



Grenfell Tower Inquiry

Day 91

February 16, 2021

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Tuesday, 16 February 2021

1 (10.00 am).

2 SIR MARTIN MOORE—BICK: Good morning, everyone. Welcome to

3 today's hearing. Today we're going to hear further

4 evidence from Mr Schmidt of Arconic. He is giving his

5 evidence, as you know, through an interpreter. So the

6 first thing I must do is to make sure that the

7 interpreters can see and hear us as they should be.

8 MS KENNEDY: Yes, I can see and hear you.

9 SIR MARTIN MOORE—BICK: Good, thank you very much. And your

10 colleague, Ms Delas—Reisz, is she there too?

11 MS KENNEDY: She certainly is.

12 MS DELAS—REISZ: Can you hear me now?

13 SIR MARTIN MOORE—BICK: Hello, good morning, yes.

14 MS DELAS—REISZ: Good morning. Yes, I can hear you very

15 clearly. Thank you.

16 SIR MARTIN MOORE—BICK: Thank you very much.

17 Well, now, if you're ready to continue, we will go

18 to see Mr Schmidt next.

19 MS KENNEDY: Fine.

20 MR CLAUDE SCHMIDT (continued)

21 (Evidence via interpreter)

22 SIR MARTIN MOORE—BICK: So I'm going to ask Mr Schmidt: are

23 you there? Can you see me and can you hear me?

24 THE WITNESS: (Interpreted): Yes, good morning, I hear you

25

1

1 well.

2 SIR MARTIN MOORE—BICK: Thank you very much indeed.

3 Now, before we continue your evidence, I just need

4 to cover the usual housekeeping arrangements.

5 Can you confirm again that you are alone in the room

6 from which you're giving your evidence?

7 THE WITNESS: (Interpreted): Yes.

8 SIR MARTIN MOORE—BICK: Thank you.

9 Can you confirm that you don't have any documents or

10 other materials with you?

11 THE WITNESS: (Interpreted): Yes, I confirm it.

12 SIR MARTIN MOORE—BICK: Thank you very much.

13 Can you also confirm that your mobile phone is in

14 another room and that you don't have any other

15 electronic device with you which is capable of receiving

16 messages?

17 THE WITNESS: (Interpreted): Yes, I confirm.

18 SIR MARTIN MOORE—BICK: Thank you very much.

19 We shall have a short break halfway through the

20 morning at about 11.15, otherwise arrangements as they

21 were yesterday. All right?

22 THE WITNESS: (Interpreted): Okay, yes.

23 SIR MARTIN MOORE—BICK: Thank you very much. Then I shall

24 ask Mr Millett to put some more questions to you.

25 Yes, Mr Millett.

2

1 Questions from COUNSEL TO THE INQUIRY (continued)

2 MR MILLETT: Good morning, Mr Chairman, thank you.

3 Good morning, Mr Schmidt.

4 Now, Mr Schmidt, I'm going to put a number of simple

5 general questions to you and I'm going to ask you

6 whether you agree with me.

7 A. (Interpreted): Okay.

8 Q. Do you agree as a fact that Reynobond 55 with a standard

9 PE core in cassette—fix variant never achieved

10 a Euroclass B classification?

11 A. (Interpreted): Class E? Class B?

12 Q. I will repeat the question.

13 Do you agree that as a fact Reynobond 55 with

14 a standard PE core in the cassette—fix variant never

15 achieved a Euroclass B classification?

16 A. (Interpreted): Yes.

17 Q. Thank you.

18 Do you agree as a fact that when it was tested under

19 the European test standards in 2004, the cassette—fix

20 variant of Reynobond PE 55 failed and achieved no

21 classification?

22 A. (Interpreted): Yes, but I think it may have been in

23 2005.

24 Q. To be clear, the tests were done at the end of 2004, and

25 the reports published in January 2005.

3

1 Do you agree as a fact that when Reynobond 55 PE was

2 tested in 2010, it achieved a Euroclass E?

3 A. (Interpreted): Yes.

4 Q. Do you agree as a fact that no document ever presented

5 by Arconic to customers ever drew attention to the fact

6 that the Reynobond 55 with a PE core in cassette—fix

7 achieved a Euroclass E?

8 A. (Interpreted): I'm not sure that I'm able to say that.

9 Q. Why not?

10 A. (Interpreted): I do think that in the years 2014 to 2016

11 clients were informed.

12 Q. Do you agree as a fact that Reynobond 55 standard PE

13 rivet—fix variant achieved a European class B

14 classification in 2005?

15 A. (Interpreted): Yes.

16 Q. Do you agree as a fact that the BBA certificate used in

17 the UK market did not distinguish between the rivet and

18 cassette—fix variants in terms of fire classification?

19 A. (Interpreted): Yes.

20 Q. Do you agree that, on the contrary, the BBA certificate

21 used in the UK market presented both the rivet and the

22 cassette—fix variants of Reynobond 55 PE as a class B?

23 A. (Interpreted): Yes, but I'd like to add that that was

24 for specific colours.

25 Q. I'm going to ask the question without reference to the

4

1 colours: do you agree, Mr Schmidt, that the
2 BBA certificate used in the UK to sell Reynobond
3 PE—cored 55 presented both the rivet and the
4 cassette—fix variants as a class B?
5 A. (Interpreted): Well, I have a certain doubt about this
6 question because there's something I don't understand.
7 Previously it was said that one wasn't going to be
8 referring to cassettes or rivets.
9 Q. Do you agree that, even between the years 2014 and 2016,
10 the BBA certificate used by Arconic to sell Reynobond 55
11 PE drew no distinction between the rivet and the
12 cassette—fix variants and presented both as having
13 Euroclass B?
14 A. (Interpreted): Yes.
15 Q. Do you agree, Mr Schmidt, that that was a false
16 statement so far as concerns the cassette—fix variant?
17 A. (Interpreted): Yes.
18 Q. Can you explain why that false statement was made?
19 A. (Interpreted): No. I can't say it at all.
20 Q. Can you —
21 A. (Interpreted): Sorry, but on the BBA certificate there
22 was also mention made of class 0, which is
23 a British Standard.
24 THE INTERPRETER: Sorry, he said "English standard",
25 actually. I correct it to "English".

5

1 MR MILLETT: Yes. Never mind that, I'm asking you about the
2 European Standard.
3 I'll ask the question again: you've accepted that
4 drawing no distinction between the rivet and cassette
5 variants in terms of their European fire classification
6 was a false statement; I would like to know, please, why
7 that false statement was made.
8 A. (Interpreted): Once again, I cannot say, because
9 I wasn't involved in drawing up the BBA certificate.
10 Q. You are here giving evidence on behalf of Arconic; is
11 that right?
12 A. (Interpreted): Yes.
13 Q. Are you telling me that Arconic does not know why the
14 false statement that you have accepted was made in the
15 BBA certificate was made?
16 A. (Interpreted): Yes, that was the responsibility of the
17 technical service and I don't know, again, why that was
18 not communicated correctly.
19 Q. Can you —
20 A. (Interpreted): What I do understand is this information
21 was identical to the original certificate which was
22 drawn up in 2007. And at the time, according to the
23 technical team, they thought that the test in 2005 —
24 no, sorry, 2004, was not representative.
25 I believe, having discussed this with Claude Wehrle

6

1 after the fire at Grenfell, that we were not aware of
2 what was written within the fire test — what was
3 written within the BBA certificate with regard to
4 fire tests, European fire tests.
5 Q. I don't understand. What was it that you were not aware
6 of?
7 A. (Interpreted): So the BBA certificate, after discussing
8 with Claude Wehrle after the Grenfell fire,
9 Claude Wehrle was not aware of the fire references made
10 within the BBA certificate.
11 Q. Are you telling the Inquiry that Claude Wehrle told you
12 that he did not know of the references to European
13 class B in the BBA certificate?
14 A. (Interpreted): Yes, I think that at least he hadn't
15 remembered it anyway.
16 Q. Are you able to explain why Arconic did not correct the
17 false statement in its BBA certificate about Euroclass B
18 in relation to —
19 (Pause for translation)
20 — until after the Grenfell Tower fire?
21 A. (Interpreted): Well, I think I already answered the
22 question. I get the impression that we weren't aware of
23 it.
24 Q. Do you agree as a fact that, in February 2014, the
25 standard Reynobond 55 PE rivet—fix variant was re—tested

7

1 and achieved a Euroclass E?
2 MR HOCKMAN: Sir, forgive me interrupting, this is
3 Stephen Hockman on behalf of Arconic. I'm not sure that
4 what Mr Millett is now putting forward is actually
5 correct, and I apologise, therefore, for interrupting,
6 but it seems to me that this is a situation in which
7 I have no alternative.
8 SIR MARTIN MOORE—BICK: Well, Mr Hockman, let's just see.
9 Now you have interrupted, which is as it is, maybe
10 Mr Millett will just consider his question. If he
11 thinks it's appropriate, I think he must ask it.
12 THE INTERPRETER: May I just tell the witness what
13 Mr Hockman just said?
14 (Pause for translation)
15 A. (In English): Okay.
16 MR MILLETT: May I say something before anybody else says
17 anything, please? There is a question of order here.
18 SIR MARTIN MOORE—BICK: Well, you have the floor,
19 Mr Millett —
20 MR MILLETT: I'm surprised —
21 SIR MARTIN MOORE—BICK: Just a moment while I'm speaking.
22 You heard, I imagine, what Mr Hockman said. The
23 suggestion is that the question you were putting to the
24 witness was factually inaccurate. I suggest that you
25 just check your notes. If there's any doubt about it,

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1 the way to resolve it may be to put the document to the
 2 witness so we can all see it.
 3 MR MILLETT: Let me try the question a different way.
 4 My difficulty here is that, throughout this Inquiry,
 5 I have, and others, been able to examine witnesses free
 6 of interruption in real time from any of either the RLRs
 7 or any other core participants. I'm afraid this is
 8 a regrettable first. There is a method for
 9 communicating with me at speed to correct any errors,
 10 and it has been used very effectively throughout this
 11 Inquiry for many months. There is not a reason to
 12 depart from that now.
 13 So if Mr Hockman wishes to me correct — and I am by
 14 no means infallible — then he is welcome to do so
 15 through the usual channels, and the usual channels work
 16 very well for this purpose. It is not to be done in
 17 live form, I would respectfully ask, while the witness
 18 is —
 19 SIR MARTIN MOORE-BICK: All right, well, we don't want to
 20 spend a lot of time having a protracted debate about
 21 procedure.
 22 Mr Hockman, there is an arrangement in place under
 23 which you can communicate with Counsel to the Inquiry if
 24 you think there has been an error that needs correcting.
 25 It would be preferable if you were to use that

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1 arrangement, because, as this has shown, any direct
 2 intervention by lawyers for the witness disrupts the
 3 proceedings to an unacceptable degree, unless it's
 4 absolutely essential. So I would ask you in future to
 5 make use of the arrangements that are already in place.
 6 Having said that, Mr Millett, would you like to ask
 7 your question again and we will see if we can get back
 8 on track?
 9 MR MILLETT: Let me try it a different way, a bit more
 10 general, and hopefully this doesn't create difficulties.
 11 Mr Schmidt, do you agree that, during 2014 at the
 12 latest, and at the latest by December 2014, the standard
 13 Reynobond 55 PE rivet—fix was tested and achieved
 14 a Euroclass C?
 15 A. (Interpreted): Yes.
 16 Q. Do you agree as a fact that the marketing literature was
 17 never changed to show that downgrade of Euroclass for
 18 the PE rivet—fix variant?
 19 A. (Interpreted): No, as far as I remember, the marketing
 20 documentation no longer made any reference to the rivet
 21 PE version of the product.
 22 Q. Do you agree as a fact that during 2014 and 2015, and
 23 indeed until after the Grenfell Tower fire, the
 24 BBA certificate of 2008 was still in circulation in the
 25 UK market, unchanged?

10

1 A. (Interpreted): I couldn't tell you.
 2 Q. Are you telling me that Arconic does not know the answer
 3 to that question?
 4 A. (Interpreted): No, because for me the BBA certificate
 5 was online and anyway was accessible through the BBA
 6 website.
 7 Q. Are you saying that the BBA certificate was changed so
 8 that it would show the new classification of the
 9 rivet—fix variant with a class C?
 10 A. (Interpreted): No.
 11 Q. So my question again —
 12 A. (Interpreted): That's not what I meant.
 13 Q. Are you able to explain why the BBA certificate was
 14 never changed to reflect the new fire classification for
 15 PE rivet—fix as a class C?
 16 (Pause)
 17 A. (Interpreted): I believe — I think it's because we
 18 thought or we felt that the class 0 was a determining
 19 class.
 20 Q. Do you know whether Reynobond 55 PE, in either the
 21 cassette—fix variant or the rivet—fix variant, was ever
 22 tested under the British Standards which might lead to
 23 class 0?
 24 A. (Interpreted): Well, what I understand about that
 25 classification is that it's a test that takes no account

11

1 of the way the product is used and mounted, and it only
 2 tests the product itself. And I know that there was
 3 a test that was carried out in 1997, and it showed that
 4 [FT] *** a product called PE RB 55 4 was classified 0,
 5 and I also know that several products were tested in
 6 2006, Reynobond 33, which had less metal but more of the
 7 PE core ***, also obtained class 0 in 2006, so the
 8 technical service could be led to think, and did think,
 9 that the product could globally get the class 0.
 10 And I would like to add also that I believe,
 11 I think, that this classification is comparable to the
 12 ME class in France.
 13 (In English): M1.
 14 THE INTERPRETER: M1. Not ME, M1, sorry.
 15 A. (Interpreted): I mean, in France, the reference and the
 16 test were very similar, and the results were identical,
 17 and the products — the tests are carried out on the
 18 product itself and do not take any account of the system
 19 itself.
 20 MR MILLETT: Have you finished your answer?
 21 A. (Interpreted): Yes.
 22 Q. Mr Schmidt, it's correct, is it not, that Reynobond 55
 23 PE was never tested under the relevant British Standards
 24 to achieve a class 0? That's right, isn't it?
 25 A. (Interpreted): Yes, it was, in 1997.

12

1 Q. Are you saying that the product tested in 1997 was
2 Reynobond 55 PE?
3 A. (Interpreted): Yes.
4 Q. Very well.
5 In fact, it was Reynobond 160 PE, wasn't it, not
6 Reynobond 55 PE?
7 A. (Interpreted): Well, it's exactly the same thing. Well,
8 in fact, I mean, the product that was sold at the time
9 had been manufactured in the US, hence that label RB 160
10 PE, but in fact the make-up, the components in the
11 product, were totally identical to what we started
12 producing in France from the year 2000, and I can
13 confirm and reassert again that, according to the
14 designation we have in Merxheim, it was exactly similar
15 to RB 55 PE.
16 Q. You weren't responsible for Reynobond at all in 1997,
17 were you?
18 A. (Interpreted): No.
19 Q. You didn't become responsible for Reynobond at all until
20 August 2007, did you?
21 A. (Interpreted): Yes.
22 Q. When did you first compare the product tested in 1997
23 with the product being sold as Reynobond PE 55 —
24 A. (Interpreted): Well, in fact the product was
25 manufactured in the US, but it was made with metal from

13

1 Merxheim that had been coated — it was an aluminium
2 product that was coated in Merxheim, sent to the US,
3 then it was transformed with coils and then it came back
4 to us in Merxheim, and then it was stored there. And in
5 1999 or maybe 2000 there was an investment agreement,
6 and then at that time we decided to do a technology
7 transfer from the US to Merxheim.
8 Q. Do you accept as a fact that the PE cassette—fix variant
9 of Reynobond 55 PE was sold for use on Grenfell Tower on
10 the basis of a statement that that product complied with
11 English Building Regulations for use over 18 metres?
12 A. (Interpreted): Could I listen to your question again,
13 sir?
14 Q. Of course.
15 Do you accept as a fact that PE cassette—fix variant
16 of Reynobond 55 PE was sold for use on Grenfell Tower on
17 the basis of a statement that that product complied with
18 the English Building Regulations for use over 18 metres?
19 (Pause)
20 A. (Interpreted): No, I felt the product was suitable and
21 in accordance with British legislation as I understood
22 it at the time.
23 No, I'm sorry, in fact I didn't know the English
24 legislation. But what I understand now is that there
25 were different ways of being in agreement with English

14

1 legislation, and a product class 0 could be used. But
2 it wasn't for us to carry out the choice.
3 Q. Do you accept as a fact that the PE cassette variant of
4 Reynobond 55 was sold for use on Grenfell Tower on the
5 basis of a statement that it complied with the UK
6 legislation, English legislation, for use over
7 18 metres? Do you accept that as a fact?
8 A. (Interpreted): No. No, I don't accept that statement.
9 Q. So are you telling the Inquiry, Mr Schmidt, that Arconic
10 never made a statement that Reynobond 55 in cassette
11 variant was suitable for use above 18 metres?
12 A. (Interpreted): I am sorry, the question was long, could
13 you repeat it, please?
14 Q. I'll try it a different way, of course.
15 Do you accept that Reynobond PE 55 in cassette—fix
16 variant was sold for use on Grenfell Tower on the basis
17 of a statement that it complied with English building
18 legislation when in fact it didn't?
19 A. (Interpreted): No, I mean, once again, we're not the
20 people who carried out the choice, so I cannot accept
21 that statement.
22 Q. Is it not the case that Arconic made the choice of how
23 to represent the fire safety of Reynobond 55 PE?
24 A. (Interpreted): Yes.
25 Q. As the president of Arconic during the period 2012 to

15

1 2016, do you accept responsibility for the sale of
2 Reynobond 55 PE in cassette variant to —
3 A. (Interpreted): Yes.
4 Q. I hadn't finished the question, but let me try it again.
5 As the president of Arconic during the period 2012
6 to 2016, do you accept responsibility for the sale of
7 Reynobond 55 PE in cassette variant for use on
8 Grenfell Tower?
9 (Pause)
10 We may have lost the sound.
11 A. (Interpreted): Once again I find it a bit difficult to
12 understand the question, but nonetheless Arconic did
13 sell a product, a PE product, for Grenfell Tower, but
14 it's not Arconic who made the choice of selling that
15 specific product.
16 Q. Do you accept responsibility for the statements made by
17 Arconic to the UK market about the fire safety of
18 Reynobond 55 PE in cassette variant?
19 A. (Interpreted): I mean, I'm sorry, but I find the
20 question difficult to understand. I mean, Reynobond PE,
21 cassette PE, was class 0.
22 THE INTERPRETER: Sorry. "Reynobond PE was class 0".
23 A. (Interpreted): Yes, as far as I know, I mean, the
24 BBA certificate — but in any case it's something that
25 I didn't know at the time but I found out later on —

16

1 that certificate gives information on different types of
 2 fire test reaction for the product, but that certificate
 3 also says that the usage you're going to make of the
 4 product has to be confirmed by tests that are determined
 5 depending on what usage you want to make of the product.
 6 MR MILLETT: Mr Schmidt —
 7 A. (Interpreted): So there are a number of points that need
 8 the reader to carry out potentially extra tests or
 9 compartmentalise or look at the various sequences.
 10 Q. Mr Schmidt, I'm going to press you for an answer,
 11 please, to my question. I'm going to ask it one more
 12 time: do you accept responsibility, as president at the
 13 time, for statements made by Arconic to the UK market
 14 about the fire safety of Reynobond PE 55 in cassette
 15 variant?
 16 A. (Interpreted): I don't believe that we specifically
 17 talked about or communicated about the cassette variant.
 18 Q. As the senior person at Arconic at Merxheim, do you
 19 accept responsibility for the sale of Reynobond 55 PE to
 20 the UK market on a false basis as to its European fire
 21 classifications?
 22 A. (Interpreted): No.
 23 Q. Does Arconic, as a company, accept responsibility for
 24 the sale of Reynobond 55 PE to the UK market on a false
 25 basis as to its European fire classifications?

17

1 I'll ask the question again, because it got a bit
 2 broken.
 3 Does Arconic as a company accept responsibility for
 4 the sale of Reynobond 55 PE to the UK market on a false
 5 basis as to its European fire classification?
 6 A. (Interpreted): Yes, on incomplete information, yes.
 7 Q. What information did you not have that made your
 8 information incomplete?
 9 A. (Interpreted): What I meant to say was that the
 10 information that was on the BBA certificate was not
 11 false, but it did not go into detail, it didn't mention
 12 according to the European Standards the different
 13 reactions to fire, whether we were talking about
 14 a riveted system or a cassette system.
 15 Q. Mr Schmidt, you accepted earlier that the
 16 BBA certificate was false or became false because it did
 17 not show the downgrade from European class B for PE to
 18 a C. You accepted — at least we can check the
 19 transcript — that it was false because it represented
 20 cassette—fix variant as having achieved Euroclass B when
 21 in fact it had failed the tests.
 22 My question is: does Arconic accept responsibility
 23 for those false statements?
 24 A. (Interpreted): No, maybe I didn't understand the
 25 question properly, I don't think I accepted the fact

18

1 that the statements [didn't finish his sentence] —
 2 [FT] *** I don't think we communicated specifically
 3 with regard to the cassettes in the BBA certificate, so
 4 I don't understand why I would have made a statement
 5 that was inconsistent with what I said previously. ***
 6 MR MILLETT: Very well.
 7 Mr Chairman, I'm informed that there may have been
 8 a translation issue about a question involving
 9 18 metres. At the break, we can look at that, and then
 10 perhaps reformulate it if we need to, but I'm going to
 11 move on now, if I may.
 12 SIR MARTIN MOORE-BICK: Yes. Well, have a look at it over
 13 the break, Mr Millett, if you would.
 14 MR MILLETT: I'm going to turn now, Mr Schmidt, to the
 15 question of Arconic sales to the UK, all right?
 16 A. (Interpreted): Yes.
 17 Q. Would you please look at your second witness statement
 18 at page 16 in the French, {MET00048331/16},
 19 paragraph 35, and the English, please, page 13,
 20 {MET00053187/13}, paragraph 35. If we could please have
 21 those displayed at the same time.
 22 If you would read to yourself, please, paragraph 35
 23 in the French, Mr Schmidt, while I'm going to read the
 24 English equivalent. Could we have both displayed,
 25 please.

19

1 (Pause)
 2 Thank you. We have the French on the left and the
 3 English on the right, paragraph 35. In paragraph 35 you
 4 say:
 5 "In respect of sales of ACM, AAP SAS has never had
 6 a large market share in the UK (estimated at
 7 approximately 10%). For example, I understand (having
 8 considered sales information) that in 2000 AAP SAS sold
 9 16,472 sqm of Reynobond into the UK for use in
 10 architecture. This figure fluctuated in subsequent
 11 years, increasing to a maximum of approximately
 12 79,000 sqm in 2008, but always remained as a small
 13 proportion of the UK market."
 14 Now, just pausing there, Mr Schmidt, is it correct
 15 that the UK market was not a particularly important
 16 market to Arconic?
 17 A. (Interpreted): It was important for Arconic because it
 18 allowed us to increase our volume of sales, but as far
 19 as the actual importance within our turnover, it wasn't
 20 so high.
 21 Q. Can we continue with your second witness statement at
 22 paragraph 36, which in the French begins,
 23 "Les chiffres".
 24 You say:
 25 "The figures referred to above are for sales of

20

1 Reynobond PE, as in that period, that was what the UK
2 market demanded.”
3 Just looking at that, when you say the UK market
4 demanded PE, do you mean that customers routinely chose
5 it in preference to FR?
6 A. (Interpreted): Yes.
7 Q. Did that demand exist because the regulatory regime in
8 the United Kingdom was less restrictive than in,
9 for example, Poland?
10 A. (Interpreted): I don't see it that way. So I believe
11 that, depending on the different countries, choices were
12 made with regard to regulation in order to be able to
13 control the risks, and in some cases there were more
14 radical choices that were made. I mean, already at the
15 time, in an analysis that I actually made afterwards,
16 I saw that in Russia they very quickly forbade — from
17 memory they forbade PE in favour of FR, from memory,
18 between 2004 and 2007. I can't remember precisely, but
19 that's what I've got in mind. And other countries made
20 the choice to try to control those risks, master those
21 risks, in a different fashion.
22 Q. Let me try a slightly different way: how can you account
23 for the fact that the UK market demanded PE and
24 routinely chose it in preference to FR (inaudible) that
25 feature?

21

1 A. (Interpreted): I can't explain it. I think that clients
2 considered that the product was okay as far as the
3 registration (?) was concerned and that they could use it
4 because of the regulations that were operational at the
5 time.
6 Q. So is the difference between the UK and, say, Poland the
7 regulatory difference, which explains why more people in
8 the UK bought PE than they did in Poland?
9 A. (Interpreted): Yes, I believe so, yes.
10 MR MILLETT: Mr Chairman, we are still very much in the same
11 topic, but it's a different document we're going to, and
12 it's 11.17. It's as good a moment as any for a break.
13 SIR MARTIN MOORE—BICK: Right, thank you. Well, that's
14 probably a convenient point at which to have a break.
15 Mr Schmidt, I said we would have a short break in
16 the morning and this is where we're going to take it.
17 All right?
18 MR HOCKMAN: Sir, may I intervene for a moment? Sir, may
19 I please intervene just to clarify something with you?
20 SIR MARTIN MOORE—BICK: Do you need to?
21 MR HOCKMAN: I would like to do so, sir, if you'll allow me.
22 SIR MARTIN MOORE—BICK: I'm sure you would, but do you need
23 to?
24 MR HOCKMAN: Yes, I think I do, sir, yes.
25 SIR MARTIN MOORE—BICK: Well, go on then.

22

1 MR HOCKMAN: I apologise again for interrupting, but I do
2 want to clarify something with you.
3 What happened earlier on, when I intervened
4 before — and, as Mr Millett pointed out, it was the
5 only time that I have intervened thus far, and I hope
6 I won't have to in future — what happened was that
7 Mr Millett made a mistake in the question that he was
8 putting, and we know that because he subsequently
9 corrected himself when he put the question again. He
10 corrected himself and he changed the content of the
11 question.
12 Now, sir, if we were in the same room, as we would
13 be but for the pandemic, I would have been able to point
14 this out to you and to him and the matter would have
15 proceeded perfectly smoothly. It seems to me, with the
16 utmost respect, not inappropriate for counsel on behalf
17 of the company and the witness concerned to be able to
18 make that sort of correction at the time, rather than
19 doing it by email later when the moment has passed.
20 If —
21 SIR MARTIN MOORE—BICK: Well, that may or may not be, but
22 all you're doing at the moment is trying to justify your
23 action earlier on. I explained to you that we have
24 a system which so far has worked perfectly well. It
25 seems to me you could easily have corrected Mr Millett

23

1 by email, and I'm sure he would have changed his
2 question. So it's very important that, with so many
3 people involved and with a witness giving evidence
4 through an interpreter, we keep the interruptions to his
5 evidence to an absolute minimum. All right?
6 MR MILLETT: Mr Chairman, may I say something here?
7 I don't accept for a moment that the question was
8 erroneous, and Mr Hockman —
9 SIR MARTIN MOORE—BICK: Mr Millett, I'm not sure it's going
10 to help anyone for us to have a discussion about that at
11 this stage.
12 I've said we're going to have a break now. We've
13 just lost a couple of minutes of that, it can't be
14 helped.
15 As far as you're concerned, Mr Schmidt, we're going
16 to resume your evidence, please, at 11.35, and please
17 remember not to speak to anyone about your evidence over
18 the break. All right?
19 So we will see you in 15 minutes. Thank you very
20 much.
21 (11.20 am)
22 (A short break)
23 (11.35 am)
24 SIR MARTIN MOORE—BICK: Welcome back, everyone. We are now
25 ready to resume hearing from Mr Schmidt. I'm going to

24

1 start by checking that the interpreters can hear and/or
 2 see us as necessary.
 3 Madam Interpreter?
 4 MS DELAS—REISZ: I can see you and I can hear you, sir.
 5 SIR MARTIN MOORE—BICK: Thank you very much, and your
 6 colleague?
 7 MS KENNEDY: Yes, I can see you and hear you.
 8 SIR MARTIN MOORE—BICK: Thank you very much.
 9 Now, we had better make sure we've got Mr Schmidt
 10 there.
 11 THE WITNESS: (Interpreted): Yes, I'm here.
 12 SIR MARTIN MOORE—BICK: Good, thank you very much. You're
 13 ready to continue, are you?
 14 THE WITNESS: (Interpreted): Yes.
 15 SIR MARTIN MOORE—BICK: Good, thank you very much.
 16 Yes, Mr Millett.
 17 MR MILLETT: Mr Schmidt, I asked you a question earlier, and
 18 there was an interruption from Arconic's counsel.
 19 I want to go back to the question and put it again to
 20 you in perhaps slightly different wording.
 21 Do you agree that, by February 2014, Arconic made
 22 a decision to classify both PE rivet and PE cassette to
 23 Euroclass E?
 24 A. (Interpreted): Yes.
 25 Q. Thank you.

25

1 Now, can we look at your second witness statement,
 2 please, in the French at page 13 {MET00048338/13}, in
 3 the English, page 29 {MET00053187/29}. Can we have
 4 that. I would like to look with you at paragraph 92.
 5 A. (Interpreted): I haven't got it in French.
 6 Q. The French version will be {MET00048338/13}. Yes,
 7 that's the one.
 8 A. (Interpreted): paragraph 92, isn't it?
 9 Q. Correct.
 10 Can you look at that, and I will read the English.
 11 The English says:
 12 "Given AAP SAS's role (that is, a manufacturer and
 13 supplier of unfabricated ACM panels) it would not have
 14 considered whether the use of Reynobond 55 PE cassette
 15 panels as part of the façade of Grenfell Tower would
 16 comply with relevant building regulations or associated
 17 guidance including in respect of fire safety. It would
 18 not be possible for the company to consider such
 19 matters, as it would not know exactly how its product
 20 was to be used including what other materials its
 21 product would be used in combination with. For the same
 22 reasons, neither could [Arconic] form a view as to
 23 whether the design of the façade of the tower complied
 24 with the relevant building regulations and associated
 25 guidance, so far as fire safety, or indeed any other

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1 aspects, were concerned. AAP SAS did not therefore rely
 2 on any advice from third parties about such issues, as
 3 they were not (and would never be) within its remit to
 4 consider; AAP SAS is simply a supplier of one component
 5 product which may be used in the façade of a building."
 6 Now, I just want to concentrate with you on those
 7 last four lines in paragraph 92.
 8 Is Arconic's position that it does not know how its
 9 product would be used for any given construction
 10 project?
 11 A. (Interpreted): Well, in a general way, no, Arconic isn't
 12 au fait with all this, but it doesn't mean that there
 13 are not cases and specific projects when we do know.
 14 Q. Is Arconic's position that it did not know what building
 15 regulations were required in every country in which it
 16 supplied its products?
 17 A. (Interpreted): Yes.
 18 Q. Is Arconic's position that it was not obliged to know
 19 what building regulations were required for every
 20 country to which it supplied its products?
 21 A. (Interpreted): Yes.
 22 Q. Would you not expect an Arconic salesforce working in
 23 a particular region or country to have at least a basic
 24 understanding of what could or could not be sold in that
 25 region or country?

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1 A. (Interpreted): Yes, basic understanding, yes.
 2 Q. We have heard evidence from Deborah French that in fact
 3 she knew that the Reynobond 55 PE cassette product was
 4 going to be sold for use on a high-rise residential
 5 building. Was her knowledge consistent with Arconic's
 6 approach or policy in that respect?
 7 A. (Interpreted): Well, Arconic's approach is that we
 8 didn't have a detailed knowledge of the regulation and
 9 therefore that's very much in line with what we were
 10 doing at the time.
 11 Q. But I think you accept that there were occasions when
 12 Arconic, Arconic's salesforce, would understand what
 13 particular project the product was going to be used for.
 14 A. (Interpreted): Yes.
 15 Q. Yes, and Grenfell Tower was an example of that.
 16 A. (Interpreted): Yes.
 17 Q. Do you accept that, although Arconic might not know all
 18 of the local fire regulations in any particular country,
 19 as a manufacturer, it should know how its product was
 20 going to perform in a fire?
 21 A. (Interpreted): Yes.
 22 Q. Thank you.
 23 Now I will turn to class 0 testing in the period
 24 1997 to 2006, Mr Schmidt.
 25 Now, just so that we're talking about the same

28

1 thing, to make it clear for you, did you know that in
 2 England and Wales a product can be called class 0 if it
 3 achieves certain results under certain
 4 British Standards?
 5 A. (Interpreted): Could I listen to the question again,
 6 please?
 7 Q. Of course.
 8 Were you aware that in England and Wales a product
 9 can be called class 0 if it achieves certain results
 10 under certain British Standards?
 11 A. (Interpreted): Yes.
 12 Q. Did you know that those standards were tests —
 13 SIR MARTIN MOORE—BICK: Sorry, Mr Millett, just a moment,
 14 I think the witness wants to add something to his
 15 answer.
 16 MR MILLETT: I'm so sorry, Mr Chairman.
 17 SIR MARTIN MOORE—BICK: No, no, it's all right.
 18 A. (Interpreted): At the time, of course, I didn't know.
 19 We're talking about the period 1997 to 2006.
 20 MR MILLETT: When did you first become aware of a national
 21 standard classification, class 0, in the UK?
 22 A. (Interpreted): I would like to make sure I don't give
 23 a false statement, but I really believe that I only
 24 learnt about it after the Grenfell fire.
 25 Q. So is your evidence that, before 14 June 2017, you were

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1 not aware of national class 0 in England and Wales?
 2 A. (Interpreted): Yes, I think so, yes.
 3 Q. So does that mean that your understanding that
 4 Reynobond 55 PE had achieved class 0 was
 5 an understanding you came to after the Grenfell Tower
 6 fire?
 7 A. (Interpreted): Yes, personally, yes.
 8 Q. I see.
 9 Is it right that, in the early 2000s, you were the
 10 general manager in charge of Reynolux products?
 11 A. (Interpreted): Yes. I was in charge of production,
 12 responsible for the production. I wasn't really
 13 a general manager.
 14 Q. I see.
 15 In your work in charge of production with Reynolux,
 16 did you come to have some understanding of the
 17 British Standards which would allow a classification of
 18 0 to be achieved?
 19 A. (Interpreted): Not at all, no. I mean, I took part in
 20 an audit once, an audit carried out by BBA, I mean, but
 21 in fact it's something that was followed by the quality
 22 team, but nonetheless I was involved and I would be
 23 involved for part of the visit, and I don't believe that
 24 there was once, even once, a discussion on fire
 25 regulation during these audits. I mean, the process

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1 that was followed by the auditor consisted mainly in
 2 asking and in trying to understand whether our processes
 3 had evolved and, for example, whether we'd introduced
 4 new shades, new colours.
 5 Q. Can I just ask you, we have seen a BBA certificate for
 6 Reynolux issued in 2009 that says it has class 0; my
 7 question is: were you involved in the testing of
 8 Reynolux to class 0 that is shown on that certificate?
 9 A. (Interpreted): No, once again, I don't think I was
 10 involved at all in these audits or tests.
 11 Q. I would like to look now, then, at the fire tests
 12 carried out in 1997 in Warrington in England.
 13 I would like you to go, please, and be shown
 14 Claude Wehrle's witness statement in the French at
 15 {MET00048342/11}, paragraph 34. If we can have that up
 16 at the same time, please, as his English statement at
 17 {MET00053190/9}. In both cases, paragraph 34.
 18 Let's just look at that together. You read the
 19 French, I'll read out the English:
 20 "From the start of my employment by AAP SAS, we had
 21 the benefit of the results of the 1997 Warrington Fire
 22 testing and the unambiguous Class 0 outcome of those
 23 tests (see paragraph 46 below for further detail of
 24 these tests)."
 25 We will look at that. That's what he says.

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1 Can we go to the summary report at, in the French,
 2 {ARC_T000010}. That's a translation of the English,
 3 which is at {ARC00000357}, please, and if we can have
 4 both of those up at the same time. You will see the
 5 French on the left of the screen, Mr Schmidt, and the
 6 English on the right.
 7 If you look at the very first line of the paragraph
 8 at the top of the page, or in the main text, it says,
 9 "SUMMARY OF WARRES NO'S. 70707 AND 70708". Do you see?
 10 A. (Interpreted): Yes.
 11 Q. Yes. Can we go to page 3, please, in both documents
 12 {ARC_T000010/3} {ARC00000357/3} and look at paragraph 5.
 13 In paragraph 5 we see the results there set out under
 14 BS 476—6 and BS 476—7; do you see that?
 15 A. (Interpreted): Yes.
 16 Q. If we go to paragraph 6, just under it, it says,
 17 "Opinion", in English, and read the French under "Avis",
 18 it says:
 19 "We consider the results of the tests detailed above
 20 demonstrate that the product, as tested, complies with
 21 the requirements for Class 0, as defined in
 22 paragraph A12(b) of Approved Document B, 'Fire Safety',
 23 to the Building Regulations 1991."
 24 A. (Interpreted): Yes.
 25 Q. Yes. Can we now go back, please, to page 2 of this

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1 document, in both the translation {ARC_T000010/2} and
 2 the English {ARC00000357/2}. Under section 3, you can
 3 see it says "Description of test specimens", and in the
 4 second paragraph under that section it says this, if you
 5 look at the second paragraph:
 6 "The product was 'Reynobond RB 160 Pe', a composite
 7 panel having an overall thickness of 4 mm and comprising
 8 a core of 3 mm thick low density polyethylene
 9 (920 Kg/m3) with coated aluminium sheets bonded,
 10 utilising an adhesive system, to both faces."
 11 I'll just read below that.
 12 A. (Interpreted): Yes.
 13 Q. Yes, thank you.
 14 It goes on to say:
 15 "In the case of the face exposed to the heating
 16 conditions of the test (front face), the coated
 17 aluminium sheet comprised 0.5 mm thick chromate
 18 pre-treated aluminium sheet coated on the exposed face
 19 with one coat of a PVF 2 (70% 'Kynar 500') coating
 20 (colour reference 'Silver Anodic 906'), coil coated to
 21 a dry film thickness of 25 microns."
 22 A. (Interpreted): Yes.
 23 Q. That, take it from me, appears in both these test
 24 reports.
 25 Now, can we look at Mr Claude Wehrle's statement

33

1 again, please, this time at page 17 in the French and
 2 page 14 in the English. French reference,
 3 {MET00048342/17}; English {MET00053190/14}. In both
 4 cases, paragraph 46.
 5 That's not right. Well, that's the correct version,
 6 I think, in English.
 7 Let me try again, {MET00048342/17}. I think it's
 8 the wrong page. I think it should be page 17.
 9 A. (Interpreted): Which paragraph, sir?
 10 THE INTERPRETER: We're on page 17 in the French.
 11 MR MILLETT: That's it.
 12 He says there at paragraph 46:
 13 "In relation to Reynobond PE, testing in accordance
 14 with BS476 Parts 6 and 7 was undertaken in 1997 by
 15 Warrington Fire. The two Test Reports and the Summary
 16 Report confirming the product met the Class 0 criteria
 17 are exhibited at P19. This testing pre-dated my time
 18 with AAP SAS, but I understand it was carried out on
 19 Reynobond PE manufactured in the US because at that time
 20 Merxheim did not yet produce it. I understand that
 21 these two tests are 'product tests' (similar to the
 22 French 'M1' testing) as opposed to 'systems tests'."
 23 Now, I have a number of questions about what
 24 Mr Wehrle says there for you.
 25 First, Mr Schmidt, is it correct that the PE product

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1 tested in 1997 was manufactured in the US?
 2 A. (Interpreted): Yes.
 3 Q. And he says that the testing pre-dated his time with
 4 AAP-SAS; it's also the case that it pre-dated your time
 5 with AAP-SAS, at least in respect of that product.
 6 A. (Interpreted): Yes, I was already in the company but
 7 I was absolutely not looking — dealing with Reynobond.
 8 Q. So you did not know what the raw materials that made up
 9 that product were?
 10 A. (Interpreted): That's what I was trying to explain
 11 before the break. We were using lacquered metal that
 12 was then sent to the States, it was transformed into
 13 composite panels in the States, and came back as panels
 14 in France and were stored and to be sold.
 15 Q. And you didn't know what the raw materials comprising
 16 the core of the panels was?
 17 A. (Interpreted): I think that Eastman used technical
 18 vocabulary, they talked about LDPE.
 19 Q. Where did they get the LDPE from?
 20 A. (Interpreted): From a supplier in the States, I imagine.
 21 Q. Who?
 22 A. (Interpreted): I don't know. I have no idea.
 23 Q. What was the recipe, if that's the right word, for the
 24 LDPE used in those panels?
 25 A. (Interpreted): Well, what I understand is that LDPE is

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1 a raw material. There is no mixture or mix.
 2 Q. What was the process by which the core was made out of
 3 LDPE?
 4 A. (Interpreted): The material was bought in pellet form or
 5 grains. Pellet is the right word. It was extruded
 6 through a tool. That's it.
 7 Q. What control did AAP-SAS have over the process of
 8 obtaining the pellets and then extruding them through
 9 this tool you refer to?
 10 A. (Interpreted): So if you talk about pure quality
 11 control, we didn't have on-the-spot control when they
 12 were actually producing our products. I don't think
 13 there were regular visits in the States — well,
 14 certainly not in 1997, but in 1998 we had a few people
 15 who spent a few weeks in the States to understand the
 16 various processes.
 17 Q. Not you?
 18 A. (Interpreted): No, I visited the site and the line, the
 19 production line, a few times.
 20 Q. It's right, I think, as we've seen, that the Reynobond
 21 PE 160 had a very specifically defined coating of PVF 2
 22 of 70% Kynar 500, and a coating-specific thickness.
 23 That wasn't the same, was it, as it was for Reynobond 55
 24 PE?
 25 A. (Interpreted): That Reynobond 55 defines a product,

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1 whatever the colour.
 2 Q. The truth is, isn't it, that Reynobond 160 PE was
 3 a different product from Reynobond 55 PE?
 4 A. (Interpreted): No. Or else I don't understand the
 5 question, but no, not at all.
 6 Q. You say it was identical, do you?
 7 A. (Interpreted): Yes.
 8 Q. Can you explain why the —
 9 A. (Interpreted): May I add something, so that could
 10 possibly clarify matters?
 11 SIR MARTIN MOORE-BICK: Yes, go ahead.
 12 A. (Interpreted): So when we talk about RB 55 4, the 05,
 13 we're talking about the thickness of the product, and
 14 the 4 is talking about the overall thickness of the
 15 product, and the external coating of the product is made
 16 up of paint, which of course again can be of different
 17 qualities.
 18 MR MILLETT: Just help me with one thing, Mr Schmidt: if
 19 Reynobond PE 160, tested in 1997 and obtaining
 20 a class 0, was exactly the same product as Reynobond 55
 21 PE, can you tell me why the BBA certificate did not say
 22 that Reynobond 55 in PE had achieved a class 0
 23 classification?
 24 A. (Interpreted): I can't explain it. I believe that the
 25 request for the BBA certificate was made in 2007, and

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1 I don't understand and I can't explain why reference
 2 wasn't made to it.
 3 Q. Very well.
 4 Let's go back to Mr Wehrle's witness statement,
 5 please. In the French I think we've got on the screen
 6 paragraph 47 {MET00048342/17}, there it is, and the
 7 English also on paragraph 47 {MET00053190/14}.
 8 He says there:
 9 "I can confirm that there should be no material
 10 difference as regards fire performance between
 11 a translucent and a black PE core. I also had no reason
 12 to suppose that there was a material difference in fire
 13 performance between the PE panels manufactured in the
 14 US, which were tested at Warrington in 1997 (panels
 15 which were then known as RB160 PE), and those which were
 16 subsequently marketed as RB55 PE."
 17 First of all, do you know why the name of the
 18 product as it appears was changed from RB 160 PE to
 19 RB 55 PE?
 20 A. (Interpreted): I'm not sure, but I think RB 160 PE was
 21 probably the name that was used in the US, and so when
 22 we began to produce the product in France, we decided to
 23 have our own code or own way of calling it.
 24 Q. I see.
 25 So do we take it from that that the change in the

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1 name was because you had started producing the product
 2 yourself as opposed to having it produced in the
 3 United States?
 4 A. (Interpreted): Yes. I'm not 100% sure, but I do believe
 5 that possibly RB 55 and that code was established when
 6 we started producing in France.
 7 Q. Now, we have seen no record showing that Arconic did any
 8 tests to class 0 under the national classification in
 9 England and Wales on Reynobond PE once Arconic started
 10 producing it in France. Is that correct?
 11 A. (Interpreted): Yes, that's also what I understand.
 12 Q. Why is that? Why did Arconic not do any fresh class 0
 13 tests once it had started producing the Reynobond PE
 14 product itself in France?
 15 A. (Interpreted): I have no answer to that question,
 16 frankly, I have no idea.
 17 Q. Do you —
 18 A. (Interpreted): However, once again, in 2006 there were
 19 tests on RB 33 where the thickness of the metal was —
 20 it was less thick and they also obtained class 0.
 21 Q. Yes, I'm asking you about Reynobond PE 160 for the
 22 moment. Never mind 2006 and 33, we can come to that.
 23 My question again: why did Arconic not conduct any
 24 new, fresh class 0 tests once it had started producing
 25 the Reynobond PE product itself in France?

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1 A. (Interpreted): I don't have an answer.
 2 Q. Do you agree that it would have been a good idea for
 3 Arconic to do a fresh class 0 test under England and
 4 Wales national standards to see whether the new product
 5 being produced in France achieved class 0 in the same
 6 way that PE 160 had in 1997?
 7 A. (Interpreted): Yes.
 8 Q. And do you agree that when Mr Wehrle says he had no
 9 reason to suppose that there was any material difference
 10 between Reynobond 160 PE and Reynobond 55 PE, that is
 11 not a good reason for not carrying out a test?
 12 A. (Interpreted): So, once again, the real technology
 13 transfer took place between the US and Europe, and so
 14 the products remained similar, the products were
 15 established on the same basis, but I do think that
 16 potentially some extra tests could have — would have
 17 been merited.
 18 Q. Can we look at Claude Wehrle's witness statement,
 19 please, in the French at page 28 {MET00048342/28},
 20 paragraph 74, and in the English at page 23
 21 {MET00053190/23}. Thank you very much. It says in the
 22 first line there:
 23 "To my knowledge, there have been no substantive
 24 changes to the composition of Reynobond PE since 2005,
 25 save for a change to the colour of the core which

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1 occurred on 4 May 2015.”
 2 Now, just focusing on the first part of that
 3 sentence, was there a substantive change to the
 4 composition of Reynobond PE in 2005?
 5 A. (Interpreted): Well, I think there you would have to
 6 refer to the question that was asked of him. I don't
 7 think there were any changes between 2000 and 2005, but
 8 you would have to look at what he was asked.
 9 Q. Well, from your knowledge, can you tell me whether, in
 10 2005 itself, there were any changes? I'm asking you.
 11 A. (Interpreted): No. I don't believe so.
 12 Q. Now, can you tell us — take it from me that these 1997
 13 Warrington test reports to class 0 on Reynobond 160 PE
 14 were not provided to the BBA when it came to assessing
 15 Reynobond panels for certification. My question is: why
 16 not?
 17 A. (Interpreted): I don't know.
 18 Q. I now want to move forward to 2003, Mr Schmidt, and look
 19 at the Warrington fire tests on Reynobond FR core done
 20 in that year. All right?
 21 THE INTERPRETER: Reynobond FR?
 22 MR MILLETT: Yes. That's where we're going.
 23 Now, just before I do, I have a technical
 24 clarification to ask of you.
 25 Is it right that LDPE stands for low-density

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1 polyethylene?
 2 A. (Interpreted): Yes.
 3 Q. Now, looking at the tests in 2003 under the
 4 British Standards, is it right that these were done on
 5 a panel with a PVDF coating in metallic grey with an FR
 6 core?
 7 THE INTERPRETER: Could you just repeat the last bit of it,
 8 with a metallic coating and ...?
 9 MR MILLETT: A metallic grey coating and an FR core.
 10 A. (Interpreted): I can't see, I don't know. I can't see
 11 it on the screen.
 12 Q. I'm not showing you a document, I'm asking you what you
 13 know. Did you know that?
 14 A. (Interpreted): I don't know. I don't have details with
 15 regard to that test.
 16 Q. Now, I'll just put the test reports up on the screen,
 17 just so you can see them. I'm not going to ask you
 18 detailed questions about them. We have copies of test
 19 reports dated 12 September 2003, and there is first of
 20 all the part 7 report, BS 476-7 report, at
 21 {BBA00000053}, in the French {ARC_T000016}. Let's have
 22 both of those up at the same time.
 23 The one on the left is in English, "WARRES
 24 No. 132317", and take it from me the date of that is
 25 12 September 2003, and the French is on the right.

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1 Have you ever seen that document before, do you
 2 think?
 3 A. (Interpreted): I don't believe so.
 4 Q. The second report under BS 476-6 is at {BBA00000050},
 5 and the French is at {ARC_T000015}. Can we have those
 6 up.
 7 Let's just take an example of one of these. Go to
 8 page 2 {BBA00000050/2} {ARC_T000015/2}, please. It's
 9 clear, and you can see on page 2, that this is the
 10 part 7 test for the FR product. If you look under
 11 section 3, "Description Of Test Specimens", in the
 12 second paragraph it refers to the product being
 13 Reynobond 55 FR; do you see that?
 14 A. (Interpreted): Yes. Yes, sorry, I mean, you said
 15 something which reappears lower down, so it's fine.
 16 PVDF.
 17 Q. Now, take it from me that these reports were submitted
 18 to the BBA.
 19 Do you know, can you help me, did Arconic think at
 20 the time that these tests showed that FR core was
 21 class 0?
 22 THE INTERPRETER: There might be a problem of translation,
 23 so maybe, sir, you could repeat your question?
 24 MR MILLETT: Did Arconic believe that these tests showed
 25 that FR core had achieved class 0?

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1 A. (Interpreted): For this product, yes, I think so.
 2 Q. Now, we haven't, I think, seen a summary report stating
 3 whether or not these tests actually achieved national
 4 class 0. Did you know that?
 5 A. (Interpreted): No.
 6 Q. Now, because you referred to Reynobond 33 in one of your
 7 answers earlier, I think I now need to ask you some
 8 questions about Reynobond 33.
 9 Do you have any personal knowledge at all,
 10 Mr Schmidt, about the testing of Reynobond 33 in 2006?
 11 A. (Interpreted): No, not at all, I wasn't involved in
 12 these tests at all.
 13 Q. Is it correct that Reynobond 33 is a signage product?
 14 It's not an architectural product like Reynobond 55, is
 15 it?
 16 A. (Interpreted): Yes, essentially, yes.
 17 Q. And by 2006, as you've told us, Arconic was already
 18 producing Reynobond 55 PE at Merxheim, wasn't it?
 19 A. (Interpreted): Yes.
 20 Q. So whatever testing was done, to the best of your
 21 knowledge, on Reynobond 33 in 2006 cannot have been
 22 relevant to the fire classifications for Reynobond 55
 23 PE.
 24 A. (Interpreted): Yes, I mean, the make-up of the product
 25 is very close, very similar, but nonetheless they are

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1 two different products.
 2 Q. Yes, and do you accept that you can't substitute
 3 a fire test from one product to another product and just
 4 read them across?
 5 A. (Interpreted): Well, again, I'm not specialised enough
 6 to be able to answer in detail, but nonetheless, I mean,
 7 I know that the two products have a different thickness
 8 of metal that constitute them and therefore, from
 9 a technical point of view, as a technician, I would
 10 think that they require specific tests.
 11 Q. Yes. Thank you.
 12 Can we then look at the 2006 test for Reynobond FR
 13 under the British Standards. This I think I can take
 14 shortly.
 15 Do you remember or do you know that Reynobond 55 ACM
 16 with an FR core was tested in 2006 and, according to
 17 a summary report from September 2006, had met the
 18 requirements of class 0?
 19 A. (Interpreted): No, I no longer remembered, and anyway
 20 I would like to remind you that at the time I wasn't
 21 involved in Reynobond at all, but essentially I don't
 22 remember — I didn't remember.
 23 Q. Indeed, and let me just read the references to those
 24 reports into the record, if I may, so that people can
 25 look at them. These test reports are at {EXO00001967}

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1 and {EXO00001938}, with a summary report at
 2 {EXO00001958}.
 3 Now, I want to ask you about Arconic's decision to
 4 perform tests under the European testing regime,
 5 EN 13501.
 6 Can we start, please, Mr Schmidt, by going to
 7 Claude Wehrle's witness statement in the French at
 8 {MET00048342/17}, paragraph 48 — we've looked at this
 9 before — and in English, please, Mr Wehrle's statement
 10 at page 14 {MET00053190/14}, again, paragraph 48.
 11 Now, he says there, and I'll read in the English if
 12 you read to yourself the French, please:
 13 "By the end of 2004, I was aware of the recently
 14 introduced EN 13501—1 Reaction to Fire testing regime.
 15 These were the first steps in the industry for a new way
 16 of fire testing because historically the tests required
 17 for 'national class' standards such as the French 'M'
 18 standard and the UK BS476 part 6 and 7 testing were
 19 tests undertaken on products, whereas the EN 13501—1
 20 testing was undertaken on a system (as described further
 21 below). I understood that over time it was likely that
 22 the EN regime would become the standard test in the EU
 23 and would be used to obtain certifications that were
 24 becoming desirable or even required from a sales
 25 perspective in more countries. For that reason,

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1 I suggested to management that they should test the
 2 Reynobond PE product under this regime and subsequently
 3 arranged with the CSTB for this to be carried out."
 4 Now, he says that he suggested to management to have
 5 the PE product tested.
 6 Now, at the end of 2004, Mr Schmidt, you I think
 7 were still helping to produce Reynolux; is that right?
 8 A. (Interpreted): [FT] *** Well, I think the production
 9 of Reynobond started around the year 2000. There were
 10 a number of people responsible for production. *** Then
 11 from the year 2002 or maybe 2003 I was the person in
 12 charge of production, and therefore I was responsible
 13 for the production, the logistics, anything that had to
 14 do with it.
 15 Q. Were you part of the management that Mr Wehrle refers to
 16 in the last sentence in that paragraph?
 17 A. (Interpreted): Yes, I mean, I can't be really specific,
 18 but it's true that at the time I was part of the
 19 management of the company, so I was part of the
 20 management committee, but I don't think that this
 21 proposal had been discussed with all the members of the
 22 management committee.
 23 And also, over that period, 2005/2006, besides my
 24 activities here in Merxheim, I was also very busy
 25 preparing an MBA. So it's very likely that I was far

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1 less involved in all sorts of decisions within the
 2 company.
 3 Q. Were you, to the best of your memory, part of the
 4 management that made the decision to test Reynobond PE
 5 under the European regime?
 6 A. (Interpreted): No, I don't think so.
 7 Q. Do you know who made the decision to have Reynobond 55
 8 PE tested?
 9 A. (Interpreted): No. No, I don't know.
 10 Q. Was the decision to conduct those tests one which
 11 Claude Wehrle could make himself or would he need
 12 authority from more senior executives?
 13 A. (Interpreted): No, I believe he must have mentioned that
 14 to his own management.
 15 Q. Do you know whether Mr Wehrle decided the parameters of
 16 the test, such as colour, fixing and configuration of
 17 the test system or rig?
 18 A. (Interpreted): Well, I believe that he probably
 19 discussed the whole thing with the test body he was
 20 going to have the test carried out by, but he probably
 21 gave an orientation to the decision.
 22 Q. But you don't know yourself; is that right?
 23 A. (Interpreted): No.
 24 Q. Now, we can see in this statement here that Mr Wehrle
 25 says that obtaining certifications was desirable or even

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1 required from a sales perspective.
 2 A. (Interpreted): Where can you see that?
 3 Q. The end of paragraph 48. You may need to go —
 4 THE INTERPRETER: The three last lines of 48.
 5 A. (Interpreted): Could I see the sentence just before?
 6 MR MILLETT: I was just trying to show you. It's the bottom
 7 of the previous page in the French at the bottom of
 8 paragraph 48 {MET00048342/17}. It's the sentence that
 9 starts "j'ai compris".
 10 A. (Interpreted): Yes.
 11 Q. The precise words I want to ask you about are in the
 12 second half of that sentence, which in the English says
 13 "certifications that were becoming desirable or even
 14 required from a sales perspective in more countries".
 15 That sentence there.
 16 My question on that sentence is: can you tell us,
 17 was the decision to test Reynobond PE driven solely by
 18 Arconic sales and marketing, or was it driven by
 19 a genuine interest in understanding the fire performance
 20 of its product better?
 21 A. (Interpreted): So it's very hard to be very specific in
 22 my answer, but if I look at what Claude Wehrle is
 23 saying, the way he expresses himself, he seems to be
 24 saying that, in the future, the commercial teams will
 25 ask for that type of test to be carried out.

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1 Q. Let me interrupt you. Can I just interrupt you?
 2 A. (Interpreted): But in 2005 I'm not sure that that demand
 3 was emerging from the commercial people.
 4 Q. Right. I'm sorry to interrupt your answer, Mr Schmidt.
 5 I don't want you to interpret Mr Wehrle's witness
 6 statement, I want you to tell me from your own
 7 knowledge, if you can, whether the decision to conduct
 8 these European tests was driven by commercial reasons or
 9 by a genuine interest in understanding Reynobond 55 PE
 10 better.
 11 A. (Interpreted): I don't have any idea about it.
 12 Q. Mr Wehrle also says, a little bit earlier in the same
 13 paragraph — if we look at it, halfway down in the
 14 English in paragraph 48, and if we go to the previous
 15 page in the French, please, he says it in the last three
 16 lines in the French — that the EN 13501 test was
 17 undertaken on a system. That's the words he uses there
 18 in the English, four lines down, "EN 13501 testing was
 19 undertaken on a system", and in the French it's three
 20 lines up from the bottom of the page.
 21 Can you tell us, from your knowledge and experience,
 22 or confirm that the test conducted under EN 13501 is not
 23 a full system test, it's only a test on the product
 24 itself?
 25 A. (Interpreted): No, I think that part of the test is

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1 carried out on a system.
 2 Q. When you say system, would you agree that that's not
 3 a full façade build-up?
 4 A. (Interpreted): Yes.
 5 Q. And it's necessary, do you agree with me, from your
 6 experience, that in order to conduct the test under the
 7 European norm, EN 13501, you would have to choose
 8 a fixing method, cassette or rivet?
 9 A. (Interpreted): Yes.
 10 Q. Now, do you accept that somebody in Arconic would have
 11 made a number of decisions about how to set the test up,
 12 for example what shape the panel would be in, how it
 13 would be fixed, and what the substrate was that would be
 14 used?
 15 A. (Interpreted): Yes.
 16 Q. Can you tell me who within Arconic would have made those
 17 decisions in late 2004?
 18 A. (Interpreted): I believe Claude Wehrle.
 19 Q. Do you accept that there are a number of variables when
 20 one is conducting a test under the European system,
 21 for example the shape of the product, the mounting, the
 22 substrate, the air gap, the size of the air gap, between
 23 the reverse of the rainscreen and the substrate?
 24 A. (Interpreted): Yes, I mean, it's something that I really
 25 didn't know at the time, but I imagined that that

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1 EN 13501 test was really a standard test, and in my mind
 2 it meant that it would be whatever the product, the
 3 supplier, the fabricator, whichever way it was mounted,
 4 because the idea was that there would be sort of
 5 identical conditions and therefore it would be useful
 6 for the reproductivity of the test and fair comparison.
 7 Q. Yes. Do you accept, following on from that, that each
 8 of these variables, if changed, can make a big
 9 difference to how the product performs in a test?
 10 A. (Interpreted): I mean, what you're saying varies,
 11 depending on all sorts of variables. If we're talking
 12 merely about the rivets and the cassettes, yes, it does
 13 make a difference. But for other variables, other
 14 elements, I'm not sure, for example what structure there
 15 is at the back, how it's been constructed, what is the
 16 depth of the air gap, I'm not sure at all.
 17 Q. But you accept that each of those questions, those
 18 variables, if different from test to test, might make
 19 a difference to the outcome of the tests?
 20 A. (Interpreted): Yes, potentially you're right.
 21 Q. Were you aware, either in late 2004 or later when you
 22 came to be managing director in 2007, that the European
 23 test standard EN 13501 requires the product or system in
 24 which it's tested to be tested so as to simulate its
 25 end-use application? Were you aware of that?

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1 A. (Interpreted): No.
 2 Q. You weren't aware?
 3 A. (Interpreted): No.
 4 Q. If that is correct, and if it's correct that the
 5 European norm required the product to be tested so as to
 6 simulate its end use, do you accept that Arconic should
 7 have determined how Reynobond would be used in end—use
 8 application and then performed sufficient testing to
 9 cover all of those conditions?
 10 A. (Interpreted): If that's what the European Standard was
 11 requesting, then I feel that I can only but accept it.
 12 But I don't feel — once again, I was not aware of that
 13 condition.
 14 MR MILLETT: Very well, thank you very much.
 15 Mr Chairman, I've come to not only just after
 16 1 o'clock, but a natural break in the questioning.
 17 Might this be a convenient moment?
 18 SIR MARTIN MOORE—BICK: I think it would be, yes. I think
 19 we'd all quite like now to have a break for some lunch.
 20 I'm sure Mr Schmidt would.
 21 So, Mr Schmidt, we will have a break now. We will
 22 resume, please, at 2 o'clock. Please remember not to
 23 talk to anyone about your evidence or anything to do
 24 with it. All right?
 25 THE WITNESS: (Interpreted): Yes.

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1 SIR MARTIN MOORE—BICK: 2 o'clock, then, please. Thank you
 2 very much.
 3 (1.03 pm)
 4 (The short adjournment)
 5 (2.00 pm)
 6 SIR MARTIN MOORE—BICK: Good afternoon, everyone. Welcome
 7 back. We are about to continue taking the evidence of
 8 Mr Claude Schmidt, but before we do that, I must just
 9 check that our interpreters are with us, that they can
 10 see and hear all that they should be able to see and
 11 hear.
 12 So, interpreters, are you there?
 13 MS KENNEDY: Yes, we're both with you and we can both see
 14 and hear you.
 15 SIR MARTIN MOORE—BICK: Very good. Thank you very much
 16 indeed.
 17 Then we had better make sure that Mr Schmidt is
 18 there and can see and hear us all clearly.
 19 Mr Schmidt, are you there?
 20 THE WITNESS: (Interpreted): Yes.
 21 SIR MARTIN MOORE—BICK: Very good. Yes, hello. Ready to
 22 carry on?
 23 THE WITNESS: (Interpreted): Yes, I'm ready.
 24 SIR MARTIN MOORE—BICK: Thank you very much.
 25 Then I'll invite Mr Millett to put some more

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1 questions to you.
 2 Yes, Mr Millett.
 3 MR MILLETT: Mr Chairman, thank you.
 4 Mr Schmidt, I would now like to look with you,
 5 please, at the tests of Reynobond 55 PE conducted in
 6 late 2004 and their first classifications to EN 13501 in
 7 January of 2005. All right?
 8 THE INTERPRETER: The first classification in, sorry?
 9 MR MILLETT: January 2005.
 10 What I'm going to do, just so you're clear about
 11 this exercise, is to take you through the two test
 12 reports in a little bit of detail, just to make sure
 13 that you and we are all clear about what they show.
 14 Just to summarise what I'm going to show you, there
 15 were two set of tests: one set of tests performed on
 16 Reynobond 55 PE in rivet form, which is test 5A, full
 17 name RA05—005A, or test 5A; and there is another set of
 18 tests performed on Reynobond 55 PE in cassette form,
 19 which was test RA05—005B, which we call test 5B.
 20 Now, my first question is: are you familiar with
 21 these two sets of tests for rivet and cassette?
 22 A. (Interpreted): No.
 23 Q. Right. Let's see how we go.
 24 Can we have test 5A up first, and in French, the
 25 French version, that is {MET00053158/44}, and the

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1 English version is {ARC00000535/1}. Yes, thank you. So
 2 we have the French on the left—hand side of your screen
 3 and the English on the right—hand side of your screen.
 4 Let's look at the title together. We're going to
 5 read in the English but you can follow in the French,
 6 please:
 7 "Reaction to fire test report No. RA05—0005A.
 8 "According to the European Standards NF EN 13823 and
 9 NF ISO 11925—2."
 10 And we can see underneath that that it's valid for
 11 five years. Can you see that?
 12 A. (Interpreted): Yes.
 13 Q. Now, can we go to page 3 in the English {ARC00000535/3}
 14 and page 46 in the French {MET00053158/46}. We are
 15 sticking with test 5A. On that page we can see the
 16 particulars of the specimen or sample, and we can see
 17 the date of the test was 2 December 2004; do you see
 18 that?
 19 A. (Interpreted): Yes.
 20 Q. The commercial brand is Reynobond 55 PE riveted system.
 21 Yes?
 22 A. (Interpreted): Yes.
 23 Q. If we go to the bottom of page 3 — I think we need to
 24 scroll down to the bottom of the screen in each case,
 25 please — we can see the signatures and the date of the

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1 test reports. The signatures are there, Gildas Creach
 2 and Martial Bonhomme from the CSTB, and the date there,
 3 7 January 2005. Can you see that?
 4 A. (Interpreted): Yes. Yes.
 5 Q. If we go to page 4 in the English {ARC00000535/4} and
 6 page 47 in the French {MET00053158/47}, please, there is
 7 a summary description. If you just look at that,
 8 please, you can see that the description is:
 9 "Composite panel consisting of a low density
 10 polyethylene core surfaced on both sides with
 11 a thermally bonded precoated aluminium sheet.
 12 "Provided system: riveted on metal substructure.
 13 "Finish: Duragloss 5000 35 [microns]."
 14 Then you see underneath that:
 15 "Overall nominal thickness: 4 mm."
 16 And the colour is "grey/green".
 17 Do you see that?
 18 A. (Interpreted): Yes.
 19 Q. Now I would like to show you page 5 in the English
 20 {ARC00000535/5} and page 48 in the French
 21 {MET00053158/48}, please, if we can have those up.
 22 Page 5/page 48 of this test 5A on rivet. We can see the
 23 result there of the tests in the boxes, and we can see
 24 that there is a test, do you see, under that — well, at
 25 the top it says it's the "small flame of a burner

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1 (NF EN ISO 11925—2)", which is also called the single
 2 flame source test.
 3 Do you see there that for each of the results there
 4 is an exposure of flame to the precoated sheet in the
 5 first box there? Do you see that? And you can see that
 6 under "Comments — results" there is a "Type of exposure:
 7 surface", 30 seconds, and the edges also 30 seconds. Do
 8 you see that?
 9 A. (Interpreted): Yes.
 10 Q. Now let's turn to page 6 of this test 5A in the English
 11 {ARC00000535/6}, and page 49 in the French
 12 {MET00053158/49}. We now see here on this page the
 13 first page of results for a different test, namely the
 14 EN 13823 test, otherwise known as the single burning
 15 item or SBI.
 16 Do you see there, about three—quarters of the way
 17 down the screen, it says, "Preparation of the test
 18 pieces". Do you see that?
 19 A. (Interpreted): Yes.
 20 Q. Then you see at the bottom of the page that there are
 21 three specimens described, specimens 1 to 3. Do you see
 22 that?
 23 A. (Interpreted): Yes.
 24 Q. It describes:
 25 "Specimens 1 to 3: REYNOBOND 55 PE riveted system."

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1 And then underneath that it says:
 2 "Mounting: panels fixed with rivets on a framework
 3 in aluminium profiles then applicated on gypsum
 4 plasterboard. The riveted system means that the panel
 5 edges are free and that the low density polyethylene is
 6 apparent."
 7 Now let's go to page 7 in the English
 8 {ARC00000535/7}, please, and page 50 in the French
 9 {MET00053158/50}. Let's look at specimen 2, in the
 10 middle of the page in the English, and also in the
 11 French, and I pick this just to say that this is the
 12 worst performing of these three rivet specimens, for the
 13 purposes of comparison.
 14 But let's look in the table there, specimen 2. It
 15 has a number of sets of data there: it has the FIGRA
 16 result of 105.5, FIGRA is fire growth rate index; it's
 17 got a THR of 7.8, THR is total heat release; then
 18 a SMOGRA figure of 5.7 there, that's the smoke growth
 19 rate index.
 20 Then we can see a description at time intervals
 21 under "Comments". Can you see different time intervals
 22 in seconds? Can you see that?
 23 A. (Interpreted): Yes.
 24 Q. Mr Schmidt, are you following me so far as we walk
 25 through this?

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1 A. (Interpreted): Yes.
 2 Q. Now, in the comments, in the time intervals, if you look
 3 at the 355—second mark, just under "Comments", it says:
 4 "Darkening of the sheet to 500mm of height;
 5 distortion of the sheet in the angle and on the joint at
 6 200 mm on a height from 0 to 1000 mm."
 7 Do you see that there?
 8 Then if you skip to the bottom, to the last of those
 9 time entries at 1,170 seconds, you can see it says:
 10 "Falling ignited drops in the burner zone."
 11 So I show you that data because that's the worst
 12 performing of the three specimens in test 5A on the
 13 rivet system.
 14 Now, let's look together at test 5B which is on the
 15 cassette system. That's in the English at {ARC00000536}
 16 and in the French at {MET0000053158/71}. Let's have
 17 both of those up on the screen. Yes, thank you.
 18 Now, we see again on the left—hand side the English
 19 of this test and the French of this test. Same format,
 20 reaction to fire test, RA05—005B. Do you see that?
 21 A. (Interpreted): Yes.
 22 Q. Before we move into this document, can you help me, on
 23 the top right—hand corner in the French — and it's been
 24 translated into English on the left — there is
 25 a triangle with an exclamation mark on it and someone

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1 has written:
 2 "K7 System.
 3 "Not classified because the test had to be
 4 interrupted."
 5 Or in French, if Madam Translator could read the
 6 French text there in manuscript.
 7 (Pause for translation)
 8 A. (Interpreted): I see that.
 9 Q. Do you know who wrote that there?
 10 A. (Interpreted): No.
 11 Q. Do you know when that —
 12 A. (Interpreted): No. I'd rather say no.
 13 Q. You don't know who wrote it or when it was written?
 14 A. (Interpreted): No, not at all.
 15 Q. What is K7?
 16 A. (Interpreted): It's "ka-sept".
 17 THE INTERPRETER: K7, sorry.
 18 Q. Okay.
 19 A. (Interpreted): It's an abbreviation for "cassette".
 20 Q. I should have worked that out.
 21 Can we go to page 3, please, in the English
 22 {ARC00000536/3} and the French also at page 73
 23 {MET0000053158/73}. You can see here that the date of
 24 the test is 2 December 2004. Do you see that?
 25 A. Oui.

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1 Q. The commercial brand this time is Reynobond 55 PE
 2 cassette system. Do you see that?
 3 Let's go to page 4 in the English {ARC00000536/4}
 4 and page 74 in the French {MET0000053158/74}. We have
 5 there the provided system, and you can see under the
 6 description there the panel again is described as:
 7 "... multiple-layered complex consisting of
 8 a polyethylene core surfaced on both sides with
 9 a thermally bonded precoated aluminium sheets.
 10 "Provided system: cassette (closed edges)."
 11 Do you see that?
 12 A. (Interpreted): Yes.
 13 Q. And the finish, a little lower down, Duragloss 5000.
 14 Again, the colour is grey/green, and again the nominal
 15 thickness is 4 millimetres. Okay?
 16 A. (Interpreted): Okay.
 17 Q. Let's go to page 5 then in the English {ARC00000536/5}
 18 and 75 in the French {MET0000053158/75}. We can see the
 19 test results for EN ISO 11925-2. Those are the results
 20 there for the exposure on the surface and exposure on
 21 the edges. You see that there?
 22 Let's look at page 6 in the English {ARC00000536/6}
 23 and 76 in the French {MET0000053158/76}. At the bottom
 24 of those pages respectively, we can see "Preparation of
 25 the test pieces".

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1 A. Oui.
 2 Q. At this time, Mr Schmidt, we see only one specimen:
 3 Reynobond 55 PE cassette system.
 4 Pausing there, do you know why only one specimen was
 5 chosen for the test in cassette variant, but there were
 6 three specimens chosen when we saw the rivet—fix
 7 variant?
 8 A. (Interpreted): No.
 9 Q. Now, to see what happened in this (inaudible) we have to
 10 go to page 7 of the English {ARC00000536/7} and 77 in
 11 the French {MET0000053158/77}, please. Here we can see
 12 the comments and results.
 13 Specimen 1 — do you see that, in the box? —
 14 Reynobond 55 PE cassette system, and here we have the
 15 data: the FIGRA figures are 1,009.2; the THR, total heat
 16 release, 59; SMOGRA is 16.6. And let's look at the
 17 comments under "Comments" or "Commentaires" in the
 18 French underneath the box. It says at 630 seconds:
 19 "... ignition inside the cassette in the angle.
 20 "About 700 sec: large ignition inside the cassettes.
 21 "850 sec: stop of the main burner because HRR [heat
 22 release rate] > [exceeds] 400 kW.
 23 Then in bold it says in English:
 24 "The tests were stopped after 850 seconds; the
 25 results are not usable but give an idea of the fire

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1 behaviour of the product."
 2 If you could just look at that in bold in the French
 3 and make sure you've read that text in the French,
 4 please.
 5 Now, is there anything in these two test reports, 5A
 6 and 5B, that I've taken you through so far which you
 7 don't understand or which is incomplete or there is
 8 something about them that you wish to go back and look
 9 at?
 10 A. (Interpreted): No, I believe it's clear.
 11 Q. Can you tell from this report why test 5B on cassette
 12 was stopped in the middle of the first specimen test?
 13 A. (Interpreted): Because from 700 seconds there was a lot
 14 of fire.
 15 MR MILLETT: And the witness said "un gros inflammation",
 16 are you able to translate that expression?
 17 THE INTERPRETER: Just a second.
 18 (Pause)
 19 High flammability.
 20 MR MILLETT: Let's compare the two results. We're going to
 21 do this in the French language documents to assist you,
 22 and if any members of the panel or indeed anybody else
 23 for that matter wants me to go to the English I can be
 24 told, but for you, Mr Schmidt, we can do it in the
 25 French.

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1 Can we compare, please, test 5A and 5B, up at the
 2 same time, {MET00053158/50} and {MET00053158/77}.
 3 I just want to compare with you specimen 2 in test 5A on
 4 the bottom half of the page, "Eprouvette 2", with the
 5 only specimen from test B.
 6 Let's look at those together. Test 5A, left—hand
 7 side, the FIGRA rate was 105, in test B the FIGRA rate
 8 is 1,009. That's nearly ten times higher, isn't it?
 9 A. (Interpreted): Yes.
 10 Q. Looking at the THR result, on the left—hand side, 5A,
 11 rivet, it's 7.8, and if you look at the result for
 12 test 5B, cassette, it's 59. Yes? So that's a THR
 13 result of about seven times higher for the cassette
 14 variant than for the rivet variant, isn't it?
 15 A. (Interpreted): Yes.
 16 Q. Now let's look at the SMOGRA, the smoke growth index
 17 figures, and compare the two. On the left—hand side,
 18 rivet, the SMOGRA figure is 5.7, but on the right—hand
 19 side, cassette, the SMOGRA figure is 16.6, so around
 20 three times higher for cassette than for specimen 2
 21 tested for rivet; yes?
 22 A. (Interpreted): Yes.
 23 Q. My question is: when you compare these results, these
 24 are not small differences, are they? The difference in
 25 the result between rivet and cassette are very great.

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1 A. (Interpreted): Yes.
 2 Q. Do you accept that the cassettes, according to this
 3 test 5B, performed spectacularly worse than the
 4 rivet—fix, according to 5A?
 5 A. (Interpreted): Yes.
 6 Q. Now let's look at the classification report for the
 7 tests. We'll start with the classification report for
 8 test 5A, please.
 9 This is at, in English, {ARC00000358}, and in the
 10 French, {ARC_T000011}. This is the classification
 11 report now. So we've seen the test reports, we're now
 12 looking at the classification reports.
 13 This one is 5A, and if you look a little lower down
 14 on the page, it refers to Reynobond 55 PE riveted
 15 system, date of issue: January 7, 2005. Yes?
 16 A. (Interpreted): Yes.
 17 Q. The classification, as you can see from the very big
 18 letters, according to the European Standard NF
 19 EN 13501—1. Let's go to page 2 in each of these
 20 documents {ARC00000358/2} {ARC_T000011/2}. You can see
 21 that it's the same product, under "Product description";
 22 you can see the thickness, 4 millimetres; the finishing
 23 coat, Duragloss 5000; the colour being grey/green; and
 24 above that, the tested system: riveted on metallic
 25 substructure.

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1 Now let's go to the classification itself under
 2 paragraph 3.2 on page 4 of the English {ARC00000358/4}
 3 and 4 of the French equally {ARC_T000011/4}. Here we
 4 have it, "Classification and ... field of application",
 5 paragraph 3.2, and you can see under "Classification",
 6 under 4.2, it says in the box:
 7 "Fire behaviour: B.
 8 "Smoke production: s2.
 9 "Flaming droplets or debris: d0.
 10 "Classification : B—s2, d0."
 11 Do you see that?
 12 A. (Interpreted): Yes.
 13 Q. Underneath that, at paragraph 4.3, "Field of
 14 application", it says:
 15 "This classification is valid for the following
 16 product parameters:
 17 "— For a thickness of 4 mm.
 18 "— Only for the system riveted on any metallic
 19 substructure."
 20 Do you see that?
 21 Then underneath that it says:
 22 "This classification is valid for the following
 23 end use conditions:
 24 "— On any A1 or A2 substrate with a density [equal
 25 to or greater than] 700 kg/m3.

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1 "— With a minimum air gap of 50 mm."
 2 Now, I've shown you that.
 3 Is it right that only Reynobond PE in 4—millimetre
 4 thick in riveted form — riveted form — could be
 5 classified as a B—s2, d0?
 6 A. (Interpreted): Yes.
 7 Q. Is it also correct that this result, this
 8 classification, could only validly apply where the panel
 9 was riveted on a metallic substructure?
 10 A. (Interpreted): Yes.
 11 Q. It's correct, therefore, is it not, that this result,
 12 this classification, B—s2, d0, cannot be applied to the
 13 cassette—fix variant of Reynobond 55 PE at all, can it?
 14 A. (Interpreted): Yes.
 15 Q. Now, do you agree that there was, at the time, no
 16 classification report which classified the results from
 17 test 5B?
 18 A. (Interpreted): Yes.
 19 Q. Do you agree — and if you don't know, tell me — that
 20 the test under EN 13823, which was one of the tests you
 21 have to do pursuant to the European Standard, required
 22 three specimens as well as successful completion of the
 23 EN 11925—2 test? That's right, isn't it, or do you not
 24 know?
 25 THE INTERPRETER: Sorry, sir, I forgot the end, I've stopped

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1 at the three specimens.
 2 MR MILLETT: Three specimens will do.
 3 THE INTERPRETER: Thank you.
 4 A. (Interpreted): No, I didn't know.
 5 MR MILLETT: But do you agree that the test for Reynobond 55
 6 PE in cassette form performed so badly that the test was
 7 stopped so that there wasn't even a second specimen
 8 tested?
 9 A. (Interpreted): No, I don't know, I'm not sure that's the
 10 reason why they didn't do the test again.
 11 Q. Well, we'll come to the reasons why they didn't do the
 12 test again in a little bit more detail, but do you agree
 13 at least that the test on Reynobond 55 PE in cassette
 14 form was stopped because it had performed so badly?
 15 A. (Interpreted): Yes.
 16 Q. When was the first time, to the best of your memory,
 17 that you saw the test 5B report —
 18 A. (Interpreted): First, I didn't see the report. But
 19 I think that Claude Wehrle mentioned it after the fire.
 20 Q. I now want to ask you about test 5A and a point of
 21 detail about that, namely the air gap.
 22 Can we go, please, to Claude Wehrle's witness
 23 statement, {MET00053190/19}. I want paragraph 64 in the
 24 English. Can I have the French, please, at page 23
 25 {MET00048342/23}, paragraph 64. I would like to look at

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1 five lines down in there, please, which in English
 2 starts:
 3 "As part of my research ..."
 4 I'll read it in English and if you read that part of
 5 it in French:
 6 "As part of my research in July 2011 I checked with
 7 the CSTB as to the 'air blade' (by which I meant air
 8 gap) between the Reynobond cladding and the insulation
 9 that the CSTB had used during the test and was informed
 10 that that the air gap was 20mm and that rockwool of 30mm
 11 was used. I responded confirming my understanding that
 12 the panels had to be tested that way because they are in
 13 practice installed in that way (exhibited at P127). It
 14 is correct to say that different air gaps and
 15 types/thicknesses of insulation, for example, are likely
 16 to influence the test result achieved. I had previously
 17 used an air gap of 50 mm for some tests, but since July
 18 2011 I believe only air gaps of 20 mm were used."
 19 I just want to show you the email that he is
 20 referring to there, Mr Schmidt. It's in English at
 21 {MET00053158/184}, and in French it's {MET00053158/181},
 22 so the same exhibit. It's an email correspondence
 23 between Claude Wehrle and the CSTB in July 2011, by
 24 which time you were president, I think, of Arconic at
 25 Merxheim.

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1 At the bottom of the page, in the English, the third
 2 email down, if we just go to the bottom of the English
 3 page, it's from Mr Wehrle, Friday, 1 July 2011, to the
 4 CSTB, Maxime Bauer and Gildas Creach:
 5 "Hello,
 6 "Can you tell me how big the air gap between the
 7 Reynobond cladding and the insulation was during the
 8 test?"
 9 In the French, you can see it.
 10 A. (Interpreted): Yes.
 11 Q. You can see the response from CSTB immediately above
 12 that, from Maxime Bauer back to Mr Wehrle on Monday,
 13 4 July. It's the middle email on the right-hand side,
 14 middle email on the left-hand side, and the answer is:
 15 "The air gap was 20 mm for all tests performed so
 16 far. We use 30 mm rock wool."
 17 The response comes back from Mr Wehrle to
 18 Maxime Bauer on 4 July 2011:
 19 "Okay, thank you."
 20 It's the top email — well, it's the second from top
 21 email:
 22 "Okay, thank you.
 23 "I do think that this is how the panels should be
 24 tested, because that's how they are used.
 25 "Best regards,

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1 "Claude WEHRLE."
 2 Just to be clear for the witness —
 3 A. (Interpreted): Yes, I could see that, yes.
 4 Q. Now, I want to take you back into the classification
 5 report for test 5A on rivet we saw before, English
 6 version {ARC00000358/4}, French version {ARC_T000011/4}.
 7 I just want to pop in and draw this to your attention.
 8 On page 4 of both of those reports, and you can see
 9 there it says under the "Field of application", under
 10 the second heading:
 11 "This classification is valid for the following
 12 end use conditions ..."
 13 Second bullet point:
 14 "— With a minimum air gap of 50 mm."
 15 Did you see that?
 16 A. (Interpreted): Yes, I can see that.
 17 Q. Can you explain why this test of the rivet version of
 18 Reynobond 55 PE was tested with a 50-millimetre air gap
 19 if, in real life, the end use was with a 20-millimetre
 20 air gap?
 21 A. (Interpreted): All I can offer is a few suggestions, or
 22 positions.
 23 I mean, between 2005 and 2011, six years elapsed,
 24 and in 2005 what we're faced with is the very first test
 25 commissioned by Claude, and what I believe is that his

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1 reflection, his analysis, evolved between 2005 and 2011.
 2 Q. Is that something you know from your own knowledge or
 3 are you guessing?
 4 A. (Interpreted): I'm not talking about fact, it's
 5 suppositions I have in mind.
 6 Q. I see.
 7 Well, let's see if we can look into the story a bit
 8 more deeply. I'd like to show you an email run in 2016.
 9 In English it's {MET00064988/129}, please, and the
 10 French is one page before that within the same exhibit
 11 {MET00064988/128}. This is an email from Claude Wehrle
 12 to Julie Kasyanik. Am I right in thinking that
 13 Julie Kasyanik was a sales representative for Arconic in
 14 2016?
 15 A. (Interpreted): Yes.
 16 Q. They appear to be discussing fire certification of
 17 a competitor, and Mr Wehrle says, at the email at the
 18 top, addressed to Julie Kasyanik on 24 June 2016, in
 19 English he says:
 20 "Julie,
 21 "This is a certif. for PE, not for FR.
 22 "We also had a class 'B' at the time in PE, but by
 23 'arranging' the system to pass.
 24 "So this report is really not a reference.
 25 "Have a nice weekend."

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1 So, how did Mr Wehrle "arrange" a system —
 2 A. (Interpreted): They're talking about a competitor,
 3 aren't they? Because I don't really understand the
 4 context for all these emails.
 5 Q. No, okay. Let's see if you can throw any light on it,
 6 though.
 7 He says:
 8 "We ... had a class 'B' at the time in PE, but by
 9 'arranging' the system to pass."
 10 Now, if you can't help me, you can't help me, but
 11 I just want to know from you whether you can. How did
 12 Mr Wehrle arrange a system to pass so as to obtain
 13 a class B in PE?
 14 A. (Interpreted): I don't have an answer I could provide.
 15 Q. Did you know yourself by June 2016 that Mr Wehrle
 16 (inaudible) his team had arranged a PE system to pass
 17 a test so as to obtain a class B?
 18 A. (Interpreted): No.
 19 Q. Now, just — sorry.
 20 A. (Interpreted): But what test exactly are they talking
 21 about? That's what I'd like to understand.
 22 Q. Yes. Well, I think we agree with you, we would also
 23 like to understand.
 24 Just let me ask you this: this email that we're
 25 looking at is from a bundle of documents in what was

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1 called the unexhibited document bundle. You have —
 2 A. (Interpreted): You said it had not been exhibited, to
 3 whom or where?
 4 Q. No Arconic witness has exhibited this email or explained
 5 it in their witness statement. Did you see this
 6 document when you were preparing your witness statement?
 7 THE INTERPRETER: Sorry, sir, the sound was very weird,
 8 I couldn't hear what you said. Could you repeat what
 9 you just said? I mean, I can read it, actually — no,
 10 I can't read it, it's not on ... could you repeat what
 11 you said, sir, please?
 12 MR MILLETT: Yes.
 13 Did you see this document or review it when you were
 14 preparing your witness statement?
 15 A. (Interpreted): No, I don't think so.
 16 Q. Can you explain why no Arconic witness, so far as we can
 17 see, has explained this document?
 18 A. (Interpreted): No, I couldn't explain that. I've no
 19 idea about that.
 20 Q. Just sitting there now, reading the document maybe for
 21 the first time — well, I should ask you: is this the
 22 first time you've ever seen this email?
 23 A. (Interpreted): Yes, once again, I'd never seen it
 24 before.
 25 Q. Right.

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1 Just sitting there and looking at this email for the
 2 first time, do you agree that it suggests that Arconic
 3 had arranged a test so that it would achieve a class B
 4 result?
 5 A. (Interpreted): Yes. I can only observe what's there.
 6 Q. Would you agree that it looks from this that
 7 Claude Wehrle knew or suspected that Reynobond 55's
 8 Euroclass B in PE was not honestly achieved?
 9 A. (Interpreted): Yes.
 10 Q. Can you explain how that might have happened?
 11 A. (Interpreted): No.
 12 Q. Can you explain how, if that did happen, and Arconic
 13 knew or suspected what I've just suggested, Arconic
 14 advertised and sold Reynobond PE as a Euroclass B
 15 product for many years after 2005?
 16 A. (Interpreted): Yes, but there were various tests that
 17 were carried successively later on and that confirmed
 18 that class B.
 19 Q. For PE? Are you sure?
 20 A. (Interpreted): Yes, I think so.
 21 Q. Right.
 22 A. (Interpreted): For the rivet system, at least. And it's
 23 true I wasn't talking about cassette.
 24 Q. Right.
 25 When you became managing director of Arconic in

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1 August 2007, did you find out, did you learn about the
 2 2004/2005 tests that we have been looking at?
 3 A. (Interpreted): No.
 4 Q. Why did you not make it your business to understand
 5 thoroughly what fire tests and fire classifications
 6 supported the sale of Reynobond 55 PE?
 7 A. (Interpreted): Well, my role was to steer forward the
 8 whole of the company, or the company as a whole, and the
 9 section — the group within the company that was
 10 concentrating on architecture products, Reynobond
 11 for example, constituted a relatively small part of our
 12 sales and our turnover. On top of that, in 2007 we
 13 started a new production line concentrating on coating,
 14 and we had to launch that section, we had to stabilise
 15 the whole company and develop the sales of this new
 16 product.
 17 And in the same time, in parallel, I mean, in
 18 a general perspective, the product — the PE product, if
 19 you looked at the competitors and what they were doing,
 20 I mean, it was a type of product which had a very wide
 21 distribution and it was the sort of standard product at
 22 the time.
 23 Q. Yes. So my question is: when you took over as managing
 24 director at Merxheim in August 2007, why did you not
 25 seek to understand thoroughly the fire testing and fire

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1 classifications which supported the sale of that
 2 product?
 3 A. (Interpreted): Because it wasn't my priority.
 4 Q. This is to do with fire safety and life safety; why
 5 wasn't it your priority?
 6 THE INTERPRETER: Did you say life safety, sir?
 7 MR MILLETT: Life safety.
 8 A. (Interpreted): I think these words are a bit too strong.
 9 Q. Well, what words would you pick?
 10 A. (Interpreted): [FT] *** Well, this PE product had
 11 specific characteristics which for me were, once
 12 again — it was a standard product on the market at the
 13 time ***, and I didn't concern myself particularly with
 14 the fire behaviour of the product, or the fire safety of
 15 the product.
 16 Q. When you —
 17 A. (Interpreted): Knowing that that standard product was
 18 accepted by most markets and most customers.
 19 Q. When you took over as managing director at Merxheim in
 20 August 2007, did you not seek to find out how the
 21 cassette version of this widely used product had
 22 performed in any fire tests?
 23 A. (Interpreted): No.
 24 Q. Did anybody come to you and tell you that, although the
 25 Reynobond 55 PE product in rivet format had obtained

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1 a Euroclass B, the same product in a cassette—fixing
 2 format or variant had failed a fire test and had no
 3 classification?
 4 A. (Interpreted): No. I don't believe so.
 5 Q. How can you account or explain why nobody in the teams
 6 who knew about test 5B informed you of the fact?
 7 A. (Interpreted): Well, I believe once again, and I don't
 8 know if I'm going to answer the question properly, but
 9 I don't think that anyone really believed in the tests
 10 that took place in 2005. [FT] *** And I say that
 11 really the awareness of Claude Wehrle evolved in 2011.
 12 ***
 13 Q. We'll come to that in due course.
 14 Let's look at what Mr Wehrle says about all of this
 15 and about test 5B.
 16 Can we go to Claude Wehrle's witness statement in
 17 the English, please, at {MET00053190/8}, paragraph 28,
 18 and in the French it is {MET00048342/10}, again
 19 paragraph 28.
 20 I am going to show you (inaudible) of Mr Wehrle's
 21 evidence about test 5B, and I would like to hear what
 22 you say about it.
 23 A. (Interpreted): Which paragraph are you referring to?
 24 Q. 28 in the —
 25 A. (Interpreted): 28.

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1 Q. If you read that. I will read it in English and if
 2 Mr Schmidt could read in French:
 3 "When I started work at AAP SAS, and for many years
 4 afterwards, there was no real understanding in the
 5 market as to whether the fire performance of
 6 a rivet—type system was preferable to that of
 7 a cassette. Indeed, there were reasons for believing
 8 that since, in the case of cassettes, the edges of the
 9 panels were folded inwards, a fire resistance test would
 10 be more favourable, no matter what method was chosen in
 11 terms of an external heat source, since the panel edges
 12 would not be directly exposed to that source. However,
 13 the decision to incorporate panels into a particular
 14 cladding system, whether in rivet—type form or as
 15 cassettes, was naturally taken by third parties, and not
 16 by AAP SAS."
 17 If we go down to page 10 {MET00053190/10}, please,
 18 paragraph 35, and page 12 in the French
 19 {MET00048342/12}, paragraph 35, I want to pick it up in
 20 paragraph 35 about 12 lines down in the French, 11 lines
 21 down in the English, where he says — it's about
 22 two—thirds of the way through:
 23 "Thus, the 2005 results ..."
 24 A. (Interpreted): Yes.
 25 Q. I'm going to read:

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"Thus, the 2005 results (referred to in further detail in paragraphs 52–53 below) differed between the rivet and cassette versions, in that testing in a rivet system produced a B result, whereas testing in a cassette system did not, and indeed the indication given was that the result might be poorer. Nonetheless, we felt able to conclude that the product, i.e. the RB55 PE, had been shown to be capable, as part of a suitable system, of achieving EN Class B, and we felt we could proceed on this basis. Further detail relating to this decision is provided in paragraph 53 below."

Let's go down further to page 15 in the English {MET00053190/15}, paragraph 51, page 18 in the French {MET00048342/18}, paragraph 51. At paragraph 51 he says:

"The tests were undertaken in 2004 using grey–green Reynobond 55 PE material, and the test reports received from the CSTB are exhibited at P41. I had expected that the rivet variant would perform worse than the cassette variant due to the fact that the edges of the PE material would be exposed all along the outer lines of the product whereas with the cassette form the fact that in producing the cassette the relevant fabricator folds over the edges means that the edges are less exposed in the finished product."

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Then at paragraph 52 — and I'm sorry to read all this to you, but it's important, I think:

"As can be seen from the test reports, the rivet variant tested achieved a classification of B,s2,d0. The classification report for the rivet variant is exhibited at P37. In contrast, the first EN 13823 test (tests on three samples are required to obtain a classification) for the cassette variant was stopped prior to the end of the test and the test report notes that ..."

And he sets it out and he translates it: " ... 'The tests were stopped after 850 seconds; the results are not usable but give an idea of the fire behaviour of the product' ... This therefore meant that the test result was 'unclassified'. I understood that it meant that AAP SAS could not use the result to obtain a classification report because it does not reflect the product's real fire performance. I did not consult further with the CSTB in relation to the matter."

I'll come back to that.

Then at paragraph 53 he says:

"Following the incomplete test on the cassette variant in 2005, the company, including myself, were struggling to understand why this result had been obtained. The marketing team, led by Guy Scheidecker at

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the time, the technical team and management were all puzzled. Competitors were not exhibiting any problems and no one in the industry seemed to have similar results in so far as I could tell. It was very difficult, in a closed market, to look at competitors' underlying data so all I could do was to consult publicly available information (such as information on other companies' classification results) and to rely on any conversations I may have been able to have with competitors. I was also actively discussing the subject with EAA members. No one really understood it. It was not seen as a key issue or priority at the time and the role generally assumed by the technical team was to inform and educate the management team. As the company had no reason to suspect this was anything other than the rogue result of a standard classification test, and given the general view that the cassette variant would perform better than the rivet type due to fewer exposed edges, the marketing team, the technical team and management decided at the time that a classification in category B was satisfactory for aluminium composite material (ACM) with a PE core, and we did not consider completing further EN13501–1 testing on the cassette variant at that time."

Now, I've read that in full because Claude Wehrle's

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account is central here, it's important, and I am going to break those parts of what I've shown you up into bits so we can look at them a bit more closely with you and see if you can help us.

Now, first, I want to examine Mr Wehrle's assumption that rivet would perform worse than cassette. Do you follow?

A. (Interpreted): Yes.

Q. Now, Mr Wehrle says, and I've shown you, that he assumed that rivet ought to have performed worse than cassette because the PE on the edges would not be exposed to the flame with cassette, whereas they would with rivet. Is that right?

THE INTERPRETER: Sorry, could you repeat your question? I'm sorry.

MR MILLETT: Well, Claude Wehrle's assumption is that rivet ought to have performed worse than cassette, because with rivet the PE on the edges was exposed to the flame, whereas with cassette it would not be exposed to the flame.

Now, my question is: did Arconic understand, to your knowledge, as early as 2005, that exposing the PE at the edge of an ACM panel was a fire risk?

A. (Interpreted): Worse than the cassette, yes.

Q. How did Arconic come to that understanding?

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1 A. (Interpreted): Well, I don't know if Arconic drew that
 2 conclusion, but it's Claude Wehrle who drew that
 3 conclusion. [FT] *** He probably thought if the PE
 4 edge were exposed to fire then it would be worse. ***
 5 Q. Are you drawing a distinction between Mr Wehrle and
 6 Arconic here?
 7 A. (Interpreted): I believe that management at the time was
 8 basing themselves on his competency, on his capacity.
 9 Q. Are you aware of whether, before 2005, there was any
 10 science, any scientific testing or data, which would
 11 support Mr Wehrle's theory that rivet would perform
 12 worse than cassette because it had exposed PE edges?
 13 A. (Interpreted): I don't believe so.
 14 Q. Can we look at Claude Wehrle's statement again, in the
 15 English at page 8 {MET00053190/8}, in the French page 10
 16 {MET00048342/10}, at paragraph 28. He says there — and
 17 I'll read the English, you read the French to yourself,
 18 please:
 19 "When I started work at AAP SAS, and for many years
 20 afterwards, there was no real understanding in the
 21 market as to whether the fire performance of
 22 a rivet —type system was preferable to that of
 23 a cassette."
 24 Now, Mr Schmidt, I know it's difficult, sitting
 25 there, to understand Mr Wehrle's thinking, but I want to

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1 know your evidence.
 2 Is Mr Wehrle correct that there was a general
 3 assumption that rivet would perform worse, or was there
 4 no real understanding? Which is it?
 5 A. (Interpreted): Well, as you said before, I don't think
 6 there were any studies carried out on that particular
 7 matter, but I think that you can also see that
 8 Claude Wehrle talked to the EAA, and he spoke also to
 9 people in other companies that were in the same position
 10 as he was, so that's potentially how he reached his
 11 conclusions.
 12 Q. You're reading what he said in his statement; that's not
 13 something you know from your own knowledge, is it?
 14 A. (Interpreted): Well, I'm trying to say that it's not
 15 based on studies that were carried out, but I think that
 16 this is something that he was — that he believed.
 17 Q. You think, but you don't know?
 18 A. (Interpreted): No.
 19 Q. Can I ask you this: this theory of Claude Wehrle's that
 20 rivet would perform worse than cassette because of its
 21 exposed edges, have you seen any documentation or any
 22 data or any documents of any kind which would tell you
 23 that that theory was one actually held within Arconic in
 24 2005?
 25 A. (Interpreted): No, because I wasn't involved in those

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1 tests at the time.
 2 Q. When you came to be managing director in 2007 and later,
 3 did you ever come across any information, reports, data,
 4 anything like that which would lead you to think that
 5 that thesis was one held within Arconic in 2005?
 6 A. (Interpreted): No.
 7 MR MILLETT: Thank you.
 8 Mr Chairman, I'm happy to take a break now. I have
 9 four or five more questions on this same topic, but
 10 I can ask them just as easily after the break as before.
 11 SIR MARTIN MOORE—BICK: Yes, in that case I think it would
 12 be sensible to take the break now, so that's what we'll
 13 do, Mr Schmidt. We'll have a break and we'll resume at
 14 3.35.
 15 Please remember not to talk to anyone about your
 16 evidence while we're in the break. All right?
 17 THE WITNESS: (Interpreted): Yes.
 18 SIR MARTIN MOORE—BICK: Thank you very much.
 19 (3.20 pm)
 20 (A short break)
 21 (3.35 pm)
 22 SIR MARTIN MOORE—BICK: Well, welcome back, everyone, we are
 23 just about to continue taking evidence from Mr Schmidt,
 24 but I think first I'll just check that the interpreters
 25 are there and ready to continue.

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1 MS DELAS—REISZ: We're there, we're ready to continue, sir.
 2 SIR MARTIN MOORE—BICK: Thank you very much.
 3 Mr Schmidt, are you there?
 4 THE WITNESS: (In English): I'm here.
 5 SIR MARTIN MOORE—BICK: Thank you very much. Ready to
 6 continue, are you?
 7 THE WITNESS: (Interpreted): Yes.
 8 SIR MARTIN MOORE—BICK: Good, thank you very much.
 9 Mr Millett, then, when you're ready.
 10 MR MILLETT: Mr Chairman, thank you.
 11 When the results of test 5B that I showed you
 12 earlier came back, the test having been stopped because
 13 of its fire performance, it's right, isn't it, that
 14 Arconic had real information, real data, about how
 15 cassettes performed in a European fire test?
 16 A. (Interpreted): Yes, it's likely.
 17 Q. Do you know why Arconic did not at that point conduct
 18 another test on Reynobond 55 PE in cassette variant?
 19 A. (Interpreted): No.
 20 Q. Do you know whether Arconic asked any questions of the
 21 CSTB about why the cassette variant of Reynobond 55 PE
 22 performed in the way the test report showed?
 23 A. (Interpreted): No, I don't know.
 24 Q. Did you know that EN 13501 allowed a total of five tests
 25 to be undertaken where the highest and lowest recorded

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1 values would be excluded?
 2 A. (Interpreted): No.
 3 Q. Does it follow, therefore, that you can't help us
 4 explain why Claude Wehrle did not ask the CSTB to
 5 perform four more tests on the cassette, exclude the
 6 worst, and get the result based on the middle three?
 7 A. (Interpreted): No.
 8 Q. I want to ask you about what Mr Wehrle says about what
 9 was happening inside Arconic. Can I take you to
 10 Mr Wehrle's statement, paragraph 53, in the English at
 11 page 15 {MET00053190/15}, and in the French on page 19
 12 {MET000048342/19}.

13 If you look, please, at paragraph 53:
 14 "Following the incomplete test on the cassette
 15 variant in 2005, the company, including myself, were
 16 struggling to understand why this result had been
 17 obtained. The marketing team, led by Guy Scheidecker at
 18 the time, the technical team and management were all
 19 puzzled."
 20 I showed you that before.
 21 Can I just ask you, then, why Arconic didn't do any
 22 further testing in the light of the fact that they were
 23 so puzzled?
 24 A. (Interpreted): I couldn't tell you, no.
 25 Q. Does the fact that Arconic did not investigate further

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1 tell us that you preferred to remain puzzled, or Arconic
 2 preferred to remain puzzled, rather than actually get to
 3 the bottom of the problem and understand it?
 4 A. (Interpreted): I couldn't tell you either.
 5 Q. Why can't you tell us?
 6 A. (Interpreted): Because I wasn't involved. Once again,
 7 in those days I wasn't involved in that sort of
 8 discussion and debate or this discussion of test
 9 results.
 10 Q. Did there come a time after those days, once you had
 11 become managing director or president, that you did
 12 discover that Arconic had allowed itself to remain
 13 puzzled on this matter and not investigate it fully?
 14 A. (Interpreted): Well, once again, I mean, it's not the
 15 sort of information I was given and the test — the
 16 result of tests wouldn't come back to me, and they
 17 didn't come back to me before the Grenfell fire, and it
 18 was not until 2011 that for the first time I had some
 19 information on what was happening with Reynobond PE.
 20 Q. So is the answer to my question "no"?
 21 A. (Interpreted): So what was your question, sir? I'm
 22 sorry.
 23 Q. After you had become managing director or president of
 24 Arconic, did you later discover that Arconic had allowed
 25 itself to remain puzzled about this matter rather than

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1 investigating it and getting to the bottom of it?
 2 A. (Interpreted): No.
 3 Q. Can we go back, then, to what you said about the
 4 European Aluminium Association or the EAA. You
 5 mentioned them before.
 6 I want to show you Claude Wehrle's witness statement
 7 on this. I showed it to you earlier. Just for the
 8 reference it's paragraph 53, page 15 in the English
 9 {MET00053190/15}, 19 in the French {MET00048342/19}, and
 10 he said he was actively discussing this with the EAA
 11 members.
 12 The EAA is the European Aluminium Association, isn't
 13 it?
 14 THE INTERPRETER: Sorry, what was your question, sir?
 15 MR MILLETT: My question is: can you confirm that the EAA is
 16 the European Aluminium Association?
 17 A. (Interpreted): Yes.
 18 Q. Was it right that Claude Wehrle, to your knowledge, held
 19 some roles in the association?
 20 A. (Interpreted): I'm not certain. I'm not certain, he may
 21 have been a member of a technical subgroup or
 22 commission, but I couldn't assert that in any way.
 23 Q. Okay.
 24 Did Arconic know that Claude Wehrle was proposing to
 25 discuss the fire performance of Reynobond PE with EAA

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1 members?
 2 A. (Interpreted): Yes, very likely.
 3 Q. Who knew that within Arconic?
 4 A. (Interpreted): I think it was the commercial
 5 directorate.
 6 Q. Did you know or anybody else know with whom within the
 7 EAA Mr Wehrle was having these discussions?
 8 A. (Interpreted): No, I certainly don't know. No, and
 9 I don't know who were the members of the EAA at the
 10 time.
 11 Q. If Claude Wehrle is right in his assumption that rivet
 12 would perform worse than cassette, then his discovery
 13 from test 5B that cassette performed worse than rivet in
 14 the European test would have gone strongly against
 15 a widely-held industry view.
 16 A. (Interpreted): Yes, we could imagine that, yes.
 17 Q. And he would have wanted to have alerted his fellow
 18 industry members to what was a very important potential
 19 issue of life safety in fire; do you agree?
 20 A. (Interpreted): As far as fire safety, yes.
 21 Q. We found no records at all —
 22 A. (Interpreted): As far as life safety is concerned —
 23 Q. Yes.
 24 A. (Interpreted): — I don't necessarily agree.
 25 Q. Do you know whether test 5B was discussed with any

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1 members of the industry or anybody outside Arconic?
 2 A. (Interpreted): I don't know.
 3 Q. Now, can we go back to the wording that the CSTB gives
 4 for test 5B. This is back in 5B at {ARC00000536/7}, and
 5 in the French {MET00053158/77}. I just want to ask you
 6 to look, please, at the comments in bold again on the
 7 right-hand side in the French and on the left-hand side
 8 in the English. In the English it says:
 9 "The tests were stopped after 850 seconds; the
 10 results are not usable but give an idea of the fire
 11 behaviour of the product."
 12 Now, I want to show you what Claude Wehrle says
 13 about those words, please. Can we go to Claude Wehrle's
 14 witness statement in English, page 15, paragraph 52;
 15 French, page 19, paragraph 52.
 16 EPE OPERATOR: Sorry, could we have the references, please,
 17 Mr Millett?
 18 MR MILLETT: Yes, Claude Wehrle, English {MET00053190/15},
 19 and in the French {MET00048342/19}, paragraph 52 in each
 20 case.
 21 He says there — I just want to show you the
 22 passage — we saw it before — six lines down in the
 23 English, after the translation, and he says:
 24 "This therefore meant ..."
 25 So this is after the quotation, he says:

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1 "This therefore meant that the test result was
 2 'unclassified'. I understood that it meant that AAP SAS
 3 could not use the result to obtain a classification
 4 report because it does not reflect the product's real
 5 fire performance."
 6 Now, on those words, it looks from what he
 7 (inaudible) that the report meant that it didn't reflect
 8 the product's real fire performance.
 9 Can you explain —
 10 (Pause for translation)
 11 Can we just start again. We're looking at
 12 four lines up from the bottom of the French
 13 paragraph 52, and four lines up from the bottom of the
 14 English paragraph 52. I'm going to read it again in
 15 English. After the quotation, it says:
 16 "This therefore meant that the test result was
 17 'unclassified'. I understood that it meant that AAP SAS
 18 could not use the result to obtain a classification
 19 report because it does not reflect the product's real
 20 fire performance."
 21 My question, Mr Schmidt, is: can you explain how
 22 Mr Wehrle understood that AAP should not use the result
 23 to obtain a classification report because it did not
 24 reflect the product's real fire performance?
 25 A. (Interpreted): Could we go back to the original sentence

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1 on the previous document?
 2 Q. Let's look at that. That's in the French at
 3 {MET00053158/77}, and in the English {ARC00000536/7}.
 4 This is test 5B, the words in bold:
 5 "The tests were stopped after 850 seconds ..."
 6 What the test report says is:
 7 "... the results are not usable but give an idea of
 8 the fire behaviour of the product."
 9 What I want to understand, Mr Schmidt, is how
 10 Mr Wehrle read those as meaning "does not reflect the
 11 real fire performance of the product"?
 12 A. (Interpreted): There's no explanation I could provide,
 13 but nonetheless what it says is that the results that
 14 were obtained were not usable.
 15 Q. When the certificate says that the results give an idea
 16 of the fire behaviour of the product, it is surely
 17 telling the reader that they can rely on the results to
 18 show what Reynobond 55 PE cassettes will do in a real
 19 fire.
 20 A. (Interpreted): Yes.
 21 Q. When Mr Wehrle says that the report doesn't reflect the
 22 product's real fire performance, he's just wrong about
 23 that, isn't he?
 24 A. (Interpreted): Well, I think it's very ambiguous. There
 25 are two parts in that sentence which both say different

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1 things, and there is a lot of interpretation that was
 2 made afterwards.
 3 Q. Let's be clear. What these words mean isn't that the
 4 result can be ignored, but that the result can't be
 5 ignored. Do you accept that?
 6 A. (Interpreted): No, that's not the way that I interpret
 7 it. It simply says the results can't be used.
 8 Q. What about the rest of the sentence, please, Mr Schmidt?
 9 A. (Interpreted): I no longer have it on the screen.
 10 Q. Can it please be displayed for the witness. It says:
 11 "... the results are not usable ..."
 12 I want you to look very carefully, please, with me,
 13 at the words after "mais donnent" in the French, "but
 14 give", in the English:
 15 "... but give an idea of the fire behaviour of the
 16 product."
 17 Those words can't be ignored, can they?
 18 THE INTERPRETER: Sorry, you cut out? Those words can't be?
 19 MR MILLETT: Ignored, can they?
 20 A. (Interpreted): Yes, but it's not something that's
 21 definitive, it's just a kind of guidance as far as the
 22 behaviour, the way in which it's written, it's not
 23 definitive.
 24 Q. Definitive or not, Mr Schmidt, this report is telling
 25 you how cassette format will behave in a fire.

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1 A. (Interpreted): No comment to make on that.
 2 Q. I'm asking you, you see, to make a comment on it, and
 3 I'll put it one more time before we move on.
 4 Do you accept that the words in the second part of
 5 the sentence, which in English read "but give an idea of
 6 the fire behaviour of the product", tell you that this
 7 test result shows you how this product might behave in
 8 a fire?
 9 A. (Interpreted): Give an idea of how the product could
 10 behave in the case of a fire.
 11 Q. Yes. Do you accept that that's what it means?
 12 A. (Interpreted): Yes.
 13 Q. Thank you.
 14 Let's go to Mr Wehrle's statement at paragraph 35,
 15 page 12 in the French, {MET00048342/12}, and in the
 16 English it's at page 10, {MET00053190/10}. I just want
 17 to pick up paragraph 35 with you. In the English it's
 18 four lines from the bottom of the paragraph, where he
 19 says, "Nonetheless we felt able to conclude", and in the
 20 French, four lines up from the bottom, it starts
 21 "Néanmoins". Do you see that?
 22 I will read the English part of that paragraph
 23 there. He says:
 24 "Nonetheless, we felt able to conclude that the
 25 product, i.e. the RB55 PE, had been shown to be capable,

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1 as part of a suitable system, of achieving EN Class B,
 2 and we felt we could proceed on this basis. Further
 3 detail relating to this decision is provided in
 4 paragraph 53 below."
 5 That's the second time that I've shown you that
 6 passage.
 7 Now, I want to go back specifically to paragraph 53
 8 in the English, page 16 in the English {MET00053190/16},
 9 same French document, page 19 {MET00048342/19}, please,
 10 paragraph 53. There at the very top of the page in the
 11 English:
 12 "It was not seen as a key issue ..."
 13 And in the French it's ...
 14 A. (Interpreted): Yes, I see it. I see it, it's in the
 15 middle.
 16 Q. If Mr Schmidt could read the rest of that paragraph to
 17 himself, I'll read the English. Mr Wehrle says:
 18 "It was not seen as ..."
 19 Follow with me in the French, I'll read the English.
 20 A. (Interpreted): No, sorry.
 21 Q. "It was not seen as a key issue or priority at the time
 22 and the role generally assumed by the technical team was
 23 to inform and educate the management team. As the
 24 company had no reason to suspect this was anything other
 25 than the rogue result of a standard classification test,

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1 and given the general view that the cassette variant
 2 would perform better than the rivet type due to fewer
 3 exposed edges, the marketing team, the technical team
 4 and management decided at the time that a classification
 5 in category B was satisfactory for aluminium composite
 6 material (ACM) with a PE core, and we did not consider
 7 completing further EN 13501-1 testing on the cassette
 8 variant at that time."
 9 My question on that passage is: did Arconic make
 10 a positive decision to say that all Reynobond PE was
 11 class B, regardless of whether it was rivet or cassette?
 12 A. (Interpreted): I'd just like to re-read the text once
 13 more.
 14 Q. Yes, of course.
 15 (Pause)
 16 A. (Interpreted): So the decision was to -- no.
 17 (Pause)
 18 So what was the question?
 19 Q. The question was: did Arconic make a positive decision
 20 to say that all Reynobond PE was class B, regardless of
 21 whether it was rivet or cassette?
 22 A. (Interpreted): That's how I interpret it.
 23 Q. Well, I'm sorry, forgive me, I'm not asking you to
 24 interpret Mr Wehrle's evidence. I'm asking for your
 25 evidence.

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1 Do you know, Mr Schmidt, did Arconic make a positive
 2 decision to say all Reynobond PE was class B regardless
 3 of whether it was rivet or cassette?
 4 A. (Interpreted): No, I don't know.
 5 Q. Do you know who the individuals in management were who
 6 made that decision, to which Mr Wehrle refers?
 7 A. (Interpreted): No, I don't know. No.
 8 Q. Now, he refers to a "rogue result" in his paragraph 53.
 9 I want to ask you: what was the basis on which Arconic
 10 thought that the cassette test 5B produced a rogue
 11 result?
 12 A. (Interpreted): He explains it in the rest of the
 13 sentence, where he says that it was thought generally
 14 that the cassette variant would be more efficient than
 15 the rivet variant.
 16 Q. Well, let's break this down. Can you help us, rather
 17 than interpreting Mr Wehrle's evidence, I want your
 18 evidence. Maybe you can't help us, Mr Schmidt. Was
 19 test 5B a test which produced data which was rogue
 20 compared with other test data for cassette variant?
 21 A. (Interpreted): No, I imagine not, because I think as far
 22 as I know it's the first time that tests of those kinds
 23 were carried out.
 24 Q. Indeed, and would it follow from that answer that
 25 Arconic regarded test 5B as a rogue result because it

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1 diverged from what Mr Wehrle describes as the general
 2 view that cassette variant performed better than rivet?
 3 A. (Interpreted): I don't know if that's Arconic's general
 4 point of view.
 5 Q. Was the conclusion that the result — I'm so sorry. Do
 6 you want to continue?
 7 A. (Interpreted): Yes, I'm sorry too, sorry I interrupted
 8 you.
 9 Well, he talks about the EAA, so I imagine that he
 10 may have discussed tests or the results of various tests
 11 with them, because they're mentioned above.
 12 Q. Was the conclusion that the result was rogue, or
 13 "aberrant" in the French, based simply on Arconic's
 14 general expectation that cassette ought to have
 15 performed better than rivet?
 16 A. (Interpreted): Well, it's difficult for me to really
 17 sort things out. I mean, Arconic's general expectation,
 18 not necessarily, I mean, because there we're looking at
 19 a mixture of EAA and Arconic.
 20 Q. What was the point of testing cassette if, in the end,
 21 you were going to prefer your general expectation to the
 22 actual test result?
 23 A. (Interpreted): I don't know.
 24 Q. In fact, Mr Schmidt, is it not the case that Arconic's
 25 view that the test result, test 5B, was a rogue was no

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1 more than untested assumption?
 2 A. (Interpreted): Not confirmed, yes.
 3 Q. Surely the only reasonable course for Arconic to have
 4 adopted, if it genuinely did think that test 5B was
 5 aberrant, a rogue, was to re-test cassette and re-test
 6 cassette until you had enough test data demonstrating
 7 that the failed test was indeed a rogue?
 8 A. (Interpreted): Yes, probably, but you have to think
 9 about it within the context of 2005 and the market at
 10 the time.
 11 Q. What is it about the context in 2005 and the market at
 12 the time?
 13 SIR MARTIN MOORE-BICK: One at a time, please.
 14 Finish your answer, if you would, Mr Schmidt.
 15 A. (Interpreted): As I said, yes, extra tests would have
 16 been — should have been carried out.
 17 MR MILLETT: Do you agree that for Arconic to prefer to
 18 proceed on the basis of an untested assumption of
 19 fire safety in the face of a failed test was potentially
 20 extremely dangerous?
 21 A. (Interpreted): Well, I don't think the standards were
 22 treated in the way that we deal with them today because
 23 the European Standards had just been established, but
 24 there were also some standards that related specifically
 25 for countries. So I think in 2005, the situation wasn't

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1 the same as it is today.
 2 SIR MARTIN MOORE-BICK: Mr Schmidt, can you just help me
 3 with this: one possible view of the way that Arconic
 4 responded to that test we're discussing is that it was
 5 irrational and irresponsible not to carry out further
 6 tests to establish whether the cassette system performed
 7 as badly as the first test suggested; what would you say
 8 about that?
 9 A. (Interpreted): Yes, as I said, I think that extra tests
 10 should have been carried out.
 11 SIR MARTIN MOORE-BICK: Thank you very much.
 12 Yes, Mr Millett.
 13 MR MILLETT: Yes, Mr Chairman.
 14 It's right, isn't it, that the fact of failed
 15 test 5B was never disseminated to any of Arconic's
 16 customers, was it?
 17 A. (Interpreted): I don't know.
 18 Q. And it was never disseminated at any stage to the BBA,
 19 was it?
 20 A. (Interpreted): Yes, I believe so.
 21 Q. Are you agreeing with me that it wasn't communicated to
 22 the BBA, or do you think that it was communicated to the
 23 BBA?
 24 A. (Interpreted): I believe that it was not communicated to
 25 the BBA.

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1 Q. In fact, do you accept that if the Grenfell Tower fire
 2 had never happened, nobody would ever have known about
 3 the failed test 5B?
 4 A. (Interpreted): Yes.
 5 Q. Do you accept that test 5B was Arconic's deadly secret?
 6 A. (Interpreted): No.
 7 Q. Why not?
 8 A. (Interpreted): Because once again the product that was
 9 sold is not dangerous in itself. It did have some
 10 risks, but which were dealt with differently
 11 according — in different countries and according to
 12 legislation. I won't give an example or parallel with
 13 other products that we use every day, but nevertheless
 14 there are many things that we do use every day which do
 15 give rise to certain risks.
 16 Q. Reynobond 55 PE in cassette variant was as dangerous in
 17 itself as that 5B test showed; do you accept that?
 18 A. (Interpreted): No.
 19 Q. You don't accept that?
 20 A. (Interpreted): No. The test shows that the product is
 21 flammable but not necessarily dangerous.
 22 Q. Right. And what European country would allow
 23 Reynobond 55 PE in cassette variant, which had tested
 24 and shown those test results, to be used above
 25 18 metres?

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1 A. (Interpreted): The countries whose legislation which is
 2 still operational accepts that product, by controlling
 3 risks in a different way.
 4 Q. It's right, isn't it, that Arconic continued to sell
 5 Reynobond 55 PE in a cassette variant in the UK and in
 6 other parts of Europe, even though test 5B showed that
 7 the one test ever done on that variant had failed
 8 spectacularly? Do you accept that?
 9 A. (Interpreted): Well, spectacularly, I don't know,
 10 I don't know, but I'd have difficulty in trying to
 11 establish a parallel between a flat product and
 12 a cassette. For a long time this product has been used
 13 in France, it's still classified MA and it's still sold
 14 by colleagues and it's still used in the building
 15 industry, so it's up to the people using it to make
 16 those decisions.
 17 Q. Mr Schmidt, why did Arconic never provide clear warnings
 18 to the end customers about how Reynobond 55 PE in
 19 cassette variant would perform in the event of a fire,
 20 given what failed test 5B told Arconic?
 21 A. (Interpreted): Well, if we go back to 2005, I don't
 22 know, but what I can say is that from 2014 Arconic very
 23 regularly communicated with its customers on that
 24 situation.
 25 MR MILLETT: We will come to that in due course.

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1 Mr Chairman, I think it's been a long day, and
 2 although I'm near the end of this topic, I haven't quite
 3 reached it, but I think it would be sensible to take
 4 a break now, if that would be convenient.

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5 SIR MARTIN MOORE—BICK: Well, I was going to ask you,
 6 Mr Millett. I think Mr Schmidt has had a long day
 7 today, and it would be fair for everyone to call a halt
 8 at that point.

9 So, Mr Schmidt, we're going to stop there for the
 10 day.

11 THE WITNESS: (Interpreted): Thank you.

12 SIR MARTIN MOORE—BICK: We will resume at 10 o'clock UK time
 13 tomorrow, and please remember what I've said to you many
 14 times now about the importance of not discussing your
 15 evidence with anyone else.

16 Right, so we will see you again tomorrow.
 17 10 o'clock tomorrow, please. Thank you.

18 (4.35 pm)

19 (The hearing adjourned until 10 am
 20 on Wednesday, 17 February 2021)

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