new unit when the lifespan is spent.** That’s the obviously sensible reading of Dr Thamburaj’s email, that’s right, isn’t it?”

Mr Bobbi : He is still confusing spares and repairs.

Line 17 – 20 Mr Lynch QC “I don’t think he is, and that’s my point. If we look again at his email isn’t it perfectly obvious that what **Dr Thamburaj is saying is that that is the lifespan of the unit, that’s exactly what he says.**”

Page 65 states

Line 5 – 16 Mr Lynch QC “We have Mr Neill’s email to Mr Moore of PricewaterhouseCoopers. I know it’s a bit compressed in its typescript. Tribunal, of course there is a bigger version in the bundle, if that’s a bit small to read. (Pause) <doc 3597.... in referring to doc3605H –Aeronca estimates based on 40K life>.”

Mr Bobbi, you can see, can’t you, looking at the two substantive paragraphs – it actually is a feature of both of those paragraphs – that Mr Neill makes it expressly clear that Magellan is simply basing its **calculations for accountancy purposes on spares or replacements**, he’s not included anything to do with repairs”.

and on Pages 72 and 73 line 1-3 states

Line 10 - 13 Mr Lynch QC “Right. So it’s plain, isn’t it, that PwC did indeed examine and accepted for accountancy purposes, the validity of Dr Thamburaj’s calculations, yes?”

Mr Bobbi “No, that’s not. Because a component has a “lifespan” does not mean necessarily it will be replaced by something new, it can be repaired.”

Mr Lynch QC “Yes. Well, no, I think the whole point is this, it’s not, **Dr Thamburaj’s point was not a question that they will need repairs after that period.** Dr Thamburaj’s point was around 40,000 flying hours was indeed the lifespan of the unit. That after that, **it’s lifespan was spent and should be replaced.** That was the point.”

Attachment C.1

Document 3597 : an email from Mr Neill (former CEO / now Vice Chairman) to PwC just hours before the MAC Board resolution was passed for the approval and public release of the MAC FY2006 Financial statements.

Page 1 of 2

John Furbay

From: Rich Neill
Sent: Thursday, March 29, 2007 12:09 AM
To: stephen.r.moore@ca.pwc.com
Cc: John Furbay; John Dekker
Subject: RE: A340 Requests

item 1
and
item 2

f doc
3605
16 Feb 2007

Stephen and Stephanie ; Further to our conversation tonight I have the following comments on the forecasts,

The answers to the questions provided to you in the prior E Mail related to the EAC number of 1247 units that had been used in the projections of profitability and the recovery of the NRC amounts invested in the program. In mid 2006 the requirement indicated 1155 units would be produced as original equipment hence the balance of 190 would be produced as Spares. However and Independently John Furbay was asked to produce a forecast of spares required based on the Engineering work completed by Dr Thambura which concluded that the useful life of the exhaust system was approx 35000 hrs. To provide a margin of safety John Furbay's analysis used 40000 hrs as the useful life. This analysis showed that the likely spares requirement was in excess of 800 units over the period 2007 to 2021 so to achieve a volume of only 190 units was an extremely safe number to use in the EAC analysis. This data was sent to you on the 14th March. Now with the latest FAI forecast it suggests the original equipment number will be reduced and with it the forecast for spares will also reduce by a corresponding amount, but the requirement for spares still exists and will provide a total quantity in excess of the 1247 used in the 2006 EAC 6. Hence the amortisation methods used in the EAC are still valid and the conclusion that the program will be profitable overall still correct.

→ Doc
3605H
14 MARCH 2007
- overleaf. -

To attempt to explain the terminology "Spares and Repairs" generally if an exhaust achieves its predicted and recommended life it will be taken out of service and a new one will replace it. As far as I know there are no mandatory FAA or JAA service lives on the exhaust to mandate this type of replacement so it will be an Engineering and Maintenance decision made by the Airline and the Overhaul Centre that causes this to happen. If an exhaust is damaged or suffers other forms of premature failure [e.g mechanic's errors] then the decision could be made to repair the parts rather than replace. This has already occurred and a small number of exhaust parts have been repaired under these conditions. Clearly economics also enter this situation and if the repair cost is sufficiently high then the part would be scrapped and a new one fitted. We find it difficult to predict the business that would arise from these Repairs and hence we would choose to ignore this in any EAC analysis being done. But the business is there and will happen. As an aside on other programs we have completed repairs when new spares have not been available where the cost of the repair has been close to the original equipment price but the margin significantly better.

→ Doc 3605H
overleaf

Some other factors to consider are Titanium Beta 21s is a difficult alloy to work with and hence it will be difficult for overhaul bases to repair these components and so we will likely see more returned to the factory for repairs than you would see with an inconel/steel exhaust.

The Forecast International Data assumes Airbus will be unavailable to further improve the A340-500/600, and yet history has seen the opposite and the example I would use is the A300 which first entered service in the early 1970s and production is only now ceasing. I hope this deals with points raised in the telecon tonight.

from: stephen.r.moore@ca.pwc.com [mailto:stephen.r.moore@ca.pwc.com]
Sent: Wed 3/28/2007 5:48 PM
To: Rich Neill
Cc: stephanie.leblanc@ca.pwc.com
Subject: A340 Requests

The forecast schedule to which Mr Neill was referring to in his 29 March 2007 email (doc 3597/8) above was produced by the Magellan Aeronca CFO Mr Furbay on his instruction as you can read in it below (doc 3605H finally disclosed in August 2009) and is based upon an exhaust system life of 40000 flying hours.

The reader will note that PwC (& E&Y?) had asked that MAC consider the Spares and Repairs volumes if there was a cessation in series production in 2009 (- end of the line etc at 135 a/c as I had indicated in my interview in January 2007) and a second option (bottom) with no further sales by Airbus (at 153 a/c and no cancellations) from February 2007. [This schedule is reproduced below or can be read at this link](#) (disclosed in late August 2009)

PRODUCED BY JOHN PUNBAM ON INSTRUCTIONS FROM CEO MR R NEILL

AERONCA, INC.
AIRCELLE A340 PROGRAM
 ACTUAL/ESTIMATED QUANTITIES (ENGINE SETS)
 AS OF: 3/14/07 14 MARCH 2007

Engine	Application	Actual Through 2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Subtotal	A340 Trent 500/600 Total
Rolls-Royce Trent 500 Production	A340-500/-600	434	52	43	36	0	0	0	0	0	0	0	0	0	0	0	0	128	1466
Spares and Repairs	A340-500/-600	18	8	9	6	81	90	70	86	81	52	40	36	81	90	70	86	896	

↳ END OF CURRENT COMMERCIAL SUPPORT = 282

Airbus Wing Delivery Schedule based on sold aircraft, no projections beyond 2009.
Aeronca Estimates based upon exhaust system life of 40,000 hours. *
Actuals

→ TOTAL 562 - 20 Dev = 542 = TOTAL BUILD OF 135 A/C (equal to BL - JAN 2007 view)

Engine	Application	Actual Through 2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Subtotal	A340 Trent 500/600 Total
Rolls-Royce Trent 500 Production	A340-500/-600	434	44	60	32	52	40	0	0	0	0	0	0	0	0	0	0	228	1666
Spares and Repairs	A340-500/-600	18	8	9	6	81	90	70	86	81	44	60	32	133	130	70	86	986	

Airbus Website based on sold aircraft, no projections beyond 2011.
Aeronca Estimates based upon exhaust system life of 40,000 hours.
Actuals

→ NOT RIGHT DATA (160.5) AIRBUS Website = 153 AIRCRAFT (Cancellations not considered)

- 3605H -

and in Mr Neill's oral evidence on 27 July 2009 at p.116 re his email on 29 March 2007 (p5) & 14 March forecast (p6)

Mr Little : Well, it's quite explicit, the English language says to somebody in PwC that "**an exhaust achieves its predicted and recommended life it will be taken out of service and a new one will replace it**" and just above that "**to provide a margin of safety John Furbay's analysis used 40000 hours as the useful life**" -- and is equivalent to 800 units, as calculated. And I would concur with that calculation on that basis, as I have done in case 4B. (this email at P6 refers to doc 3605H at P7)

Mr Neill : I would, sorry, I would, in response, I would suggest that we're in a new paragraph in this email, we're talking about spares and repairs and we're talking about life in relation to spares and repairs. I don't know how PwC interpreted this, but I have assumed that they segregated these two paragraphs to come up with the conclusions that they did.

Mr Little :Rich, with respect --

Mr Neill :Beyond that, you're asking me to testify what they understood but it and I can't.....

Mr Neill : I think you want me through the ... to show you that there was an error in the second line of their (PwC) calculations which would reduce the number, so on the basis of that's what they did, you've interpreted it that way and I would have to agree with you right now, **but it still doesn't change the overall basis of the EAC, that we had more than the necessary 1250 or whatever the number was mentioned in this email to get all the amortization completed.**

Mr Little : Rich, just so we're both on the same wavelength, the evidence you've given is that the table, you didn't correct, and both of us believe that it's probably wrong. **You've said independently in this email that you've done a calculation that suggests 800 units on a replacement basis on 40 thousand hours is what is in the EAC and what I'm saying is, if that is true and everything has changed at 40,000 hours, purely for spares, that would meet the 1247, which is your point, but it's only in that situation that everything is getting replaced at 40 thousand hours without exception. No repairs, nothing, straightforward replacement.** That's what your emails are saying?

Mr Neill : I think we're losing sight of the purpose of this email. At that point in time, PwC were trying to understand how the numbers stacked up to justify us getting more than 1247 units that had been used at that time in the EAC. I must admit I didn't go back and check in detail every calculation that followed that. **All I was saying was that if you took Dr Thamburaj's 40 thousand hours it would generate a significant number which, on top of the production, would easily exceed the 1247 numbers needed to amortize out the recurring costs.** That's what I was trying to say in the opening paragraph. (of his email dated 29 March 2007 at document 3597)

Mr Little :No, I'm suggesting to you you're lying, because that says to anybody, a replacement. The calculation of 800 stacks together with that, it only makes sense in that context. It can't mean anything else, and they then go off and say that's how they've done their calculations, but can't even get the maths right.< doc 3605H at p7 above dated 14 March 2007)

(overspeaking)

CHAIRMAN : Wait, please. You're suggesting he's lied in the email?

Mr Little: Yes, he's deliberately lied and given that impression.

CHAIRMAN : In the email.

Mr Little: In the email relating to the 800 and he then conditions --

CHAIRMAN : No.

Mr Lynch : Wait.

CHAIRMAN : In the email, what you're suggesting is that he's lying to PwC.

Mr Little: He's deliberately given the impression of that 40,000 hours replacement.

CHAIRMAN: I hear what you say but I want to make a note of it. I suggest that you are lying in the email. Not anywhere else, but in that email. That's what's been suggested to you, I think that that's a lie.

Prior oral evidence from Chairman Mr Murray Edwards on 31 March 2009

Mr Little **The financial statements that E&Y rely on are produced by management**

Mr Edwards When your auditors <sign> statements they have done a thorough detailed review. Directors can't get into details and rely on professionals. Given your sensitivity and since you've gone we have gone through due diligence and we have to rely on them. And shortly later

Mr Little [Document 3602. Have you seen this before? Airbus O&D spreadsheet from their website Feb 2007](#)

Mr Edwards No

Mr Little Airbus website. Orders column for a340-500/600. Total now 153. This was the document now provided to PwC and also what was given to E&Y. **Have you any idea what the orders position is re this aircraft ?**

Mr Edwards Not at all

<BL Observation – (4) (Note:A340 significance to MAC finances as the largest asset for cash recovery in MAC Balance Sheet & my email to Mr Edwards (and Mr Dimma) in Sept. 2007 with A340 illustrative examples on PwC “findings of fact” omissions/errors etc.). This Exhibit was in the PwC report at Exhibit 8.2. Please also note that Mr Edwards received a letter dated 4 December 2006 with a dossier which contained [DIR44 –UK Times article– 28 Oct. 2006 “End Looms for Airbus A340 as Emirates cancels \\$4bn orders”](#). See also Website Part D Exhibits 8.1-8.4 and related oral evidence.>

Mr Little [It is reduced. The orders position has reduced.](#) Do you see why I continued to be concerned that you're not aware that management have misrepresented, misled and been untruthful to the public and to the auditors, and PwC have not included any documents that would undermine this?

Judge **What is being suggested is management has deliberately over-stated the health of the project by deliberately mis stating the figures. Are you able to comment?**

Mr Edwards **He used the word untruthful and I take some offence at that. My view of Mr Neill, Mr Dekker, Mr Butyniec – they do things right and with integrity.** It bothers me to hear that comment. E&Y has been in my view absolutely diligent in producing these accounts. Have been super sensitive and have never provided the Board of Directors with any reason for write-off - given their degree of professionalism – one can always point to a number of variables. Economy has slowed down, have to look at the pricing/cost forecast. We don't have the skill set to focus on this one issue. PwC/EY would also look at revenue/costs. [<Observation : See PwC table 8.62 for that revenue/price analysis>](#)

Mr Little Document 78, part 3 <Magellan Ethics Policy > “all employees..... “ added for ease

If an employee becomes aware of a materially inaccurate or misleading statement in a public communication, the employee must report it immediately to the Chief Executive Officer of Magellan or the chairman of the Audit Committee of the Board. Making false or misleading statements to external auditors can be a criminal act that can result in severe penalties. No employee may directly or indirectly take any action to fraudulently influence, coerce, manipulate or mislead Magellan’s independent public auditors for the purpose of rendering Magellan’s financial statements misleading.”

Mr Edwards It’s a powerful statement and correct

Mr Little I had discussions – PD22 - on 8/9 August, with you and Mr Neill – PD 23 – on 10 August, and -PD24 – on 14 September 2006 with Mr Dekker. Did you know it is my view that a substantive element of why I was dismissed was because I was going to expose there would be a requirement for substantial write-off in 2006 and Mr Neill didn’t want that to happen on his “watch”, and that is part of what he and Mr Dekker used to remove me?

Mr Edwards I have no reason to believe – I’ve seen no evidence. Mr Dekker and Mr Neill do the right things. My view is there’s never been any connection to your dismissal.

Mr Little No further questions

Mr Lynch No re-examination

Part B : Oral evidence from Mr Dekker on 10 June 2009. (p133+)

Judge If the Q4 2006 EAC had continued with the underlying gross loss of 5.22 million <as per the Q2.2006 EAC> and the further £2.734 million costs increase by Q4 2006 had been recorded at circa \$10 million loss, would MAC senior officers have recorded from that EAC a circa \$10 million plus loss in Q4 2006 earnings and then stated that in the FY 2006 published accounts?

Mr Dekker Yes.

Mr Little Right

Mr Dekker But --

Judge But --

Mr Lynch Yes, please.

Mr Dekker But it's based on a lot of presumptions.

Judge Right.

Mr Dekker The final question is, would we post the accounts correctly, of course we would, if that was truly a loss we would post the accounts correctly and record a loss.

Mr Little Can I just clarify something now, if we just look at document 1831 in the bundle, what you're saying, John, then, is, and this is for everybody else, if the number do you know here, \$137172, which is the very bottom of the sheet, marked D, I think, sir.

Judge Yes.... we have it

Mr Little So, Mr Dekker, if D was minus \$10 million, I think you've just told the tribunal that you would then be posting 10 million loss to the accounts?

Mr Dekker If you're asking me if this schedule generated the number of minus 10 million in the bottom of the programme total, would we record it that way, no. Not solely on the basis of this schedule. This schedule is an estimate at complete, and each quarter we do various scenarios of this schedule, there are three major variables that affect the outcome of this schedule, sorry to bring it to such basic levels, but it's number of units, times revenue per unit, and the cost. If our best view, our -- let me

identify best, our most reasoned view and most likely outcome showed a 10 million loss, yes, we would post that loss. Each of those three variables has a habit of changing on us. And as such, this schedule will change each time we do it. We also have uncertainty about the future, so our view as to what's going to happen into the future will also affect how this schedule is completed.

- Mr Little But the core question is, if as a result of doing all of that, that number became minus 10 million, would you be posting minus 10 million to the accounts? (*BL : Note also the relevance to the Q2.2006 A340-500/600 EAC of (\$5.2m) etc etc*)
- Mr Dekker **If our best view, our -- let me identify best, our most reasoned view and most likely outcome showed a 10 million loss, yes, we would post that loss.**
- Mr Little And it is correct, Mr Dekker, that this document is the primary document which Ernst & Young would use in their audit process?
- Mr Dekker We would give them this document in the audit process, plus the supporting detail, I can't say that this is the primary document but I have to believe it's one of the key ones.
- Mr Little Right, and in the audit testing processes, which we're both familiar with, in terms of the primary part of their job, for want of a better word, that's what this Excel work sheet will become, and its backing paper, what they use to do their calculations of mathematics on.
- Mr Dekker I believe so, I'm not present at each of the business units when the auditors are in but certainly that would be a logical assumption, I would expect nothing different.
- Mr Little Right, and sir, just for factual record, in the final report at paragraph 8.61, **PwC, it confirms that this was the document used for year-end audit testing purposes.**

<Brian Little Observation 1 from oral evidence above

It is neither rational nor credible that in the face of the following contemporaneous documented facts that, in short, Mr Neill and Mr Dekker had any legitimate basis for making a decision through "Management override" to move to an undocumented "A340 -500/600 EAC program break-even" as, to quote Mr Dekker above, the "most reasoned view and most likely outcome".

- (1) Number of units : [production volumes were reducing in the near term](#) – FY2007 - FY2009 , a [A350-1000 XWB product had just been announced by Airbus in July 2006 at the Farnborough Airshow](#), (*with no A340-500/600 orders*) which would effectively mean the end of the A340-500/600 product life/series production was now certain within five years. (*Mr Vandersteen of Airbus UK – recorded - A340 600 "Trashed"*). With these facts and my Protected Disclosures on 8/9/10 August 2006 (PD22&PD23) how could Mr,Neill, Mr Dekker and MAC rationally and reasonably believe that it was appropriate simply to defer the A340-500/600 volumes and revenues in to later years so as to still complete the amortization quantity (843 units) by the end of the current Aircelle commercial contract in FY2012? What is equally revealing is [Mr Neill's commentary on 15 August 2006 during the Q2.2006 earnings webcast](#) –pages 1 & 2 *after my A340.PD22 and PD23 but before my termination*) in which he set out his perspective in what we heard /can read on the Boeing success – "*In Boeing's case -- different story. The story of the quarter was the strength of the order book for the Boeing 787 that built through that period but also for the Boeing 777 as well. Boeing won the bulk of the orders for twin-aisle airplanes and had, for the first time, some success that they could boast about. We saw that at the Farnborough Airshow.*"
- (2) Prices per unit : [Mr Edwards \(12 Aug\) and Mr Dekker \(11 Aug\) had just approved Mr Butyniec's BAFO for settlement with Aircelle on 11/14 August 2006](#) which had LOWER pricing (*e.g. \$179,623 in FY2006*) than [in our Q2.2006 EAC \(\\$181,170 in FY2006\)](#) and which would lead to a [reduction in revenues of \\$5.2m - \\$8.9m](#) and further [increase the \\$5.2m gross losses](#). If internally Magellan were satisfied with this documented BAFO pricing settlement for A340 - and Aircelle had indeed accepted this Magellan final offer - how could Mr Dekker and Mr Neill rationally and reasonably believe that this lower pricing would have more than [set off the A340-500/600 \\$5.2m gross losses in our Q2.2006 EAC document](#) and was in the best interests of non-management MAC ordinary shareholders.< [Read here my analysis on A340 management assertion on pricing/revenues at Q4.2006](#)>

- (3) Costs per Unit : By that August 2006 re Q2.2006 we faced actual costs on A340 which were escalating further and further away from our FY2006 Budget/Program EAC. Throughout my attendance at the FY2006 MAC weekly staff meetings which Mr Edwards attended (e.g 25 April 2006, 1 Aug. 2006, [15 Aug. 2006-2021](#), [12 Sept. 2006-2179](#) we discussed on multiple occasions that Mr Butyniec and we were failing to meet our operational budget/EAC targets in FY2006 in the factories. Why would those documented cost facts not have led anyone to the view within Magellan that our A340 gross losses would be reduced and not increase further beyond the \$5.2m gross losses in our Q2.2006 EAC document. *<Also by the Q4.2006 EAC the costs had risen by C\$2734K>*

This Neill/Dekker Management over-ride” decision of “zero losses” was then published in the Q2.2006 earnings statement on 14 August 2006 to the TSE etc and in subsequent financial statements. Which themselves were then certified in [Mr Neill’s Q2.2006](#) and [Mr Dekker’s Q2.2006 quarterly certificates](#) when publicly filed with SEDAR – public securities documents within Canada.

On the basis of the late July - mid August 2006 contemporary information and documentation available the “diametric opposite” was the case – the documented A340 Program Q2.2006 EAC \$5.2m gross losses were set to deteriorate based on the available information.

The MAC Audit Committee minutes on 10 August 2006 (*which I did not attend*) for that Q2.2006 meeting also record at [Point 5 in the Private Session with Ernst & Young](#) “ .. that Mr Linsdell of E&Y had ...”[only received the financial statements and the MD&A at the meeting](#)”. PwC correctly recorded in the Final Draft report at para 8.61 that “Brian Little stated in the E&Y presentation **that his concerns regarding the treatment of the A340 NRC were raised following Q2.2006.**” and [as you can hear by clicking on the audio tapes](#) I told PwC at the start of their “independent forensic investigation” on 29 January 2007 *<when the MAC ordinary share was valued at C\$16 each and MAC market capitalisation on the TSE was approximately C\$300m or broadly equal to the Balance Sheet “shareholder” book value>* that

☐ [Airbus A340 series production in Toulouse is complete](#)

☐ [I warned PwC about Spares & full replacements](#)

☐ [I told PwC that they should obtain 2/3 external market forecasts \(at least 7 others available\)](#)

☐ [I even told PwC about the Emirates cancellation of 18 A340 600 in Oct 2006, which they left unadjusted in their Airbus Order Book analysis and provided a dossier containing](#)

[DIR44 –UK Times article– 28 Oct. 2006 “End Looms for Airbus A340 as Emirates cancels \\$4bn orders”.](#)

☐ [“And the fundamental issue here.. is that this product is a product that has not only got a cost/price problem but it’s now also got a programme volume one!”](#)

A340-500/600 was and is vitally important to MAC. The A340-500/600 project investment/asset was the single largest financial number (>C\$40m asset in FY2006) and failure to fully realize the value of the project would, inter alia, bring about the triple consequences of

- (1) an overstatement in the project / non-recurring costs/engineering development assets of > C\$40m .
- (2) a program gross margin “breakeven” to actual financial losses and
- (3) create a future cash deficiency / non-recovery in the internal and public reporting
(MAC 5 year strategic planning base - Sales revenues / cash projections of C\$100m +)

The “independent forensic” PwC Final Draft Investigative Report into Areas of Concern Raised by Mr Brian Little : Executive Summary circulated to the Board of Directors at MAC – relied on above in the Magellan Aerospace May 2007 earnings statement - [at PwC paragraph 2.40 \(doc 605/606\) recorded](#)

“Financial Control within MAC and MALUK in relation to the areas we have examined is poor and needs to be improved: this is particularly acute given that MAC is a public company.

Examples of poor financial control that we identified during our work include;

1. [Accounting adjustments made with insufficient supporting analysis and documentation;](#)
2. [Inadequate understanding or documentation of balance sheet provisions and insufficient documentation of the decision to release certain provisions](#)

3. *A lack of awareness of the program accounting requirements under either Canadian or UK GAAP...*
4. **Poor control over individual projects from an accounting perspective. Project sales volumes, revenues and costs are not reviewed with sufficient frequency or rigour.**

Although considered valid after 4 months investigation by May 2007 the PwC partner then went on to remove these criticisms of MAC from their Final Report. As the reader should recognise those points (1), (3) and (4) above and highlighted in red are directly relevant to the A340-500/600 investigation and their Report. *It is my belief that Magellan asked the PwC partner to remove all of these findings as part of their "editing" of the Final Report.* PwC also removed paragraph 8.50 which had stated "The EAC calculation therefore requires many estimates by management. PwC's experience with accounting practices and governance within the aerospace industry is that these **estimates and key assumptions should be reviewed on at least a quarterly basis.**" though the substance remained at paragraph 8.38 – which of course is relevant to the A340 accounting at Q2.2006, Q3.2006 and the end of year FY2006.

In fact Mr Dimma (MAC Chair of the Audit Committee) told the UK public court in his evidence, *that following his own "internal investigation" and report in late 2006* --- which found "**the matters you were raising were historic**" and that there is "**no substance to the purported concerns**" --- he instructed PwC to carry out an "independent forensic investigation", after I had met E&Y in December 2006, as in his view "**auditors are extremely risk averse**".

It is also significant to me and others that despite his apparent dismissal of my views in 2006, Mr Dimma saw fit to personally chair the PwC investigatory process in 2007, described, I remind you, as "independent" in order, I suspect, to retain control over its conclusions.

The [Canada CICA/IFA Standard Practices at 600.04 published in November 2006](#) states that the "IFA practitioners should present their findings and conclusions in an objective and unbiased manner" and at [600.06](#) "IFA practitioners should consider all relevant information that could impact their findings and conclusions." etc.

Brian Little 21 November 2009

UPDATED 31 JANUARY 2011-----Following a meeting with my former QC in July 2010 when visiting London with my wife we discussed the further documents disclosure since January 2009 and A340 status. As a result this morning I submitted an Application (Number 3) for an affidavit to the Bristol Tribunal which included this text.

- < My Application for an Affidavit on this occasion will request that Mr Edwards and Mr Dimma certify
- (a) The A340 quantities produced and delivered by MAC in the four year period from 1 January 2007 – 31 December 2010. Quantity of XXX ? units
 - (b) Given that this month MAC will also consider and approve their FY2011 budget for A340 this budget quantity for FY2011 should be produced Quantity of Y? units *(FY2011 will be the final year of the strategic plan for which I would have been responsible for coordinating in August/September 2006 - i.e FY2007 – 2011.)*
 - (c) The MAC FY2011-FY2015 strategic plan will also have been produced by now and submitted to the MAC Board in late 2010. The Spares quantity – not repairs- which is stated and has been included in that MAC five year plan from FY2011 – FY2015 should be stated. Quantity of ZZ? units

As you can see these are all simple requests and readily available within the MAC senior management. <It is my information and belief that factually Magellan Aerospace have delivered 121 units (30.25 aircraft sets from Jan. 2007 to 30 Nov. 2010 (which completes Airbus Toulouse aircraft production at a total A340-500/600 build of 131 aircraft) and therefore during that entire 48 month period ONLY 11 Spare exhaust systems have actually been delivered by MAC. The reader can also now see by clicking [Airbus](#) that all the 110 exhaust system units for the Aircelle/Airbus assembly line production have been installed and delivered in the final A340-600 - Iberia Airways - aircraft (MSN1122) and VIP A340-500 State of Kuwait (MSN1102) customers. With no aircraft production in 2011 I predict a single figure for spares whilst there will be some 50–60 spares (not repairs) in the period FY2011–Y2015. >

In my Closing Submissions I set out my understanding of the facts on the A340 quantities from FY2007 – FY2010

Actual Deliveries

Other remarks

FY2007 - 45 exhaust units : MAC Q4.2006EAC = 40 : 3605C=78 (P72/S6) :3605H = 60 (P52/S8)

(We know that during FY2006 MAC /E&Y continued to add A340 labour learning to inventories/asset and at the end of FY2007 the Eng inventories valuation (including A340) was C\$62.70m whilst the labour learning costs, including A340 and all of which would be shortly to be written off were C\$29.6m)

FY2008 - 48 exhaust units : MAC Q4.2006EAC = 156 : 3605C=79(P72/S7) : 3605H = 49 (P40/S9)

(With the introduction of the new CICA inventories standards on 1 Jan 2008 MAC/E&Y wrote off circa C\$10m for all A340 I/I asset.

A C\$10.4m retroactive price adjustment INCLUDING an undisclosed A340 NRC /pricing recovery was recorded in Q3.2008. <Magellan subsequently disclosed in mid Nov 2008 {doc 3506/3496} that a total of C\$4.9m was a retroactive price adjustment in respect of FY2006 and FY2007 (*during which MAC delivered 81 +45 A340 units*) and a retroactive price adjustment in respect of Q1 and Q2.2008 totalling C\$5.5m (*during which MAC delivered 25 A340 units*).

A total of C\$14.5m was amortised for ALL MAC projects; leaving a total (including A340) of Deferred Development Costs of C\$69.2m on MAC Balance Sheet at Year end. The exact number amortised for A340 was not disclosed and therefore the residual C\$ value)

FY2009 - 17 exhaust units : MAC Q4.2006EAC = 162 : 3605C=111(P104/S7): 3605H= 42 (P36/S6)

A total of C\$7.4m was amortised for ALL MAC projects ; leaving a total (including A340) of Deferred Development Costs of C\$59.5M on the MAC Balance Sheet. The C\$ number for A340 was not disclosed.

FY2010 - 11 exhaust units : MAC Q4.2006EAC = 162 : 3605C=124(P116/S8): 3605H= 81 (P0/S81)

Actual MAC deliveries in period FY 2007 – FY2010 = 121 (P110/S11) exhaust units (BL – P126/S25)

**Q4.2006 EAC (doc 1831A) in the period FY2007 – Q2.2011 = 601 units used for E&Y audit testing
MAC 1 March 2007 submissions (doc 3605F) = 450: 14 March 2007 scenario (doc 3605H) = 277**

You can read my expectation (and reasonable belief) for A340 spares in FY2011 and FY2012 - FY 2015 in the text in the Application above.

Obviously if I was materially wrong then MAC had an opportunity to disclose this information so as to explain the latest status and, if I had been wrong, to undermine my credibility. I fully expect that Mr Edwards, Mr Dimma and their lawyers will chose not to; so as to avoid undermining their own credibility and that of PwC and E & Y.

This second Application for an Affidavit was suggested as a short cut in further underpinning my “reasonable belief” on the factual outcome to date and now expected to FY2015 for Employment Tribunal Judge/panel members who, understandably, have insufficient relevant accounting, technical engineering or aerospace experience whilst meeting the case law needs in an Employment Tribunal case. [PinsentMasons LLP, Magellan’s UK lawyers – the international law firm that’s working hard to make it easier for clients](#) -, also set out in the final paragraph of their email dated 4 April 2007, when disclosing [their Documents index in accordance with the Employment Tribunal CMD1 Order](#), “...Further, the Tribunal is not of course concerned with determining whether the alleged disclosures made by Mr Little were/are true still less to examine and make findings in regard to Magellan’s business. In this respect, the issue before the Tribunal is a short issue of fact i.e. **did Mr Little (to paraphrase the legislation) have a reasonable belief that his alleged disclosures tended to show that certain legal obligations had been (or were likely to be) breached.** That will be a matter for the Tribunal to determine by reference to the evidence before it in the form of contemporaneous documents and witness evidence.”

Brian Little 31 January 2011