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May 10, 2017

Amanda M. Jones  
Acting Chief, FOIA/PA Unit  
Criminal Division  
Department of Justice  
Suite 1127, Keeney Building  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Email: [crm.foia@usdoj.gov](mailto:crm.foia@usdoj.gov)

**RE: Freedom of Information Act Request**

Dear Ms. Jones:

On behalf of Public Citizen, and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request:

Any and all corporate compliance reports submitted by Royal Dutch Shell plc to the Fraud Section of the Department of Justice as required by Attachment D of the Deferred Prosecution Agreement, which was filed November 4, 2010 in U.S. District Court for the Southern District of Texas as Case # 4:10-cr-00767-1.<sup>1</sup>

If it is your position that responsive records exist but that those records (or portions of those records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records. Public Citizen seeks each record *in its entirety*. Accordingly, please do not redact portions of any record as “non-responsive,” “out of scope,” or the like.

I request that any records produced in response to this request be provided in electronic form wherever possible.

Public Citizen requests that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii) because Public Citizen does not seek the records for a commercial purpose and disclosure “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.” The Department of Justice entered into the 2010 Deferred Prosecution Agreement (DPA) with Royal Dutch Shell plc for the company’s criminal violations of the Foreign Corrupt Practices Act. By signing the DPA, Shell agreed to the Statement of Facts laid out in Attachment B of the DPA,

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<sup>1</sup> [www.justice.gov/archive/opa/documents/shell-dpa.pdf](http://www.justice.gov/archive/opa/documents/shell-dpa.pdf)

which describe in detail how, from March 2004 through November 2006, Royal Dutch Shell's Nigerian subsidiary paid over \$2 million to its subcontractors with the full knowledge that the money was for bribes to circumvent the official Nigerian customs clearance process and to provide Shell with an improper advantage with respect to the importation of certain equipment and materials, all in criminal violation of the Foreign Corrupt Practices Act.

The primary mechanism by which the Department of Justice verified Royal Dutch Shell's successful compliance with the terms of the DPA was the company's submission of corporate compliance reports to the Fraud Section of the Department of Justice as required by Attachment D of the DPA—the subject of this FOIA request.

The 2010 DPA covered criminal violations committed by Royal Dutch Shell from March 2004 through November 2006, and implemented a three-year compliance period beginning in November 2010 in which the Department of Justice could nullify the DPA and bring the criminal charges detailed therein in the event that Royal Dutch Shell was found to have violated the DPA terms.

In April 2017, Royal Dutch Shell's Vice President for Global Media Relations Andy Norman stated that the company was aware that its 2011 deal for the Nigerian oil license OPL 245 would result in money being passed to Dan Etete, a convicted money launderer, who while in office as Oil Minister of the country in 1998 awarded OPL 245 to Malabu Oil and Gas, a company he was a beneficial owner of. Mr Norman told the New York Times "Over time, it became clear to us that Etete was involved in Malabu and that the only way to resolve the impasse through a negotiated settlement was to engage with Etete and Malabu, whether we liked it or not". He added Shell knew that the Nigerian government "would compensate Malabu to settle its claim on the block".

In addition Global Witness published leaked internal emails that show that Shell's most senior decision-makers were told money was likely to flow on to some of the most powerful people in the country, including to then President Goodluck Jonathan as part of a vast bribery scheme. Following an investigation of the deal the Public Prosecutor for Milan has requested that Royal Dutch Shell face trial on international bribery charges, preliminary hearings ahead of a trial in Italy have begun on the 20<sup>th</sup> April. The company has also been charged with "official corruption" offences in Nigeria.

The deal for OPL 245 took place when Royal Dutch Shell was subject to the terms of the DPA, and was submitting corporate compliance reports to the Fraud Division of the U.S. Department of Justice. In light of Royal Dutch Shell's admission of dealing with Dan Etete and allegations of bribery in the 2011 OPL 245 deal, the public must obtain access to the corporate compliance reports that the company filed with the Department of Justice in order to better understand how Shell's internal compliance protocols failed to correct the alleged criminality in the 2011 deal.

Public Citizen, which has over 400,000 members and supporters across the United States, is a nonprofit research, litigation, and advocacy organization that represents the public interest before Congress, the executive branch, and the courts. It fights for openness and democratic accountability in government; for clean, safe and sustainable energy; for strong health, safety and

environmental protections; and for the right of consumers to seek redress in the courts. Public Citizen does not have a commercial interest in the requested records; it intends to share information received from this request with the public free of charge. Public Citizen also has a demonstrated capacity to disseminate this information.

Accordingly, I request that you waive all fees for locating and duplicating the requested records because Public Citizen is entitled to a public interest fee waiver. If, however, a waiver is not granted, please advise me of the amount of any proposed search, review, and reproduction charges before you conduct those activities.

I expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me by phone at (202) 454-5191.

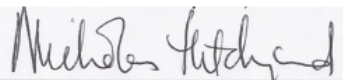
Thank you very much for your attention to this matter.

Sincerely,

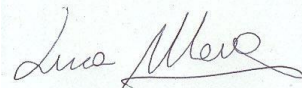


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Re: Common is an independent and not-for-profit “association of social promotion” under the Italian law (Italian fiscal code: 97686900586; association code: Lazio Region G12052/2016) that conducts investigations and promotes campaigns against the dodgy economy and the devastation of the territories in the North and in the South of the world caused by the indiscriminate exploitation of natural resources and major public and private infrastructure projects.

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