

PCA Case No. 2016-13

UNDER THE RULES OF ARBITRATION OF THE UNITED
NATIONS COMMISSION ON INTERNATIONAL TRADE LAW AND
CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE
AGREEMENT

BETWEEN:

RESOLUTE FOREST PRODUCTS INC.,
Claimant/Investor

- and -

GOVERNMENT OF CANADA
Respondent/Party

TRANSCRIPT OF PROCEEDINGS
HEARD BEFORE JUDGE JAMES CRAWFORD, DEAN RONALD CASS,
PROFESSOR CÉLINE LÉVESQUE,
held via Arbitration Place Virtual
on Friday, November 13, 2020, at 8:04 a.m. EST

RESTRICTED ACCESS - VOLUME 5

REVISED TRANSCRIPT

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1 Arbitration Place Virtual

2 --- Upon resuming on Friday, November 13, 2020, at

3 8:04 a.m. EST

4 JUDGE CRAWFORD: Professor

5 Steger.

6 MR. STEGER: Mr. Steger.

7 JUDGE CRAWFORD: Impossible to

8 tell that you're not from a university. Welcome

9 to the Tribunal.

10 MR. STEGER: Thank you.

11 JUDGE CRAWFORD: My name is

12 James Crawford. I am the president of the

13 Tribunal, and I am assisted by my co-arbitrators,

14 Céline Lévesque and Ronald Cass, both of whom are

15 professors. I was a professor historically, and

16 if you scratch me, you will still find a

17 professor, except having to scratch harder these

18 days.

19 Mr. Steger, you will find in

20 front of you a declaration for expert witness that

21 sets out the terms on which you are giving

22 evidence in this case. Can I ask you to read

23 that, please?

24 MR. STEGER: Yes.

25 I solemnly declare upon my

1 honour and conscience that I shall speak the
2 truth, the whole truth and nothing but the truth,
3 and that my statement will be in accordance with
4 my sincere belief. No one else is present in the
5 room where I am testifying. I do not have any
6 notes or annotations on any hard copy or
7 electronic documents except notes and annotations
8 prepared to facilitate my initial presentation to
9 the Tribunal. I confirm that I am not receiving
10 communications of any sort during my testimony
11 other than my participation in the main hearing
12 room in Zoom.

13 EXPERT WITNESS: PETER STEGER.

14 JUDGE CRAWFORD: Thank you
15 very much.

16 This is obviously an
17 electronic hearing. If anything goes wrong and
18 you can't be heard, please say, and we will pick
19 that up and Arbitration Place will make the
20 necessary corrections. So far, it's gone
21 reasonably smoothly. But you have to speak into
22 the microphone and speak up and not speak too
23 fast.

24 THE WITNESS: Yes, thank you.

25 JUDGE CRAWFORD: We have a

1 simultaneous translation.

2 So can I ask you to make your
3 initial presentation, please?

4 THE WITNESS: Yes, thank you.

5 MS. D'AMOUR: I'm sorry to
6 interrupt. Just before we get started, we are
7 currently not in a restricted access session. I
8 just wanted to clarify before everybody's slides
9 went up; is that okay?

10 JUDGE CRAWFORD: It's up to
11 the parties. I think it's all right.

12 MR. MARTEL: It's all right on
13 the part of the claimant. There will be questions
14 addressing restricted access information in some
15 parts of the cross-examination, and I will notify
16 you, Heather, directly when that happens. But,
17 for the most part, we should be merely in a
18 confidential session because there will be -- not
19 in a public feed but a confidential session,
20 because there is confidential information
21 addressed throughout Mr. Steger's reports.

22 Does that sound right, Rodney?

23 MR. NEUFELD: Thanks. Thanks,
24 Jean-Christophe.

25 Mr. Steger, I believe you have

1 restricted access information in your
2 presentation, though, so the best thing to do
3 maybe is for the presentation, at least, to go to
4 restricted access. And then we can proceed in
5 confidential mode after that.

6 MR. MARTEL: That is fine.

7 MR. NEUFELD: Thanks.

8 MS. D'AMOUR: All right. I
9 confirm I have removed individuals who cannot be
10 in the restricted access session. Thanks.

11 --- Whereupon Restricted Transcript Commences

12 JUDGE CRAWFORD: Over to
13 counsel.

14 MR. NEUFELD: Counsel has
15 nothing to add, and the expert, Mr. Steger, may
16 proceed.

17 THE WITNESS: And, sorry, will
18 my presentation be called up? Thank you.

19 PRESENTATION BY MR. STEGER:

20 THE WITNESS: Good morning,
21 members of the Tribunal, my name is Peter Steger.
22 I am a Canadian chartered accountant and chartered
23 professional accountant and also a Canadian
24 chartered business valuator. I also hold US
25 designations of certified fraud examiner and

1 certified in financial forensics.

2 I have 30 years' experience
3 working exclusively in damages quantification,
4 business valuation and forensic accounting in
5 disputes in litigation settings. I have testified
6 in several ICC arbitrations as well as some of
7 Canada's largest commercial cases. My assignments
8 have been in many industries, including
9 manufacturing and, in the present case, upstream
10 pulp manufacturing and forestry estates as well as
11 downstream newspaper operations.

12 The balance of my presentation
13 is listed here. I will start with my conclusions,
14 followed by my comments in respect of Dr. Kaplan
15 and Dr. Hausman and then two brief summary slides.

16 Next slide, please.

17 So my quantum conclusions,
18 first off, Steger-1 was prepared in reply to
19 Hausman-2, which had claimed for Resolute's loss
20 from price erosion spanning 16 years but had no
21 claim for lost volumes. My loss calculation as
22 well was prepared in the alternative, meaning if
23 legal causation is proven and that the entire
24 benefits package breached NAFTA and was the sole
25 reason for PH re-entering according to Canada.

1 My loss calculation is
2 calculated over six months, January to June 2013,
3 reflecting the but-for world represented by
4 but-for prices less actual prices observed in the
5 market. I will mention momentarily the "price
6 bucket" or price erosion that speaks to that.

7 Also part of that includes
8 that the Port Hawkesbury volumes were absorbed
9 fully in the market, all of which was explained in
10 significant contemporaneous and independent
11 industry commentary.

12 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 paper market prices was temporary and negligible
2 in the long term. And that concluded into my loss
3 calculation, as I mentioned, of 9.4 million
4 Canadian dollars.

5 Next slide.

6 I move to my comments in
7 respect of Dr. Kaplan. First off, in Kaplan's
8 first report, Dr. Kaplan's first report, he had
9 concluded that the PHP mill would not have opened
10 were it not for the entire benefits package. He
11 went on to say that "the benefits package
12 included", and he listed 13 items which tallied up
13 to over \$1.1 billion.

14 Subsequently in Dr. Kaplan's
15 second report, he did clarify that the claims in
16 his report referred to 124.5 million; but,
17 nevertheless, in response to the initial
18 commentary and the 1.1 billion in my Steger-1
19 report, I set out to determine what was the actual
20 amounts received by Port Hawkesbury -- and, at
21 this time, the entity is called PHP LP, for
22 limited partnership -- and how much that entity
23 had received from Government of Nova Scotia
24 according to [REDACTED]

[REDACTED] And my analysis

1 there indicated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5 It also -- sorry, that figure
6 excludes the land purchase of \$20 million, which
7 was indicated to be at fair market value according
8 to Ms. Towers' witness statement. So just in
9 reference to Dr. Kaplan's 124.5 million, less the
10 20 million land at fair market value, [REDACTED]
[REDACTED]

13 And then as an update to my
14 Steger-1 report, according to Ms. Towers' second
15 witness statement, the outreach agreement, which
16 comprised of \$38 million over ten years, which was
17 part of the [REDACTED] I mentioned a moment
18 ago, were at -- also at fair market value and, in
19 effect, fees for services. So, accordingly, my
20 [REDACTED] less 38 million is now [REDACTED]

21 Next slide.

22 In Dr. Kaplan's second report,
23 he stated that he has put forward a framework of
24 analysis to directly assess how re-entry of a
25 large low-cost SC paper mill affects prices and

1 shipments in the market.

2 My concern and comment with
3 that was that Dr. Kaplan's framework doesn't
4 actually prescribe how to assess Resolute's damage
5 in that it does not measure or quantify the
6 effects of PHP's entry on prices or volumes or how
7 long they would last. Instead, those calculations
8 are left to Dr. Hausman.

9 Next slide, please.

10 In summary, Dr. Hausman's
11 second and third report provide seven different
12 calculations of Resolute's damages. In my view,
13 the seven scenarios are disparate and not
14 corroborative of each other and each have numerous
15 flaws that render them untenable, which I will
16 discuss in a moment. I have summarized
17 Dr. Hausman's seven calculations -- or seven
18 scenarios, I should say, here.

19 I am going to go to the next
20 slide, please.

21 I have circled some of the
22 numbers that have been identified in the reports
23 and through some of the testimony that I heard.

24 First of all, in Hausman-2,
25 which is largely based on the RISI October 2011

1 forecast, Dr. Hausman's conclusion in his second
2 report was 163.7 million.

3 He moved on to his Hausman-3
4 report, and he updated that report for 2018 actual
5 market prices increases, which, plugging that into
6 his original model in Hausman-2, caused his
7 numbers to decrease to 10.6 million.

8 Dr. Hausman didn't like that
9 and proceeded to do an adjustment to that by
10 effectively smoothing the 2018 price increase over
11 the period of 2016 to '18, which caused his
12 calculations, in my view, to artificially bump up
13 to what he called his preferred range now of 103
14 to 149 million.

15 Number 4, in Dr. Hausman's
16 testimony, I believe I heard him refer now to
17 another set of numbers of 90 million to 153
18 million, which is based on a production capacity,
19 or I shouldn't say capacity -- a production volume
20 of [REDACTED] but reverting back to his
21 Option 1 which he didn't like earlier, so I found
22 that odd.

23 And then finally, Item
24 Number 5, I believe I heard this new number in the
25 claimant's opening of 216 million, which I take is

1 this figure here in the chart.

2 So next slide, please.

3 So let me speak briefly about
4 how Dr. Hausman came to his conclusions and why I
5 disagree with them.

6 First off, Hausman-2 opines
7 that the reopening of Port Hawkesbury added
8 360,000 metric tons of capacity to the SC paper
9 market, causing significant damage to Resolute's
10 three mills via price declines, but that there
11 were no lost volumes claimed or calculated.

12 Pausing briefly on capacity.
13 Of course, capacity is theoretical or possible
14 production. In my view, actual production is the
15 relevant figure, and my analysis of Port
16 Hawkesbury's estimated actual production of
17 [REDACTED] comes from its testimony at
18 ITC hearings as well as some proxy calculations I
19 did using Kénogami data to arrive at the [REDACTED]
[REDACTED].

21 So coming to the heart of
22 Hausman 2's but-for world, which is premised on
23 RISI's October 2011 price forecast or predictions
24 for 2013 to 2000 -- that should read '17, sorry, a
25 small typo -- which results in an ever-widening

1 delta between the but-for price and the actual
2 price. And as I indicate in my reports, that
3 tallied up to [REDACTED] for
4 Kénogami, [REDACTED] for Dolbeau, and [REDACTED]
5 for Laurentide, all of which Dr. Hausman
6 attributes exclusively on account of PHP's
7 re-entry in October 2012 and no other factors.

8 Next slide, please.

9 I believe this slide was
10 provided in respondent's openings, but this shows
11 the heart of Dr. Hausman's calculations, what I
12 just mentioned, the ever-widening differential
13 between but-for prices and actuals.

14 So the but-for prices,
15 Dr. Hausman derives from the RISI October 2011
16 forecast, which is indicated by the green line,
17 compared to the actual selling prices in the
18 market depicted by the grey dotted line.

19 Next slide, please.

20 However, as I indicate in my
21 reports, RISI's [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Next slide, please.

11 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

[REDACTED]

[REDACTED]

4 Next slide, please.

5 So with all that, my

6 conclusion that the RISI forecasts are not a

7 reliable tool for damages quantification.

8 Moving to a separate note on

9 Dr. Hausman's model, I noted in my Steger report

10 that Dr. Hausman's model produces irrational

11 results when one substitutes the above-noted

12 [REDACTED] price differentials through the RISI

13 forecasts with two alternative price predictions

14 that I believe the panel has heard from a few

15 times now. One was [REDACTED]

[REDACTED] and Resolute also had an estimate

17 of [REDACTED]

18 But when I plug in those

19 numbers to Dr. Hausman's model, it generates the

20 untenable result of taking his 163.7 million that

21 I mentioned earlier, down to negative loss

22 figures, and it's because there are flaws in

23 Dr. Hausman's model. I identified this in my

24 report, but I don't believe that Dr. Hausman

25 rebutted or responded to that in his follow-on

1 report.

2 The crux of the fundamental
3 flaw in Dr. Hausman's model is he has assumed that
4 variable costs in his model, in his but-for world
5 versus actual would be different even though his
6 volumes are identical. And, in my view, if you
7 have identical volumes, there's no reason why your
8 variable costs ought to be different.

9 So moving on to Hausman-3.

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25 Next slide, please.

1 This comes from my report,
2 Steger-2 report, and just quickly, to illustrate,
3 if the Tribunal can see the orange line on the
4 left, those are Dr. Kaplan's model for the
5 Resolute's but-for profits, and the green dotted
6 line are the actual profits. So but-for profits
7 minus actual profits, the differential there will
8 provide the lost profits being claimed, and you
9 can see that that, for the period 2013 to 2017,
10 those effectively are the losses that are being
11 claimed.

12 However, in 2018, when prices
13 increase, and you can see that in the light blue
14 line with the different axis, prices increased.
15 And when Dr. Hausman reflected that increase, his
16 actual line that Resolute earned now is above his
17 but-for line, which translates into negative lost
18 profits or no lost profits. To me, that's an
19 untenable proposition.

20 Next slide, please.

21 So to rectify that,
22 Dr. Hausman took his Option 1, which was
23 completely upended by the -- just the one year of
24 actual price increases, and he then proceeded to
25 provide an Option 2.

1

[REDACTED]

17

Next slide, please.

18

Hausman-3 also provided new

19

calculations, four of them, in respect of price

20

elasticity. And what happened, what happens here

21

is that he replaces the but-for selling prices

22

that had been derived from the RISI forecast, he

23

replaces that with new prices derived from price

24

elasticity calculations. And he does four such

25

calculations, two of which relate to different

1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Next slide, please.

12 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24 Next slide.

25 This is just a quick summary

1 of my calculations that I mentioned before. My
2 9.4 million compared to Dr. Hausman's
3 103.9 million. That last number, although there
4 were various other numbers that I have mentioned
5 earlier, that's the number that's in the
6 claimant's reply memorial, so I have just used
7 that one for comparison purposes.

8 Then finally, last slide.

9 I also had commentary on
10 PWCC's electricity and EBITDA initiatives.
11 Claimant's memorials had several comments
12 regarding that. I provided responses in my second
13 report, but, in a nutshell, it's really looking at
14 different bases. My focus was looking at [REDACTED]

[REDACTED]
[REDACTED] whereas the
17 claimant's memorial looks at it slightly
18 different. So, anyways, we are a little bit not
19 together or in sync, but I believe I provide my
20 comments to respond to that in my second report.

21 That completes my
22 presentation. Thank you.

23 JUDGE CRAWFORD: Thank you
24 very much. We are going to hear cross-examination
25 from claimant's counsel.

1 MR. MARTEL: Thank you. May I
2 ask Arbitration Place to please revert back to
3 confidential session?

4 MS. D'AMOUR: No problem. I
5 have readmitted everyone.

6 MR. MARTEL: Thanks very much,
7 Heather.

8 --- Whereupon Restricted Transcript ends.

9 CROSS-EXAMINATION BY MR. MARTEL:

10 Q. Good morning, Mr. Steger.
11 I would also like to wish a good afternoon to
12 Judge Crawford and a good morning to Madam
13 Lévesque and Dean Cass, good morning.

14 My name is Jean-Christophe
15 Martel, and I am counsel for claimant in the
16 arbitration.

17 Before I move on, Mr. Steger,
18 could I just ask you to confirm how I should
19 pronounce your last name? Is it Steger?

20 A. You have it right.
21 Steger, STAY-GER, Steger.

22 Q. All right, perfect.

23 Most of my questions today
24 will involve your 2019 report, your first report.
25 So I will be showing you relevant excerpts from

1 your 2019 report on the screen.

2 But, first, I'd like to know
3 and confirm with you that you also have a personal
4 copy of your two reports available; do you?

5 A. Yes, I do.

6 Q. Okay, for context,
7 because sometimes when I show on the screen, the
8 full document doesn't show.

9 And do you also have a paper
10 or electronic copy of the other documents included
11 in the list of documents that I sent a week ago to
12 Canada's counsel?

13 A. I do have that in a
14 separate directory, yes, thank you,
15 electronically.

16 Q. Okay, perfect.
17 Wonderful.

18 And just to confirm. As
19 expressed previously, I will be asking questions
20 about restricted access information toward the end
21 of your cross-examination but also for a very
22 small moment toward the beginning, and I will be
23 actually asking to move to restricted access
24 session for those times. So that you are aware.

25 So, please, in the answers

1 that you give, I know it's complicated to
2 differentiate, but answer my questions. They
3 should not bring you to restricted access
4 information unless I have actually asked to be in
5 a restricted session; correct?

6 A. Yes, thank you.

7 Q. Okay.

8 Mr. Steger, you are an
9 accountant with a bachelor of commerce degree; is
10 that right?

11 A. Correct.

12 Q. And your CV indicates --
13 we don't need to go to your CV now, but as I
14 reviewed, it indicates that you have some
15 experience with damage assessments in court or
16 arbitration cases; that's right?

17 A. Yes.

18 Q. Is this your first case
19 where you prepare a price erosion analysis
20 specifically to assess damages?

21 A. No.

22 Q. What other cases did you
23 prepare specifically a price erosion analysis, and
24 can you tell us a bit about those cases?

25 A. Yes, a couple of patent

1 cases as well as other torts of breach of
2 fiduciary duty where one party leaves the employ
3 of one and moves to another.

4 Q. And these were
5 specifically price erosion analyses?

6 A. Amongst other analyses,
7 yes.

8 Q. Okay. You explain in
9 your first report that Canada gave you a mandate
10 that involved three aspects, and you have
11 discussed about these in your presentation.

12 First, review and comment on
13 the report by Dr. Kaplan; second, review and
14 comment on the damages report by Professor Hausman
15 and prepare a price erosion analysis; and, third,
16 address the EBITDA improvements achieved by PHP;
17 is that right?

18 A. Yes.

19 Q. Please let's go to the
20 2019 Steger report, page 7.

21 Ricky, can you bring us there?
22 Wonderful. And if you can call out paragraph 3(b)
23 on top of the page, that's from your report,
24 Mr. Steger.

25 Just looking at the last line

1 here, I understand Canada asked you specifically
2 to prepare a price erosion analysis; that's right?

3 A. In response to
4 Dr. Hausman, yes.

5 Q. And just simple question,
6 Professor Hausman refers to price effects
7 analysis. And by "price erosion analysis", do you
8 mean the same thing?

9 A. Yes. It's the
10 differential in the but-for versus actual prices,
11 yes.

12 Q. Okay. I'd like to begin
13 your cross-examination with your price erosion
14 analysis and Professor Hausman's price effects
15 analysis.

16 You criticize, as you
17 explained in your presentation today, Professor
18 Hausman's price effects analysis in various ways;
19 that's right?

20 A. That it does what, sorry?

21 Q. You criticize his price
22 effects analysis in various ways; correct?

23 A. Yes, yes.

24 Q. And you criticize
25 Professor Hausman's price effects analysis because

1 he relies on Port Hawkesbury's stated capacity;
2 that's correct?

3 A. Yes.

4 Q. And another criticism
5 that you have is that Professor Hausman's
6 forecasting approach relies on the 2011 RISI
7 forecast and not on actual data since then; that's
8 right?

9 A. Those are components,
10 yes.

11 Q. And that criticism that
12 Professor Hausman's forecasting approach relies
13 only on the 2011 forecast, that criticism only
14 relates to his economic approach where he
15 estimates but-for prices based on actual prices
16 after 2013; that's right?

17 A. I think you said economic
18 approach, but --

19 Q. Yes, I did -- it does not
20 relate to his economic approach, that's correct,
21 only to his forecasting approach?

22 A. Okay, now I understand.
23 And, sorry, what was the first part of the
24 question?

25 Q. I want to make sure the

1 criticism you have about his reliance on RISI
2 forecasts from 2011 exclusively, that relates to
3 Professor Hausman's forecasting approach damages
4 and not to his economic approach damages; that's
5 correct?

6 A. Yes, correct.

7 Q. Let's go now to page 28
8 in your 2019 report, and I am referring to the
9 Bates-stamped page numbers here, page 28. We will
10 have a look at paragraph 48.

11 Here, Mr. Steger, you say:

12 "Dr. Hausman does not
13 comment as to any real
14 world events having
15 occurred during
16 2013-2017, nor any
17 forecasted to occur
18 during 2018-2028." [as
19 read]

20 I understand this relates to
21 the criticism we just talked about; right?

22 A. Yes.

23 Q. And then let's go to
24 page 29, at the end of paragraph 48, a little
25 later --

1 MR. NEUFELD: Sorry,
2 Jean-Christophe, can I interrupt? Sorry, I am
3 really sorry to do this. It's Rodney, counsel for
4 Canada. The information that you are talking
5 about is not RA, but on the screen, the sheets
6 that are popping up do have RA material in it, so
7 just to let you know.

8 MR. MARTEL: Okay. Apologize.

9 MR. NEUFELD: Either proceed
10 in restricted or not use the demonstrative. I
11 don't know what your preference is.

12 MR. MARTEL: Understood.

13 So, Ricky, can you pull down
14 the page? Take it down, please. Yeah.

15 Apologies, Rodney, for that.

16 BY MR. MARTEL:

17 Q. So I will just simply
18 quote. You can maybe read from your report and
19 confirm.

20 I understand at the end of
21 your paragraph, that paragraph there, you say:

22 "In other words,
23 Dr. Hausman applies no
24 hindsight to his damages
25 calculations for actual

1 real world events having
2 occurred or expected to
3 occur with the passage of
4 time since 2011."[as
5 read]

6 Did I read that correctly?

7 A. Yes.

8 Q. Thanks.

9 So your criticism here, as I
10 understand, Mr. Steger, is that it's important to
11 look at real-world events and data since the time
12 of PHP's restart in order to identify price
13 erosion; correct?

14 A. To identify price
15 erosion, yes, you have to look at the actuals,
16 um-hmm. Yes.

17 Q. Thank you.

18 In his first damages report,
19 Professor Hausman constructs a but-for world of
20 what paper prices would have been but for PHP's
21 re-entry into the market; right?

22 A. Yes.

23 Q. And I will ask the
24 question very generally. In a price erosion
25 analysis, do you agree it's necessary to construct

1 a but-for world of what prices would have been but
2 for the reopening of Port Hawkesbury?

3 A. Yes.

4 Q. And you agree the key
5 question to measure Resolute's losses requires
6 estimating what prices would have been if PHP had
7 never re-entered the market; right?

8 A. Yes.

9 Q. Let's go now to your
10 second report, 2020 Steger report at page 17. And
11 I think you also referred to this in your
12 presentation, Mr. Steger, this morning, the same
13 idea here, but I would like to take it directly
14 from your second report.

15 And let's have a look at
16 paragraph 28(a), your comments there. You say:

17 "In my view, my analysis
18 of the 'price bucket'
19 erosion that occurred in
20 the first half of 2013
21 after PHP reopened,
22 followed by the
23 absorption thereafter of
24 PHP's added volumes in
25 the market with little

1 impact, is precisely an
2 assessment of the but-for
3 world and answers the
4 'question of what SC
5 prices would have been if
6 PHP did not re-open'." [as
7 read]

8 Is that right?

9 A. Yes.

10 Q. So you say that you
11 actually sought to estimate but-for prices and
12 that your price bucket is actually a but-for
13 analysis; is that right?

14 A. Yes.

15 Q. Okay. We can take down
16 the document now.

17 So I understand, Mr. Steger,
18 you and Professor Hausman appear to agree there
19 was an initial price impact from Port Hawkesbury's
20 restart, but you disagree in a large extent on how
21 long that price impact lasted; correct?

22 A. Correct.

23 Q. Professor Hausman
24 measures damages over 16 years in total from 2013
25 all the way through 2028; right?

1 A. Yes.

2 Q. And Professor Hausman
3 concludes that PHP's price impact should last as
4 long as PHP will provide capacity in the market;
5 right?

6 A. I don't recall reading
7 that, but the upshot is that, yes, I agree.

8 Q. Okay. So his assumption
9 is that the long 16-year period that he uses
10 represents the time during which he estimates that
11 PHP will continue to provide capacity in the
12 market; that's right?

13 A. I don't know --

14 Q. Is that a fair
15 assumption?

16 A. Well, I don't know that
17 his report tied it to that's how long Port
18 Hawkesbury would be providing capacity. I think
19 it's -- it's an inherent assumption, yes, but I
20 don't think it's a stated assumption.

21 Q. Okay. We won't need to
22 go back right now, but if you say that's a stated
23 assumption, that's okay --

24 A. Sorry, no, I don't think
25 it was a stated assumption. I think it's an

1 implied assumption --

2 Q. An implied assumption.

3 A. -- or inherent.

4 Q. Understood.

5 A. Thank you.

6 Q. And you quantified these
7 six-month losses -- no, I understand you, in
8 contrast to using that 16-year period, you
9 conclude that PHP's price impact ended after six
10 months; is that right?

11 A. Ended after six months,
12 yes.

13 Q. Okay. And you quantify
14 these six-month losses at approximately 9.4
15 million Canadian dollars; that's correct?

16 A. Yes.

17 Q. And to arrive at that
18 conclusion of a six-month price erosion, you rely
19 on what you describe as a price bucket
20 observation; right?

21 A. Well, the price bucket is
22 the observation of the prices. The other
23 component is the industry commentary as well as
24 the opinion of Pöyry.

25 Q. Okay. But you agree that

1 supercalendered paper was in 2013 and continues
2 today to be in secular decline; right?

3 A. Yes, it certainly has had
4 a rebound in 2018, '19, '20, at least in terms of
5 prices. But, generally speaking, yes, the prices
6 and volumes were going down during this time
7 period.

8 Q. And you agree that
9 secular decline means demand is diminishing;
10 right?

11 A. Yes.

12 Q. And you agree that Port
13 Hawkesbury's re-entry into the market
14 substantially expanded the North American supply
15 of supercalendered paper; right?

16 A. Yes, at different grades.
17 But, yes.

18 Q. Okay. I am now going to
19 show you Schedule 1 of your first report. That's
20 page 58, Bates-stamped page 58. This is the
21 schedule of your first report where you provide
22 the details of your "Estimate of Resolute's Lost
23 Profits from Price Erosion"?

24 A. Yes.

25 Q. Let's call out the graph

1 for a minute.

2 So here's a graph showing your
3 price bucket erosion analysis; is that right,
4 Mr. Steger?

5 A. Yes, and this is the
6 exact same graphic that I provided in my
7 presentation.

8 Q. Correct.

9 Now, the reported prices in
10 your graph here are prices estimated by RISI; is
11 that right? Those black dots, the reported
12 prices, these are prices estimated by RISI; right?

13 A. Estimated actuals, not
14 estimated forecast. Just to be clear.

15 Q. But do you agree that
16 RISI estimates prices at these given times based
17 on a variety of indicators?

18 A. Yes, that's fair.

19 Q. So these reported prices
20 are compiled by RISI using a variety of different
21 indicators in the market; correct?

22 A. Yes, they do.

23 Q. Okay. We will have to
24 move to a restricted access session very quickly
25 now.

1 MS. D'AMOUR: We are in
2 restricted access now.

3 --- Whereupon Restricted Transcript Commences

4 BY MR. MARTEL:

5 Q. Thank you.

6 Now, let me bring you quickly
7 to Professor Hausman's first damages report.
8 That's the 2018 Hausman report. At pages 13 and
9 14.

10 Ricky, if you can call out the
11 graph at the bottom of paragraph 29 and also the
12 top of page 14.

13 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

[REDACTED]

1

[REDACTED]

2

JUDGE CRAWFORD: While we are

3

moving out of restricted access, Mr. Martel --

4

MR. MARTEL: Yes.

5

JUDGE CRAWFORD: -- I would

6

like to have a coffee break sometime in the

7

foreseeable future. Could you perhaps suggest

8

what would be a good time for you to break, to

9

have a 15-minute break.

10

MR. MARTEL: Actually, let me

11

just pause here for a second.

12

Okay. Maybe in about -- would

13

five to ten minutes be okay and then we can take a

14

break?

15

JUDGE CRAWFORD: Yes, indicate

16

the point at which it's useful.

17

MR. MARTEL: Absolutely.

18

MS. D'AMOUR: I will confirm

19

that everyone's been readmitted as well.

20

--- Whereupon Restricted Transcript Ends

21

BY MR. MARTEL:

22

Q. Okay, thank you.

23

So now that we are out of

24

restricted access, let's go back to page 58.

25

That's the same Schedule 1 that we were looking

1 at. And we will call out the same graph that you
2 had mentioned in your presentation again.

3 So this represents, this price
4 bucket, Mr. Steger, represents your assessment of
5 prices in a but-for world; is that correct?

6 A. Yes.

7 Q. Okay. So, under your
8 price bucket illustrated in your graph, PHP's
9 added capacity had a price effect that started in
10 early 2013 after the mill reopened, and that
11 extended for half a year, until prices went back
12 up to [REDACTED] there in the third quarter of 2013; is
13 that what your graph shows?

14 A. Yes.

15 Q. Okay. And, under your
16 six-month price bucket erosion period, after the
17 third quarter of 2013, when prices went back up to
18 [REDACTED] PHP's restart no longer had any impact on
19 prices; that's right?

20 A. Yes, according to the
21 industry commentary and Pöyry's first report.

22 Q. And to your report as
23 well?

24 A. Yeah, well, that informed
25 my report, yes.

1 Q. Okay. And the fact that
2 the restart no longer had any price impact, that
3 is true even if PHP, after that point in time,
4 continued to supply the same capacity in the
5 market after the third quarter of 2013; is that
6 correct?

7 A. Yes.

8 Q. Now, in a but-for world,
9 without PHP reopening, you basically say here that
10 prices would have been the same. They would have
11 followed -- no, they -- I am sorry. I am going to
12 rephrase.

13 You say, in a but-for world,
14 that prices would have followed the top blue line
15 here in a but-for world without PHP reopening, and
16 after the third quarter of 2013, they would have
17 been the same as the black dots, the black line of
18 reported prices; that's correct?

19 A. Yes, on the basis that
20 the added volumes have been absorbed into the
21 market with little effect.

22 Q. Okay, okay.

23 Let's take down this graph,
24 and we will call out the calculation that you
25 provide at the bottom of that page. Let's call

1 out the table. Perfect.

2 I understand -- I'd like to
3 spend a bit of time on your calculation here.

4 Here at the bottom, I
5 understand the bottom number of price differential
6 at [REDACTED] that's Canadian dollars; right,
7 Mr. Steger?

8 A. Yes.

9 Q. And just previously, to
10 get to that number, it's essentially the same as
11 the [REDACTED] converted from USD; right?

12 A. Yes, and that's what I
13 mentioned in my presentation, yes.

14 Q. Okay. And, now, to get
15 to that price differential at [REDACTED] what I
16 understand you do here is first calculate but-for
17 prices by averaging the prices at the beginning
18 and at the end of your bucket, so in the last
19 quarter of 2012 and third quarter of 2013, so you
20 get an average of [REDACTED] correct?

21 A. Yes.

22 Q. And then you subtract
23 from that average the average of reported prices
24 in the first two quarters of your price bucket,
25 which were both at [REDACTED] that's right?

1 A. [REDACTED], yes.

2 Q. Okay. So your assumption
3 here that but-for prices would have remained flat
4 over these four quarters, last quarter of 2012 and
5 the first three quarters of 2013, your assumption
6 that they would have remained flat is based on
7 making an average of the prices in the first and
8 in the last quarters of that four-quarter period;
9 is that right?

10 A. Yes, basically, the start
11 of the bucket and the end of the bucket. I think
12 we are saying the same things, yes.

13 Q. Okay. And so that
14 assumption that but-for prices would have remained
15 flat over that period is not based on price
16 forecasts before PHP reopened?

17 A. Correct.

18 Q. And it's not based either
19 on an econometric assessment accounting for actual
20 prices and for PHP's added supply; correct?

21 A. Econometric, no.

22 Q. Okay.

23 Now let's go -- and I am aware
24 that we are going to go to a coffee break in, say,
25 maybe five minutes, but I still want to go on on

1 that topic. I would like to move to paragraph 22
2 of your first report, the 2019 report, so we will
3 stay in this document. Let's move to paragraph 22
4 now.

5 And there is a graph at that
6 paragraph. We will call it out. Do you have the
7 paragraph in front of you, Mr. Steger?

8 A. I have it hard copy, yes.

9 Q. Yes, okay, we will show
10 it on the screen. Just a second.

11 That's page 16, Ricky. I am
12 sorry. Perfect.

13 So let's -- this is your
14 report, you refer to Schedule 21. And this is a
15 graph where you show reported -- also RISI
16 reported prices in North America from 2010 to
17 2018. Is that correct?

18 A. Yes.

19 Q. Now, I am going to use a
20 tool here. I will draw a line, a straight line
21 from the prices in the last quarter of 2012 to the
22 third quarter of 2013, that we just talked
23 about --

24 A. Yes.

25 Q. -- and I understand,

1 Mr. Steger, this is the price, the same price
2 bucket erosion that you identify and that we
3 looked at previously in your previous graph, this
4 is the same price erosion; that's correct?

5 A. Yes.

6 Q. Okay. Now, looking at
7 this graph, just -- I want to confirm the theory
8 here. Is it your opinion that, say, in 2014, so
9 after your price bucket, so let's say 2014, after
10 your price bucket, prices would have been the same
11 whether or not PHP had re-entered the market; is
12 that right?

13 A. Yes.

14 Q. Prices, they would have
15 been the same.

16 And let's say, again, around
17 2017, here, it's also your opinion that prices
18 would have been the same, [REDACTED] whether or
19 not PHP was providing significant added supply to
20 the market; that's right?

21 A. Yes, again, on the basis
22 of the industry commentary and Pöyry's conclusion.

23 Q. Okay.

24 A. Yes.

25 Q. Okay. You said during

1 your presentation something I picked up earlier
2 this morning. You said -- we could pull out the
3 transcript, but I just took notes -- that
4 Professor Hausman's forecasting model, not his
5 economic model but his forecasting model could
6 lead to an untenable conclusion if the line of
7 but-for profits was above the line of actual
8 profits in the forecast. Remember, you had said
9 there was a line that could be above leading to
10 negative damages; that's correct? Do you
11 remember?

12 A. Yes.

13 Q. And you said that was
14 untenable; correct?

15 A. Yes.

16 Q. Do you believe it is
17 tenable that your line of but-for prices after the
18 price bucket would be the same as your line of
19 actual prices?

20 A. Yes. The Pöyry report
21 said that, in the long run, that the impact of
22 Port Hawkesbury's exit and entry had a negligible
23 effect on prices.

24 Q. But you rely here on the
25 Pöyry report; that's correct?

1 A. Yes.

2 Q. Okay. We will have a few
3 questions about this at the end of my
4 cross-examination; but, for now, let's take down
5 the -- let's take down the -- all the documents.
6 I just want to ask a few final questions before
7 the break.

8 Now, Mr. Steger, isn't it true
9 in general here that, in any given market, a
10 supply increase is expected to lead to a price
11 decrease, holding other economic factors constant?

12 A. Holding all other factors
13 constant, yes.

14 Q. Okay. So isn't it true
15 that, as long as a supply increase exists in a
16 market, a price decrease is expected to exist as
17 well?

18 A. For that phenomenon in
19 isolation, yes.

20 Q. Okay.

21 A. But --

22 Q. But you conclude that --

23 A. Sorry.

24 Q. Okay --

25 A. Sorry. I said "but" and

1 I was just going to add on that, in addition to
2 that, when there's other shocks, and Pöyry,
3 Mr. Suhonen, spoke to this, that there's other
4 shocks or the demand shift that also caused prices
5 to change as well.

6 Q. Okay. And you conclude
7 that the market stopped to experience a price
8 impact after six months, even though the increase
9 in supply from PHP continue to exists even to this
10 day; that's right?

11 A. That's correct.

12 Q. Based on these
13 information that you received from Pöyry and the
14 commentary; that's right?

15 A. Correct.

16 MR. MARTEL: Okay. We will
17 get to that after the coffee break, so now, Judge
18 Crawford, members of the Tribunal, that would be a
19 good time to stop.

20 JUDGE CRAWFORD: Thank you
21 very much. This is extremely interesting, but I
22 think we should have a 15-minute coffee break to
23 enable people to recover, and we will start again
24 at half past -- 3:25 The Hague time. Whatever
25 time that is.

1 MR. MARTEL: That will be 9:25
2 a.m. in Montreal.

3 JUDGE CRAWFORD: All right,
4 start again at 9:25. Thank you.

5 --- Upon recess at 9:08 a.m. EST

6 --- Upon resuming at 9:27 a.m. EST

7 MR. MARTEL: Heather, if you
8 don't mind, I would appreciate if we could just go
9 to restricted access session. Simply, the story
10 of showing up the page last time where there was a
11 little bit of yellow highlighting, I don't want to
12 get into that -- another issue like that, so if we
13 can -- I am only going to address restricted
14 access information in the last five minutes, but
15 let's just call it off and go to restricted,
16 please, right, Heather? That's going to make
17 things more simple.

18 MS. D'AMOUR: Yes, no problem.
19 All right. We are in a restricted access session
20 now.

21 --- Whereupon Restricted Transcript Commences

22 MR. MARTEL: Judge Crawford,
23 may I proceed; right?

24 JUDGE CRAWFORD: Before you
25 do, the Tribunal has taken into account the

1 various interruptions that have occurred and
2 estimates that you have 40 minutes left in your
3 cross-examination.

4 PROFESSOR LÉVESQUE: Sorry, I
5 think that included the redirect, if I am not
6 mistaken.

7 JUDGE CRAWFORD: In that case,
8 it will be 25.

9 MR. MARTEL: Sorry, Judge
10 Crawford, members of the Tribunal, I understand in
11 the last iteration of the schedule, we had an hour
12 and a half. And I understand I began at 8:30 and
13 ended at 9:07 for 37 minutes of questions. So I
14 am expecting to have questions still for a little
15 under an hour as I took a little over half an hour
16 in the first half. I am roughly at 40 percent,
17 40 percent of the questions that I want to ask.
18 So I am expecting that, for 50 minutes, I should
19 be okay. Does that -- is that convenient with
20 everyone?

21 JUDGE CRAWFORD: Ashwita,
22 what's your estimate of timing?

23 MS. AMBAST: Sorry, this is
24 the Tribunal secretary, I have the
25 cross-examination having gone on for 30 minutes

1 and 18 seconds.

2 UNIDENTIFIED SPEAKER: Do you
3 have an overall time of the claimant's time that's
4 left?

5 MS. AMBAST: I have the
6 claimant having taken 8 hours and 57 minutes since
7 the start of the hearing.

8 SPEAKER: Of a total of?
9 Sorry, I am just wondering what the total time
10 that the claimant is allotted and then just to
11 confirm that whatever time Mr. Martel goes over it
12 will be taken from their closing arguments; is
13 that right?

14 MR. MARTEL: I understand that
15 the entirety of the time taken is counted for the
16 entire week; right?

17 MS. AMBAST: Sorry, my
18 understanding was that each party was allotted
19 12 hours -- 12.75 hours in total, of which the
20 claimant has thus far taken 8 hours and
21 57 minutes, but I am willing to stand corrected on
22 the total time.

23 JUDGE CRAWFORD: There's a bit
24 of flexibility between the amount of time taken in
25 cross-examination and the amount of time taken in

1 reply, but the Tribunal is very interested to hear
2 the legal arguments relating to the factual
3 situation which is emerging from the evidence. So
4 I would caution you against proliferation of
5 questions in cross-examination.

6 MR. MARTEL: We will avoid
7 proliferation, Judge Crawford. Duly noted, thank
8 you very much.

9 JUDGE CRAWFORD: Continue with
10 your assessment.

11 MR. MARTEL: Thank you.

12 So now is 9:32 Montreal time.

13 Mr. Steger, are you there? Yes, I can see you.

14 THE WITNESS: Yes.

15 BY MR. MARTEL:

16 Q. I will be asking you
17 questions now for about 50 minutes, as we
18 discussed. And we are in restricted access
19 session, so let's move on.

20 I am going, now, to bring you
21 to paragraph 85 of your first report. Let's go to
22 page 38, please. 38 of the 2019 Steger report.

23 And we will call out
24 paragraph 85, please. So this was in your report.
25 We see the same -- and the graph also -- and we

1 see the same graph that we had discussed
2 previously with the price bucket that you
3 identify.

4 A. Yes, I just should note,
5 sorry, that when it got copied and pasted from the
6 schedule into the report, I see that the blue line
7 didn't get carried over, so that should be there.

8 Q. That's okay.

9 I will cite paragraph 85 here
10 where you say:

11 "When PHP fully
12 re-entered the SC paper
13 market in 2013, there was
14 an observed price decline
15 in the first half of the
16 year, followed by a
17 rebound in the second
18 half of 2013 to the price
19 levels of 2012 before PHP
20 re-entered, as seen in
21 the graph below." [as
22 read]

23 Did I read that well?

24 A. Yes.

25 Q. Okay. Now, the graph

1 shown is the same graph discussed as earlier in
2 Schedule 1. When you say, Mr. Steger, there was
3 an observed price decline and rebound, you mean
4 that a decline and rebound can be observed by
5 looking at a chart; correct?

6 A. Well, you can see it.
7 But it was also commented on in the industry
8 commentary at the time.

9 Q. Okay. And when you say
10 "you can see it", this is a visual observation,
11 it's not an econometric test, decline and rebound;
12 right?

13 A. It's not econometric. It
14 is visual, and, as I said, coupled with the
15 industry commentary, the two go together to
16 explain it.

17 Q. Okay. Now, in this
18 graph -- we will stick to paragraph 85, but in
19 this graph here, you chose to restrict your
20 observation of a price decline and rebound, the
21 visual observation, by showing prices for a total
22 of six quarters, from the third quarter of 2012 to
23 the last one of 2013; is that right?

24 A. Yes.

25 Q. But when you wrote your

1 report last year, Mr. Steger, you had access to
2 price data going all the way through at least
3 2018; didn't you?

4 A. Yes.

5 Q. Now, let's go to page 16
6 of the same report, paragraph 22. We will go back
7 to the same graph that we discussed earlier.

8 Here earlier in your report,
9 you included this graph showing prices over a
10 longer period of time, from 2010 to 2018; that's
11 correct?

12 A. Yes.

13 Q. Okay. And when looking
14 at the graph, and looking at more recent data that
15 we have available, instead of restricting the data
16 only to 2012 and 2013, do you agree that there is
17 a bigger price decline trend that can be observed
18 from 2012 or 2013 to all the way to 2017?

19 A. That's fair.

20 Q. And also looking at all
21 available data since 2013, do you agree that
22 there's also a bigger price decline -- a price
23 rebound that can be observed from 2017 to the end
24 of 2018?

25 A. When you say "bigger";

1 bigger than?

2 Q. Bigger than -- I will
3 show you this. Bigger than the price bucket that
4 you originally identified. So do you see that,
5 from 2017 to the end of 2018, do you agree there
6 is a bigger price rebound that can be observed
7 during that period?

8 A. Yes, current prices are,
9 I believe, [REDACTED] Yes.

10 Q. Okay. Now, I will just
11 erase this. When I draw... Bear with me a
12 second. When I draw a straight line from the
13 beginning of your price bucket... When I draw a
14 straight line from the beginning of your price
15 bucket in 2012, do I not get a price bucket that
16 extends all the way to the end of 2018 over a
17 total of a six-year period?

18 A. Well, there's a price
19 bucket, as you say, but my term "price bucket" is
20 in relation to observed impact of Port Hawkesbury.
21 And, again, I come back to the industry commentary
22 and the Pöyry report that, in respect of PHP's
23 re-entry, it's the price bucket in 2013 that is
24 the important or instructive one to be looking at.
25 So, so --

1 Q. Okay --

2 A. -- with that

3 clarification.

4 Q. Absolutely. But you
5 acknowledge that there is a bigger price bucket
6 here starting at the beginning of your own price
7 bucket; right? Over a six-year period; correct,
8 approximately six years?

9 A. There is a bigger price
10 bucket, yes, during that period.

11 Q. Okay. But in your
12 report, you don't discuss these bigger trends and
13 this bigger price bucket over a six-year period;
14 that's correct?

15 A. No, I don't. Again,
16 because the commentary at the time indicated that
17 Port Hawkesbury's volume and price effects were
18 absorbed and negligible, respectively.

19 Q. Um-hmm. And, Mr. Steger,
20 you said earlier during our discussion that it's
21 important to consider hindsight data, real-world
22 events since PHP's reopening to assess price
23 erosion; that's correct?

24 A. Yes, and that hindsight
25 was applied to my price bucket in 2013.

1 Q. Okay. But when it came
2 to observing your price bucket erosion as shown in
3 your previous graph, you only looked at a period
4 of six quarters around the time of PHP's
5 reopening; is that right?

6 A. Correct.

7 Q. Now, we can take down the
8 graph.

9 In addition to your visual
10 observation, you said you also based -- and you've
11 said that a few times now. You said you also base
12 your six-month price erosion period on 2013
13 industry commentary; that's right?

14 A. Yes.

15 Q. Now, I will bring you to
16 your first report, page 38, paragraph 86.

17 Here, you say -- we will wait
18 a little bit for the presentation on the screen.
19 Page 38. Paragraph 86. Here, you say at the top:

20 "The industry commentary
21 prepared at the time in
22 2013 largely determined
23 the price decline to be
24 temporary and that PHP's
25 added volumes from

1 re-entry were absorbed in
2 the market with little
3 impact." [as read]

4 That's correct?

5 A. Yes.

6 Q. And then let's go to
7 page 41, and we will have a look at paragraph 88
8 of your first report. At paragraph 88, you say
9 that the commentary in 2013 was "largely
10 consistent in concluding as to the temporary price
11 effects of PHP's re-entry"; is that correct?

12 A. Yes.

13 Q. Okay. And then again,
14 going back, we don't have to go now, but going
15 back to paragraph 86, you cite a long list of
16 various quotes. I calculate 11 quotes from
17 various sources as examples of 2013 industry
18 commentary; is that right?

19 A. Yes.

20 Q. Now, Ricky, can you
21 please call out the footnotes, Footnote 79 to 89
22 on pages 38 to 39, the 11 footnotes showing the
23 sources for these 11 quotes?

24 Okay. Mr. Steger, please take
25 some time to refresh your memory about the sources

1 from which these 2013 industry commentary examples
2 were taken. You can look at the 11 footnotes on
3 the screen.

4 A. Yes, I am familiar with
5 them, thank you.

6 Q. Okay. Would you agree
7 with me that the 11 citations actually refer only
8 to four sources? We can take a look at them
9 together.

10 So just a second. First, you
11 have in Footnote 79, there is a reference to a
12 [REDACTED]; that's
13 correct?

14 A. Yes.

15 Q. So we have this here.

16 And then in Footnote 80, you
17 refer to one statement made in October 2015,
18 that's right, not 2013; right?

19 A. The statement was made in
20 2015, but it was in relation to the 2013 period.

21 Q. Okay. And that's the
22 statement from Mr. John Coche in the ITC
23 proceeding on SC paper; correct?

24 A. Yes.

25 Q. Okay. And then third,

1 you refer in Footnotes 81 and 82 to the same

2 [REDACTED]

[REDACTED]; right?

4 A. Yes.

5 Q. Okay. And then the
6 remainder of the footnotes, from Footnote 83 to
7 89, are all taken from the [REDACTED]
[REDACTED]

9 that's correct?

10 A. Yes.

11 Q. Okay. So would you agree
12 that these 11 quotes are really taken from four
13 sources?

14 A. They are four sources,
15 yes.

16 Q. Okay. And would you
17 agree that of these four sources which you cite as
18 examples of 2013 industry commentary, one source
19 is actually directly from 2015, not 2013?

20 A. Yes, as I mentioned a
21 moment ago.

22 Q. Yeah, okay. Now, we will
23 keep this on the screen for now.

24 In your report, Mr. Steger,
25 you conclude that the 2013 industry commentary

1 largely determined -- that's your quote -- that
2 PHP's re-entry had temporary price effects; that's
3 right?

4 A. Yes.

5 Q. Now, you do not explain
6 in your report the universe of documents you
7 reviewed to come to that conclusion that the
8 commentary largely determined temporary price
9 effects; that's right?

10 A. Well, this is --

11 Q. Uh-huh?

12 A. -- I was about to say,
13 this is what I was referring to.

14 Q. So all these, all these
15 four sources are the universe of documents you
16 reviewed?

17 A. That I reviewed, no. I
18 reviewed many other documents.

19 Q. But you do not explain
20 the many other documents of 2013 commentary that
21 you reviewed? You do not state which those
22 sources are?

23 A. Sorry, if I can try to
24 clarify. When I say -- in paragraph 88, I say,
25 "Based on the foregoing largely consistent

1 commentary", I am referring to these 11 citations.

2 Q. I understand. But did
3 you review commentary beyond these 11 citations?
4 You determined that the commentary in 2013 was
5 largely consistent, and you give examples, and you
6 give these 11 quotes that are four sources. You
7 don't list in your report -- correct me if I am
8 wrong. You don't list in your report all sources
9 you reviewed of 2013 commentary; that's right?

10 A. That's correct, yes.

11 Q. You only list in your
12 report the examples that support the temporary
13 price effects theory; that's correct?

14 A. Well, these are examples
15 of what I read that spoke to the 2013 events.

16 Q. That's right.

17 A. I am certain there are
18 other documents in the productions that had, you
19 know, additional commentary, but these were the
20 ones that spoke about 2013 and Port Hawkesbury's
21 entry specifically.

22 Q. Okay. But you chose to
23 leave out these other sources you may have read
24 from your report?

25 A. I didn't choose to leave

1 out. These were -- these were the ones that
2 commented on and, you know, I have another
3 commentary in paragraph 87 that --

4 Q. We will get to that, yes.

5 A. -- okay, so I will leave
6 that to you, then.

7 Q. Okay.

8 A. So I hope I answered your
9 question.

10 Q. That's right. But to be
11 clear, you have not provided the universe of
12 sources you reviewed in order to get these 11
13 quotes from?

14 A. I have not cited the
15 universe of quotes or -- sorry, of documents, that
16 is correct.

17 Q. Okay. I see here you
18 don't cite any academic paper from 2013; correct?

19 A. It's clear on its face
20 what I have cited.

21 Q. Okay. And you don't cite
22 any analysts' report either from 2013?

23 A. No.

24 Q. Okay. You chose to
25 consider, Mr. Steger, only 2013 industry

1 commentary to determine whether PHP's restart had
2 a temporary price impact; is that right?

3 A. Yes, because that's at
4 the heart of when it was occurring, or the effects
5 were occurring.

6 Q. And you did not choose to
7 consider industry commentary beyond, since 2013
8 until this day, in order to benefit from more
9 recent information; right?

10 A. I don't recall
11 specifically the, as you say, the universe of
12 other documents that are out there.

13 Q. But you only chose to
14 mention 2013 industry commentary in your report;
15 correct, to support your conclusions that price
16 effects were temporary?

17 A. Yeah, that's a fair
18 statement.

19 Q. Okay. Now, assuming
20 even -- assuming that industry commentary is
21 relevant to confirm whether PHP's restart had
22 temporary or long-lasting effects, was it not
23 necessary, Mr. Steger, to consider commentary
24 after 2013 to determine whether the impact was
25 long-lasting or temporary?

1 A. That's fair, although I
2 did have Pöyry's opinion that it opined that the
3 long-term effects were negligible.

4 Q. So you say it's fair --
5 in order to determine whether a price impact was
6 long-lasting or temporary, it's fair to look at
7 commentary till this day, but your report only
8 cites 2013 commentary, around the time of the
9 reopening?

10 A. Well, the issue then
11 becomes, with the passage of time, so many other
12 events happen, mills come in, mills close,
13 exchange rates go up, exchange rates go down, you
14 know, mixes change and so on and so forth, so I
15 chose the 2013 because that's when the impact or
16 the re-entry happened, so that was most relevant
17 to my assessment.

18 As time goes on, I would say,
19 you know, things might get clouded with other
20 events that happen in the meantime or in the
21 intervening period.

22 Q. Okay. Earlier in your
23 cross-examination, Mr. Steger, you criticized
24 Professor Hausman's forecasting approach, not his
25 economic approach but his forecasting approach for

1 not considering data beyond 2013; do you remember
2 that?

3 A. Yes.

4 Q. Okay. And here, you only
5 looked at 2013 industry commentary?

6 A. Well, my comment of
7 Dr. Hausman's --

8 Q. Except the 2015 statement
9 from Mr. Coche; right?

10 A. That's correct. But my
11 comment was going to be, it was in respect of
12 Dr. Hausman's ever-widening calculation between
13 the but-for price and the actual price, and as
14 time went on and the delta got bigger, that was
15 the focus of my question: Well, you know, that
16 because Port Hawkesbury entered in October 2012, I
17 was asking Dr. Hausman, well, where is, where is
18 the assessment that all of this relates back to
19 2012.

20 Q. But you still believe he
21 should have looked, even in his approach, at
22 real-world events that occurred since 2013;
23 correct?

24 A. Yes, to understand
25 whether or not his reliance on RISI forecasts was

1 warranted.

2 Q. Okay. Now, let's take a
3 closer look at some of the quotes you cite here
4 that are on the screen, but now we only have the
5 footnotes.

6 I won't be following the same
7 order that you used, so please bear in mind.

8 Ricky, would you bring us to
9 the 2019 report of Mr. Steger, page 39, at
10 paragraph 86(b). That's the statement from
11 Mr. Coche. And you can call out paragraph (b) and
12 Footnote 80 -- oh, I am going to erase my
13 annotations here. Call out paragraph (b) and
14 maybe call out Footnote 80 as well.

15 So here, Mr. Steger, you cite
16 an excerpt from the 2015 statement of John Coche,
17 a witness hired by PHP in the ITC supercalendered
18 paper proceedings, concluding at the end of the
19 sentence at the bottom, that:

20 "After it became apparent
21 that the new PH was
22 servicing customers that
23 had been absent from the
24 SC paper market, prices
25 came back up." [as read]

1 That's correct?

2 A. Yes.

3 Q. And you know Mr. John
4 Coche was a witness hired by PHP in the ITC
5 supercalendered proceeding; correct?

6 A. I don't know if I was
7 aware of that fact.

8 Q. Is it a fair assumption?

9 A. I wouldn't say it's an
10 assumption. It's a fact. He either was or he
11 wasn't. So if you're saying he was, that's fine.
12 I just don't know that I was aware of that.

13 Q. Okay. You call Mr. Coche
14 an independent consulting specialist at
15 Footnote 80; that's right?

16 A. Yes, I think I got that
17 from the introduction of his qualifications.

18 Q. Okay.

19 Ricky, can you please pull
20 Exhibit C-236? Actually, C-236A, that's the full
21 version of the document cited by Mr. Steger, and
22 can you go to page 171, lines 6 to 11? Okay.

23 Here, you can see, Mr. Steger,
24 that the statement of John Coche was read by
25 Mr. Trendl. And, of course, this is the same

1 quote you use, "independent consulting
2 specialist". Um-hmm.

3 A. Yes.

4 Q. Now, and that's from the
5 exhibit you cite yourself in your report?

6 A. Correct.

7 Q. Ricky, can you bring us
8 to page 46, lines 10 to 16 of the same exhibit,
9 page 46, lines 10 to 16.

10 Here, we have information
11 about who Mr. Trendl is:

12 "Good morning, Madam
13 Chairman, commissioners
14 and staff, my name is Tom
15 Trendl. I appreciate the
16 opportunity to appear
17 before you on behalf of
18 Port Hawkesbury Paper, a
19 respondent opposed to the
20 petition in this
21 investigation." [as read]

22 So is it a fair assumption
23 that Mr. John Coche, on whose testimony you rely
24 on here, was hired by Mr. Trendl, who represents
25 Port Hawkesbury Paper?

1 A. Again, rather than
2 assume, I'd prefer -- this is a simple fact
3 whether he was or wasn't.

4 Q. Okay, you are aware that
5 the allegation before the ITC was that PHP's
6 re-entry into the market caused harm to American
7 competitors; right?

8 A. Yes.

9 Q. And you are aware that
10 PHP's position was that the US competitors did not
11 lose sales or customers; right?

12 A. I -- that sounds fair,
13 although I don't recall reading it -- reading it.

14 Q. Okay. But you cite to
15 this particular exhibit from the ITC proceeding;
16 right?

17 A. I do.

18 Q. Okay. Now, I will show
19 you the transcripts from the ITC proceeding which
20 you cite in your report. Let's go back to the
21 full version of -- no let's stay on this document.
22 Let's go back to page 172, and we will call out
23 lines 1 to 21. Please let's highlight lines 4 to
24 11. Thank you.

25 Now, the quote you cited

1 begins at line number 4. This is the testimony
2 from PHP's hired witness, John Coche. The line
3 here at line 4 starts -- do you mind actually
4 reading over maybe the excerpt? I don't want to
5 take the document out of context. If you can have
6 a bit of time to refresh your memory, Mr. Steger.

7 A. Yes, that yellow
8 highlighted is the quote that I cited in --

9 Q. That you relied on --

10 A. In paragraph 86(b) of my
11 report.

12 Q. Okay. Now, looking at
13 this document you refer to, Mr. Coche does not
14 cite authorities, articles or data sources
15 confirming his view that the new mill was
16 servicing customers that had been absent from the
17 market; is that correct? He does not cite
18 authorities, articles or other data sources; is
19 that right?

20 A. Well, certainly not here.

21 Q. This is the excerpt you
22 cited; right?

23 A. Correct, and I am just
24 saying certainly not here. I don't recall reading
25 that it was anywhere else either, but certainly

1 not here.

2 Q. Okay. Did you verify the
3 accuracy of his view that the PH mill was
4 servicing customers that had been absent from the
5 market? Did you verify the accuracy of that view?

6 A. I didn't verify it, no.
7 Although, it was in keeping with the fact that
8 Port Hawkesbury's re-entry was at the higher ends
9 of the market in SCA+ and ++ and it was going
10 after customers in the coated groundwood market.
11 So whether or not that -- his statement
12 specifically relates to what I just said, I don't
13 know, but that's what comes to my mind.

14 Q. Okay. Now, I will
15 present you with the ITC final determination from
16 the same proceeding where Mr. Coche gave the
17 statement you cite in your report.

18 So let's please go to Exhibit
19 C-237. And I note, by the way, that you cite this
20 same exhibit in your second report, Exhibit C-237.
21 At page 29, so this is the ITC final
22 determination, page 29, let's call out the two
23 paragraphs starting with "In analyzing".

24 Okay. And can you please,
25 Ricky, also please scroll down to page 30 and call

1 out the top two lines of page 30 to have the full
2 paragraphs.

3 Okay. So for now, let's look
4 at the ITC's conclusion here in the same
5 proceeding that Mr. Coche gave his statement. I
6 read:

7 "In analyzing the price
8 effects of the subject
9 imports and whether they
10 depressed domestic prices
11 to a significant degree,
12 we considered changes in
13 U.S. and subject import
14 prices over the POI." [as
15 read]

16 POI is period of
17 investigation. That's from January 2012 to
18 June 2015.

19 And a little after, you see:

20 "According to the
21 questionnaire data,
22 the -- " [as read]

23 Oh. I see Judge Crawford
24 is -- so now is 9:59 Montreal time. I am going to
25 wait until Judge Crawford can get back to his

1 chair. Sorry for that, Mr. Steger. Time for
2 coffee.

3 JUDGE CRAWFORD: Apologies for
4 the brief interruption.

5 MR. MARTEL: Not a problem,
6 Judge Crawford.

7 So, Judge Crawford, if you
8 don't mind, I will take it back from the point
9 where I understand you left. We were quoting from
10 the ITC final determination, Exhibit C-237, and I
11 was at the third line of that section called out
12 on the screen, starting with:

13 "According to
14 questionnaire data, the
15 domestic industry's
16 weighted-average prices
17 for all seven pricing
18 products decreased
19 overall between the first
20 quarter of 2012 and the
21 second quarter of
22 2015." [as read]

23 And then a little later, here
24 in the quote, we read:

25 "We therefore find that

1 subject imports depressed
2 prices for domestically
3 produced supercalendered
4 paper to a significant
5 degree."[as read]

6 Do you read this, Mr. Steger?

7 A. Yes.

8 Q. Okay. Now, do you agree
9 that this conclusion by the ITC does not support
10 your own conclusion that PHP's added capacity only
11 had a price effects for six months only?

12 A. And, yes, maybe I will
13 just ask a point of clarification. Is this the
14 ITC decision that then resulted in the
15 countervailing duties?

16 Q. This is the ITC final
17 determination from the same proceeding that you
18 cited actually in your second report. So this is
19 an exhibit you have already cited in your report.

20 A. Yes, and so I guess I am
21 just making the connection to that this
22 determination, I think, brought about the
23 countervailing duties, which, if I have that
24 right, then I thought those countervailing duties,
25 then, were reversed. So coming back to answer

1 your question, yes, the ITC did conclude this.

2 Q. Okay. But do you also
3 agree that this conclusion by the ITC does not
4 support Mr. Coche's opinion that the new PH mill
5 was servicing customers that had been absent from
6 the market? The fact that prices were depressed
7 to a significant degree over the whole period up
8 till 2015, do you agree that this conclusions does
9 not support Mr. Coche's opinion that the new mill
10 was servicing customers that had been absent from
11 the market; do you agree with that?

12 A. Well, this passage
13 certainly does not reference the other customers,
14 no, but it does have the price conclusion, yes.

15 Q. Okay. And, in your
16 report, you say the commentary was, I quote,
17 "largely consistent" in concluding that PHP's
18 price impact was temporary. That's what you say
19 in your report; correct?

20 A. Yes.

21 Q. Okay, now, let's remove
22 this quote from the screen.

23 We will go to another excerpt
24 that you cite at this section on which you found
25 your six-month price erosion. Sorry about this.

1 Just a second. Apologies for that.

2 I will go back to your report
3 now, the 2019 Steger report, and I will ask a few
4 questions about your quotes from [REDACTED]

[REDACTED]. So let's go to
6 page 40 of Mr. Steger's report, and we will call
7 out paragraph (k) here, yeah, and Footnote 89.

8 So here, Mr. Steger, you cite
9 an excerpt from the [REDACTED]

[REDACTED], saying, I quote:

11 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

23 read]

24 Did I read that well?

25 A. Yes.

1

[REDACTED]

15 A. Well, I think you've got
16 two effects coming. One is the entry of PH, but
17 then you also have the demand boost of the
18 substitution.

19 Q. And the demand is
20 countering the downward effect; correct?

21 A. Yes, so there's a price
22 decline with the entry but also the price rise as
23 a result of the substitution from the re-entry.

24 Q. Okay, but the downward
25 price effect from the re-entry does not disappear.

1 It's countered by an upward price effect, but it
2 doesn't disappear in 2013; correct?

3 A. Well, in terms of the
4 data of selling prices, it did come back up
5 roughly to the same level.

6 Q. Okay. That's price data.
7 But I am asking, the downward price effect from
8 the re-entry, it did not disappear in 2013?

9 A. Sorry, you mention price
10 effects whereas I said price data. The price data
11 reflects the price effects, so I don't think I
12 would alter my answer to your second question.

13 Q. So I just want to be
14 clear. [REDACTED]

[REDACTED]

20 [REDACTED]

[REDACTED]

25 Q. Okay. Did you perform an

1 independent investigation of [REDACTED]

4 A. Well, again, that was
5 corroborated through the testimony -- sorry, not
6 testimony, the reports of Pöyry, as well as

7 [REDACTED]
10 Q. Okay. You say it was
11 corroborated. Let's go to Exhibit R-265. As you
12 will see from Exhibit R-265, this is the

13 [REDACTED]
16 right?

17 And let's go to -- Mr. Steger,
18 you see Number 265; right, you recognize it?

19 A. Yes.

20 Q. Let's go to page 25.

21 So this is one month before
22 the statement you say that was corroborated.
23 Let's go to page 25, and call out the bottom
24 paragraph for us, Ricky.

25 So this is from the same

1 publication source you used. Mr. Steger, can you
2 please read the excerpt here? Can you please read
3 it for us out loud?

4 A. Yes:

5 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Q. Now, Mr. Steger, do you
22 agree the article here that you just read [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 A. Well, to be clear, I did
2 include this quote in my report --

3 Q. That's right.

4 A. -- and that was the basis
5 for my conclusion after all of that, that based on
6 the foregoing largely consistent commentary. So,
7 yes, I give recognition to that, this passage
8 identified what it says and the others say what
9 they say, and I said, on balance or largely, they
10 all spoke about the temporary decline.

11 Q. Okay, let's now move on
12 to the [REDACTED] So we will go
13 back to the 2019 Steger report, and we will go to
14 page 38. Paragraph 86(a). Yes, perfect.

15 Here, you cite the [REDACTED]

[REDACTED] saying:

17 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5 Did I read that well,

6 Mr. Steger?

7 A. Yes.

8 Q. Let's go back to the

9 actual exhibit. So this is Exhibit R-236, at

10 page 17. And let's call out the bottom section

11 starting with [REDACTED].

12 So, Mr. Steger, the quote you

13 cited in your report begins at the fourth line,

14 starting with [REDACTED] do you see this:

15 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Et cetera. Do you see that?

20 A. Yes.

21 Q. Now, [REDACTED]

[REDACTED], let's go

23 to the bottom paragraph here, we will highlight

24 the top line of the bottom paragraph. At the last

25 paragraph, the article explains:

1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6 Now, Mr. Steger, you left out
7 this sentence from the [REDACTED] did you not?

8 A. It's not in my -- it's
9 not quoted, no.

10 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

20 Q. From the same article
21 that you cite to support your six-month price
22 bucket theory; correct?

23 A. Well, I only make the
24 distinction between the six months is actual
25 observed. [REDACTED]

1 [REDACTED]

2 Q. Okay.

3 Now, we are going to start
4 discussing some restricted access information, but
5 I understand, Heather, we already are in a
6 restricted session; correct? Heather, do you mind
7 confirming this? I think we are, but... Can
8 Arbitration Place just confirm we are in
9 restricted access session?

10 MS. AMBAST: This is the
11 Tribunal secretary. This is a restricted access
12 session, I can confirm.

13 MR. MARTEL: Okay, perfect.
14 Thank you.

15 BY MR. MARTEL:

16 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

23 A. Yes, and just to be
24 clear, alternatively or in other sources, it
25 refers to a 400,000-ton capacity and 360,000

1 metric tons, just so we know we are talking about
2 the same numbers.

3 Q. Okay. Okay. And as we
4 discussed, you criticized the 360,000-metric-ton
5 capacity used by Professor Hausman in his economic
6 approach analysis, and you estimate that PHP's
7 actual volume is approximately [REDACTED]
[REDACTED] correct?

9 A. I do make that
10 conclusion, yes.

11 Q. Okay, but you recognize
12 that [REDACTED]
[REDACTED]

14 A. The capacity is accurate,
15 yes.

16 Q. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

20 Q. Okay. I'd like to bring
21 you to PHP's responses to the U.S. Department of
22 Commerce questionnaire. Let's go to Exhibit
23 C-046. C-046 at page 2, please.

24 Mr. Steger, this is PHP's
25 responses to the U.S. Department of Commerce

1 questionnaire as part of the department's
2 investigation on supercalendered paper in 2015.
3 And as you can see, as mentioned in the exhibit in
4 the second paragraph, this letter and its
5 attachments constitute the public version of PHP
6 Limited Partnership's response to the department's
7 initial questionnaire, "Certificates of
8 completeness and accuracy for the submission are
9 included herein"; do you see this?

10 A. Yes.

11 Q. Okay. Let's go to
12 page 6. And you can see from page 6 a certificate
13 of a company -- a company certification where the
14 vice president and general counsel of PWCC,
15 Mr. Shawn Lewis, says, a little bit in the middle
16 of the paragraph:

17 "I certify that the
18 information contained in
19 this submission is
20 accurate and complete to
21 the best of my knowledge.
22 I am aware that
23 information contained in
24 this submission may be
25 subject to verification

1 or corroboration. I am
2 also aware that U.S. law
3 imposes criminal
4 sanctions on individuals
5 who knowingly and
6 willfully make false
7 material statements to
8 the U.S. government." [as
9 read]

10 Is that right?

11 A. Yes.

12 Q. Okay, now, let's go to
13 page 12 of the same exhibit. We will call out the
14 table and the graph underneath.

15 The table and the paragraph
16 underneath, right. Okay. So here, PHP
17 reported -- and let's take a look at 2014. Here
18 PHP, reported that, in 2014, it actually sold --
19 not at capacity, but these are the sales. It
20 actually sold and produced, therefore, a total of
21 375,000 tons of paper for a value of 280 million
22 Canadian dollars; do you see this?

23 A. Yes.

24 Q. Yes.

25 And these are -- just to be

1 clear, these are short tons; correct, not metric
2 tons?

3 A. Correct.

4 Q. There is a bit of a
5 comparison issue here?

6 A. Correct.

7 Q. So, as you say in your
8 report, the 357,000 short tons translate into a
9 little over 340,000 metric tons; is that correct?

10 A. Correct, that's -- I am
11 looking at my report, paragraph 115, yes.

12 Q. Paragraph 115(b), right.
13 Okay.

14 And you say here, and so you
15 recognize that, in 2014, PHP reported that it was
16 selling, and therefore producing, that it was
17 selling 340,000 metric tons; that's right?

18 A. Yes, and to be clear,
19 this is total sales, not just North American
20 sales. In my report, I pare that down to just the
21 North American sales.

22 Q. Okay.

23 The following paragraph says:

24 



1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [as read]

6 Do you see this?

7 A. Yes, and [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11 Q. Okay, now, you say in
12 your report that the actual volumes produced by
13 PHP [REDACTED] not 340,000 metric tons; correct?

14 A. For the North American
15 market.

16 Q. And is that the way you
17 distinguish between 340 and [REDACTED] The difference
18 between total and North American, is that the way
19 you distinguish?

20 A. Yes.

21 Q. And that accounts for the
22 whole difference?

23 A. Well, this is total
24 sales. Then that is split out elsewhere as
25 between total exports and then total exports to

1 the US, which also buried in there or implied in
2 there are sales to Canada.

3 Q. Okay.

4 A. So --

5 Q. I did not -- I did not
6 understand that in your calculation, but, okay, go
7 ahead.

8 A. Can I -- I was just going
9 to summarize. You have got total sales, then you
10 have got sales to Canada, you have sales to US,
11 and then you have got sales to outside of North
12 America.

13 Q. Okay. Let's go to your
14 report to understand how you get the [REDACTED]
15 supply production.

16 We will go to page 53 of your
17 report, and we will call out paragraph 115(c),
18 page 53 of your report. That's over two pages,
19 Ricky, so you will need to call out pages 53 --

20 MR. NEUFELD: Do we have
21 restricted access?

22 MR. MARTEL: We are already in
23 restricted access, yes.

24 MR. NEUFELD: Oh, yeah, you
25 are right, I'm sorry, Jean-Christophe, I am sorry.

1 MR. MARTEL: You took
2 five seconds of my time.

3 BY MR. MARTEL:

4 Q. Okay, so here, would you
5 please read, Mr. Steger, paragraph -- and we will
6 call out paragraphs 115(c). Would you please read
7 for us the way you calculate that
8 [REDACTED] estimate that you make?

9 A. Yes:

10 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 calculated as
17 follows."[as read]

18 Continue?

19 Q. Yes, please.

20 A. Okay.

21 Q. It's a little complicated
22 for me, so I want you to read it.

23 A. Sure:

24 "In 2015, PHP LP's gross
25 revenue was Canadian

1 [REDACTED]; and,
2 Resolute's Kénogami mill
3 earned an average selling
4 price of [REDACTED]
[REDACTED] of SCA and SCB
6 paper sold. So applying
7 Kénogami's average
8 selling price, the [REDACTED]
[REDACTED], to PHP's
10 gross revenues generates
11 a PHP -- an estimated --
12 sorry, I've just added
13 estimated -- PHP volume
14 figure of approximately
15 [REDACTED]"[as
16 read]

17 Q. Okay. Thank you very
18 much, Mr. Steger.

19 So you find that PHP's stated
20 revenue, [REDACTED] right, is reliable in order
21 to conclude that PHP's stated capacity is not
22 reliable; is that a fair statement?

23 So you rely on the stated
24 revenue of PHP to estimate, and so you find that
25 this is sufficiently reliable, to conclude that

1 the stated capacity of PHP is not reliable?

2 A. Well, stated capacity of
3 360,000 metric tons is reliable. It is a fact.
4 PHP's revenues are also reliable. They are a
5 fact. They are audited. This is for the year
6 2015. And going back to what I was trying to
7 explain a moment ago, the tonnage that was
8 identified a moment ago, again, that was total
9 sales. I am looking at, or my estimate is looking
10 at sales to North America.

11 Q. But you don't say this in
12 that calculation here. You don't discount for
13 North American sales only. Or at least I don't
14 see that in the paragraph here.

15 A. Sorry, no, I don't state
16 it.

17 Q. Okay. Now, you
18 acknowledged -- and here also I see that you
19 rely -- in addition to the stated revenue from
20 PHP, you rely also on Resolute's Kénogami mill
21 price to estimate PHP's capacity; right?

22 A. To estimate PHP's
23 production. Not capacity, production.

24 Q. Okay. But you don't rely
25 on PHP's mill price; correct? Because we don't

1 have it.

2 A. Because we don't have it,
3 correct.

4 Q. Okay. And you
5 acknowledged earlier during your cross-examination
6 that mill prices can vary at a given time from one
7 mill to another mill; do you remember that?

8 A. Yes, that's correct.

9 Q. Yes. And you also
10 acknowledged earlier when we talked about the
11 graph with different mill prices that Kénogami
12 historically had the highest mill price out of
13 Resolute's Canadian mills; do you remember that?

14 A. It did, and that's
15 because it sold largely a better mix. It sold SCA
16 and SCB paper. And just to extend that, that's
17 exactly the reason why I felt it a reasonable
18 proxy to use because if Kénogami is selling SCA
19 and SCB, whereas Port Hawkesbury is generally
20 selling at even higher grades and therefore higher
21 prices of SCA+ and ++, I felt it a reasonable
22 proxy to use the Kénogami amounts here as a proxy
23 for Port Hawkesbury.

24 Q. And you thought Kénogami
25 was a reasonable proxy to use even though Kénogami

1 had the [REDACTED] and you thought it
2 was a reasonable proxy to use for the low-cost PHP
3 mill; correct?

4 A. Well, price is a market
5 price, and, again, if Kénogami --

6 Q. Is it a market price?

7 A. Well --

8 Q. It varies from one mill
9 to another, right, at a given time --

10 A. Sorry. It's the price in
11 the market that Kénogami is able to achieve. So,
12 equally, when Port Hawkesbury is selling into the
13 market, if it's selling SCA+ and ++ paper, there
14 is no indication that it was predatory pricing or
15 undercutting pricing such that it would be less
16 than a combined SCA only and SCB price of roughly
17 [REDACTED] If anything, it would be higher and then,
18 just by doing the math, would actually make the
19 tonnages even lower. But, again, we don't have
20 the actual PH data, but I, again, thought this was
21 a reasonable proxy.

22 Q. Okay. You say we don't
23 have the PH data, but you saw earlier in the
24 questionnaire that we had the sales from 2014, and
25 we had the sales from 2014 and the amount of paper

1 produced. So we could infer that price from the
2 2014 data that we have.

3 We have total sales in 2014
4 and total volume sold, so we could infer the
5 metric-ton price in 2014, and, instead, you use
6 the Kénogami proxy.

7 So let's go back, let's go
8 back --

9 A. Just pausing --

10 Q. Okay. I may be short on
11 time if we go back, but...

12 A. We might be talking about
13 different years. I thought you showed me 2014
14 versus 2015.

15 Q. Okay. We were talking
16 2014. Let's go back. Now I am just afraid I am
17 going to be shorter on time, but this is
18 sufficiently interesting, so...

19 Let's call out -- Ricky, do
20 you remember where we were? Just a second. So
21 let's go to Exhibit C-046 at page 12, C-046 at
22 page 12. So -- there we go.

23 So you say we don't have the
24 price, but here in 2014 or even in, you know, even
25 in 2012, 2013, 2014, we have the quantities times

1 sold and the value they were sold for. So we
2 could infer the price from PHP. We don't need to
3 use the Kénogami mill price, we could simply
4 divide; right? Or is that too simple for a
5 lawyer's mind?

6 A. No, that's fair.

7 Q. Okay. So now let's go to
8 the Pöyry reports because we have said a few
9 times -- and that will conclude your
10 cross-examination -- you have said a few times
11 that you relied on the Pöyry reports.

12 Ricky, you can take down the
13 documents from the screen.

14 In your report, Mr. Steger, to
15 support your conclusion that PHP's price erosion
16 lasted for no more than a six-month period, you
17 also refer, besides -- aside from the 2013
18 industry commentary that we discussed about and
19 your price bucket observation, you also referred
20 to the conclusions from the 2019 Pöyry report;
21 correct?

22 A. Yes.

23 Q. Okay. Now, at
24 paragraph 89 of your report, that's on page 41 of
25 the 2019 Steger report, at paragraph 89 -- we will

1 call it out on the screen -- you point to a
2 specific excerpt, and that's your report,
3 paragraph 89, you point to a specific excerpt from
4 the 2019 Pöyry report, and you say:

5 "The 2019 Pöyry expert
6 report similarly
7 concludes that the price
8 impact -- 'the impact of
9 PHP's exit and re-entry
10 on SC-paper market prices
11 was temporary and
12 negligible in the long
13 term'." [as read]

14 Now, Mr. Steger, when you
15 wrote this, you had reviewed the full 2019 Pöyry
16 expert report; correct? You had reviewed the full
17 report --

18 A. Yes.

19 Q. -- when you wrote it?

20 Okay.

21 And let's go now to page 27.

22 We will call out paragraphs 42 and 43 at page 27,
23 42 and 43. Okay.

24 Here, at the end of
25 paragraph 42, you say, [REDACTED]

1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. "[as read]

17 That's right?

18 A. Yes.

19 Q. And now you say at the

20 following paragraph that, in its 2019 report,

21 [REDACTED] Pöyry now:

22 "Concludes, with

23 retrospect, that [REDACTED]

[REDACTED]

[REDACTED] and that the

1 July 2013 price increase
2 'is proof of a strong
3 market -- "[as read]

4 And that's important:

5 " -- is proof of a strong
6 market in 2013 rather
7 than the market weakness
8 that PHP's re-entry was
9 expected to cause'...' [as
10 read]

11 At the time.

12 Did I read that well?

13 A. Yes.

14 Q. Okay. Now, you agree

15 that, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23 I'm using this passage to give a context to what I
24 then proceed to do to replace or substitute the
25 [REDACTED] into Dr. Hausman's models to show that it was

1 flawed in providing untenable results.

2 So, so --

3 Q. Well, in your report, you
4 do not say -- correct me if I am wrong. You do
5 not say that the forecasts of the five-year price
6 impact was just one option among many. [REDACTED]

[REDACTED]

8 Correct? And that this is due to the fact that
9 the July 2013 price increase is proof of a strong
10 market in 2013 rather than the market weakness
11 that was expected.

12 A. Again, I am just trying
13 to give it context because after these two
14 paragraphs, first of all, I am saying [REDACTED]

[REDACTED] I am saying in paragraph 43:
16 But, Pöyry 2019, says, well, that prediction is
17 false. And then I go on to say: But
18 nevertheless, if I use the [REDACTED] and insert it
19 into Dr. Hausman's model, it spits out a negative
20 and untenable -- sorry, a negative loss and
21 therefore an untenable result.

22 So I just want to say that
23 because that provides the context of what's
24 written here.

25 Q. Thanks.

1 [REDACTED]

2 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Q. Okay, we already heard
22 from Pöyry. And this is the report -- you rely on
23 Pöyry to make your six-month price bucket erosion
24 conclusion; is that correct?

25 A. Sorry, I used Pöyry's --

1 Q. 2019.

2 A. -- expert report in 2019
3 as one of the basis for my conclusion.

4 Q. Okay --

5 JUDGE CRAWFORD: Counsel, I
6 should tell you --

7 MR. MARTEL: I have two more
8 minutes, Judge Crawford.

9 JUDGE CRAWFORD: Anything that
10 takes longer than two minutes will be taken off
11 the time for your reply.

12 MR. MARTEL: Of course.

13 BY MR. MARTEL:

14 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 [REDACTED]

[REDACTED]

3 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 [REDACTED]

[REDACTED]

10 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24 [REDACTED]

[REDACTED]

1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6 MR. MARTEL: Thank you very
7 much, Mr. Steger. That concludes all of my
8 questions.

9 THE WITNESS: Thank you.

10 JUDGE CRAWFORD: Thank you.

11 We now have redirect by
12 Canada. How long do you need?

13 MR. NEUFELD: Well, Judge
14 Crawford, given that all of the questions I would
15 like to ask would be best directed at Mr. Martel
16 and the process that we have here doesn't allow
17 for that, I think it's best for me not to ask any
18 questions at all and to prepare for tomorrow's --
19 yes, tomorrow's closing arguments instead, on the
20 instructions that you have given us.

21 MR. MARTEL: I can give you my
22 cell number, Rodney, if you want to ask questions
23 after.

24 MR. NEUFELD: Sounds great.

25 JUDGE CRAWFORD: The questions

1 which the Tribunal would ask tomorrow are part of
2 this overall investigation. Counsel are strongly
3 recommended to take the economic arguments and
4 make sense of them in their own terms but also
5 relate them to the legal tests that we have to
6 apply. That's one of the outstanding questions
7 before us in the next day and a half, so you are
8 having some extra time to do that is, I think,
9 helpful.

10 Are there any questions from
11 either party? Do either of my colleagues have any
12 questions?

13 Mr. Steger, thank you very
14 much for your evidence, which was very interesting
15 and helped us put together aspects of the evidence
16 that we have heard earlier this week --

17 THE WITNESS: Thank you.

18 JUDGE CRAWFORD: -- when some
19 of your report was discussed.

20 As lawyers we will have to
21 make the best we can of economy arguments without
22 being economists.

23 THE WITNESS: And accountants.

24 JUDGE CRAWFORD: And
25 accountants.

